

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 5166

STATE OF NEW JERSEY

DATED: DECEMBER 18, 2023

The Assembly Appropriations Committee reports favorably Assembly Bill No. 5166 (1R).

This bill extends to employees of employers with less than 30 employees the right to be reinstated to employment after taking paid or unpaid family leave, thus ensuring that all workers who pay for family temporary disability leave insurance (FLI) will be able to return to work after taking FLI benefits. The extension is phased in, with the threshold reduced to 20 employees upon the effective date of the bill, 10 employees one year later, and the threshold is reduced to five employees two years after the effective date.

Once the phase-in is complete, the bill extends to employees of employers with five or more employees, the provision under current law that provides that a covered employee who takes FLI benefits to care for a family member may not be retaliated against by their employer refusing to reinstate them after the leave. Currently, an employer who employs less than 30 workers, and is thus exempt from the reinstatement requirements of the Family Leave Act (FLA), is also exempt from the reinstatement requirements of that provision. By reducing this exemption, the bill extends that provision's reinstatement rights to recipients of FLI benefits even if their employers have less than 30 employees, in the same way that provision currently provides that reinstatement protection for temporary disability insurance recipients no matter how few employees the employer has.

Once fully phased in, the bill also amends the FLA to make employers of five or more employees subject to that law's requirement to reinstate leave takers, thereby extending that right of reinstatement to employees of employers with five or more employees, whether or not the employees receive FLI benefits.

The bill provided that an employee who is eligible for both earned sick leave, and either temporary disability benefits or family temporary disability leave benefits will have the option of using either the earned sick leave or whichever is applicable of temporary disability benefits or family temporary disability leave benefits, and may select the order in which the different kinds of leave are taken, but may not receive more than one kind of paid leave simultaneously during any period of time.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill, once the changes are fully phased-in starting in calendar year (CY) 2026, will result in an annual increase in expenditures of up to \$133.7 million, which includes \$2.4 million for increased administrative costs, an annual increase in revenue collections of up to \$167.1 million in FLI component of the State Disability Benefits Fund (SDBF). The bill expands the eligibility rules in three phases, with the employee threshold reduced annually.

The estimated CY 2025 and CY 2026 revenue increases include a build-up in SDBF reserves for the additional FLI benefit payments, as required by statute.

The OLS notes that employees will pay for the entire cost of the bill through increases in FLI wage tax assessments.