

Proposition ? : Paid Family and Medical Leave Insurance Program

1 **Proposition ? proposes amending the Colorado statutes to:**

- 2 • require employers and employees in Colorado to pay a payroll premium to
3 the Colorado Department of Labor and Employment to finance paid family
4 and medical leave insurance benefits beginning January 1, 2023;
- 5 • allow eligible employees in Colorado up to 12 weeks of paid family and
6 medical leave insurance benefits annually beginning January 1, 2024; and
- 7 • create job protections for employees who take paid family and medical
8 leave.

9 **What Your Vote Means**

YES

A 'yes' vote on Proposition ? means the state will create an insurance program to provide paid family and medical leave benefits to eligible employees in Colorado funded by premiums charged to employers and employees.

NO

A 'no' vote on Proposition ? means the state will not create a paid family and medical leave insurance program.

1 **Summary and Analysis for Proposition ?**

2 **What happens if Proposition ? passes?**

3 Proposition ? creates a statewide paid family and medical leave (PFML) insurance
4 program that allows employees to take up to 12 weeks of leave and keep their job.

5 Leave may be taken for the following reasons:

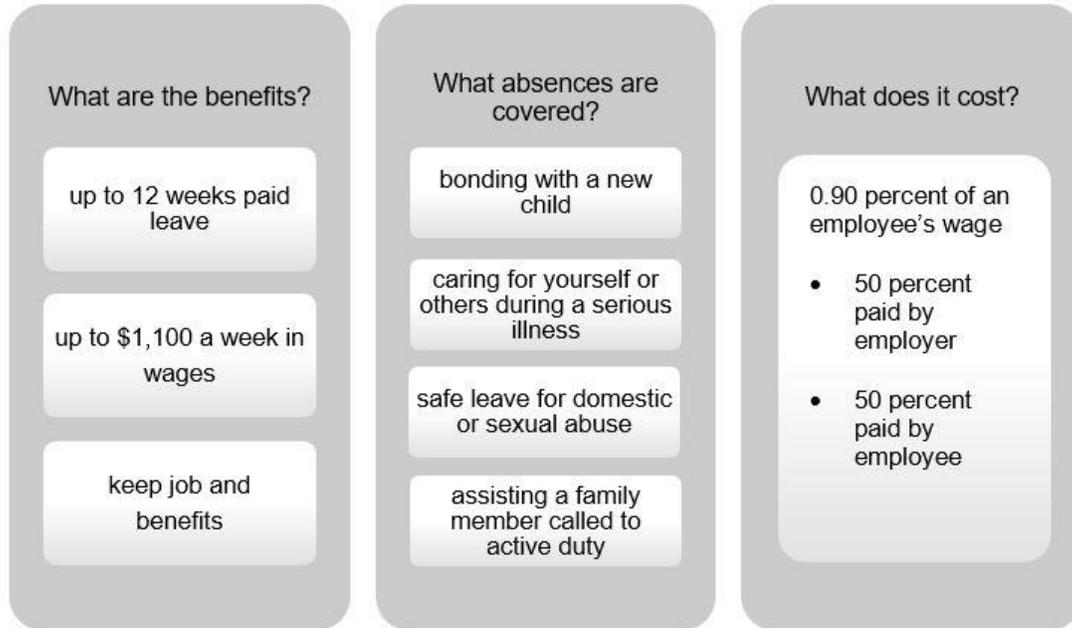
- 6 • to care for their own serious health condition;
- 7 • to care for a newborn, adopted child, or a child placed through foster care;
- 8 • to care for a family member with a serious health condition;
- 9 • when a family member is on active duty military service or being called to active duty
10 military service; and
- 11 • when the individual or the individual's family member is a victim of domestic violence,
12 stalking, or sexual assault.

13 "Family member" is defined in the measure as a person who is related by blood,
14 marriage, domestic partnership, civil union, or adoption, or any individual with whom the
15 covered individual has a significant personal bond that is like a family relationship. In
16 most circumstances, the maximum number of weeks an eligible employee may take paid
17 leave in a year is 12 weeks. Employees with a serious health condition related to
18 pregnancy or childbirth complications may take up to an additional 4 weeks (16 weeks in
19 total). Employees are not required to take leave consecutively.

