



Rep. Mary E. Flowers

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1 AMENDMENT TO HOUSE BILL 2376

2 AMENDMENT NO. _____. Amend House Bill 2376 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Family Leave Insurance Act.

6 Section 5. Declaration of policy and intent.

7 (a) Many employees do not have access to family and medical
8 leave programs, and those who do may not be in a financial
9 position to take family or medical leave that is unpaid, and
10 employer-paid benefits meet only a relatively small part of
11 this need. It is the public policy of this State to protect
12 working families against the economic hardship caused by the
13 need to take time off from work to care for themselves or
14 family members who are suffering from a serious illness or to
15 care for a newborn or a newly adopted child.

16 Moreover, many women are single mothers or the primary

1 breadwinners for their families. If any of these women take an
2 unpaid maternity leave, her whole family, and Illinois,
3 suffers.

4 The United States is the only industrialized nation in the
5 world that does not have a mandatory workplace-based program
6 for such income support.

7 It is therefore desirable and necessary to develop systems
8 that help families adapt to the competing interests of work and
9 home which not only benefit workers, but also benefit employers
10 by reducing employee turnover and increasing worker
11 productivity.

12 (b) It is the intent of the General Assembly to create a
13 family leave program to relieve the serious menace to health,
14 morals, and welfare of Illinois families, to increase workplace
15 productivity, and to alleviate the enormous and growing stress
16 on working families of balancing the demands of work and family
17 needs.

18 Section 10. Definitions. In this Act:

19 (1) (A) "Average weekly wage" means the amount of an
20 eligible employee's total wages, which includes other
21 compensation such as bonuses and commissions, earned during the
22 8 calendar weeks immediately preceding the calendar week in
23 which a period of family leave commenced divided by 8.

24 (B) If the computation in paragraph (A) yields a result
25 that is less than the eligible employee's average weekly

1 earnings in employment with those of all eligible employees of
2 the same employer during those 8 weeks, then the average weekly
3 wage for eligible employees requesting family leave shall be
4 the higher amount.

5 (C) For periods of family leave, if the computations in
6 paragraphs (A) and (B) both yield a result which is less than
7 the eligible employee's average weekly earnings in employment
8 with all eligible employees of the same employer during the 26
9 calendar weeks immediately preceding the week in which the
10 period of family leave commenced, then the average weekly wage
11 shall, upon a written request to the Department by the eligible
12 employee on a form provided by the Department, be computed by
13 the Department on the basis of earnings of all eligible
14 employees of the same employer during those 26 calendar weeks.

15 (2) "Base hours" means the hours of work for which an
16 employee receives compensation. "Base hours" includes overtime
17 hours for which the employee is paid additional or overtime
18 compensation and hours for which the employee receives workers'
19 compensation benefits. "Base hours" also includes hours an
20 employee would have worked except for having been in military
21 service. At the option of the employer, "base hours" may
22 include hours for which the employee receives other types of
23 compensation, such as administrative, personal leave, vacation
24 or sick leave.

25 (3) "Care" includes, but is not limited to, physical care,
26 emotional support, visitation, arranging for a change in care,

1 assistance with essential daily living matters, and personal
2 attendant services.

3 (4) "Child" means a biological, adopted, or foster child,
4 stepchild, or legal ward of an eligible employee, child of a
5 spouse of the eligible employee, or child of a civil union
6 partner of the eligible employee, who is less than 19 years of
7 age or is 19 years of age or older, but incapable of self-care
8 because of a mental or physical impairment.

9 (5) "Civil union" means a civil union as defined in the
10 Illinois Religious Freedom Protection and Civil Union Act.

11 (6) "Consecutive leave" means leave that is taken without
12 interruption based upon an employee's regular work schedule and
13 does not include breaks in employment in which an employee is
14 not regularly scheduled to work. For example, when an employee
15 is normally scheduled to work from September through June and
16 is not scheduled to work during July and August, a leave taken
17 continuously during May, June, and September shall be
18 considered a consecutive leave.

19 (7) "Department" means the Department of Employment
20 Security.

21 (8) "Director" means the Director of Employment Security
22 and any transaction or exercise of authority by the Director
23 shall be deemed to be performed by the Department.

