
A BILL FOR AN ACT

RELATING TO FAMILY 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 to care for a child or an elderly family member with a
8 serious health condition. Hawaii law offers only a modest four-
9 week extension of unpaid leave and this applies only to Hawaii's
10 few large employers with more than one hundred employees.

11 The legislature further finds that only eleven per cent of
12 workers in the United States have access to paid family leave
13 through their employers. Women, as primary caregivers of
14 infants, children, and elderly parents, are affected
15 disproportionately by the unavailability of paid family and
16 medical leave. In Hawaii, 247,000 people serve as family
17 caregivers. Hawaii has the fastest growing population of



1 individuals over the age of sixty-five in the nation, and that
 2 number is expected to grow by eighty-one per cent by the year
 3 2030. Of those who would benefit from paid family leave, nearly
 4 one-third would take those leave benefits to care for an ill
 5 spouse or elderly parent. In short, most workers, at some
 6 point, will need to take time off to care for an ill family
 7 member, but very few can afford it.

8 The purpose of this Act is to establish paid family leave
 9 and lay the groundwork to implement a paid family leave
 10 framework of laws and policies so that all employees can access
 11 leave benefits during times when they need to provide care for a
 12 family member.

13 SECTION 2. Chapter 398, Hawaii Revised Statutes, is
 14 amended by adding a new section to part I to be appropriately
 15 designated and to read as follows:

16 "§398- Paid family leave special fund. (a) There is
 17 established a paid family leave special fund into which shall be
 18 deposited the following moneys:

- 19 (1) Appropriations by the legislature to the special fund;
- 20 (2) Gifts, donations, and grants from public agencies and
- 21 private persons; and



1 (3) Money contributed by employers and employees as a
 2 condition of paid family leave implementation
 3 established by the paid family leave implementation
 4 board under Act , Session Laws of Hawaii 2018.

5 All interest earned or accrued on moneys deposited in the fund
 6 shall become part of the fund. The fund shall be administered
 7 by the department; provided that the department may contract
 8 with a public or private agency to provide the day-to-day
 9 management of the fund.

10 (b) Subject to legislative authorization, the department
 11 may expend moneys from the fund:

12 (1) For permanent and temporary staff positions; and

13 (2) To cover administrative and operational costs of
 14 implementing any legislative requirement to establish
 15 paid family leave for all workers in the State.

16 (c) The money deposited into the fund and the interest
 17 earned shall not revert to the unrestricted fund balance of the
 18 general fund at the end of the fiscal year, or at any time."

19 SECTION 3. Section 36-27, Hawaii Revised Statutes, is
 20 amended by amending subsection (a) to read as follows:



- 1 "(a) Except as provided in this section, and
2 notwithstanding any other law to the contrary, from time to
3 time, the director of finance, for the purpose of defraying the
4 prorated estimate of central service expenses of government in
5 relation to all special funds, except the:
- 6 (1) Special out-of-school time instructional program fund
7 under section 302A-1310;
 - 8 (2) School cafeteria special funds of the department of
9 education;
 - 10 (3) Special funds of the University of Hawaii;
 - 11 (4) State educational facilities improvement special fund;
 - 12 (5) Convention center enterprise special fund under
13 section 201B-8;
 - 14 (6) Special funds established by section 206E-6;
 - 15 (7) Aloha Tower fund created by section 206J-17;
 - 16 (8) Funds of the employees' retirement system created by
17 section 88-109;
 - 18 (9) Hawaii hurricane relief fund established under chapter
19 431P;
 - 20 (10) Hawaii health systems corporation special funds and
21 the subaccounts of its regional system boards;



- 1 (11) Tourism special fund established under section 201B-
- 2 11;
- 3 (12) Universal service fund established under section 269-
- 4 42;
- 5 (13) Emergency and budget reserve fund under section 328L-
- 6 3;
- 7 (14) Public schools special fees and charges fund under
- 8 section 302A-1130;
- 9 (15) Sport fish special fund under section 187A-9.5;
- 10 [+](16)[+] Neurotrauma special fund under section 321H-4;
- 11 [+](17)[+] Glass advance disposal fee established by section
- 12 342G-82;
- 13 [+](18)[+] Center for nursing special fund under section
- 14 304A-2163;
- 15 [+](19)[+] Passenger facility charge special fund
- 16 established by section 261-5.5;
- 17 [+](20)[+] Solicitation of funds for charitable purposes
- 18 special fund established by section 467B-15;
- 19 [+](21)[+] Land conservation fund established by section
- 20 173A-5;



