HB 102

Department of Legislative Services

Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

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

Economic Matters Finance

Family and Medical Leave Insurance Program - Revisions

This departmental bill delays the Family and Medical Leave Insurance (FAMLI) Program's start dates by 18 months to January 1, 2027, for required contributions and by at least six months to a date that is between January 1, 2027, and January 3, 2028, as determined and announced by the Secretary of Labor, for benefit payments. The bill alters/adds other dates, definitions, prohibitions, and components of program administration, including delaying optional participation in the program for self-employed individuals until regulations are adopted by July 1, 2028. **The bill takes effect June 1, 2025.**

Fiscal Summary

State Effect: No effect in FY 2025. FAMLI special fund revenues decrease by *up to* $1.3 billion annually in FY 2026 and 2027, and expenditures decrease by *up to* $1.8 billion in FY 2027 and $0.9 billion in FY 2028 due to delayed contributions and benefits. The bill effectuates contingent language in the FY 2026 budget as introduced, as amended by Supplemental Budget No. 1. As a result, in FY 2026, FAMLI special fund expenditures for administration decrease by $66.8 million, general fund expenditures increase by $37.3 million, and general fund and federal fund provider reimbursement expenditures decrease by $14.8 million and $14.9 million, respectively; the net effect on general fund expenditures is a $22.5 million increase. Out-year impacts for provider reimbursements and FAMLI revenues/expenditures from regulations are not quantified below. **This bill eliminates a mandated appropriation for FY 2026.**

($ in millions)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
SF Revenue	($1,272.5)	($1,316.9)	(-)	$0	$0
GF Expenditure	$22.5	(-)	$0	$0	$0
SF Expenditure	($66.8)	($1,753.5)	($946.7)	(-)	(-)
FF Expenditure	($14.9)	(-)	$0	$0	$0
Net Effect	($1,213.2)	$436.6	$946.7	$0.0	$0.0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local expenditures decrease in FY 2026 and 2027 due to employer contributions being delayed by 18 months until January 1, 2027. Revenues are not affected.

Small Business Effect: The Maryland Department of Labor (MD Labor) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services disagrees with this assessment due to the amendments, as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

FAMLI Definitions

The bill defines "anchor date" as the earlier of the date on which (1) an application for benefits is complete or (2) leave begins for a covered individual for which FAMLI benefits may be paid. 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 definition of a "covered employee" is altered to be based on performing services under employment in the State over the four most recently completed calendar quarters for which quarterly reports have been required immediately preceding *the anchor date*, as opposed to the date on which leave is to begin.

A covered employee's average weekly wage must be calculated based on wages in the highest of the previous four completed calendar quarters *that immediately precede the anchor date* as specified.

FAMLI Self-employed Enrollment Program

The Secretary of Labor must adopt regulations by July 1, 2028, that establish an optional self-employed enrollment program for the FAMLI Program, which must include contribution amounts, benefit amounts, and enrollment procedures.

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. The bill also makes conforming changes.

Deadlines and Administration of the FAMLI Program

By May 1, 2026, instead of February 1, 2025, the Secretary of Labor must set the total rate of FAMLI contribution, which must be in effect from January 1, 2027, through December 31, 2027, instead of being in effect from July 1, 2025, through June 30, 2026. Beginning November 1, 2027, instead of February 1, 2026, the Secretary of Labor must annually set the FAMLI contribution rate for the following calendar year.

Beginning by October 1, 2027, instead of November 15, 2026, the Secretary must annually conduct a cost analysis of the program and report to specified committees on the results.

The Secretary of Labor must submit an annual report to the Governor and the General Assembly by October 1 instead of November 15 each year.

The weekly maximum benefit is indexed to inflation beginning January 1, 2029, instead of January 1, 2027, and the bill makes conforming changes. An increase in the weekly benefit amount applies only to an application year with an anchor date that occurs on or after the effective date of the increase, instead of only to a claim for benefits that begins after the effective date of the increase.

Instead of notifying each employer, MD Labor must announce the increase to the maximum weekly benefit. After the initial payment, MD Labor must make subsequent payments *at least* every two weeks until the benefit period ends.

MD Labor may not require employers who are allowed to pool together with other employers under current law to purchase insurance to escrow employer and employee contributions before the issuance of FAMLI benefits.

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. Employer, employee, and self-employed individual contributions to the program begin July 1, 2025, and employees can begin filing claims for benefits on July 1, 2026.

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.

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.

Provider Reimbursements for Employer Share of Family and Medical Leave Insurance Contributions

The Maryland Department of Health (MDH) is required to reimburse certain service providers for some or all of the employer share of FAMLI contributions on at least a quarterly basis, as follows:

- for a community provider that is required to be licensed or certified under Title 7 of the Health-General Article, 100% of the employer FAMLI contribution;
- for a community provider that is required to be licensed or certified under Title 7.5 of the Health-General Article, for a percentage of the employer FAMLI contribution that is equal to the percentage of revenue that is attributable to federal and State Medicaid funding and any other State funding received by the provider for the services during the period covered by the reimbursement; or
- for a provider, as defined in § 16-201.4 of the Health-General Article, a percentage of the FAMLI employer contribution that is equal to the percentage of revenue attributable to federal and State Medicaid funding and any other State funding received by the provider for the services during the period covered by the reimbursement.

Background: Along with Maryland, 12 other states (California, Colorado, Connecticut, Delaware, Maine, Massachusetts, Minnesota, New Jersey, New York, Oregon, Rhode Island, and Washington) and the District of Columbia have passed paid family and medical leave laws. Of these states, Delaware, Maryland, Maine, and Minnesota have not yet implemented their programs.

