



# 132nd MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2025

---

Legislative Document

No. 1333

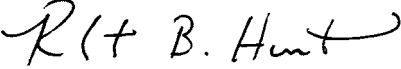
H.P. 868

House of Representatives, March 27, 2025

### **An Act to Make Changes to the Paid Family and Medical Leave Benefits Program**

---

Reference to the Committee on Labor suggested and ordered printed.

  
ROBERT B. HUNT  
Clerk

Presented by Representative POIRIER of Skowhegan.  
Cosponsored by Senator HAGGAN of Penobscot and  
Representatives: ARDELL of Monticello, DUCHARME of Madison, FAULKINGHAM of  
Winter Harbor, FOLEY of Wells, FREDETTE of Newport, HAGGAN of Hampden, MORRIS  
of Turner, RUDNICKI of Fairfield.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 26 MRSA §850-A, sub-§9, ¶A**, as enacted by PL 2023, c. 412, Pt. AAA,  
3 §7, is amended to read:

4 A. Earned at least 6 times the state average weekly wage in wages subject to premiums  
5 under this subchapter during the individual's base period or elects coverage and meets  
6 the requirements of section 850-G; ~~and~~

7 **Sec. 2. 26 MRSA §850-A, sub-§9, ¶B**, as enacted by PL 2023, c. 412, Pt. AAA,  
8 §7, is amended to read:

9 B. Meets the administrative requirements outlined in this subchapter and any rules  
10 adopted pursuant to this subchapter and files an application for family leave benefits  
11 or medical leave benefits; and

12 **Sec. 3. 26 MRSA §850-A, sub-§9, ¶C** is enacted to read:

13 C. Has been employed for at least 120 days by the employer from whom the employee  
14 is taking leave.

15 **Sec. 4. 26 MRSA §850-A, sub-§27**, as enacted by PL 2023, c. 412, Pt. AAA, §7,  
16 is amended to read:

17 **27. Self-employed individual.** "Self-employed individual" means an independent  
18 contractor as described in section 1043, subsection 11, paragraph E, a sole proprietor; or a  
19 member of a limited liability company or limited liability partnership, if the contractor,  
20 proprietor, limited liability company or limited liability partnership has fewer than 15  
21 employees, or an individual whose net profit or loss from a business must be reported to  
22 the Department of Administrative and Financial Services, Bureau of Revenue Services and  
23 who resides in the State.

24 **Sec. 5. 26 MRSA §850-B, sub-§5**, as amended by PL 2023, c. 643, Pt. ZZZ, §4, is  
25 further amended to read:

26 **5. Intermittent leave requirements.** Leave permitted by this section may be taken  
27 by an employee intermittently in increments equaling not less than one day, or on a reduced  
28 leave schedule otherwise agreed to by the employee and the employer, except that the  
29 employee and employer may not agree for leave to be taken in increments of less than one  
30 hour. The taking of leave intermittently or on a reduced leave schedule pursuant to this  
31 subsection may not result in a reduction in the total amount of leave to which the covered  
32 individual is entitled under this subchapter. The administrator shall review requests by an  
33 employer to review the intermittent leave schedules used by employees. An employer may  
34 make no more than 2 requests per year.

35 **Sec. 6. 26 MRSA §850-B, sub-§10, ¶D**, as enacted by PL 2023, c. 412, Pt. AAA,  
36 §7, is amended to read:

37 D. Require a public employer, ~~as defined in section 962, subsection 7,~~ or employee of  
38 ~~a public~~ an employer that is a party to a collective bargaining agreement in existence  
39 ~~on the effective date of this subchapter~~ October 25, 2023 to apply any of the rights and  
40 responsibilities under this subchapter until the existing collective bargaining agreement  
41 expires.

1           **Sec. 7. 26 MRSA §850-B, sub-§11**, as enacted by PL 2023, c. 412, Pt. AAA, §7,  
2 is amended to read:

3           **11. Concurrent with leave under state and federal law.** Leave taken under this  
4 subchapter runs concurrently with leave taken under the federal Family and Medical Leave  
5 Act of 1993, 29 United States Code, Section 2611, et seq., and under subchapter 6-A.  
6 Employees may take leave under this subchapter while ineligible for leave under the federal  
7 Family and Medical Leave Act of 1993 in the same benefit year. An employee may not  
8 take leave under this subchapter unless leave available to the employee under the federal  
9 Family and Medical Leave Act of 1993 is taken concurrently.

10           **Sec. 8. 26 MRSA §850-D, sub-§2**, as enacted by PL 2023, c. 412, Pt. AAA, §7, is  
11 amended to read:

12           **2. Filing of application.** An individual may file an application for family leave  
13 benefits or medical leave benefits no more than 60 days before the anticipated start date of  
14 family leave and medical leave and no more than ~~90~~ 30 days after the start date of family  
15 leave and medical leave. The administrator shall waive the ~~90-day~~ 30-day filing deadline  
16 for good cause. The administrator shall institute forms and procedures that are not unduly  
17 burdensome to an individual claiming benefits.