24 (9) "Eligible employee" means an employee employed by the
25 same employer, as defined in paragraph (10), in the State of
26 Illinois for 12 months or more who has worked 1,200 or more

1 base hours during the preceding 12-month period. An employee is
2 considered to be employed in the State of Illinois if:

3 (A) the employee works in Illinois; or

4 (B) the employee routinely performs some work in
5 Illinois and the employee's base of operations or the place
6 from which the work is directed and controlled is in
7 Illinois.

8 (9.5) "Employee" means any person who services for an
9 employer for wage, remuneration, or other compensation. This
10 includes full-time or part-time status.

11 Employee does not include an employee subject to the hours
12 or service requirements of 49 U.S.C. 211 and 49 CFR 228.

13 (10) "Employer" means any partnership, association, trust,
14 estate, joint-stock company, insurance company, or
15 corporation, whether domestic or foreign, or the receiver,
16 trustee in bankruptcy, trustee, or person that has in its
17 employ one or more employees performing services for it within
18 this State. "Employer" also includes any employer subject to
19 the Unemployment Insurance Act, except the State, its political
20 subdivisions, and any instrumentality of the State. All
21 employees performing services within this State for any
22 employing unit that maintains 2 or more separate establishments
23 within this State shall be deemed to be employed by a single
24 employing unit for all purposes of this Act.

25 (11) "Family member" means an eligible employee's child,
26 spouse, party to a civil union, parent, or any other individual

1 related by blood or whose close relationship with the employee
2 is the equivalent of a family relationship.

3 (12) "Family leave" means leave taken by an eligible
4 employee from work with an employer: (A) to participate in the
5 providing of care, including physical or psychological care,
6 for the employee or a family member of the eligible employee
7 made necessary by a serious health condition of the family
8 member; (B) to be with a child during the first 12 months after
9 the child's birth, if the employee, the employee's spouse, or
10 the party to a civil union with the employee, is a biological
11 parent of the child, or the first 12 months after the placement
12 of the child for adoption or foster care with the employee; (C)
13 for the employee's own serious health condition; or (D) because
14 of any qualifying exigency as interpreted under the Family and
15 Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1)(E) and 29 CFR
16 825.126) arising out of the fact that the spouse, party to a
17 civil union, child, parent of the employee, or any other
18 individual related by blood or whose close relationship with
19 the employee is equivalent to a family relationship is on
20 active duty (or has been notified of an impending call or order
21 to active duty) in the armed forces as of the United States.
22 "Family leave" does not include any period of time during which
23 an eligible employee is paid benefits pursuant to the Workers'
24 Compensation Act or the Unemployment Insurance Act because the
25 employee is unable to perform the duties of the employee's
26 employment due to the employee's own disability.

1 (13) "Family leave benefits" means any payments that are
2 payable to an eligible employee for all or part of a period of
3 family leave.

4 (14) "Health care provider" means any person licensed under
5 federal, State, or local law or the laws of a foreign nation to
6 provide health care services or any other person who has been
7 authorized to provide health care by a licensed health care
8 provider.

9 (15) "Intermittent leave" means a non-consecutive leave
10 consisting of intervals, each of which is at least one, but
11 fewer than 12, weeks within a consecutive 12-month period.

12 (16) "Parent of an eligible employee" means a biological
13 parent, foster parent, adoptive parent, or stepparent of the
14 eligible employee or a person who was a legal guardian of, or
15 who stood in loco parentis to, the eligible employee when the
16 eligible employee was a child.

17 (17) "Placement for adoption" means the time when an
18 eligible employee adopts a child or becomes responsible for a
19 child pending adoption by the eligible employee.

20 (18) "Serious health condition" means an illness, injury,
21 impairment, or physical or mental condition that requires
22 inpatient care in a hospital, hospice, or residential medical
23 care facility or continuing medical treatment or continuing
24 supervision by a health care provider.

25 (19) "12-month period" means, with respect to an employee
26 who establishes a valid claim for family leave benefits during

1 a period of family leave, the 365 consecutive days that begin
2 with the first day that the employee first establishes the
3 claim.

4 Section 15. Family leave program.

5 (a) Subject to appropriation, the Department shall
6 establish and administer a family leave program.

