

# REPORT OF THE GENERAL GOVERNMENT SUBCOMMITTEE

(Cobb-Hunter, Hayes, Bannister, Moss, & Willis - Staff Contact: Sarah Hearn)

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## HOUSE BILL 3560

H. 3560 -- Reps. Bernstein, Herbkersman, Henegan, Pope, Rutherford, Finlay, Stavrinakis, Collins, W. Newton, Wheeler, Jordan, Ballentine, Garvin, J.E. Johnson, Brawley, Elliott, Rose, B. Newton, Robinson, Kirby, Haddon and V.S. Moss: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 8-11-150 SO AS TO PROVIDE TWELVE WEEKS OF PAID FAMILY LEAVE FOR STATE EMPLOYEES DUE TO THE BIRTH OR ADOPTION OF A SON OR DAUGHTER.

***Received by Ways and Means:*** 1/12/2021

***Summary of Bill:*** This bill would provide twelve weeks of paid family leave to any state employee following the birth or adoption of a son or daughter. It stipulates that the state employee can only take one consecutive twelve week period of leave under this statute per any twelve-month period, even if more than one qualifying event occurs during that period. It allows both parents to receive paid family leave concurrently, consecutively, or at different times if both are eligible employees, and it disallows the donation or accumulation of such leave.

***Estimated Revenue Impact:*** \$5,520,599 in recurring General Fund revenue for Personal Service/Employer Contributions due to employees' ability to retain sick and annual leave.

***Other Notes/Comments:*** Clean-up amendment introduced and adopted in subcommittee that clarifies the intent of certain sections of the bill. Unanimously reported out of sub favorable as amended on 3/16/21.

HOUSE  
AMENDMENT

THIS AMENDMENT  
ADOPTED

HILTON/NEWBOULT  
MARCH 17, 2021

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CLERK OF THE HOUSE

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GENERAL GOVERNMENT SUBCOMMITTEE PROPOSES  
THE FOLLOWING AMENDMENT No. TO H. 3560  
(COUNCIL\PH\3560C002.JN.PH21):

REFERENCE IS TO THE BILL AS INTRODUCED.

**AMEND THE BILL, AS AND IF AMENDED, BY  
STRIKING ALL AFTER THE ENACTING WORDS AND  
INSERTING:**

**/ SECTION 1. ARTICLE 1, CHAPTER 11,  
TITLE 8 OF THE 1976 CODE IS AMENDED BY  
ADDING:**

**“SECTION 8-11-150. (A) ANY PERSON  
EMPLOYED BY THIS STATE, ITS DEPARTMENTS,  
AGENCIES, OR INSTITUTIONS IN A FTE POSITION IS**

**ENTITLED TO A TOTAL OF TWELVE WEEKS OF LEAVE DURING ANY TWELVE MONTH PERIOD FOR ONE OR MORE OF THE FOLLOWING:**

**(1) THE BIRTH OF A SON OR DAUGHTER OF THE EMPLOYEE AND IN ORDER TO CARE FOR SUCH SON OR DAUGHTER; OR**

**(2) THE PLACEMENT OF A SON OR DAUGHTER WITH THE EMPLOYEE FOR ADOPTION.**

**(B) THE ENTITLEMENT TO LEAVE UNDER SUBSECTION (A) EXPIRES AT THE END OF THE TWELVE-MONTH PERIOD BEGINNING ON THE DATE OF SUCH BIRTH OR PLACEMENT. AN EMPLOYEE SHALL RECEIVE NO MORE THAN TWELVE WORK WEEKS OF PAID FAMILY LEAVE FOR ANY TWELVE-MONTH PERIOD, EVEN IF MORE THAN ONE QUALIFYING EVENT OCCURS DURING THAT PERIOD.**

**(C) DAYS OF PAID FAMILY LEAVE TO WHICH AN EMPLOYEE IS ENTITLED MUST BE USED CONSECUTIVELY.**

**(D) IF BOTH PARENTS ARE ELIGIBLE EMPLOYEES, THEN EACH PARENT RECEIVES**

**TWELVE WEEKS OF PAID FAMILY LEAVE, WHICH MAY BE TAKEN CONCURRENTLY, CONSECUTIVELY, OR AT DIFFERENT TIMES AS THE OTHER ELIGIBLE EMPLOYEE. LEGAL HOLIDAYS LISTED IN SECTION 53-5-10 MUST NOT BE COUNTED AGAINST PAID FAMILY LEAVE.**