- 1 [+] (22) [+] Court interpreting services revolving fund under
2 section 607-1.5;
- 3 [+] (23) [+] Trauma system special fund under section 321-
4 22.5;
- 5 [+] (24) [+] Hawaii cancer research special fund;
- 6 [+] (25) [+] Community health centers special fund;
- 7 [+] (26) [+] Emergency medical services special fund;
- 8 [+] (27) [+] Rental motor vehicle customer facility charge
9 special fund established under section 261-5.6;
- 10 [+] (28) [+] Shared services technology special fund under
11 section 27-43;
- 12 [+] (29) [+] Automated victim information and notification
13 system special fund established under section 353-136;
- 14 [+] (30) [+] Deposit beverage container deposit special fund
15 under section 342G-104;
- 16 [+] (31) [+] Hospital sustainability program special fund
17 under [+]section 346G-4[+];
- 18 [+] (32) [+] Nursing facility sustainability program special
19 fund under [+]section 346F-4[+];
- 20 [+] (33) [+] Hawaii 3R's school improvement fund under section
21 302A-1502.4;



1 [+] (34) [+] After-school plus program revolving fund under
2 section 302A-1149.5; [and]
3 [+] (35) [+] Civil monetary penalty special fund under section
4 321-30.2[7]; and
5 (36) Paid family leave special fund under section 398- ,
6 shall deduct five per cent of all receipts of all other special
7 funds, which deduction shall be transferred to the general fund
8 of the State and become general realizations of the State. All
9 officers of the State and other persons having power to allocate
10 or disburse any special funds shall cooperate with the director
11 in effecting these transfers. To determine the proper revenue
12 base upon which the central service assessment is to be
13 calculated, the director shall adopt rules pursuant to chapter
14 91 for the purpose of suspending or limiting the application of
15 the central service assessment of any fund. No later than
16 twenty days prior to the convening of each regular session of
17 the legislature, the director shall report all central service
18 assessments made during the preceding fiscal year."

19 SECTION 4. Section 36-30, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:

21 "(a) Each special fund, except the:



- 1 (1) Special out-of-school time instructional program fund
- 2 under section 302A-1310;
- 3 (2) School cafeteria special funds of the department of
- 4 education;
- 5 (3) Special funds of the University of Hawaii;
- 6 (4) State educational facilities improvement special fund;
- 7 (5) Special funds established by section 206E-6;
- 8 (6) Aloha Tower fund created by section 206J-17;
- 9 (7) Funds of the employees' retirement system created by
- 10 section 88-109;
- 11 (8) Hawaii hurricane relief fund established under chapter
- 12 431P;
- 13 (9) Convention center enterprise special fund established
- 14 under section 201B-8;
- 15 (10) Hawaii health systems corporation special funds and
- 16 the subaccounts of its regional system boards;
- 17 (11) Tourism special fund established under section 201B-
- 18 11;
- 19 (12) Universal service fund established under section 269-
- 20 42;



- 1 (13) Emergency and budget reserve fund under section 328L-
2 3;
- 3 (14) Public schools special fees and charges fund under
4 section 302A-1130;
- 5 (15) Sport fish special fund under section 187A-9.5;
- 6 [+](16)[+] Neurotrauma special fund under section 321H-4;
- 7 [+](17)[+] Center for nursing special fund under section
8 304A-2163;
- 9 [+](18)[+] Passenger facility charge special fund
10 established by section 261-5.5;
- 11 [+](19)[+] Court interpreting services revolving fund under
12 section 607-1.5;
- 13 [+](20)[+] Trauma system special fund under section 321-
14 22.5;
- 15 [+](21)[+] Hawaii cancer research special fund;
- 16 [+](22)[+] Community health centers special fund;
- 17 [+](23)[+] Emergency medical services special fund;
- 18 [+](24)[+] Rental motor vehicle customer facility charge
19 special fund established under section 261-5.6;
- 20 [+](25)[+] Shared services technology special fund under
21 section 27-43;



