

MARCH 10, 2022 | STATE & LOCAL TRENDS

Both Employees and Employers Benefit from Revisions to Washington, D.C. Paid Leave Law

Just two years after the enactment of Universal Paid Family Leave Act, it appears that thousands of private-sector employees in Washington, D.C. will receive a substantial increase in the annual amount of paid leave to which they are entitled. At the same time, D.C. employers will receive a significant tax cut to the amount they are required to pay to fund this program. 

The Universal Paid Family Leave Act, which took effect in July 2020, allows eligible D.C. employees to take up to (i) *eight weeks for parental leave*; (ii) *six weeks for family medical leave*; and (iii) *six weeks for personal medical leave*. This program, which is funded through employer-paid taxes, has cost less than previously forecast and now has excess funds.

As a result, in a letter sent last week to Mayor Muriel Bowser and D.C. Council Chairman Phil Mendelson, D.C.'s Acting Chief Financial Officer Fitzroy Lee stated that by as early as July 1, 2022, employees will now receive (i) *twelve weeks for parental leave*; (ii) *twelve weeks for family medical leave*; and (iii) *twelve weeks for personal medical leave*. In other words, eligible employees will now be able to take double the amount of paid leave for family medical leave and personal medical leave, and 66% more parental leave, than they currently receive. Eligible employees also will now be entitled to a new benefit of two weeks of paid prenatal leave, which was not previously available.

Employees will not be the sole beneficiary to the changes to the Universal Paid Family Leave Act. Because of the excess funds currently available, the private employers who pay for this leave program will see the payroll tax rate they owe cut by more than half, from the current rate of 0.62% of an employee's salary, to a new rate of 0.26% of an employee's salary. That change is expected to result in a saving of \$202 million for employers in the first year alone.

Thus, this program will be achieving a tax cut for employers, while simultaneously increasing and enhancing benefits for employees. The significant increase in employee benefits and decrease in costs to employers comes from a large surplus in the city's paid leave fund, which approached \$500 million this past year.

It is likely that there will be even more changes to the Universal Paid Family Leave Act in the near future. For example, a new bill introduced by councilmembers last month would make the benefits "portable," meaning that workers who are fired or otherwise lose their job would still be able to take advantage of benefits for which their

employer had paid as currently, employees can only claim leave benefits if they are still employed, which may negatively impact low-wage workers in industries with high turnover.

Moreover, future adjustments could be made to the wage benefits that are paid out. Using the tax revenue collected from the employers, D.C. currently reimburses employees for 90% of their first \$912 in weekly pay and 50 percent of their remaining weekly pay, with a cap of \$1,009 per week. These amounts may increase, especially after the D.C. CFO conduct its next annual check of the tax structure in March 2023.

Finally, to keep pace with private employers, the D.C. Council introduced legislation that would significantly expand paid-leave benefits for city government workers as well, including new paid medical leave for qualifying ailments such as cancer.

Employees will certainly expect to take advantage of the additional paid leave allotments that will now be available to them. Given that the changes to the Universal Paid Leave Act are expected to take place by July, employers will need to get up to speed on and prepare for these new changes as soon as possible. In addition to discussing with counsel how these changes will effect their businesses, employers should evaluate their current policies and update and revise their employee handbook and other stand-alone policies to reflect the upcoming changes to this law. We will continue to keep you apprised of all developments.