



April 19, 2019

To: Sen. Shanna Bellows and Rep. Michael Sylvester, co-chairs
Members, Committee on Labor & Housing

From: David R. Clough – Maine State Director

Re: LD 1410 – An Act To Create Paid Family and Medical Leave Benefits

This statement in opposition to LD 1410 is made on behalf of the thousands of small business owners throughout Maine who are members of NFIB. They collectively provide jobs and paychecks to about 30,000 people and help form the economic backbone of their communities and the state.

The legislation establishes a benefits program for family and leave that would be financed by payroll “contributions” that must be paid by employees of state, local, and private employers. The mandatory withholdings would be deposited into a Family and Medical Leave Insurance Fund. LD 1410 contains over three pages of definitions, establishes leave eligibility, leave requirements including intermittent leave, payment of benefits, determination of weekly benefit amount, filing for benefits and certification for the leave, prohibited practices, appeals, rulemaking authority by the Maine Department of Labor to implement the new law, annual reports from the director of the Fund, and other provisions to establish the new benefit program. Covered employees would be eligible for up to 20 weeks of leave in a calendar year.

Any rules to implement the program are declared “routine technical” and therefore not subject to formal overview by the Legislature.

NFIB members in Maine were recently asked:

Should Maine create a family and medical leave insurance (FMLI) program that is funded by employees?

4% - Yes 81% - No 15% - Undecided

These small business owners are concerned whether the program can be financed only by employee withholdings, the effect of utilization, the impact on daily operations, and various direct and indirect costs to employers.

To the extent that only 16% of workers in private businesses national have access to paid family leave, according to the U.S. Bureau of Labor Statistics, LD 1410 likely would significantly increase that percentage and therefore significantly impact businesses. To the extent that smaller employers are less likely than larger employers to provide paid family leave, the likely impact on smaller employers could be very significant.

An analysis of similar legislation this year in Maryland, prepared by the General Assembly’s Department of Legislative Services, said of the small business effect: “[M]ore employees may take leave and take leave for longer periods of time.”

LD 1410, in the context of existing Maine law and expected enactment of LD 369 as amended by a majority of the Committee, suggests that enactment of the proposed Paid Medical and Family Leave law would increase direct and indirect challenges facing thousands of small businesses in Maine:

- Dozens of small business owners have testified about their struggles to adapt to an \$11 minimum wage and the increase to \$12 in 2020.
- Maine Family Medical Leave (Title 26, Chapter 7, Subchapter 6-A) applies to private employers with 15 or more employees and municipal employers that employ 25 or more.
- Proposed Maine Earned Paid Leave law (proposed Majority amendment to LD 369) applies to employers that employ more than 10 employees.

NFIB members also share the concerns of other people who suggest an actuarial analysis to determine the parameters of a financially sound program as well as the concern that enactment of LD 1410 would pave the way for a new payroll tax on employers in the future.

Thank you for considering the interests of NFIB members, Maine small business owners.



<https://www.bls.gov/opub/ted/2019/access-to-paid-and-unpaid-family-leave-in-2018.htm>

TED: The Economics Daily

Access to paid and unpaid family leave in 2018

FEBRUARY 27, 2019

In March 2018, 17 percent of all civilian workers had access to paid family leave, and 89 percent had access to unpaid family leave. Employers provide family leave for employees to care for family members. This leave includes maternity and paternity leave. The leave also may be available to care for a newborn child, an adopted child, a sick child, or a sick adult relative. Access to family leave varied by establishment size.

Sixteen percent of private industry workers had access to paid family leave, and 88 percent had access to unpaid family leave. Eleven percent of workers in the smallest establishments (1 to 49 workers) had access to paid family leave, and 80 percent had access to unpaid family leave. Twenty-five percent of workers in the largest establishments (500 workers or more) had access to paid family leave, and 94 percent had access to unpaid family leave.

Paid family leave was available to 25 percent of state and local government workers, and 94 percent had access to unpaid leave. For workers in the smallest establishments (1 to 49 workers), 23 percent had access to paid family leave, and 93 percent had access to unpaid family leave. For workers in the largest establishments, 25 percent had access to paid family leave and 95 percent had access to unpaid family leave.

These data are from the National Compensation Survey – Benefits program.