1 [+] (26) [+] Nursing facility sustainability program special
2 fund established pursuant to [+]section 346F-4[+];
3 [+] (27) [+] Automated victim information and notification
4 system special fund established under section 353-136;
5 [+] (28) [+] Hospital sustainability program special fund
6 under [+]section 346G-4 [~~+~~ and] i;
7 [+] (29) [+] Civil monetary penalty special fund under section
8 321-30.2 [~~r~~]; and
9 (30) Paid family leave special fund under section 398- ,

10 shall be responsible for its pro rata share of the
11 administrative expenses incurred by the department responsible
12 for the operations supported by the special fund concerned."

13 SECTION 5. (a) By January 1, 2020, the department of
14 labor and industrial relations shall adopt rules that establish
15 and codify paid family leave for all workers in the State.

16 (b) The department may adopt interim rules, which shall be
17 exempt from chapter 91, Hawaii Revised Statutes, to effectuate
18 the purposes of this Act; provided that the interim rules shall
19 remain in effect until July 1, 2022, or until rules are adopted
20 pursuant to subsection (a), whichever occurs sooner.



1 (c) The rules shall establish a paid family leave program
2 that at a minimum includes:

- 3 (1) A minimum of _____ weeks of paid leave;
- 4 (2) Paid family leave coverage for all employees of all
5 employers that employ one or more employees;
- 6 (3) A system of progressive wage replacement to allow low-
7 income workers to receive a higher percentage of their
8 weekly earnings than average or high-wage workers; and
- 9 (4) Job protection to ensure that utilization of paid
10 family leave does not adversely impact employment.

11 (d) The paid family leave program shall begin collecting
12 payments from employers and employees by July 1, 2021, and shall
13 process payments by July 1, 2022.

14 SECTION 6. (a) There is established a paid family leave
15 implementation board within the department of labor and
16 industrial relations for administrative purposes only to assist
17 the department in establishing paid family leave for all workers
18 in the State, pursuant to this Act.

19 (b) The paid family leave implementation board shall
20 comprise the following individuals or their designees:



- 1 (1) The governor's chief of staff, who shall serve as
2 chairperson;
- 3 (2) The director of labor and industrial relations;
- 4 (3) The director of human resources development; who shall
5 serve as an ex-officio member;
- 6 (4) The comptroller; who shall serve as an ex-officio
7 member;
- 8 (5) The insurance commissioner;
- 9 (6) The chairperson of the senate committee on labor, or a
10 successor committee with jurisdiction over labor; and
- 11 (7) The chairperson of the house of representatives
12 committee on labor and public employment, or a
13 successor committee with jurisdiction over labor.
- 14 (c) The following persons shall be appointed as members of
15 the board:
- 16 (1) One representative of a business employing one hundred
17 or more employees, to be appointed by the governor;
- 18 (2) One representative of a business employing between
19 fifty and one hundred employees, to be appointed by
20 the speaker of the house of representatives;



- 1 (3) One representative of a business employing fifty or
2 fewer employees, to be appointed by the president of
3 the senate;
- 4 (4) One representative of the insurance industry, to be
5 appointed by the president of the senate;
- 6 (5) One representative of the medical or public health
7 community, to be appointed by the speaker of the house
8 of representatives;
- 9 (6) One representative of a labor union in the State, to
10 be appointed by the president of the senate;
- 11 (7) One representative of a labor union in the State, to
12 be appointed by the speaker of the house of
13 representatives;
- 14 (8) One member representing paid family leave advocates,
15 to be appointed by the president of the senate;
- 16 (9) One member representing paid family leave advocates,
17 to be appointed by the Hawaii state commission on the
18 status of women;
- 19 (10) One member representing paid family leave advocates,
20 to be appointed by the speaker of the house of
21 representatives; and



1 (11) One member representing human resources
2 administrators, to be appointed by the director of
3 labor and industrial relations.

