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**AB-908 Disability compensation: disability insurance.** (2015-2016)

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**Assembly Bill No. 908**

**CHAPTER 5**

An act to amend Section 2655 of, to amend, repeal, and add Section 3303 of, and to add and repeal Section 2655.1 of, the Unemployment Insurance Code, relating to disability compensation, and making an appropriation therefor.

[ Approved by Governor April 11, 2016. Filed with Secretary of State April 11, 2016. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 908, Gomez. Disability compensation: disability insurance.

Existing unemployment compensation disability law provides a formula for determining benefits available to qualifying disabled individuals. For an individual who has quarterly base wages of greater than \$1,749.20, the weekly benefit is calculated by multiplying base wages by 55% and dividing the result by 13. For a benefit that is not a multiple of \$1, existing law provides that the benefit shall be computed to the next higher multiple of \$1. However, existing law provides that this amount may not exceed the maximum workers' compensation temporary disability indemnity weekly benefit amount.

Under existing law, the family temporary disability insurance program provides up to 6 weeks of wage replacement benefits to workers who take time off work to care for specified persons, or to bond with a minor child within one year of the birth or placement of the child in connection with foster care or adoption. Existing law defines "weekly benefit amount" for purposes of this program to mean the amount of benefits available to qualifying disabled individuals pursuant to unemployment compensation disability law.

This bill would revise the formula for determining benefits available pursuant to unemployment compensation disability law and for the family temporary disability insurance program, for periods of disability commencing after January 1, 2018, but before January 1, 2022, to provide a weekly benefit amount minimum of \$50 and increase the wage replacement rate to specified percentages, but not to exceed the maximum workers' compensation temporary disability indemnity weekly benefit amount established by the Department of Industrial Relations pursuant to existing law.

Existing law deems an individual to be eligible for family temporary disability benefits if, among other things, the individual is unable to perform his or her regular or customary work for a 7-day waiting period during each disability benefit period. and prohibits payments for benefits during this waiting period.

This bill, on and after January 1, 2018, also would remove the 7-day waiting period for these benefits.

This bill, by authorizing an increase in the expenditure of money from the Unemployment Compensation Disability Fund, would make an appropriation.

This bill would require, by July 1, 2017, the Employment Development Department to report to the Assembly Committee on Insurance and Senate Committee on Labor and Industrial Relations specified information regarding the waiting period for disability benefits. The bill also would require, by March 1, 2021, the department to prepare a report to the Legislature and

specified legislative committees on levels and trends regarding utilization, costs, and rates with respect to family leave and disability insurance.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: no

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

### **SECTION 1.** Section 2655 of the Unemployment Insurance Code is amended to read:

**2655.** (a) Except as provided in subdivisions (b), (c), (d), (e), and (f), an individual's "weekly benefit amount" shall be the amount appearing in column B in the table set forth in this subdivision on the line of which in column A of the table there appears the wage bracket containing the amount of wages paid to the individual for employment by employers during the quarter of his or her disability base period in which wages were the highest.

A Amount of wages in highest quarter	B Weekly benefit amount
\$75–1,149.99 .....	\$50
1,150–1,174.99 .....	51
1,175–1,199.99 .....	52
1,200–1,224.99 .....	53
1,225–1,249.99 .....	54
1,250–1,274.99 .....	55
1,275–1,299.99 .....	56
1,300–1,324.99 .....	57
1,325–1,349.99 .....	58
1,350–1,374.99 .....	59
1,375–1,399.99 .....	60
1,400–1,424.99 .....	61
1,425–1,449.99 .....	62
1,450–1,474.99 .....	63
1,475–1,499.99 .....	64
1,500–1,524.99 .....	65
1,525–1,549.99 .....	66
1,550–1,574.99 .....	67
1,575–1,599.99 .....	68
1,600–1,624.99 .....	69
1,625–1,649.99 .....	70
1,650–1,674.99 .....	71
1,675–1,699.99 .....	72
1,700–1,724.99 .....	73
1,725–1,749.20 .....	74

(b) For periods of disability commencing on or after January 1, 1990, and prior to January 1, 1991, if the amount of wages paid an individual for employment by employers during the quarter of his or her disability base period in which these wages were highest exceeds one thousand seven hundred forty-nine dollars and twenty cents (\$1,749.20), the weekly benefit amount shall be 55 percent of these wages divided by 13, but not exceeding two hundred sixty-six dollars (\$266) or the maximum workers' compensation temporary disability indemnity weekly benefit amount, whichever is less. If the benefit payable under this subdivision is not a multiple of one dollar (\$1), it shall be computed to the next higher multiple of one dollar (\$1).

(c) For periods of disability commencing on or after January 1, 1991, but before January 1, 2000, if the amount of wages paid an individual for employment by employers during the quarter of his or her disability base period in which these wages were highest exceeds one thousand seven hundred forty-nine dollars and twenty cents (\$1,749.20), the weekly benefit amount shall be 55 percent of these wages divided by 13, but not exceeding three hundred thirty-six dollars (\$336). If the benefit payable under this subdivision is not a multiple of one dollar (\$1), it shall be computed to the next higher multiple of one dollar (\$1).

(d) (1) For periods of disability commencing on or after January 1, 2000, but before January 1, 2018, if the amount of wages paid an individual for employment by employers during the quarter of his or her disability base period in which these wages were highest exceeds one thousand seven hundred forty-nine dollars and twenty cents (\$1,749.20), the weekly benefit amount shall be equal to 55 percent of these wages divided by 13, but not exceeding the maximum workers' compensation temporary disability indemnity weekly benefit amount.

(2) Notwithstanding the maximum workers' compensation temporary disability indemnity weekly benefit amount of paragraph (1), if the benefit under this subdivision is not a multiple of one dollar (\$1), it shall be computed to the next higher multiple of one dollar (\$1).