7 (b) The Department shall establish procedures and forms for
8 filing claims for benefits under this Act.

9 (c) The Department shall use information sharing and
10 integration technology to facilitate the disclosure of
11 relevant information or records by the Department of Employment
12 Security.

13 (d) Information contained in the files and records
14 pertaining to an employee under this Act is confidential and
15 not open to public inspection, other than to public employees
16 in the performance of their official duties. However, the
17 employee or an authorized representative of an employee may
18 review the records or receive specific information from the
19 records on the presentation of the signed authorization of the
20 employee. An employer or the employer's duly authorized
21 representative may review the records of an employee employed
22 by the employer in connection with a pending claim. At the
23 Department's discretion, other persons may review records when
24 such persons are rendering assistance to the Department at any
25 stage of the proceedings on any matter pertaining to the

1 administration of this Act.

2 An employer must keep at its place of business records of
3 employment from which the information needed by the Department
4 for purposes of this Act may be obtained. The records shall at
5 all times be open to the inspection of the Department pursuant
6 to rules adopted by the Department.

7 (e) The Department shall develop and implement an outreach
8 program to ensure that individuals who may be eligible to
9 receive family leave benefits under this Act are made aware of
10 these benefits. Outreach information shall explain, in an easy
11 to understand format, eligibility requirements, the claims
12 process, weekly benefit amounts, maximum benefits payable,
13 notice requirements, reinstatement and nondiscrimination
14 rights, confidentiality, and coordination of leave under this
15 Act and other laws, collective bargaining agreements, and
16 employer policies. Outreach information shall be available in
17 English and in languages other than English that are spoken as
18 a primary language by a significant portion of the State's
19 population, as determined by the Department.

20 Section 20. Eligibility for benefits.

21 (a) The Department may require that a claim for family
22 leave benefits under this Section be supported by a
23 certification issued by a health care provider who is providing
24 care to the employee or the employee's family member if
25 applicable.

1 (b) An employee is not eligible for family leave benefits
2 under this Section for any week for which the employee receives
3 paid family leave from his or her employer. If an employer
4 provides paid family leave, the employee may elect whether
5 first to use the paid family leave or to receive family leave
6 benefits under this Section. An employee may not be required to
7 use paid family leave to which the employee is entitled before
8 receiving family leave benefits under this Section.

9 (c) This Section does not limit an employee's right to take
10 leave from employment under other laws or employer policy.

11 (d) The eligibility of an employee for benefits is not
12 affected by a strike or lockout at the factory, establishment,
13 or other premises at which the employee is or was last
14 employed.

15 (e) An employee who has received benefits under this
16 Section may not lose any other employment benefits, including
17 seniority or pension rights, accrued before the date that
18 family leave commenced. However, this Section does not entitle
19 an employee to accrue employment benefits during a period of
20 family leave or to a right, benefit, or position of employment
21 other than a right, benefit, or position to which the employee
22 would have been entitled had the employee not taken family
23 leave.

24 (f) This Section does not diminish an employer's obligation
25 to comply with a collective bargaining agreement or an
26 employment benefits program or plan that provides greater

1 benefits to employees than the benefits provided under this
2 Section.

3 (g) An agreement by an employee to waive the employee's
4 rights under this Section is void as contrary to public policy.
5 The benefits under this Section may not be diminished by a
6 collective bargaining agreement or another employment benefits
7 program or plan entered into or renewed after the effective
8 date of this Act.

9 (h) Nothing in this Act shall be deemed to affect the
10 validity or change the terms of bona fide collective bargaining
11 agreements in force on the effective date of this Act. After
12 that date, requirements of this Act may be waived in a bona
13 fide collective bargaining agreement, but only if the waiver is
14 set forth explicitly in such agreement in clear and unambiguous
15 terms.

16 (i) This Section does not create a continuing entitlement
17 or contractual right.

18 Section 25. Disqualification from benefits.

19 (a) An employee is disqualified from family leave benefits
20 under this Act if the employee:

21 (1) willfully makes a false statement or
22 misrepresentation regarding a material fact, or willfully
23 fails to disclose a material fact, to obtain benefits;

24 (2) seeks benefits based on an intentionally
25 self-inflicted serious health condition; or

1 (3) seeks benefits based on a serious health condition
2 that resulted from the employee's commission of a felony.

