

# **REPORT OF THE GENERAL GOVERNMENT, PERSONNEL & BENEFITS SUBCOMMITTEE**

(Cobb-Hunter, Herbkersman, Hayes, Moss, Gagnon - Staff Contact: Ryan Tooley)

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## **HOUSE BILL 3908**

H. 3908 -- Reps. Collins, G.M. Smith, Bannister, Erickson, Whitmire, Felder, Bernstein, Ott, Haddon, W. Newton, Carter, Elliott, Crawford, Ballentine, Caskey, Wetmore, Stavrinakis, Mitchell, Yow, M.M. Smith, Willis and Vaughan: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 8-11-151 SO AS TO DEFINE TERMS AND TO PROVIDE PAID PARENTAL LEAVE UPON THE BIRTH OF A CHILD OR INITIAL LEGAL PLACEMENT OF A FOSTER CHILD FOR ELIGIBLE SCHOOL DISTRICT EMPLOYEES; AND BY ADDING SECTION 8-11-156 SO AS TO DEFINE TERMS AND TO PROVIDE PAID PARENTAL LEAVE UPON THE INITIAL LEGAL PLACEMENT OF A CHILD BY ADOPTION FOR ELIGIBLE SCHOOL DISTRICT EMPLOYEES.

*Received by Ways and Means:* 2/8/22

### ***Summary of Bill:***

This bill grants paid parental leave for eligible school district employees for either the birth, adoption, or placement of a foster care child in the same manner as S\*11 which was passed last session for State employees. The parental leave does not count towards or against annual leave or sick leave, nor can it be accrued. It must be used consecutively except in the case of fostering where nonconsecutive weeks can be requested. Summer vacation would act as a pause in the consecutive use of the parental leave; therefore, if a qualifying teacher takes part of the parental leave before summer vacation, they can use the remainder immediately after summer vacation ends. The parental leave must be taken within a twelve-month period from the qualifying event, or it will be forfeit. The parental leave time counts toward the eligible district employee's years of service and does not prevent a STEP increase. The bill will not impact the Department of Education expenditures. RFA conducted a fiscal impact summary and received responses from 51 school districts; however, as noted in their summary, they believe most districts miscalculated the approximate cost. Estimates ranged from \$12,000 to over \$3 million. RFA conducted follow-up research and determined that the cost would more likely be between \$2,400 to \$8,000 per each occurrence, in order to pay substitute teachers for on average 4 additional weeks of work. RFA concluded there is no consistent impact across districts due to

varying policies, substitute costs, and number of employees impacted.

***Estimated Revenue Impact:***

Requiring school districts to implement the proposed leave policy will impact local expenditures if the provision changes district policy or current behavior by employees taking more leave. To determine the potential impact, Revenue and Fiscal Affairs asked the Department of Education to survey the school districts. We received responses from 51 districts to our initial request and 32 responses to additional follow-up questions. Some districts already have a similar policy in place and will not have an impact. In response to our initial request, most districts that do not currently have a similar policy estimated the cost based on the full 6 weeks, which we believe would overstate the impact for any employees who already claim the full 12 weeks of leave. The responses varied widely, partially by size of district and partially by assumed costs and weeks. The daily rate for substitute teachers ranged from approximately \$120 per day to \$400. The total estimated by districts ranged from approximately \$12,000 to a potential high of \$3,360,360. Based on follow-up responses from school districts, the average number of weeks taken is about 8 weeks currently. On average, employees would only be eligible for an additional 4 weeks to reach the maximum 12 weeks of leave under the Family Medical Leave Act (FMLA). Therefore, using the full 6 weeks for all qualifying employees would potentially overstate the impact. With the wide variance in the cost of substitutes and differences in policies, the impact on districts, even assuming a consistent 4 weeks of additional leave, will vary widely, potentially ranging from \$2,400 to \$8,000 per 4-week occurrence. Further, some districts would have an impact for payout of accrued leave due to the employee using less accrued leave, but other districts do not payout unused leave. Page 1 of 3 H. 3908 In summary, the impact on districts will vary widely depending on the district's current policies, substitute costs, and the number of employees impacted. Overall, there is no consistent impact across districts. Some districts will not have any additional cost, whereas other districts will experience an increase in their costs to a varying degree.