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 Revenues: Delaying required contributions for the FAMLI Program by 18 months from July 1, 2025, to January 1, 2027, decreases special fund revenues from employer and employee contributions. Contributions are due the month after the quarter ends, so delaying the FAMLI Program by 18 months reflects not receiving FAMLI contribution payments from employers and employees for three quarters in both fiscal 2026 and 2027.

In September 2023, MD Labor set the initial total rate of contribution at 0.9% of covered wages, but the bill requires MD Labor to set the initial rate by May 1, 2026. Assuming the 0.9% rate remains unchanged and based on the timing of when quarterly contributions are collected, FAMLI special fund revenues decrease by $1.3 billion annually in fiscal 2026 and 2027 as a result of the delay. Further, this estimate reflects the State as an employer self-insuring, but all other employers participating in the FAMLI Program. To the extent that other employers participate in private plans, the actual decrease in revenues is less.

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, 2028. Thus, FAMLI special fund revenues may further decrease minimally in fiscal 2026 through 2028 due to delaying the commencement of contributions by any participating self-employed individuals in the FAMLI Program. The impact is lessened to the extent that MD Labor adopts regulations earlier than July 1, 2028. Once MD Labor adopts regulations, likely beginning in fiscal 2029, FAMLI special fund revenues 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.

State Expenditures:

Maryland Department of Labor Operating Expenses

MD Labor advises that the bill results in operational savings in fiscal 2026, primarily related to delaying staffing for customer care, claims, and employer services. While delaying the FAMLI Program by 18 months results in operational savings, the delay in FAMLI contributions means that FAMLI Fund revenues are not available to support the program.

The fiscal 2026 budget as introduced includes $66.8 million in special fund expenditures and $14.8 million in federal fund expenditures, with 369 authorized positions and 8 contractual positions. However, the fiscal 2026 budget as introduced as amended by Supplemental Budget No. 1 eliminates the special fund appropriation of $66.8 million and appropriates $37.3 million in general funds to MD Labor, both contingent on the enactment of legislation delaying the implementation of the FAMLI Act. The bill effectuates these contingent actions. Thus, special fund expenditures decrease by $66.8 million in fiscal 2026 and general fund expenditures increase by $37.3 million in fiscal 2026 to fund existing personnel, contracts, and related FAMLI expenses that cannot be deferred. MD Labor advises that there is no cost savings for fiscal 2027 as the unfilled authorized positions will be filled in fiscal 2027, with the delay of the program enabling a longer employee onboarding and training program for customer care, employer services, and claims and benefits teams.

Family and Medical Leave Insurance Benefits

Delaying the start of FAMLI benefits by up to 18 months to January 3, 2028 (at the latest), results in no FAMLI benefits being paid in fiscal 2027 and for half of fiscal 2028. Thus, based on existing projections of future benefit payments under current law, special fund expenditures for FAMLI benefits decrease by *at most* $1.8 billion in fiscal 2027 and $0.9 billion in fiscal 2028, assuming benefits commence January 3, 2028, and no employers participate in private plans. However, the *actual decrease* in benefit payments will be less (1) since the State as an employer will self-insure, along with other employers participating in private plans, thereby lowering benefit payments and (2) if benefit payments commence before January 3, 2028 (but after January 1, 2027). Neither the individual nor the combined impact of these two factors on expenditures can be reliably quantified at this time, particularly as the actual start date for benefits is to be decided in the future.

Under current law, the $1,000 maximum weekly benefit amount increases with inflation beginning January 1, 2027, but the bill delays the increase in inflation by two years until January 1, 2029. As a result of delaying the adjustment to maximum weekly benefit amounts, FAMLI special fund expenditures further decrease annually beginning in fiscal 2027, depending on inflation.

Employer Contributions for State Employees

The State is opting to self-insure for the FAMLI Program so there is no material cost savings to the State as an employer from delaying the start of contributions. Likewise, delaying the start of benefits likely does not have a material impact on the State as an employer.

Self-employed Individuals

FAMLI special fund expenditures may minimally decrease in fiscal 2027 and 2028 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, 2028.

Once MD Labor adopts regulations, likely beginning in fiscal 2029, FAMLI special fund 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.

Service Providers

MDH must reimburse certain service providers for some or all of the employer share of FAMLI contributions on at least a quarterly basis. The fiscal 2026 budget as introduced as amended by Supplemental Budget No. 1 reduces MDH general fund and federal fund expenditures by $14,838,755 and $14,949,024, respectively, in fiscal 2026 contingent on legislation delaying the implementation of the FAMLI Act. Thus, MDH general fund and federal fund expenditures decrease by $14.8 million and $14.9 million, respectively, in fiscal 2026, with additional cost savings in fiscal 2027.

Local Expenditures: Local jurisdictions experience savings from FAMLI contributions being delayed by 18 months until January 1, 2027.

Small Business Effect: The bill delays employer FAMLI contributions by 18 months. Thus, small businesses with at least 15 employees benefit from not having to pay employer FAMLI contributions. Self-employed individuals are unable to participate in the FAMLI Program until MD Labor adopts regulations, which could be as late as fiscal 2029.

Additional Comments: House Bill 352 of 2025 (the Budget Reconciliation and Financing Act of 2025) as amended by the House of Delegates, transfers $37.3 million from the Local Reserve Account to the Division of Paid Leave within MD Labor and requires MD Labor to reimburse the Local Reserve Account within two years after FAMLI contributions begin. The impact of this alternative approach to funding MD Labor in fiscal 2026 has not been accounted for in this analysis.

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; Department of Budget and Management; Maryland Department of Health; Center for American Progress; National Conference of State Legislatures; Department of Legislative Services

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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):