Department of Legislative Services

Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 102 (Chair, Economic Matters Committee)(By Request - Departmental - Labor)

Economic Matters

Family and Medical Leave Insurance Program - Application Year and Participation of Self-Employed Individuals

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This departmental bill requires the Secretary of Labor to adopt regulations by July 1, 2027, that establish an optional self-employed enrollment program for the Family and Medical Leave Insurance (FAMLI) Program, which must include contribution amounts, benefit amounts, and enrollment procedures. The bill repeals existing provisions and related requirements for self-employed individuals who elect to participate in the program and makes conforming changes. The bill alters the definition of "application year" to mean the 12-month period beginning on the Sunday of the calendar week in which *FAMLI leave begins* instead of when benefits are approved. **The bill takes effect June 1, 2025.**

Fiscal Summary

State Effect: No effect in FY 2025. FAMLI special fund revenues may minimally decrease in FY 2026 and 2027 and FAMLI special fund expenditures may minimally decrease in FY 2027. Beginning in FY 2028, FAMLI special fund revenues and expenditures may minimally increase or decrease annually depending on the regulations adopted by the Maryland Department of Labor (MD Labor). MD Labor can adopt regulations with existing resources.

Local Effect: None.

Small Business Effect: MD Labor has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary: The bill repeals the election process for self-employed individuals to participate in the FAMLI Program, and self-employed individuals are excluded from receiving benefit payments as outlined in statute. Accordingly, self-employed individuals who subsequently elect to participate in the FAMLI Program must contribute to the FAMLI Fund in accordance with adopted regulations instead of contributing an amount equal to the total rate of contribution.

Current Law: Chapter 48 of 2022 established the FAMLI Program, to be administered by MD Labor. Chapters 258 and 259 of 2023 and Chapters 266 and 267 of 2024 made several modifications to the program, including delaying the program's start date.

The program generally provides up to 12 weeks of benefits to a covered individual who is taking leave from employment due to caring for or bonding with certain family members, the individual's own serious health condition, or a qualifying exigency arising out of a family member's military deployment. The weekly benefit is based on an individual's average weekly wage and is indexed to inflation.

A self-employed individual who is a State resident may elect to participate in the FAMLI Program by filing a written notice with the Secretary of Labor in accordance with regulations adopted by the Secretary. An election becomes effective on the date the written notice is filed. The self-employed individual making an initial election must participate for at least three years, after which the self-employed individual may renew participation in the program for a period of at least one year. Self-employed individuals who elect to participate in the program must contribute an amount equal to the total contribution rate.

Family and Medical Leave Insurance Fund

Chapter 48 also establishes the FAMLI Fund, which is a special fund administered by the Secretary of Labor consisting of employee, employer, and self-employed individual contributions, specified application and renewal fees, money collected from specified assessments and hearings, and other specified sources of funds. Funds must be used to pay FAMLI benefits and may be used to pay for public education on the FAMLI Program and any other costs associated with the initial implementation and ongoing administration of the FAMLI Program. Employer, employee, and self-employed individual contributions to the program begin July 1, 2025, and claims for benefits begin July 1, 2026.

Contributions

Required contributions to the program, which are shared equally between employers and employees, are also based on employee wages, although employers with 14 or fewer employees are not required to contribute. The total rate of contribution may not exceed 1.2% of an employee's wages up to and including the Social Security wage base, and the rate is annually adjusted based on a required cost analysis. In September 2023, MD Labor set the initial total rate of contribution at 0.9% of covered wages. This rate will apply for fiscal 2026; thus, beginning July 1, 2025, each employee, each employer with 15 or more employees, and each participating self-employed individual must pay to the Secretary of Labor 0.9% of covered wages up to the Social Security cap, equally divided between employees and employers (self-employed individuals pay the total 0.9% contribution rate).

Benefits

A covered individual may not receive more than 12 weeks of benefits in an application year, except under specified circumstances. A covered individual may take eligible leave on an intermittent leave schedule under specified conditions. The weekly benefit payable to a covered individual is calculated based on the employee's average weekly wage and ranges from a minimum of $50 to a maximum of $1,000 for the six-month period beginning July 1, 2026. Beginning January 1, 2027, the maximum weekly benefit must be increased by the annual percentage growth in the Consumer Price Index, subject to a determination by the Board of Public Works based on expected economic conditions.

Background: The Center for American Progress estimates that in states that allow self-employed individuals to opt in to paid FAMLI programs, the take-up rate is less than 2%. The center speculates that self-employed individuals may not be opting into FAMLI programs due to low awareness of FAMLI programs and that they may not seek out information on FAMLI programs until there is an urgent need for it, at which point it may be too late to enroll.

Maryland, Massachusetts, and Minnesota require self-employed individuals who opt into their FAMLI program to pay the total contribution rate, while states like Colorado, Maine, Oregon, and Washington require self-employed individuals to only pay the employee rate.

State Fiscal Effect: Under current law, self-employed individuals may opt into the FAMLI Program. If they opt in, they must pay the full contribution rate beginning on July 1, 2025, and are eligible to receive benefits beginning on July 1, 2026. Under the bill, self-employed individuals may not opt into the FAMLI Program until MD Labor adopts regulations, which could be as late as July 1, 2027. Thus, FAMLI special fund revenues may minimally decrease in fiscal 2026 and 2027 due to delaying the commencement of contributions by any participating self-employed individuals in the FAMLI Program. Likewise, FAMLI special fund expenditures may minimally decrease in fiscal 2027 due to delaying the commencement of FAMLI benefits to self-employed individuals. The impact is lessened to the extent that MD Labor adopts regulations earlier than July 1, 2027.

Once MD Labor adopts regulations, likely beginning in fiscal 2028, FAMLI special fund revenues and expenditures may annually increase or decrease depending on the regulations that MD Labor adopts, but the overall effect is likely minimal due to anticipated low participation rates of self-employed individuals, as realized in other states.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 225 (Chair, Finance Committee)(By Request - Departmental - Labor) - Finance.

Information Source(s): Maryland Department of Labor; Center for American Progress; Department of Legislative Services

Fiscal Note History: First Reader - January 27, 2025
km/mcr

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Family and Medical Leave Insurance Program - Application Year and Participation of Self-Employed Individuals

BILL NUMBER: HB 102

PREPARED BY:

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

__x__ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

OR

____ WILL HAVE A MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

Summary (if applicable):