

SB 485 Testimony.pdf

Uploaded by: Antonio Hayes

Position: FAV

ANTONIO HAYES
Legislative District 40
Baltimore City

Finance Committee



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Friday, February 16, 2024

Testimony in Support of Senate Bill 485: Family and Medical Leave Insurance Program - Modifications

Madam Chair and Members of the Senate Finance Committee,

I am writing to provide testimony on Senate Bill 485, which proposes modifications to the Family and Medical Leave Insurance (FAMLI) Program.

Senate Bill 485 seeks to refine the administration of the FAMLI Program by introducing adjustments to key administrative deadlines, definitions, and components. Notably, the bill proposes delaying the start dates for required contributions and benefit payments, extending them by nine months to July 1, 2025, and six months to July 1, 2026, respectively.

These modifications are imperative to ensure the effective implementation and sustainability of the FAMLI Program. By extending the deadlines, we allow for additional time for the department to fine-tune the program's infrastructure, address potential challenges, and provide necessary education and outreach to stakeholders.

Moreover, the bill empowers the Maryland Department of Labor (MDL) to adopt regulations establishing fees for private employer plans. This provision enhances the program's flexibility and financial viability, enabling private employers to participate in a manner that aligns with their organizational structure and resources.

The proposed changes align with the overarching goal of the FAMILI Program: to support working families by providing them with essential leave benefits during critical life events. By implementing these modifications, we demonstrate our commitment to ensuring that every individual in the state of Maryland has access to the support and resources they need to care for themselves and their loved ones without sacrificing financial stability.

In conclusion, I urge the Committee to support Senate Bill 485 and its modifications to the Family and Medical Leave Insurance Program. These adjustments are integral to the program's success and will significantly benefit the residents of Maryland. Thank you for considering our testimony, and please do not hesitate to reach out if you require further information or clarification.

Respectfully,

A handwritten signature in blue ink, appearing to read "Antonio L. Hayes", is written in a cursive style.

Senator Antonio L. Hayes
40th Legislative District – MD

SB0485_Family_And_Medical_Leave_Insurance_Program_

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB0485
Family and Medical Leave Insurance Program - Alterations

Bill Sponsor: Senator Hayes

Committee: Finance

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of SB0485 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

The Time to Care Act of 2022 that was passed in the last legislative session, will help all Marylanders by ensuring that paid Family and Medical Leave is available in times of need. Now, what remains is to ensure that the Time to Care Act is fully implemented and that Marylanders see a robust, equitable, and accessible FAML I program.

This bill, if enacted, will establish the administrative parameters for implementation of the Time to Care Act. It also requests a delay of the implementation timeline in order to ensure that care is taken in building the necessary systems to accept contributions, and claims, and pay out benefits.

We support this bill and recommend a **FAVORABLE** report in committee.

SEIU 500 - SB 485 - FAMILI Modifications - Fav.pdf

Uploaded by: Christopher Cano

Position: FAV

**FAVORABLE
TESTIMONY ON SB 485
FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM - MODIFICATIONS**

Senate Finance Committee

February 16, 2024

Submitted by Christopher Cano, Director of Political & Legislative Affairs
On behalf of SEIU Local 500

Dear Chair Beidle and Members of the Senate Finance Committee:

SEIU Local 500 supports SB 485, which modifies the Family and Medical Leave Insurance (FAMLI) program by specifying various aspects of programmatic implementation, including the administration and enforcement of the Time to Care Law.

Passing the Time to Care Act of 2022 last legislative session was a historic victory for all Marylanders - and it was just the first step in realizing Paid Family and Medical Leave in Maryland. The critical work to implement and administer an accessible, equitable, and robust FAMLI program is the next major step in fulfilling the promise of the Time to Care Act of 2022. We are excited by the work of the new FAMLI division at the Department of Labor, and we believe passing SB 485 establishes important administrative parameters for the Department that will set the program firmly on the path toward successful implementation.

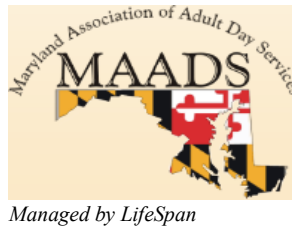
Notably, SB 485 requests a delay of the implementation timeline, moving contributions to July 1, 2025 and benefits to July 1, 2026. The members of SEIU Local 500 are eager for Marylanders to have access to paid leave that the FAMLI program will provide as soon as possible, and we also want the program to be robustly accessible and functional. We understand the Department of Labor needs the additional time to build the systems necessary to accept contributions, claims, and pay out benefits, and thus the members of SEIU Local 500 support the delay proposed in SB 485.

We appreciate your consideration and support for SB 485.

SB0485_FAV_LifeSpan, MAADS, MNCHA_FAMLI - Modifica

Uploaded by: Danna Kauffman

Position: FAV



TO: The Honorable Pamela Beidle, Chair
Members, Senate Finance Committee
Delegate Antonio Hayes

FROM: Danna L. Kauffman
Pamela Metz Kasemeyer
Christine K. Krone
410-244-7000

DATE: February 16, 2024

RE: **SUPPORT** – Senate Bill 485 – *Family and Medical Leave Insurance Program – Modifications*

On behalf of the LifeSpan Network, the Maryland Association of Adult Day Services, and the Maryland-National Capital Homecare Association, we submit this joint letter of **support** for Senate Bill 485.

Our testimony is limited to the extension of the requirement for employers and employees to begin making contributions into the Family and Medical Leave Insurance Fund as well as the extension for when employees may begin taking the leave. We believe that the extension is necessary to provide additional time for the Maryland Department of Labor to successfully implement the Program. However, we strongly believe that employers, especially those in the health care sector, need a reprieve from the start of this Program.

The health care sector, especially the senior care and post-acute care industry, is continuing to recover from the COVID-19 pandemic. Low census and higher operating costs brought on by inflation and other factors continue to significantly impact revenues. Recruiting, hiring, and maintaining a strong health care workforce also continues to be a challenge. Under the Family and Medical Leave Insurance Program, when an employee is approved for leave, employers in the senior care and post-acute care industry must temporarily replace that employee in order to satisfy certain staffing requirements. At a time when it is difficult to find workers, this provision may exacerbate the staffing crisis and will lead to increased costs through the need to use health staffing agencies. Therefore, we hope that this extension will not only ensure that the Department can effectively and efficiently implement the Program, but it will also provide additional time for the senior care and post-acute care industry to continue to stabilize from the pandemic.

CLASP_Maryland Paid Leave Written Testimony_SB485.

Uploaded by: Emily Andrews

Position: FAV

TESTIMONY ON SB 485 FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM - MODIFICATIONS

Senate Finance Committee

SUPPORT

February 16, 2024

Submitted By:

Emily Andrews, Director of Education, Labor & Worker Justice
Center for Law and Social Policy
Washington, DC

The Center for Law and Social Policy (CLASP) supports SB 485, which modifies the Family and Medical Leave Insurance (FAMLI) program by specifying various aspects of programmatic implementation, including the administration and enforcement of the Time to Care Law.