20 Both employers and employees will pay into a new Family and Medical Leave Insurance
21 Fund (fund). The state will use money in the fund to pay wage benefits to employees
22 during their leave, similar to unemployment insurance. The amount an employee will
23 receive during leave is based on the employee's average weekly wage (AWW). Most
24 employees become eligible to take paid leave after they have earned at least \$2,500 in
25 wages and eligible for job protections after working for their employer for 180 days.

26 Figure 1 below highlights the major components of the new PFML insurance program.

**Figure 1
Paid Family and Medical Leave Program**



1 **What are the current paid and unpaid leave requirements for businesses in**
 2 **Colorado?**

3 Both federal and state leave requirements apply to Colorado businesses. The federal
 4 Family and Medical Leave Act of 1993 (FMLA) allows employees to take up to 12 weeks
 5 of unpaid leave per year for specified circumstances. A new state law enacted in 2020,
 6 and effective for employers with 16 or more employees on January 1, 2021, and all
 7 employers on January 1, 2022, requires employers in Colorado to provide one hour of
 8 paid sick leave to each employee for every 30 hours worked, up to a maximum of
 9 48 hours per year.¹ See Table 1 for a detailed comparison of the existing provisions of
 10 the FMLA and Colorado's mandatory sick leave law with the provisions of Proposition ?.

11 In addition, Colorado law permits an eligible employee to take up to three days of leave
 12 in any 12-month period if the employee is a victim of domestic abuse, stalking, sexual
 13 assault, or another crime. The leave may be paid or unpaid and must be used to seek a
 14 civil protection order, obtain medical care or mental health counseling, secure the
 15 employee's home, or seek legal assistance.

¹Senate Bill 20-205 enacting the new law is pending the Governor's signature.

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Table 1
Comparison of Leave Provisions in Current Law and Proposition ?

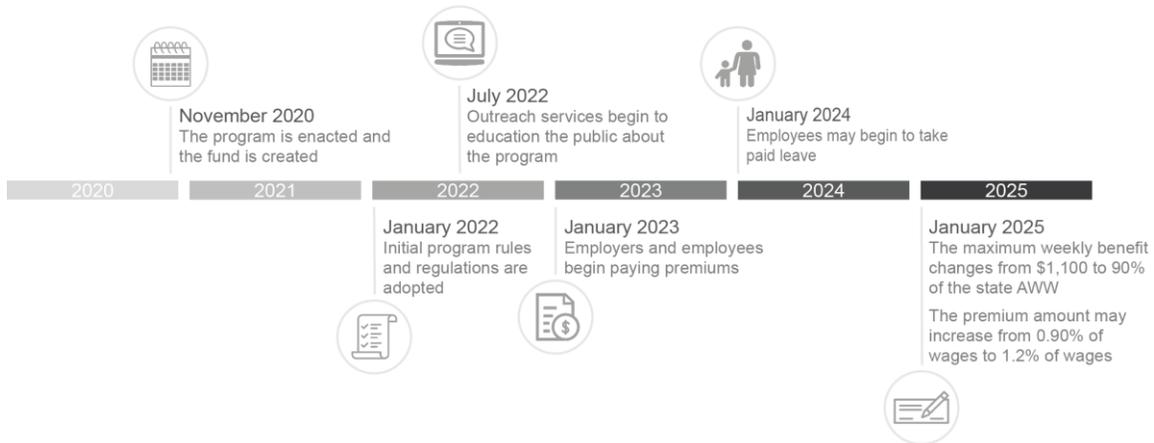
Proposition ?	FMLA	Mandatory Sick Leave
Type of Leave		
Family and medical.	Family and medical.	Medical.
Length of Leave		
Up to 12 weeks.	Up to 12 weeks.	Up to 6 days.
Paid or Unpaid		
Paid.	Unpaid (employers' choice).	Paid.
Time until Employee Eligibility		
Employee must make \$2,500 in wages subject to premium.	Employee must work for 12 months.	Employees receive 1 hour paid sick leave per 30 hours worked up to 48 hours per year.
Job Protection		
Yes, if an employee has worked at least 180 days.	Yes.	N/A
Employer Size		
<ul style="list-style-type: none"> • All employer sizes with a few exceptions. 	<ul style="list-style-type: none"> • Private sector with 50 or more employees; • all public agencies; and • all elementary and secondary schools. 	<ul style="list-style-type: none"> • Employer with 16 or more employees as of 1/1/2021, and all employers beginning 1/1/2022.
Qualifying Reasons for Leave		
<ul style="list-style-type: none"> • birth or adoption of child; care for self or family member* with serious health condition; • for circumstances related to a family member's active duty military service; and • safe leave for domestic abuse, sexual assault or abuse, and stalking. 	<ul style="list-style-type: none"> • birth or adoption of child; • care for self or family member with serious health condition; and • for circumstances related to a family member's active duty military service. 	<ul style="list-style-type: none"> • care for an employee's health or safety; or • care for a person for whom the employee is responsible for providing or arranging health or safety related care.

