The Economics of Proposition 118: A Paid Family and Medical Leave Insurance Program for Colorado

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Proposition 118 and Paid Family and Medical Leave Insurance

- What is it?
- Who else has it?
- Why the interest?
- Review the basic features of Proposition 118.
- Cost and solvency of Proposition 118.
- Submit questions through Q&A.

* FAMLI Task Force: https://sites.google.com/state.co.us/famli/home

What is Paid Family and Medical Leave Insurance under Proposition 118?

- Paid leave from work (up to 12, +4 weeks)/year for:
- Care of a family member.
- Serious health condition (temporary disability insurance).
- Insurance premium ‘paid’ by employers and employees.
- Insurance benefit is a partial replacement of earnings.
- A new Division of Family and Medical Leave Insurance within the CDLE.
  - Accepts requests for paid leave.
  - Collects premiums, pays benefits, and sets many administrative rules.

States with Paid Family and Medical Leave Insurance

- Eight states and the District of Columbia, by effective date:
  - California (2004)
  - New Jersey (2009)
  - Rhode Island (2014)
  - New York (2018)
  - Hawaii (1969, temporary disability insurance only)
  - District of Columbia (2020)
  - Washington (2020),
  - Massachusetts (2021)
  - Connecticut (2022)
- State policies vary by premium, leave time, and wage replacement.*

*National Academy of Social Insurance: https://universalfamilycare.org/wp-content/uploads/2019/06/Designing-Universal-Family-Care_Digital-Version_FINAL.pdf

Other Leave Policies

- Colorado SB20-205 (2021):*
  - Up to 48 hours of paid leave/year.
  - For medical, family, and safe leave.
- Families First Coronavirus Response Act (until 12-31-20):**
  - Up to two weeks (+10 weeks) of paid leave for Covid-19 related quarantine, illness, and child care, etc.
- Federal Employee Paid Leave Act (2019).***
  - Up to 12 weeks paid parental leave for new child.
- Family and Medical Leave Act of 1993:***
  - Unpaid leave for up to 12 weeks.

* SB20-205: https://leg.colorado.gov/bills/sb20-205
** FFCRA: https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave
*** FEPLA: https://federalnewsnetwork.com/benefits/2020/08/a-few-more-things-to-know-about-the-paid-parental-leave-program/
**** FMLA: https://www.dol.gov/agencies/whd/laws-and-regulations/laws/fmla

Several Reasons for the Interest in Paid Leave

- Fewer available caregivers:*
  - 2010: 7 potential caregivers (aged 45-65)/ 80-year old.
  - 2030: 4 potential caregivers (aged 45-65)/ 80-year old.

  - 1970: Both parents worked in 31% of two-parent households.**
  - 2015: Both parents worked in 46% of two-parent households.

* National Academy of Social Insurance: https://universalfamilycare.org/wp-content/uploads/2019/06/Designing-Universal-Family-Care_Digital-Version_FINAL.pdf

** Pew Research Center: https://www.pewresearch.org/fact-tank/2015/11/04/how-american-parents-balance-work-and-family-life-when-both-work/

Financial Reasons

- 25% of bankruptcy filings for dual-income families:*
  - Due to missing work for illness or family care.
- 13% for single-parent families.

- Paid leave and public assistance:**
  - Birth mothers who take paid leave are 39% less likely to receive public assistance in the year after birth than birth mothers who do not take leave.

*Joint Economic Committee, U.S. Congress: https://www.jec.senate.gov/public/_cache/files/646d2340-dcd4-4614-ada9-be5b1c3f445c/jec-fact-sheet---economic-benefits-of-paid-leave.pdf

** Rutgers: https://www.nationalpartnership.org/our-work/resources/economic-justice/other/pay-matters.pdf

Gaps in Employer-provided Paid Leave Benefits

- Among civilian workers in the U.S.:*
  - 17% have employer-provided paid caregiving benefits.
  - 39% have temporary disability insurance.
- Lowest 25% of all earners:
  - 8% have access to paid family leave.
  - 19% have access to temporary disability insurance.
- Highest 25% of all earners:
  - 28% have access to paid family leave.
  - 54% have access to temporary disability insurance.
- U.S. is the only industrialized country without a national paid caregiving program.

