



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB0166

by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.866 new

Creates the Family Leave Insurance Program Act. Requires the Department of Labor to establish and administer a Family Leave Insurance Program that provides family leave insurance benefits to eligible employees who take unpaid family leave to care for a newborn child, a newly adopted or newly placed foster child, or a family member with a serious health condition. Sets forth eligibility requirements for benefits under the Act including that the employee must (i) establish that he or she has been employed for at least 680 hours in employment during the employee's qualifying year and (ii) document that he or she has provided the employer with written notice of the employee's intention to take family leave. Defines "employer" to mean (a) any person, partnership, corporation, association, or other business entity that employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the year in which the leave is to be taken or in the year immediately preceding the year in which the leave is to be taken; and (b) the State of Illinois and any other unit of local government. Contains provisions concerning disqualification from benefits; premium payments; the amount and duration of benefits; the recovery of erroneous payments; hearings; defaulted premium payments; elective coverage; employment protection; coordination of family leave; defined terms; and other matters. Amends the State Finance Act. Creates the Family Leave Insurance Account Fund.

LRB099 00218 KTG 20219 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

6 Section 5. Legislative findings. The General Assembly
7 finds that, although family leave laws have assisted employees
8 to balance the demands of the workplace with their family
9 responsibilities, more needs to be done to achieve the goals of
10 parent and child bonding, workforce stability, and economic
11 security. In particular, the General Assembly finds that many
12 employees do not have access to family leave laws, and those
13 who do may not be in a financial position to take family leave
14 that is unpaid, and that employer-paid benefits meet only a
15 relatively small part of this need. The General Assembly
16 declares it to be in the public interest to establish a program
17 that:

18 (1) allows parents to bond with a newborn or newly
19 adopted child under 18 years of age or a newly placed
20 foster child under 18 years of age or a newly adopted or
21 newly placed foster child older than 18 years of age if the
22 child is incapable of self-care because of a mental or
23 physical disability;

1 (2) provides limited and additional income support for
2 a reasonable period while an individual is away from work
3 on family leave;

4 (3) reduces the impact on State income support programs
5 by increasing an individual's ability to provide
6 caregiving services for a child or a family member with a
7 serious health condition while maintaining an employment
8 relationship; and

9 (4) establishes a wage replacement benefit to be
10 coordinated with current existing State and federal family
11 leave laws.

12 Section 10. Definitions. As used in this Act:

13 "Application year" means the 12-month period beginning on
14 the first day of the calendar week in which an employee files
15 an application for family leave benefits and, thereafter, the
16 12-month period beginning with the first day of the calendar
17 week in which the employee files a subsequent application for
18 family leave benefits after the expiration of the employee's
19 last preceding application year.

20 "Calendar quarter" means the period of 3 consecutive
21 calendar months ending on March 31, June 30, September 30, or
22 December 31.

23 "Child" means a biological, adopted, or foster child.

24 "Department" means the Department of Labor.

25 "Director" means the Director of the Department of Labor.

1 "Employer" means (1) any person, partnership, corporation,
2 association, or other business entity that employs 50 or more
3 employees for each working day during each of 20 or more
4 calendar workweeks in the year in which the leave is to be
5 taken or in the year immediately preceding the year in which
6 the leave is to be taken; and (2) the State of Illinois and any
7 other unit of local government.

8 "Family leave" means:

9 (1) leave because of the birth of a child of the
10 employee and in order to care for the child;

11 (2) leave to care for a newly adopted child under 18
12 years of age or a newly placed foster child under 18 years
13 of age or a newly adopted or newly placed foster child
14 older than 18 years of age if the child is incapable of
15 self-care because of a mental or physical disability; or

16 (3) leave to care for a family member with a serious
17 health condition.

18 "Family member" means the spouse of the employee, the
19 biological, adoptive, or foster parent or child of the
20 employee, the grandparent or grandchild of the employee, a
21 parent-in-law of the employee, or a person with whom the
22 employee was or is in a relationship of in loco parentis.

23 "Family leave insurance benefits" means the benefits
24 payable under this Act.

25 "Health care provider" means a person who is licensed,
26 certified, or otherwise authorized by the law of this State to

1 administer health care in the ordinary course of business or
2 practice of a profession.

