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SENATE BILL 25-271

BY SENATOR(S) Ball and Rich;
also REPRESENTATIVE(S) Espenosa and Luck, Carter, Keltie.

CONCERNING THE REPEAL OF PART 3 OF ARTICLE 13.3 OF TITLE 8, COLORADO
REVISED STATUTES, CONTAINING OBSOLETE PROVISIONS RELATING TO THE
STUDY OF A PAID FAMILY AND MEDICAL LEAVE PROGRAM.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **repeal** part 3 of article
13.3 of title 8 as follows:

~~**8-13.3-301. Legislative declaration.** (1) The general assembly
hereby finds and declares that:~~

~~(a) Colorado is a family-friendly state, and providing the workers of
Colorado with family and medical leave insurance will encourage an
entrepreneurial atmosphere and economic growth and promote a healthy
business climate;~~

~~(b) The United States is the only industrialized nation in the world
that does not mandate access to paid leave benefits. Simultaneously, nearly~~

*Capital letters or bold & italic numbers indicate new material added to existing law; dashes
through words or numbers indicate deletions from existing law and such material is not part of
the act.*

~~half of Americans live paycheck to paycheck and are unable to access two thousand dollars in the event of an emergency.~~

~~(c) This part 3 prepares for the implementation of a paid family and medical leave program in the state by completing a thorough analysis of paid family and medical leave programs by experts in the field, the establishment of a family and medical leave implementation task force, and actuarial and third-party studies;~~

~~(d) As specified in this part 3:~~

~~(f) The timeline for the analysis and implementation of a statewide paid family and medical leave program is as follows:~~

~~(A) By July 1, 2019, appointing authorities are required to make their appointments to the task force;~~

~~(B) By October 1, 2019, the department is required to provide the task force with the results of a third-party study and paid family and medical leave plan recommendations from the experts in the field, and the task force is required to accept and consider public comment regarding the administration and establishment of a paid family and medical leave program;~~

~~(C) By November 1, 2019, the task force shall make its initial recommendation on a family and medical leave program for employees in the state and provide the recommendation to an actuary contracted by the department;~~

~~(D) By December 1, 2019, an independent actuarial analysis must be completed and submitted to the task force;~~

~~(E) By January 8, 2020, the task force shall report its final recommendation on a paid family and medical leave program for all employees in the state;~~

~~(H) The timeline may also be assumed as follows:~~

~~(A) By July 1, 2020, the family and medical leave program will be established;~~

~~(B) By January 1, 2022, the public education and outreach campaign will begin;~~

~~(C) By January 1, 2023, the family and medical leave program funding will begin; and~~

~~(D) By January 1, 2024, the family and medical leave program will start paying benefits;~~

~~(e) The intent of this part 3 is to assist in the preparation of legislation in the 2020 legislative session establishing a paid family and medical leave program in the state.~~

8-13.3-302. Definitions. As used in this part 3, unless the context otherwise requires:

~~(1) "Department" means the department of labor and employment.~~

~~(2) "Executive director" means the executive director of the department.~~

~~(3) "Task force" means the family and medical leave implementation task force created in section 8-13.3-304 (1).~~

8-13.3-303. Department to perform analyses. ~~(1) (a) The department shall analyze the feasibility of contracting with a third party to administer parts of a paid family and medical leave program for all employees in the state as an alternative to state administration of all aspects of such a program. In determining whether a third party should administer parts of a paid family and medical leave program, the department shall consider whether doing so would be cost-effective, in the short term and in the long term for both the state and covered individuals, and lead to more efficient program administration and benefit management while assuring quality, worker experience, affordability, coverage, and program accountability, as compared to if the state administers all aspects of the program.~~

~~(b) In fulfilling the requirements of this subsection (1), the department shall make a request for information from third parties that may be willing to administer single or multiple parts of a paid family and~~

~~medical leave program. The requests for information pursuant to this subsection (1)(b) must solicit information from third parties that includes, but is not limited to, the third party's:~~

~~(I) Prior experience with paid family and medical leave insurance or providing monetary benefits in Colorado related to employees taking leave from work due to serious health conditions, parental bonding, or other family and medical leave purposes;~~

~~(II) Commitment to affirmative action, diversity, equity, and inclusion policies;~~

~~(III) Language access experience and cultural competency; and~~

~~(IV) Current or expected employee pay rates and benefits.~~

~~(c) Any study pursuant to this section must consider:~~

~~(I) The estimated difference in administrative costs charged by third parties as compared to a state-run paid family and medical leave program;~~

