

# Proposition ? : Paid Family and Medical Leave Insurance Program

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

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

12 **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 paid by employers and employees.

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**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 state-run paid family and medical leave (PFML) insurance  
4 program in Colorado that allows employees to take up to 12 weeks of leave and keep  
5 their job. An eligible employee may take leave for the following reasons:

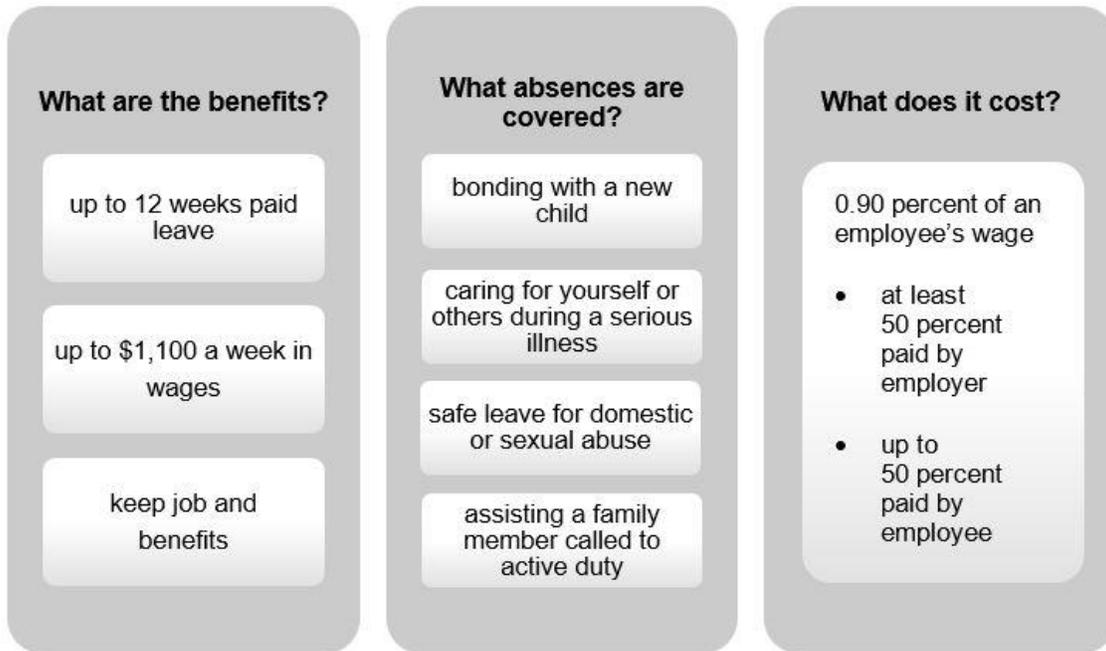
- 6 • to care for their own serious health condition;
- 7 • to care for a new child during the first year after the birth, adoption, or placement  
8 through foster care of that child;
- 9 • to care for a family member with a serious health condition;
- 10 • when a family member is on active duty military 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 the eligible employee's child, parent,  
15 spouse, domestic partner, grandparent, grandchild, sibling, or any individual with whom  
16 the employee has a significant personal bond that is like a family relationship. The  
17 maximum number of weeks an eligible employee may take paid leave in a year is  
18 12 weeks, except that employees with a serious health condition related to pregnancy or  
19 childbirth complications may take up to an additional 4 weeks (16 weeks in total).  
20 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 being employed with their current  
27 employer for at least 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 ?**