***Other Notes/Comments:***

Reported favorable with amendment.

**SOUTH CAROLINA**  
**HOUSE AMENDMENT**

AMENDMENT NO. \_\_\_\_\_

Page Hilton  
March 29, 2023

ADOPTED	REJECTED	TABLED	ADJOURN DEBATE	RECONSIDERED	ROO
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Clerk of the House

ADOPTION NO. \_\_\_\_\_

**BILL NO: H. 3908**

(Reference is to the original version)

General Government Subcommittee proposes the following amendment (LC-3908.PH0004H):

Amend the bill, as and if amended, SECTION 1, by striking Section 8-11-151(A)(2) and (3) and inserting:

(2) "Eligible school district employee" means an employee defined by the Department of Education using the Professional Certified Staff system or any full-time equivalent position categorized as classified staff.

(3) "Paid parental leave", for purposes of duration and percentage of base pay covered, has the same meaning as Section 8-11-150(3) for eligible school district employees.

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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<b>Bill Number:</b>	H. 3908	Introduced on February 8, 2023
<b>Author:</b>	Collins	
<b>Subject:</b>	Paid Family Leave	
<b>Requestor:</b>	House Ways and Means	
<b>RFA Analyst(s):</b>	Jolliff	
<b>Impact Date:</b>	March 8, 2023	

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### **Fiscal Impact Summary**

This bill provides any eligible school district employee with 6 weeks of paid parental leave for the birth of a child. The bill also provides 6 weeks of paid parental leave for the primary caregiver of an adopted child. Two weeks of paid parental leave are provided for the co-parent of a newborn or adopted child or following placement of a foster care child.

This bill will not impact expenditures for the Department of Education to implement these policies. The agency will promulgate regulations, guidance, and procedures with existing staff and resources.

Requiring school districts to implement the proposed leave policy will impact local expenditures if the provision changes district policy or current behavior by employees taking more leave. To determine the potential impact, Revenue and Fiscal Affairs asked the Department of Education to survey the school districts. We received responses from 51 districts to our initial request and 32 responses to additional follow-up questions. Some districts already have a similar policy in place and will not have an impact. In response to our initial request, most districts that do not currently have a similar policy estimated the cost based on the full 6 weeks, which we believe would overstate the impact for any employees who already claim the full 12 weeks of leave. The responses varied widely, partially by size of district and partially by assumed costs and weeks. The daily rate for substitute teachers ranged from approximately \$120 per day to \$400. The total estimated by districts ranged from approximately \$12,000 to a potential high of \$3,360,360.

Based on follow-up responses from school districts, the average number of weeks taken is about 8 weeks currently. On average, employees would only be eligible for an additional 4 weeks to reach the maximum 12 weeks of leave under the Family Medical Leave Act (FMLA). Therefore, using the full 6 weeks for all qualifying employees would potentially overstate the impact. With the wide variance in the cost of substitutes and differences in policies, the impact on districts, even assuming a consistent 4 weeks of additional leave, will vary widely, potentially ranging from \$2,400 to \$8,000 per 4-week occurrence. Further, some districts would have an impact for payout of accrued leave due to the employee using less accrued leave, but other districts do not payout unused leave.

In summary, the impact on districts will vary widely depending on the district's current policies, substitute costs, and the number of employees impacted. Overall, there is no consistent impact across districts. Some districts will not have any additional cost, whereas other districts will experience an increase in their costs to a varying degree.

