AGENDA

JOINT HEARING

ASSEMBLY BUDGET SUBCOMMITTEE NO. 4
ON STATE ADMINISTRATION
ASSEMBLYMEMBER JIM COOPER, CHAIR

AND

LABOR AND EMPLOYMENT COMMITTEE
ASSEMBLYMEMBER ASH KALRA, CHAIR

TUESDAY, MARCH 19, 2019

1:30 PM - STATE CAPITOL, ROOM 447

INFORMATIONAL HEARING: PAID FAMILY LEAVE

I. OPENING REMARKS

Assemblymember Cooper, Chair
Assemblymember Kalra, Chair

II. OVERVIEW OF PAID FAMILY LEAVE AND GOVERNOR'S 2019-20 BUDGET

Patrick Henning, Director, Employment Development Department
Danielle Brandon, Department of Finance
Chas Alamo and Seth Kerstein, Legislative Analyst's Office

III. ISSUES TO CONSIDER IN EXPANDING PAID FAMILY LEAVE

Dr. Curtis Chan, MD, MPH, San Francisco Department of Public Health
Jenna Gerry, Legal Aid at Work and the California Work and Family Coalition
Mitch Steiger, California Labor Federation

V. PUBLIC COMMENT

ITEMS TO BE HEARD

7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

ISSUE 1: PAID FAMILY LEAVE

The Committees will hear an overview of the paid family leave program in California and discuss the Governor's budget proposal to expand the program. The Committees will also hear from various stakeholders on issues to consider in expanding paid family leave.

PANEL 1:

- Patrick Henning, Director, Employment Development Department
- Danielle Brandon, Department of Finance
- Chas Alamo and Seth Kerstein, Legislative Analyst's Office

PANEL 2:

- Dr. Curtis Chan, MD, MPH, San Francisco Department of Public Health
- Jenna Gerry, Legal Aid at Work and the California Work and Family Coalition
- Mitch Steiger, California Labor Federation

BACKGROUND

Paid family leave was implemented in California in 2004 with SB 1661 (Kuehl), Chapter 7 of 2002. The program was created as an extension of the existing disability insurance program. Almost all California employees pay into the state's disability programs, including paid family leave, and are therefore eligible to receive benefits. According to the Employment Development Department (EDD), approximately 18.1 million California workers are covered by the state Disability Insurance (DI) program. In 2018, approximately 247,000 workers utilized paid family leave to bond with a child and about 37,000 workers took leave to care for an ill family member.

California's current paid family leave program provides up to six weeks of partial wage replacement to workers who take time off to bond with a new child (including newly fostered and adopted children) or care for an ill family member. Birth mothers are also eligible to take up to ten weeks of paid pregnancy related disability leave (four weeks prior to birth and six weeks after). Eligible recipients receive between 60 to 70 percent of their weekly wages, capped at $1,216. Low-wage workers, those earning less than one-third of the state average wage ($21,328 in 2019), receive weekly benefits equal to 70 percent of their weekly pay and workers making above that threshold receive weekly benefits equal to 60 percent of their weekly pay, up to the cap.

The EDD estimates that in 2019 the average benefit amount will be $695 per week and the average claim will last 5.5 weeks. The table below provides historical data related to paid family leave participation and benefits.

Paid Family Leave Historical Data

Calendar Year	First Claims Filed	Weeks Compensated	AWBA	Average Duration	Total Benefits Paid	Percentage of Claims	
						Bonding	Care
2014	238,575	1,190,443	$536.88	5.3	$639,122,491	89%	11%
2015	237,864	1,211,169	$551.17	5.4	$667,565,980	89%	11%
2016	256,835	1,292,627	$571.06	5.3	$738,166,947	88%	12%
2017	259,756	1,316,592	$599.21	5.4	$788,908,994	89%	11%
2018	284,218	1,484,180	$660.52	5.5	$980,328,408	87%	13%

Source: Employment Development Department

Since 2009-10, the number of bonding claims has increased by 40 percent, much of which can be attributed to an increase in men taking leave. In 2017-18, women made up 60 percent of bonding claims and men made up 40 percent. The LAO estimates that approximately half of eligible mothers and about one-quarter of eligible fathers made bonding claims in 2017. Additionally, the percentage of participants with higher incomes is growing (especially among men). However, the state currently only collects data on the income of the claimant, not the household income.

