

2018 -- S 2470

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS - TEMPORARY DISABILITY
INSURANCE

Introduced By: Senators Goldin, P Fogarty, Miller, Goodwin, and Lynch Prata

Date Introduced: February 15, 2018

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-40-1 of the General Laws in Chapter 28-40 entitled "Temporary
2 Disability Insurance - Contributions" is hereby amended to read as follows:

3 **28-40-1. Amount of employee contributions -- Wages on which based.**

4 (a) ~~The~~ For tax years prior to 2019, the taxable wage base under this chapter for each
5 calendar year shall be equal to the greater of thirty-eight thousand dollars (\$38,000) or the annual
6 earnings needed by an individual to qualify for the maximum weekly benefit amount and the
7 maximum duration under chapters 39 -- 41 of this title. That taxable wage base shall be computed
8 as follows: Every September 30, the maximum weekly benefit amount in effect as of that date
9 shall be multiplied by thirty (30) and the resultant product shall be divided by thirty-six
10 hundredths (.36). If the result thus obtained is not an even multiple of one hundred dollars (\$100),
11 it shall be rounded upward to the next higher even multiple of one hundred dollars (\$100). That
12 taxable wage base shall be effective for the calendar year beginning on the next January 1.

13 For tax year 2019 and subsequent years, the taxable wage base shall be equal to 1.443
14 times the annual earnings needed by an individual to qualify for the maximum weekly benefit
15 duration under chapters 39-41 of this title. The annual earnings needed by an individual to
16 qualify for the maximum weekly benefit duration shall be computed as follows: Every
17 September 30, the maximum weekly benefit amount in effect as of the date shall be multiplied
18 by thirty (30) and the resultant product shall be divided by thirty-six hundredths (.36). If the

1 result thus obtained is not an even multiple of one hundred dollars (\$100), it shall be rounded
2 upward to the next higher even multiple of one hundred dollars (\$100). That taxable wage
3 base shall be effective for the calendar year beginning on the next January 1.

4 (b) Each employee shall contribute with respect to employment after the date upon which
5 the employer becomes subject to chapters 39 -- 41 of this title, an amount equal to the fund cost
6 rate times the wages paid by the employer to the employee up to the taxable wage base as defined
7 and computed in subsection (a) of this section. The employee contribution rate for the following
8 calendar year shall be determined by computing the fund cost rate on or before November 15 of
9 each year as follows:

10 (1) The total amount of disbursements made from the fund for the twelve (12) month
11 period ending on the immediately preceding September 30 shall be divided by the total taxable
12 wages paid by employers during the twelve (12) month period ending on the immediately
13 preceding June 30. The ratio thus obtained shall be multiplied by one hundred (100) and the
14 resultant product if not an exact multiple of one-tenth of one percent (0.1%) shall be rounded
15 down to the next lowest multiple of one-tenth of one percent (0.1%);

16 (2) If the fund balance as of the preceding September 30 is less than the total
17 disbursements from the fund for the six (6) month period ending on that September 30, that
18 difference shall be added to the total disbursements for the twelve (12) month period ending
19 September 30 for the purpose of computing the fund cost rate, and if the resulting fund cost rate is
20 not an exact multiple of one-tenth of one percent (0.1%) it shall be rounded to the nearest
21 multiple of one-tenth of one percent (0.1%).

22 SECTION 2. Section 28-41-5, 28-41-34 and 28-41-35 of the General Laws in Chapter
23 28-41 entitled "Temporary Disability Insurance - Benefits" are hereby amended to read as
24 follows:

25 **28-41-5. Weekly benefit rate -- Dependents' allowances.**

26 (a) (1) Benefit rate. For claimants whose high quarter average hourly wage is greater than
27 two (2) times the minimum wage, the ~~The~~ benefit rate payable under this chapter to any eligible
28 individual with respect to any week of his or her unemployment ~~due to sickness~~ due to reasons
29 allowed under this chapter, when that week occurs within a benefit year, shall be, for benefit
30 years beginning on or after October 7, 1990, four and sixty-two hundredths percent (4.62%) of
31 the wages paid to the individual in that calendar quarter of the base period in which the
32 individual's wages were highest; provided, however, that the benefit rate shall not exceed eighty-
33 five percent (85%) of the average weekly wage paid to individuals covered by chapters 42 -- 44
34 of this title for the preceding calendar year ending December 31. For claimants whose high

