

## **NEW YORK STATE PAID FAMILY LEAVE ACT**

Recently, Governor Cuomo signed legislation into law known as the ***New York State Paid Family Leave Act***. This law is scheduled to be phased into effect starting in calendar year 2018 and be fully implemented by 2021. This is an important piece of legislation that all employers – both big and small – must be aware of and ready to implement in a (relatively speaking) short period of time.

While the promotional material for the legislation proudly announces that the paid leave will cost employers nothing, this is not accurate. While the actual compensation received by an employee on paid leave is funded through payroll deduction from *employee* wages, there are other costs in employment including, but not necessarily limited to, loss of productivity, overtime for employees to cover the person's workload, and administrative burdens on human resources and/or supervisors. The following are some key points of the legislation for your review:

### **How is the Program Funded?**

The compensation to each employee on approved paid leave will be funded entirely through a nominal payroll deduction on employees. The compensation is funded, at present, entirely by employees. The amount of the deduction is not yet known so stay tuned for more information in the future.

### **Eligibility**

Employees will be eligible for the paid leave program after having worked six months for their employer. The legislation will provide for paid leave when caring for an infant, a family member with a serious health condition or to relieve family pressures when someone is called to active military service.

### **Phased-in Implementation**

Beginning in 2018, the benefits (i.e. paid compensation) will be gradually phased-in. The program will start with an employee on approved paid leave receiving 50% of the employee's average weekly wage and the benefit will be capped at 50% of the statewide average weekly wage. As an example, the average weekly wage in 2015 for New York State was \$1,296.48.

The plan will be fully implemented in 2021 at 67% average of an employee's average weekly wage, capped to 67% of the statewide average weekly wage.

### **What should a Company do now?**

In the world of human resources, 2018 is really not that far off. A company should ensure that it has the proper infrastructure in place to administer the leave of absence. This will include work on policy and procedure development to ensure that appropriate employee notifications and administrative procedures are in place. Companies should also ensure that their payroll system is adequately set up for this new deduction from employee paychecks. Presumably, most payroll software or service providers should be able to handle these deductions including appropriate calculations for tax purposes. Employers should train supervisors in advance to ensure that they are aware of the regulation, in general; (2) avoid any actions that might lead to employee claims of retaliation; and (3) provide guidance on appropriate company procedures necessary for implementation.

There is not a lot of guidance right now relative to the legislation and a through read of the new legislation suggests that significant coordination will be required to ensure that employee rights are administered properly and in coordination with other possible federal or state regulations (e.g., the federal Family and Medical Leave Act, if applicable).

Stay tuned for more from this site in the future.