



Central Maryland Chamber
The Center of Intelligent Business

Legislative Position: Unfavorable

House Bill 496

Labor and Employment- Family and Medical Leave Insurance Program Establishment
Senate Finance Committee

February 8, 2022

Dear Chairman Valderrama and Members of the Committee,

The Central Maryland Chamber of Commerce (CMC) was formed in 2017, a merger of two existing chambers- The Baltimore Washington Corridor Chamber (originally founded in 1948) and the West Anne Arundel County Chamber (originally founded in 1962). The CMC is a regional organization representing approximately 350 businesses in the Central Maryland corridor and exists to be the primary business resource and advocate as the area experiences exponential growth.

The Central Maryland Chamber is writing to oppose HB496.

HB8 would establish a Family Medical Leave Insurance program to be administered under the supervision of a new division within the Maryland Department of Labor.

There are a number of major concerns from our members about this bill relating to the funding, implementation, oversight and lack of clarity. Our Chamber agrees that the ability for employees to take family leave is incredibly important, and most of our business members -from the smallest of businesses to large- already have substantial and generous leave packages in place to support their valued employees.

Covid-19 has crushed the business community and economy, and to implement something this costly at the present time will likely be the breaking point for many of our businesses who are struggling to survive. Several of our issues are as follows:

HB496 will have enormous financial impact on all businesses- particularly our small to mid-size businesses and non-profits during a period of continued struggle from the pandemic, workforce shortages, supply chain issues and more. The FMLI Fund will cause significant financial burdens that are unaffordable, especially on top of all the other mandates businesses are currently trying to deal with like sick and safe leave and the increase in minimum wage. Our employers will struggle the most with not only trying to afford such a program but dealing with the significant staffing issues this bill will cause.

The bill as written is unclear and has areas of conflict as to whether the new leave and already offered leave would run concurrently or as a separate leave bank. If it is not concurrent, employers could be facing employees out of work, being paid, for approximately 6 months. This makes it impossible to maintain business operations, adequate staffing levels, and causes workload issues for other team members. It would be incredibly costly for a business to hire temps (which is virtually impossible for



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most industries based on qualifications and workforce shortages) or to hire short term employees who will need to leave when the original employee returns to work as their job has to be guaranteed.

It should not be in the state's hands to review and approve requested leave. The employer would have no role in reviewing, approving, verifying, or managing the leave process. Employees could choose not to show up for work, apply for leave which is up to the state to approve on their own timeline, and leave the employer hanging for extended periods of time with no communication and no recourse.

There needs to be a balance in leave requested by the employee with the needs of business owners trying to conduct daily business, maintain appropriate staffing levels and predictable schedules for their employees. Having an employee, or multiple employees, out for 12- 24 weeks creates huge problems for employers that could literally shut small to mid-size businesses down for good.

Employers should have a role in working collaboratively with their staff person on managing the leave when possible, and there is also no consideration for a brand-new employee's ability to immediately claim paid leave, while their job is held, without prior service to this employer.

There are also conflicts between the definitions in the bill against existing laws like FMLA with some definitions being significantly broader than FMLA. This makes it incredibly difficult for employers to manage multiple programs, different standards, and application of the leave. Most small businesses cannot afford a full time legal/ HR professional to safely handle all of this and you're putting businesses at risk for unintended violations or litigation.

The bill does not provide any verification of the validity of the leave to avoid the abuse of benefits, other than undefined documentation being supplied to the state which the business has no access to. Can an overburdened government agency reliably handle this enormous new program, the claims and required documentation, the amount of communication required from employer and employee to work through these claims, and then adequately investigate each and every claim to verify its validity? The investigation of each claim should be required to avoid mass amounts of fraud expected and as evidenced through the unemployment insurance issues of 2020-2021.

This bill would also encourage employers to remove leave options they already provide, which in some cases are more generous than the ones this plan would offer (paid employer leave at 100% is more beneficial than 50% employer funded with their other 50% being automatically deducted from their paychecks). This will force all employees in the state to funnel all claims through the government instead of working with their employers, which will be an incredible burden for a system that may or may not be able to handle it. Again, the Chamber agrees businesses SHOULD offer their employees leave. Please continue to allow employers to create individual programs that work for their organizations and their employees, even with guidance from the state.

Additionally, the one-year contribution period to set up this fund, utilizing funds from employers and employees before benefits will be awarded raises questions about the future solvency of the fund and if true predictions on claims has been investigated. Has a comprehensive actuarial study been done to create a sufficient fund balance- with appropriate expectations on the number of people who will apply for leave and draw from the fund? No data has been provided on expected benefit payments, average leave, and other details that are imperative for this to work. There is no state or federal backstop for a



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The Center of Intelligent Business

program like this and solvency of fund is a huge obstacle. When the funds are used up quickly, where is the money coming from to fulfill additional claims? Similar programs across the country, set up with improper planning, have been failing and Maryland can learn from the other states who have gone before us.

Lastly, while it's appreciated that the employers aren't bearing 100% of the burden of this fund, we're hearing those employees are in opposition to this bill as well. The feedback is they cannot tolerate another payroll tax, essentially a loss of income in their weekly checks. And for something the majority do not plan to use, especially when their employers already offer leave programs. The employers can't afford to arbitrarily increase all employees' salaries to balance out the employee's loss of income when they're struggling to keep their doors open and then would be essentially bearing 100% of the burden. It raises the question if this bill, while well intended, is trying to force a program on both businesses and individuals who don't necessarily support it.

The Central Maryland Chamber requests that you vote unfavorably on HB496.