

CS FOR HOUSE BILL NO. 100(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 2/2/24

Referred: Finance

Sponsor(s): REPRESENTATIVES ARMSTRONG, Schrage, Fields, Story, Hannan, Galvin

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to family leave."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 23.10 is amended by adding new sections to read:

4 **Article 9. Alaska Paid Family Leave Plan.**

5 **Sec. 23.10.700. Plan procurement and requirements.** (a) The commissioner
6 of labor and workforce development and the commissioner of administration shall
7 jointly procure a family leave insurance plan that meets the requirements of
8 AS 23.10.700 - 23.10.790 and secures family leave wage replacement coverage for

9 (1) qualified state employees at no cost to the employees;

10 (2) enrolled employees of political subdivisions of the state and private
11 employers who have elected to participate in the plan under AS 23.10.720; and

12 (3) individuals who use the purchasing pool to enroll in the plan under
13 AS 23.10.730.

14 (b) The procurement of the family leave insurance plan is governed by
15 AS 36.30 (State Procurement Code).

1 (c) The Department of Labor and Workforce Development and the
 2 Department of Administration shall jointly evaluate responses to the procurement and
 3 shall contract with an insurer authorized under AS 21.09 to provide health or disability
 4 insurance. The insurer shall file the rates and forms for a family leave insurance plan
 5 with the director of insurance for approval.

6 (d) The commissioner of labor and workforce development and the
 7 commissioner of administration shall adopt and include in the plan, for employees of
 8 employers that elect to participate in the plan,

9 (1) the length and time of annual open enrollment periods;

10 (2) enrollment processes for plans with premiums paid

11 (A) entirely by an employer;

12 (B) partially by an employer;

13 (C) entirely by an employee;

14 (3) procedures for payroll deduction and premium payment for
 15 participating employers with 50 or more employees.

16 (e) The commissioner of labor and workforce development and the
 17 commissioner of administration shall adopt and include in the plan, for employees
 18 who enroll in the plan using the purchasing pool under AS 23.10.730, procedures

19 (1) that ensure timely transmission of enrollment and eligibility
 20 information to the insurer;

21 (2) to collect premiums from enrolled employees and from employers
 22 with 50 or more employees;

23 (3) specifying how frequently premiums will be transmitted to the
 24 insurer and how penalties for late payments will be calculated.

25 **Sec. 23.10.710. Plan benefit and eligibility.** (a) A family leave insurance plan
 26 procured under AS 23.10.700 must provide a participating employee wage
 27 replacement coverage that equals 100 percent of the employee's average weekly wage,
 28 up to \$3,000 each week. In this subsection, "average weekly wage" means the average
 29 wage the employee has earned each week over the shorter of

30 (1) the 52 weeks immediately preceding the period the employee takes
 31 family leave;

1 (2) the employee's entire current term of employment with the state,
2 political subdivision of the state, or private employer.

3 (b) A family leave insurance plan may not impose a minimum duration of
4 family leave for wage replacement coverage. The annual duration of family leave
5 wage replacement coverage under the plan is

6 (1) the entire period for which family leave is taken by a state
7 employee under AS 39.20.305 or 39.20.500;

8 (2) not less than six weeks of family leave for an enrolled employee of
9 a participating political subdivision of the state or of a participating private employer
10 or for an employee enrolled in a family leave insurance plan through the purchasing
11 pool.

12 (c) An enrolled employee is eligible for family leave wage replacement if the
13 employee has been

14 (1) enrolled for at least seven calendar days; and

15 (2) employed by the employer for at least 35 hours a week for at least
16 six consecutive months or for at least 17.5 hours a week for at least 12 consecutive
17 months immediately preceding the leave.

18 **Sec. 23.10.720. Participation.** (a) A political subdivision of the state or private
19 employer may elect to participate in a plan procured under AS 23.10.700. A
20 participating political subdivision of the state or private employer shall contract
21 directly with the insurer and may choose

22 (1) the duration under AS 23.10.710(b) that the enrolled employees of
23 the political subdivision of the state or the private employer may receive wage
24 replacement coverage; and

25 (2) whether to provide coverage at no cost to the enrolled employee,
26 pay a portion of the employee's premium costs, or require the employee to cover the
27 entire premium.

28 (b) A premium charged by an insurer for a participating political subdivision
29 or private employer must be actuarially justified and derived from the individual
30 employee premium, expressed as a percentage of wages, paid by the state for state
31 employee coverage.

1 (c) An employee of a participating political subdivision of the state or private
2 employer may elect to enroll in the plan.