## **Explanation of Fiscal Impact**

### **Introduced on February 8, 2023**

#### **State Expenditure**

This bill provides any eligible school district employee with 6 weeks of paid parental leave for the birth of a child. The bill also provides 6 weeks of paid parental leave for the primary caregiver of an adopted child. Two weeks of paid parental leave are provided for the co-parent of a newborn or adopted child or following placement of a foster care child. The bill will not impact expenditures for the Department of Education to implement these policies. The agency will promulgate regulations, guidance, and procedures with existing staff and resources.

#### **State Revenue**

N/A

#### **Local Expenditure**

This bill provides paid parental leave for school district employees as detailed above. Paid parental leave must run concurrently with leave taken pursuant to FMLA and any other unpaid leave to which the eligible school district 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 therefore does not deduct from the eligible school district employee's accrued leave balance. An eligible school district employee does not have to exhaust all other forms of leave before being eligible to take leave granted under this section. Eligible school district employees shall accrue annual and sick leave at the normal rate while on this leave, if applicable.

Requiring school districts to implement a similar leave policy will impact expenditures if the provision changes district policy or current behavior by employees taking more leave. Some districts responded that they already have a similar policy in place and do not expect an impact. Under FMLA, employees are allowed up to 12 weeks per year for specified family and medical reasons. The birth of a child, adoption, or foster care all qualify for FMLA leave. If an employee is currently taking 12 weeks of leave under FMLA, we would not expect an additional impact for salary or substitute teachers. If employees are taking fewer than 12 weeks, such as 6 or 8, and do not change this preference, then we would not expect an impact either. If, however, additional leave is taken due to this change, there would be an increase in cost.

The increase in cost would be the difference between the current number of weeks an employee is on leave compared to the new number of weeks employees are on leave under this provision. When an employee takes leave for a qualifying event, the school district will be required to hire a substitute in the case of a teacher. Local district budgets already include the cost of the employee's salary for the year, so there is no impact to continuing to pay the employee, only the additional cost of the substitute for teachers. However, districts are currently paying for

substitutes while a teacher is on leave. The increase in cost would be the difference between the current number of weeks a teacher is on leave compared to the new number of weeks under this provision.

To determine the potential cost, Revenue and Fiscal Affairs asked the Department of Education to survey the school districts. We received responses from 51 districts to our initial request. Districts focused on teachers in their responses. These responses indicated a wide range of costs, as the impact depends on local policy decisions and assumptions.

In response to our initial request, most districts estimated the cost based on the full 6 weeks, which we believe would overstate the impact for any employees who already claim the full 12 weeks of leave. The responses varied widely, partially by size of district and partially by assumed costs and weeks. The daily rate for substitute teachers ranged from approximately \$120 per day to \$400. The total estimated by districts ranged from approximately \$12,000 to a potential high of \$3,360,360.

Given that accounting for the full 6 weeks may overstate the impact, we subsequently also asked for additional information about how many weeks most employees take on average, unpaid leave taken, and other issues. We received responses from 32 districts to these follow-up questions. From these responses, the average number of weeks taken is about 8 currently. On average, employees would only be eligible for an additional 4 weeks to reach the maximum 12 weeks of leave under FMLA. Therefore, using the full 6 weeks for all qualifying employees would potentially overstate the impact. With the wide variance in the cost of substitutes and differences in policies, the impact on districts, even assuming a consistent 4 weeks of additional leave, will vary widely, potentially ranging from \$2,400 to \$8,000 per 4-week occurrence.

Additionally, some districts also provided the estimated percentage of employees taking unpaid leave and the potential change to leave payouts due to teachers having additional weeks available before using banked or accrued leave in their follow-up responses. However, these responses varied as well. The range of employees taking unpaid leave currently varied from less than 10 percent to 100 percent taking at least some unpaid leave. Further, some districts would have an impact for payout of accrued leave due to the employee using less accrued leave, but other districts do not payout unused leave.

In summary, the impact on districts will vary widely depending on the district's current policies, substitute costs, and the number of employees impacted. Overall, there is no consistent impact across districts. Some districts will not have any additional cost, whereas other districts will experience an increase in their costs to a varying degree.

