
A BILL FOR AN ACT

RELATING TO EMPLOYMENT.

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 family leave
10 law further restricts eligibility by extending only four weeks
11 of unpaid leave to those employees who work at a business with
12 more 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 family leave
15 through their employers. Approximately 247,000 people in Hawaii
16 serve as family caregivers. Hawaii has the fastest growing
17 sixty-five-plus population in the nation, which is expected to



1 grow by eighty-one per cent by the year 2030. Of those who need
2 leave but cannot take it, nearly one in three need leave to care
3 for an ill spouse or parent. Women, as primary caregivers of
4 infants, children, and elderly parents, are affected
5 disproportionately by the unavailability of paid family and
6 medical leave.

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 FAMILY LEAVE**

14 **§398-A Partial wage replacement; trust fund established.**

15 (a) There is established outside the state treasury, a trust
16 fund to be known as the partial wage replacement for leave trust
17 fund.

18 (b) The trust fund shall consist of employee contributions
19 which shall not exceed 0.5 per cent of each employee's wages per
20 pay period, as well as interest earned and income, dividends,
21 refunds, rate credits, and other returns received by the trust



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

7 (c) Beginning July 1, 2017, the trust fund shall be used
8 to provide an eligible employee with four weeks per calendar
9 year of paid family leave; provided that an employee's weekly
10 benefit shall not be more than sixty-six and two thirds per cent
11 of the employee's weekly wage.

12 (d) The trust fund shall be under the control of and
13 administered by the department. The department may use up to
14 ten per cent of the annual receipts of the fund for
15 administrative purposes.

16 **§398-B Wage withholding.** (a) Beginning January 1, 2017,
17 each employer shall withhold from each employee earned income in
18 an amount equal to the designated percentage in section 398-A
19 and shall make a contribution to the partial wage replacement
20 for leave trust fund per pay period for the withheld amount in
21 the name of the employee.



1 (b) If an employee's contribution to the trust fund is not
2 withheld and transmitted to the trust fund, the employee shall
3 pay the designated percentage of the employee's wage as
4 specified in section 398-A, per pay period directly to the trust
5 fund by the first day of each month.

6 (c) Beginning January 1, 2017, each employee shall make a
7 contribution to the trust fund each pay period. The
8 contribution shall be transmitted by the employer to the trust
9 fund via employer wage withholding each pay period.

10 (d) If there is a dispute between the employee and the
11 employer relating to the withholding of wages as contributions
12 for paid family leave benefits, either party may file a petition
13 with the director for determination of the amount to be
14 withheld. The matter shall be determined by the director and
15 shall be subject to review pursuant to section 398-24; provided
16 that either party may request a hearing under this section.

17 **§398-C Family leave assessment.** (a) Beginning January 1,
18 2017, every employee shall be subject to a family leave
19 assessment at a rate of 0.5 per cent of taxable wages, as
20 specified in section 383-61, unless exempted pursuant to section
21 383-129(a).



1 (b) Employee family leave assessments shall be paid
2 through the employer withholding and issued by the unemployment
3 insurance division, acting as agent for the partial wage
4 replacement for leave trust fund. The unemployment insurance
5 division shall be reimbursed by the trust fund for all expenses
6 incurred in issuing notices of family leave assessments,
7 including but not limited to, staff and administrative costs.

8 (c) Employers shall submit contribution reports and
9 payments for the amounts due and payable pursuant to the
10 withholdings made on behalf of their employees and pursuant to
11 this section as instructed by the department and in compliance
12 with rules adopted pursuant to this chapter.

13 (d) The department shall be responsible to collect and
14 process all moneys due and payable from employers subject to the
15 assessment in this section. The department shall deposit all
16 moneys collected into the partial wage replacement for leave
17 trust fund.

18 **§398-D Weekly benefit amount.** (a) Benefits shall be
19 computed as weekly amounts in the manner provided by section
20 392-22.



1 (b) In no case shall the weekly benefit amount exceed the
2 maximum weekly benefit amount specified in section 386-31."

3 SECTION 3. Section 398-1, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By adding a new definition to be appropriately inserted
6 and to read:

7 "Trust fund" means the partial wage replacement for leave
8 trust fund."

9 2. By amending the definition of "employer" to read:

10 "Employer" means any individual or organization,
11 [~~including the State, any of its political subdivisions, any~~
12 ~~instrumentality of the State or its political subdivisions,~~] any
13 partnership, association, trust, estate, joint stock company,
14 insurance company, or corporation, whether domestic or foreign,
15 or receiver or trustee in bankruptcy, or the legal
16 representative of a deceased person, who employs one hundred or
17 more employees for each working day during each of twenty or
18 more calendar weeks in the current or preceding calendar year[=]
19 but shall not include the State, or any of its political
20 subdivisions."



1 SECTION 4. Section 398-3, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) An employee shall be entitled to a total of four
4 weeks of family leave during any calendar year [~~upon the birth~~
5 ~~of a child of the employee or the adoption of a child, or to~~
6 ~~care~~]:

7 (1) To care for the employee's child within twelve months
8 of the child's birth, or foster placement, or
9 placement for adoption with the employee; or

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

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

16 "**§398-4** [~~Unpaid leave~~] **Leave permitted; relationship to**
17 **paid leave; sick leave.** (a) Pursuant to section 398-3[~~7~~] and
18 section 398-A, an employee shall be entitled to four weeks of
19 family leave. [~~The family leave shall consist of unpaid leave,~~
20 ~~paid leave, or a combination of paid and unpaid leave.~~] If an
21 employer provides paid family leave other than that required by



1 this chapter for fewer than four weeks, [~~the additional~~] that
2 period of leave [added] shall be subtracted from the four weeks
3 required by section 398-3 to attain the four-week total [~~may be~~
4 ~~unpaid.~~], not including accrued sick or vacation hours."

5 SECTION 6. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$ or so
7 much thereof as may be necessary for fiscal year 2015-2016 and
8 the same sum or so much thereof as may be necessary for fiscal
9 year 2016-2017 for the purpose of hiring an administrator, an
10 administrative assistant, and an accountant to administer the
11 partial wage replacement for leave trust fund, including
12 oversight of payroll deductions, administrative processes, and
13 payment to eligible employees, and an amount sufficient to
14 reimburse the unemployment insurance division for the staff and
15 processing costs to administer the collection of payments for
16 this program.

17 The sums appropriated shall be expended by the department
18 of labor and industrial relations for the purposes of this Act.

19 SECTION 7. In codifying the new sections added by section
20 2 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 8. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

6 SECTION 9. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 10. This Act shall take effect on July 1, 2015.



Report Title:

Family Leave; Partial Wage Replacement

Description:

Establishes a partial wage replacement for leave trust fund funded by employee wage withholdings. Uses the trust fund to provide partial wage replacement for four weeks of family leave. Appropriates moneys to administer the trust fund. (HB496 HD1)

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