CLASP is a national, nonpartisan, nonprofit advancing anti-poverty policy solutions that disrupt structural, systemic racism and remove barriers blocking people from economic justice and opportunity. With deep expertise in a wide range of programs and policy ideas, longstanding relationships with anti-poverty, child and family, higher education, workforce development, and economic justice stakeholders, and over 50 years of history, CLASP works to amplify the voices of directly impacted workers and families and help public officials design and implement effective programs. CLASP also seeks to improve job quality for workers in low-wage sectors. That includes increasing wages and providing access to paid sick days, paid family and medical leave, and stable work schedules. Quality jobs enable individuals to balance their work, school, and family responsibilities – promoting economic stability as well as career advancement.

Passing the Time to Care Act of 2022 last legislative session was a historic victory for all Marylanders - and it was just the first step in realizing Paid Family and Medical Leave in Maryland. The critical work to implement and administer an accessible, equitable, and robust FAMLI program is the next major step in fulfilling the promise of the Time to Care Act of 2022. We are excited by the work of the new FAMLI division at the Department of Labor, and we believe passing SB 485 establishes important administrative parameters for the Department that will set the program firmly on the path toward successful implementation.

CLASP advocates for comprehensive paid family and medical leave programs that:

- Cover all working people and apply equally to all working people.
- Cover multiple purposes for taking paid family and medical leave, including allowing workers to take leave for their own serious health conditions, care for seriously ill loved ones, bond with a new child (including adoptive or foster children), address needs related to military deployment, and take safe leave to address sexual and domestic violence.
- Reflect an inclusive definition of family to ensure that workers can care for all those they consider family, irrespective of legal or biological relationships. By embracing diverse family structures prevalent in America today, including the rise in single-parent or cohabitating parent households, programs can become more aligned with the realities of contemporary family dynamics.¹ Additionally, a more inclusive definition enhances a program's utility for communities like the LGBTQ+ and the disability community, where reliance on "chosen family" is more common as part of their support system.²
- Provide up to 12 weeks of leave and replace a substantial share of workers' usual wages with a progressive wage replacement scale that provides the highest percentage of wage replacement for the lowest paid workers. The American Academy of Pediatricians has long supported at least twelve weeks of maternal leave and international comparison shows that more weeks of paid leave results in tangibly reduced infant mortality rates.³
- Protect workers against adverse consequences for taking leave, including job protection that allows workers to request and take leave without fear of retaliation, intimidation, or interference. Without job protection, as many as 1 in 7 workers earning low wages have lost a job because of illness or caregiving responsibilities.⁴ This protection is crucial for vulnerable workers, enabling them to take necessary time off without facing negative repercussions in the workplace.

Notably, SB 485 requests a delay of the implementation timeline, moving contributions to July 1, 2025 and benefits to July 1, 2026. CLASP and our coalition partners, Time to Care, are eager for Marylanders to have access to paid leave that the FMLI program will provide as soon as possible and we also want the program to be robustly accessible and functional. We understand the Department of Labor

¹ Stephanie Kramer, *U.S. has world's highest rate of children living in single-parent households*, Pew Research Center, December 12, 2019, <https://www.pewresearch.org/short-reads/2019/12/12/u-s-children-more-likely-than-children-in-other-countries-to-live-with-just-one-parent/>; Carolina Aragão et al., "The Modern American Family," Pew Research Center, September 14, 2023, https://www.google.com/search?q=rise+in+cohabitating+parents&rlz=1C1JZAP_enUS1082US1082&oq=rise+in+cohabitating+parents&gs_lcrp=EgZjaHJvbWUyBggAEEUYOTIJCAEQIRgKGKABMgcIAhAhGKsCMgcIAxAhGKsCMgcIBBAhGKsC0gEINDQyOWowajSoAgCwAgA&sourceid=chrome&ie=UTF-8.

² Caroline Media and Molly Weston Williamson, *Paid Leave Policies Must Include Chosen Family*, Center for American Progress, March 1, 2023, <https://www.americanprogress.org/article/paid-leave-policies-must-include-chosen-family/>.

³ "A Pediatrician's View of Paid Parental Leave," *NPR All Things Considered*, October 10, 2016, https://www.npr.org/sections/health-shots/2016/10/10/497052014/a-pediatricians-view-of-paid-parental-leave?utm_source=facebook.com&utm_medium=social&utm_campaign=npr&utm_term=nprnews&utm_content=2036; Jody Heymann MD, et al., "Creating and Using New Data Sources to Analyze the Relationship Between Social Policy and Maternal Health: The Case for Maternal Leave," *Public Health Reports* 126 (2011).

⁴ "Hard Work, Hard Lives: Survey Exposes Harsh Reality Faced by Low-Wage Workers in the U.S.," Oxfam America, 2013, <https://s3.amazonaws.com/oxfam-us/www/static/media/files/low-wage-worker-report-oxfam-america.pdf>.

needs the additional time to build the systems necessary to accept contributions, claims, and pay out benefits, and thus CLASP supports the delay proposed in SB 485.

The United States is the only Organisation for Economic Cooperation and Development (OECD) country that does not guarantee paid leave to its workers and is one of only six countries in the world that do not guarantee paid parental leave.⁵ Maryland should be proud of establishing the FAML I program in 2022, as one of just 13 states and the District of Columbia that provides paid family and medical leave. SB 485 is a critical next step to specify various aspects of implementation, laying the groundwork for an equitable and accessible implementation process to ensure all Marylanders can benefit from the program.

CLASP appreciates your consideration and supports SB 485.

⁵ Claire Cain Miller, “The World Has Found A Way to Do This: The US Lags on Paid Leave, *The New York Times*, October 25, 2021, <https://www.nytimes.com/2021/10/25/upshot/paid-leave-democrats.html>.

SB 485_JoShifrin_FAV (1).pdf

Uploaded by: Jo Shifrin

Position: FAV

Feb. 16, 2024



Jo Shifrin

Bethesda, MD 20817

TESTIMONY ON SB 485- POSITION: FAVORABLE
Family & Medical Leave Insurance Program - Modifications

TO: Chair Beidle, Vice Chair Klausmeier, and members of the Finance Committee

FROM: Jo Shifrin, on behalf of [Jews United for Justice](https://www.jewsunitedforjustice.org)

My name is Jo Shifrin. I am a resident of District 16. I am submitting this testimony in support of SB 485, Family & Medical Leave Insurance Program - Modifications on behalf of Jews United for Justice (JUFJ). JUFJ organizes 6,000 Jewish Marylanders and allies from across the state in support of social, racial, and economic justice campaigns.

I care deeply about the implementation of this bill. Judaism teaches us to value life and health, to honor our parents, and to care for children. It also calls for fair treatment of workers, including the commandment in Deuteronomy 24:14 to “not oppress the hired laborer who is poor and needy.”

The lack of paid family and medical leave has affected me personally:

- In the late 1990s, it became clear that my mother-in-law –who was 86, frail, and diabetic– could no longer live alone. We found a home that could accommodate all of us, but shortly after we moved in, my mother-in-law’s health declined further. Without paid family and medical leave, I could not care for her and keep my full time job. As a result, I left my job to become her full-time caregiver.
- 15 years later, I was diagnosed with breast cancer and chemotherapy forced me to quit my job and rendered me virtually unable to work for several months.

In both of these instances paid family and medical leave would have significantly lessened the psychological and financial burdens that I was forced to deal with.

