

# *Putting Families First:*

## **How California Won The Fight For Paid Family Leave**



### **Share the Care** *Paid Family Leave*

A REPORT BY:  
**LABOR PROJECT FOR WORKING FAMILIES**

# Acknowledgements

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## Introduction

On September 23, 2002, Governor Gray Davis made California the first state in the nation to provide comprehensive paid family leave. The new law, which goes into effect in 2004, will give most working Californians up to six weeks of partial pay if they need time off to care for a new child or seriously ill family member. How did California come to take this historic step? And how did the landmark legislation go from introduction to signature in less than one year?

This case study provides an overview of the key conditions, events and decisions that led to making paid family leave a reality in California, and some of the lessons learned. We hope that other advocates and policymakers find this information helpful as they consider how to expand access to paid family leave in their own states.

## The National Context

In 1993, the federal Family and Medical Leave Act (FMLA) became law. It gives many working Americans the right to take up to 12 weeks of *unpaid* leave when a new child arrives, a family health crisis strikes, or they themselves are ill. The FMLA protects jobs and benefits, but it doesn't help pay the bills. Independent studies commissioned by the Department of Labor in 1995 and 2000 found that the primary reason people who need leave don't take it is that they simply can't afford it. The research also found that nearly one in ten FMLA users is forced onto public assistance while on leave.

As more people became aware of a right they couldn't necessarily afford to use, interest in paid family leave grew. Advocates and academics did research and explored policy models, looking at everything from unemployment insurance to social security to the commercial insurance market as possible vehicles for providing paid leave. In 1999, the National Partnership for Women & Families, which led the nine-year fight to pass the FMLA, launched the Campaign for Family Leave Benefits to fuel a growing movement to make family leave more affordable. California advocates and policymakers were among the lead participants.

## The California Factors

Several factors made California especially fertile ground for a paid family leave campaign, including a unique benefits infrastructure, strong advocacy base, and favorable political situation.

### **BENEFITS INFRASTRUCTURE**

**STATE DISABILITY INSURANCE (SDI):** California already had a well-established system for delivering paid *medical* leave. Nearly all working Californians are covered by SDI, which pays about half workers' wages for up to a year if they can't work because of an illness or injury unrelated to their job. SDI is entirely funded by employee contributions. Only four other states and one territory have similar programs. The main reason people take FMLA leave is for their own health problems, which in California are already covered by SDI.

## Key Facts about California's New Paid Family Leave Benefit

Beginning July 1, 2004, most California workers will have access to six weeks of paid family leave per year to care for a new child (birth, adoption, or foster care) or seriously ill family member (parent, child, spouse, or domestic partner). Here are some key facts about how the new benefit will work:

- Eligible workers will receive up to 55% of their wages for up to six weeks, capped at \$728 per week in 2004. The maximum benefit will be set annually based on the state's average weekly wage.
- The average worker will pay less than \$3 per month, or an estimated \$27 per year, for this new benefit.
- Workers can apply for paid family leave after a one-week waiting period.
- Employers can require workers to use a maximum of two weeks of vacation time first before receiving paid family leave. One week will be used to cover the waiting period.
- This new benefit is an expansion of California's State Disability Insurance Program (SDI). Both the current SDI system and this expansion are 100% employee funded.
- The new law does not address the issue of job retention rights for workers on paid family leave. However, reinstatement and other rights may exist when an employee is covered by other, pre-existing laws.

**CALIFORNIA FAMILY RIGHTS ACT (CFRA):** Two years before the FMLA became law, California enacted CFRA, which provided unpaid family leave. It was later amended to mirror the FMLA.

**PREGNANCY DISABILITY LEAVE:** California's pregnancy disability leave law provides up to four months of leave for workers disabled due to pregnancy or childbirth. The law covers workers at firms with at least five employees.

**FAMILY SICK LEAVE:** In 1999, a new California law required employers to let employees use up to half of their annual accrued sick leave to care for sick family members. This narrow family leave benefit is available to all workers whose employers provide sick leave.

### ADVOCACY BASE

**WORK AND FAMILY COALITION:** Since 1992, the Labor Project for Working Families (Labor Project) had been educating labor unions about work-family issues and helping them negotiate for child care and other benefits, including paid family leave, in union contracts. In 1999, the Labor Project formed the Work and Family Coalition. This Coalition brought state and local labor, advocacy and community groups together to support each other's efforts and improve California's work-family policies on a larger scale. Paid family leave was one of the issues on their agenda.

