

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 873**

STATE OF NEW JERSEY

DATED: FEBRUARY 28, 2008

The Assembly Labor Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 873.

This Assembly Committee Substitute extends the State's existing temporary disability insurance (TDI) system to provide workers with family temporary disability leave benefits to care for members of the worker's family unable to care for themselves, including sick family members and newborn and newly adopted children.

The substitute bill provides up to six weeks of TDI benefits for a worker taking leave to participate in providing care certified to be necessary for a family member of the worker suffering a serious health condition, including providing psychological comfort and arranging third party care for the family member, or taking leave to be with a child of the worker during the first 12 months after the child's birth or placement for adoption with the worker's family.

The bill applies to all private and governmental employers subject to the "unemployment compensation law" (R.S.43:21-1 et seq.), including local governmental employers who choose to opt out of the regular TDI program.

The weekly benefit amount paid under the bill is the same as the weekly amount for TDI benefits during a worker's own disability and is subject to the same one-week waiting period. The employer may require that the employee take up to two weeks of available sick or vacation pay or other fully-paid leave provided by the employer before receiving benefits under the bill, and may require that the period of benefits under this bill be reduced by the amount of time in which fully paid leave is provided. If the employee is required to take fully paid leave, the bill requires that the employee be permitted to use the first week's worth of the fully paid leave during the one-week waiting period that precedes the family leave benefits. If the leave is for care of a child after birth or adoption, the employee is required to give at least 30 days prior notice, except when unforeseeable circumstances prevent that prior notice. If the leave is for the care for sick family members, the employee is required to schedule, when possible, the leave in a manner to minimize disruption of employer operations, and give, if possible, 15 days prior notice for leave which is intermittent.

Employees are required to take benefits provided under the bill concurrently with any unpaid leave taken under the State “Family Leave Act,” P.L.1989, c.261 (C.34:11B-1 et seq.) or the federal “Family and Medical Leave Act of 1993,” Pub.L.103-3 (29U.S.C. s.2601 et seq.). The bill does not grant employees any entitlement to be restored by employers to employment held prior to taking family temporary disability leave or any right to take action against an employer who refuses to restore the employee to employment and does not increase, reduce or modify any employee entitlements or rights provided by the “Family Leave Act” or the federal “Family and Medical Leave Act of 1993.”

The bill provides that the collection of an assessment on employees to pay for family temporary disability leave benefits will commence on January 1, 2009 and that the payment of family leave benefits will commence on July 1, 2009. During 2009, the bill will raise revenues necessary to pay the benefits through an assessment paid by workers of 0.09% of the portion of each worker's wages subject to TDI taxes. In 2010 and subsequent years, the rate would be 0.12%. If the 0.12% assessment rate were applied to the \$27,700 of a worker's wage which is taxable in 2008, the maximum annual assessment paid by a worker would be \$33, approximately 64 cents per week. The funds raised through that assessment would be deposited into an account to be used only for family leave benefits and their administration, including the cost of an outreach program to eligible employees and the cost of issuing annual reports on the use of the benefits. Neither the assessments nor the benefits would be considered in determining the TDI tax rates of employers. The bill permits the Department of Labor and Workforce Development to borrow up to \$25 million from the TDI fund for start-up costs of the program, including the costs of setting up the revenue collection system, and requires the borrowed amount to be repaid by 2015.

The bill provides that, as with TDI, employers would have the option of using the State-operated plan or a private plan through self-insurance or an insurance policy, so long as employees are not charged more, the benefits are not lower and eligibility is not more restrictive than under the State plan. The bill provides that private plans may cover TDI benefits, family leave benefits, both or neither. The bill requires no changes in existing private plans.

Finally, the bill reaffirms the State's commitment to sustaining the State-operated, nonprofit State disability benefits plan, which has been found to be a highly efficient and cost-effective means of ensuring the availability of coverage for employers and workers with low overhead costs and impartial claims processing.

As reported, this Assembly Committee Substitute is identical to Senate Bill No. 786(1R).