The Time to Care Act was passed in 2022; but now its implementation must continue to be equitable, fair, and just. SB 485 specifies various aspects of programmatic implementation, including the administration and enforcement of the Family and Medical Leave Insurance Program. JUFJ believes that passing SB 485 establishes important administrative parameters for the Department of Labor that will set the program firmly on the path toward successful implementation.

JUFJ is eager for Marylanders to have access to the paid family and medical leave benefits that the FAML I program will provide. However, JUFJ supports the delay proposed in the bill because it gives the Department of Labor the additional time to build the systems necessary to accept contributions, claims, and pay out benefits so that the FAML I program will be both robustly accessible and functional.

SB 485 would create a stronger benefit program that would attract businesses to our state, generate savings on other tax-funded programs (e.g., SNAP and Medicaid), and improve the health of Maryland's children.

We therefore respectfully urge this committee to return a favorable report on SB 485.

NASW Maryland - 2024 SB 485 FAV - FAMLI - Senate.p

Uploaded by: Karessa Proctor

Position: FAV



**Testimony Before the Senate Finance Committee
February 16, 2024**

**Senate Bill 485: Family and Medical Leave Insurance Program – Modification
SUPPORT**

The National Association of Social Workers – Maryland Chapter is a professional organization representing over 3,000 social workers statewide. **NASW Maryland supports SB 485**, which modifies the Family and Medical Leave Insurance (FAMLI) program by specifying various aspects of programmatic implementation, including the administration and enforcement of the Time to Care Law.

Notably, SB 485 requests a delay of the implementation timeline, moving contributions to July 1, 2025 and benefits to July 1, 2026. NASW Maryland supports the Time to Care Law and is eager for Marylanders to have access to paid leave that the FAMLI program will provide as soon as possible. We also want the program to be robustly accessible and functional. We understand the Department of Labor needs the additional time to build the systems necessary to accept contributions, claims, and pay out benefits. NASW Maryland therefore supports the delay proposed in SB 485.

National Association of Social Workers Maryland appreciates your consideration and urges your support of SB 485.

Respectfully,

Andre' Thompson, MSW, CSC-AD, RPS
NASW Legislation Committee Member

SB 485 MIA - FAV FINAL.pdf

Uploaded by: Kathleen Birrane

Position: FAV

WES MOORE
Governor

ARUNA MILLER
Lt. Governor



KATHLEEN A. BIRRANE
Commissioner

TAMMY R. J. LONGAN
Acting Deputy Commissioner

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Date: February 16, 2024

Bill # / Title: Senate Bill 485 - Family and Medical Leave Insurance Program - Modifications

Committee: Senate Finance

Position: Support

The Maryland Insurance Administration (MIA) appreciates the opportunity to share its support for Senate Bill 485.

The Family and Medical Leave Insurance Program (Program) includes a provision under § 8.3-705 of the Labor and Employment Article that exempts employers and employees from contributing to the Program fund if the employer provides coverage to employees through a private employer plan that meets or exceeds the benefits of the Program. Currently, the law allows a private employer plan to consist of employer-provided benefits, insurance through an insurer that holds a certificate of authority issued by the MIA, or a combination of both employer-provided and insured benefits. In addition to other amendments to the Program, Senate Bill 485 proposes to eliminate the “combination” option, meaning that a private employer plan would now be required to provide the full scope of benefits of the Program under one comprehensive plan that is either entirely insured or entirely self-funded by the employer. The MIA is very supportive of this proposal due to a variety of operational and regulatory concerns related to the combination option.

Because an insurance product intended to be offered in connection with the Program would fall under the jurisdiction of the MIA, the MIA has been working very closely with the Maryland Department of Labor (MD Labor) on Program implementation issues over the last year. The Insurance Article requires insurers to file policy forms and rates with the MIA for approval before a product may be issued in Maryland, and MD Labor and MIA have been working through a variety of regulatory and logistical issues to ensure that lawful, MIA-approved insurance products that satisfy the requirements of the Program will be available for sale when the Program goes into effect. One of the more problematic issues has been how to address the combination option under § 8.3-705. There are significant concerns that allowing the combination option will complicate the regulatory oversight of private employer plans, creating obstacles to ensuring that approved insurance products satisfy all the requirements of the Program, and making enforcement of some of those requirements challenging.

Presently, there are no approved insurance products in Maryland that would fully satisfy the requirements of the Program. While certain benefits provided under the Program are analogous to short-term disability benefits currently offered under disability income policies, other Program benefits, such as parental leave and military exigency leave, are not available under existing insurance products approved in Maryland.

The MIA has determined that a comprehensive insurance product providing coverage for all the required benefits under the Program would satisfy the definition in the Insurance Article for “health insurance,” which includes disability income insurance. Consequently, the MIA clearly has existing authority to approve and regulate this type of comprehensive product as disability insurance, which is how these products are typically regulated in other states that allow paid family and medical leave insurance products.

On the other hand, an insurance product that solely provides coverage for parental leave and/or military exigency leave would not satisfy the definition of “health insurance” under Maryland law, and would therefore be subject to different statutory requirements, including those related to filing and approval of forms and rates. In the insured market, having inconsistent regulatory requirements for separate “partial” plans that provide disability leave benefits for the employee vs. parental leave benefits or military exigency leave benefits would create a confusing regulatory framework for employers, insurers, and regulators. This complexity would be compounded if parts of the private employer plan are self-funded, and other parts are insured.

The combination option under the existing law would permit a proliferation of “partial” products, where there may be stand-alone options for employee medical leave, family medical leave, parental leave, and military exigency leave. An employer would technically be permitted to satisfy the requirements of the Program with multiple piecemeal plans, some of which may be insured and some of which may be self-funded. As an initial matter, it would be very difficult for regulators to ensure that the combination of several different stand-alone plans satisfies all the requirements of the Program. The MIA must approve the insured components as valid insurance products before they can be issued in Maryland, and MD Labor must approve the entire private employer plan as meeting all the requirements for the Program in order for an employer/employee to be eligible for an exemption. MIA would not be able to assure MD Labor that a filed insurance product satisfies the requirements of the Program prior to MIA approval, if the product filed with MIA is a “partial” plan that must be combined with other insured or self-funded components in order to provide all the required benefits.

Additionally, even if MIA and MD Labor are able to determine that a combination of various “partial” plans meets the minimum requirements of the Program on paper, ensuring that the administration of the benefits under such a plan complies with all Program requirements in operation would present additional difficulties. Even though, for purposes of the Program, the combination plan would be treated as a single private employer plan with alignment of benefits across all types of leave, in reality, each component of the plan may be a separate contract, with multiple insurance companies and the employer responsible for different types of leave. In this situation, employees may experience significant confusion about who to even file a claim with.

For the above reasons, the MIA supports the proposal in Senate Bill 485 to eliminate the combination option for private employer plans, and urges a favorable committee report. The MIA thanks the Committee for the opportunity to share its support.

TTC - SB 485 - FAMILI Modifications - Fav.pdf

Uploaded by: Lisa Klingenmaier

Position: FAV



TESTIMONY ON SB 485 FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM - MODIFICATIONS

Senate Finance Committee

February 16, 2024

Submitted by Lisa Klingenmaier, Manager of the Time to Care Coalition

The Time to Care Coalition is a statewide coalition of nearly 2,000 organizations and individuals - including non-profits, faith communities, unions, and businesses - that has been working since 2016 to establish a comprehensive paid family and medical leave program in Maryland.

