

ASSEMBLY BILL NO. 266—COMMITTEE ON TAXATION

MARCH 7, 2017

Referred to Committee on Taxation

SUMMARY—Provides for a deduction from certain taxes for certain wages paid by an employer under a qualifying paid family medical leave policy. (BDR 32-709)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to taxation; providing a deduction from the payroll tax for certain amounts of wages paid by an employer under a qualifying paid family medical leave policy for employees; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law imposes a tax, commonly known as the modified business tax, on
2 financial institutions and other businesses based on the amount of wages paid to
3 employees each calendar quarter. (NRS 363A.130, 363B.110)
4 **Sections 1 and 2** of this bill authorize an employer to deduct from the total
5 amount of wages reported and upon which the tax is imposed the family medical
6 leave wages paid by the employer to an employee who has taken leave under the
7 employer’s paid family medical leave policy: (1) for the birth of a child or
8 placement of a child with the employee for adoption or foster care; (2) to care for a
9 spouse, domestic partner, child, ward, grandchild or parent who has a serious health
10 condition; (3) for a serious health condition that makes the employee unable to
11 perform the essential functions of his or her position; or (4) for any exigency
12 arising out of the fact that a spouse, child or parent of the employee is a member of
13 the Armed Forces of the United States assigned to active duty or called to active
14 duty. To be eligible for the deduction, an employer must provide paid family
15 medical leave under a family medical leave policy that satisfies certain
16 requirements. The amount of the deduction is equal to the family medical leave
17 wages paid by the employer during the period for which the tax is paid, but an
18 employer is not allowed to receive a deduction for any family medical leave wages
19 that exceed \$500 per employee per week. In addition, an employer is not authorized
20 to receive a deduction for family medical leave wages paid to an employee after the
21 employee has taken 12 weeks of leave in a 12-month period. Finally, an employer
22 is not authorized to receive a deduction for family medical leave wages paid to an



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23 employee if the employer receives from a governmental agency any benefit or
24 compensation directly relating to the family medical leave wages paid to the
25 employee.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 363A of NRS is hereby amended by
2 adding thereto a new section to read as follows:

3 1. *Except as otherwise provided in subsections 2 and 3, an*
4 *employer may deduct from the total amount of wages reported and*
5 *upon which the excise tax is imposed pursuant to NRS 363A.130*
6 *the family medical leave wages paid in a calendar quarter by the*
7 *employer to an employee under a paid family medical leave policy*
8 *that satisfies the requirements of subsections 4 and 5, if the*
9 *employee has taken leave under the policy for one or more of the*
10 *following reasons:*

11 (a) *The birth of a child or placement of a child with the*
12 *employee for adoption or foster care.*

13 (b) *To care for a spouse, domestic partner as defined in NRS*
14 *122A.030, child, ward, grandchild or parent of the employee who*
15 *has a serious health condition.*

16 (c) *For a serious health condition that makes the employee*
17 *unable to perform the essential functions of his or her position.*

18 (d) *For any qualifying exigency arising out of the fact that a*
19 *spouse, child or parent of the employee is a member of the Armed*
20 *Forces of the United States assigned to active duty or called to*
21 *active duty.*

22 2. *The total amount of the family medical leave wages that*
23 *may be deducted pursuant to subsection 1 may not exceed \$500*
24 *per employee per week, and no family medical leave wages may be*
25 *deducted for any employee receiving family medical leave wages*
26 *for any leave taken after the employee has taken 12 weeks of leave*
27 *in a 12-month period.*

28 3. *An employer may not claim a deduction for family medical*
29 *leave wages paid to an employee if the employer receives from a*
30 *governmental agency any benefit or compensation directly*
31 *relating to the family medical leave wages paid to the employee.*

32 4. *To qualify for a credit authorized by subsection 1, an*
33 *employer must provide paid family medical leave to employees of*
34 *the employer pursuant to a family medical leave policy that must:*

35 (a) *Allow an employee to take up to 12 weeks of leave in a 12-*
36 *month period for one or more of the reasons set forth in*
37 *paragraphs (a) to (d), inclusive, of subsection 1.*



1 (b) Provide for the payment of family medical leave wages to
2 the employee while the employee is taking leave that may not be
3 less than 75 percent of his or her normal wages.

4 (c) Provide that the health coverage of the employee under any
5 health insurance or health benefit plan provided by the employer
6 is maintained on the same terms as if the employee had not taken
7 leave and that the taking of leave may not result in the loss of any
8 employment benefit that accrued before the start of his or her
9 leave.

10 (d) Provide that upon the employee's return from leave, the
11 employee is restored to his or her original or equivalent position
12 with equivalent pay, benefits and other terms of employment.

13 5. A paid family medical leave policy that meets the
14 requirements of subsection 4 may:

15 (a) Allow an employee, upon approval of the employer, to take
16 paid family medical leave on an intermittent or reduced-schedule
17 basis.

18 (b) Require an employee to request leave under the family
19 medical leave policy within a reasonable time before taking the
20 leave except that such time may not be significantly different from
21 the time required to request paid time off, sick leave, annual leave
22 or other leave offered by the employer.

23 (c) Require an employee to provide to the employer
24 certification that confirms or supports the reason the employee
25 provided for requesting leave.

26 (d) Require an employee to use any other accrued paid leave
27 before taking paid family medical leave.