18           **Sec. 9. 26 MRSA §850-D, sub-§3**, as enacted by PL 2023, c. 412, Pt. AAA, §7, is  
19 amended to read:

20           **3. Notification of employer.** The administrator shall notify the relevant employer  
21 within 5 business days of a claim being filed pursuant to this subchapter. The administrator  
22 shall also notify the relevant employer within 5 business days of a claim being approved.

23           **Sec. 10. 26 MRSA §850-F, sub-§2**, as enacted by PL 2023, c. 412, Pt. AAA, §7,  
24 is amended to read:

25           **2. Employer to remit employer contribution reports and premiums.** Beginning  
26 January 1, 2025, for each employee, an employer shall remit employer contribution reports  
27 and premiums in the form and manner determined by the administrator. Employer  
28 contribution reports and premiums must be remitted quarterly. The department shall post  
29 on its publicly accessible website no later than February 1st of each year the dates by which  
30 contribution reports and premiums must be remitted.

31           **Sec. 11. 26 MRSA §850-F, sub-§5**, as enacted by PL 2023, c. 412, Pt. AAA, §7,  
32 is amended to read:

33           **5. Employers.** The following provisions govern employers.

34           A. An employer with 15 or more employees may deduct up to 50% of the premium  
35 required for an employee by subsection 3 from that employee's wages and shall remit  
36 100% of the combined premium contribution required by subsection 3 to the fund. An  
37 employer subject to a collective bargaining agreement is not required to bargain the  
38 decision to deduct up to 50% of the premium required from an employee's wage.

39           B. An employer with fewer than 15 employees may deduct up to 50% of the premium  
40 required for an employee by subsection 3 from that employee's wages and shall remit  
41 50% of the premium required by subsection 3 to the fund.

1 An employer that deducts a portion of the premium from employee wages may collect any  
2 missed or incorrect deductions in any of the succeeding 8 payment periods as long as the  
3 collection occurs within 3 months of the missed or incorrect deduction. For the purposes  
4 of determining liability for premiums, an employer with 15 or more employees on the  
5 employer's established payroll in 52 calendar workweeks in the 12-month period preceding  
6 September 30th of each year is considered an employer of 15 or more employees for the  
7 calendar year thereafter. For the purpose of calculating the number of employees, the  
8 method used defaults to the mechanism established for determining unemployment  
9 insurance liability as described in chapter 13.

10 **Sec. 12. 26 MRSA §850-F, sub-§9**, as enacted by PL 2023, c. 412, Pt. AAA, §7,  
11 is amended to read:

12 **9. Failure or refusal to make premium contributions.** An employer that fails or  
13 refuses to make premium contributions as required in this section ~~must~~ may be assessed  
14 1.0% of its total annual payroll for each year it so failed to comply in addition to any  
15 amounts previously owed, or fraction thereof, in addition to the total amount of family  
16 leave benefits and medical leave benefits paid to covered individuals for whom it failed to  
17 make premium contributions. The rate of assessment imposed by this subsection must be  
18 adjusted annually consistent with subsection 3, paragraph B. The department shall exercise  
19 discretion to waive, in whole or in part, the amount of any such payments if the recovery  
20 would be against equity and good conscience.

21 **Sec. 13. 26 MRSA §850-G, sub-§1**, as enacted by PL 2023, c. 412, Pt. AAA, §7,  
22 is amended to read:

23 **1. Self-employed individual.** A self-employed individual, including an independent  
24 contractor, sole proprietor or partner, may elect coverage under this subchapter for an initial  
25 period of not less than 3 years. The self-employed individual shall file a notice of election  
26 in writing with the commissioner, as required by the department. The election becomes  
27 effective on the date of filing the notice. As a condition of election, the self-employed  
28 individual must agree to supply any information concerning wages that the department  
29 considers necessary. Notwithstanding section 850-F, subsection 4, a self-employed  
30 individual electing coverage for the first time must pay 1/4 of one year's worth of premiums  
31 as a condition of enrollment.

32 **Sec. 14. 26 MRSA §850-H, sub-§7**, as enacted by PL 2023, c. 412, Pt. AAA, §7,  
33 is amended to read:

34 **7. Cost of administration.** ~~The department shall annually determine the total amount~~  
35 ~~expended by the department for costs arising out of the administration of private plans. An~~  
36 ~~employer offering a private plan pursuant to this section shall reimburse the department for~~  
37 ~~the costs arising out of the private plan in the amount, form and manner determined by the~~  
38 ~~department by rule. The department may recover reasonable expenses incurred by the~~  
39 ~~department for the oversight of private plans by assessing a renewal fee on each employer~~  
40 ~~offering a private plan. The renewal fee may not exceed \$250 for an employer with fewer~~  
41 ~~than 50 employees and \$500 for an employer with 50 or more employees. The department~~  
42 ~~shall transfer payments received pursuant to this subsection to the fund. The department~~  
43 ~~shall report to the authority annually the amount of money collected pursuant to this~~  
44 ~~subsection in the preceding year.~~

1           **Sec. 15. 26 MRSA §850-H, sub-§9** is enacted to read:

2           **9. Department to post documents required from employers.** The department shall  
3 post on its publicly accessible website the appropriate tax forms, based on guidance from  
4 the United States Internal Revenue Service and the Department of Administrative and  
5 Financial Services, Maine Revenue Services, that employers with approved private plans  
6 must provide to employees taking leave.