#### **Local Revenue**

N/A



Frank A. Rainwater, Executive Director

**South Carolina General Assembly**  
125th Session, 2023-2024

**H. 3908**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Collins, G.M. Smith, Bannister, Erickson, Whitmire, Felder, Bernstein, Ott, Haddon, W. Newton, Carter, Elliott, Crawford, Ballentine, Caskey, Wetmore, Stavrinakis, Mitchell, Yow, M.M. Smith, Willis and Vaughan

Document Path: LC-0171PH23.docx

Introduced in the House on February 8, 2023

Currently residing in the House

Summary: Paid family leave

**HISTORY OF LEGISLATIVE ACTIONS**

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
2/8/2023	House	Introduced and read first time (House Journal-page 8)
2/8/2023	House	Referred to Committee on <b>Ways and Means</b> (House Journal-page 8)
2/9/2023	House	Member(s) request name added as sponsor: Wetmore, Stavrinakis
2/28/2023	House	Member(s) request name added as sponsor: Mitchell, Yow
3/7/2023	House	Member(s) request name added as sponsor: M.M. Smith
3/13/2023	House	Member(s) request name added as sponsor: Willis
3/15/2023	House	Member(s) request name added as sponsor: Vaughan

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**VERSIONS OF THIS BILL**

02/08/2023

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**A BILL**

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 8-11-151 SO AS TO DEFINE TERMS AND TO PROVIDE PAID PARENTAL LEAVE UPON THE BIRTH OF A CHILD OR INITIAL LEGAL PLACEMENT OF A FOSTER CHILD FOR ELIGIBLE SCHOOL DISTRICT EMPLOYEES; AND BY ADDING SECTION 8-11-156 SO AS TO DEFINE TERMS AND TO PROVIDE PAID PARENTAL LEAVE UPON THE INITIAL LEGAL PLACEMENT OF A CHILD BY ADOPTION FOR ELIGIBLE SCHOOL DISTRICT EMPLOYEES.

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

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

Section 8-11-151. (A) For the purposes of this section:

(1) "Child" means a newborn biological child or foster of a child in state custody and under the age of eighteen. No child can have more than two parents eligible for paid parental leave.

(2) "Eligible school district employee" means an employee occupying any percentage of a full-time equivalent position.

(3) "Paid parental leave" has the same meaning as Section 8-11-150(3) for eligible school district employees.

(4) "Qualifying event" means the birth of a newborn biological child to an eligible school district employee or after a coparent's birth of a newborn child or fostering a child in state custody.

(B) Eligible school district employees who give birth are entitled to paid parental leave to the same extent available to employees of the State pursuant to Section 8-11-150.

(C) Paid parental leave usage includes the following:

(1) The entitlement to leave pursuant to subsection (B) expires at the end of the twelve-month period beginning on the date of such birth or initial legal placement. An eligible school district employee shall receive no more than one occurrence of paid parental leave for any twelve-month period, even if more than one qualifying event occurs. However, nothing in this item prohibits a foster parent from requesting and receiving approval for parental leave in nonconsecutive one-week time periods.

(2) If the leave is not used by the eligible school district employee before the end of the twelve-month period after the qualifying event, such leave does not accumulate for subsequent use.



1 Paid parental leave may not be donated. Any leave remaining at the end of the twelve-month period or  
2 at separation of employment is forfeited.

3 (3) Days of paid parental leave taken under this section must be taken consecutively, except that  
4 foster parents may request and receive approval for parental leave in nonconsecutive one-week time  
5 periods.

6 (4) If both parents are eligible school district employees, paid parental leave may be taken  
7 concurrently, consecutively, or a different time as the other eligible school district employee.

8 (5) School district holidays and vacation on the district calendar must not be counted against paid  
9 parental leave.