The Time to Care Coalition supports SB 485, which modifies the Family and Medical Leave Insurance (FAMLI) program by specifying various aspects of programmatic implementation, including the administration and enforcement of the Time to Care Law.

Passing the Time to Care Act of 2022 last legislative session was a historic victory for all Marylanders - and it was just the first step in realizing Paid Family and Medical Leave in Maryland. The critical work to implement and administer an accessible, equitable, and robust FAMLI program is the next major step in fulfilling the promise of the Time to Care Act of 2022. We are excited by the work of the new FAMLI division at the Department of Labor, and we believe passing SB 485 establishes important administrative parameters for the Department that will set the program firmly on the path toward successful implementation.

The Time to Care Coalition has championed a FAMLI program that follows our five key principals:

- A program must be cost-effective for workers, employers, and the government;
- Cover all working people and apply equally to all working people;
- Reflect an inclusive definition of family and include the well-established reasons people need paid family and medical leave;
- Provide up to 12 weeks of leave and replace a substantial share of workers' usual wages; and
- Protect workers against adverse consequences for taking leave.

Notably, SB 485 requests a delay of the implementation timeline, moving contributions to July 1, 2025 and benefits to July 1, 2026. The Time to Care Coalition is eager for Marylanders to have access to paid leave that the FAMLI program will provide as soon as possible and we also want the program to be robustly accessible and functional. We understand the Department of Labor needs the additional time to build the systems necessary to accept contributions, claims, and pay out benefits, and thus the Coalition supports the delay proposed in SB 485.

The Time to Care Coalition appreciates your consideration and supports SB 485.

For a full list of member organizations visit: timetocare.net

SB0485_FAV_Vaughan.pdf

Uploaded by: Regan Vaughan

Position: FAV

Date: February 16, 2024
To: The Honorable Pamela Beidle, Senate Finance Committee
From: Regan Vaughan, Director of Policy, Family and Medical Leave Insurance
Bill Number: SB 485
Bill Title: Family and Medical Leave Insurance Program - Modifications
Position: **Favorable**

The Time to Care Act created Maryland's Family and Medical Leave Insurance (FAMLI) system. The Department of Labor is working to implement the statute and make FAMLI a reality for Marylanders. Through an extensive stakeholder engagement process, which involved a series of meetings with over 1300 attendees, research on best practices in paid family and medical leave programs in other states, and discussions with sister agencies, the Department of Labor has identified a series of amendments to the Time to Care Act that will provide the Department with the tools and time it needs to effectively implement and administer FAMLI.

SB 485 incorporates these amendments. The requested changes fall into three main categories: additional time, administrative changes, and clarifications and corrections. Taken together, the three groups of changes will allow the Department to effectively administer FAMLI.

TIMELINE

SB 485 will change the timeline for the implementation of the program to provide the State with enough time to build the capacity to collect premium contributions and wage-and-hour reports from every employer in the state. The contribution start date is shifted by three quarters, from October 1, 2024 to July 1, 2025. In order to build up funds that will eventually pay out benefits, the benefit start date will be shifted two quarters, to July 1, 2026. Other dates in the bill were amended to conform to this timeline change.

ADMINISTRATIVE CHANGES

SB 485 amends the definition of "wages" in the FAMLI statute to match the definition of "wages" in the Unemployment Insurance statute. Conforming the definitions will reduce administrative burden for employers and the State by eliminating the need to calculate two different sets of wages for the two programs.

SB 485 adjusts the base periods for both eligibility purposes and the calculation of a claimants' benefits. These adjustments will greatly reduce the administrative burden on employers and the Department. The current statute would potentially require nearly real-time wage data from employers to be implementable, which would impose an unreasonably high burden on employers. The bill's language instead allows the Department to rely on periodically submitted reports, a process already familiar to employers under the Unemployment Insurance program.

The current law allows for employers to offer private plans but lacks detail regarding applications, administration, and enforcement. SB 485 provides clarity. First, the bill improves the sustainability of the State FAML I Trust Fund by spreading the costs for FAML I administration across participants in both the State Fund and private plans. To do this, the bill allows the Department to charge reasonable administrative assessments on employers that choose to use a private plan instead of the State Plan. This ensures that the Department's costs of administering private plans are not borne solely by those choosing to participate in the State Plan, as is the case under current law.

Second, SB 485 describes the factors the Secretary should take into account when evaluating applications for non-commercial (self-insured) employer-provided plans, and requires that private plans either be commercial plans or self-insured, not a combination. These changes will provide the Department with the authority necessary to ensure private plans provide benefits equivalent to the State Plan and have the financial solvency to sustainably provide those benefits.

Finally, although the current law allows the Division to impose certain penalties, the provisions are not broad enough to discourage bad actors and encompass enforcement of the entire title. SB 485 gives the Division the authority to impose the costs of appeals arising from private plans back to the private plans, and attaches mechanisms for enforcement.

CLARIFICATIONS AND CORRECTIONS

SB 485 clarifies that the program is also available to covered individuals who file a claim for benefits to care for a service member for whom they are next of kin, instead of the current language which requires the servicemember to be next of kin of the claimant. This will align FAML I with FMLA.

Current law prohibits the Department from disclosing personal information disclosed to the Department by an applicant for benefits. SB 485 provides the Department with more detailed guidance on what is protected personal information and, consistent with feedback from employers during our stakeholder engagement process, resolves a conflict in the law regarding whether it can be shared with employers.

The current law uses the term "Commissioner" even though there is no Commissioner for FAML I. SB 485 would correct that language.

The current law states that an employer obtaining coverage under a private plan may not deduct from an employee more than the maximum contribution amount. SB 485 clarifies that employers may not deduct more than the maximum *employee* contribution amount (50% of the maximum contribution amount).

Thank you for your attention to this matter. We look forward to our continued work with the committee to make FAML I a reality for Marylanders. The Department respectfully requests a favorable report on SB 485.



Proposed statutory changes to MD's forthcoming **Family and Medical Leave Insurance (FAMLI) System** SB 485/HB 571

