



Battle with business heats up over Colorado Democrats' family-leave proposal

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March 13, 2019

Colorado employers warn of less vacation time and fewer jobs, while supporters call the measure affordable at a max of \$256 per worker, per year.

Democrats who want paid maternity and medical leave for all Colorado workers have met behind the scenes for months with the state's top business leaders in an attempt to temper opposition.

It doesn't appear to have worked.

The legislation that would require all workers and employers to contribute to a family-leave fund is scheduled for its first hearing Wednesday. And while some small business owners plan to rally for support with the governor and restaurateur "Illegal Pete" in the Capitol foyer, Colorado's top business associations are fiercely opposed.

Both the Colorado Chamber of Commerce, representing hundreds of businesses and chambers across the state, and the National Federation of Independent Businesses chapter in Colorado, with 7,000 members, are against the proposal.

"We are just not going to be able to get together on this," said Tony Gagliardi, the Colorado director of NFIB.

The legislation is more likely to pass this year, on its fifth attempt, because Democrats control the statehouse. It would require all employees and employers in Colorado to contribute a combined 0.64 percent of workers' salaries into a statewide pool. The state Department of Labor and Employment would decide whether to approve requests for up to 12 weeks of paid leave, and potentially even 16 weeks in certain circumstances, for employees who had a baby, adopted a child, had an illness or needed to care for a sick relative or close friend.

Unlike the federal Family and Medical Leave Act, which governs workplaces of 50 or more, the state program is for employers of all sizes.

Sen. Faith Winter, a Democrat from Westminster and lead sponsor of the bill, said attempts to win over the support of business advocates faltered over a major difference regarding the worth of a program that everyone pays for and only certain people use.

"I felt strongly that if you were a fast-food worker or a lawyer, you should have access to the same benefit," she said. "There are just fundamental differences in values of universal coverage."

The current version of the measure, Senate Bill 188, says employees and employers each will contribute 0.32 percent of a worker's paycheck to the fund. But amendments in the works would

propose giving the state government, local governments and school districts a 75 percent discount — so those government employers would contribute just 25 percent of their share.

Businesses with four employees or fewer also would get a 75 percent discount, and those with five to 10 workers would get a 50 percent discount. The anticipated amendment already has critics questioning how the family-leave fund would sustain itself.

Businesses with more than 10 workers would get no discount.

“It means private industry will be subsidizing government once again,” the NFIB’s Gagliardi said.

Business advocates also warned that employers are likely to offer less vacation and sick time, and that workers will take more time off than before if paid leave is an option.

“Now that it’s paid, people are not going to hesitate on taking that much leave,” said Loren Furman, the Colorado Chamber’s lobbyist. “There are going to be people who are never going to use this much leave. Do they want to subsidize everybody else?”

In exchange for their contribution and keeping a job open for an employee on leave, employers will save money on hiring and training new workers to replace those who quit because they have a baby or get sick, Winter said.

“To say that you have to cut down on vacation for all employees because a small percentage might have an event that qualifies for paid family leave is disappointing,” she said. “This bill doesn’t change the fact that people still have babies, people still have cancer, people still have dying parents. Right now, they are just losing those employees.”

Sen. Faith Winter poses for a photo with her daughter Sienna Snook, 7, on her first day as a state senator. (Kathryn Scott, The Colorado Sun)

Fewer than 40 percent of employees in Colorado work at a place large enough to meet the 50-employee threshold that mandates leave time under the federal law, according to legislative staff research. The vast majority of Colorado workers — about 80 percent — do not get paid leave, according to the working women’s advocacy group 9to5 and the Colorado Fiscal Institute.

One in four women in Colorado and the rest of the country return to work just two weeks after having a baby.

Critics of the proposal also said it’s worrisome that it does not align with the federal act, which allows people to take up to 12 weeks off for maternity or medical leave but does not require that it’s paid. The employer decides whether to offer paid leave.