3 "Premium" means the payments required by this Act to be
4 made to the Family Leave Insurance Account Fund.

5 "Federal Family and Medical Leave Act" means the federal
6 Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

7 "Qualifying year" means the first 4 of the last 5 completed
8 calendar quarters or the last 4 completed calendar quarters
9 immediately preceding the first day of the individual's
10 application year.

11 "Serious health condition" means:

12 (1) an illness, injury, impairment, or physical or
13 mental condition that requires inpatient care in a
14 hospital, hospice, or residential medical care facility;

15 (2) an illness, disease, or condition that in the
16 medical judgment of the treating health care provider poses
17 an imminent danger of death, is terminal in prognosis with
18 a reasonable possibility of death in the near future, or
19 requires constant care; or

20 (3) any period of disability due to pregnancy, or
21 period of absence for prenatal care.

22 Section 15. Family Leave Insurance Program.

23 (a) The Department shall establish and administer a Family
24 Leave Insurance Program.

25 (b) The Department shall establish procedures and forms for

1 filing claims for benefits under this Act.

2 (c) The Department shall use information sharing and
3 integration technology to facilitate the disclosure of
4 relevant information or records by the Department of Employment
5 Security, so long as an individual consents to the disclosure
6 as required under Section 20 of this Act.

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

21 An employer must keep at its place of business records of
22 employment from which the information needed by the Department
23 for purposes of this Act may be obtained. The records shall at
24 all times be open to the inspection of the Department pursuant
25 to rules adopted by the Department.

26 (e) The Department shall develop and implement an outreach

1 program to ensure that individuals who may be eligible to
2 receive family leave insurance benefits under this Act are made
3 aware of these benefits. Outreach information shall explain, in
4 an easy to understand format, eligibility requirements, the
5 claims process, weekly benefit amounts, maximum benefits
6 payable, notice requirements, reinstatement and
7 nondiscrimination rights, confidentiality, and coordination of
8 leave under this Act and other laws, collective bargaining
9 agreements, and employer policies. Outreach information shall
10 be available in English and in languages other than English
11 that are spoken as a primary language by a significant portion
12 of the State's population, as determined by the Department.

13 Section 20. Eligibility for benefits.

14 (a) Family leave insurance benefits are payable under the
15 Family Leave Insurance Program to an employee during a period
16 in which the employee is on unpaid family leave if the employee
17 does all of the following:

18 (1) Takes family leave:

19 (A) because of the birth of a child of the employee
20 and in order to care for the child;

21 (B) to care for a newly adopted child under 18
22 years of age or a newly placed foster child under 18
23 years of age or a newly adopted or newly placed foster
24 child older than 18 years of age if the child is
25 incapable of self-care because of a mental or physical

1 disability; or

2 (C) to care for a family member with a serious
3 health condition.

4 (2) Files a claim for family leave insurance benefits
5 as required by rules adopted by the Department.

6 (3) Establishes that the employee has been employed for
7 at least 680 hours in employment during the employee's
8 qualifying year.

9 (4) Establishes that the employee has had premiums
10 withheld throughout the employee's qualifying year via
11 payroll withholdings as provided under Section 30 of this
12 Act.

13 (5) Establishes an application year. An application
14 year may not be established if the qualifying year includes
15 hours worked before establishment of a previous
16 application year.

17 (6) Consents to the disclosure of information or
18 records deemed private and confidential by State and
19 federal laws. Initial disclosure of this information and
20 these records by the Department of Employment Security to
21 the Department of Labor is solely for purposes related to
22 the administration of this Act. Further disclosure of this
23 information or these records is subject to subsection (c)
24 of Section 15 of this Act.

25 (7) Discloses whether or not he or she owes child
26 support obligations as defined in subsection (B) of Section

1 1300 of the Unemployment Insurance Act.

2 (8) Documents that he or she has provided the employer
3 from whom family leave is to be taken with written notice
4 of the employee's intention to take family leave as
5 provided in Section 75.

6 (b) The Department may require that a claim for family
7 leave insurance benefits under this Section be supported by a
8 certification issued by a health care provider who is providing
9 care to the employee's family member if applicable.