Overview

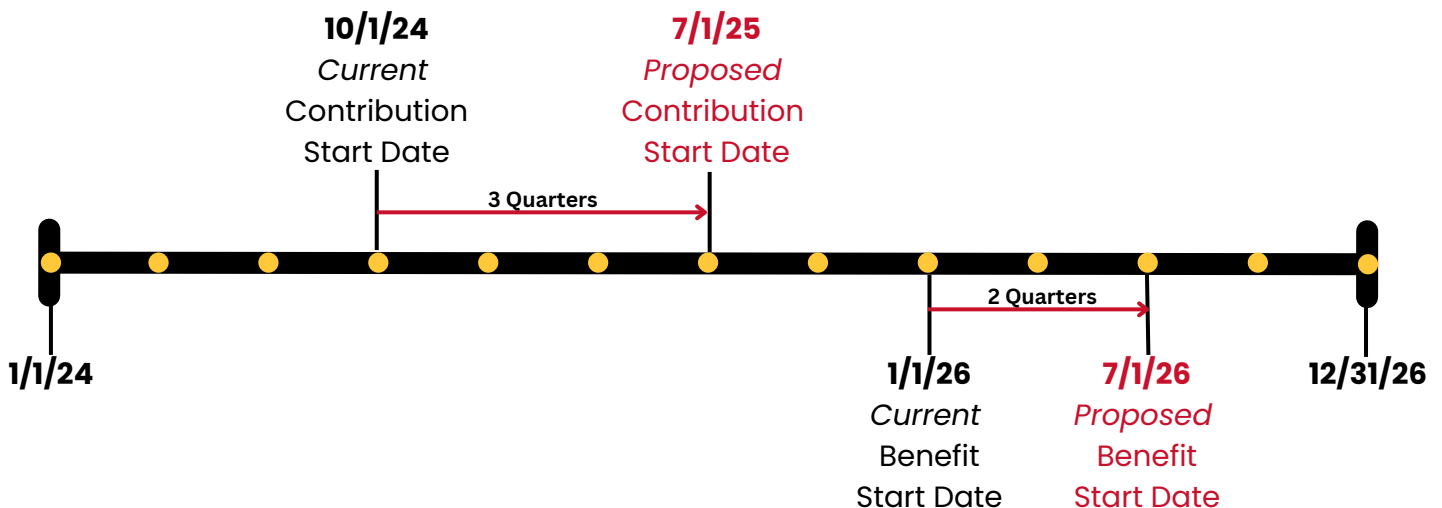
Maryland's Family and Medical Leave Insurance (FAMLI) system was established through the Time to Care Act passed by the Maryland General Assembly in 2022. Starting in 2026, workers will leverage FAMLI to take time away from work to care for themselves or a family member and still receive up to \$1000 a week for up to 12 weeks. The Time to Care Act was amended in 2023 to foster implementation.

In 2024, the Maryland General Assembly will review more proposed amendments to the Time to Care Act via SB 485/HB 571. The Maryland Department of Labor (MD DOL) has made significant progress in a short period of time. To help ensure that Maryland has a paid leave system that serves MD businesses and workers in the best way, the MD DOL is requesting amendments to the law. These amendments fall into three broad categories: a timeline shift; administrative changes; and clarifications and corrections.

Impacts of Bill

Shifting the timeline

The current statutory timeline for implementing paid leave is not feasible. MDOL is seeking additional time before collecting contributions and issuing benefits. The proposed shift is three quarters for contributions and two quarters for benefits. This will provide MDOL with additional leeway to build the systems that will be the backbone of the FAMLI system.



Administrative Changes

- Uses UI definition of wages and alters wage base period.
- Increases privacy protections, while also allowing MD DOL to share necessary information with a claimant's employer.
- Allows MD DOL to set an administrative assessment for employers seeking coverage options alternative to the State Plan.
- Grants MD DOL greater discretion when requiring documentation from employers who apply to be self-insured.
- Strengthens language regarding employee eligibility and contribution amounts in a private plan.
- Expands MD DOL's ability to impose penalties on bad actors.
- Provides MD DOL with grant making authority for FAMLl.
- Requires the use of electronic filing by employers.

Clarifications and corrections

- Clarifies language so that employers choose only one type of private plan.
- Resolves conflicting language surrounding S-Corp and C-Corp owners.
- Clarifies language regarding employee eligibility and contribution amounts in a private plan.
- Adds clarifying language to better define employee eligibility requirements regarding place of work.
- Corrects deviation from FMLA regarding relationship of employee and a service member.

For programmatic questions, please contact Regan Vaughan, Director of Policy for FAMLl, at **Regan.Vaughan@maryland.gov**.

Visit **paidleave.maryland.gov** for more.

Testimony in support of SB0485.pdf

Uploaded by: Richard KAP Kaplowitz

Position: FAV

SB0485_RichardKaplowitz_FAV

2/16/2024

Richard Keith Kaplowitz
Frederick, MD 21703

TESTIMONY ON SB#/0485- POSITION: FAVORABLE

Public Institutions of Higher Education - Student Withdrawal Policy - Reimbursement of Tuition and Fees (Cameron Carden Act of 2024)

TO: Chair Beidle, Vice Chair Klausmeier, and members of the Finance Committee

FROM: Richard Keith Kaplowitz

My name is Richard Keith Kaplowitz. I am a resident of District 3. I am submitting this testimony in support of SB#/0485, Public Institutions of Higher Education - Student Withdrawal Policy - Reimbursement of Tuition and Fees (Cameron Carden Act of 2024)

As a senior student at Frederick Community College currently having earned three degrees from FCC over the last eight years I have been in classes where an emergency family situation has caused a fellow student to withdraw from our class.

A sudden withdrawal by a student is, in an emergency, facing a crisis in which financial resources can make a difference. This bill recognizes that life happens and requires our institutions of higher learning to make allowances for that situation. The reimbursement of tuition and fees can be a lifeline in some instances and may permit the student to resume their education when that emergency has passed.

This bill is an ethical and moral commitment to support every student when something beyond their control makes continuing their students impossible.

I respectfully urge this committee to return a favorable report on SB#/0485.

SB 485 -MSCAN family medical .pdf

Uploaded by: Sarah Miicke

Position: FAV



Maryland Senior Citizens Action Network

MSCAN

AARP Maryland

Alzheimer's Association,
Maryland Chapters

Baltimore Jewish Council

Catholic Charities

Central Maryland
Ecumenical Council

Church of the Brethren

Episcopal Diocese of
Maryland

Housing Opportunities
Commission of
Montgomery County

Jewish Community
Relations Council of
Greater Washington

Lutheran Office on
Public Policy in
Maryland

Maryland Association of
Area Agencies on Aging

Maryland Catholic
Conference

Mental Health
Association of Maryland

Mid-Atlantic LifeSpan

National Association of
Social Workers,
Maryland Chapter

Presbytery of Baltimore

The Coordinating Center

MSCAN Co-Chairs:
Carol Lienhard
Sarah Miicke
410-542-4850

SB 485 –

FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM - MODIFICATIONS

Senate Finance Committee

February 16, 2024

Support

The Maryland Senior Citizens Action Network (MSCAN) is a statewide coalition of advocacy groups, service providers, faith-based and mission-driven organizations that supports policies that meet the housing, health and quality of care needs of Maryland's low and moderate-income seniors.

MSCAN supports SB 485, which modifies the Family and Medical Leave Insurance (FAMLI) program by specifying various aspects of programmatic implementation, including the implementation, administration and enforcement of the Time to Care Law.

Passing the Time to Care Act of 2022 was a historic first step in realizing Paid Family and Medical Leave in Maryland, ensuring that caregivers and older workers can afford to take time from work to care for themselves and for loved ones. In order for the program to be effective, attention must be paid to critical details and parameters so that the program is administered and enforced in a manner that is equitable and accessible to all participants. We are encouraged by the work of the new FAMLI division at the Department of Labor, and we believe that the modifications proposed in SB 485 will help to ensure successful implementation of this important program by addressing some of the key purposes and principles behind the Time to Care law, including: cost-effectiveness for workers, employers and the government; equitable coverage for all working people; defining family in an intentionally inclusive manner; and protecting workers against adverse consequences for taking leave to care for themselves or a family member.

