

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 23-0215.01 Yelana Love x2295

SENATE BILL 23-046

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A BILL FOR AN ACT

101 **CONCERNING THE CALCULATION OF A COVERED INDIVIDUAL'S**
102 **AVERAGE WEEKLY WAGE FOR PAID FAMILY AND MEDICAL**
103 **LEAVE BENEFITS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law specifies that a covered individual's weekly paid family and medical leave benefit is determined based on the individual's average weekly wage earned during the covered individual's base period or alternative base period from the job or jobs from which the covered individual is taking paid family and medical leave, which excludes from

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

HOUSE
2nd Reading Unamended
February 27, 2023

SENATE
3rd Reading Unamended
February 6, 2023

SENATE
2nd Reading Unamended
February 3, 2023

the calculation recent wages from previous jobs. The bill eliminates the limit on calculating the benefit based on the average weekly wage earned only from the job or jobs from which the individual is taking paid family and medical leave.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Paid family and medical leave benefits will be fairer and more
5 equitable if the benefits fully reflect a covered individual's recent earnings
6 history and mirror the wages upon which the paid family and medical
7 leave premiums are calculated;

8 (b) In Colorado's changing economy, more workers find
9 themselves relying on insecure jobs, piecing together multiple types of
10 jobs to make ends meet, or changing jobs;

11 (c) Under current law, if a worker was working at a job within the
12 base period or alternative base period but is no longer working at that job
13 at the time the worker takes family and medical leave, the worker's wages
14 from the previous job are not included in the calculation of the worker's
15 family and medical leave benefit amount, which is likely to result in a
16 lower benefit amount for the worker than would result from a benefit
17 based on wages from all recent employment;

18 (d) This act clarifies that a covered individual's weekly benefit
19 amount is based on total earnings during the individual's base period or
20 alternative base period, rather than earnings from only the individual's
21 current job at the time of taking leave;

22 (e) The clarification regarding the weekly benefit amount:

23 (I) Will promote job mobility and entrepreneurship by ensuring

1 that paid family and medical leave wage replacement benefits are
2 calculated based on recent earnings history, rather than being tied to
3 earnings from specific employment at the time of taking leave; and

4 (II) May encourage covered individuals to change jobs or start a
5 new business when their weekly benefit amount is not tied to one specific
6 position but instead reflects cumulative earnings in their base period or
7 alternative base period;

8 (f) This clarification will also ensure that the weekly benefit
9 amount reflects the covered individual's true earnings and the wages on
10 which the covered individual's premium liability is determined; and

11 (g) This act clarifies the intent of voters who approved the paid
12 family and medical leave insurance program and creates greater
13 alignment between the method of calculating benefits under the paid
14 family and medical leave insurance program and the method of
15 calculating benefits under the "Colorado Employment Security Act",
16 articles 70 to 82 of title 8, Colorado Revised Statutes.

17 **SECTION 2.** In Colorado Revised Statutes, 8-13.3-506, **amend**
18 (2) as follows:

19 **8-13.3-506. Amount of benefits - portability.** (2) The division
20 shall calculate a covered individual's weekly benefit amount based on the
21 covered individual's average weekly wage, ~~earned from the job or jobs~~
22 ~~from which the covered individual is taking paid family and medical~~
23 ~~leave~~, up to the maximum total benefit established in section 8-13.3-506
24 (1)(b). If a covered individual taking paid family and medical leave from
25 a job continues working at an additional job or jobs during this time, the
26 division shall not consider the covered individual's average weekly wage
27 earned from the additional job or jobs when calculating the covered

1 individual's weekly benefit amount. A covered individual with multiple
2 jobs may elect whether to take leave from one job or multiple jobs.

3 **SECTION 3. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, or safety.