Testimony in Support of LD 1712:
"An Act to Amend the Paid Family and Medical Leave Benefits Program to Balance Support of Businesses and Employees"

Senator Tipping, Representative Roeder, and the distinguished members of the Committee on Labor, my name is Harris Van Pate, and I serve as policy analyst for Maine Policy Institute. Maine Policy is a free-market think tank, a nonpartisan, non-profit organization that advocates for individual liberty and economic freedom in Maine. Thank you for the opportunity to submit testimony in support of LD 1712, "An Act to Amend the Paid Family and Medical Leave Benefits Program to Balance Support of Businesses and Employees."

At its core, Maine Policy Institute believes that empowering individuals and businesses, not growing government mandates, is the best path toward prosperity. While LD 1712 does not go nearly far enough, it does take necessary steps toward protecting small businesses from some of the most egregious overreaches of the PFML program.

Positive Reforms Contained in LD 1712

First, the bill clarifies the "undue hardship" exemption, offering employers facing significant operational challenges — particularly small employers, seasonal businesses, and those experiencing labor shortages — the ability to reasonably deny leave without risking costly legal battles. LD 1712 sensibly lists specific conditions that constitute undue hardship, such as employing fewer than 15 employees or operating during critical periods of peak seasonal revenue.

Second, LD 1712 extends a much-needed exemption for employers subject to collective bargaining agreements (CBAs), aligning the exemption for private sector CBAs with the existing one for public sector CBAs. This ensures consistency and fairness across industries, recognizing the need to respect pre-existing negotiated agreements until they expire.

Third, the bill rationalizes the calculation of benefits by replacing the complicated two-tiered system (90% wage replacement up to 50% of the state average wage, then 66%) with a simpler, more sustainable formula: 65% of the employee's average weekly wage. This streamlining improves predictability for both employers and employees and avoids the perverse incentives of excessively high wage replacement rates.

Additionally, LD 1712:

- Establishes more precise application deadlines: 15 days after the start of family leave and 30 days after the start of medical leave, promoting prompt filings and administrative efficiency.
- Institutes modest penalties for noncompliance — $50 per employee — and allows the Department of Labor to waive fines for inadvertent errors, recognizing the complexity of the new law.
- Applies Maine state income tax withholding to PFML benefits, treating them similarly to other taxable forms of income, and ensuring appropriate revenue collection.

These reforms represent necessary corrections to what was otherwise an unworkable and overly burdensome program hastily adopted without sufficient consideration for Maine's small businesses, particularly in rural areas.

More Reform is Needed

Despite these improvements, Maine Policy Institute must emphasize that LD 1712 does not fully address the fundamental flaws of the PFML program itself. Maine's small businesses — already struggling under the weight of high labor costs, rising energy expenses, and heavy regulation — should not be forced to subsidize a costly new entitlement through mandatory payroll taxes.

Experience in other states demonstrates that government-run PFML programs are prone to ballooning costs, poor service, fraud, and dependency.[1] [2] Rather than expanding state control over private employment relationships, Maine should pursue market-based alternatives that empower workers and employers to negotiate paid leave benefits that meet their unique needs, just as many businesses did voluntarily following the 2017 federal tax reforms.

Conclusion

In sum, while LD 1712 offers prudent and meaningful amendments to mitigate some of the most harmful aspects of the new PFML system, it falls short of the broader repeal that Maine businesses truly deserve.

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[1] "In two of its first four years, the PFML program had negative net income. This means that expenses (benefits and administrative costs) exceeded revenue (premiums and investment income)."
https://leg.wa.gov/jlarc/reports/2024/PFML/p_11/default.html

[2] "In FY 2024, the Department approved 179,564 applications for PFML. This is a 25.26% increase in approved applications over FY 2023.
https://worklaw.com/blog/massachusetts-department-of-family-and-medical-leave-issues-important-pfml-updates

We respectfully urge the committee to pass LD 1712 as a step toward correcting course, but to continue working toward a future where Mainers enjoy flexibility, opportunity, and prosperity free from heavy-handed government mandates. Thank you for your time and consideration.