*National Academy of Social Insurance: https://universalfamilycare.org/wp-content/uploads/2019/06/Designing-Universal-Family-Care_Digital-Version_FINAL.pdf

Economic and Health Benefits of Paid Leave

- Women with access to paid leave are:*
  - More likely to return to employer,
  - Maintain pre-leave wages,
  - Build more tenure and experience with employer.
- Paid leave and health outcomes for children:**
  - 10% to 13% decrease in infant mortality.
  - Increased breastfeeding at age six months.
  - Increased childhood immunization.

* Joint Economic Committee, U.S. Congress: https://www.jec.senate.gov/public/_cache/files/646d2340-dcd4-4614-ada9-be5b1c3f445c/jec-fact-sheet---economic-benefits-of-paid-leave.pdf

**Colorado Department of Public Health & Environment: https://sites.google.com/state.co.us/famli/expert-reports-analysis

Basic Features of Prop. 118: Employee Self-leave

- January 1, 2024: An employee may use leave for:
- Serious health condition. Physical or mental conditions that involve inpatient care or continuing treatment.
- Care for a new child by both parents.
  - During the child’s first year of life.
- Safe leave due to domestic violence, stalking, sexual assault, or abuse.

Employee Family Care

- Employee may also take leave to care for a family member who is:
  - A child, regardless of age.
  - A spouse or domestic partner.
  - A grandparent, parent, sibling, or grandchild (or that of a spouse or a domestic partner).
  - A person with a significant personal bond that is like a family relationship, regardless of biological or legal relationship.
  - On active or impending active military service.
  - In need of safe leave.

Leave Qualifications and Job Protection

- Two types of qualification:
  - For paid leave and benefits:
    - Earned at least $2,500 in the last 12 months.
  - For job protection:
    - With current employer for at least 180 days.
- Job protection:
- Same or equivalent position:
  - Same pay, benefits, and other terms of employment.
  - Employer and employee continue to contribute to health insurance.
- Unlawful for an employer to:
  - Interfere with, restrain leave rights.
  - Retaliate: demote, discipline, or discharge.

Coordination of Leave Benefits

- Limitations on ‘stacking’ of benefits:
  - Leave runs concurrently with:
  - Federal Family and Medical Leave Act.
  - If employer agrees: stacking with any employer’s disability and paid leave policies.
- Topping off benefits while on leave:
  - Use PTO to bring partial earnings replacement to a full earnings replacement.
  - If employee and employer agree.
- No required use of PTO instead of family and medical leave.

Insurance Premiums and Exceptions

- Employer may deduct up to 50% of the premium from wages,
  - Remits 100% of premiums to the Division.

- Exceptions: Employee's share only (50% of premium):
- Employers with fewer than 10 employees:
- Employee of a nonparticipating local government.
- Self-employed and sole proprietors:
  - (minimum of a three-year commitment).

- Employers can substitute private plans:
  - If at least the same rights, protections, and benefits are provided.

Who “Pays” the Premium?

- A 50-50 split between employer and employee?
- Economics: A distinction between who makes the tax payment and who bears the burden (incidence) of tax.
- Gasoline taxes are passed through to the consumer.*
- Congressional Budget Office:**
  - “Employer’s share of payroll taxes are passed on to employees in the form of lower wages than would otherwise be paid.”
- Paid leave insurance premium passes through to employees.

*National Bureau of Economic Research: https://www.nber.org/papers/w16863

** Congressional Budget Office: https://www.cbo.gov/sites/default/files/110th-congress-2007-2008/reports/12-11-historicaltaxrates.pdf

Impacts on Businesses

- Another administration responsibility (small businesses).
- Job protection for a critical worker in a small business.
- Levels the benefit playing field between large and small employers.

- Research on paid leave and business impacts:*
- CA: Employers: a positive, or no effect on performance, productivity, profitability.
- CA: Lower turnover rates.