It’s possible that Colorado workers could take three months off under the state program, then receive another 12 weeks off under the federal law, said employment attorney Brooke Colaizzi, who studied the proposal for the Colorado Chamber.

“The biggest problem with the lack of alignment is a double leave requirement,” she said, suggesting that an employee could take leave under the state program under a domestic violence provision and then take another leave under the federal law for an illness or a new baby.

Federal law says a worker isn't eligible for leave for one year. The state proposal sets the bar at about four months. The state proposal also has a looser definition of a family member, allowing a person to take a leave to care for a "loved one."

The business community is still crunching numbers, but Colaizzi said that in addition to their required contributions, employers should expect to pay more administrative costs to handle payroll deductions and hiring temporary staff.

Not all businesses are opposed, however.

Katharine Knarreborg, president of a small engineering and manufacturing company in Centennial, is cheering for the proposal. Knarreborg has four employees, including highly skilled engineers who spend hours each day peering through a microscope at Merlin Instrument Company.

On her own, Knarreborg struggles to provide a paid-leave program, which is a problem because she is competing for engineers with larger companies that offer better benefits. The state family-leave program would cost her \$650 per year under the current proposal, or \$200 if the amendment passes to give small businesses a discount.

"Anything we can do to keep and retain good employees is so important," she said, noting she recently put together a 12-week maternity leave with 60 percent salary for one of her employees because she wants her to return to the company. "Losing an employee is kind of the worst-case scenario."

The amount a worker is paid while on leave would depend on their salary, but the maximum allowed under the state proposal is \$1,000 per week.

Under the current proposal, a worker earning \$40,000 per year would pay \$128, and someone with a salary of \$60,000 would pay \$192 per year. The required contribution tops out at \$256 per year, for anyone making \$80,000 or more.

An employer who had 12 workers each making \$40,000, for example, would have to contribute \$1,536 per year.

"I would much rather pay that \$1,500 dollars instead of telling an employee that they have to show up after their chemotherapy or they would lose their job," Winter said. "This is incredibly affordable."

Christine Levi unbuckles her daughter, Aaliyah, before dropping the toddler off at daycare in Denver. Levi resumed work the day she came home from the hospital after having Aaliyah because her employer offered no paid leave. Levi has since gotten a new job and is pregnant again. (Marvin Anani, Special to The Colorado Sun)

Multiple — and competing — polls have been released from various groups. Good Business Colorado says 71 percent of small business owners approve of a paid family and medical leave insurance program, while the NFIB says more than 80 percent of its member businesses are opposed. The NFIB's research arm even predicted Colorado would lose 14,000 jobs and \$2.4 billion in personal income by 2029 if a family-leave law is enacted.

A Cato Institute study cited by the Colorado Chamber says 62 percent of Americans oppose a paid leave program if workers who don't use it still have to pay for it.

The legislation's fiscal note, prepared by legislative staff, estimated the program would generate \$922 million in premiums in 2021. The state Department of Labor would use a loan from the state general fund and issue revenue bonds to get the program running.

Coloradans could qualify for leave under the proposal:

- To care for a new baby or a family member or close friend with a serious illness.
- If they are unable to work because of serious illness.
- If they are the “victim of abusive behavior.”
- When a family member's active-duty military service has created certain issues.

The legislation states that contributions to the family-leave fund are not state revenue and therefore not subject to the Taxpayer's Bill of Rights, which puts a cap on state revenues. Still, expect a debate on that point as some Republicans already are calling the proposal a new tax.

“It's a big expensive entitlement, paid for by payroll taxes,” said Sen. Jack Tate, a Centennial Republican who sits on the business committee where the bill will get its first hearing.

“You're potentially creating a lot of hardship for small businesses where, I mean if you have, like, only a couple employees at a company, now you're talking about someone being gone and how does the business deal with that? That challenge for a small business is remarkably different than it would be for a company of 5,000 employees.”