4 (d) The paid family leave implementation board shall
5 develop an analysis and implementation plan for providing
6 workers with family leave insurance benefits during times when a
7 worker is required to take leave to care for a family member.

8 (e) All executive branch departments and agencies shall
9 participate and engage in data-sharing agreements for the
10 purposes of this Act to commence no later than twenty days prior
11 to the convening of the regular session of 2019.

12 (f) The legislative reference bureau shall conduct a
13 study, including an actuarial analysis, on the items enumerated
14 in subsection (g) (1), (2), (3), (4), and (6).

15 (g) No later than twenty days prior to the regular session
16 of 2019, the paid family leave implementation board shall submit
17 a report to the legislature that includes:

18 (1) A comparative analysis of potential paid family leave
19 models to cover all workers including, but not limited
20 to, social insurance and temporary disability
21 insurance expansion, including a breakdown of the



1 costs for implementing and sustaining each model,
 2 review of other state leave models, and review of
 3 current temporary disability insurance usage and other
 4 state temporary disability insurance models;

5 (2) Models that shall consider progressive wage
 6 replacement and job protection;

7 (3) A multi-year budget for establishing a paid family
 8 leave insurance program;

9 (4) A timeline for implementing paid family leave,
 10 including benchmarks and deliverables;

11 (5) A schedule for ongoing audits;

12 (6) Findings and other recommendations, including
 13 recommendations for ongoing regulation and additional
 14 funding resources; and

15 (7) Proposed legislation, if any.

16 (h) No later than twenty days prior to the regular
 17 sessions of 2020, 2021, 2022, 2023, and 2024 the paid family
 18 leave implementation board shall submit a report to the
 19 legislature that includes:

20 (1) Updates to the analysis and implementation plan, as
 21 necessary;



1 (2) The progress of the department of labor and industrial
2 relations in meeting its obligations under this Act;

3 (3) Additional findings and recommendations, if any; and

4 (4) Proposed legislation, if any.

5 (i) The board shall cease to exist on January 1, 2024.

6 SECTION 7. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$1,750,000 or so much
8 thereof as may be necessary for fiscal year 2018-2019 to be
9 deposited into the paid family leave special fund.

10 SECTION 8. There is appropriated out of the paid family
11 leave special fund the sum of \$1,500,000 or so much thereof as
12 may be necessary for fiscal year 2018-2019 for one full-time
13 equivalent (1.0 FTE) program manager to support the paid family
14 leave implementation board and for the expenses of the paid
15 family leave implementation board and the department of labor
16 and industrial relations in establishing paid family leave for
17 all workers by January 1, 2020; provided that the department of
18 labor and industrial relations may contract for services to
19 complete the report as required under section 4(g) of this Act.

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



1 SECTION 9. There is appropriated out of the paid family
2 leave special fund the sum of \$250,000 or so much thereof as may
3 be necessary for fiscal year 2018-2019 for the legislative
4 reference bureau to conduct a study, including an actuarial
5 analysis, pursuant to section 4(f) of this Act; provided that
6 the legislative reference bureau may contract for services to
7 complete the study as required under this Act.

8 The sum appropriated shall be expended by the legislative
9 reference bureau for the purposes of this Act.

10 SECTION 10. This Act shall take effect upon its approval;
11 provided that sections 2, 3, 4, 7, 8, and 9 shall take effect on
12 July 1, 2018.



Report Title:

Paid Family Leave; DLIR; Insurance; Board; Report; Appropriation

Description:

Requires the Department of Labor and Industrial Relations to establish paid family leave for all workers by January 1, 2020. Authorizes DLIR to adopt interim rules. Establishes the Paid Family Leave Implementation Board to assist DLIR and report to the Legislature. Requires the Legislative Reference Bureau to conduct a study, including an actuarial analysis, on aspects of implementing paid family leave. Establishes a Paid Family Leave Special Fund. Appropriates funds. (HB2598 HD1)

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

