

Date of Hearing: April 11, 2023

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Mike Fong, Chair

AB 1123 (Addis) – As Introduced February 15, 2023

**SUBJECT:** California State University: employees: paid parental leave of absence.

**SUMMARY:** Requires the California State University (CSU) Trustees to grant an employee a leave of absence with pay for one semester of an academic year, or an equivalent duration, in a one-year period, following the birth of a child of the employee or the placement of a child with an employee in connection with the adoption or foster care of the child by the employee.

Specifically, **this bill:**

- 1) Mandates that the CSU Trustees will grant to an employee a leave of absence with pay for one semester of an academic year, or equivalent duration, in a one-year period, following the birth of a child of the employee or the placement of a child with an employee in connection with the adoption or foster care of the child by the employee.
- 2) Stipulates that, for purposes of this measure, “employee” or “higher education employee” means any employee, including student employees whose employment is contingent on their status as students, of the Regents of the University of California (UC), the Board of Directors for the College of Law, San Francisco, or the Trustees of the CSU. Stipulates that managerial and confidential employees and employees whose principal place of employment is outside the State of California at a worksite with 100 or fewer employees are excluded from coverage, per Government Code (GOV) Section 3562.
- 3) Requires the leave of absence shall be taken without interruption unless otherwise agreed to by mutual consent between the employee and an appropriate administrator. Only working days shall be charged against the leave of absence.
- 4) Specifies that, if the provisions of this measure conflict with the provisions of a memorandum of understanding (MOU) reached as specified, the MOU shall be controlling without further legislative action, except that, if those provisions of a MOU require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

**EXISTING LAW:**

- 1) Establishes the Donahoe Higher Education Act, setting forth the mission of the University of California (UC), the CSU, and the California Community Colleges (CCC) (Education Code (EC) Section 66010, et seq.).
- 2) Confers upon the CSU Trustees the powers, duties, and functions with respect to the management, administration, control of the CSU system and provides that the Trustees are responsible for the rule of government of their appointees and employees (EC Sections 66606 and 89500, et seq.).
- 3) Requires the CSU Trustees to grant pregnancy leave without pay to female permanent employees for a period not exceeding one year, as determined by the employee except when

the employee has notified the trustees as to the period of the leave of absence, any change in the length of the leave is not effective unless approved by the CSU Trustees (EC Section 89519).

- 4) Makes it an unlawful employment practice, under the California Family Rights Act (CFRA), for an employer, of five or more employees, to refuse to grant a request by an eligible employee to take up to 12 workweeks of unpaid, job-protected leave during any 12-month period to:
  - a) Care for a child born to, adopted by, or placed for foster care with the employee;
  - b) Care for the employee's child, parent, grandparent, grandchild, siblings, spouse, or domestic partner who has a serious health condition, as defined;
  - c) Address an employee's own serious health condition rendering them unable to perform the functions of their job; or
  - d) Leave because of a qualifying exigency related to the covered active duty or call to covered active duty of an employee's spouse, domestic partner, child, or parent in the Armed Forces of the United States (GOV Section 12945.2).
- 5) Establishes the Paid Family Leave (PFL) program as a partial wage-replacement plan funded through employee payroll deductions and entitles eligible employees with up to eight weeks of wage replacement benefits to take time off work to care for a seriously ill child, spouse, parent, grandparent, grandchild, sibling, or domestic partner, to bond with a minor child within one year of the birth or placement of the child in connection with foster care or adoption, or to participate in a qualifying exigency related to the covered active duty or call to covered active duty of the individual's spouse, domestic partner, child, or parent in the Armed Forces of the United States (Unemployment Insurance Code (UIC) Section 3301).
- 6) Provides that PFL does not provide job protection or return to work rights nor does it require continued health coverage during the leave. However, PFL can be taken concurrently with CFRA, for eligible employees, and thus entitle employees to these protections (UIC Sections 2655 and 3301).

**FISCAL EFFECT:** Unknown

**COMMENTS:** *Purpose of this measure.* According to the author, "CSU faculty and employees play a critical role in our state by educating and supporting California's future. Ensuring that they have the right to paid parental leave is long overdue. AB 1123 affirms and solidifies California's commitment to supporting parents and the well-being of families."

Further, the author contends that paid parental leave, "enables workers to take time away from work to recover from childbirth and care for a new baby, is associated with decreased low-birth-weight births and infant mortality, increased breastfeeding, and improved maternal mental health. In 2018, the American College of Obstetricians and Gynecologists (ACOG) endorsed at least six weeks of fully paid leave for all new mothers to reduce high rates of maternal mortality in the United States. According to the National Partnership for Women & Families, providing 12

weeks of paid parental leave on a national scale would lead to 600 fewer infant deaths per year, according to conservative estimates.”

Additionally, the author contends that, “participation in paid leave programs has been associated with better health outcomes for children in elementary school, especially among children from low-income families.”

Lastly, the author states, “AB 1123 would eliminate inequalities for all women employed at the CSU, but most especially women of color. Paid leave confers economic as well as health benefits. Availability of paid leave increases household income, decreases risk of poverty, and reduces some forms of material hardship, especially among less-educated and low-income single mothers. (This is in addition to the fact that access to paid leave itself is also a marker of the underlying racial segregation of labor markets that also directly contribute to racial differences in wages.) Importantly, these health and labor market benefits are largely associated with paid, but not unpaid, leave.”

This measure requires the CSU to grant an employee a leave of absence with pay for one semester of an academic year following the birth of a child of the employee or the adoption or foster care of the child by the employee.