*Family member includes someone with whom the employee has a significant personal bond.

3 **How will the program be implemented?**

4 In calendar year 2023, employers and employees will start paying into the program.
 5 After the program has been collecting payments from employers and employees for
 6 one year, employees can begin receiving up to \$1,100 each week for up to 12 weeks
 7 while taking leave. A new paid family and medical leave division in the Colorado
 8 Department of Labor and Employment (CDLE) will oversee the new program and create
 9 rules and regulations to govern the program. Figure 2 shows the effective dates for
 10 various provisions of the program.

**Figure 2
PFML Program Timeline**



1 How will the program be funded?

2 Employers and employees must contribute a certain percentage of each employee’s
 3 wages to fund the program, known as a premium payment. The initial premium amount
 4 is set in the measure at 0.90 percent of wages per employee in the program’s first
 5 two years. The premium is split half and half between the employer and employee and
 6 is based on the employee’s taxable wages. The maximum amount of wages to which
 7 the premium can be charged for calendar year 2023 is estimated to be \$153,600 per
 8 person. Table 2 shows examples of premium payments for different wages, including
 9 the estimated maximum annual premium of \$1,382 for calendar year 2023. Beginning in
 10 calendar year 2025, the program director can set the premium up to 1.2 percent of an
 11 employee’s taxable wages for an estimated maximum annual premium of \$1,991.

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**Table 2
Annual PFML Premium Payment Scenarios
For Calendar Year 2023**

Annual Wages	Annual Premium	Employer Portion	Employee Portion
\$25,000	\$225	\$113	\$113
\$75,000	\$675	\$338	\$338
\$125,000	\$1,125	\$563	\$563
\$175,000	\$1,382	\$691	\$691
\$225,000	\$1,382	\$691	\$691

1 **Do all employers in Colorado have to participate in the program and pay**
 2 **premiums?**

3 Most employers are required to participate in the program and pay the entire premium,
 4 except:

- 5 • employers with ten or fewer employees;
- 6 • self-employed individuals;
- 7 • local governments;
- 8 • employers that already offer paid leave.

9 Employers with ten or fewer employees are required to withhold and forward an
 10 employee’s portion of the premium. In addition, self-employed individuals and local
 11 government employees whose employer does not participate may choose to opt in and
 12 pay only the employee portion of the premium. Finally, an employer with an approved
 13 private family and medical leave plan already in place is not required to pay premiums.
 14 Table 3 below illustrates premium responsibilities.