7           **Sec. 16. 26 MRSA §850-J, sub-§1**, as enacted by PL 2023, c. 412, Pt. AAA, §7,  
8 is amended to read:

9           **1. Restoration to position upon return to work.** ~~Except for an employee who has~~  
10 ~~not been employed for at least 120 days, an~~ An employee who exercises the right to family  
11 leave or medical leave under this subchapter is entitled, upon return from that leave, to be  
12 restored by the employer to the position held by the employee when the leave commenced  
13 or to be restored to an equivalent position with equivalent employment benefits, pay and  
14 other terms and conditions of employment. ~~This subsection does not apply to an employee~~  
15 who is absent from work for more than 5 days without providing notice to the employer.

16           **Sec. 17. 26 MRSA §850-Q**, as enacted by PL 2023, c. 412, Pt. AAA, §7, is amended  
17 to read:

18 **§850-Q. Rulemaking**

19           The department shall adopt rules as necessary to implement this subchapter. Initial  
20 rules necessary for implementation of this subchapter must be adopted by the department  
21 by January 1, 2025. Rules adopted pursuant to this subchapter are ~~routine technical~~ major  
22 substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

23           **Sec. 18. 26 MRSA §850-R**, as enacted by PL 2023, c. 412, Pt. AAA, §7, is repealed  
24 and the following enacted in its place:

25 **§850-R. Effect of existing employer benefits for family and medical leave**

26           This subchapter may not be construed to prohibit:

27           **1. Receipt of benefits pursuant to agreement or policy.** An employee entitled to  
28 receive benefits for family leave or medical leave under a collective bargaining agreement  
29 or employer policy from also receiving benefits under this subchapter as long as the  
30 employee is otherwise eligible for benefits under this subchapter; or

31           **2. Reduction of benefits to not exceed weekly wage.** An employer under a collective  
32 bargaining agreement from reducing total benefits, including benefits under this  
33 subchapter, so that benefits do not exceed 100% of the employee's average weekly wage.

34 **SUMMARY**

35           This bill makes the following changes to the paid family and medical leave benefits  
36 program.

37           1. It requires an employee to be employed with an employer for 120 days before being  
38 eligible to take leave.

39           2. It clarifies that the definition of "self-employed individual" applies only to employers  
40 with less than 15 employees.

- 1           3. It allows employers to have intermittent leave schedules reviewed by the program  
2 administrator.
- 3           4. It applies the same delay of implementation to private employers with collective  
4 bargaining agreements as currently applies to public employers.
- 5           5. It prohibits the taking of paid leave unless the employee simultaneously takes any  
6 available unpaid leave.
- 7           6. It reduces the retroactive application deadline from 90 days to 30 days.
- 8           7. It requires the paid family and medical leave benefits program administrator to give  
9 employers 5 days' notice of leave being approved for an employee.
- 10          8. It requires the Department of Labor to post on its publicly accessible website no later  
11 than February 1st of each year the dates by which contribution reports and premiums must  
12 be remitted.
- 13          9. It relieves employers with collective bargaining agreements of the obligation to  
14 bargain over the employee's share of the premium.
- 15          10. It allows employers to correct mistakes in the employee share of taxes for up to 3  
16 months.
- 17          11. It establishes a 52-week formula for calculating the 15-employee threshold.
- 18          12. It changes the applications of penalties against employers from mandatory to  
19 discretionary.
- 20          13. It requires self-employed individuals who elect coverage to pay 1/4 of a year's  
21 worth of premiums upon first applying for coverage.
- 22          14. It places limits on the fees charged for private plan substitutions.
- 23          15. It requires the Department of Labor to post on its publicly accessible website the  
24 appropriate tax forms, based on guidance from the United States Internal Revenue Service  
25 and the Department of Administrative and Financial Services, Maine Revenue Services,  
26 that employers with approved private plans must provide to employees taking leave.
- 27          16. It clarifies that the provision that provides that an employee who takes leave is  
28 entitled to be restored to the employee's former position does not apply to an employee who  
29 is taking retroactive paid leave and who did not notify the employer for more than 5 days  
30 of the employee's absence.
- 31          17. It changes rules from routine technical to major substantive.
- 32          18. It clarifies that at no time may an employee receive benefits of over 100% of the  
33 employee's wages.
- 34          19. It establishes that employee count is determined using an existing method to  
35 calculate unemployment insurance liability.