Notably, SB 485 requests a delay of the implementation timeline, moving contributions to July 1, 2025 and benefits to July 1, 2026. MSCAN supports a FAMLI program that will provide benefits as soon as possible, but we also want the program to be successful in its ability to serve its intended purpose in an effective, efficient and fiscally sound manner. We understand the Department of Labor needs the additional time to build the systems necessary to accept contributions, claims, and pay out benefits, and thus MSCAN supports the new time-frame proposed in SB 485.

For the reasons noted above, MSCAN urges a favorable report on SB 485.

SB 485 Family and Medical Leave Insurance Program_

Uploaded by: Tammy Bresnahan

Position: FAV



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SB 485 Family and Medical Leave Insurance Program - Modifications
FAVORABLE
Senate Finance Committee
February 16, 2024

Good afternoon, Chair Beidel, and members of the Senate Finance Committee. I am Tammy Bresnahan, Senior Director of Advocacy for AARP Maryland. AARP, which advocates for the more than two million Marylanders age 50 and older supports SB 485 Family and Medical Leave Insurance Program - Modifications. We thank Senator Hayes for sponsoring SB 485.

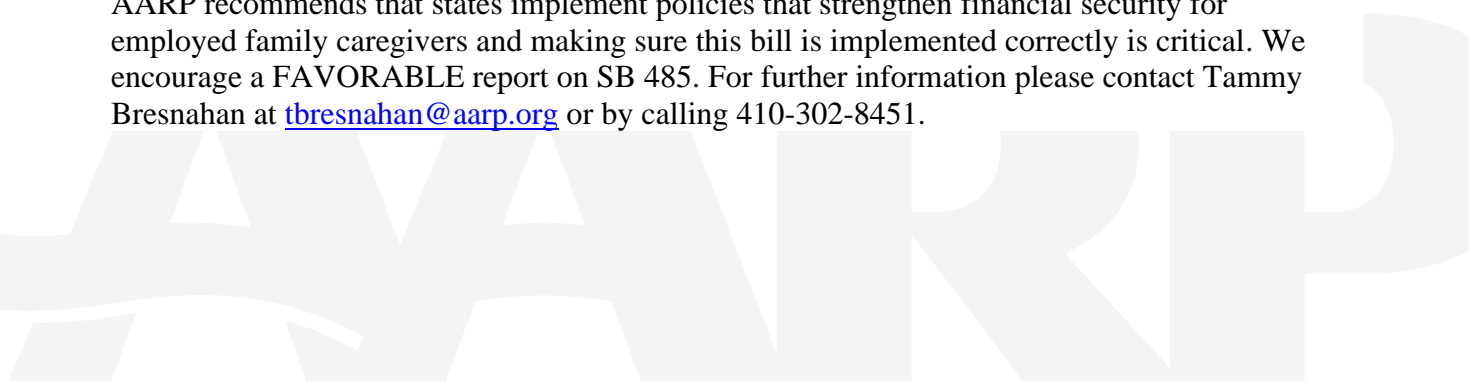
AARP is the largest nonprofit, nonpartisan organization representing the interests of Americans aged 50 and older and their families. Key priorities of our organization include helping all Marylanders achieve financial and health security and supporting critical safety nets for seniors and low-income households in the state.

SB 485 modifies the law governing application, administration, and enforcement of the Family and Medical Leave Insurance Program. It includes provisions related to the payment of contributions, the calculation of the average weekly wage, the submission of claims for benefits, the application of the Program to self-employed individuals, the satisfaction of Program requirements through private employer plans or insurance, and the use of contributions or other funding by the Secretary of Labor.

According to AARP Public Policy Institute, only one and seven workers in the private sector has employer-provided paid family leave. Among caregivers who left the workforce, just over half say they quit their jobs because they did not have the flexibility to keep working and provide elder care. Whether giving or receiving care, older workers are likely to need the time, access to health benefits, and job security that the Family Leave Act provides.

AARP believes Maryland has made significant strides in supporting Maryland's more than 730,000 family caregivers, however, we still have work to do to enable workers to take care of themselves and their loved ones. Passing the Maryland Family Leave Act was and will be a huge step in providing that benefit. It is our belief that the law needs clarifying to be effectively implemented.

AARP recommends that states implement policies that strengthen financial security for employed family caregivers and making sure this bill is implemented correctly is critical. We encourage a FAVORABLE report on SB 485. For further information please contact Tammy Bresnahan at tbresnahan@aarp.org or by calling 410-302-8451.



MML-SB 485- SWA.pdf

Uploaded by: Bill Jorch

Position: FWA



Maryland Municipal League
The Association of Maryland's Cities and Towns

TESTIMONY

February 16, 2024

Committee: Senate Finance

Bill: SB 485 - Family and Medical Leave Insurance Program - Modifications

Position: Favorable with Amendment

Reason for Position:

The Maryland Municipal League (MML) supports Senate Bill 485, with a critical amendment. The bill makes technical but also substantive changes to the Family and Medical Leave Insurance (FAMLI) program, set to provide benefits to working Marylanders in the next few years.

Through the legislative and regulatory process of building the FAMLI program, MML has focused on only a few areas important to our members; one is the ability for employers to provide their employees coverage through a private sponsored plan alternative to the State plan. This element of the puzzle is crucial to allow employers the flexibility to seek out a plan that best fits their employees while also minding their budget. These private sponsored plans must meet the State's standard for coverage and be approved by the Maryland Department of Labor (DoL). As we assist our member municipal governments through this process many are exploring or already committed to exercising the private plan alternative.

However, there is a provision in the bill that raises some concern over the viability of the employer-sponsored alternative. It allows DoL to assess fees on employers that choose to cover their employees through a private plan. This vague language presents a budgeting challenge in the short term as employers are in the process of pricing out plans. It also brings into question the viability of the private sponsored plan option going forward; depending on the frequency and amount of the fee, private plans might get priced out of the market.

In order to address this issue, MML proposes the following amendment to bring the playing field back to level between the private sponsored plans and the State plan.

MML Amendment: Page 7, line 22

~~(3) THE DEPARTMENT MAY ADOPT REGULATIONS THAT ESTABLISH FEES UNDER THIS SECTION.~~



Maryland Municipal League
The Association of Maryland's Cities and Towns

Most of the provisions of SB 485 should allow for the FAMILI program to operate more effectively, however the aspect regarding potential fees on employers that opt to use a private plan is worrisome. For this reason, the League respectfully requests that the committee provide Senate Bill 485 with a favorable report, with the above amendment.

FOR MORE INFORMATION CONTACT:

Theresa Kuhns
Angelica Bailey Thupari, Esq.
Bill Jorch
Justin Fiore

Chief Executive Officer
Director, Advocacy & Public Affairs
Director, Public Policy & Research
Deputy Director, Advocacy & Public Affairs

SB0485-FIN_MACo_SWA.pdf

Uploaded by: Brianna January

Position: FWA



Senate Bill 485

Family and Medical Leave Insurance Program - Modifications

MACo Position: **SUPPORT**
WITH AMENDMENTS

To: Finance Committee

Date: February 16, 2024

From: Brianna January

The Maryland Association of Counties (MACo) **SUPPORTS SB 485 WITH AMENDMENTS**. This bill modifies and alters certain aspects of the Family and Medical Leave Insurance (FAMLI) Program, passed in 2022. Counties, as major employers in Maryland, support the efforts of the bill to adjust the timeline of the FAMLI Program to ensure the State and employers are in the best position to implement and manage the benefit. **However, counties are concerned with language in the bill to authorize the Maryland Department of Labor to collect fees on employers who do not participate in the State Plan and instead offer the FAMLI benefit via an Equivalent Private Insurance Plan (EPIP).**

MACo commends the General Assembly for crafting the FAMLI law to grant employers the flexibility to choose the path best suited for their individual needs in fulfilling the law's requirements of providing paid family and medical leave. In doing so, employers are given three options to manage benefits: participate in the State Plan, seek approval for an EPIP to self-insure, or seek approval for an EPIP to contract with a third party. This appropriately allows each employer to implement FAMLI benefits in the manner most appropriate for its unique circumstances and capabilities.