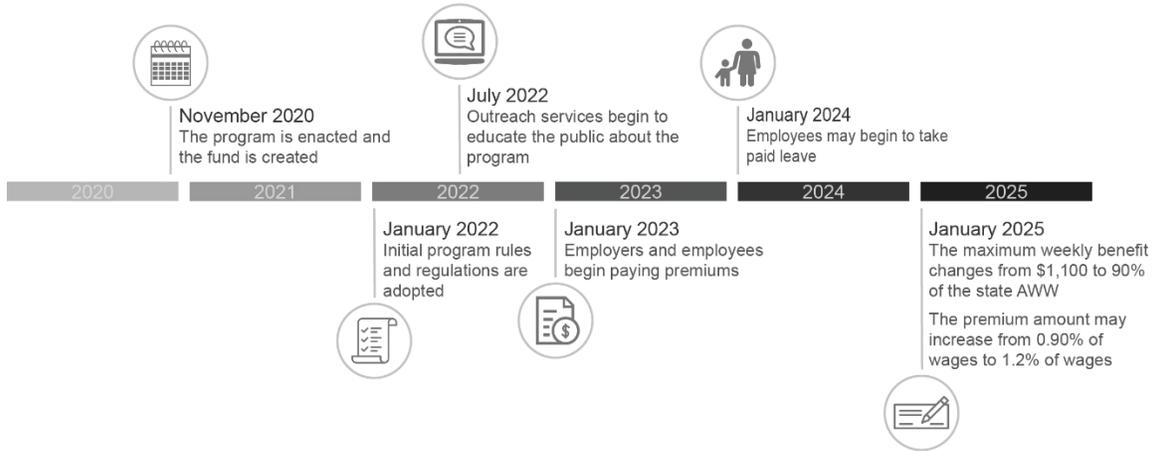
<b>Proposition ?</b>	<b>FMLA</b>	<b>State Mandated Sick Leave</b>
<b>Type of Leave</b>		
Family and medical	Family and medical	Medical
<b>Length of Leave</b>		
Up to 12 weeks	Up to 12 weeks	Up to 6 days
<b>Paid or Unpaid</b>		
Paid	Unpaid	Paid
<b>Time until Employee Eligibility</b>		
Employee must make \$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.
<b>Job Protection</b>		
Yes, if an employee has worked for their employer at least 180 days.	Yes	N/A
<b>Employer Size</b>		
<ul style="list-style-type: none"> <li>All employer sizes, with a few exceptions</li> </ul>	<ul style="list-style-type: none"> <li>Private sector with 50 or more employees</li> <li>All public agencies</li> <li>All elementary and secondary schools</li> </ul>	<ul style="list-style-type: none"> <li>Employer with 16 or more employees as of 1/1/2021, and all employers beginning 1/1/2022</li> </ul>
<b>Qualifying Reasons for Leave</b>		
<ul style="list-style-type: none"> <li>Birth or adoption of child</li> <li>Care for self or family member* with serious health condition</li> <li>For circumstances related to a family member's active duty military service</li> <li>Safe leave for domestic abuse, sexual assault or abuse, and stalking</li> </ul>	<ul style="list-style-type: none"> <li>Birth or adoption of child</li> <li>Care for self or family member with serious health condition</li> <li>For circumstances related to a family member's active duty military service.</li> </ul>	<ul style="list-style-type: none"> <li>Care for an employee's health or safety</li> <li>Care for a person for whom the employee is responsible for providing or arranging health or safety related care</li> </ul>

\*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. The initial premium rate is set in the  
 4 measure at 0.90 percent of wages per employee in the program's first two years. The  
 5 employer must pay at least 50 percent of the premium, but may choose to contribute a  
 6 larger percentage. The employee is responsible for up to 50 percent of the premium,  
 7 depending on the employer's contribution. The premium is calculated based on the  
 8 employee's taxable wages. The maximum amount of wages to which the premium can  
 9 be charged for calendar year 2023 is estimated to be \$153,600 per person, which limits  
 10 the maximum annual premium to \$1,382. Table 2 shows examples of weekly and  
 11 annual premiums for different wages and assumes that the employer and employee will  
 12 split the premium equally. Beginning in calendar year 2025, the program director can  
 13 set the premium up to 1.2 percent of an employee's taxable wages for an estimated  
 14 maximum annual premium of \$1,991.