10 (c) An employee is not eligible for family leave insurance
11 benefits under this Section for any week for which the employee
12 receives paid family leave. If an employer provides paid family
13 leave, the employee may elect whether first to use the paid
14 family leave or to receive family leave insurance benefits
15 under this Section. An employee may not be required to use paid
16 family leave to which the employee is entitled before receiving
17 family leave insurance benefits under this Section.

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

20 (e) The eligibility of an employee for benefits is not
21 affected by a strike or lockout at the factory, establishment,
22 or other premises at which the employee is or was last
23 employed.

24 (f) An employee who has received benefits under this
25 Section may not lose any other employment benefits, including
26 seniority or pension rights, accrued before the date that

1 family leave commenced. However, this Section does not entitle
2 an employee to accrue employment benefits during a period of
3 family leave or to a right, benefit, or position of employment
4 other than a right, benefit, or position to which the employee
5 would have been entitled had the employee not taken family
6 leave.

7 (g) This Section does not diminish an employer's obligation
8 to comply with a collective bargaining agreement or an
9 employment benefits program or plan that provides greater
10 benefits to employees than the benefits provided under this
11 Section.

12 (h) An agreement by an employee to waive the employee's
13 rights under this Section is void as contrary to public policy.
14 The benefits under this Section may not be diminished by a
15 collective bargaining agreement or another employment benefits
16 program or plan entered into or renewed after the effective
17 date of this Act.

18 (i) This Section does not create a continuing entitlement
19 or contractual right.

20 Section 25. Disqualification from benefits.

21 (a) An employee is disqualified from family leave insurance
22 benefits under this Act if the employee:

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

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

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

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

12 Section 30. Premium payments.

13 (a) Every employer shall retain from the moneys earned by
14 all employees a premium amount of not more than \$2.50 for each
15 month the employee is employed and pay the moneys retained in
16 the manner and at such intervals as the Director directs.

17 (b) Moneys collected pursuant to subsection (a), and any
18 accrued cash balances, shall be deposited into the Family Leave
19 Insurance Account Fund for the expenditures of the Department
20 in carrying out the functions and duties of the Department
21 under this Act. Factors to be considered in making the
22 adjustment under subsection (c) in the rate of premiums
23 withheld include, but are not limited to, the cash balance as
24 determined by the Director and estimated expenditures and
25 revenues of the Family Leave Insurance Account Fund.

1 (c) The Director may adjust rates, not to exceed the amount
2 established in subsection (a) of this Section, for the
3 collection of premiums pursuant to subsection (a) of this
4 Section. The Director shall set rates for premiums in a manner
5 that minimizes the volatility of the rates assessed and so that
6 at the end of the period for which the rates are effective, the
7 cash balance shall be an amount approximating 12 months of
8 projected expenditures from the Family Leave Insurance Account
9 Fund, considering the functions and duties of the Department
10 under this Act.

11 (d) Every employer required to pay premiums under this
12 Section shall make and file a report of employee hours worked
13 and amounts due under this Section upon a combined report form
14 prescribed by the Department of Revenue. The report shall be
15 filed with the Department of Revenue at the times and in the
16 manner prescribed by the Department of Revenue.

17 (e) If the employer is a temporary employment agency that
18 provides employees on a temporary basis to its customers, the
19 temporary employment agency is considered the employer for
20 purposes of this Section.

21 (f) When an employer quits business or sells out, exchanges
22 or otherwise disposes of the business or stock of goods, any
23 premium payable under this Section is immediately due and
24 payable, and the employer shall, within 10 days thereafter, pay
25 the premium due. A person who becomes a successor to the
26 business is liable for the full amount of the premium and shall

1 withhold from the purchase price a sum sufficient to pay any
2 premium due from the employer until the employer produces a
3 receipt from the Department of Labor showing payment in full of
4 any premium due or a certificate that no premium is due. If the
5 premium is not paid by the employer within 10 days after the
6 date of the sale, exchange, or disposal, the successor is
7 liable for the payment of the full amount of the premium. The
8 successor's payment of the premium is, to the extent of the
9 payment, a payment upon the purchase price, and if the payment
10 is greater in amount than the purchase price, the amount of the
11 difference is a debt due the successor from the employer.