28 6. To claim a deduction pursuant to subsection 1, the
29 employer must:

30 (a) Obtain from each employee to whom family medical leave
31 wages are paid documentation to verify that the employee took
32 leave for one or more of the reasons specified in paragraphs (a) to
33 (d), inclusive, of subsection 1; and

34 (b) Submit to the Department an affidavit under penalty of
35 perjury stating that the requirements for claiming the deduction
36 pursuant to this section have been satisfied.

37 7. An employer claiming the deduction allowed pursuant to
38 this section shall, upon the request of the Department, provide the
39 Department with such documentation as the Department deems
40 appropriate to substantiate that claim.

41 8. As used in this section, "family medical leave wages"
42 means wages paid to an employee while the employee is taking
43 paid family medical leave.



1 **Sec. 2.** Chapter 363B of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *Except as otherwise provided in subsections 2 and 3, an*
4 *employer may deduct from the total amount of wages reported and*
5 *upon which the excise tax is imposed pursuant to NRS 363B.110*
6 *the family medical leave wages paid in a calendar quarter by the*
7 *employer to an employee under a paid family medical leave policy*
8 *that satisfies the requirements of subsections 4 and 5, if the*
9 *employee has taken leave under the policy for one or more of the*
10 *following reasons:*

11 (a) *The birth of a child or placement of a child with the*
12 *employee for adoption or foster care.*

13 (b) *To care for a spouse, domestic partner as defined in NRS*
14 *122A.030, child, ward, grandchild or parent of the employee who*
15 *has a serious health condition.*

16 (c) *For a serious health condition that makes the employee*
17 *unable to perform the essential functions of his or her position.*

18 (d) *For any qualifying exigency arising out of the fact that a*
19 *spouse, child or parent of the employee is a member of the Armed*
20 *Forces of the United States assigned to active duty or called to*
21 *active duty.*

22 2. *The total amount of the family medical leave wages that*
23 *may be deducted pursuant to subsection 1 may not exceed \$500*
24 *per employee per week and no family medical leave wages may be*
25 *deducted for any employee receiving family medical leave wages*
26 *for any leave taken after the employee has taken 12 weeks of leave*
27 *in a 12-month period.*

28 3. *An employer may not claim a deduction for family medical*
29 *leave wages paid to an employee if the employer receives from a*
30 *governmental agency any benefit or compensation directly*
31 *relating to the family medical leave wages paid to the employee.*

32 4. *To qualify for a credit authorized by subsection 1, an*
33 *employer must provide paid family medical leave to employees of*
34 *the employer pursuant to a family medical leave policy that must:*

35 (a) *Allow an employee to take up to 12 weeks of leave in a 12-*
36 *month period for one or more of the reasons set forth in*
37 *paragraphs (a) to (d), inclusive, of subsection 1.*

38 (b) *Provide for the payment of family medical leave wages to*
39 *the employee while the employee is taking leave that may not be*
40 *less than 75 percent of his or her normal wages.*

41 (c) *Provide that the health coverage of the employee under any*
42 *health insurance or health benefit plan provided by the employer*
43 *is maintained on the same terms as if the employee had not taken*
44 *leave and that the taking of leave may not result in the loss of any*



1 *employment benefit that accrued before the start of his or her*
2 *leave.*

3 *(d) Provide that upon the employee's return from leave, the*
4 *employee is restored to his or her original or equivalent position*
5 *with equivalent pay, benefits and other terms of employment.*

6 *5. A paid family medical leave policy that meets the*
7 *requirements of subsection 4 may:*

8 *(a) Allow an employee, upon approval of the employer, to take*
9 *paid family medical leave on an intermittent or reduced-schedule*
10 *basis.*

11 *(b) Require an employee to request leave under the family*
12 *medical leave policy within a reasonable time before taking the*
13 *leave except that such time may not be significantly different from*
14 *the time required to request paid time off, sick leave, annual leave*
15 *or other leave offered by the employer.*

16 *(c) Require an employee to provide to the employer*
17 *certification that confirms or supports the reason the employee*
18 *provided for requesting leave.*

19 *(d) Require an employee to use any other accrued paid leave*
20 *before taking paid family medical leave.*

21 *6. To claim a deduction pursuant to subsection 1, the*
22 *employer must:*

23 *(a) Obtain from each employee to whom family medical leave*
24 *wages are paid documentation to verify that the employee took*
25 *leave for one or more of the reasons specified in paragraphs (a) to*
26 *(d), inclusive, of subsection 1; and*

27 *(b) Submit to the Department an affidavit under penalty of*
28 *perjury stating that the requirements for claiming the deduction*
29 *pursuant to this section have been satisfied.*

30 *7. An employer claiming the deduction allowed pursuant to*
31 *this section shall, upon the request of the Department, provide the*
32 *Department with such documentation as the Department deems*
33 *appropriate to substantiate that claim.*

34 *8. As used in this section, "family medical leave wages"*
35 *means wages paid to an employee while the employee is taking*
36 *paid family medical leave.*

37 **Sec. 3.** (Deleted by amendment.)

38 **Sec. 4.** 1. This act becomes effective upon passage and
39 approval for the purpose of adopting any regulations and performing
40 any other preparatory administrative tasks necessary to carry out the
41 provisions of this act.

42 2. This section and sections 1 and 2 of this act become
43 effective on January 1, 2018, for all other purposes.