**Table 2  
Weekly and Annual PFML Premium Scenarios  
For Calendar Year 2023**

Weekly Wages	Employer Weekly Premium	Employee Weekly Premium	Annual Wages	Employer Annual Premium	Employee Annual Premium
\$500	\$2.25	\$2.25	\$26,000	\$117	\$117
\$1,000	\$4.50	\$4.50	\$52,000	\$234	\$234
\$1,500	\$6.75	\$6.75	\$78,000	\$351	\$351
\$2,000	\$9.00	\$9.00	\$104,000	\$468	\$468
\$3,000	\$13.50	\$13.50	\$156,000	\$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 premiums. The  
 3 individuals and organizations that are not required to pay the entire premium include:

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

8 Employers with nine or fewer employees are not required to pay the employer portion of  
 9 the premium, but are required to withhold and forward an employee’s portion of the  
 10 premium. Local governments that choose not to participate in the program do not pay  
 11 the employer portion or collect premiums from employees. Local government  
 12 employees whose employer has declined to participate and self-employed individuals  
 13 may choose to opt in and pay only the employee portion of the premium. Finally, an  
 14 employer with an approved private family and medical leave plan already in place is not  
 15 required to pay premiums. Table 3 below illustrates premium responsibilities.

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

Employer Type	Employer Premium	Employee Premium	No Premium
9 or fewer employees		√	
10 or more employees	√	√	
Participating self-employed		√	
Participating local government employee		√	
Nonparticipating local government			√
Nonparticipating self-employed			√
Employer with private plan			√

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

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

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

<b>Weekly Wage</b>	<b>Weekly Benefit</b>	<b>Maximum Annual Benefit</b>	<b>Percent of Weekly Wage*</b>
\$500	\$450	\$5,400	90%
\$1,000	\$749	\$8,993	75%
\$1,500	\$999	\$11,993	67%
\$2,000	\$1,100	\$13,200	55%
\$3,000	\$1,100	\$13,200	37%

\*The weekly benefit as a percentage of the weekly wage declines as income increases and the maximum benefit is reached.

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

2 Participating employers may not discipline or take retaliatory actions against employees  
3 for requesting or using paid leave. Job protections are available to employees who have  
4 been employed for at least 180 days with their current employer prior to taking leave.  
5 This means that eligible employees who return from leave are entitled to return to the  
6 same position or a position with equal seniority, status, employment benefits, and pay.  
7 Employees are entitled to their health benefits during their leave, but are required to pay  
8 their portion of the health premium.

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>

9 **Arguments For Proposition ?**

- 10 1) Paid leave has a positive impact on the health of Colorado families, especially  
11 new parents and those with health issues. Research has shown that offering  
12 paid leave to expectant and new mothers decreases the risk of infant mortality,  
13 and allowing parents time to bond with their children will positively affect child  
14 development. Most individuals will need to take leave to care for themselves or a  
15 loved one at some point during their careers, and this measure allows employees  
16 to do so with some financial support and job protection. The measure ensures  
17 that Coloradans will not be forced to choose between their health and their  
18 livelihood.
- 19 2) Paid leave will increase employment opportunities for Coloradans, and benefit  
20 the state’s economy. Only 18 percent of U.S. workers currently have access to  
21 paid leave. Employees without paid leave risk being demoted or even losing  
22 their jobs if they have to take off work due to serious illnesses or to care for  
23 family members. This measure allows caretakers and those with chronic health

1 issues to join and remain in the workforce, which will strengthen Colorado's  
2 economy. All workers deserve paid leave benefits, no matter their income level,  
3 the type of work they do, or the size of their employer.

4 **Arguments Against Proposition ?**

5 1) This measure places a financial and regulatory burden on employers to navigate  
6 the program's complex requirements. Businesses face increased costs to  
7 accommodate paid leave and new sick leave obligations. The measure may also  
8 discourage local small businesses with nine or fewer employees from growing in  
9 order to avoid premium costs. In the end, it will be up to employers and  
10 employees to bear the cost of an uncertain and expensive new government  
11 program.

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

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

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

28 **State spending.** Proposition ? will increase state spending by \$3.2 million in state  
29 budget year 2021-22 and \$48.6 million in state budget year 2022-23 to create and  
30 administer the PFML insurance program. In state budget year 2023-24, state  
31 spending will increase by \$276.7 million to administer the PFML program, pay the  
32 employer share of premiums for state employees, and pay PFML benefits to eligible  
33 employees in the second half of the year.

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