**CALIFORNIA LABOR FEDERATION (LABOR FEDERATION):** The Labor Federation, which is the state-level AFL-CIO, recognized the organizing potential of work-family benefits and was interested in issues that resonated with women and low-wage workers. A strong, progressive, and politically powerful organization, the Labor Federation saw improving state safety-net benefits, such as disability insurance, as the best way to help working Californians. The Labor Federation was a member of the Work and Family Coalition and had a successful track record on related legislation including CFRA, Pregnancy Disability Leave and Family Sick Leave.

**CONSTITUENCY GROUPS:** California's large and diverse population supports many groups representing the interests of women, children, seniors, parents, immigrants, disabled populations, and others with a stake in family leave policy. It is also home to numerous employment law and civil rights organizations with deep expertise on complex issues relevant to paid leave.

Many of these different organizations worked to pass CFRA and the FMLA, supported more recent family leave bills, and conducted outreach on family leave issues. For example, in the late 1990's the Legal Aid Society – Employment Law Center began training unions and other groups and established a hotline for workers with

family leave problems. They and many other organizations were interested in paid family leave and had long-standing relationships with each other and with the Labor Federation and the Labor Project.

## POLITICAL SITUATION

**DEMOCRATIC CONTROL:** Democrats controlled California's Assembly, Senate and Governor's office since 1998. While business interests hold plenty of sway on both sides of the aisle, California's elected Democrats, including the Governor, have very strong ties to labor and are generally responsive to progressive interests.

**ELECTION YEAR:** The paid family leave bill was introduced at the start of an election year, with the state's incumbent governor running for a second term. Whether this timing would help or hurt the bill's prospects was unclear. Politicians needed votes from women, seniors, union members and others likely to support paid family leave. However, the same politicians would also be raising money from corporate donors and seeking support from fiscally conservative swing voters.

## *The Road To Success*

The story of how paid family leave became California law follows the broad outlines of any successful campaign. Advocates invested in *building awareness and relationships over time, secured support from powerful partners*, faced opposition and many unknowns, and succeeded through a combination of *grassroots mobilization, political pressure, legislative maneuvering, media outreach, and compromise*. Beyond these general elements, however, every campaign's journey is unique. Here are some of the key steps that California's paid family leave supporters say shaped their road to success.

## PAVING THE WAY

In late 1999, several important developments helped pave the way for a concerted paid leave campaign in California.

- Labor achieved a major victory in its efforts to improve the state's social insurance safety net when Governor Davis signed a bill *raising California's SDI benefit*.<sup>\*</sup> The first benefit increase in many years, it cleared the path for labor leaders to consider expanding SDI to cover family leave.

*"I never in my wildest dreams thought we'd do this in a year."*

NETSY FIRESTEIN, LABOR PROJECT FOR WORKING FAMILIES



<sup>\*</sup> By 2004, the maximum SDI benefit will be \$728 per week.

# Timeline Highlights

1. California Family Rights Act (CFRA) becomes law (1991)
2. Federal FMLA is first bill signed into law by President Clinton (February 1993)
3. California Family Rights Act (CFRA) amended to conform to FMLA (October 1993)
4. National Campaign for Family Leave Benefits launched by National Partnership for Women & Families (June 1999)
5. California law requires employers to let employees use up to half of their sick leave to care for sick family members (August 1999)
6. California Work & Family Coalition organized by Labor Project for Working Families (June 1999)
7. SDI benefit increase (October 1999)
8. Employment Development Department (EDD) directed to study potential costs of providing paid family leave through SDI (October 1999; study completed July 2000)
9. Labor Project receives grant from the David and Lucile Packard Foundation to advance paid family leave in California (January 2001)
10. Several organizations conduct FMLA workshops throughout the state to lay the groundwork for a paid family leave campaign (1999 - Fall 2001)
11. California Labor Federation puts paid family leave on its legislative agenda (August 2001)
12. SB 1661 introduced by California State Senator Sheila Kuehl (February 21, 2002)