**(E) PAID FAMILY LEAVE MAY NOT BE DONATED AND SUCH LEAVE REMAINING AT THE END OF THE TWELVE-MONTH PERIOD OR AT SEPARATION OF EMPLOYMENT IS FORFEITED. IF LEAVE IS NOT USED BY THE EMPLOYEE BEFORE THE END OF THE TWELVE-MONTH PERIOD AFTER THE QUALIFYING EVENT, IT DOES NOT ACCUMULATE FOR SUBSEQUENT USE.**

**(F) PAID FAMILY LEAVE MUST RUN CONCURRENTLY WITH LEAVE TAKEN PURSUANT TO THE FAMILY MEDICAL & LEAVE ACT AND ANY OTHER LEAVE TO WHICH THE EMPLOYEE MAY BE ENTITLED AS A RESULT OF THE QUALIFYING EVENT. HOWEVER, LEAVE GRANTED UNDER THIS SECTION IS WITH PAY AND IS NOT ANNUAL LEAVE OR SICK LEAVE AND DOES NOT DEDUCT FROM AN**

**EMPLOYEE'S ACCRUED LEAVE BALANCE. AN EMPLOYEE DOES NOT HAVE TO EXHAUST ALL OTHER FORMS OF LEAVE BEFORE BEING ELIGIBLE FOR LEAVE GRANTED UNDER THIS SECTION. EMPLOYEES WILL ACCRUE ANNUAL AND SICK LEAVE AT THE NORMAL RATE WHILE ON PAID FAMILY LEAVE, IF APPLICABLE.**

**(G) THE DIVISION OF STATE HUMAN RESOURCES IN THE DEPARTMENT OF ADMINISTRATION SHALL PROMULGATE REGULATIONS, GUIDANCE, AND PROCEDURES TO IMPLEMENT THIS SECTION.”**

**SECTION 2. SECTION 8-11-155 OF THE 1976 CODE IS REPEALED.**

**SECTION 3. THIS ACT TAKES EFFECT UPON APPROVAL BY THE GOVERNOR. /**

**RENUMBER SECTIONS TO CONFORM.  
AMEND TITLE TO CONFORM.**



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
**(803)734-3780 • RFA.SC.GOV/IMPACTS**

*This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.*

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**Bill Number:** H. 3560 Introduced on January 12, 2021  
**Author:** Bernstein  
**Subject:** Family Leave  
**Requestor:** House Ways and Means  
**RFA Analyst(s):** Coomer  
**Impact Date:** March 16, 2021

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### **Fiscal Impact Summary**

This bill provides any person employed by the State, its departments, agencies, or institutions with twelve weeks of leave for the birth of a child or the placement of a child with the employee for adoption. State agencies may face increased expenditures associated with managing the workload from employees taking an additional twelve weeks of leave. As such, agencies may experience an increase in General Fund, Federal Funds, or Other Funds expenditures if it is necessary to hire temporary employees or offer current employees a temporary salary increase to manage the workload resulting from an increase in available leave under the bill. However, as this will vary widely by agency and job description, the potential impact of this bill is undetermined.

Under this legislation, employees would not be required to use accrued sick and annual leave and instead would use paid parental leave for qualifying events. As such, agencies may experience an increase in expenses resulting from employees accruing additional leave if an employee separates from covered employment. Based upon data from the Department of Administration, in 2020, 720 state employees took leave for the birth or placement of a child. Assuming an average state employee salary of \$44,301 and a maximum of 45 days of accrued annual leave for 720 state employees per year, this bill may increase state expenditures by up to \$5,521,000 annually beginning in FY 2021-22. However, this impact will vary depending on the number of employees that use parental leave, the average salary of those who take parental leave, whether those employees are paid for the maximum amount of annual leave upon separation from state employment, and if they separate from state employment.

### **Explanation of Fiscal Impact**

#### **Introduced on January 12, 2021**

#### **State Expenditure**

This bill provides any person employed full-time by the State, its departments, agencies, or institutions with twelve weeks of leave for the birth of a child or the placement of a child with the employee for adoption. This leave must be taken within twelve months of birth or placement, is with pay, and is not annual leave or sick leave. Additionally, the bill stipulates that an employee can receive no more than twelve work weeks of paid family leave during any twelve-month period, even if more than one qualifying even occurs during that period. Furthermore, the

bill specifies that family leave must be used consecutively, that family leave cannot be donated, and that both parents will receive paid family leave if both parents are eligible employees.

The federal Family and Medical Leave Act (FMLA) requires employers to allow employees twelve weeks of unpaid maternity or paternity leave for up to one year after the birth or placement of a child. Currently, this unpaid leave may be taken concurrently with any accrued sick and annual leave by state employees. Under this legislation, employees would not be required to use accrued sick and annual leave and instead would use paid parental leave for qualifying events concurrently with leave taken pursuant to the FMLA. This would allow employees to retain twelve weeks of accrued leave they may have otherwise used.