1 quarter average hourly wage is less than or equal to two (2) times the minimum wage, the benefit
2 rate payable under this chapter to any eligible individual with respect to any week of their
3 unemployment due to reasons allowed under this chapter, when that week occurs within the
4 benefit year, shall be, for benefit years beginning on or after January 1, 2019, five and seventy
5 seven hundredths percent (5.77%) of the wages paid to the individual in that calendar quarter of
6 the base period in which the individual's wages were highest. If the maximum weekly benefit rate
7 is not an exact multiple of one dollar (\$1.00) then the rate shall be raised to the next higher
8 multiple of one dollar (\$1.00). Those weekly benefit rates shall be effective throughout the
9 benefit years beginning on or after July 1 of the year prior to July of the succeeding calendar year.

10 (2) The benefit rate of any individual, if not an exact multiple of one dollar (\$1.00), shall
11 be raised to the next higher multiple of one dollar (\$1.00).

12 (b) Dependents' allowances. An individual to whom benefits for unemployment ~~due to~~
13 ~~sickness~~ due to reasons allowed under this chapter are payable under this chapter with respect to
14 any week, shall, in addition to those benefits, be paid with respect to each week a dependent's
15 allowance of ten dollars (\$10.00) or seven percent (7%), of the individual's benefit rate, payable
16 under subsection (a) of this section, whichever is greater for each of that individual's children,
17 including adopted and stepchildren or that individual's court appointed wards who, at the
18 beginning of the individual's benefit year, is under eighteen (18) years of age and who is at that
19 time in fact dependent on that individual. However, in no instance shall the individual's weekly
20 benefit amount including both the benefit rate and dependents' allowance exceed that individual's
21 average weekly wage in the base period. A dependent's allowance shall also be paid to that
22 individual for any child, including an adopted child or a stepchild or that individual's court
23 appointed ward, eighteen (18) years of age or over, incapable of earning any wages because of
24 mental or physical incapacity, and who is dependent on that individual in fact at the beginning of
25 the individual's benefit year, including individuals who have been appointed the legal guardian of
26 that child by the appropriate court. However, in no instance shall the number of dependents for
27 which an individual may receive dependents' allowances exceed five (5) in total. The weekly total
28 of dependents' allowances payable to any individual, if not an exact multiple of one dollar
29 (\$1.00), shall be rounded to the next lower multiple of one dollar (\$1.00). The number of an
30 individual's dependents, and the fact of their dependency, shall be determined as of the beginning
31 of that individual's benefit year; provided, that only one individual shall be entitled to a
32 dependent's allowance for the same dependent with respect to any week. Each individual who
33 claims a dependent's allowance shall establish his or her claim to it to the satisfaction of the
34 director under procedures established by the director.

1 (c) Any individual's benefit rate and/or dependents' allowance in effect for a benefit year
2 shall continue in effect until the end of that benefit year.

3 (d) Partial unemployment ~~due to sickness~~ due to reasons allowed under this chapter. For
4 weeks beginning on or after January 1, 2006, an individual partially unemployed ~~due to sickness~~
5 due to reasons allowed under this chapter and otherwise eligible in any week shall be paid
6 sufficient benefits with respect to that week, so that his or her wages, rounded to the next higher
7 multiple of one dollar (\$1.00), and his or her benefits combined will equal in amount the weekly
8 benefit rate to which he or she would be entitled if totally unemployed ~~due to sickness~~ due to
9 reasons allowed under this chapter in that week; provided that an individual must have been
10 totally unemployed ~~due to sickness~~ due to reasons allowed under this chapter for at least seven (7)
11 consecutive days prior to claiming partial benefits under this provision; provided, that this
12 provision shall not apply if the individual is entitled to lag day benefits pursuant to § 28-41-9;
13 provided, further, that nothing contained herein shall permit any individual to whom
14 remuneration is payable for any work performed in any week in an amount equal to or greater
15 than his or her weekly benefit rate to receive benefits or waiting period credit for that week.

