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BILL: **House Bill 988**
TITLE: **Family and Medical Leave Insurance Program - Modifications**
DATE: **March 7, 2023**
POSITION: **SUPPORT WITH AMENDMENTS**
COMMITTEE: **Economic Matters**
CONTACT: **John R. Woolums, Esq.**

The Maryland Association of Boards of Education (MABE) supports the intent of House Bill 988 to improve the administration of the launch of the new Family and Medical Leave Insurance (FAMLI) Program and Fund. MABE is requesting two additional amendments to further extend the funding timeline and to guarantee that clear standards are in place to facilitate local plan alignment with the state program.

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 by June 1, 2023, 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 from October 1, 2023, through December 31, 2025. Then beginning October 1, 2023, employers and employees are to begin making payroll contributions to the Department of Labor to generate the FAMLI fund and to support benefits payments in 2025.

MABE appreciates that House Bill 988 proposes to require much needed clarification of the contribution rate and extend the payroll contribution start date. House Bill 988 would 1. Clearly require the Secretary of Labor to set the employer and employee contribution rates by Sept. 1, 2023; and 2. Extend the start date for the mandated funding and payroll contributions to the FAMLI Fund by local school systems and school system employees from October 1, 2023 to Jan. 1, 2024. MABE firmly believes that January 1, 2024 is too soon and occurs in the middle of the fiscal year, thereby presenting funding obligations for school systems and other local government entities in the middle of the fiscal year commencing only a few months away on July 1, 2023. For this reason, MABE requests an amendment to extend the start date for local government and employee payroll contributions until July 1, 2024.

Importantly, these months will not only allow for budget planning for contributions to the state plan but also allow for the complex work of adapting existing school system employee benefits plans to secure the Department of Labor's approval of an exemption. This is why MABE is requesting an amendment to ensure date-certain clarification of the exemption criteria and application review and approval process. 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. Although the law stipulates that an employer plan must be filed with the Department of Labor for approval, no further specific guidance is provided for in statute.

Specifically, MABE requests the committee's support for amendments to reasonably require the Department of Labor to promulgate clear regulatory guidance by no later than January 1, 2024 on the criteria for developing local employee benefits programs that meet the standards for qualifying exemptions. Local school systems and other local governments should be able to rely on formally adopted standards as they work to modify their benefits and pursue a qualifying exemption. In addition, school systems and local governments will utilize this time to develop annual budgets that are fully informed by the established program.

Again, MABE believes that only following this critically important process of establishing the regulatory framework for local plan compliance should school system and school employee contributions be required. Therefore, MABE reiterates the request for the committee's support for an amendment to further extend the start date for payroll contributions from January 1, 2024 to July 1, 2024 in order to align the new funding obligation with the beginning of the fiscal year.

Maryland's local school systems are not granted taxing authority as are most school systems throughout the nation. Instead, each of the 24 local boards is fiscally dependent on the annual appropriations of state and county government funding. In this light, MABE consistently urges the legislature's serious consideration of the fiscal impacts of any new program or funding mandate on local school system budgets. The Time to Care Act's impacts on school systems and our employees therefore not only presents a challenge to school system budgets but also to the local government budgets that will be called on to meet the needs of their respective school systems.

Another important consideration for local school systems is the imperative for adequate numbers of highly qualified professional educators and other school-based staff during the school year. Local governments and school systems are, at present, engaged in negotiating and finalizing budgets to support the Blueprint for Maryland's Future, including the law's requirements for major reforms and increases in employee compensation and working conditions. At the same time, Maryland is coping with a severe teacher shortage. Given these circumstances, while the new employee leave benefits program established by the Time to Care Act requires thoughtful implementation by all employers, it presents unique challenges for local school systems at this time. Again, MABE requests the adoption of amendments benefitting all local government entities, while drawing special attention to the concerns and perspectives of school systems.

For these reasons, MABE requests a favorable report on House Bill 988 with the amendments requested to help ensure that Maryland's local governments and local school systems have clear guidance and sufficient time to adapt their employee benefits programs and make critical budget decisions.