(e) For periods of disability commencing on and after January 1, 2018, but before January 1, 2022, an individual's "weekly benefit amount" shall be as follows:

(1) When the amount of wages paid to the individual for employment by employers during the quarter of the individual's disability base period in which these wages were highest is less than nine hundred twenty-nine dollars (\$929), then fifty dollars (\$50).

(2) When the amount of wages paid to the individual for employment by employers during the quarter of the individual's disability base period in which these wages were highest is nine hundred twenty-nine dollars (\$929) or more, and is less than one-third of the amount of the state average quarterly wage, then 70 percent of the amount of wages paid to the individual for employment by employers during the quarter of the individual's disability base period in which these wages were highest, divided by 13. If the weekly benefit amount is not a multiple of one dollar (\$1), it shall be computed to the next higher multiple of one dollar (\$1).

(3) Except as provided in paragraph (4), when the amount of wages paid to the individual for employment by employers during the quarter of the individual's disability base period in which these wages were highest is one-third of the amount of the state average quarterly wage, or more, then either (A) 23.3 percent of the state average weekly wage or (B) 60 percent of the amount of wages paid to the individual for employment by employers during the quarter of the individual's disability base period in which these wages were highest divided by 13, whichever amount is greater. If the weekly benefit amount is not a multiple of one dollar (\$1), it shall be computed to the next higher multiple of one dollar (\$1).

(4) An individual's "weekly benefit amount" shall not exceed the maximum workers' compensation temporary disability indemnity weekly benefit amount established by the Department of Industrial Relations pursuant to Section 4453 of the Labor Code.

(f) (1) For periods of disability commencing on or after January 1, 2022, if the amount of wages paid an individual for employment by employers during the quarter of his or her disability base period in which these wages were highest exceeds one thousand seven hundred forty-nine dollars and twenty cents (\$1,749.20), the weekly benefit amount shall be equal to 55 percent of these wages divided by 13, but not exceeding the maximum workers' compensation temporary disability indemnity weekly benefit amount established by the Department of Industrial Relations pursuant to Section 4453 of the Labor Code.

(2) Notwithstanding the maximum workers' compensation temporary disability indemnity weekly benefit amount of paragraph (1) of subdivision (d), if the benefit under this subdivision is not a multiple of one dollar (\$1), it shall be computed to the next higher multiple of one dollar (\$1).

(g) For purposes of this section:

(1) "State average quarterly wage" means the state average weekly wage multiplied by 13.

(2) "State average weekly wage" means the average weekly wage paid by employers to employees covered by unemployment insurance as reported by the United States Department of Labor for California for the 12 months ending on March 31 of the calendar year preceding the year in which the disability occurred.

**SEC. 2.** Section 2655.1 is added to the Unemployment Insurance Code, to read:

**2655.1.** (a) By March 1, 2021, the department shall prepare and submit to the Legislature, including the legislative committees described in subdivision (c), a report that includes data on levels and trends between January 1, 2017, and the latest date for which data is available in 2020, in the following:

(1) Utilization of paid family leave and disability insurance by income level, including, but not limited to, utilization of paid family leave by low-wage workers.

(2) Benefit costs.

(3) Supplemental disability insurance contribution rates.

(b) The report described in subdivision (a) shall also include projections of utilization and costs for three subsequent years beginning January 1, 2022, with the assumption that the wage replacement rates that are in effect on January 1, 2018, remain in effect.

(c) A report submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code and shall be submitted to the Assembly Committee on Insurance, the Senate Committee on Labor and Industrial Relations, the Assembly and Senate Committees on Appropriations, the Assembly Committee on Budget, and the Senate Committee on Budget and Fiscal Review.

(d) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2024.

**SEC. 3.** Section 3303 of the Unemployment Insurance Code is amended to read:

**3303.** (a) On and after July 1, 2014, an individual shall be deemed eligible for family temporary disability insurance benefits equal to one-seventh of his or her weekly benefit amount on any day in which he or she is unable to perform his or her regular or customary work because he or she is bonding with a minor child during the first year after the birth or placement of the child in connection with foster care or adoption or caring for a seriously ill child, parent, grandparent, grandchild, sibling, spouse, or domestic partner, only if the director finds all of the following:

(1) The individual has made a claim for temporary disability benefits as required by authorized regulations.

(2) The individual has been unable to perform his or her regular or customary work for a seven-day waiting period during each disability benefit period, with respect to which waiting period no family temporary disability insurance benefits are payable.

(3) The individual has filed a certificate, as required by Sections 2708 and 2709.

(b) This section shall become inoperative and shall be repealed on January 1, 2018.

**SEC. 4.** Section 3303 is added to the Unemployment Insurance Code, to read:

**3303.** (a) On and after July 1, 2014, an individual shall be deemed eligible for family temporary disability insurance benefits equal to one-seventh of his or her weekly benefit amount on any day in which he or she is unable to perform his or her regular or customary work because he or she is bonding with a minor child during the first year after the birth or placement of the child in connection with foster care or adoption, or caring for a seriously ill child, parent, grandparent, grandchild, sibling, spouse, or domestic partner, only if the director finds both of the following:

(1) The individual has made a claim for temporary disability benefits as required by authorized regulations.

(2) The individual has filed a certificate, as required by Sections 2708 and 2709.

(b) This section shall become operative on January 1, 2018.

**SEC. 5.** (a) By July 1, 2017, the Employment Development Department shall report to the Assembly Committee on Insurance and the Senate Committee on Labor and Industrial Relations the projected costs and potential benefits associated with options to reduce, eliminate, or otherwise modify the waiting period for disability insurance benefits.

(b) The report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(c) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2021.