

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. An
5 eligible employee may take leave for the following reasons:

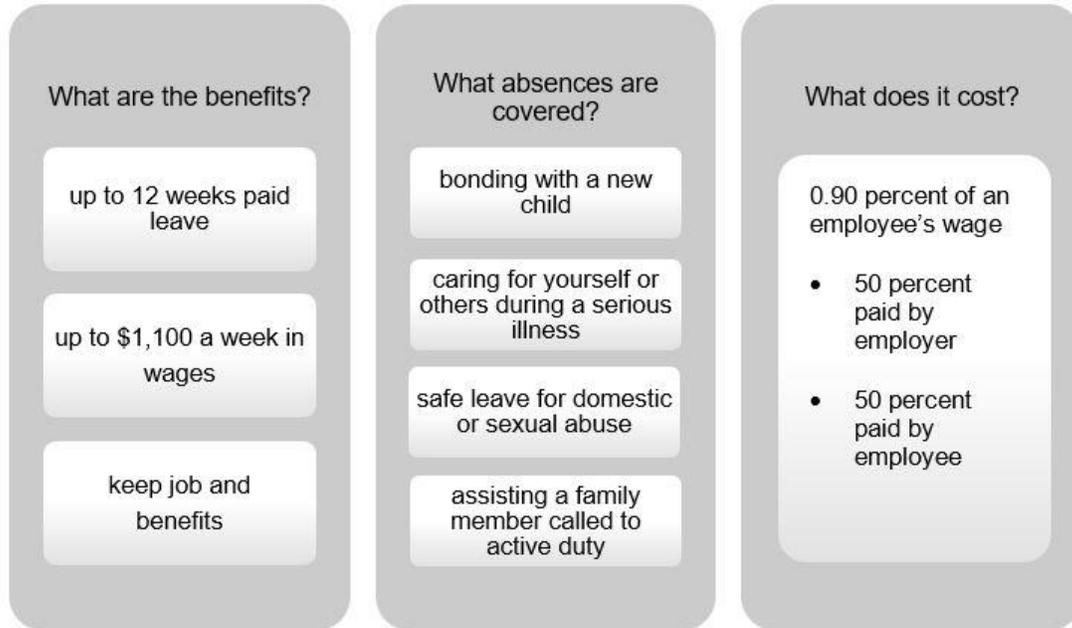
- 6 • to care for their own serious health condition;
- 7 • to care for a new child during the first year after the birth, adoption, or placement
8 through foster care of that child;
- 9 • to care for a family member with a serious health condition;
- 10 • when a family member is on active duty military service or being called to active duty
11 military service; and
- 12 • when the individual or the individual's family member is a victim of domestic violence,
13 stalking, or sexual assault.

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

21 Both employers and employees will pay into a new Family and Medical Leave Insurance
22 Fund (fund). The state will use money in the fund to pay wage benefits to employees
23 during their leave, similar to unemployment insurance. The amount an employee will
24 receive during leave is based on the employee's average weekly wage (AWW). Most
25 employees become eligible to take paid leave after they have earned at least \$2,500 in
26 wages and eligible for certain job protections after working for their employer for
27 180 days.

28 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. See Table 1 for a detailed comparison of the existing provisions of
 10 the FMLA and Colorado's mandated 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.

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

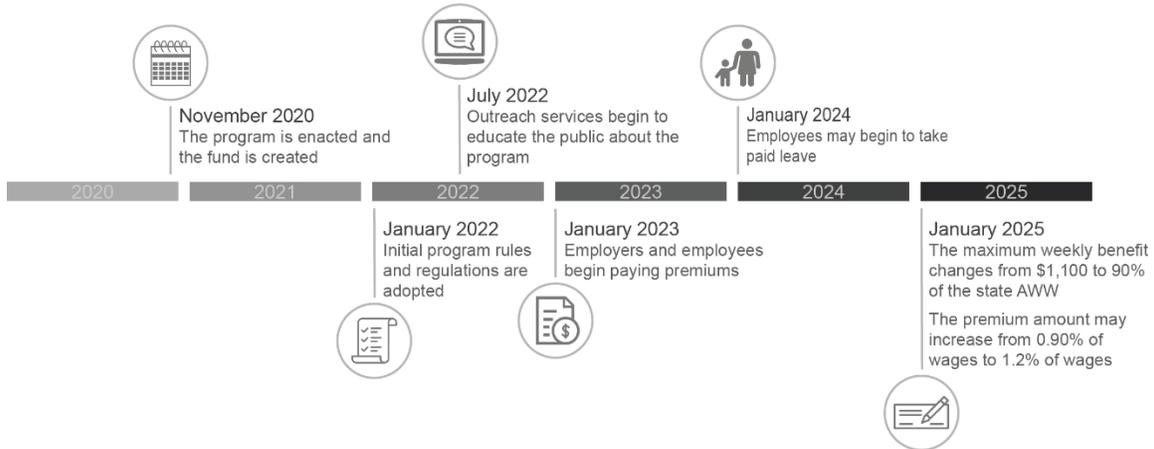
Proposition ?	FMLA	State Mandated Sick Leave
Type of Leave		
Family and medical	Family and medical	Medical
Length of Leave		
Up to 12 weeks	Up to 12 weeks	Up to 6 days
Paid or Unpaid		
Paid	Unpaid (employers' choice)	Paid
Time until Employee Eligibility		
Employee must make \$2,500 in wages subject to 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 for their employer 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 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 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 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 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 equally between the employer and employee and is
 6 based on the employee's taxable wages. The maximum amount of wages to which the
 7 premium can be charged for calendar year 2023 is estimated to be \$153,600 per person.
 8 Table 2 shows examples of premium payments for different wages, including the
 9 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.