3 (d) A participating political subdivision of the state or private employer shall
4 pay premiums for an enrolled employee directly to the insurer and pay the employee
5 contributions, if any, directly to the insurer by way of automatic payroll deductions.

6 (e) A participating private employer that employs 50 or more employees

7 (1) shall, during the time an employee is on family leave receiving
8 wage replacement and paying the costs for maintaining health insurance coverage,
9 maintain coverage under any group health plan at the level and under the conditions
10 that coverage would have been provided if the employee had been employed
11 continuously from the date the leave began to the date the employee returns from
12 family leave;

13 (2) shall, unless the employer's business circumstances have changed
14 to make it impossible or unreasonable when a participating employee returns from
15 family leave, restore the employee to

16 (A) the position of employment held by the employee when the
17 leave began; or

18 (B) a substantially similar position with substantially similar
19 benefits, pay, and other terms and conditions of employment;

20 (3) may not discriminate or retaliate against an employee for taking
21 family leave and receiving wage replacement benefits.

22 (f) A participating political subdivision of the state and a private employer that
23 employs fewer than 50 employees may collect and transmit premiums directly to the
24 insurer or to the purchasing pool premium account under AS 23.10.730(d). The
25 employer may collect employee contributions, if any, by way of automatic payroll
26 deductions.

27 **Sec. 23.10.730. Purchasing pool.** (a) The family leave insurance plan
28 purchasing pool is established. The insurer shall participate in the purchasing pool.

29 (b) An employee of a political subdivision of the state or a private employer
30 that does not participate in a family leave insurance plan and does not offer a family
31 leave insurance benefit that is at least equivalent to the coverage provided under

1 AS 23.10.710 may use the purchasing pool established in this section to contract
2 indirectly with an insurer and enroll in a family leave insurance plan.

3 (c) The pool may be experience rated. Coverage through the pool must include
4 a seven-month waiting period, a one-week elimination period, and a 60-day annual
5 open enrollment period as established by the commissioner in the procurement
6 process. Premiums for purchasing pool coverage may not exceed \$5 for each enrolled
7 employee each week.

8 (d) A political subdivision of the state or a private employer that employs 50
9 or more employees shall transfer premiums for an employee using the purchasing pool
10 established in this section directly to the insurer by way of automatic payroll
11 deductions. An employee of a political subdivision of the state or a private employer
12 that employs fewer than 50 employees may pay premiums directly to the purchasing
13 pool.

14 (e) The commissioner of administration shall separately account for
15 purchasing pool premium payments received by the department and for payment of
16 premiums to an insurer participating in a family leave insurance plan in a purchasing
17 pool premium account.

18 **Sec. 23.10.740. Purchasing pool premium stabilization account.** (a) The
19 commissioner of administration shall separately account for

20 (1) premium taxes imposed on family leave insurance premiums
21 written by the insurer under AS 21.09.210;

22 (2) appropriations made for purchasing pool stabilization; and

23 (3) gifts, grants, and donations made for the purpose of stabilizing the
24 purchasing pool.

25 (b) The legislature may appropriate money from the account to the purchasing
26 pool to ensure that the premiums charged to participants in the purchasing pool remain
27 stable from year to year and do not exceed \$5 for each enrolled employee each week.

28 **Sec. 23.10.750. Family leave insurance advisory board.** (a) The family leave
29 insurance advisory board is established in the Department of Administration to support
30 the commissioner of administration with implementing and administering family leave
31 insurance plans.

1 (b) The advisory board is composed of seven members appointed by the
2 governor as follows:

- 3 (1) three members who represent employers;
4 (2) three members who represent employees;
5 (3) one member, who shall serve as chair, who is qualified, through
6 training and experience, to resolve problems of family leave insurance procurement,
7 eligibility, benefit design, and program administration.

8 (c) The advisory board shall meet at least quarterly.

9 **Sec. 23.10.760. Bargaining.** Notwithstanding any provision of AS 23.40.070 -
10 23.40.260 to the contrary, if an agreement between an employer subject to
11 AS 23.40.070 - 23.40.260 and an employee bargaining organization does not contain
12 provisions at least as beneficial to the employee as the provisions provided by
13 AS 23.10.700 - 23.10.790, the provisions of AS 23.10.700 - 23.10.790 apply.

