LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
57th Legislature, 1st Session, 2025

Bill Number HB11/HCEDCS/aSTBTC **Sponsor** HCEDC

Tracking Number .230488.8 **Committee Referrals** HHHC/HCEDC;STBTC/SFC

Short Title Paid Family & Medical Leave Act

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Analyst Estupiñan **Last Updated** 3/13/2025

BILL SUMMARY

Synopsis of STBTC Amendment

The Senate Tax, Business and Transportation Committee amendment to House Bill 11 (HB11/HCEDCS/aSTBTC) changes the start date for employer contributions from January 1, 2027 to July 1, 2027. The amendment also clarifies that if both parents apply for the welcome child refund, the benefit will be split evenly between them, and that self-employed individuals are also eligible to receive the welcome child benefit.

Synopsis of Bill

The House Commerce and Economic Development Committee Substitute for House Bill 11 (HB11/HCEDCS) would require certain amounts of family wellness leave to be available each calendar year for all employees, with the exclusion of federal employees. Native American tribes may elect to participate in the program.

The bill would also create the welcome child benefit for claim by new parents.

The bill would require employer premium contributions to begin on January 1, 2027, and individuals with qualifying events could apply for family wellness leave beginning on January 1, 2028.

FISCAL IMPACT

The bill does not contain an appropriation, but the House Appropriations and Finance Committee Substitute for House Bills 2 and 3 (HB2/HAFCS) includes a $35 million appropriation from the general fund to the Department of Workforce Solutions (DWS) for implementing HB11/HCEDCS/aSTBTC.

As political subdivisions of the state, school districts may be fiscally impacted by HB11/HCEDCS/aSTBTC. Beginning July 1, 2027, employers would contribute 0.15 percent of each employee's wages to the family wellness leave fund per calendar quarter, up to the earnings cap established by the Social Security Administration program. The total contribution rate may fluctuate up to 0.1 percentage points each year upon the recommendation of DWS.

Based on the initial employer contribution of 0.15 percent, the bill would not have a fiscal impact on school districts in FY26 or FY27, but it may have a fiscal impact on school districts of approximately $4 million in FY28 and subsequent fiscal years for employees who are paid using operational funds. The fiscal impact may be higher if accounting for employees paid using federal or other state funds and will also vary depending on whether a school district or charter school is deemed eligible to apply for a waiver from the program.

SUBSTANTIVE ISSUES

Welcome Child Benefit. Beginning January 1, 2028, HB11/HCEDCS/aSTBTC would require a $3,000 refund each month for three months upon the birth or adoption of a child, an amount that would be adjusted for inflation each year beginning on January 1, 2030. The parent would also be eligible for a maximum of twelve weeks of welcome child leave to be taken within one year of the birth or adoption of a child.

Amounts of Family Wellness Leave. Beginning January 1, 2028, an applicant would be eligible for a maximum of six weeks of family wellness leave in a calendar year.

Qualifying Events and Calculating Benefits. The bill defines "family wellness leave" as including bereavement, foster, safe, qualifying exigency, and medical leave. Definitions in the bill include:

- Bereavement leave means paid leave granted following the death of an adopted, biological, or foster child under 18 years of age;
- Foster leave means paid leave granted to allow an applicant to bond with a foster child within 12 months of the placement of a foster child with the applicant;
- Safe leave means paid leave granted to an applicant who is the victim or whose family member is the victim of domestic violence, stalking, sexual assault, or abuse;
- Exigency leave means paid leave granted based on a need arising out of an applicant's family member's active duty service or notice of an impending call or order to active duty in the armed forces; and
- Medical leave means paid leave granted to allow an applicant to care for a family member with a serious health condition or to manage the applicant's serious health condition.

To qualify for leave, HB11/HCEDCS/aSTBTC requires an employee to have contributed to the paid family and medical leave fund for at least six months in the 12-month period prior to their application. If approved for leave, an individual must be compensated at the same rate as a non-tipped, state-minimum-wage-earning employee working the same number of hours per week as the applicant, plus 67 percent of the applicant's average weekly wages that are greater than the non-tipped, state minimum wage compensation.

However, the maximum amount of weekly leave compensation would not exceed the annual mean wage of all occupations in the state, as calculated by the United States Bureau of Labor Statistics.

Current Statute for Private Employers. Section 50-17-3 NMSA 1978 requires employees to accrue at least one hour of earned sick leave for every 30 hours worked, with each employee being allowed to use at least 64 hours of paid sick leave in a 12-month period.

Local Collective Bargaining Agreements. There are no federal or state statutes that require a school district or charter school to provide a certain amount of paid or unpaid leave to employees. Instead, school districts and charter schools typically enter into collective bargaining agreements with their employees, including provisions governing employee leave. For example, Albuquerque Public Schools (APS) currently has an agreement with the Albuquerque Teachers Federation (ATF) providing paid leave for incidents of assault, bereavement, jury duty, personal emergencies, religious activities, personal matters, professional development, the birth of a child, sickness, and military leave. However, the duration and rate of pay during leave may fluctuate, as an employee is compensated 40 percent of their wages for up to 30 days of parental leave.

The amount of leave permitted may also depend on the number of days a public school employee is contracted for. An example of this appears in the Central Consolidated School District collective bargaining agreement, where an employee contracted within 176 and 196 days is granted 10 days of paid annual leave, whereas the allowance is 12 days for an employee contracted within 210 and 223 days. The classification of an employee may also influence how an employee may use their leave, as certified teachers may have additional requirements around how they may use their leave during the school year.

Of note, not every school district or charter school has a collective bargaining agreement, and a collective bargaining agreement entered into by a school district does not apply to the state- or locally-chartered schools in their geographic area.

HB11/HCEDCS/aSTBTC states the rights, privileges, and remedies of collective bargaining agreements will be unaffected by the provisions of the bill.

Waivers. If an employer provides leave and leave compensation at similar or greater rates than the provisions of HB11/HCEDCS/aSTBTC, that employer may apply for a waiver from participating in the Welcome Child and Family Wellness Leave Act. Approval of a waiver would be contingent on employees not being required to pay more for private coverage than the employee would have paid through contributions to the family wellness leave fund and that the employer not impose additional restrictions or conditions on leave beyond those explicitly authorized by state law.

ADMINISTRATIVE IMPLICATIONS

DWS anticipates significant operational costs associated with administering the provisions of the bill. The department also notes the option for employers to opt-out of both the fund and the program would place an unfair burden on participating employers and notes the potential for rulemaking that imposes fees on opt-out applications. If enacted through rulemaking, such a fee would burden school districts that choose to opt-out of the program, if they are deemed eligible for that option.

SOURCES OF INFORMATION

- LESC Files
- Legislative Finance Committee (LFC) Files
- Department of Workforce Solutions (WSD)

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