10 (6) Paid parental leave must run concurrently with leave taken pursuant to the Family Medical  
11 Leave Act and any other unpaid leave to which the eligible school district employee may be entitled as  
12 a result of the qualifying event. However, leave granted under this section is with pay and is not annual  
13 leave or sick leave and therefore does not deduct from the eligible school district employee's accrued  
14 leave balance. An eligible school district employee does not have to exhaust all other forms of leave  
15 before being eligible to take leave granted under this section. Eligible school district employees shall  
16 accrue annual and sick leave at the normal rate while on this leave, if applicable.

17 (7) The use of paid parental leave by an eligible school district employee shall not prevent the  
18 eligible school district employee from earning a STEP increase the following year.

19 (8) Paid parental leave is considered paid leave and the time must count towards the eligible school  
20 district employee's years of service.

21 (D) All paid parental leave benefits shall be funded by the eligible school district employee's school  
22 district.

23 (E) The State Department of Education shall promulgate regulations, guidance, and procedures to  
24 implement this section.

25

26 SECTION 2. Article 1, Chapter 11, Title 8 of the S.C. Code is amended by adding:

27

28 Section 8-11-156. (A) For the purposes of this section:

29 (1) "Child" means a child initially legally placed for adoption and under the age of eighteen. No  
30 child can have more than two parents eligible for paid parental leave.

31 (2) "Eligible school district employee" means an employee occupying any percentage of a  
32 full-time equivalent position.

33 (3) "Paid parental leave" has the same meaning as Section 8-11-155(3) for eligible school district  
34 employees.

35 (B) Eligible school district employees are entitled to paid parental leave to the same extent as  
36 employees of the State pursuant to Section 8-11-155.

1 (C) Paid parental leave usage includes the following:

2 (1) The entitlement to leave pursuant to subsection (B) expires at the end of the twelve-month  
3 period beginning on the date of such birth or initial legal placement. An eligible school district  
4 employee shall receive no more than one occurrence of paid parental leave for any twelve-month  
5 period, even if more than one qualifying event occurs. However, nothing in this item prohibits a foster  
6 parent from requesting and receiving approval for parental leave in nonconsecutive one-week time  
7 periods.

8 (2) If the leave is not used by the eligible school district employee before the end of the  
9 twelve-month period after the qualifying event, such leave does not accumulate for subsequent use.  
10 Paid parental leave may not be donated. Any leave remaining at the end of the twelve-month period or  
11 at separation of employment is forfeited.

12 (3) Days of paid parental leave taken under this section must be taken consecutively, except that  
13 foster parents may request and receive approval for parental leave in nonconsecutive one-week time  
14 periods.

15 (4) If both parents are eligible school district employees, paid parental leave may be taken  
16 concurrently, consecutively, or a different time as the other eligible school district employee.

17 (5) School district holidays and vacation on the district calendar must not be counted against paid  
18 parental leave.

19 (6) Paid parental leave must run concurrently with leave taken pursuant to the Family Medical  
20 Leave Act and any other unpaid leave to which the eligible school district employee may be entitled as  
21 a result of the qualifying event. However, leave granted under this section is with pay and is not annual  
22 leave or sick leave and therefore does not deduct from the eligible school district employee's accrued  
23 leave balance. An eligible school district employee does not have to exhaust all other forms of leave  
24 before being eligible to take leave granted under this section. Eligible school district employees shall  
25 accrue annual and sick leave at the normal rate while on this leave, if applicable.

26 (7) The use of paid parental leave by an eligible school district employee shall not prevent the  
27 eligible school district employee from earning a STEP increase the following year.

28 (8) Paid parental leave is considered paid leave and the time must count towards the eligible school  
29 district employee's years of service.

30 (D) All paid parental leave benefits shall be funded by the eligible school district employee's school  
31 district.

32 (E) The State Department of Education shall promulgate regulations, guidance, and procedures to  
33 implement this section.

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35 SECTION 3. This act takes effect upon approval by the Governor.

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