

March 24, 2022

The Honorable C.T. Wilson
Chairman, House Economic Matters Committee
231 House Office Building
Annapolis, MD 21401

Re: Letter of Concern – Senate Bill 275 – Labor and Employment – Family and Medical Leave Insurance Program – Establishment (Time to Care Act of 2022)

Dear Chair Wilson and Committee Members:

The Maryland Department of Transportation (MDOT) submits this letter of concern on Senate Bill 275 and offers the following information for the Committee's consideration.

Currently, MDOT offers a variety of leave options that employees could use if there is a “qualifying exigency” or a “serious health condition”: sick leave, annual leave, personal leave, compensatory leave (if applicable), work injury leave (if applicable), parental leave, COVID-19 leave, pandemic event leave, advanced sick leave, employee-to-employee leave donation, and leave bank in addition to the protections afforded by the federal Family and Medical Leave Act (FMLA). Due to these existing options, the majority of MDOT employees will rarely have an opportunity to utilize the new Family and Medical Leave Insurance Program, despite their requirement to contribute to the Program. With limited exceptions, the current MDOT leave provisions provide full compensation, whereas the proposed program is prorated based on a percentage of the employee's average weekly wage. Senate Bill 275 introduces an additional mandatory monetary deduction from employees' paychecks, which could impact the State's ability to recruit and retain qualified individuals. While it cannot be quantified, it is anticipated that there will be a significant fiscal impact on the Department and its employees. Further, the contributions to fund the program begin October 1, 2023, yet an employee is not eligible for program benefits until January 1, 2025. It is concerning that there will be mandatory contributions taken from an employee's paycheck without access to the benefits for which they are paying.

Senate Bill 275 specifically states that it may not be construed to diminish already existing leave provisions under collective bargaining agreements or current employer policies; due to this, MDOT would have minimal room to modify its existing programs to account for redundancy. Currently, MDOT complies with the FMLA, which entitles employees to twelve (12) weeks of paid or unpaid leave each year if certain conditions are met. MDOT employees also receive on an annual basis a minimum of seven (7) days of personal leave, ten (10) days of annual leave, fifteen (15) days of sick leave, twelve (12) holidays, and access to the other leave types listed above, if applicable. It should be noted that under Senate Bill 275, the Department of Labor can approve an MDOT employee to qualify for leave under this new Program, in addition to MDOT's existing leave benefits, resulting in the potential of an employee being absent for well over six months.

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As MDOT works closely with its employees to guarantee leave is accessible and available when needed, there is concern that leave approval decisions would be made by an entity outside of the employee's place of employment.

The above concerns regarding redundancies in leave programs could be alleviated if the bill was amended to make it optional for public employers, including the State and its independent personnel systems. The State of New York implemented a similar program in 2016 and allows public employers the ability to opt-in at any time.

The Maryland Department of Transportation respectfully requests the Committee consider this information when deliberating Senate Bill 275.

Respectfully Submitted,

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Maryland Department of Transportation
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