Funding for Paid Family Leave

Covered employees pay a 1 percent payroll tax to the Disability Insurance Fund, which funds disability and paid family leave benefits. Employees pay the payroll tax on annual earnings up to $118,371. The payroll tax raises about $8 billion each year for the fund. Approximately 85 percent of benefit payments go toward disability claims and about 15 percent go toward paid family leave claims (about $1 billion annually for paid family leave). The payroll tax rate is adjusted administratively in order to ensure the contributions are sufficient to cover the benefits, however statute caps the rate at 1.5 percent. Current law also requires the fund maintain a reserve balance equal to about 45 percent of benefit payments. In 2019, the EDD estimates the reserve balance will be $3.4 billion.

Recent Legislation

AB 908 (Chapter 5, Statutes of 2016) increased the State Disability Insurance (SDI) wage replacement rate from 55 percent to 60 for middle and high-income workers and 70 percent for low-income workers. The bill also eliminated the paid family leave waiting period and required EDD to: (1) provide a report, by July 1, 2017, on the cost/benefit of reducing or eliminating the current one-week waiting period for the SDI program; and, (2) provide a report, by March 1, 2021, on the impact of AB 908 on how DI and PFL benefits were utilized based on income categories, the cost of the increased wage replacement rates, and on the SDI contribution rates. The bill went into effect on January 1, 2018, and is scheduled to sunset on January 1, 2022.

SB 63 (Chapter 686, Statues of 2017) expanded the scope of job protection laws for bonding leave by reducing the threshold size of firms from 50 to 20 employees.

Additionally, SB 1123 (Chapter 849, Statutes of 2018) expanded the paid family leave program to include time off to participate in a qualifying exigency related to covered active duty, as defined, or call to covered active duty of the individual's spouse, domestic partner, child, or parent in the armed forces of the United States. The bill will take effect on January 1, 2021.

Research on Paid Family Leave

There has been a significant amount of research done on paid family leave nationally and internationally. The UC Berkeley Early Childhood Think Tank recently came out with a report on paid family leave. The report reviewed the research already done on this topic and found that there is growing evidence that paid family leave can have positive benefits for parents and children. Specifically, the UC Berkeley report, *Paid Family Leave in California: Serving More Parents with Greater Fairness,* found benefits in the following areas:

- **Child health:** steadier breastfeeding, rise in vaccinations, lower infant mortality.
- **Social:** reduced stress and maternal depression, stronger father involvement.
- **Economic:** slight effects on long-term earnings (inconsistent), lower infant-care costs.
- **Early learning:** emerging evidence on improved academic success (also inconsistent in Europe).

The LAO also recently did a review of some of the research around paid family leave and found considerable evidence on the effects of lengthening leave benefits, but limited research on the effects of other options, such as increasing the wage replacement benefit.

GOVERNOR'S PROPOSAL

The Governor's 2019-20 Budget proposes to expand paid family leave in California. The Governor's January budget summary states that the Administration is committed to expanding the paid family leave program with the goal of ensuring that all newborns and newly adopted babies can be cared for by a parent or a close family member for the first six months.

The Governor has indicated that the Administration will convene a task force over the course of the year to consider different options to phase-in and expand paid family leave. The proposed task force would evaluate options for expanding the length of leave and options for increasing program participation among eligible workers, including evaluating the effectiveness of the recent increase in the wage replacement benefit and other worker protections.

The Administration also proposes to adjust the reserve requirement for the Disability Insurance Fund in order to make a down payment in expanding paid family leave in the upcoming budget year.

The Administration has not released any trailer bill language or additional details on this proposal.

LAO REPORT AND RECOMMENDATIONS

The LAO highlights the following options to consider when expanding paid family leave:

- **Specific Details of the Governor's Plan Forthcoming.** The Governor has put forth a conceptual plan to expand the State's paid family leave program. Details about the expansion will be developed over the next several months as the task force and the Legislature provide their feedback and recommendations.

- **Main Options to Expand or Adjust Paid Family Leave.**
    - Lengthening the duration of paid leave benefits.
    - Increasing the wage replacement rate and/or adjusting its structure.
    - Allowing parents to share or transfer their available leave.
    - Allowing parents to choose between a short leave with a high replacement rate and a longer leave with a lower replacement rate.
    - Expanding outreach efforts to make more people aware of the program.

- **Legislature's Goals for Paid Family Leave Should Guide Policy Options.** The Governor has emphasized improvements in child development as a goal of paid family leave. However, there also are other reasons why the state may want to expand paid family leave or make other changes. Each option listed above would further some goals more than others and would have different effects on different groups of workers. If, for example, the Legislature is primarily concerned about low earners' ability to take leave, it might consider increasing the wage replacement rate for them specifically. On the other hand, if the Legislature's main goal is to allow families to take longer amounts of leave, lengthening the benefit may be the most effective approach.