As such, agencies may experience an increase in General Fund, Federal Funds, or Other Funds expenditures if it is necessary to hire temporary employees or offer current employees a temporary salary increase to manage the workload resulting from an increase in available leave under the bill. However, as this will vary widely by agency and job description, the potential impact of this bill is undetermined.

Additionally, agencies may experience an increase in expenses resulting from employees accruing additional leave if an employee separates from covered employment. State agencies expend appropriated funds for employee salaries when an employee is at work or on paid leave. However, when an employee separates from state employment, they forfeit accrued sick leave but are paid up to 45 days of unused annual leave. Under this bill, employees may retain annual leave that would have otherwise been used for parental leave. Since employee salaries are currently a part of agency expenditures, the impact resulting from the change in available leave would only be experienced when an employee separates from state employment and the agency must pay out accrued leave. Based upon data from the Department of Administration, in 2020, 720 state employees took leave for the birth or placement of a child. Assuming an average state employee salary of \$44,301 and a maximum of 45 days of accrued annual leave for 720 state employees per year, this bill may increase state expenditures by up to \$5,521,000 annually beginning in FY 2021-22. However, this impact will vary depending on the number of employees that use parental leave, the average salary of those who take parental leave, whether those employees are paid for the maximum amount of annual leave upon separation from state employment, and if they separate from state employment.

**State Revenue**

N/A

**Local Expenditure**

N/A

**Local Revenue**

N/A



Frank A. Rainwater, Executive Director

**South Carolina General Assembly**  
124th Session, 2021-2022

**H. 3560**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Bernstein, Herbkersman, Henegan, Pope, Rutherford, Finlay, Stavrinakis, Collins, W. Newton, Wheeler, Jordan, Ballentine, Garvin, J.E. Johnson, Brawley, Elliott, Rose, B. Newton, Robinson, Kirby, Haddon, V.S. Moss, Caskey, J.L. Johnson, Cobb-Hunter and Yow

Document Path: I:\council\bill\sjn\3330ph21.docx

Companion/Similar bill(s): 11

Introduced in the House on January 12, 2021

Currently residing in the House Committee on **Ways and Means**

Summary: Family leave

**HISTORY OF LEGISLATIVE ACTIONS**

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
12/16/2020	House	Prefiled
12/16/2020	House	Referred to Committee on <b>Ways and Means</b>
1/12/2021	House	Introduced and read first time ( <u>House Journal-page 237</u> )
1/12/2021	House	Referred to Committee on <b>Ways and Means</b> ( <u>House Journal-page 237</u> )
1/13/2021	House	Member(s) request name added as sponsor: Caskey, J.L.Johnson, Cobb-Hunter
1/27/2021	House	Member(s) request name added as sponsor: Yow

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**VERSIONS OF THIS BILL**

12/16/2020



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**A BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 8-11-150 SO AS TO PROVIDE TWELVE WEEKS OF PAID FAMILY LEAVE FOR STATE EMPLOYEES DUE TO THE BIRTH OR ADOPTION OF A SON OR DAUGHTER.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 11, Title 8 of the 1976 Code is amended by adding:

“Section 8-11-150. (A) Any person employed full-time by this State, its departments, agencies, or institutions is entitled to a total of twelve weeks of leave during any twelve month period for one or more of the following:

(1) the birth of a son or daughter of the employee and in order to care for such son or daughter; or

(2) the placement of a son or daughter with the employee for adoption.

(B) The entitlement to leave under subsection (A) expires at the end of the twelve-month period beginning on the date of such birth or placement. An employee shall receive no more than twelve work weeks of paid family leave for any twelve-month period, even if more than one qualifying event occurs during that period.

(C) Days of paid family leave to which an employee is entitled must be used consecutively.

(D) If both parents are eligible employees, then each parent receives paid family leave, which may be taken concurrently, consecutively, or at different times. Legal holidays listed in Section 53-5-10 must not be counted against paid family leave.

1 (E) Paid family leave may not be donated and such leave  
2 remaining at the end of the twelve-month period is forfeited. If leave  
3 is not used by the employee before the end of the twelve-month  
4 period to which it relates, it does not accumulate for subsequent use.

5 (F) Paid family leave must run concurrently with leave taken  
6 pursuant to the Family Medical & Leave Act and any other leave to  
7 which the employee may be entitled as a result of the qualifying  
8 event. However, leave granted under this section is with pay and is  
9 not annual leave or sick leave.”

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11 SECTION 2. This act takes effect upon approval by the Governor.

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