Date of Hearing: August 16, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Chris Holden, Chair
SB 616 (Gonzalez) – As Amended June 19, 2023

Policy Committee: Labor and Employment Vote: 5 - 1

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill increases, from three days to seven days, the number of paid sick days available to specified employees under the Healthy Workplaces, Healthy Families Act of 2014 (Act).

Specifically, this bill:

1) Provides an employee with no less than 56 hours or seven days of paid sick leave by the 280th calendar day of employment, each calendar year, or in each 12-month period, and makes corresponding adjustments to existing accrual and carryover requirements.

2) Provides, beginning January 1, 2024, in-home supportive services (IHSS) and waiver personal care services providers with 56 hours or seven days of paid sick leave in each year of employment, calendar year, or 12-month period.

3) Requires the above-described provisions to preempt any local ordinance to the contrary.

4) Extends existing rights and protections regarding the use of paid sick days to employees covered by a valid collective bargaining agreement (CBA) otherwise exempt from the Act.

5) Requires railroad employers to allow railroad employees to take at least seven days of unpaid sick leave annually, generally administered and protected in the same manner as paid sick leave under the Act.

FISCAL EFFECT:

1) Costs of approximately $804,000 in the first year and $760,000 annually thereafter to the Division of Labor Standards Enforcement for additional workload resulting from expanded paid sick leave wage and retaliation claims (Labor Enforcement Compliance Fund).

2) Costs of approximately $1.0 million to the state workforce in additional leave extended to around 1,100 employees working for District Agricultural Associations (special fund). The California Department of Human Resources notes that other state employees are already covered by leave benefits that meet this bill's requirements.

3) Total costs of approximately $34.6 million ($15.7 million General Fund (GF) and $18.9 million federal funds) in fiscal year 2023-24 and total costs of approximately $67.2 million annually thereafter ($30.4 million GF and $36.8 million federal funds) to expand sick leave to IHSS providers in California, including wage supplement payments for hours worked by

an emergency backup provider when the original provider takes leave. Additionally, total one-time costs of approximately $1.0 million ($452,000 GF and $548,000 federal funds) to the Department of Social Services for related Case Management Information and Payrolling System automation updates.

COMMENTS:

1) **Purpose.** According to the author:

> The COVID-19 pandemic highlighted the lifesaving impacts of paid sick leave polices, while clearly exposing the gaps in our existing safety net for working families.
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> Temporary expansions of paid sick leave policies, which have all expired, are not enough to provide a reliable safety net for workers and adequately protect public health year-round. Workers without sufficient sick leave are either expected to work while sick, risking the health and safety of co-workers and customers, or stay home and forego wages, jeopardizing that worker's own ability to survive or keep their job.

2) **Support and Opposition.** This bill is co-sponsored by the California Labor Federation and five other labor union organizations, arguing "recent research confirms that offering sick days actually saves employers money, as a result of improved productivity and morale, reduced presenteeism, and turnover." This bill is also supported by a large coalition of civil rights, public health, and workers' rights groups.

   This bill is opposed by a large coalition of employer groups led by the California Chamber of Commerce, arguing "businesses that can afford to offer more than three days of sick leave are doing so, but many, many businesses cannot absorb that cost" which "will inevitably either be passed on to consumers as higher prices for goods and services, or force employers to reduce jobs or cut wages or other benefits." Additionally, this bill's provisions regarding unpaid sick leave for railroad employees is opposed by freight railroad companies, which argue "Excessive unplanned absences severely hinder railroad operations, which negatively impact communities, customers and the overall supply chain…Railroad employees can already take unpaid time off subject to the company's reasonable attendance policies."

3) **Background.**

   Comparing Paid Sick Leave Policies. AB 1522 (Gonzalez), Chapter 317, Statutes of 2014, established a requirement for employers to provide a minimum of three days of sick leave to their employees. Under the Act, sick leave must accrue at a rate of no less than one hour for every 30 hours worked so that an employee has no less than 24 hours of accrued leave by the 120th calendar day of employment.

   Encouraging workers to stay home when they feel sick has been critical to curbing the spread of COVID-19, and highlights the importance of access to paid sick leave generally as a public health policy leading to healthier workforces and workplaces. Many jurisdictions have more generous paid sick leave programs than California requires. For example, New Mexico leads the country by requiring every employer to provide 64 hours of leave,

Colorado and Minnesota require 48 hours of leave, and many other states require 40 hours of leave, including New York (with 56 hours of leave required for employers with 100 or more workers), New Jersey, and Vermont. Additionally, seven California cities (San Francisco, Oakland, Berkeley, Emeryville, Los Angeles, Santa Monica, and San Diego) have their own local laws requiring employers to provide 40 or more hours of leave. This bill updates the Act to require employers to provide employees with a minimum of 56 hours or seven days of paid sick leave.

CBA and Railroad Employees. Existing law excludes from the Act employees covered by a valid CBA that meets specified wage and paid leave provisions. Thus, existing law not only excludes CBA employees from the Act's minimum leave, accrual, and carryover provisions, but also employee protections regarding the use of leave. For example, the Act specifies the leave can be used to care for an employee's family member, prohibits requiring an employee using leave to find a replacement worker, and prohibits retaliation against an employee for using accrued leave. This bill extends these rights and protections to CBA employees.

This bill also excludes railroad employees from the Act, but instead requires railroad employers to allow employees to take at least seven days of unpaid sick leave annually, subject to the existing accrual and carryover provisions and above-described rights and protections under the Act for paid sick leave. Accordingly, this bill protects a railroad employee using accrued unpaid sick leave from demerit points or disciplinary citations that the employee may otherwise face under a railroad employer's attendance policy.

4) **Prior Legislation.** AB 995 (Gonzalez), of the 2021-22 Legislative Session, would have expanded the Act to five days of paid sick leave. AB 995 was ordered to the Assembly Inactive File at the request of the author.

AB 555 (Gonzalez), of the 2019-20 Legislative Session, was similar to AB 995 and would have also expanded the purposes for which leave could be used and prohibited an employer from requiring documentation verifying use of leave. AB 555 was ordered to the Assembly Inactive File at the request of the author.

AB 2841 (Gonzalez), of the 2017-18 Legislative Session, was similar to AB 995. AB 2841 was held on this committee's suspense file.

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