

# ASSEMBLY LABOR COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 5166**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: NOVEMBER 30, 2023

The Assembly Labor Committee reports favorably and with committee amendments Assembly Bill No. 5166.

As amended, this bill extends to employees of employers with less than 30 employees the right to be reinstated to employment after taking paid or unpaid family leave, thus ensuring that all workers who pay for family temporary disability leave insurance (FLI) will be able to return to work after taking FLI benefits. The extension is phased in, with the threshold reduced to 20 employees upon the effective date of the bill, 10 employees one year later, and the threshold is reduced to five employees two years after the effective date.

As amended, once the phase-in is complete, the bill extends to employees of employers with five or more employees, the provision under current law that provides that a covered employee who takes FLI benefits to care for a family member may not be retaliated against by their employer refusing to reinstate them after the leave. Currently, an employer who employs less than 30 workers, and is thus exempt from the reinstatement requirements of the Family Leave Act (FLA), is also exempt from the reinstatement requirements of that provision. By reducing this exemption, the bill extends that provision's reinstatement rights to recipients of FLI benefits even if their employers have less than 30 employees, in the same way that provision currently provides that reinstatement protection for temporary disability insurance recipients no matter how few employees the employer has.

Once fully phased in, the bill also amends the FLA to make employers of five or more employees subject to that law's requirement to reinstate leave takers, thereby extending that right of reinstatement to employees of employers with five or more employees, whether or not the employees receive FLI benefits.

As amended, the bill provided that an employee who is eligible for both earned sick leave, and either temporary disability benefits or family temporary disability leave benefits will have the option of using either the earned sick leave or whichever is applicable of temporary disability benefits or family temporary disability leave benefits, and may select the order in which the different kinds of leave are taken, but may not receive more than one kind of paid leave simultaneously during any period of time.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) change the final phased-in threshold for the applicability of the FLA from one employee to five employees;

(2) provide that an employee who is eligible for both earned sick leave, and either temporary disability benefits or family temporary disability leave benefits will have the option of using either the earned sick leave or whichever is applicable of temporary disability benefits or family temporary disability leave benefits, and may select the order in which the different kinds of leave are taken, but may not receive more than one kind of paid leave simultaneously during any period of time;

(3) clarify that the law affirmatively provides, for covered employees, the right to reinstatement after leave whether or not a failure to provide reinstatement is regarded as retaliation; and

(4) reinsert underlying statutory language in the Family Leave Act regarding a time period prior to the effective date of the bill.