* National Partnership for Women & Families: https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/paid-leave-works-evidence-from-state-programs.pdf

Insurance Benefit and Earnings Replacement Method

- Two-step replacement benefit method.
- Intended to provide:
  - A relatively higher benefit for lower incomes.
  - A relatively lower benefit for higher incomes.
- Earnings replacement benefit depends on:
- State average weekly “wage” for the year.
  - Salary, wages, tips, and commissions, etc. (benefits not included).
- Employee’s average weekly wage (over the last year).

Two-step Earnings Replacement Method

- Step 1: Amount of employee’s weekly wage that is equal to, or less than 50% of state average wage,
  - Wage replacement = 90% of this portion.

- Step 2: Amount of employees weekly wage that is greater than 50% of state average wage,
  - Wage replacement = 50% of this portion.
- Caps on earnings replacement benefit:
- In 2024, maximum weekly benefit is $1,100.
- After 2024, maximum weekly benefit is 90% of state average.

Wage Replacement Illustration for 2024.

- Estimated state average weekly wage is 2024 = $1,340.*
  - 50% = $670.
- 90% weekly wage replacement for earnings up to $35,000.
- Between $35,000 and $87,000, wage replacement increases, but at less than 90% of earnings.
- Capped at $1,100 (2024) weekly for earnings greater than $87,000.
- Higher replacement for low incomes makes program useful.
- Otherwise, low earners pay premiums, but won't use benefits.
  - Redistributes paid leave resources to higher earners.**

* 2020 State Ballot Information Booklet: http://leg.colorado.gov/content/initiatives/initiatives-blue-book-overview/ballot-information-booklet-blue-book

**Independent Women's Forum: http://pdf.iwf.org/PFL_For_Low-Income_Families.pdf

Insurance Premiums for Paid Leave

- Premium contributions start January 2023.
- Benefits available January 2024.
- Premium rates:
- 2023 thru 2024. Rates = 0.9% of employee wages.
  - Premium on $50,000 = $450/yearly = $8.65/weekly.

Premiums Starting in 2025

- Next year’s premiums = 135% of last year’s benefits + 100% of last year’s admin. costs, minus remaining fund balance.
- Funding formula intends to cover costs w/o accumulating excess funds.
  - Premium rate increases for the next year if:
  - Benefit and admin costs increase, or if fund balance decreases.
  - Rates decrease for the next year if:
  - Benefit and admin costs decrease or if fund balance increases.
- Premium cap = 1.2% of wages.
- Taxable income cap = Maximum Social Security taxable income ($161,700 in 2023).

Costs and Solvency: Actuarial Study by AMI Risk Consultants*

- Solvency study of two programs:
  - Low benefit option: 12 weeks max leave, qualifying income = $5,000, lower premiums, etc.
  - High benefit option: 28 weeks max leave, qualifying income $300/year, higher premiums, etc.
- Assumes growing programs:
  - 8% annual growth in #claims.

* Report by AMI Risk Consultants: https://drive.google.com/file/d/1xjuRW3p6Iq0oaCP2j15lFEAMX7F9kA9F/view

Actuarial Study Findings

- A funding formula of (about) 125% of previous year's expenses (admin. and benefit costs) and,
- 2% annual increase in premiums and,
- A year's collection of premiums before benefits start:
- 87% likelihood that funds will cover all expenses.
  - 75% is the industry standard for solvency.

- Based on the statistical analysis of thousands of simulations.
- Cost data from existing programs:
  - California (2004) and New Jersey (2009)

Case Study of Solvency: California*

- A generous program:
  - A low eligibility threshold ($300 in past year).
  - Up to 52 weeks for paid temporary disability leave.
- A growing program between 2004 and 2019:
  - 293% increase in #family leave claims.
  - 69% increase in average weekly benefits paid.
- Funding formal: 145% of fund disbursements, minus fund balance.
- Premiums = 0.9% to 1.0% of wages since 2012.
  - Never reached 1.5% maximum, 2004 to 2019.

