

## SUMMARY

### Massachusetts HB 4640

#### Minimum Wage, Paid Family Medical Leave and the Sales Tax Holiday

##### **Sales Tax**

- Implements by law a required annual sales tax holiday to be held for two days during one weekend each year during the month of August. The Legislature by joint resolution must designate the dates of the sales tax holiday each year on or before June 15<sup>th</sup>. If the Legislature fails to do so, the Commissioner of Revenue shall designate the dates no later than July 1<sup>st</sup>. The rules for the sales tax holiday will remain similar to those implemented during previous sales tax holiday weekends. The section takes effect on July 1, 2019.
- Supporters of the ballot question which sought to reduce the sales tax rate to 5 percent have agreed to withdraw that question from the November general election ballot.

##### **Minimum Wage**

- The current \$11.00 minimum wage will be increased to \$15.00 per hour as of January 1, 2023. The wage will increase to \$12.00 on January 1, 2019 and will increase by 75 cents on January 1<sup>st</sup> of the following 4 years until it reaches the \$15.00 benchmark. The ballot question would have increased the minimum wage by \$1.00 each year with the \$15.00 per hour wage implemented one year earlier in 2022. The indexing of the minimum wage to the CPI which was included in the ballot question was not included in this legislation.

##### **Sunday and Holiday Time and a Half Wages**

- The current time and a half formula used for persons who work on Sunday and holidays will be gradually reduced until it is eliminated as of January 1, 2023. The premium will be reduced to 1 and 4/10ths on January 1, 2019 and will be reduced by an additional 10<sup>th</sup> of a percent for the following 4 years until it is eliminated on January 1, 2023.

##### **Paid Family and Medical Leave**

- Creates a Department of Family and Medical Leave to implement this law. The contributions from this section will be contributed to The Family and Employment Security Trust Fund. The Department shall disperse all benefit payments from this fund.
- Provides up to 12 weeks of paid family leave for the purpose of (a) bonding with a child of less than 12 months of age, (b) deal with the exigency of the deployment of a family service member, and (c) care for a family service member. The proposed ballot question would have provided for 16 weeks of family leave. The amount of family leave will be increased to 26 weeks if it is used to care for a member of the armed forces.

- Provides up to 20 weeks of paid medical leave for an employee to recover or seek treatment from a serious health condition or to care for a family member who has a serious health condition. The ballot question would have provided for 26 weeks of paid family leave.
- An individual cannot take more than 26 weeks of combined family and medical leave benefits in any one calendar year.
- There is a 7 day waiting period before a worker can utilize paid sick leave. The employee may utilize accrued sick time, vacation time or other paid leave benefits during that period of time. There will be no waiting period for persons recovering from pregnancy or child birth. An employer may not compel an employee to exhaust rights to any sick, vacation or personal time prior to or while taking leave under this law.
- The employee who seeks to utilize these benefits shall give no less than 30 days notice to the employer of the anticipated starting date of the leave, the anticipated length of the leave and the expected date of return. However, this notice period is waived if the delay is for a reason beyond the employee's control.
- A family member is defined as the spouse, domestic partner, child, parent, or parent of a spouse, or domestic partner of the covered individual; a person who stood in loco parentis to the covered individual when the covered individual was a minor child; or a grandchild, grandparent or sibling of the covered individual.
- Business will be required to pay 50 percent of the contributions to the fund and the employee would pay the additional 50 percent. The combined contribution rate will be set at 0.63 percent of the payroll. No contributions will be required for wages above the Social Security contribution limit. 40 percent of the payments will be credited to the family leave fund and 60 percent of the benefits will be credited to the sick leave fund.
- Persons with wage levels of less than 50 percent of the annual state average weekly wage will receive 80 percent of their wages up to the weekly cap of \$850.00. Persons with wages above the 50 average weekly wage percent will receive 50 percent of their wages up to the cap. The ballot question would have provided benefits to all persons at a rate of 90 percent of their average weekly wage with a maximum weekly benefit of \$1,000.00
- Businesses with 25 or less employees will not have to contribute to the trust fund. However, their employees will be required to make their contributions at the rate of 50 percent of the 0.63 contribution rate.
- Self employed individual can also participate and contribute the full share of the assessment. Employers who contract with self employed individuals shall notify them of their rights under this law.

- Employers who fail to comply with this law will be assessed a penalty of \$50 per employee for the first violation, \$300 per employee for the second violation and assessment of 0.63 percent of their total company payroll.
- Employers can seek an exemption from the law if they offer a plan certified by the department that provides benefits that are equal or more generous than the benefits provided under this law.
- Separate leave benefits provided by the employer or through a collective bargaining agreement shall run concurrently with the leave provided for under the law. Other government benefits such as workers compensation or permanent disability benefits will also be used to offset these benefits. The provisions of this law cannot serve to limit benefits provided under a collective bargain agreement.
- The benefit amounts paid to the employee from the trust fund will not be reduced by the amount of wage replacement that an employee receives while on leave from a temporary employer sponsored disability policy or paid family or medical leave policy. The employer can seek reimbursement from the trust fund for payments made to an employee from those temporary policies for the amount that is greater than the family or medical leave benefits received.
- Employees who utilized paid family or medical leave must be returned to their previous position with the employer or to an equivalent position when they return from leave. However, they will not receive preference over similar employees that have been laid off during the same period of leave. Employees on leave must also accrue the same employer benefits as other company employees. Employers cannot retaliate or take any adverse action against any employee that exercises their rights under this law.
- Employees who have separated from their last employer for more than 26 weeks cannot collect benefits under this law.
- There are no provisions in the law that would require an employee to have worked for an employer for a specific number of hours before they can be eligible for benefits. This is similar to the provisions within the workers compensation law. One proposal considered and rejected by the Legislature would have required workers to have been employed by the same employer for a minimum of 1,250 hours.
- Employers shall provide each new employee within 30 days of the start of their employment, a notice containing an explanation of the benefits available under the paid family and medical leave law. The notice shall include the calculation of the contribution amounts and instructions on how to file a claim for benefits. A similar notice shall also be posted at the place of employment.
- Each year on October 1<sup>st</sup>, the Commissioner of Unemployment Assistance will adjust the maximum benefit to 64 percent of the state average weekly wage which will be implemented on the following January 1<sup>st</sup>. The Commissioner must ensure that the trust

fund contains 140 percent of the funding needed to provide for the benefits paid out for the previous calendar year. Any surpluses contained in the fund on an annual basis can be invested by the State Treasurer in a selected list of investments.

- The Department is directed to draft proposed regulations to implement the provisions of this law. The collection of payments to the trust fund will begin on July 1, 2019 and the payment of benefits will begin on January 1, 2021.