12 A successor is not liable for any premium due from the
13 person from whom the successor has acquired a business or stock
14 of goods if the successor gives written notice to the
15 Department of the acquisition and no assessment is issued by
16 the Department within one year after receipt of the notice
17 against the former operator of the business.

18 Section 35. Duration of benefits; amount of benefits.

19 (a) The Department shall notify the employer of an employee
20 filing a claim for family leave insurance benefits under
21 Section 20 of this Act within 5 business days of the claim
22 being filed.

23 (b) In an application year, family leave insurance benefits
24 are payable for a maximum of 6 weeks. However, benefits are not
25 payable during a waiting period consisting of the first 7

1 calendar days of family leave taken in an application year,
2 whether the first 7 calendar days of family leave are employer
3 paid or unpaid.

4 (c) The first payment of family leave insurance benefits
5 shall be made to an employee within 2 weeks after the claim is
6 filed or the family leave began, whichever is later. Subsequent
7 payments shall be made twice a month thereafter.

8 (d) Family leave insurance benefits shall be paid as
9 follows:

10 (1) Benefits shall be \$300 per week for an employee who
11 at the time family leave began was regularly working 40
12 hours per week, or a prorated amount based on the weekly
13 hours regularly worked for an employee regularly working
14 more than or less than 40 hours per week.

15 (2) Only in daily amounts for family leave taken by an
16 employee. The minimum period of family leave for which
17 benefits may be paid is one week. The Department may not
18 pay a claim for benefits for a period of family leave of
19 less than one week.

20 (3) If an employee dies before receiving payment of
21 benefits, the payment shall be made by the Department and
22 distributed consistent with the terms of the decedent's
23 will or, if the decedent dies intestate, consistent with
24 the provisions of the Probate Act of 1975.

25 (e) Family leave insurance benefits are payable under this
26 Section only to the extent that moneys are available in the

1 Family Leave Insurance Account Fund for that purpose. Neither
2 the State nor the Department is liable for any amount in excess
3 of this limitation.

4 (f) The Department shall provide a tax form to each
5 employee who has received family leave insurance benefits for
6 the employee's use in paying federal income tax on the benefits
7 and shall advise an employee filing a new claim for family
8 leave insurance benefits, at the time of filing the claim,
9 that:

10 (1) benefits are subject to federal income tax;

11 (2) requirements exist pertaining to estimated tax
12 payments;

13 (3) the employee may elect to have federal income tax
14 deducted and withheld from the individual's payment of
15 benefits at the amount specified in the federal Internal
16 Revenue Code; and

17 (4) the employee is permitted to change a previously
18 elected withholding status.

19 Amounts deducted and withheld from benefits must remain in
20 the Family Leave Insurance Account Fund until transferred to
21 the federal taxing authority as a payment of income tax.

22 The Director shall follow all procedures specified by the
23 federal Internal Revenue Service pertaining to the deducting
24 and withholding of income tax.

25 (g) If an individual discloses that he or she owes child
26 support obligations under Section 20 and the Department

1 determines that the individual is eligible for family leave
2 insurance benefits, the Department shall notify the applicable
3 State or local child support enforcement agency and deduct and
4 withhold an amount from the benefits in a manner consistent
5 with subsection (B) of Section 1300 of the Unemployment
6 Insurance Act.

7 (h) The payment of family leave insurance benefits under
8 this Act shall not be considered a binding determination of the
9 obligations of the Department under this Act. The acceptance of
10 compensation by the employee shall likewise not be considered a
11 binding determination of his or her rights under this Act.
12 Whenever any payment of benefits under this Act has been made
13 and timely appeal therefrom has been made where the final
14 decision is that the payment was improper, the employee shall
15 repay it and recoupment may be made from any future payment due
16 to the employee on any claim under this Act. The Director may
17 exercise his or her discretion to waive, in whole or in part,
18 the amount of any such payments where the recovery would be
19 against equity and good conscience.

20 Section 40. Recovery of erroneous payments.

21 (a) If an employee receives any family leave insurance
22 benefits under Section 35 which the employee is not entitled:

23 (1) the employee is liable to the Department for the
24 amount of benefits received; and

25 (2) the amount of benefits received may be deducted by

1 the Department from any future benefits otherwise payable
2 to the employee under Section 35.