16 **28-41-34. Temporary caregiver insurance.**

17 The purpose of this chapter is to establish, within the state temporary disability insurance
18 program, a temporary caregiver insurance program to provide wage replacement benefits in
19 accordance with the provisions of this chapter, to workers who take time off work to care for a
20 seriously ill child, spouse, domestic partner, sibling, parent, parent-in-law, grandparent,
21 grandchild, or to bond with a new child.

22 Definitions as used in this chapter:

23 (1) "Child" means a biological, adopted, or foster son or daughter, a stepson or
24 stepdaughter, a legal ward, a son or daughter of a domestic partner, or a son or daughter of an
25 employee who stands in loco parentis to that child.

26 (2) "Newborn child" means a child under one year of age.

27 (3) "Adopted child" means a child adopted by, or placed for adoption with, the employee.

28 (4) "Bonding or bond" means to develop a psychological and emotional attachment
29 between a child and his or her parent(s) or persons who stand in loco parentis. This shall involve
30 being in one another's physical presence.

31 (5) "Parent" means a biological, foster, or adoptive parent, a stepparent, a legal guardian,
32 or other person who stands in loco parentis to the employee or the employee's spouse or domestic
33 partner when he/she was a child.

34 (6) "Domestic partner" means a party to a civil union as defined by chapter 15-3.1.

1 (7) "Spouse" means a party in a common law marriage, a party in a marriage conducted
2 and recognized by another state or country, or in a marriage as defined by chapter 15-3.

3 (8) "Grandparent" means a parent of the employee's parent.

4 (9) "Parent-in-law" means the parent of the employee's spouse or domestic partner.

5 (10) "Employee" means any person who is or has been employed by an employer subject
6 to chapters 39 through 41 of this title and in employment subject to those chapters.

7 (11) "Serious health condition" means any illness, injury, impairment, or physical or
8 mental condition that involves inpatient care in a hospital, hospice, residential health care facility,
9 or continued treatment or continuing supervision by a licensed health care provider.

10 (12) "Department" means the department of labor and training.

11 (13) "Persons who stand in loco parentis" means those with day-to-day responsibilities to
12 care for and financially support a child or, in the case of an employee, who had such
13 responsibility for the employee when the employee was a child. A biological or legal relationship
14 shall not be required

15 (14) "Sibling" means a brother or sister, whether related through half blood, whole
16 blood or adoption, a foster sibling, or a stepsibling.

17 (15) "Grandchild" means the child of the employee's child.

18 **28-41-35. Benefits.**

19 (a) Subject to the conditions set forth in this chapter, an employee shall be eligible for
20 temporary caregiver benefits for any week in which he or she is unable to perform his or her
21 regular and customary work because he or she is:

22 (1) Bonding with a newborn child or a child newly placed for adoption or foster care with
23 the employee or domestic partner in accordance with the provisions of subdivision 28-41-
24 36(c)(1); or

25 (2) Caring for a child, a parent, parent-in-law, grandparent, spouse, or domestic partner,
26 who has a serious health condition, subject to a waiting period in accordance with the provisions
27 of § 28-41-12. Employees may use accrued sick time during eligibility waiting period in
28 accordance with the policy of the individual's employer.

29 (b) Temporary caregiver benefits shall be available only to the employee exercising his or
30 her right to leave while covered by the temporary caregiver insurance program. An employee
31 shall file a written intent with their employer, in accordance with rules and regulations
32 promulgated by the department, with a minimum of thirty (30) days notice prior to
33 commencement of the family leave. Failure by the employee to provide the written intent may
34 result in delay or reduction in the claimant's benefits, except in the event the time of the leave is

1 unforeseeable or the time of the leave changes for unforeseeable circumstances.