3 (b) A disqualification for family leave benefits is for a
4 period of 2 years, and commences on the first day of the
5 calendar week in which the employee filed a claim for benefits
6 under this Act. An employee who is disqualified for benefits is
7 liable to the Department for a penalty in an amount equal to
8 15% of the amount of benefits received by the employee.

9 Section 30. State Benefits Fund.

10 (a) The State Benefits Fund is created as a special fund in
11 the State treasury. Subject to appropriation, moneys in the
12 Fund may be used for the payment of family leave benefits and
13 for the administration of this Act. All interest and other
14 earnings that accrue from investment of moneys in the Fund
15 shall be credited to the Fund.

16 (b) An employer shall retain from all employees a payroll
17 premium deduction in the amount of 0.3% of wages as defined in
18 Section 235 of the Unemployment Insurance Act. The Department
19 shall by rule provide for the collection of this payroll
20 premium deduction.

21 The amount of the payroll premium imposed under this
22 Section, less refunds authorized by this Act, and all
23 assessments and penalties collected under this Act shall be
24 deposited into and credited to the Fund.

25 (c) A separate account, to be known as the Administration

1 Account, shall be maintained in the Fund. An amount determined
2 by the Department sufficient for proper administration, not to
3 exceed, however, 0.1% of wages as defined in this Section,
4 shall be credited to the Administration Account. The expenses
5 of the Department in administering the Fund and its accounts
6 shall be charged against the Administration Account. The costs
7 of administration of this Act shall be charged to the
8 Administration Account.

9 (d) A separate account, to be known as the Family Leave
10 Benefits Account, shall be maintained in the Fund. The account
11 shall be charged with all benefit payments. Prior to July 1 of
12 each calendar year, the Department shall determine the average
13 rate of interest and other earnings on all investments of the
14 Fund for the preceding calendar year. If there is an
15 accumulated deficit in the Family Leave Benefits Account in
16 excess of \$200,000 at the end of any calendar year after
17 interest and other earnings have been credited as provided in
18 this Section, the Department shall determine the ratio of the
19 deficit to the total of all taxable wages paid during the
20 preceding calendar year and shall make an assessment against
21 all employers in an amount equal to the taxable wages paid by
22 them during the preceding calendar year to employees,
23 multiplied by the ratio, but in no event shall any such
24 assessment exceed 0.1% of such wages. The amounts shall be
25 collectible by the Department in the same manner as provided
26 for the collection of employer contributions under the

1 Unemployment Insurance Act. In making this assessment, the
2 Department shall furnish to each affected employer a brief
3 summary of the determination of the assessment. The amount of
4 such assessments collected by the Department shall be credited
5 to the Family Leave Benefits Account. As used in this Section,
6 "wages" means wages as provided in Section 235 of the
7 Unemployment Insurance Act.

8 (e) A board of trustees, consisting of the State Treasurer,
9 the Secretary of State, the Director of Labor, the Director of
10 Employment Security, and the State Comptroller, is hereby
11 created. The board shall invest and reinvest all moneys in the
12 Fund in excess of its cash requirements in obligations legal
13 for savings banks.

14 (f) The Department may adjust rates, not to exceed the
15 amount established in subsection (b) of this Section, for the
16 collection of premiums pursuant to subsection (b) of this
17 Section. The Department shall set rates for premiums in a
18 manner that minimizes the volatility of the rates assessed and
19 so that at the end of the period for which the rates are
20 effective, the cash balance shall be an amount approximating 12
21 months of projected expenditures from the Fund, considering the
22 functions and duties of the Department under this Act.

23 (g) An employer required to pay premiums under this Section
24 shall make and file a report of employee hours worked and
25 amounts due under this Section upon a combined report form
26 prescribed by the Department. The report shall be filed with

1 the Department at the times and in the manner prescribed by the
2 Department.

3 (h) If the employer is a temporary employment agency that
4 provides employees on a temporary basis to its customers, the
5 temporary employment agency is considered the employer for
6 purposes of this Section.