SB 485 authorizes the Department to adopt regulations to establish and collect fees from employers who do not participate in the State Plan and instead use an EPIP. Counties feel that charging fees to EPIP employers is essentially applying a financial punishment, in the form of a cross-subsidy, on those employers for simply following the law and implementing the benefit in a manner consistent with the General Assembly's intention to grant employers implementation flexibility in managing the newly mandated FAMLI benefits.

Additionally, as drafted, SB 485 does not clarify the amount, scope, or regularity of proposed fees, leaving it up to the Department to determine in regulations. This gives counties pause as they assess the potential costs of implementing the FAMLI benefit and weigh their options for benefits management. **With those considerations, counties respectfully seek an amendment to strike the fees clause on page 7 of the bill (§8.3-705, (a) (3)).**

As such, MACo urges a **FAVORABLE WITH AMENDMENTS** report on SB 485, to make administrative adjustments to the program, but without open-ended fee authority.

SB0485_OCChamber_Thompson_FWA.pdf

Uploaded by: DENNIS RASMUSSEN

Position: FWA



Ocean City, Maryland Chamber of Commerce

410-213-0144 info@oceancity.org
oceancity.org 12320 Ocean Gateway, Ocean City, MD 21842

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 at 410-303-4658, should you have any questions or concerns.

Respectfully submitted,

Amy Thompson
Executive Director
amy@oceancity.org

Joe Schanno
Legislative Committee Chair
joe.schanno@gmail.com

Written Testimony for Senate Bill 485.pdf

Uploaded by: John Werner

Position: FWA

Written Testimony for Senate Bill 485
Family and Medical Leave Insurance Program – Modifications

I would like to thank the committee for considering my testimony. My name is John Werner, I am a tax attorney and current State employee. I am not providing this testimony in connection with my employment, and the opinions expressed in my testimony are my own and not intended to represent the Agency that I work for, or any other State employee.

The Family and Medical Leave Insurance (FAMLI) Program will be a fantastic safety net for Maryland families. I strongly support the Department of Labor's efforts in this bill to increase the administrability and efficacy of the program. Unfortunately, this bill does little to address the ample opportunities for fraud and abuse within the program, specifically with regard to self-employed individuals.

My background is not in insurance or labor, but in tax. Although the vast majority of small business owners are honest, there is a significant group that take advantage of the inherent difficulties in administering tax laws with imperfect information. When a process relies on the honesty of individuals, that process is susceptible to fraud, especially when money is involved. In my testimony I intend to illustrate the problem in current law, as well as offer several solutions that the General Assembly may wish to consider in the future.

As currently constructed, there is no method of identifying fraud or abuse from self-employed individuals. Self-employed individuals are not paid on a regular, predictable schedule, and in some instances can have *negative* income. These factors allow self-employed individuals the opportunity to structure their income and expenses in a way that maximizes their benefit while minimizing, or even negating completely, their liability.

I strongly support the language in this bill amending the current law setting an individual's benefit based on "the last 680 hours for which the covered individual was paid" to the slightly less malleable wages received "in the highest of the previous four completed calendar quarters for which quarterly reports have been required, divided by 13." However, this still provides ample opportunity for abuse.

Consider an individual, Alice, doing seasonal contracting work during the spring and summer months. It would not be unusual for expenses and income to occur at different times, even across quarters. Alice could, in Q2 of Year 1, have \$10,000 in expenses and \$3,000 in income. In Q3, having purchased all of the materials she needs for the job, she has \$0 in expenses and receives the remaining \$17,000 payment. Because she does not operate in Q1 or Q4, this is the full year. Following the annual reconciliation, Alice pays contributions based on her net income of \$10,000. In Q1 of Year 1, Alice applies for benefits to care for her chronically ill family member. Alice does not typically operate in Q1, but that's not relevant to the benefit application. Her benefits are calculated based on her highest quarter of earnings, \$17,000. She receives benefits throughout Q1 - a period in which she would not have earned any income - and repeat

the process beginning in Q2 of Year 2. The contribution amount is set at a total of 0.90%, a self-employed individual pays the full amount of the contribution.

For an individual with an average weekly wage no more than 65% of the State average weekly wage, benefits are 90% of the individual's average weekly wage. For individuals with a higher average weekly wage, benefits are 90% of the individual's wage up to 65% of the State average weekly wage plus 50% of the individual's average weekly wage in excess of the State average weekly wage. The State average weekly wage for the fiscal year ending June 30, 2023 is \$1,456.00.

\$1,465.00 multiplied by 65% equals \$946.40

\$ 946.40 multiplied by 90% equals \$851.76

The formula for calculating benefits with current information would therefore be $.9(W)$ or $851.76 + .5(W - 946.40)$ where W is an individual's average weekly wage.

For our fictitious individual, contributions would come to \$90 per year with an average weekly wage of \$1,308. Her benefit calculation would be:

\$1,308 minus \$946.40 equals \$361.60

\$361.60 divided by 2 equals \$180.80

\$851.76 plus \$180.80 equals \$1,032.56

Because current law limits benefits to a maximum of \$1,000, Alice would receive the maximum weekly benefit of \$1,000 for 12 weeks for a total of \$12,000, more than doubling her annual income.

Beatrice, an employee of an employer for the full year making the same \$10,000 per year would have a contribution amount of \$45 (employees are only responsible for half of the total contribution amount) and an average weekly wage of \$192. Her benefit calculation would be: \$192 multiplied by 90% equals \$173.

Despite earning and paying contributions on the same income amount, Beatrice would receive a total of \$2,076 in benefits, nearly \$10,000 less than Alice.

Catherine, an employee of an employer for the full year making \$68,000 per year, would pay \$306 in contributions and have an average weekly wage of \$1,308. Her benefit calculation would be the same as Alice's and she would receive the same total benefit amount of \$12,000. Between Catherine's \$306 contribution and her employer's \$306 contribution, the total contribution amount on Catherine's income is nearly 7 times Alice's contribution amount.

Unlike in Alice's case, Catherine would be receiving benefits for a period of time where she would typically be earning money. She would be required to either reduce her income by \$308 per week (\$3,696 over 12 week) or use her accrued leave to make up the difference.

This clearly illustrates a problem. The scenario as described is simple enough to happen by accident, let alone be created by fraudulent design. There are, however, some solutions to address this:

First, exclude self-employed individuals from the program. Many states do not provide a benefit to self-employed individuals, and the complexity associated with including them is significant. I don't believe this is the best option, because as I said the vast majority of self-employed individuals are just trying to live their lives and they deserve a safety net.