12 **Table 2**
 13 **Annual PFML Premium Payment Scenarios**
 14 **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 **Will all employers in Colorado participate in the program and pay premiums?**

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

- 4 • employers with ten or fewer employees;
- 5 • self-employed individuals;
- 6 • local governments that decline participation in the program; and
- 7 • employers that already offer paid leave.

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

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

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

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

17 The amount of benefits an eligible individual can receive is based on the individual's
18 AWW, compared to the state average weekly wage (SAWW) set annually by the CDLE.
19 Wages include salary, wages, tips, commission, and other forms of compensation. An
20 eligible individual will receive 90 percent of their AWW for the portion of his or her wages
21 that are less than 50 percent of the SAWW, and 50 percent of the portion of wages that
22 equal or exceed 50 percent of the SAWW. The maximum weekly benefit that an
23 individual can receive is \$1,100 for the first two years of the program. Table 4 provides
24 examples of benefit payments for different weekly wages in 2024 based on an estimated
25 SAWW of \$1,247. After January 1, 2025, the maximum weekly benefit that an individual
26 may receive is 90 percent of the SAWW, which is estimated to be \$1,294 per week for a
27 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 their
5 current employer prior to taking leave. Eligible employees who return from leave are
6 entitled to return to the same position or a position with equal seniority, status,
7 employment benefits, and pay. Employees are entitled to their health benefits during
8 their leave, but are required to pay their portion of the health premium. Employers may
9 not discipline or 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 has a positive impact on the health of Colorado families, especially
12 new parents and those with health issues. Research has shown that offering
13 paid leave to expectant and new mothers decreases the risk of infant mortality,
14 and allowing parents time to bond with their children without the stress of losing
15 wages will positively affect child development. The measure also prohibits
16 employers from requiring an employee to use all their accrued vacation or sick
17 time before using paid family leave, allowing an employee flexibility if future
18 health issues occur. The measure ensures that Coloradans will not be forced to
19 choose between their health and their livelihood.
- 20 2) Paid leave will increase employment opportunities for Coloradans, and benefit
21 the state’s economy. Only 18 percent of U.S. workers currently have access to
22 paid leave. Employees without paid leave risk being demoted or even losing
23 their jobs if they have to take off work due to serious illnesses or to care for
24 family members. This measure allows caretakers and those with chronic health
25 issues to join and remain in the workforce, which will strengthen Colorado’s
26 economy. All workers deserve paid leave benefits, no matter their income level,
27 the type of work they do, or the size of their employer.

1 **Arguments Against Proposition ?**

- 2 1) This measure places a financial and regulatory burden on employers to navigate
3 the program’s complex requirements. Businesses face increased costs to
4 accommodate paid leave and new sick leave obligations. The measure may also
5 discourage local small businesses with ten or fewer employees from growing in
6 order to avoid premium costs. In the end, it will be up to employers and
7 employees to bear the cost of an uncertain and expensive new program.
- 8 2) This measure requires employees to pay into a program that they may never
9 benefit from using. Employees are already faced with job uncertainty in the
10 current economy, and cannot afford to lose part of their salary or other benefits.
11 If the demand for the benefit is higher than expected, employees will be expected
12 to contribute an even larger percentage of wages in the future or sacrifice other
13 workplace gains.

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15 **Estimate of Fiscal Impact for Proposition ?**

16 **State revenue.** Proposition ? is expected to increase state revenue from PFML
17 premiums by \$626.0 million in state budget year 2022-23 (half-year impact) and
18 \$1.3 billion in state budget year 2023-24 (full-year impact). Because of
19 higher-than-usual economic uncertainty, the amount of premiums collected may
20 differ from this estimate. The measure may also increase state revenue from bond
21 proceeds and potentially gifts, grants, or donations to cover program start-up costs
22 beginning in state budget year 2021-22. The timing of when this additional revenue
23 is received will depend on final budget estimates for the program and when revenue
24 bonds are issued.

25 **State spending.** Proposition ? will increase state spending by \$3.2 million in state
26 budget year 2021-22; \$8.6 million in state budget year 2022-23; and \$276.7 million in
27 state budget year 2023-24 to create and administer the PFML insurance program, as
28 well as to pay the employer share of premiums for state employees. In state budget
29 year 2023-24, spending will further increase to pay PFML benefits to eligible
30 employees in the second half of the year.

31 **Local government spending.** Beginning January 1, 2023, local governments that
32 participate in the PFML insurance program, school districts, and other public entities
33 will have increased spending to pay the employer share of premiums for their
34 employees. Local governments will also be required to process payroll deductions,
35 and coordinate leave and benefits for employees. Local governments that decline to
36 participate will not pay premiums, but will still be required to process payroll deductions
37 and coordinate leave and benefits for employees if they have employees that elect to
38 participate in the PFML insurance program.