~~(II) The estimated difference in claims processing speeds;~~

~~(III) The state's costs to oversee any third-party administration, including costs to conduct annual audits and review regular reports from the third party;~~

~~(IV) The ability of a third party to satisfy necessary worker privacy and confidentiality requirements;~~

~~(V) The ability of a third party to access existing state data or to effectively interface with the department's systems and information;~~

~~(VI) The potential costs and challenges associated with terminating a third-party contract due to quality or compliance concerns following implementation of the program, as well as the feasibility of timely substituting administration by the state or a different third party without a disruption in benefits and administration; and~~

~~(VII) A timeline that presumes a paid family and medical leave~~

~~program that is established by July 1, 2020; begins public education and outreach on January 1, 2022; establishes the funding stream on January 1, 2023; and starts paying benefits on January 1, 2024.~~

~~(d) The department's study must specifically address the effect of using a third-party administrator on the following aspects of a paid family and medical leave program:~~

~~(I) Claims appeals and administrative enforcement;~~

~~(II) Premium rate setting and collection of premiums;~~

~~(III) Approval and oversight of private plans, if applicable; and~~

~~(IV) Management of elective coverage of employees who may not be included in the program.~~

~~(2) (a) (i) The department shall contract with at least three experts in the field of paid family and medical leave selected by the task force. The experts must be local and national experts:~~

~~(A) With demonstrated experience studying the health, economic, and social benefits of access to paid leave; the cost and economic impact of paid leave; and the drafting and implementation of paid family and medical leave programs at the state level; and~~

~~(B) Who have some familiarity with cross-state comparisons.~~

~~(H) The department shall commission a report from the experts under contract with the department pursuant to this subsection (2)(a) on the establishment of a paid family and medical leave program for employees in the state. The recommendations must specify the parameters that ensure that a program:~~

~~(A) Is affordable for the lowest-wage workers;~~

~~(B) Is equitable across workers of all incomes and classifications;~~

~~(C) Is accessible particularly to workers least likely to have access to paid leave today;~~

~~(D) Is adequate; and~~

~~(E) Includes a minimum duration of leave that meets evidence-based standards and wage replacement that is sufficient to allow the lowest-wage workers to participate.~~

~~(b) The recommendations must review, evaluate, and assess at least the following elements, without limitation:~~

~~(I) The purposes of the leave, including serious illness, caring for a loved one with a serious illness, bonding with a new child, and needs arising from military deployment and the effects of domestic violence, stalking, and sexual assault;~~

~~(II) Self-employed workers' access to paid family and medical leave and a mechanism to allow self-employed workers to participate;~~

~~(III) Eligibility to take leave;~~

~~(IV) The definition of family or family member for whom an individual may take leave for purposes of providing care;~~

~~(V) Job protection and other employment protections, including their effect on an individual's ability to take leave;~~

~~(VI) The duration of leave;~~

~~(VII) The amount of the wage replacement;~~

~~(VIII) The maximum weekly wage replacement amount;~~

~~(IX) The program funding structure;~~

~~(X) Program implementation;~~

~~(XI) The role of third-party vendors on program sustainability;~~

~~(XII) The solvency of a paid family and medical leave fund under various models;~~

~~(XIII) The portability of paid family and medical leave benefits;~~

~~(XIV) The sustainability of a paid family and medical leave program;~~

~~(XV) How a paid family and medical leave program would interact with other benefits; and~~

~~(XVI) A timeline that presumes a paid family and medical leave program that is established by July 1, 2020; begins education and outreach on January 1, 2022; establishes the funding stream on January 1, 2023; and starts paying benefits on January 1, 2024.~~

~~(3) No later than October 1, 2019:~~

~~(a) The department shall provide the task force created in section 8-13.3-304 with:~~

~~(I) The results of the third-party study conducted pursuant to subsection (1) of this section; and~~

~~(H) The paid family and medical leave plan report from experts commissioned in accordance with subsection (2) of this section; and~~

~~(b) The department of public health and environment shall provide the task force with a report detailing the health benefits related to paid family and medical leave.~~

~~(4) The department shall contract for the services of a qualified private actuary to perform an actuarial study of the initial recommendation for a family and medical leave program created by the task force pursuant to section 8-13.3-304 (8)(b). The actuarial study shall be provided to the task force no later than December 1, 2019.~~