15 **Table 3**
 16 **Premium Responsibilities under Proposition ?**

Employer Type	Employer Premium	Employee Premium	No Premium
10 or fewer employees		√	
11 or more employees	√	√	
Self-employed		√	
Local Government employee		√	
Local Government			√
Employer with private plan			√

17 **How much will employees receive in benefit payments while on paid leave?**

18 The amount of benefits an eligible individual can receive is based on the individual's
 19 AWW, compared to the state average weekly wage (SAWW) set annually by the CDLE.
 20 Wages include salary, wages, tips, commission, and other forms of compensation. An
 21 eligible individual will receive 90 percent of their AWW for the portion of his or her wages
 22 that are less than 50 percent of the SAWW, and 50 percent of the portion of wages that
 23 equal or exceed 50 percent of the SAWW. The maximum weekly benefit that an
 24 individual can receive is \$1,100 for the first two years of the program. Table 4 provides
 25 examples of benefit payments for different weekly wages under the measure for 2024
 26 with an estimated SAWW of \$1,247. After January 1, 2025, the maximum weekly
 27 benefit that an individual may receive is 90 percent of the SAWW, which is estimated to
 28 be \$1,294 per week for a maximum benefit of \$1,165 per week.

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Table 4
Weekly PFML Benefit Payment Scenarios
Based on 2024 SAWW of \$1,247

Weekly Wage	Weekly Benefit	Maximum Benefit
\$500	\$450	\$5,400
\$1,000	\$811	\$9,734
\$1,500	\$1,061	\$12,734
\$2,000	\$1,100	\$13,200
\$2,500	\$1,100	\$13,200

3 **What are the job protection requirements?**

4 Job protections are available to employees who have worked at least 180 days for an
5 employer prior to taking leave. Eligible employees who return from leave are entitled to
6 return to the same position or a position with equal seniority, status, employment
7 benefits, and pay. Employees are entitled to their health benefits during their leave, but
8 are required to pay their portion of the health premium. Employers may not discipline or
9 take retaliatory actions against employees for using leave.

For information on those issue committees that support or oppose the measures on the ballot at the November 3, 2020, election, go to the Colorado Secretary of State’s elections center web site hyperlink for ballot and initiative information:

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

10 **Arguments For Proposition ?**

- 11 1) Paid leave will increase employment opportunities for Coloradans, and benefit
12 the state’s economy. Only 18 percent of U.S workers currently have access to
13 paid leave. Employees without paid leave risk being demoted or even losing
14 their jobs if they have to take off work due to serious illnesses or to care for
15 family members. This measure allows caretakers and those with chronic health
16 issues to join and remain in the workforce, which will strengthen Colorado’s
17 economy. All workers deserve paid leave benefits, no matter their income level
18 or the type of work they do.
- 19 2) Paid leave has a positive impact on the health of Colorado families, especially
20 new parents and those with health issues. Research has shown that offering
21 paid leave to expectant and new mothers decreases the risk of infant mortality,
22 and allowing parents time to bond with their children without the stress of losing
23 wages will positively affect child development. The measure also prohibits
24 employers from requiring an employee to use all their accrued vacation or sick
25 time before using paid family leave, allowing an employee flexibility if future
26 health issues occur. The measure prevents employees from being forced to
27 choose between their health and their livelihood.

1 **Arguments Against Proposition ?**

2 1) This measure places a substantial financial and regulatory burden on employers.
3 Colorado's businesses will bear a significant cost burden to navigate the
4 program's complex requirements. Businesses face increased costs to
5 accommodate paid leave and new sick leave obligations. The measure may also
6 discourage local small businesses with ten or fewer employees from growing in
7 order to avoid premium costs. In the end, it will be up to employers to bail out the
8 program if it becomes insolvent.

9 2) This measure hurts employees by forcing them to pay into a program that they
10 may never benefit from using. Employees are already faced with job uncertainty
11 in the current economy, and cannot afford to lose part of their salary or other
12 benefits. If the demand for the benefit is higher than expected, employees will be
13 expected to contribute an even larger percentage of wages in the future or
14 sacrifice other workplace gains.

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16 **Estimate of Fiscal Impact of Proposition ?**

17 An estimate of fiscal impact will be included in the second draft of this ballot analysis.