7 (i) When an employer quits business or sells out,
8 exchanges, or otherwise disposes of the business or stock of
9 goods, any premium payable under this Section is immediately
10 due and payable, and the employer shall, within 10 days
11 thereafter, pay the premium due. A person who becomes a
12 successor to the business is liable for the full amount of the
13 premium and shall withhold from the purchase price a sum
14 sufficient to pay any premium due from the employer until the
15 employer produces a receipt from the Department showing payment
16 in full of any premium due or a certificate that no premium is
17 due. If the premium is not paid by the employer within 10 days
18 after the date of the sale, exchange, or disposal, the
19 successor is liable for the payment of the full amount of the
20 premium. The successor's payment of the premium is, to the
21 extent of the payment, a payment upon the purchase price, and
22 if the payment is greater in amount than the purchase price,
23 the amount of the difference is a debt due the successor from
24 the employer.

25 A successor is not liable for any premium due from the
26 person from whom the successor has acquired a business or stock

1 of goods if the successor gives written notice to the
2 Department of the acquisition and no assessment is issued by
3 the Department within one year after receipt of the notice
4 against the former operator of the business.

5 Section 35. Compensation for family leave.

6 (a) An individual's weekly benefit rate shall be two-thirds
7 of his or her average weekly wage, subject to a maximum of 53%
8 of the Statewide average weekly wage paid to workers by
9 employers, as determined pursuant to Section 401 of the
10 Unemployment Insurance Act, provided, however, that the
11 individual's benefit rate shall be computed to the next lower
12 multiple of \$1 if not already a multiple thereof. The amount of
13 benefits for each day of family leave for which benefits are
14 payable shall be one-seventh of the corresponding weekly
15 benefit amount; provided that the total benefits for a
16 fractional part of a week shall be computed to the next lower
17 multiple of \$1 if not already a multiple thereof.

18 (b) With respect to any period of family leave and while an
19 individual is an eligible employee, family benefits not in
20 excess of the individual's maximum benefits shall be payable
21 with respect to the first day of leave taken after the first
22 one-week period following the commencement of the period of
23 family leave and each subsequent day of family leave during
24 that period of family leave; and if benefits become payable on
25 any day after the first 3 weeks in which leave is taken, then

1 benefits shall also be payable with respect to any leave taken
2 during the first one-week period in which leave is taken. The
3 maximum total benefits payable to any eligible employee
4 commencing on or after the effective date of this Act shall be
5 12 times the eligible employee's weekly benefit amount or
6 one-third of his or her total wages during the preceding
7 12-month period, whichever is the lesser; provided that the
8 maximum amount shall be computed in the next lower multiple of
9 \$1 if not already a multiple thereof.

10 (c) All of the family leave benefits paid to an eligible
11 employee during a period of family leave with respect to any
12 one birth or adoption shall be for a single continuous period
13 of time, except that the employer of the eligible employee may
14 permit the eligible employee to receive the family leave
15 benefits during non-consecutive weeks in a manner mutually
16 agreed to by the employer and the eligible employee and
17 disclosed to the Department by the employer.

18 (d) Nothing in this Act shall be construed to prohibit the
19 establishment by an employer, without approval by the
20 Department, of a supplementary plan or plans providing for the
21 payment to employees, or to any class or classes of employees,
22 of benefits in addition to the benefits provided by this Act or
23 to prohibit the collection or receipt of additional voluntary
24 contributions from employees toward the cost of the additional
25 benefits. The rights, duties, and responsibilities of all
26 interested parties under the supplementary plans shall be

1 unaffected by any provision of this Act.

2 Section 40. Family leave; duration. An eligible employee
3 may take 12 weeks of family leave within any 24-month period in
4 order to provide care made necessary by reasons identified in
5 Section 10. An eligible employee may take family leave on an
6 intermittent schedule in which all of the leave authorized
7 under this Act is not taken sequentially.