~~8-13.3-304. Family and medical leave implementation task force.~~

~~(1) There is hereby created in the department the family and medical leave implementation task force.~~

~~(2) The task force consists of the following members:~~

~~(a) Three members who are workers or represent an organization that represents workers' interests in paid family and medical leave, each of whom shall be appointed from a list of at least three names submitted by a recognized statewide organization that promotes workers' rights;~~

~~(b) Three members who are private employers with a range of business size and experience in providing employees with paid family and medical leave, each of whom shall be appointed from a list of at least three names submitted by a recognized statewide organization of employers;~~

~~(c) One member who is a representative of a state policy organization that works on issues of economic opportunity;~~

~~(d) One member who is a private insurer with experience in administering temporary disability or family and medical leave insurance benefits;~~

~~(e) One member who represents a state policy organization that works on health advocacy;~~

~~(f) One labor economist with demonstrated research or expertise in studying paid family and medical leave and labor standards, and the data necessary to do so;~~

~~(g) One member who is a representative of a statewide domestic violence organization;~~

~~(h) One member who is a professional from a recognized institution of higher education and who has expertise in studying paid family and medical leave;~~

~~(i) One member who is a representative of organized labor; and~~

~~(j) Two nonvoting members, one of whom must represent the department.~~

~~(3) The members of the task force are appointed as follows:~~

~~(a) The governor shall appoint one member;~~

~~(b) The speaker of the house of representatives shall appoint four members;~~

~~(c) The president of the senate shall appoint four members;~~

~~(d) The house minority leader shall appoint two members;~~

~~(e) The senate minority leader shall appoint two members;~~

~~(f) The executive director shall appoint one nonvoting member; and~~

~~(g) The executive director of the department of personnel shall appoint one nonvoting member.~~

~~(4)(a) The appointing authorities shall make the appointments to the task force no later than July 1, 2019.~~

~~(b) In making the appointments, the appointing authorities shall ensure that the appointments reflect communities of color, rural communities, and historically underutilized businesses, as defined in section 24-49.5-105 (4).~~

~~(c) The department shall assist and coordinate the appointing authorities to ensure that members appointed to the task force pursuant to subsection (3) of this section meet the membership requirements specified in subsection (2) of this section.~~

~~(5) Each member of the task force serves at the pleasure of the appointing authority.~~

~~(6) Each member of the task force serves without compensation but is entitled to receive reimbursement for actual and necessary expenses the member incurs in the performance of the member's duties as a member of the task force.~~

~~(7)(a) The member appointed by the executive director shall call the first meeting of the task force.~~

~~(b) The task force shall elect a chair from among its voting members.~~

~~(8)(a) No later than September 1, 2019, the task force shall accept and consider public comment regarding the administration and establishment of a paid family and medical leave program in the state. The task force shall receive public comment for a minimum of thirty days.~~

~~(b) No later than November 1, 2019, the task force shall make an initial recommendation on a family and medical leave program for employees in the state and provide the recommendation to the actuary contracted by the department pursuant to section 8-13.3-303 (4). In making the recommendation, the task force shall consider the information it receives pursuant to section 8-13.3-303 (3).~~

~~(c) No later than January 8, 2020, after consideration of the actuarial analysis performed on the task force's initial recommendation, the task force shall report its final recommendation on a paid family and medical leave program for all employees in the state, along with the third-party administration study made pursuant to section 8-13.3-303 (1), and the actuarial study made pursuant to section 8-13.3-303 (4) to:~~

~~(i) The senate committees on finance and business, labor, and technology, or their successor committees;~~

~~(ii) The house of representatives committees on finance and business affairs and labor, or their successor committees; and~~

~~(iii) The governor.~~

~~(d) Recommendations made by the task force pursuant to this subsection (8) should attempt to meet a timeline that presumes a paid family and medical leave program that is established by July 1, 2020; begins education and outreach on January 1, 2022; establishes the funding stream on January 1, 2023; and starts paying benefits on January 1, 2024.~~

~~(9) Upon request by the task force, the department shall provide office space, equipment, and staff services as may be necessary to implement this section.~~

8-13.3-305. — Paid family and medical leave program implementation authorization. ~~The department shall not implement the recommended plan for a paid family and medical leave program unless the~~

~~general assembly, acting by bill, directs the department to implement the program. If the department is directed to implement the plan, it shall begin implementation by a date specified by the general assembly acting by bill.~~

SECTION 2. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in

November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO