

STATE OF NEW YORK

9840

IN SENATE

June 3, 2024

Introduced by Sen. RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the workers' compensation law and the insurance law, in relation to increasing short-term disability benefits

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 200 of the workers' compensation law, as amended by
2 section 1 of part SS of chapter 54 of the laws of 2016, is amended to
3 read as follows:

4 § 200. Short title. This article shall be known and may be cited as
5 the "disability [~~benefits law~~] and [~~the~~] paid family leave benefits
6 law."

7 § 2. Subdivisions 14, 15 and 22 of section 201 of the workers' compen-
8 sation law, subdivision 14 as amended and subdivisions 15 and 22 as
9 added by section 2 of part SS of chapter 54 of the laws of 2016, are
10 amended to read as follows:

11 14. "A day of disability" means any day on which the employee was
12 prevented from performing work because of disability[~~, including any day~~
13 ~~which the employee uses for family leave,~~] and for which the employee
14 has not received [~~his or her~~] their regular remuneration.

15 15. "Family leave" shall mean any leave taken by an employee from
16 work: (a) to participate in providing care, including physical or
17 psychological care, for a family member of the employee made necessary
18 by a serious health condition of the family member; or (b) to bond with
19 the employee's child during the first twelve months after the child's
20 birth, or the first twelve months after the placement of the child for
21 adoption or foster care with the employee or on or after January first,
22 two thousand twenty-five until January first, two thousand twenty-nine,
23 for the six weeks immediately following a stillbirth; or (c) because of
24 any qualifying exigency as interpreted under the family and medical
25 leave act, 29 U.S.C.S § 2612(a)(1)(e) and 29 C.F.R.
26 S.825.126[~~(a)(1)-(8)~~], arising out of the fact that the spouse, domestic
27 partner, child, or parent of the employee is on active duty (or has been

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 notified of an impending call or order to active duty) in the armed
2 forces of the United States.

3 22. "Health care provider" shall mean for the purpose of [~~family~~
4 ~~leave~~] this article, a person licensed under article one hundred thir-
5 ty-one, one hundred thirty-one-B, one hundred thirty-two, one hundred
6 thirty-three, one hundred thirty-six, one hundred thirty-nine, one
7 hundred forty-one, one hundred forty-three, one hundred forty-four, one
8 hundred fifty-three, one hundred fifty-four, one hundred fifty-six or
9 one hundred fifty-nine of the education law or a person licensed under
10 the public health law, article one hundred forty of the education law or
11 article one hundred sixty-three of the education law.

12 § 3. Section 203-a of the workers' compensation law, as added by
13 section 4 of part SS of chapter 54 of the laws of 2016, is amended to
14 read as follows:

15 § 203-a. Retaliatory action prohibited for [~~family~~] leave. 1. The
16 provisions of section one hundred twenty of this chapter and section two
17 hundred forty-one of this article shall be applicable to family and
18 disability leave.

19 2. Nothing in this section shall be deemed to diminish the rights,
20 privileges, or remedies of any employee under any collective bargaining
21 agreement or employment contract.

22 § 4. Section 203-b of the workers' compensation law, as added by
23 section 4 of part SS of chapter 54 of the laws of 2016, is amended to
24 read as follows:

25 § 203-b. Reinstatement following [~~family~~] leave. Any eligible employee
26 of a covered employer who takes leave under this article shall be enti-
27 tled, on return from such leave, to be restored by the employer to the
28 position of employment held by the employee when the leave commenced, or
29 to be restored to a comparable position with comparable employment bene-
30 fits, pay and other terms and conditions of employment. The taking of
31 family or disability leave shall not result in the loss of any employ-
32 ment benefit accrued prior to the date on which the leave commenced.
33 Nothing in this section shall be construed to entitle any restored
34 employee to the accrual of any seniority or employment benefits during
35 any period of leave, or any right, benefit or position to which the
36 employee would have been entitled had the employee not taken the leave.

37 § 5. Section 203-c of the workers' compensation law, as added by
38 section 4 of part SS of chapter 54 of the laws of 2016, is amended to
39 read as follows:

40 § 203-c. Health insurance during [~~family~~] leave. In accordance with
41 the Family and Medical Leave Act (29 U.S.C. §§ 2601-2654), during any
42 period of family or disability leave the employer shall maintain any
43 existing health benefits of the employee in force for the duration of
44 such leave as if the employee had continued to work from the date [~~he or~~
45 ~~she~~] they commenced family or disability leave until the date [~~he or she~~
46 ~~returns~~] they return to employment.

47 § 6. Section 204 of the workers' compensation law, as amended by
48 section 5 of part SS of chapter 54 of the laws of 2016, is amended to
49 read as follows:

50 § 204. Disability and family leave during employment. 1. Disability
51 benefits shall be payable to an eligible employee for disabilities,
52 beginning with the eighth day of disability and thereafter during the
53 continuance of disability, subject to the limitations as to maximum and
54 minimum amounts and duration and other conditions and limitations in
55 this section and in sections two hundred five and two hundred six of
56 this article. Family leave benefits shall be payable to an eligible

1 employee for the first full day when family leave is required and there-
2 after during the continuance of the need for family leave, subject to
3 the limitations as to maximum and minimum amounts and duration and other
4 conditions and limitations in this section and in sections two hundred
5 five and two hundred six of this article. Successive periods of disabili-
6 ty or family leave caused by the same or related injury or sickness or
7 qualifying event shall shall be deemed a single period of disability or
8 family leave only if separated by less than three months.

9 2. (a) The weekly benefit for family leave that occurs (i) on or after
10 January first, two thousand eighteen shall not exceed eight weeks during
11 any fifty-two week calendar period and shall be fifty percent of the
12 employee's average weekly wage but shall not exceed fifty percent of the
13 state average weekly wage, (ii) on or after January first, two thousand
14 nineteen shall not exceed ten weeks during any fifty-two week calendar
15 period and shall be fifty-five percent of the employee's average weekly
16 wage but shall not exceed fifty-five percent of the state average weekly
17 wage, (iii) on or after January first, two thousand twenty shall not
18 exceed ten weeks during any fifty-two week calendar period and shall be
19 sixty percent of the employee's average weekly wage but shall not exceed
20 sixty percent of the state average weekly wage, and (iv) on or after
21 January first of each succeeding year, shall not exceed twelve weeks
22 during any fifty-two week calendar period and shall be sixty-seven
23 percent of the employee's average weekly wage but shall not exceed
24 sixty-seven percent of the New York state average weekly wage in effect.
25 The superintendent of financial services shall have discretion to delay
26 the increases in the family leave benefit level provided in subpara-
27 graphs (ii), (iii), and (iv) of this paragraph by one or more calendar
28 years. In determining whether to delay the increase in the family leave
29 benefit for any year, the superintendent of financial services shall
30 consider: (1) the current cost to employees of the family leave benefit
31 and any expected change in the cost after the benefit increase; (2) the
32 current number of insurers issuing insurance policies with a family
33 leave benefit and any expected change in the number of insurers issuing
34 such policies after the benefit increase; (3) the impact of the benefit
35 increase on employers' business and the overall stability of the program
36 to the extent that information is readily available; (4) the impact of
37 the benefit increase on the financial stability of the disability and
38 family leave insurance market and carriers; and (5) any additional
39 factors that the superintendent of financial services deems relevant. If
40 the superintendent of financial services delays the increase in the
41 family leave benefit level for one or more calendar years, the family
42 leave benefit level that shall take effect immediately following the
43 delay shall be the same benefit level that would have taken effect but
44 for the delay. The weekly benefits for family leave that occurs on or
45 after January first, two thousand eighteen shall not be less than one
46 hundred dollars per week except that if the employee's wages at the time
47 of family leave are less than one hundred dollars per week, the employee
48 shall receive [~~his or her~~] their full wages. Benefits may be payable to
49 employees for paid family leave taken intermittently or for less than a
50 full work week in increments of one full day or one fifth of the weekly
51 benefit.

52 (b) The weekly benefit which the disabled employee is entitled to
53 receive for the first twelve weeks of disability commencing: (i) on or
54 after January first, two thousand twenty-six shall be fifty-five percent
55 of the employee's average weekly wage but shall not exceed fifty percent
56 of the state average weekly wage (ii) on or after January first, two

1 thousand twenty-seven shall be sixty percent of the employee's average
2 weekly wage but shall not exceed fifty-five percent of the state average
3 weekly wage; (iii) on or after January first, two thousand twenty-eight
4 shall be sixty-seven percent of the employee's weekly average wage but
5 shall not exceed sixty percent of the state average weekly wage; and
6 (iv) on or after January first of each succeeding year, shall be sixty-
7 seven percent of the employee's average weekly wage but shall not exceed
8 sixty-seven percent of the state average weekly wage. The weekly bene-
9 fit which the disabled employee is entitled to receive for the periods
10 of disability after the twelfth week of disability and through the twenty-
11 sixth week of disability on or after January first, two thousand
12 twenty-six and each succeeding year shall be thirty percent of the
13 employee's average weekly wage but shall not exceed thirty percent of
14 the state average weekly wage. The chair of the workers' compensation
15 board, in consultation with the superintendent of financial services,
16 shall have discretion to increase the benefit level for the period of
17 disability after the twelfth week of disability through the twenty-sixth
18 week of disability, provided that such benefit shall not exceed sixty-
19 seven percent of the state average weekly wage. In determining whether
20 to increase the disability benefit for any year, the chair of the work-
21 ers' compensation board in consultation with the superintendent of
22 financial services shall consider factors including but not limited to
23 utilization of the current benefit, the expected utilization of any
24 increase, the need for a benefit increase, the current contribution cost
25 to employees and employers and the expected cost after any such benefit
26 increase; the current number of insurers issuing insurance policies
27 with a disability benefit and any expected change in the number of
28 insurers issuing such policies after the benefit increase; and any
29 additional factors that the chair of the workers' compensation board and
30 the superintendent of financial services deems relevant. The weekly
31 benefit which the disabled employee is entitled to receive for disabili-
32 ty leave that occurs on or after January first, two thousand twenty-six
33 shall not be less than one hundred dollars per week except that if the
34 employee's wages at the time of disability leave are less than one
35 hundred dollars per week, the employee shall receive their full wages.

36 The weekly benefit which the disabled employee is entitled to receive
37 for disability commencing on or after May first, nineteen hundred eight-
38 y-nine and prior to January first, two thousand twenty-six shall be
39 one-half of the employee's weekly wage, but in no case shall such bene-
40 fit exceed one hundred seventy dollars; except that if the employee's
41 average weekly wage is less than twenty dollars, the benefit shall be
42 such average weekly wage. The weekly benefit which the disabled employee
43 is entitled to receive for disability commencing on or after July first,
44 nineteen hundred eighty-four shall be one-half of the employee's weekly
45 wage, but in no case shall such benefit exceed one hundred forty-five
46 dollars; except that if the employee's average weekly wage is less than
47 twenty dollars, the benefit shall be such average weekly wage. The week-
48 ly benefit which the disabled employee is entitled to receive for disa-
49 bility commencing on or after July first, nineteen hundred eighty-three
50 and prior to July first, nineteen hundred eighty-four shall be one-half
51 of the employee's average weekly wage, but in no case shall such benefit
52 exceed one hundred thirty-five dollars nor be less than twenty dollars;
53 except that if the employee's average weekly wage is less than twenty
54 dollars the benefit shall be such average weekly wage. The weekly bene-
55 fit which the disabled employee is entitled to receive for disability
56 commencing on or after July first, nineteen hundred seventy-four, and

1 prior to July first, nineteen hundred eighty-three, shall be one-half of
2 the employee's average weekly wage, but in no case shall such benefit
3 exceed ninety-five dollars nor be less than twenty dollars; except that
4 if the employee's average weekly wage is less than twenty dollars, the
5 benefit shall be such average weekly wage. The weekly benefit which the
6 disabled employee is entitled to receive for disability commencing on or
7 after July first, nineteen hundred seventy and prior to July first,
8 nineteen hundred seventy-four shall be one-half of the employee's aver-
9 age weekly wage, but in no case shall such benefit exceed seventy-five
10 dollars nor be less than twenty dollars; except that if the employee's
11 average weekly wage is less than twenty dollars the benefit shall be
12 such average weekly wage. [~~For any period of disability less than a
13 full week, the benefits payable shall be calculated by dividing the
14 weekly benefit by the number of the employee's normal work days per week
15 and multiplying the quotient by the number of normal work days in such
16 period of disability.~~] Benefits may be payable to employees for disabili-
17 ty leave taken intermittently or for less than a full work week in
18 increments of one full day or one-fifth of the weekly benefit. The week-
19 ly benefit for a disabled employee who is concurrently eligible for
20 benefits in the employment of more than one covered employer shall,
21 within the maximum and minimum herein provided, be one-half of the total
22 of the employee's average weekly wages received from all such covered
23 employers, and shall be allocated in the proportion of their respective
24 average weekly wage payments.

25 (c) Provided that the provisions of paragraph (b) of this subdivision
26 concerning benefits on or after January first, two thousand twenty-six
27 and subparagraphs (i) and (ii) of paragraph (a) of subdivision three of
28 section two hundred nine of this article may be waived by a covered
29 employer subject to a collective bargaining agreement with a bona fide
30 labor organization in effect on January first, two thousand twenty-six
31 for employees subject to such collective bargaining agreement for a
32 disability commencing between January first, two thousand twenty-six and
33 until January first, two thousand twenty-nine; and provided that for
34 such waiver to be valid, it shall explicitly reference this section and
35 be agreed to by the bona fide labor organization. Nothing herein shall
36 prevent a collective bargaining agreement from providing temporary disa-
37 bility benefits greater than the benefits required herein.

38 § 7. Subdivision 2 of section 206 of the workers' compensation law, as
39 amended by section 7 of part SS of chapter 54 of the laws of 2016, is
40 amended to read as follows:

41 2. If an employee who is eligible for disability benefits under
42 section two hundred three or two hundred seven of this article is disa-
43 bled and has claimed or subsequently claims workers' compensation bene-
44 fits under this chapter or benefits under the volunteer firefighters'
45 benefit law or the volunteer ambulance workers' benefit law, and such
46 claim is controverted on the ground that the employee's disability was
47 not caused by an accident that arose out of and in the course of [~~his~~
48 their employment or by an occupational disease, or by an injury in line
49 of duty as a volunteer firefighter or volunteer ambulance worker, the
50 employee shall be entitled in the first instance to receive benefits
51 under this article for [~~his or her~~ their disability. If benefits have
52 been paid under this article in respect to a disability alleged to have
53 arisen out of and in the course of the employment or by reason of an
54 occupational disease, or in line of duty as a volunteer firefighter or a
55 volunteer ambulance worker, the employer or carrier or the chair making
56 such payment may, at any time before award of workers' compensation

1 benefits, or volunteer firefighters' benefits or volunteer ambulance
2 workers' benefits, is made, file with the board a claim for reimburse-
3 ment out of the proceeds of such award to the employee for the period
4 for which disability benefits were paid to the employee under this arti-
5 cle, and shall have a lien against the full award for reimbursement,
6 notwithstanding the provisions of section thirty-three of this chapter
7 or section twenty-three of the volunteer firefighters' benefit law or
8 section twenty-three of the volunteer ambulance workers' benefit law
9 provided the insurance carrier liable for payment of the award receives,
10 before such award is made, a copy of the claim for reimbursement from
11 the employer, carrier or chair who paid disability benefits, or provided
12 the board's decision and award directs such reimbursement therefrom.

13 § 8. Paragraph (a) of subdivision 3 of section 209 of the workers'
14 compensation law, as amended by section 10 of part SS of chapter 54 of
15 the laws of 2016, is amended to read as follows:

16 (a) Disability benefits. (i) The contribution of each such employee to
17 the cost of disability benefits provided by this article shall be one-
18 half of one per centum of the employee's wages paid to him or her on and
19 after July first, nineteen hundred fifty, but not in excess of sixty
20 cents per week.

21 (ii) Beginning January first, two thousand twenty-six, the maximum
22 employee contribution that a covered employer is authorized to collect
23 from each employee for the cost of disability benefits provided by this
24 article shall be one-half of one per centum of the employee's wages but
25 shall not exceed two dollars and twenty cents per week provided, howev-
26 er, that the employee contribution shall be pursuant to subparagraph (i)
27 of this paragraph where such employee is covered under paragraph (c) of
28 subdivision two of section two hundred four of this article.

29 (iii) Beginning January first, two thousand twenty-nine, the maximum
30 employee contribution that a covered employer is authorized to collect
31 from each employee for the cost of disability benefits provided by this
32 article shall be one-half of one per centum of the employee's wages, but
33 shall not exceed forty percent of the average of the combination of all
34 employee and employer contributions to disability benefits provided
35 pursuant to paragraph (b) of subdivision two of section two hundred four
36 of this article during the prior calendar year, as determined annually
37 by the superintendent of financial services pursuant to subsection (n)
38 of section four thousand two hundred thirty-five of the insurance law.
39 A self-insurer shall submit reports to the superintendent of financial
40 services for the purpose of determining forty percent of the average of
41 the combination of all employee and employer contributions to disability
42 benefits provided pursuant to paragraph (b) of subdivision two of
43 section two hundred four of this article during the prior calendar year,
44 pursuant to subsection (n) of section four thousand two hundred thirty-
45 five of the insurance law.

46 § 9. The opening paragraph of section 211 of the workers' compensation
47 law, as amended by section 12 of part SS of chapter 54 of the laws of
48 2016, is amended to read as follows:

49 A covered employer, unless provided with a waiver pursuant to section
50 204(2)(c), shall, with [~~his or her~~] such employer's own contributions
51 and the contributions of [~~his~~] such employer's employees, provide disa-
52 bility and after January first, two thousand eighteen, family leave
53 benefits to [~~his or her~~] such employer's employees in one or more of the
54 following ways:

1 § 10. The opening paragraph and subdivision 1 of section 214 of the
2 workers' compensation law, as amended by section 26 of part GG of chap-
3 ter 57 of the laws of 2013, are amended to read as follows:

4 There is hereby created a fund which shall be known as the special
5 fund for disability benefits to provide for the payment of [~~disability~~]
6 benefits under sections two hundred seven, two hundred thirteen and
7 attendance fees under section two hundred thirty-two of this article.

8 1. As promptly as practicable after April first, in each year, the
9 chairman shall ascertain the condition of the fund, and if as of any
10 such date the net assets of the fund shall be one million dollars or
11 more below the sum of twelve million dollars, the chairman shall assess
12 and collect an amount sufficient to restore the fund to an amount equal
13 to twelve million dollars.[+] Such assessment shall be included in the
14 assessment rate established pursuant to subdivision two of section one
15 hundred fifty-one of this chapter. Such assessments shall be deposited
16 with the commissioner of taxation and finance and transferred to the
17 benefit of such fund upon payment of debt service, if any, pursuant to
18 section one hundred fifty-one of this chapter.

19 § 11. Subdivision 1 of section 217 of the workers' compensation law,
20 as amended by section 16 of part SS of chapter 54 of the laws of 2016,
21 is amended to read as follows:

22 1. Written notice and proof of disability or proof of need for family
23 leave shall be furnished to the employer by or on behalf of the employee
24 claiming benefits or, in the case of a claimant under section two
25 hundred seven of this article, to the chair, within thirty days after
26 commencement of the period of disability. Additional proof shall be
27 furnished thereafter from time to time as the employer or carrier or
28 chair may require but not more often than once each week. Such proof
29 shall include a statement of disability by the employee's [~~attending~~
30 ~~physician or attending podiatrist or attending chiropractor or attending~~
31 ~~dentist or attending psychologist or attending certified nurse midwife~~
32 ~~or family leave care recipient's health care provider, or in the case of~~
33 ~~an employee who adheres to the faith or teachings of any church or~~
34 ~~denomination, and who in accordance with its creed, tenets or principles~~
35 ~~depends for healing upon prayer through spiritual means alone in the~~
36 ~~practice of religion, by an accredited practitioner,~~ health care
37 provider containing facts and opinions as to such disability in compli-
38 ance with regulations of the chair. Failure to furnish notice or proof
39 within the time and in the manner above provided shall not invalidate
40 the claim but no benefits shall be required to be paid for any period
41 more than two weeks prior to the date on which the required proof is
42 furnished unless it shall be shown to the satisfaction of the chair not
43 to have been reasonably possible to furnish such notice or proof and
44 that such notice or proof was furnished as soon as possible; provided,
45 however, that no benefits shall be paid unless the required proof [~~of~~
46 ~~disability~~] is furnished within the period of actual disability or fami-
47 ly leave that does not exceed the statutory maximum period permitted
48 under section two hundred four of this article. No limitation of time
49 provided in this section shall run as against any disabled employee who
50 is mentally incompetent, or physically incapable of providing such
51 notice as a result of a serious medical condition, or a minor so long as
52 such person has no guardian of the person and/or property.

53 § 12. Section 218 of the workers' compensation law, as added by chap-
54 ter 600 of the laws of 1949, subdivision 2 as amended by chapter 809 of
55 the laws of 1985, is amended to read as follows:

1 § 218. [~~Disability benefit~~] Benefit rights inalienable. 1. Any agree-
2 ment by an employee to waive [~~his~~] their rights under this article shall
3 be void.

4 2. Disability or family leave benefits payable under this article
5 shall not be assigned or released, except as provided in this article,
6 and shall be exempt from all claims of creditors and from levy,
7 execution and attachment or other remedy for recovery or collection of a
8 debt, which exemption may not be waived provided, however, that such
9 benefits shall be subject to an income execution or order for support
10 enforcement pursuant to section fifty-two hundred forty-one or fifty-two
11 hundred forty-two of the civil practice law and rules.

12 § 13. Section 221 of the workers' compensation law, as amended by
13 section 19 of part SS of chapter 54 of the laws of 2016, is amended to
14 read as follows:

15 § 221. Determination of contested claims for disability and family
16 leave benefits. In accordance with regulations adopted by the chair,
17 within twenty-six weeks of written notice of rejection of claim, the
18 employee may file with the chair a notice that [~~his or her~~] their claim
19 for disability or family leave benefits has not been paid, and the
20 employee shall submit proof of disability or entitlement to family leave
21 and of [~~his or her~~] their employment, wages and other facts reasonably
22 necessary for determination of the employee's right to such benefits.
23 Failure to file such notice within the time provided, may be excused if
24 it can be shown not to have been reasonably possible to furnish such
25 notice and that such notice was furnished as soon as possible. On demand
26 the employer or carrier shall forthwith deliver to the board the
27 original or a true copy of the health care provider's report, wage and
28 employment data and all other documentation in the possession of the
29 employer or carrier with respect to such claim.

30 The chair or designee, shall have full power and authority to deter-
31 mine all issues in relation to every such claim for disability benefits
32 required or provided under this article, and shall file its decision in
33 the office of the chairman. Upon such filing, the chairman shall send to
34 the parties a copy of the decision. Either party may present evidence
35 and be represented by counsel at any hearing on such claim. The decision
36 of the board shall be final as to all questions of fact and, except as
37 provided in section twenty-three of this chapter, as to all questions of
38 law. Every decision shall be complied with in accordance with its terms
39 within ten days thereafter except as permitted by law upon the filing of
40 a request for review, and any payments due under such decision shall
41 draw simple interest from thirty days after the making thereof at the
42 rate provided in section five thousand four of the civil practice law
43 and rules. The chair shall adopt rules and regulations to carry out the
44 provisions of this article including but not limited to resolution of
45 contested claims and requests for review thereof, and payment of costs
46 for resolution of disputed claims by carriers. Any designated process
47 shall afford the parties the opportunity to present evidence and to be
48 represented by counsel in any such proceeding. The chair shall have the
49 authority to provide for alternative dispute resolution procedures for
50 claims arising under disability and family leave, including but not
51 limited to referral and submission of disputed claims to a neutral arbi-
52 trator under the auspices of an alternative dispute resolution associ-
53 ation pursuant to article seventy-five of the civil practice law and
54 rules. Neutral arbitrator shall mean an arbitrator who does not have a
55 material interest in the outcome of the arbitration proceeding or an
56 existing and substantial relationship, including but not limited to

1 pecuniary interests, with a party, counsel or representative of a party.
2 Any determination made by alternative dispute resolution shall not be
3 reviewable by the board and the venue for any appeal shall be to a court
4 of competent jurisdiction.

5 § 14. Section 228 of the workers' compensation law, as added by
6 section 27 of part GG of chapter 57 of the laws of 2013, is amended to
7 read as follows:

8 § 228. Administrative expenses. 1. The estimated annual expenses
9 necessary for the workers' compensation board to administer the
10 provisions of the disability and paid family leave benefits law shall be
11 borne by all affected employers and included as part of the assessment
12 rate generated pursuant to subdivision two of section one hundred
13 fifty-one of this chapter.

14 2. Annually, as soon as practicable after the first day of April, the
15 chair and department of audit and control shall ascertain the total
16 amount of actual expenses.

17 § 15. Subsection (n) of section 4235 of the insurance law is amended
18 by adding a new paragraph 4 to read as follows:

19 (4)(A) The superintendent shall establish by September first of each
20 year the maximum employee contribution that a covered employer, as
21 defined in section two hundred two of the workers' compensation law, is
22 authorized to collect from each employee for the cost of disability
23 benefits provided pursuant to article nine of the workers' compensation
24 law through a group accident and health insurance policy or through a
25 self-funded employer for its employees. Beginning January first, two
26 thousand twenty-six, the maximum employee contribution amount shall be
27 two dollars and twenty cents per week, and beginning January first, two
28 thousand twenty-nine, the maximum employee contribution shall be one-
29 half of one percent of the employee's wages but shall not exceed forty
30 percent of the average of the combination of all employee and employer
31 contributions to disability benefits provided pursuant to paragraph (b)
32 of subdivision two of section two hundred four of the workers' compen-
33 sation law during the prior calendar year, which the superintendent
34 shall determine and publish on the department's website.

35 (B) A self-funded employer shall submit reports to the superintendent
36 for the purpose of determining forty percent of the average of the
37 combination of all employee and employer contributions to disability
38 benefits provided pursuant to paragraph (b) of subdivision two of
39 section two hundred four of the workers' compensation law. A self-fund-
40 ed employer shall submit a report to the superintendent by July first,
41 two thousand twenty-five that sets forth employee and employer contrib-
42 utions to disability benefits provided pursuant to paragraph (b) of
43 subdivision two of section two hundred four of the workers' compensation
44 law for the year-ending two thousand twenty-four, in a format determined
45 by the superintendent. Beginning April first, two thousand twenty-six,
46 and annually thereafter, a self-funded employer shall submit a report to
47 the superintendent that sets forth employee and employer contributions
48 to disability benefits provided pursuant to paragraph (b) of subdivision
49 two of section two hundred four of the workers' compensation law for the
50 prior calendar year, in a format determined by the superintendent.

51 § 16. Section 2605 of the insurance law is amended to read as follows:

52 § 2605. Penalty for violating workers' compensation law. The super-
53 intendent may impose a penalty not to exceed twenty-five hundred dollars
54 per violation upon any insurer required to be licensed under the
55 provisions of this chapter, if, after notice to and a hearing of such

1 insurer, [~~he~~] the superintendent finds it has unreasonably failed to
2 comply with the workers' compensation law.
3 § 17. This act shall take effect immediately and shall apply to all
4 policies issued, renewed, modified, altered, or amended on or after
5 January 1, 2026.