8 Section 45. Annual reports; contents.

9 (a) The Department shall issue and make available to the
10 public, not later than July 1, 2019 and July 1 of each
11 subsequent year, annual reports providing data on family leave
12 benefits claims involving pregnancy and childbirth, and family
13 leave benefits, including separate data for each of the
14 following categories of claims: the employee's own serious
15 illness; care of newborn children; care of newly adopted
16 children; care of sick children; care of sick spouses; and care
17 of other sick family members. The reports shall include, for
18 each category of claims, the number of workers receiving the
19 benefits, the amount of benefits paid, the average duration of
20 benefits, the average weekly benefit, and any reported amount
21 of sick leave, vacation, or other fully paid time which
22 resulted in reduced benefit duration. The report shall provide
23 data by gender and by any other demographic factors determined
24 to be relevant by the Department. The reports shall also

1 provide, for all family leave benefits, the total costs of
2 benefits and the total cost of administration, the portion of
3 benefits for claims during family leave, and the total revenues
4 from employer assessments, where applicable; employee
5 assessments; and other sources.

6 (b) The Department may, in its discretion, conduct surveys
7 and other research regarding, and include in the annual reports
8 descriptions and evaluations of the impact and potential future
9 impact of the costs and benefits resulting from the provisions
10 of this Act for:

11 (1) employees and their families, including surveys
12 and evaluations of what portion of the total number of
13 employees taking leave would not have taken leave, or would
14 have taken less leave, without the availability of
15 benefits; what portion of employees return to work after
16 receiving benefits and what portion are not permitted to
17 return to work; and what portion of employees who are
18 eligible for benefits do not claim or receive them and why
19 they do not;

20 (2) employers, including benefits such as reduced
21 training and other costs related to reduced turnover of
22 personnel, and increased affordability of family leave
23 through the State, with special attention given to small
24 businesses; and

25 (3) the public, including savings caused by any
26 reduction in the number of people receiving public

1 assistance.

2 (c) The total amount of any expenses that the Department
3 determines are necessary to carry out its duties pursuant to
4 this Section shall be charged to the Administration Account of
5 the Fund.

6 Section 50. Hearings. A person aggrieved by a decision of
7 the Department under this Act may request a hearing. The
8 Department shall adopt rules governing hearings and the
9 issuance of final orders under this Act in accordance with the
10 provisions of the Illinois Administrative Procedure Act. All
11 final administrative decisions of the Department under this Act
12 are subject to judicial review under the Administrative Review
13 Law.

14 Section 55. Prohibited acts. No employer, temporary
15 employment agency, employment agency, employee organization,
16 or other person shall discharge, expel, or otherwise
17 discriminate against a person because the person has filed or
18 communicated to the employer an intent to file a claim, a
19 complaint, or an appeal or has testified or is about to testify
20 or has assisted in any proceeding, under this Act, at any time.

21 Section 60. Penalties.

22 (a) A person who makes a false statement or representation,
23 knowing it to be false, or knowingly fails to disclose a

1 material fact to obtain or increase any family leave benefit
2 during a period of family leave, either for himself or herself
3 or for any other person, shall be liable for a civil penalty of
4 \$250 to be paid to the Department. Each such false statement or
5 representation or failure to disclose a material fact shall
6 constitute a separate offense. Upon refusal to pay such civil
7 penalty, the civil penalty shall be recovered in a civil action
8 by the Attorney General on behalf the Department in the name of
9 the State of Illinois. If, in any case in which liability for
10 the payment of a civil penalty has been determined, any person
11 who has received any benefits under this Act by reason of the
12 making of such false statements or representations or failure
13 to disclose a material fact shall not be entitled to any
14 benefits under this Act for any leave occurring prior to the
15 time he or she has discharged his or her liability to pay the
16 civil penalty.

17 (b) A person who willfully violates any provision of this
18 Act or any rule adopted under this Act for which a civil
19 penalty is neither prescribed in this Act nor provided by any
20 other applicable law shall be subject to a civil penalty of
21 \$500 to be paid to the Department. Upon the refusal to pay such
22 civil penalty, the civil penalty shall be recovered in a civil
23 action by the Attorney General on behalf of the Department in
24 the name of the State of Illinois.

25 (c) A person, employing unit, employer, or entity violating
26 any provision of this Section with intent to defraud the

1 Department is guilty of a Class C misdemeanor. The fine upon
2 conviction shall be payable to the Fund. Any penalties imposed
3 by this subsection shall be in addition to those otherwise
4 prescribed in this Section.

5 Section 70. Leave and employment protection.

6 (a) During a period in which an employee receives family
7 leave benefits under this Act, the employee is entitled to
8 family leave and, at the established ending date of leave, to
9 be restored to a position of employment with the employer from
10 whom leave was taken as provided under subsection (b).

