



State & Local Compliance Update

USI EMPLOYEE BENEFITS

August 25, 2025

Washington Expands PFML Protections

Washington's Paid Family and Medical Leave ("WA PFML") program, administered by the Employee Security Department ("ESD"), provides partial wage replacement benefits to employees on leave for certain family and medical reasons. With the passage of HB 1213, various WA PFML employee protections will be expanded effective January 1, 2026.

BACKGROUND

Effective January 1, 2020, all employers with at least one (1) employee performing services in Washington must provide paid family and medical leave benefits through the state insurance fund or an approved voluntary plan. WA PFML benefits are funded by premiums paid by employer and employee contributions¹. Employees may receive wage replacement benefits of up to 90% of weekly wages up to the maximum². Employers are also required to report employee wages and hours when premiums are remitted to ESD.

Employees are eligible for leave benefits if they worked at least 820 hours for any WA employer during a qualifying year. Employees may be eligible for up to 12 weeks of medical or family leave.³ WA PFML leave can run concurrently with the federal Family and Medical Leave Act ("FMLA"). Based on employer size⁴ and depending on their eligibility, employees may be entitled to job protection and benefits continuation during their period of leave.

HB 1213

On May 17, 2025, HB 1213 was signed into law. HB 1213 expands several employee benefits and protections under WA PFML. The changes become effective January 1, 2026.

¹ Premiums are based on employee wages up to the social security cap (\$176,100 in 2025).

² \$1,542 per week in 2025.

³ Employees may be eligible for up to 16 to 18 of combined family and medical leave benefits in a year.

⁴ Employers with 50 or more employees are required to provide employment protection to employees that qualify

Notable changes follow.

Minimum leave increments

The minimum leave increment is reduced from eight (8) to four (4) hours.

Significant changes to job protection provisions

- Smaller employers will be required to provide job protection to employees taking WA PFML as follows:⁵
 - 25 or more employees from January 1, 2026 to December 31, 2026
 - 15 or more employees from January 1, 2027 to December 31, 2027
 - Eight (8) or more employees on or after January 1, 2028
- The minimum hours worked for employees to qualify for job protection is removed
- Benefits continuation is now required during any leave when an employee is eligible for job protection⁶

Leave stacking

Currently, employees can “stack” FMLA and WA PFML leave by claiming leave under FMLA first without applying for leave under WA PFML. Stacking makes it possible for an employee to take 12 weeks of leave under FMLA and then the full amount of available WA PFML, potentially providing an employee with up to 30 weeks of protected leave⁷.

HB 1213 now provides a maximum period of job protection of 16 weeks⁸ in a 52-week period when an employee takes FMLA that is also eligible for WA PFML. The maximum job protection period requires the employer to provide notice to the employee containing the following information:

- That the FMLA leave is counting against any period of job protection under WA PFML
- That the use of unpaid FMLA leave does not affect the employee’s eligibility for benefits under WA PFML

The maximum period of job protection that is available to an employee requires the employee to exercise their right to restoration of employment by the earlier of:

- First scheduled workday following the period of leave; or
- First scheduled workday following a continuous or intermittent period of 16 weeks.

This means an employee’s job protection expires after the 16-week period even if the employee is still off work on approved WA PFML, making it possible for the employer to avoid job restoration and discontinue benefits continuation. Employers should be sure to confirm whether an employee in this situation should be offered COBRA.

⁵ The calculation for employer size is completed on September 30 of each year and is based on the number of reported employees on the last day of each quarter over the last four (4) completed quarters

⁶ Employees can be required to pay their usual monthly employee contribution during benefit continuation

⁷ Currently, only one (1) day of overlapping FMLA and WA PFML is required in order for an employee to be eligible for benefit continuation during WA PFML (changed by HB 1213).

⁸ The maximum period of job protection can be extended to 18 weeks if any of the leave was taken due to a serious health condition with a pregnancy resulting in incapacity

Small employer grants

HB 1213 also changes the grants⁹ available to assist small employers with costs related to WA PFML

- Only employers with 50 to 150 employees will be eligible for existing grants¹⁰
- A new \$3,000 grant is available to employers with fewer than 50 employees that can be used for:
 - Costs related to hiring a temporary worker for more than seven (7) days; or
 - Significant additional wage related costs due to an employee's leave
- Any employer receiving a grant will be assessed for all premiums for three (3) years

EMPLOYER NEXT STEPS

Employers will need to become familiar with the additional rights and responsibilities imposed by HB 1213. While the changes related to employee leave stacking are welcomed, employers should update existing leave policies to account for the changes related to job protection and benefit continuation. Additionally, employers should consider updating leave and benefit continuation policies to account for possible required COBRA continuation coverage offered during WA PFML leave. Employers will likely need to confirm processes with COBRA administrators to ensure compliance.

ESD may provide sample notices that can be used to satisfy the notice obligation that allows an employer to limit the maximum period of job protection and benefit continuation.

RESOURCES

- For information on HB 1213, visit: <https://app.leg.wa.gov/billsummary?BillNumber=1213&Year=2025>
- WA PFML homepage: <https://paidleave.wa.gov/>
- Employer Help Center including toolkits and forms: <https://paidleave.wa.gov/employers/>

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⁹ Rules for grant applications can be found here: <https://paidleave.wa.gov/small-businesses/>

¹⁰ \$3,000 if employer hires a temporary worker to replace an employee on leave for seven (7) days or more and \$1,000 as reimbursement for significant additional wage related costs due to an employee's leave.