SB828

NFIB-Maryland – 60 West St., Suite 101 – Annapolis, MD 21401 – www.NFIB.com/Maryland

TO: House Economic Matters Committee

FROM: NFIB – Maryland

DATE: March 30, 2023

RE: **OPPOSE SENATE BILL 828** – Family and Medical Leave Insurance Program – Modifications

Founded in 1943, NFIB is the voice of small business, advocating on behalf of America's small and independent business owners, both in Washington, D.C., and in all 50 state capitals. With more than 250,000 members nationwide, and nearly 4,000 here in Maryland, we work to protect and promote the ability of our members to grow and operate their business.

On behalf of Maryland's small businesses, NFIB-Maryland opposes Senate Bill 828 – legislation modifying the state's family and medical leave insurance program that was created during last year's legislative session.

NFIB's opposition is not based on the existence of the program. As noted, the General Assembly addressed that question last year. Instead, the current opposition is based on the fundamentals of the program, the timelines included, and the suggested modifications envisioned in HB988. Taken together, the bill leaves employers with little to no involvement in the program and its administration. Below are a number of suggestions and rationale that NFIB feels will change that and create a more balanced and equitable program for workers and employers.

- Allow employers option of requiring employer-sponsored paid leave to run concurrently with FAMLI.
    - Still represents a departure from current law that mandates all employer-sponsored leave to be exhausted before receiving FAMLI benefits; and
    - SB828, as amended, only allows employee the option to take leave and benefits concurrently which creates an unbalanced and unpredictable process for small employers who could not otherwise have a consistent policy with respect to both categories of leave.

- Amend program to allow the employer (as opposed to the Department of Labor) the authority to approve benefits application. Critical to maintain all appeals processes for claimant.
    - Mirrors FMLA, Delaware's FMLI program, and employers administer the state's Healthy Working Families Act already;
    - Brings employers into the process so they can manage absences better without reliance on notification from DOL;
    - Maintain DOL as an appeals adjudicator;
    - Removes considerable administrative requirements from DOL; and
    - Assuming the cost share will ultimately be 50/50, the aforementioned changes show the important role employers are playing not just financially but logistically.
- Longer delay is needed for contributions – recommend Jan. 1, 2025.
    - Current bill only provides a delay until October 1, 2024 – more time is likely needed for DOL to prepare (even if changes above are adopted). Employers and employees also need more time to adjust accordingly;
    - Contributions to Delaware's FMLI program, also passed in 2022, do not begin until 2025.
- Cap payroll tax rate at 1% and grant DOL authority to reduce benefit levels if fund balance is in danger of being insufficient to cover claims.
    - Provides greater predictability for employee and employer;
    - Contains payroll costs for workers and employers; and
    - Delaware also has this provision in their program.
- Shorten notification period.
    - 8.3-701 (B)(1) allows an employee 60 days *after* the start of their leave to file an application for benefits;
    - Ensure employer leave policies are substituted until application is filed.

Again, these changes are critical to ensuring a successful and equitable paid leave insurance program. The program to date along with the suggested changes put forth by proponents of the program does not reflect the needs of the business community which plays a critical role in whether this program will be a success or failure.

For these reasons, **NFIB OPPOSES SB828**, and requests an unfavorable committee report.