
A BILL FOR AN ACT

RELATING TO EMPLOYMENT.

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

1 SECTION 1. Chapter 398, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 "PART

5 **PARTIAL WAGE REPLACEMENT FOR LEAVE**

6 **§398-A Partial wage replacement for leave trust fund.**

7 (a) There is established outside the state treasury, a trust
8 fund to be known as the "partial wage replacement for leave
9 trust fund".

10 (b) The trust fund shall consist of employee
11 contributions, which shall not exceed per cent of each
12 employee's wages per pay period, as well as interest earned and
13 income, dividends, refunds, rate credits, and other returns
14 received by the fund. It is hereby declared that any and all
15 sums contributed or paid from any source to the fund created by
16 this part, and all assets of the fund including any and all
17 interest and earnings on the same, are and shall be held in
18 trust by the department for the exclusive use and benefit of the



1 employee-beneficiaries and shall not be subject to appropriation
2 for any other purpose whatsoever.

3 (c) The trust fund shall be used to provide an eligible
4 employee with twelve weeks per calendar year of paid family
5 leave; provided that an employee shall not be paid more than
6 sixty-six per cent of the employee's monthly wage.

7 (d) The trust fund shall be under the control of and
8 administered by the department.

9 (e) After fiscal year 2014-2015, the partial wage
10 replacement for leave trust fund shall become self-sustaining
11 through employee contributions.

12 **§398-B Wage withholding.** (a) Each employee shall make a
13 contribution to the partial wage replacement for leave trust
14 fund per pay period.

15 (b) If an employee's contribution to the fund is not
16 withheld and transmitted to the fund, the employee shall pay
17 per cent of the employee's wage per pay period directly to
18 the fund by the first day of each month.

19 (c) The department of taxation shall administer and
20 oversee each employee's contribution to the partial wage
21 replacement for leave trust fund."



1 SECTION 2. Section 398-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "employer" to read as
3 follows:

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

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

15 "(a) An employee shall be entitled to a total of [four]
16 twelve weeks of family leave during any calendar year [~~upon the~~
17 ~~birth of a child of the employee or the adoption of a child, or~~
18 ~~to care~~]:

19 (1) To care for or bond with the employee's child within
20 twelve months of the child's birth, foster placement,
21 or placement for adoption with the employee; or



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

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

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

9 SECTION 5. Section 398-4, Hawaii Revised Statutes, is
10 amended by amending its title and subsections (a) and (b) to
11 read as follows:

12 "**§398-4** [~~Unpaid leave~~] Leave permitted; relationship to
13 paid leave; sick leave. (a) Pursuant to section 398-3[7] and
14 section 398-A, an employee shall be entitled to [~~four~~] twelve
15 weeks of family leave. [~~The family leave shall consist of~~
16 ~~unpaid leave, paid leave, or a combination of paid and unpaid~~
17 ~~leave.~~] If an employer provides paid family leave other than
18 that required by this chapter for fewer than [~~four~~] twelve
19 weeks, [~~the additional~~] that period of leave [~~added~~] shall be
20 subtracted from the twelve weeks required by section 398-3 to
21 attain the [~~four-week~~] twelve-week total [~~may be unpaid~~].



1 (b) Except as otherwise provided in subsection (c), an
2 employee may elect to substitute any of the employee's accrued
3 paid leaves, including but not limited to vacation, personal, or
4 family leave for any part of the [~~four-week~~] twelve-week period
5 in subsection (a)."

6 SECTION 6. Section 398-2, Hawaii Revised Statutes, is
7 repealed.

8 [~~"§398-2 Inapplicability. The rights provided under
9 this chapter shall not apply to employees of an employer with
10 fewer than one hundred employees."~~]

11 SECTION 7. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$ or so
13 much thereof as may be necessary for fiscal year 2014-2015 for
14 the purpose of hiring and employing an administrator,
15 administrative assistant, and an accountant to perform functions
16 relating to the administration of the partial wage replacement
17 for leave trust fund, including the oversight of payroll
18 deductions, administrative processes, and payment to eligible
19 employees.

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



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1 SECTION 8. In codifying the new sections added by section
2 1 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

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

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

10 SECTION 11. This Act shall take effect on July 1, 2014.

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INTRODUCED BY: *Della A. Kelly*

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H.B. NO. 2097

Report Title:

Family Leave; Partial Wage Replacement

Description:

Requires twelve weeks of partially-paid leave at a maximum of sixty-six per cent of regular salary for all employees. Establishes trust fund funded by employee contributions. Appropriates funds to the Department of Labor and Industrial Relations for positions to administer the trust fund. Effective July 1, 2014.

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