*continued*

- The same bill directed the Employment Development Department (EDD) *to study the potential costs of providing paid family leave* through SDI. This opened doors for advocates to work with EDD as they designed the study. The resulting relationships and insights informed the shape of the legislation and prevented unnecessary conflicts with the agency that would administer the new program.
  - o EDD finished their study in the summer of 2000 and confirmed that paid family leave could be provided through SDI at a very modest cost.
- In early 2001, the Labor Project secured a *planning grant followed by a two-year program grant* from the David and Lucile Packard Foundation. With these resources, a core group of advocates formed a steering committee and began building what they expected to be a two- to five-year campaign for paid family leave. Their start-up activities included:
  - o creating the Coalition for Paid Family Leave/Share the Care (the Coalition) ;\* \*
  - o drafting legislation;
  - o contacting organizations throughout the state to gauge and enlist support;
  - o identifying likely authors in the Senate and Assembly;
  - o getting technical assistance from the National Partnership for Women & Families and the California Senate Office on Research;
  - o gathering personal stories that illustrated the need for paid leave;
  - o seeking support from progressive business owners and associations;
  - o building union awareness by holding 20 workshops during the summer and fall of 2001; and
  - o working with University of California academics to estimate the costs and benefits of paid leave, write op-eds, and offer testimony.

## ENLISTING POWERFUL PARTNERS

**W**hile they didn't expect their bill to go very far in its first year, the Coalition wanted it to command as much attention as possible to build support for the campaign. They needed powerful political partners.

One of the Coalition's founding members, the Labor Federation also became the bill's lead sponsor in August 2001. As the bill

gained momentum, they followed through with testimony, lobbying, and grassroots mobilization, using their political clout at crucial points throughout the campaign.

The Labor Federation asked State Senator Sheila Kuehl (D-Los Angeles) to be the lead author, and she said yes. A successful progressive legislator, Kuehl was respected by her peers across ideological lines and had a strong relationship with the governor. She introduced the bill, SB1661, in February 2002, and it soon became her top priority.

- o At its debut, SB1661 provided 12 weeks of paid family leave, with the costs evenly split between employees and employers.
- o Kuehl assigned a top staffer to the bill, who devoted between 50 and 100% of her time to it throughout the campaign.

## TURNING UP THE HEAT

By mid-June SB1661 had passed the Senate without any substantial changes. It then went to the Assembly. Supporters were elated and somewhat surprised to have made it so far, and they mobilized a major grassroots and media campaign to build Assembly support. At the same time, business opposition was growing and could not be ignored. Things were heating up.

- After the bill passed its first Assembly committee, the Coalition boosted its organizing and picked up more members and momentum. At the grassroots level, workers handed out post cards at union meetings, Coalition members staffed tables at conferences, and the ACLU of Southern California set up a web site letting supporters send faxes directly to their Assembly member. On the media front, the Coalition launched a proactive press outreach effort. All this heightened activity and visibility kept feeding the momentum and led core Coalition members to devote even more time and energy to the campaign.
- Galvanized by the bill's proposed employer contribution and growing legislative momentum, the California Chamber of Commerce launched an opposition campaign. They insisted that businesses, especially small ones, would be driven into the ground or out of state if they had to pay their share. They sent legislators thousands of letters and faxes. Because the economy was taking a dive, this scare tactic had more traction with the press and politicians than it would have just months before.
- The bill began to face resistance from key legislators as it wound its way through the Assembly committee process. Moderate, business-oriented Democrats started pushing for substantial



*"It's not enough that what you want to do is right and will help people, you have to get them involved."*

JOANNIE CHANG,  
ASIAN LAW CAUCUS

\*\*The founding members of the Coalition's Steering Committee were: the Labor Project for Working Families, California Labor Federation, Legal Aid Society - Employment Law Center (a legal services nonprofit focused on workplace rights), and Equal Rights Advocates (a litigation and advocacy organization for the rights of women and girls).

# Timeline Highlights

## CONTINUED

13. California Labor Federation Annual Legislative Conference includes training and lobbying on SB 1661 (March 2002)
14. Media training for Coalition members (March 2002)
15. SB 1661 passed by Senate (June 10, 2002)
16. University of California at Berkeley Cost/Benefit Analysis of SB1661 released (June 2002)
17. Grassroots campaign ramps up with postcards, faxes and letters to Assembly members (July-August 2002)
18. Substantial amendments made in Assembly Appropriations Committee (August 2002)
19. Amended SB 1661 passes Assembly (August 27, 2002)
20. Amended bill passes Senate (August 30, 2002)
21. Grassroots campaign goes into high gear to lobby Governor Davis (September 2002)
22. Governor signs SB 1661 and establishes Family Temporary Disability Insurance, making California the first state to provide comprehensive paid family leave (September 23, 2002)
23. Coalition meets to celebrate victory and plan next steps (November 15, 2002)
24. Employees start paying into new system (January 1, 2004)
25. Employees can apply for paid family leave (July 1, 2004)

changes, including getting rid of the employer contribution. Sometimes called "the Mod Squad," this group could stop the bill in its tracks. They were also a good predictor of how the governor would respond. Supporters had barely a week to decide what to do.

