

Governor Evers's Spending Plan Proposes Paid Family and Medical Leave in Wisconsin

Labor & Employment Law Update

By Laurie Meyer on June 15, 2023

As part of his two-year spending plan, Wisconsin Governor Tony Evers has proposed mandating 12 weeks of **paid** family and medical leave for many private and public sector workers by January 1, 2025. This proposal, if passed, would represent a marked change from existing state and federal laws which provide for job-protected leave on an unpaid basis to certain eligible employees of larger employers.

How will the program be funded under the proposal and how would it be administered if passed? According to Governor Evers's plan, \$243 million in one-time seed money from the state would jump start the program. The program would thereafter be funded by employer and employee contributions to a trust fund administered by the Wisconsin Department of Workforce Development. Beginning on January 1st, 2025, the proposal would generally allow every person employed by the state, anyone who is self-employed, and employees who work for an employer with 50 or more employees to elect coverage under the program by contributing a percentage of their wages to the trust fund. For those who elect coverage, the proposal would require employers to contribute the same amount as the employee. The Wisconsin Department of Workforce Development would collect those employee and employer contributions just as it does for unemployment insurance, and the DWD would then administer claims. Although the budget plan does not specify how much employee and employer contributions will be, Governor Evers's office claims that the program would pay for itself by 2026.

Benefits to be paid: Under the proposed plan, employees who elect to participate and who contribute would be paid 50% to 90% of their average weekly pay over the period. The plan would tie the paid leave benefit to the "state annual median wage," which is the median hourly wage for all Wisconsin occupations as determined by the U.S. Bureau of Labor Statistics, multiplied by 2,080. (That median wage was \$21.63 in 2021.)

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More employees eligible: Under existing state law, an employee is eligible for two weeks of **unpaid** leave for his/her own serious health condition or that of a family member, and six weeks of family leave (for the birth or adoptive placement of a child) if he or she has worked for an employer with at least 50 employees for at least 52 weeks and has worked at least 1,000 hours during that time. Similarly, an employee is eligible for unpaid federal FMLA leave if he or she has worked for at least 12 months for an employer with at least 50 employees within 75 miles of his/her jobsite, and has worked 1,250 hours during that time.

Under Evers's proposal, a person would be eligible for **paid** family and medical leave if they have worked for the same employer for at least **680 hours** in the calendar year prior to the year they file a claim for the benefit. A self-employed individual could also elect coverage under the program. Governor Evers's office has indicated that there may be an opt-in provision for smaller private sector employers.

Expanded Reasons for Paid Leave: The proposal would also expand the reasons for which employees can take paid leave. Family and medical leave under the proposal would include leave from "employment, self-employment, or availability for employment" for the following reasons:

- The birth or adoptive placement of a child;
- Occurrence of a serious medical condition, including a medical quarantine;
- To care for a family member who has a serious health condition or is in medical quarantine;
- Military deployment of oneself, or spouse, child, or parent;
- Unforeseen or unexpected closure of a child care facility; and
- To address issues related to being the victim of domestic abuse, sexual abuse, or stalking.

What if an employer already provides paid family and medical leave benefits to its employees? If an employer already provides paid family and medical leave benefits that are identical to or more generous than those provided under the program, that employer may request an exemption from the program.

The budget has gone to the state legislature for debate and revision, which is expected to take months. We will continue to watch this proposal and will update you on any significant developments.