2 (c) Employees cannot file for both temporary caregiver benefits and temporary disability
3 benefits for the same purpose, concurrently, in accordance with all provisions of this act and
4 chapters 39-41.

5 (d) Temporary caregiver benefits may be available to any individual exercising his or her
6 right to leave while covered by the temporary caregiver insurance program, commencing on or
7 after January 1, 2014, which shall not exceed the individual's maximum benefits in accordance
8 with chapters 39-41. The benefits for the temporary caregiver program shall be payable with
9 respect to the first day of leave taken after the waiting period and each subsequent day of leave
10 during that period of family temporary disability leave. Benefits shall be in accordance with the
11 following:

12 (1) ~~Beginning~~ For benefit years beginning January 1, 2014 temporary caregiver benefits
13 shall be limited to a maximum of four (4) weeks in a benefit year; For benefit years beginning
14 January 1, 2019 temporary caregiver benefits shall be limited to a maximum of six (6) weeks in a
15 benefit year. For benefit years beginning January 1, 2020, temporary caregiver benefits shall be
16 limited to a maximum of eight (8) weeks.

17 (e) In addition, no individual shall be paid temporary caregiver benefits and temporary
18 disability benefits which together exceed thirty (30) times his or her weekly benefit rate in any
19 benefit year.

20 (f) Any employee who exercises his or her right to leave covered by temporary caregiver
21 insurance under this chapter shall, upon the expiration of that leave, be entitled to be restored by
22 the employer to the position held by the employee when the leave commenced, or to a position
23 with equivalent seniority, status, employment benefits, pay, and other terms and conditions of
24 employment including fringe benefits and service credits that the employee had been entitled to at
25 the commencement of leave.

26 (g) During any caregiver leave taken pursuant to this chapter, the employer shall maintain
27 any existing health benefits of the employee in force for the duration of the leave as if the
28 employee had continued in employment continuously from the date he or she commenced the
29 leave until the date the caregiver benefits terminate; provided, however, that the employee shall
30 continue to pay any employee shares of the cost of health benefits as required prior to the
31 commencement of the caregiver benefits.

32 (h) No individual shall be entitled to waiting period credit or temporary caregiver benefits
33 under this section for any week beginning prior to January 1, 2014. An employer may require an
34 employee who is entitled to leave under the federal Family and Medical Leave Act, PL 103-3

1 and/or the Rhode Island Parental and Family Medical Leave Act, 28-41 et seq., who exercises his
2 or her right to benefits under the temporary caregiver insurance program under this chapter, to
3 take any temporary caregiver benefits received, concurrently, with any leave taken pursuant to the
4 federal Family and Medical Leave Act and/or the Rhode Island Parental and Family Medical
5 Leave Act.

6 (i) Temporary caregiver benefits shall be in accordance with federal Family and Medical
7 Leave Act (FMLA) P.L. 103-3 and Rhode Island Family Parental and Family Leave Act in
8 accordance with § 28-48-1, et seq. An employer may require an employee who is entitled to leave
9 under the federal Family and Medical Leave Act, PL 103-3 and/or the Rhode Island Parental and
10 Family Medical Leave Act, 28-41 et seq., who exercises his or her right to benefits under the
11 temporary caregiver insurance program under this chapter, to take any temporary caregiver
12 benefits received, concurrently, with any leave taken pursuant to the federal Family and Medical
13 Leave Act and/or the Rhode Island Parental and Family Medical Leave Act.

14 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO LABOR AND LABOR RELATIONS - TEMPORARY DISABILITY
INSURANCE

1 This act would increase the taxable wage base for temporary disability benefits, and
2 would increase the benefit rate for individuals earning less than or equal to two (2) times the
3 minimum wage. Caregivers of a sibling and a grandchild would now be eligible under temporary
4 caregiver benefits.

5 This act would take effect upon passage.

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