- **Technology May Limit Near-Term Policy Options.** To change the current program, the Administration likely will need to update the information technology system that processes, issues, and manages paid family leave benefits. Options that adjust existing aspects of the program—such as lengthening the duration of paid leave benefits—could be implemented sooner than options that add new aspects to the program. These types of options—such as allowing parents to share or transfer their leave—could require significant system changes and take several years to plan and complete.

The LAO also provides the following options related to funding for expanded paid family leave:

- **Current Financing Structure Is Adaptable.** The state's current disability and paid family leave funding structure includes annual administrative adjustments to the payroll tax rate. These adjustments are intended to keep revenue in line with benefit payments. Administrative adjustments could support some expansion of paid family leave benefits. Under current law, however, the tax rate cannot exceed 1.5 percent.

- **Current Funding Structure Could Be Used to Finance at Least $1 Billion in Expanded Benefits.** The current payroll tax rate is 1.0 percent—0.5 percent below the statutory cap—and is expected to rise to 1.1 percent in 2020. Based on our preliminary analysis, we estimate that the current funding structure could adjust administratively to support at least $1 billion, but likely no more than $2 billion, in additional annual paid family leave benefits. (In 2018, total paid family leave benefits were about $1 billion.) Under such a scenario, the payroll tax rate would be higher than under current law, but lower than the statutory cap of 1.5 percent. A higher payroll tax rate means that all employees would contribute a larger share of their earnings to finance paid family leave benefits. Additionally, a rate closer to the statutory cap could limit the fund's ability to respond to unforeseen changes in benefit usage or the economy.

- **A Larger Expansion Would Likely Require an Alternative Funding Structure.** Alternatives include changing the statutory rules that govern the adjustable payroll tax used to finance benefits, identifying other employment-related fund sources, or making an annual General Fund transfer to finance expanded benefits. These options could also be used in coordination with the existing financing structure.

- **Consider Benefit Expansion and Funding Options as a Package.** To pay for expanded paid family leave, the state would need to raise some additional revenue—for example, by increasing tax rates—or forgo some spending on other programs.

Consequently, the Legislature's overall assessment of a benefit expansion would need to encompass the entire package—both the additional benefits and the cost of funding them.

STAFF COMMENTS/QUESTIONS

The Governor's proposal on paid family leave is part of a comprehensive package of proposals to expand access and support for early childhood education. Research shows that parents bonding with their baby in the first six months of life improves the overall health and brain development of young children, among other benefits. The Governor's proposal to expand paid family leave is consistent with the recent recommendations provided by the Assembly's Blue Ribbon Commission on Early Childhood Education.

However, the details of how the Governor's proposal would be structured and funded have not been provided. The Committees should continue to work with the Administration on developing the details of this proposal either through the task force or the Legislative process.

Additionally, when considering expanding paid family leave, the Legislature should also consider how to improve the existing program and remove barriers to participation. Some issues to consider include:

- **Increase Wage Replacement Benefits.** In addition to the Governor's proposal, AB 196 (Gonzalez) was introduced in January. The bill includes intent language to expand the paid family leave program in order to provide a 100 percent wage replacement benefit for workers earning $100,000 or less annually. This approach would likely increase participation for the program.

- **Outreach Efforts.** The 2014-15 budget provided $6 million to be used over three years for EDD to increase outreach and awareness of the paid family leave program. Although EDD has made significant outreach efforts, the Legislature could also consider other approaches to outreach, such as through health care providers.

- **Job Protections.** Despite recent efforts to improve job protection laws, some workers still do not participate in the program out of fear of repercussions from their employer. In expanding paid family leave, the Legislature should also consider strengthening job protections for workers.

Suggested Questions:

- Does the Administration have any more details on this proposal? What will be the scope and timeline of the proposed task force?

- The Governor proposes to use a portion of the reserve within the Disability Insurance Fund as a down payment on expanding paid family leave. What would be the impact of that on the stability of the program? Would that impact the payroll tax rate?

- How does the Administration intend to pay for the proposed expansion ongoing?

- What outreach is EDD doing to ensure low-wage workers are able to access paid family leave?

Staff Recommendation: Informational

This agenda and other publications are available on the Assembly Budget Committee's website at: https://abgt.assembly.ca.gov/sub4hearingagendas. You may contact the Committee at (916) 319-2099. This agenda was prepared by Katie Hardeman.