*Overview of California's Paid Family Leave Program: https://www.edd.ca.gov/pdf_pub_ctr/de2530.pdf

Case Study of Solvency: California

- Fund balance and solvency:
    - 2019 fund balance = 41% of total premiums.
    - Great Recession 2008-2009?
        - Fund balance = 19% and 21% of total premiums, respectively.
- California maintained solvency by increasing funding,
    - Not by decreasing benefits.
- Increases in taxable income ceiling:
    - 2004 = $69,000
    - 2019 = $123,000
- Future solvency?
    - Slower program growth or,
    - Align benefits with funding.

Case Study of New Jersey*

- California's program is generous and growing.
- New Jersey's program is less generous with reductions in # claims.
- NJ: A higher eligibility threshold:
  - At least $172/week for last 20 weeks.
  - $300 in past year for CA.
- NJ: Fewer weeks of paid temporary disability leave:
  - Up to 26 weeks in NJ.
  - Up to 52weeks in CA.

*Analysis of the New Jersey Budget, 2018-2019: https://www.njleg.state.nj.us/legislativepub/budget_2019/DOL_analysis_2019.pdf

Case Study of New Jersey

- NJ: Lower maximum weekly benefit:
- $650 in NJ (2019).**
- $1,300 in CA (2019).

- Program growth in New Jersey 2011 to 2016:
- 6.2% decrease in #claims for temporary disability and family leave (combined).
- NJ uses CA funding formula 145% of disbursements, minus remaining balance.

** See My Leave Benefits for changes in New Jersey's program beginning in 2019: https://myleavebenefits.nj.gov/help/faq/updatestolaw_2.shtml

Changes in New Jersey: 2008 to 2018*

Program Feature	2008	2018
Taxable income ceiling	$27,700	$33,700
Premium rates	0.50%	0.28%
Max premium payment	$139 annually	$94 annually
Max wage replacement	$524 weekly	$637 weekly

*Analysis of the New Jersey Budget, 2018-2019: https://www.njleg.state.nj.us/legislativepub/budget_2019/DOL_analysis_2019.pdf

Proposition 118 and Solvency?

- Lessons from California and New Jersey:
- Increased cost pressures for generous and growing programs.
- Reduced cost pressures for less-generous, stable programs.

- Proposition 118, funding & solvency:
- Premiums collected one year in advance of benefits.
- Relatively high premium rate at start = 0.9%.
- High taxable income cap = $161,700 in 2023.
- Funding formula= 135% of benefits, plus 100% of admin costs.
- Suggests a high level of program revenue.

Proposition 118 and Solvency?

- Program costs depend on:
  - # People who qualify for leave.
  - Length of leave.
  - Level of the wage replacement.

  - # People and eligibility threshold:
  - CA: $300 in past year.
  - CO: $2,500 in past year.
  - NJ: At least $172/week for last 20 weeks.

Proposition 118 and Solvency?

- Length of Leave:
- CA: up to 52 for medical, 6 weeks for family.
- NJ: up to 26 weeks for medical, 6 weeks for family.*
- CO: Up to 12 weeks for either (+4 weeks for pregnancy complications).
- Level of benefits (maximum wage replacement):
- CA: $1,300/week (2019).
- CO: $1,100/week (2024).
- NJ: $650/week (2019).**
  - NJ benefit = 66% of employee’s average weekly wage.

* Increases to 70% of state average weekly wage in 2020: https://myleavebenefits.nj.gov/help/faq/updatestolaw_2.shtml

** Based on 2019, increased to 12 weeks for family leave in 2020 (see above reference).

Proposition 118 and Solvency

- Data from other states suggest solvency.
- Possible risks:
  - Early years of the program (starting in 2025) and fluctuating claims growth.
- Conversation with the Principal Research Analyst, NJ Office of Legislative Services.
- Washington: Benefits started in January, 2020.
  - High demand into a Covid-19 economy.*

* Channel 5 report: https://www.king5.com/article/news/local/paid-family-leave-pay-delay/281-6c9ac95e-c018-4bcd-b282-4a720220c3f2