
THIRD READING

Bill No: AB 2464
Author: Cristina Garcia (D)
Introduced: 2/17/22
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 6/13/22
AYES: Cortese, Ochoa Bogh, Durazo, Laird, Newman

SENATE EDUCATION COMMITTEE: 5-1, 6/29/22
AYES: Leyva, Ochoa Bogh, Cortese, McGuire, Pan
NOES: Dahle
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 57-9, 5/23/22 - See last page for vote

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

SOURCE: California Faculty Association

DIGEST: This bill requires the California State University (CSU) to provide employees with a paid leave of absence of one semester of an academic year, as specified, following the birth of a child of the employee or the placement of a child with an employee in connection with adoption or foster care placement.

ANALYSIS:

Existing law:

- 1) 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.
 - 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. (Government Code §12945.2)
- 2) Specifies the following with regards to CFRA:
- a) Defines "employer" as any person who directly employs five or more employees, including the state, and any political or civil subdivision of the state and cities.
 - b) Eligible employees must have at least 1,250 hours of service with the employer during the previous 12-month period.
 - c) Authorizes an employer to require that an employee's request for leave to take care of a family member, as specified, be supported by a certification issued by the health care provider of the individual requiring care.
 - d) Requires the employer to maintain and pay for coverage under a "group health plan" for the duration of the leave at the same level and conditions. (Government Code §12945.2)
- 3) Entitles, under the federal Family and Medical Leave Act (FMLA), eligible employees of covered employers (with 50 or more employees) to take up to 12 weeks of unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. (29 CFR Part 825, The Family and Medical Leave Act of 1993)
- 4) 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 §3301)

- 5) Provides a PFL wage replacement equal to one-seventh of the employee's weekly benefit amount for each full day during which the individual is unable to work, a wage replacement of approximately 60-70 percent depending on income. (Unemployment Insurance Codes §2655 and §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. (Unemployment Insurance Codes §2655 and §3301)
- 7) Establishes the Donahoe Higher Education Act, setting forth the mission of the University of California (UC), CSU, and California Community Colleges (CCC). (Education Code § 66010, et seq.)
- 8) 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. (Education Code §66606 and §89500, et seq.)
- 9) 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. (Education Code §89519)
- 10) Defines, for purposes of higher education employer-employee relations, "Employee" or "higher education employee" as any employee, including student employees whose employment is contingent on their status as students, of the UC Regents, the Directors of the Hastings College of the Law, or the CSU Trustees. However, 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 shall be excluded from coverage under this chapter. (Government Code §3562 (e))

This bill:

- 1) Requires the CSU Trustees to grant 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) Specifies that for purposes of these provisions, “employee” has the same meaning as in subdivision (e) of Section 3562 of the Government Code (noted above under existing law).
- 3) Requires the leave of absence to be taken in consecutive periods unless otherwise agreed to by mutual consent between the employee and an appropriate administrator. Specifies that only working days shall be charged against the leave of absence.
- 4) Specifies that, if these provisions conflict with the provisions of a memorandum of understanding reached, as specified, the memorandum of understanding shall be controlling without further legislative action, except that, if those provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

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.¹ 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

¹ Eugene R. Declercq *et al.*, “Listening to MothersSM 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/#>.

leave are less likely to experience symptoms of postpartum depression and less likely to report parenting stress.

Paid Maternity/Paternity Leave at CSU. In December 2021, the CSU and California Faculty Association (CFA) reached a tentative agreement on a new contract for 2022-24. 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 7/1/21. 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 thirty (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 one hundred and thirty-five (135) day period beginning sixty (60) days prior to the anticipated arrival date of a new child and ending seventy-five (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.

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, fifteen (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 fifteen (15) days.

Parental Support Workgroup. According to materials provided to the Committee, the new contract did not change the parental policy (providing 30 paid parental leave days) but it did, however, establish a Parental Support Workgroup. On December 17, 2021, CFA and the CSU signed a Memorandum of Understanding (MOU) agreeing to form this workgroup to review parental support for faculty, at the CSU and other higher education institutions, along with leave utilization and trends within the CSU. The workgroup will create a report of their findings and that report will be given to the Academic Senate, the Board of Trustees, and the Chancellor within six months of the first meeting. Additionally, the MOU included

a provision that the parties further agree that the CSU may increase the number of paid parental leave days provided in the CBA at any time. The workgroup held its first meeting on June 6, 2022 and a report is expected in December 2022.