*Background.* Research shows that paid parental leave policies significantly improve maternal physical and mental health by allowing mothers time to recover from childbirth and adjust to new caregiving responsibilities. About half of women report experiencing pain within the first two months following childbirth, and many experience more serious, potentially life-threatening postpartum complications.<sup>1</sup> A substantial majority of new mothers experience “baby blues” after childbirth, and for about one in five that condition develops into postpartum depression, with those who are economically insecure at greater risk. Mothers who take paid family leave are less likely to experience symptoms of postpartum depression and less likely to report parenting stress.

*Paid Maternity/Paternity Leave at the CSU.* In December 2021, the CSU and California Faculty Association (CFA) reached a tentative agreement on a new contract for 2022-2024. On February 3, 2022, the contract was ratified and is in effect until June 30, 2024. Among other things, the contract calls for a 4% general salary increase retroactive to July 1, 2021. Regarding leaves of absence with pay, the collective bargaining agreement provides the following:

*Paid Maternity/Paternity Leave*

23.4 A bargaining unit employee shall be entitled to a maximum of 30 days of parental leave for the reasons specified in provision 22.10 of this Agreement. Such leave shall be taken consecutively, unless mutually agreed otherwise by the employee and the appropriate administrator. This leave shall commence within a 135 day period beginning 60 days prior to the anticipated arrival date of a new child and ending 75 days after the arrival of a new child. Such leave shall be charged only for workdays in such a period of time and may be used for reason of the birth of a child of the employee or the placement of a child with an employee in connection with the adoption or foster care of the child by the employee.

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<sup>1</sup> Eugene R. Declercq *et al.*, “Listening to Mothers<sup>SM</sup> III: Pregnancy and Birth,” Childbirth Connection, May 2013, <https://www.nationalpartnership.org/our-work/resources/health-care/maternity/listening-to-mothers-iii-pregnancy-and-birth-2013.pdf>; Brigid Schulte *et al.*, “Paid Family Leave: How Much Time is Enough?” New America, June 2017, <https://www.newamerica.org/better-life-lab/reports/paid-family-leave-how-much-time-enough/maternal-health-and-wellbeing/#>.

23.5 A paid parental leave granted in accordance with provision 23.4 runs concurrently with other parental, pregnancy disability and/or family care and medical leave provisions of Article 22, Leaves of Absence Without Pay, and may be supplemented in accordance with the provisions of Article 24, Sick Leave, of this Agreement. Normally, 15 days of earned sick leave may be charged. A physician's verification of disability shall be required for the use of earned sick leave pursuant to this provision in excess of 15 days.

*Arguments in support.* According to the CFA, sponsors of this measure, "the existing parental leave policy at the CSU provides for a maximum of 30 days of parental leave for its employees. This policy is woefully inadequate and uncompetitive for today's workplace. It does not allow enough time for parent/child bonding, and it may not be enough time for the body to heal following childbirth. It simply is a health and safety issue for our faculty members that needs to be addressed appropriately."

Further, the CFA states, "AB 1123 would remedy this situation by requiring the CSU to provide employees a minimum of a full semester or two quarters of paid parental leave. A minimum would benefit students in many ways; if faculty are provided a semester off, there is less manipulation of schedules and pressure on faculty to find others to take over their workload. Much of that burden falls on faculty and adds to the stress soon-to-be parents are already facing. In addition, providing for adequate parental leave will improve career advancement and will create greater equity for women faculty and particularly women faculty of color."

*Arguments in opposition.* According to the CSU Office of the Chancellor, "while we agree with the author's goal of providing paid parental leave for the birth of a child or the placement of a child in connection with the adoption or foster care by the employee, the CSU believes these discussions should occur through the collective bargaining process rather than through legislation. We also recognize that the general parameters of the generous leave options available to CSU employees may not fit the needs of all employees. This is reflected in the negotiated language used in our collective bargaining agreements which allow for equitable adjustments or flexibility in the application of these benefits."

The CSU contends that, "the proposed significant expansion in both duration of leave time (from 6 to 16 weeks) and the number of eligible employees will have a fiscal impact to the system, as the bill is estimated to cost the CSU and its campuses \$21.9 million annually. If more employees choose to utilize the benefit under this bill, the financial impact will be greater. If the Legislature statutorily requires a specified amount of paid parental leave for CSU employees, it will set a precedent for other represented employee groups to seek similar benefits outside of the collective bargaining process. This could encourage legislation in many areas within the collective bargaining realm and create significant cost pressures on the state for reimbursable mandates."

*Prior legislation.* AB 2464 (Cristina Garcia) of 2022, which was vetoed by the Governor, was similar in nature to this measure. The Governor's veto message stated:

"This bill requires the California State University (CSU) system to grant an employee a leave of absence with pay for one semester of an academic year, or an equivalent duration in a one-year period, following the birth of a child or in connection with the adoption or foster care placement of a child by an employee.

The CSU Board of Trustees recently ratified a collective bargaining agreement with the California Faculty Association (CFA) that maintained existing parental leave benefits. As part of their negotiations, the CSU and CFA signed a memorandum of understanding establishing a parental support workgroup, charged with reviewing parental support for faculty and making suggestions to relevant leaders. The report is anticipated to be delivered in December 2022. Notably, the MOU states "that the CSU may increase the numbers of paid parental leave days ... at any time." It is my expectation that CSU will seriously consider these recommendations and take appropriate action.

While I share the goal of supporting working parents employed at our nation's largest and most diverse public university system, this bill creates an estimated \$24 million in ongoing General Fund cost pressures not accounted for in the state budget. Further, as the MOU and workgroup illustrate, potential changes to CSU's parental leave policy are more appropriately addressed through the collective bargaining process, which best enables labor and management interest-holders to collaboratively decide issues that impact the system and the people who power it."

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

California Faculty Association (Sponsor)  
California Labor Federation, AFL-CIO  
California State University Employees Union (CSUEU)  
California Teachers Association

##### **Opposition**

California State University, Office of the Chancellor

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