Second, the General Assembly could create a defined benefit more akin to any other insurance program. It could be based on the State's average weekly wage, minimum wage, or a tiered system. A self-employed individual would still be required to participate for 3 years and pay a premium of 0.9% of the wage base used to calculate the benefit, and would receive a benefit based on that same wage base. There would be no need to even attempt to verify their income because it would be a static calculation. The drawback for this solution would be that a self-employed individual may be required to pay contributions after they have gone out of business. 3 years is an eternity in the life of a small business and this solution would not take into account quarterly or year over year differences in income.

Finally, Maryland could follow what states such as Colorado have chosen to do: base the contribution and benefit amounts on the self-employed individual's annual income for the previous year. Colorado even allows self-employed individuals to decide whether to use gross or net income in determining their contribution and benefit amounts. This method would eliminate the ability and incentive to structure income and expenses in a way to maximize benefits while minimizing contributions without punishing a small business having an off year.

SB 485.Family Leave Act Modifications and Fees.pdf

Uploaded by: John Woolums

Position: FWA

BILL: Senate Bill 485
TITLE: Family and Medical Leave Insurance Program - Modifications
DATE: February 16, 2024
POSITION: SUPPORT WITH AMENDMENTS
COMMITTEE: Finance
CONTACT: John R. Woolums, Esq.

The Maryland Association of Boards of Education (MABE) supports the intent of Senate Bill 485 to improve the administration of the new Family and Medical Leave Insurance (FAMLI) Program and Fund. However, MABE requests an amendment to remove or limit the bill's new authority for the Department of Labor to establish and collect fees from private employer plans.

The Time to Care Act of 2022 establishes the Family and Medical Leave Insurance (FAMLI) Program and Fund to provide up to 12 weeks of benefits to a covered individual taking leave from employment due to personal and family circumstances. The FAMLI Fund consists of contributions from employees and employers, including Maryland's 24 local school systems and municipal and county governments. The law requires that the Secretary of Labor must adopt regulations to implement the program, and must set the total rate of contribution and percentage of the total contribution rate to be paid by employers and employees that will be in effect during the program's initial implementation. Employers and employees are to begin making payroll contributions to the Department of Labor to generate the FAMLI fund and to support benefits payments beginning in 2026. MABE appreciates that Senate Bill 485 would extend implementation dates and make other technical changes to the law.

As the committee knows, the Time to Care Act appropriately provides an exemption for employers who satisfy the requirements of law through their employer plan. Importantly, this exemption provides the opportunity for employers, including public sector employers such as boards of education, counties, and municipal governments, to receive departmental approval to establish employer provider benefits plans. This is why MABE has supported the adoption of the Time to Care Act with assurances that adequate time was provided for clarification of the exemption criteria and application review and approval process. MABE used this time to create a statewide collaborative approach to benefit as many local government entities and their employees as possible.

Today, the Time to Care Act Collaborative established in partnership between MABE, the Maryland Association of Counties (MACo), and the Maryland Municipal League (MML), is working toward the goal of increasing purchasing power with national vendors who will administer the program. In the process, MABE and our partners expect to help save school systems and local governments millions of tax dollars, which instead can be redirected into other budgetary needs. MABE does not believe that our collaborative program, and cost savings to our local government employers and employees that it generates, should be burdened with departmental fees.

For these reasons, MABE requests a favorable report on Senate Bill 485, with an amendment to exempt local government employer provided plans from the Department's new authority to collect fees from employer provided plans.

SB 485_MDCC_FAMLI Program_Modifications_UNFAV.pdf

Uploaded by: Hannah Allen

Position: UNF



LEGISLATIVE POSITION:

Unfavorable

Family and Medical Leave Insurance Program - Modifications

Senate Bill 485

Senate Finance Committee

Friday, February 16, 2024

Dear Chairwoman Beidle and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce (Maryland Chamber) is the leading voice for business in Maryland. We are a statewide coalition of more than 6,800 members and federated partners working to develop and promote strong public policy that ensures sustained economic recovery and growth for Maryland businesses, employees, and families.

SB 485 makes several modifications to the Maryland FAML I program. Some modifications are advantageous to employers like changing the wage reporting requirements from weekly to quarterly and changing the definition of wages to mirror the definition outlined in the unemployment insurance program. However, other changes raise concerns not necessarily of an immediate nature but items that could be problematic in the future. Those concerns are:

1. MDDOL is giving themselves the authority to issue grants.

While grant issuing authority itself is not concerning, businesses are wary that these grants are funded using employer/employee contributions. With such an emphasis on the solvency of the FAML I fund as the program gets propped up, it seems inappropriate to allow MDDOL to give out blanket, uncapped grants without a stated purpose until financial solvency is established.

2. MDDOL is removing the ability for an employer to meet the benefit provisions outside of the state plan through a combination of commercial and self-insured coverage.

Employers must be given every opportunity to find the best and most affordable avenue to offer FAML I benefits. Some employers will choose the state plan, others will choose self-insurance or coverage purchased in the private market. In some cases, a combination of self-insurance and private coverage may make the most sense. Removing the ability to combine multiple plans reduces employer options and may be unnecessarily costly.

3. MDDOL is giving themselves authority to file written complaints if they believe an employer has violated the requirements of the FAML I law.

Like the grant issuing authority mentioned above, MDDOL having the ability to file written complaints is not itself concerning. However, in cases where MDDOL would file written complaints, the entire adjudication process would be under one roof, providing no outside oversight to ensure a fair process. In those cases, MDDOL would file a complaint, investigate the complaint themselves and then decide and carry-out any enforcement action they determined.

The Maryland Chamber looks forward to continuing our conversation with MDDOL on these important areas of concern on SB 485.



ABC_UNFAV_SB0485.pdf

Uploaded by: Martin Kraska

Position: UNF



**Maryland Joint
Legislative Committee**

The Voice of Merit Construction

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February 16, 2024

To: Senate Finance Committee
From: Associated Builders & Contractors
RE: SB 485 - Family and Medical Leave Insurance Program - Modifications
Position: Unfavorable

Associated Builders and Contractors (ABC) represent more than 1500 construction and construction-related companies through its four Maryland chapters. Our members believe in the tenets of free enterprise, investing in their workforce and giving back to the communities in which they live, work and play.

Senate Bill 485 would modify provisions of law governing application, administration, and enforcement of the Family and Medical Leave Insurance Program, including provisions related to the payment of contributions, the calculation of the average weekly wage, the submission of claims for benefits, the application of the Program to self-employed individuals, the satisfaction of Program requirements through private employer plans or insurance, and the use of contributions or other funding by the Secretary of Labor.

ABC is opposed to SB 485, while we acknowledge the importance of supporting families and providing necessary medical leave, we believe that the current proposal imposes constraints on employers, particularly those within the construction industry. We believe that the proposed modifications in this bill language would have a significant burden on employers, hinder economic growth, and undermine the flexibility and innovation necessary for the construction industry to thrive. We urge the committee to reconsider these provisions and work towards a balanced approach that supports employees and employers alike.

ABC appreciates your consideration and, for these reasons, respectfully requests a **unfavorable** report on Senate Bill 485.

*Martin "MJ" Kraska
Government Affairs Director
Chesapeake Shores Chapter*