## MAKING TOUGH DECISIONS

The Coalition was facing some very tough decisions, including how to handle the employer contribution. Most members concluded it would have to go at some point, but when? If they stripped it out and the governor vetoed the bill anyway, would they be in a weaker position next year?

- Kuehl's office wanted to drop the employer contribution before the bill went to the Assembly floor. The Labor Federation believed the benefit should be cut from 12 to six weeks if employees were going to have to carry the full cost. Some Coalition members agreed, others did not, but by the end of the week virtually all concluded that they would rather gamble on getting the governor's signature this year than gamble on next year's odds.
- The bill that finally went to the Assembly floor provided six weeks of paid family leave, all employee funded. Other amendments included that employers could require employees to use up to two weeks of vacation time before getting the SDI benefit. It passed the Assembly with a comfortable margin on August 27th. The Senate passed the amended version three days later. Next stop, the governor.

## GETTING TO YES

For nearly a month, Governor Davis gave no outward indication of what he planned to do. He had a reputation for being risk-averse, and paid leave was definitely untested. He was also up for reelection in a surprisingly tight race, and he needed every vote he could get. The Coalition, which had grown from a small core to

*"I got postcards signed full time - at the labor council, the labor studies program as well as to employees we represent. I feel so proud of the work I have done to get this bill passed."*

DAVE HURLBURT, SHOP STEWARD, CWA LOCAL 9410

more than 700 unions, organizations and individual members, pulled out all the stops.

- Now that the bill would cost employers nothing, a new wave of Coalition media outreach led to positive editorials in major newspapers like the L.A. Times and some national coverage. A telephone press conference with several supportive business owners made the opposition look less monolithic and less justified for fighting something that wouldn't cost them anything and would probably save them money.
- Because Davis had recently signed several major labor bills, advocates decided to highlight women's interest in paid family leave. They knew from insiders that he was concerned with the gender gap, so they emphasized the women's angle at every opportunity.
- The Labor Federation and other supporters drove home the national significance of the decision facing Davis. Using any and all connections, they generated calls and letters to the governor from national political figures, celebrities, and the head of the AFL-CIO.
- The Coalition's grassroots campaign, with help from many unions, generated thousands of postcards, faxes, emails and letters to the governor asking him to sign SB 1661.



*"This is historical.  
This is precedential...  
This is democracy  
in action."*

CALIFORNIA STATE SENATOR  
SHEILA KUEHL

## HIS FINAL ANSWER

By mid-September, people close to the governor picked up signals that he was leaning towards signing the bill. Finally, *on September 23, 2002, California became the first state to pass a comprehensive paid family leave law.*

- For the remaining six weeks until Election Day, paid family leave featured prominently in the Governor's campaign speeches and ads. He was reelected with a five-percent margin.
- In post-election interviews, the Governor consistently claimed paid family leave as one of his most significant accomplishments.

*On September 23, 2002, Governor Davis signed the bill making California the first state to pass a comprehensive paid family leave law.*



## Lessons

The most significant and broadly applicable lessons that campaign participants drew from the California experience include several things to do the same way and a few to do differently.

**DO Invest in developing your base over time, raising awareness and building trust.** California's paid family leave advocates did this for two years before going into campaign mode. In the process, they built relationships that later helped create an unusually close-knit and committed steering committee.

**DO Find partners who are powerful and willing to go to the mat for your cause.** The Labor Federation didn't just endorse the bill, they put resources behind it, and Senator Kuehl made sure that both her peers and the governor knew it was her top priority.

**DO Build a coalition with diverse areas of expertise.** Include groups that understand employment law and public benefit systems, that are skilled at lobbying and grassroots mobilization, and that have constituents.

**DO Have solid data to back up your proposal.** The EDD study set unbiased cost expectations that helped frame the debate from the start. A study by UC Berkeley economists on the costs and the savings to business and the state, as well as Labor Department numbers reinforced advocates' messages and helped to counter opposition claims.