11 (b) Except as provided in subsection (f), an employee who
12 receives family leave benefits under this Act for the intended
13 purpose of the family leave is entitled, on return from the
14 leave:

15 (1) to be restored by the employer to the position of
16 employment held by the employee when the family leave
17 commenced; or

18 (2) to be restored to an equivalent position with
19 equivalent employment benefits, pay, and other terms and
20 conditions of employment at a workplace within 20 miles of
21 the employee's workplace when the family leave commenced.

22 (c) The taking of family leave under this Act may not
23 result in the loss of any employment benefits accrued before
24 the date on which the family leave commenced.

25 (d) Nothing in this Section entitles a restored employee

1 to:

2 (1) the accrual of any seniority or employment benefits
3 during any period of family leave; or

4 (2) any right, benefit, or position of employment other
5 than any right, benefit, or position to which the employee
6 would have been entitled had the employee not taken the
7 family leave.

8 (e) Nothing in this Section prohibits an employer from
9 requiring an employee on family leave to report periodically to
10 the employer on the status and intention of the employee to
11 return to work.

12 (f) An employer may deny restoration under subsection (b)
13 to a salaried employee who is among the highest paid 10% of the
14 employees employed by the employer within 75 miles of the
15 facility at which the employee is employed if:

16 (1) denial is necessary to prevent substantial and
17 grievous economic injury to the operations of the employer;

18 (2) the employer notifies the employee of the intent of
19 the employer to deny restoration on such basis at the time
20 the employer determines that the injury would occur; and

21 (3) the family leave has commenced and the employee
22 elects not to return to employment after receiving the
23 notice.

24 Section 75. Notice to employer.

25 (a) If the necessity for family leave for the birth or

1 placement of a child is foreseeable based on an expected birth
2 or placement, the employee shall provide the employer with not
3 less than 30 days' notice, before the date the leave is to
4 begin, of the employee's intention to take leave for the birth
5 or placement of a child, except that if the date of the birth
6 or placement requires leave to begin in less than 30 days, the
7 employee shall provide such notice as is practicable.

8 (b) If the necessity for family leave for an employee's or
9 a family member's serious health condition is foreseeable based
10 on planned medical treatment, the employee:

11 (1) must make a reasonable effort to schedule the
12 treatment so as not to disrupt unduly the operations of the
13 employer; and

14 (2) must provide the employer with not less than 30
15 days' notice, before the date the leave is to begin, of the
16 employee's intention to take leave for his, her, or a
17 family member's serious health condition, except that if
18 the date of the treatment requires leave to begin in less
19 than 30 days, the employee must provide such notice as is
20 practicable.

21 Section 80. Employment by same employer. If spouses who are
22 entitled to leave under this Act are employed by the same
23 employer, the employer may require that spouses not take such
24 leave concurrently.

1 Section 85. Coordination of leave.

2 (a) Family leave taken under this Act must be taken
3 concurrently with any leave taken under the federal Family and
4 Medical Leave Act of 1993.

5 (b) An employer may require that family leave taken under
6 this Act be taken concurrently or otherwise coordinated with
7 leave allowed under the terms of a collective bargaining
8 agreement or employer policy, as applicable, for the birth or
9 placement of a child. The employer must give his or her
10 employees written notice of this requirement.

11 Section 90. Rules. The Department may adopt any rules
12 necessary to implement the provisions of this Act. In adopting
13 rules, the Department shall maintain consistency with the
14 regulations adopted to implement the federal Family and Medical
15 Leave Act of 1993 to the extent such regulations are not in
16 conflict with this Act.

17 Section 95. Authority to contract. The Department may
18 contract or enter into interagency agreements with other State
19 agencies for the initial administration of the Family Leave
20 Program.

21 Section 175. Severability. The provisions of this Act are
22 severable under Section 1.31 of the Statute on Statutes.

1 Section 900. The State Finance Act is amended by adding
2 Section 5.886 as follows:

3 (30 ILCS 105/5.886 new)

4 Sec. 5.886. The State Benefits Fund.

5 Section 999. Effective date. This Act takes effect upon
6 becoming law."