



## Ocean City, Maryland Chamber of Commerce

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### TESTIMONY OFFERED ON BEHALF OF THE GREATER OCEAN CITY MARYLAND CHAMBER OF COMMERCE

#### IN SUPPORT, WITH AMENDMENTS, TO: SB0485 – Family and Medical Leave Insurance Program - Modifications

Before:  
Senate Finance Committee  
Hearing: 2/16/2024 at 11:00 AM

On behalf of the Greater Ocean City Chamber of Commerce, representing more than 700 regional businesses and job creators, we are writing to express our **support of Senate Bill SB0485 – Family and Medical Leave Insurance Program – Modifications, with amendments to the legislation.** This bill modifies existing provisions of law governing application, administration, and enforcement of the Family and Medical Leave Insurance (FMLI) Program.

We are supportive of the delay in program implementation and contribution collection, and the reduction of reporting requirements on employers by shifting to quarterly wage reports instead of weekly. The Chamber also supports aligning the definition of wages with the definition in the unemployment insurance (UI) program.

Our region utilizes many seasonal J1/H2B employees, and we see significant problems for both the employee and employer with this program. From the perspective of the J1/H2B employee, a contribution is being withheld from employees that likely won't have the opportunity to apply for the benefit. J1's are hired for a maximum of 120 days; they are given a beginning and end date on their DS2019 (authorization to work). Federally, they apply for and are given social security cards and are only required to pay Federal and State income taxes. They can apply for and typically get a refund for income taxes paid at the end of the year. They are paid at same rate as an American employee with the same experience and are also covered under the employer's workmen's compensation insurance. **Our recommendation is that J1/H2B employees should be excluded from the FMLI Program and thus excluded from paying into this program,** just as they are excluded from paying into Social Security and Medicare.

Conversely, we are deeply concerned about the potential for fraud with this program. Will Maryland be vetting all foreign doctors' reports? If false claims are filed, these exchange visitors could return to their home country and collect up to \$1,000 per week for 12 weeks for EVERY job they worked (J1/H2B often work for 2 or more employers during their time here) fraudulently claiming Maryland FAMI funds. The Employee Retention Tax Credit (ERTC) was intended to encourage businesses to keep employees on their payrolls, but as the economy tightened, bad actors manipulated the system with schemes to their advantage, whether it is the exchange visitors themselves or someone taking advantage on their behalf (e.g. – the fraudulent unemployment claims during the pandemic). The IRS continues to warn employers of such fraud.

Another concern is the low threshold for eligibility, just 680 hours in the previous 12 months, which will make all seasonal employees will be eligible, even for those businesses that do not operate year-round. Employees eligible for UI benefits will also be allowed to claim.

Another concern is the continuation of the benefit payments to employers to cover the employee's benefits while they are out (plus garnishments and child support). **An employee's obligations should not be excused while they are out on leave.** We know there is a high likelihood the employee won't return to work after taking leave, which means the employer will have paid for their medical insurance without recourse.

A practical concern: an employee could come to work for 1 day and then go out on FAMI for 12 or more weeks and the employer will have to protect that job and pay for their benefits, if applicable. **Governor Moore states he wants to make Maryland the best place to start a business, but this plan puts a tremendous burden upon employers.** The FAMI Program is fine in theory, but the balance of benefit errs on the side of the employee, and ultimately will be detrimental to small businesses unless modifications are made. One of our business owners said, ***"All I do is try to hire good workers and all Maryland does is make me pay them to stay home."***

For these reasons, we strongly urge the Committee to **report SB0485 favorably with amendments to this legislation to exempt J1/H2B employees from FAMI.** Please feel free to contact the Chamber directly at 410-213-0144, or Dennis F. Rasmussen, [dfr@rasmussengrp.net](mailto:dfr@rasmussengrp.net) at 410-303-4658, should you have any questions or concerns.

Respectfully submitted,

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