**DO Be prepared to devote significant staff time and resources to planning as well as executing your campaign.** Having the funding and staff for conference calls, a listserv, building the coalition and producing materials got the campaign off to a running start and helped it sustain momentum instead of fragmenting as things heated up.

**DO Think big.**

**DON'T Wait until things heat up to invest in a media campaign and develop media messages.** Had the Coalition recognized earlier their need for focused media staffing and strategy, they could have limited opponents' ability to put their spin on the bill.

**DON'T Do business outreach on the fly.** Enlist help early from people with direct business experience, and give them the time to develop targeted business messages and cultivate relationships with business and professional associations as well as individual business owners.

## Selling Points

The main selling points for the California program were:

- **The benefit would help a wide range of people, from low-income to upper middle class, and from newborns to the frail elderly.**
- **It built on a program that already existed and worked.**
- **It didn't cost the state any money.**
- **It (ultimately) didn't cost employers any money.**
- **It did not create new job protections.**
- **The cost to employees was very low.**

## Conclusion

While California's paid family leave bill became law faster than even its most ambitious supporters expected, it did not come out of nowhere. Years of coalition work, relationship building, union organizing, and advocacy efforts both successful and failed stand behind this recent development. Still, it took a particular combination of raw political power, resources, organizing, consensus building, conflict and compromise, and a certain amount of luck to win the game.

*I hope this spreads across the country like California's smoke-free workplace legislation did.*

TOM RANKIN, PRESIDENT,  
CALIFORNIA LABOR FEDERATION

# PAID FAMILY LEAVE SUPPORTERS

AFSCME

Alliance For Retired Americans, Region 9

AARP

American Academy of Pediatrics

American Association of University Women

American Civil Liberties Union

American College of Obstetricians and Gynecologists

American Federation of State, County and Municipal Employees

Asian Law Caucus

Association of California Caregiver Resource Centers

Banana's

Breast Cancer Fund

California Advocates for Social Change

California Alliance for Pride and Equality

California Association for the Education of Young Children

California Catholic Conference

California Child Care Resource & Referral Network

California Children and Families Commission (sponsor)

California Coalition for Youth

California Commission on the Status of Women

California Conference Board of the Amalgamated Transit Union

California Conference of Machinists

California Faculty Association

California Federation of Teachers

California HIV Advocacy Coalition

California Independent Employees Legislative Council

California Labor Federation (sponsor)

California Medical Association

California Nurses Association

California National Organization for Women

California Professional Firefighters

California School Employees Association

California State Employees Association

California State Parent Teacher Association

California Women's Law Center

Center for Community Change

Center for the Child Care Workforce

Center on Policy Initiatives

Childcare Health Program

Childcare Law Center

Children NOW

Children's Advocacy Institute

City and County of San Francisco Commission on the Status of Women

Coalition of Labor Union Women, Capitol Chapter

Communication Workers of America, District 9

Communication Workers of America, Local 9400

Congress of California Seniors

Compassion in Dying Federation

Consumer Federation of California

East Bay Community Law Center

Engineers and Scientists of California

Equal Rights Advocates

Family Caregiver Alliance

Fresno-Madera-Tulare-Kings Central Labor Council

Gray Panthers

Hotel Employees, Restaurant Employees International Union

Jericho

Labor Project for Working Families

Lambda Letters Project

Latino Coalition for a Health Family

Legal Aid Society, Employment Law Center

National Center for Youth Law

National Multiple Sclerosis Society

National Partnership for Women and Families

Older Women's League

Orfalea Family Foundation

Parish of St. Louis Bertrand

Planned Parenthood Affiliates of California

Planning for Elders in the Central City

Sacramento Central Labor Council

San Francisco Commission on Status of Women

San Francisco State University - Psychology Dept.

San Mateo County Central Labor Council

Service Employees International Union

Southern California HIV Advocacy Coalition

State of California Commission on the Status of Women

Transport Workers Union of California

Teamsters

Union of American Hebrew Congregations

United Brotherhood of Carpenters & Joiners of America, Carpenters Local 713, Alameda County

United Farm Workers

United Food & Commercial Workers Region 8 States Council

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United Nurses Association/Union of Health Care Professionals

UTLA

Women's Employment Rights Clinic, Golden Gate School of Law

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LABOR PROJECT FOR WORKING FAMILIES

The Labor Project for Working Families is a nonprofit advocacy and education organization working with the labor movement and the community to improve work and family policies.



## Share the Care

*Paid Family Leave*

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