Comments

Need for this bill? As noted above, CSU employees are currently entitled to a 30 day (6 week) fully paid parental leave. Employees are able to extend this time with the use of vacation or sick leave and are protected for up to twelve weeks of unpaid leave under CFRA/FMLA. This bill requires the CSU to provide a *paid leave of one semester*, or equivalent, in a one-year period. CSU semesters are 15 weeks of classes and one week of finals, for a total of 16 weeks.

According to the author, “The California State University system currently provides a maximum of 30 days of paid parental leave for faculty. Thirty days is not enough for new parents to bond and take care of their children. It is not enough time for bodies to heal from childbirth. AB 2464 would change the existing policy by allowing a *minimum* of one semester or two quarters (depending on the campus) of paid parental leave. Legislation is required to resolve this problem as the CSU Chancellor’s office has refused to provide this benefit to faculty through the bargaining process and this poses hardships for our faculty that are new parents and are already facing other issues such as securing safe and adequate child care for when faculty are expected to return to campus, housing insecurity, long commutes, inflation, etc.”

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, CSU estimates that it would incur annual General Fund costs of \$24 million to implement the provisions of the bill. This amount is based on an additional 10 weeks leave for employees who currently get six weeks, and an additional 16 weeks leave for employees who do not currently receive a leave (generally part-time, temporary employees). CSU assumes that 2.5 percent of employees in each category would receive the additional leave.

SUPPORT: (Verified 8/11/22)

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

First 5 Association of California
NARAL Pro-Choice California

OPPOSITION: (Verified 8/11/22)

California State University, Office of the Chancellor

ARGUMENTS IN SUPPORT: According to the sponsors of this bill, the California Faculty Association, this bill requires “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. Providing for adequate parental leave will improve career advancement and will create greater equity for women faculty and particularly women faculty of color.”

Additional support from NARAL Pro-Choice California notes, “CSU’s insufficient 30 days for new parents is a threat to the health and safety of its employees and their families and falls 25 weeks short of the average length for countries with national paid parental leave. Insufficient and inequitable access to paid family leave also exacerbates racial inequities, and access to a semester long leave would help address structural racism. Sufficient parental leave is also associated with decreased low-birthweight and infant mortality and improved maternal mental health.”

ARGUMENTS IN OPPOSITION: The California State University, Office of the Chancellor is opposed to the measure and argues that this bill violates the collective bargaining process and removes the fiduciary responsibility entrusted with the Board of Trustees. They write, “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.”

Unfortunately, they argue, “AB 2464 goes outside of the collective bargaining process to extend paid parental leave from six weeks to sixteen weeks for all CSU employee groups except confidential and managerial employees. This significant expansion in both duration of leave time and number of eligible employees does not consider the fiscal impacts to the system. The bill is estimated to cost the system \$24.1 million annually. If more employees choose to utilize the benefit under this bill, the financial impact will be greater. The collective bargaining

process allows both parties to consider factors unique to that employee group and customize the leave policy accordingly. When the CSU and California Faculty Association (CFA) ratified a new CBA on February 3, 2022, they signed a memorandum of understanding to form a parental support workgroup to review parental support for faculty and prepare a report of the findings. The parties have begun meeting to further examine this topic and will issue a report in December 2022. The workgroup and our collective bargaining process is the most appropriate way to address the number of paid parental leave days or make other changes to parental leave policy.”

ASSEMBLY FLOOR: 57-9, 5/23/22

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Davies, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bigelow, Choi, Megan Dahle, Fong, Kiley, Mathis, Seyarto, Smith, Voepel

NO VOTE RECORDED: Berman, Mia Bonta, Chen, Cunningham, Grayson, Lackey, Mayes, Nguyen, O'Donnell, Patterson, Ramos, Blanca Rubio

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
8/13/22 9:34:47

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