

JAN 22 2016

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# A BILL FOR AN ACT

RELATING TO PAID LEAVE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that Hawaii's working  
2 families are not adequately supported during times of caregiving  
3 and illness. While the federal Family and Medical Leave Act of  
4 1993 allows twelve weeks of unpaid leave to employees who have  
5 worked at a business that employs fifty or more employees, the  
6 majority of Hawaii's workforce cannot afford to take unpaid  
7 leave when needing to provide care to a newborn, bond with a new  
8 child, or care for a family member with a serious health  
9 condition. The legislature finds that the Hawaii paid leave law  
10 further restricts eligibility by extending only four weeks of  
11 unpaid leave to those employees who work at a business with more  
12 than one hundred employees.

13           The legislature further finds that only eleven per cent of  
14 workers in the United States have access to paid leave through  
15 their employers. Women, as primary caregivers of infants,  
16 children, and elderly parents, are affected disproportionately  
17 by the unavailability of paid leave and medical leave.



1 Approximately 247,000 people in Hawaii serve as family  
2 caregivers. Hawaii has the fastest growing population aged  
3 sixty-five or older in the nation, which is expected to grow by  
4 eighty-one per cent by the year 2030. Of those who need leave  
5 but cannot take it, nearly one in three need leave to care for  
6 an ill spouse or parent.

7 The purpose of this Act is to ensure that employees within  
8 the State are provided partial wage replacement during times  
9 when they need to provide care.

10 SECTION 2. Chapter 398, Hawaii Revised Statutes, is  
11 amended by adding a new part to be appropriately designated and  
12 to read as follows:

13 "PART . WAGE REPLACEMENT FOR PAID LEAVE

14 §398-A Partial wage replacement for paid leave trust fund;  
15 established. (a) There is established outside the state  
16 treasury, a trust fund to be known as the partial wage  
17 replacement for paid leave trust fund.

18 (b) The partial wage replacement for paid leave trust fund  
19 shall consist of employee contributions which shall not exceed  
20 per cent of each employee's wages per pay period, as well  
21 as interest earned and income, dividends, refunds, rate credits,



1 and other returns received by the trust fund. All sums  
2 contributed or paid from any source to the trust fund created by  
3 this part, and all assets of the trust fund including all  
4 interest and earnings of the same, shall be held in trust by the  
5 department for the exclusive use and benefit of employees and  
6 shall not be subject to appropriation for any other purpose.

7 (c) The partial wage replacement for paid leave trust fund  
8 shall be used to provide an eligible employee with twelve weeks  
9 per calendar year of paid leave; provided that an employee's  
10 weekly benefit shall not be more than sixty-six and two-thirds  
11 per cent of the employee's monthly wage.

12 (d) The partial wage replacement for paid leave trust fund  
13 shall be administered by the department.

14 **§398-B Wage withholding.** (a) Each employee shall make a  
15 contribution to the partial wage replacement for paid leave  
16 trust fund per pay period.

17 (b) If an employee's contribution to the partial wage  
18 replacement for paid leave trust fund is not withheld and  
19 transmitted to the partial wage replacement for paid leave trust  
20 fund, the employer shall pay per cent of the employee's



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1 wage per pay period directly to the fund by the first day of  
2 each month."

3 SECTION 3. Section 398-1, Hawaii Revised Statutes, is  
4 amended by amending the definition of "employer" to read as  
5 follows:

6 "Employer" means any individual or organization, including  
7 the State, any of its political subdivisions, any  
8 instrumentality of the State or its political subdivisions, any  
9 partnership, association, trust, estate, joint stock company,  
10 insurance company, or corporation, whether domestic or foreign,  
11 or receiver or trustee in bankruptcy, or the legal  
12 representative of a deceased person, who employs one ~~hundred~~  
13 or more employees for each working day during each of twenty or  
14 more calendar weeks in the current or preceding calendar year."

15 SECTION 4. Section 398-3, Hawaii Revised Statutes, is  
16 amended as follows:

17 1. By amending subsection (a) to read:

18 "(a) An employee shall be entitled to a total of ~~four~~  
19 twelve weeks of ~~family~~ paid leave during any calendar year  
20 ~~[upon the birth of a child of the employee or the adoption of a~~  
21 ~~child, or to care for the employee's child, spouse or reciprocal~~



1 ~~beneficiary, or parent with a serious health condition.],~~ as  
2 follows:

3 (1) To care for the employee's child within twelve months  
4 of the child's birth, foster placement, or placement  
5 for adoption with the employee; or

6 (2) To care for the employee's child, spouse or reciprocal  
7 beneficiary, or parent with a serious health  
8 condition."

9 2. By amending subsection (e) to read:

10 "(e) Nothing in this chapter shall entitle an employee to  
11 more than a total of [~~four~~] twelve weeks of leave in any twelve-  
12 month period."

13 SECTION 5. Section 398-4, Hawaii Revised Statutes, is  
14 amended by amending its title to read as follows:

15 "~~§398-4 [Unpaid leave]~~ Leave permitted; relationship to  
16 paid leave; sick leave."

17 SECTION 6. Section 398-4, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) Pursuant to section 398-3[~~7~~] and section 398-A, an  
20 employee shall be entitled to [~~four~~] twelve weeks of [~~family~~]  
21 paid leave. [~~The family leave shall consist of unpaid leave,~~



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1 ~~paid leave, or a combination of paid and unpaid leave.]~~ If an  
 2 employer provides paid [family] leave other than that required  
 3 by this chapter for fewer than [~~four~~] twelve weeks, [~~the~~  
 4 ~~additional~~] that period of leave [~~added~~] shall be subtracted  
 5 from the twelve weeks required by section 398-3 to attain the  
 6 [~~four-week~~] twelve week total [~~may be unpaid.~~], not including  
 7 accrued sick or vacation hours."

8 SECTION 7. Section 398-2, Hawaii Revised Statutes, is  
 9 repealed.

10 [~~["§398-2] Inapplicability. The rights provided under~~  
 11 ~~this chapter shall not apply to employees of an employer with~~  
 12 ~~fewer than one hundred employees."]~~

13 SECTION 8. There is appropriated out of the general  
 14 revenues of the State of Hawaii the sum of \$ \_\_\_\_\_ or so  
 15 much thereof as may be necessary for fiscal year 2016-2017 or so  
 16 much thereof as may be necessary for the purpose of hiring an  
 17 administrator, administrative assistant, and an accountant to  
 18 perform functions relating to the accounting associated with the  
 19 partial wage replacement for paid leave trust fund, including  
 20 oversight of payroll deductions, administrative processes, and  
 21 payments to eligible employees pursuant to this Act.



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1           The sum appropriated shall be expended by the department of  
2 labor and industrial relations for the purposes of this Act.

3           SECTION 9. In codifying the new sections added by section  
4 2 of this Act, the revisor of statutes shall substitute  
5 appropriate section numbers for the letters used to designate  
6 the new sections of this Act.

7           SECTION 10. This Act does not affect rights and duties  
8 that matured, penalties that were incurred, and proceedings that  
9 were begun before its effective date.

10          SECTION 11. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12          SECTION 12. This Act shall take effect on July 1, 2016.

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INTRODUCED BY: Sharon Chun Oakland

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**Report Title:**

Paid Leave; Partial Wage Replacement; Appropriation

**Description:**

Requires twelve weeks of partially paid leave at a maximum rate of sixty-six and two-thirds per cent of an employee's monthly wage. Establishes the partial wage replacement for paid leave trust fund to be funded by employee contributions from payroll deductions. Makes an appropriation to the DLIR for administrative expenses and new positions.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