3 (b) If the Department decides that an employee has been
4 paid family leave insurance benefits to which the employee is
5 not entitled because of an error, and that the employee is not
6 subject to disqualification under Section 25, the amounts
7 received in error may be recovered by the Department only by
8 deductions from benefits otherwise payable to the employee
9 under Section 35 during the 52 weeks following the date on
10 which the order establishing the amount of the erroneous
11 payment becomes final. If amounts determined to be recoverable
12 have not been paid within that time, the liability shall be
13 canceled by the Department and charged against the Family Leave
14 Insurance Account Fund.

15 (c) Except as provided in subsection (d), if benefits
16 determined to be recoverable under this Section have not been
17 paid within 3 years after the date that the order of the
18 Department establishing the liability of the employee becomes
19 final, and no payments have been received on the liability for
20 at least 3 months, the liability shall be canceled by the
21 Department and charged against the Family Leave Insurance
22 Account Fund.

23 (d) Any amount due under this Section may be collected by
24 the Department in a civil action against the employee brought
25 in the name of the Department.

26 (e) Interest on any benefits recoverable under this Section

1 shall be paid and collected at the same time repayment of
2 benefits is made by the employee. Interest on an amount
3 recoverable under this Section accrues at the rate specified in
4 Section 2-1303 of the Code of Civil Procedure, beginning on the
5 first day of the month following 60 days after entry of the
6 order establishing the amount recoverable.

7 (f) Any amount collected under this Section by the
8 Department shall be paid into the Family Leave Insurance
9 Account Fund.

10 Section 45. Hearings. A person aggrieved by a decision of
11 the Department under this Act may request a hearing. The
12 Department shall adopt rules governing hearings and the
13 issuance of final orders under this Act in accordance with the
14 provisions of the Illinois Administrative Procedure Act. All
15 final administrative decisions of the Department under this Act
16 are subject to judicial review under the Administrative Review
17 Law.

18 Section 50. Prohibited acts.

19 (a) No employer, temporary employment agency, employment
20 agency, employee organization, or other person shall
21 discharge, expel, or otherwise discriminate against a person
22 because the person has filed or communicated to the employer an
23 intent to file a claim, a complaint, or an appeal or has
24 testified or is about to testify or has assisted in any

1 proceeding, under this Act, at any time, including during the
2 waiting period described in subsection (b) of Section 35 and
3 the period in which the person receives family leave insurance
4 benefits under this Act.

5 (b) The Department may assess a civil penalty not to exceed
6 \$5,000 against an employer that:

7 (1) fails to withhold premiums or fails to pay when due
8 the moneys withheld as provided in Section 30; or

9 (2) fails to comply with this Act or any rules adopted
10 by the Department relating to reports or other requirements
11 necessary to carry out the purposes of this Act.

12 All civil penalties collected under this subsection shall
13 be applied first toward reimbursement of the costs incurred in
14 investigating violations, conducting hearings, and assessing
15 and collecting penalties. All remaining amounts shall be paid
16 into the Family Leave Insurance Account Fund.

17 Section 55. Defaulted premium payments.

18 (a) If an employer defaults with respect to any premium
19 payment required to be made by the employer to the Family Leave
20 Insurance Account Fund under Section 30, a person described in
21 subsection (b) of this Section who, as an officer, member,
22 partner, or employee, is under a duty to perform the actions
23 required by employers under this Act shall be personally liable
24 for amounts due under Section 30. More than one person may be
25 jointly and severally liable under this Section.

1 (b) This Section applies only to a person who is one or
2 more of the following:

3 (1) An officer or employee of a corporation.

4 (2) A member or an employee of a limited liability
5 corporation.

6 (3) A partner in or an employee of a limited liability
7 partnership.

8 (c) If the Director determines that an amount is due under
9 this Section, the Director shall issue a notice of assessment
10 to the person liable under this Section mailed to the person's
11 last-known address of record with the Director.

12 Section 60. Family Leave Insurance Account Fund. The Family
13 Leave Insurance Account Fund is created as a special fund in
14 the State treasury. All moneys from premiums received under
15 Section 30 shall be deposited into the Fund. Moneys in the Fund
16 shall be continuously appropriated to the Department only for
17 the purposes authorized by this Act. Any interest earned on
18 moneys in the Family Leave Insurance Account Fund shall be
19 deposited into the Fund.