14 **Sec. 23.10.770. Report and outreach.** (a) The Department of Labor and
15 Workforce Development, in conjunction with the Department of Administration, shall
16 prepare and submit to the senate president and the speaker of the house of
17 representatives by January 15 of each year a report on family leave insurance plans.
18 The Department of Labor and Workforce Development and the Department of
19 Administration shall include in the report a description of progress in increasing the
20 rate of family leave insurance coverage of employees in the state, and
21 recommendations to further increase the rate of coverage.

22 (b) The Department of Labor and Workforce Development, in conjunction
23 with the Department of Administration, shall develop an outreach program to educate
24 employers and employees about the potential benefits of participating in a family
25 leave insurance plan, including benefit structures and qualifying for the family leave
26 insurance tax credit under AS 43.20.075.

27 **Sec. 23.10.780. Regulations.** The commissioner of labor and workforce
28 development and the commissioner of administration may adopt regulations to
29 implement AS 23.10.700 - 23.10.790.

30 **Sec. 23.10.790. Definitions.** In AS 23.10.700 - 23.10.790,

- 31 (1) "child" means an individual who is

- 1 (A) under 18 years of age; or
 2 (B) 18 years of age or older and incapable of self-care because
 3 of mental or physical disability;
- 4 (2) "family leave" means leave taken
 5 (A) because of pregnancy and the birth of a child of the
 6 employee or the placement of a child, other than the employee's stepchild, with
 7 the employee for adoption or foster care;
 8 (B) in order to care for the employee's child, spouse, or parent
 9 who has a serious health condition; in this subparagraph, "child" includes the
 10 employee's biological, adopted, or foster child, stepchild, or legal ward; and
 11 (C) because of the employee's own serious health condition;
- 12 (3) "insurer" means a person engaged as indemnitor, surety, or
 13 contractor in the business of entering into contracts of insurance or of annuity that has
 14 contracted with the commissioner of labor and workforce development and the
 15 commissioner of administration under AS 23.10.700;
- 16 (4) "parent" means a biological or adoptive parent, a parent-in-law, or
 17 a stepparent;
- 18 (5) "serious health condition" means an illness, injury, impairment, or
 19 physical or mental condition that involves
 20 (A) inpatient care in a hospital, hospice, or residential health
 21 care facility; or
 22 (B) continuing treatment or continuing supervision by a health
 23 care provider;
- 24 (6) "state" includes the executive, legislative, and judicial branches of
 25 state government, the University of Alaska, the Alaska Railroad Corporation, and
 26 public corporations and authorities established by law.

27 * **Sec. 2.** AS 39.20.305(a) is amended to read:

28 (a) An officer or employee of the state who is otherwise qualified to take leave
 29 of absence may take family leave **paid through wage replacement coverage under**
 30 **AS 23.10.700 - 23.10.790** because of a serious health condition for a total of 18
 31 workweeks during any 24-month period. An otherwise qualified officer or employee

1 may take family leave because of pregnancy and childbirth, [OR] adoption, **or foster**
 2 **care** for a total of 18 workweeks within a 12-month period; the right to take leave for
 3 this reason expires on the date one year after the birth or placement of the child. **The**
 4 **state may not require the employee to substitute accrued paid leave to which the**
 5 **employee is entitled** [AN OFFICER OR EMPLOYEE TAKING LEAVE UNDER
 6 THIS SECTION SHALL USE ACCRUED PAID LEAVE UNTIL THE OFFICER
 7 OR EMPLOYEE HAS ONLY FIVE DAYS OF PAID LEAVE REMAINING. THE
 8 OFFICER OR EMPLOYEE MAY CHOOSE WHETHER TO RETAIN A BALANCE
 9 OF FIVE DAYS OF PAID LEAVE AND TAKE THE REMAINING LEAVE AS
 10 UNPAID LEAVE OR WHETHER TO EXHAUST THE PAID LEAVE BALANCE.
 11 AFTER REDUCING ACCRUED PAID LEAVE AS REQUIRED BY THIS
 12 SUBSECTION, THE OFFICER OR EMPLOYEE MAY TAKE LEAVE WITHOUT
 13 PAY FOR THE BALANCE OF THE FAMILY LEAVE]. If the employee is entitled
 14 to a longer period of time under AS 39.20.500, then the longer period applies. An
 15 eligible employee is entitled to take family leave

16 (1) because of pregnancy and the birth of a child of the employee or
 17 the placement of a child, other than the employee's stepchild, with the employee for
 18 adoption **or foster care**; the department or agency may require that an employee using
 19 family leave under this paragraph take the leave in a single block of time;

20 (2) in order to care for the employee's child, spouse, or parent who has
 21 a serious health condition; in this paragraph, "child" includes the employee's
 22 biological, adopted, or foster child, stepchild, or legal ward; and

23 (3) because of the employee's own serious health condition.

24 * **Sec. 3.** AS 39.20.500(b) is amended to read:

25 (b) An employee is eligible to take family leave if the employee has been
 26 employed by the employer for at least 35 hours a week for at least six consecutive
 27 months or for at least 17 1/2 hours a week for at least 12 consecutive months
 28 immediately preceding the leave. The leave **for a state employee must** [MAY] be
 29 [UNPAID] leave **paid through wage replacement coverage under AS 23.10.700 -**
 30 **23.10.790. The leave for an employee of a political subdivision of the state may be**
 31 **unpaid leave. However, the political subdivision employee may choose to**

1 **substitute accrued paid leave to which the employee is entitled. The state or the**
 2 **political subdivision** [. HOWEVER, THE EMPLOYEE MAY CHOOSE TO
 3 SUBSTITUTE, OR THE EMPLOYER] may **not** require the employee to substitute [,]
 4 accrued paid leave to which the employee is entitled. An employer shall permit an
 5 eligible employee to take family leave because of a serious health condition for a total
 6 of 18 workweeks during any 24-month period. An employer shall permit an eligible
 7 employee to take family leave because of pregnancy and childbirth, [OR] adoption, **or**
 8 **foster care** for a total of 18 workweeks within a 12-month period; the right to take
 9 leave for this reason expires on the date one year after the birth or placement of the
 10 child. If the employee is entitled to a longer period of time under (a) of this section,
 11 then the longer period applies. An eligible employee is entitled to take family leave

12 (1) because of pregnancy and the birth of a child of the employee or
 13 the placement of a child, other than the employee's stepchild, with the employee for
 14 adoption **or foster care**; an employer may require that an employee using family leave
 15 under this paragraph take the leave in a single block of time;

16 (2) in order to care for the employee's child, spouse, or parent who has
 17 a serious health condition; in this paragraph, "child" includes the employee's
 18 biological, adopted, or foster child, stepchild, or legal ward; and

19 (3) because of the employee's own serious health condition.

20 * **Sec. 4.** AS 39.20.500(d) is amended to read:

21 (d) During the time that an employee is on leave under this section, the
 22 employer shall maintain coverage under any group health plan at the level and under
 23 the conditions that coverage would have been provided if the employee had been
 24 employed continuously from the date the leave began to the date the employee returns
 25 from leave under (e) of this section. [HOWEVER, THE EMPLOYER MAY
 26 REQUIRE THAT THE EMPLOYEE PAY ALL OR PART OF THE COSTS FOR
 27 MAINTAINING HEALTH INSURANCE COVERAGE DURING A PERIOD OF
 28 UNPAID LEAVE.]

29 * **Sec. 5.** AS 39.20.500(f) is amended to read:

30 (f) This section does not apply to **a political subdivision of the state's** [AN
 31 EMPLOYER'S] small employment facility if the total number of employees employed

1 within 50 road miles of the small employment facility, including those employed at
 2 the facility, was fewer than 21 during the 20 consecutive workweeks in which the
 3 **political subdivision of the state** [EMPLOYER] employed at least 21 employees at
 4 all business facilities.

5 * **Sec. 6.** AS 39.20.550(2) is amended to read:

6 (2) "employer"

7 **(A)** means

8 **(i)** the state;

9 **(ii)** [AND] a political subdivision of the state that
 10 employed at least 21 employees in the state for each working day
 11 during any period of 20 consecutive workweeks in the preceding two
 12 calendar years;

13 **(B)** ["EMPLOYER"] does not include a regional Native
 14 housing authority created under AS 18.55.995 - 18.55.998;

15 * **Sec. 7.** AS 43.20 is amended by adding a new section to read:

16 **Sec. 43.20.075. Family leave insurance tax credit.** A taxpayer that pays for
 17 family leave insurance coverage for the taxpayer's employees under AS 23.10.720 is
 18 allowed a credit against the taxes due under this chapter for an amount equal to 50
 19 percent of the family leave insurance premium paid by the taxpayer for the year in
 20 which the premium is paid.

21 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
 22 read:

23 TRANSITION. The procurement for family leave insurance coverage, described in
 24 sec. 1 of this Act, shall be issued not later than March 31, 2025. A family leave insurance plan
 25 shall be in place for state government employees and available for purchase by political
 26 subdivisions of the state and private employers with more than 50 employees by January 1,
 27 2026. The purchasing pool shall be operational and coverage available for purchase not later
 28 than January 1, 2026.