20 Section 65. Elective coverage.

21 (a) An employer who is not subject to this Act or a
22 self-employed person, including a sole proprietor, partner, or
23 joint venturer, may elect to provide family leave insurance
24 benefits under this Act to the employer's employees or the

1 self-employed person for an initial period of not less than 3
2 years or a subsequent period of not less than one year
3 immediately following another period of coverage. The employer
4 or self-employed person must file a notice of election in
5 writing with the Director, as required by the Department. The
6 election becomes effective on the date of filing the notice.

7 (b) An employer or self-employed person who makes an
8 election under this Section may withdraw the election within 30
9 days after the end of the 3-year period of coverage, or at such
10 other times as the Director may prescribe by rule, by filing
11 written notice with the Director, such withdrawal to take
12 effect not sooner than 30 days after filing the notice. Within
13 5 days of filing written notice of the withdrawal with the
14 Director, an employer must provide written notice of the
15 withdrawal to all employees.

16 (c) The Department may cancel an election made under this
17 Section if the employer or self-employed person fails to remit
18 required premiums or reports. The Department may collect unpaid
19 premiums and may levy an additional premium for the remainder
20 of the coverage period. A cancellation under this subsection
21 becomes effective 30 days after the issuance of a written
22 notice of cancellation to the employer or self-employed person
23 or such earlier time as specified in the notice of
24 cancellation.

25 (d) This Section becomes operative on January 1, 2017.

1 Section 70. Leave and employment protection.

2 (a) During a period in which an employee receives family
3 leave insurance benefits or earns waiting period credits under
4 this Act, the employee is entitled to family leave and, at the
5 established ending date of leave, to be restored to a position
6 of employment with the employer from whom leave was taken as
7 provided under subsection (b).

8 (b) Except as provided in subsection (f), any employee who
9 receives family leave insurance benefits under this Act for the
10 intended purpose of the family leave is entitled, on return
11 from the leave:

12 (1) to be restored by the employer to the position of
13 employment held by the employee when the family leave
14 commenced; or

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

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

22 (d) Nothing in this Section entitles any restored employee
23 to:

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

26 (2) any right, benefit, or position of employment other

1 than any right, benefit, or position to which the employee
2 would have been entitled to had the employee not taken the
3 family leave.

4 (e) Nothing in this Section prohibits an employer from
5 requiring an employee on family leave to report periodically to
6 the employer on the status and intention of the employee to
7 return to work.

8 (f) An employer may deny restoration under subsection (b)
9 to any salaried employee who is among the highest paid 10% of
10 the employees employed by the employer within 75 miles of the
11 facility at which the employee is employed if:

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

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

17 (3) the family leave has commenced and the employee
18 elects not to return to employment after receiving the
19 notice.

20 (g) This Section applies only to an employee if:

21 (1) the employer from whom the employee takes family
22 leave employs more than 50 employees; and

23 (2) the employee has been employed for at least 12
24 months by that employer, and for at least 1,250 hours of
25 service with that employer during the previous 12-month
26 period.

1 Section 75. Notice to employer.

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

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

13 (1) must make a reasonable effort to schedule the
14 treatment so as not to disrupt unduly the operations of the
15 employer, subject to the approval of the health care
16 provider of the family member, as appropriate; and

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

23 Section 80. Employment by same employer. If spouses who are
24 entitled to leave under this Act are employed by the same

1 employer, the employer may require that spouses not take such
2 leave concurrently.

3 Section 85. Coordination of leave.

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

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

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

18 Section 95. Commencement date.

19 (a) Employers shall first withhold quarterly premiums from
20 employees' earnings for quarters worked beginning June 1, 2016.

21 (b) Employees may first file claims for family leave
22 insurance benefits under this Act on or after June 1, 2016.

1 Section 100. Authority to contract. The Department may
2 contract or enter into interagency agreements with other State
3 agencies for the initial administration of the Family Leave
4 Insurance Program.

5 Section 105. The State Finance Act is amended by adding
6 Section 5.866 as follows:

7 (30 ILCS 105/5.866 new)

8 Sec. 5.866. Family Leave Insurance Account Fund.