



May 24, 2023

**TESTIMONY BEFORE THE JOINT STANDING COMMITTEE ON LABOR AND
HOUSING IN OPPOSITION TO LD 1964**

**An Act to Implement the Recommendations of the Commission to Develop a Paid
Family and Medical Leave Benefits Program**

Senator Tipping, Representative Roeder and members of the Labor and Housing Committee. My name is Dirk Gouwens and I am the Executive Director of the Ski Maine Association. Ski areas in Maine have an annual economic impact of nearly \$500 million and they employ roughly 5000 Maine workers each year. They are the backbone of their rural communities. Two of our ski areas are the second largest employers in their county.

Paid family and medical leave is an employee benefit that should be considered for the future. However, the recommendations made by this commission with no input from the business community is not what would be best for Maine employees and employers.

Other states in New England and New York (our closest neighbors) have implemented PFML programs but none of them resemble what has been proposed by the Commission. These states chose programs that are either fully voluntary with coverage at around 6 weeks, or are fully funded by employees with wage replacement rates at a much lower level.

- **\$400 million tax hike.** The commission estimates this program will cost roughly \$400 million per year and possibly more. Funded by .5% payroll tax paid by employer and employee each. Maine residents already have the third highest tax burden in the nation. (*WalletHub 2022 Tax Burden by State*) Only Hawaii and New York residents are burdened more. Adding this additional tax will surely bring us to the highest, or second highest taxed state in the nation.
 - o Additional tax hikes are possible if the program does not remain solvent.
 - o In addition, Maine taxpayers will be asked to pay an additional \$65 million to create a new department in state government to oversee the program.
- **No small business exemption.** While employers with fewer than 15 total employees do not have to pay the .5% tax, they must still provide up to three months paid leave and guarantee the job position upon an employees return.
 - o Small employers cannot just “absorb” the missing employee. How do they find replacement workers for short periods of time in the current work environment?
- **No exemption for seasonal, part-time or temporary workers.** Ski Areas are seasonal employers. With the commissions program, an employee could begin

Dirk Gouwens – Executive Director

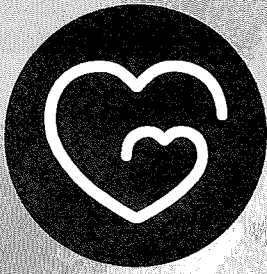
Ski Maine Association, PO Box 689, Farmington, ME 04938
www.skimaine.com (207) 773-SNOW (7669 (o) (207) 653-5590 (mobile)

their four month employment term, take leave after just 7 days and return with just a few weeks left in the season. The ski area would be forced to find another employee to fill the bulk of the person on leave's employment term. Most other states have minimum qualifications for leave beginning at around 26 weeks after the start of employment.

- o The commission does not address what happens when a seasonal worker decides to take leave with just a week or so left in their employment term.
- With a wage replacement rate of up to 90% of the employee's average wage, the system is **ripe for fraud**. Most other states with PFML programs have wage replacement rates in the 60 – 65% range. In recent years, Maine has seen significant increases in unemployment fraud. ([WGME – Undemployment fraud on the rise in Maine](#))
 - o The subjective definition of "Family Members" will contribute to the level of fraud. The criteria is so broad, almost anyone could find someone to claim as a "Family Member".

We urge you to vote ought not to pass on this bill and in the future work with the business community in a non-partisan way to find a workable solution to PFML in Maine.

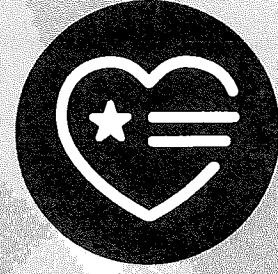
NEW YORK PAID FAMILY LEAVE (PFL)



BOND with a child



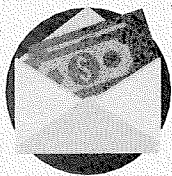
CARE for a family member



ASSIST military families



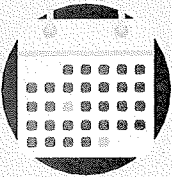
Paid Family Leave may also be available for use in situations when you or your minor dependent child are under an order of quarantine or isolation due to COVID-19. See PaidFamilyLeave.ny.gov/COVID19 for full details.



PFL Benefits

67% Wage Benefits

Receive 67% of your average weekly wage, up to a cap.



Up to 12 Weeks of Leave

Can be taken all at once, or in full-day increments.



Strong Protections

- ✓ Return to same or comparable job.
- ✓ Continued health insurance.
- ✓ No discrimination or retaliation.



How to Request PFL

Give 30 days' notice to your employer, if foreseeable.

Complete request forms and submit to your employer's insurance carrier.

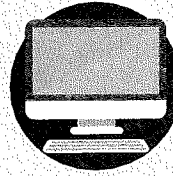
Carrier pays or denies benefits within 18 days of receiving your completed request.



Who Can Request PFL?

Generally, Employees Who:

- ✓ Work for a private employer in New York State, or a public employer who has opted in.
- ✓ Meet the time-worked requirements:
 - Full-time (regularly work 20 or more hours/week), after 26 consecutive weeks of employment.
 - Part-time (regularly work fewer than 20 hours/week), after 175 working days.



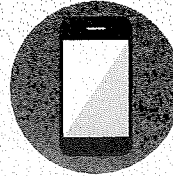
Resources

PaidFamilyLeave.ny.gov

Visit the website for more information and to download PFL request forms.

844-337-6303

Call the toll-free PFL Helpline
8:30 a.m. to 4:30 p.m.
Monday – Friday



STRONG FAMILIES, STRONG NEW YORK



Paid Family Leave

Information for Employers



Paid Family Leave

Paid Family Leave provides you with a structure to help your employees care for their families in times of need. Paid leave has been shown to increase workplace morale and employee retention. New York Paid Family Leave is fully funded by employee payroll contributions.

New York State Paid Family Leave provides job-protected, paid time off to employees who need time away from work to:



BOND

with a newly born, adopted, or fostered child



CARE

for a family member with a serious health condition



ASSIST

loved ones when a family member is deployed abroad on active military service

What coverage do employers need?

Most private employers with one or more employees in employment in New York State are required to have Paid Family Leave insurance in place. Generally, this coverage is added to your existing disability benefits policy. The insurance policy provides payment of the Paid Family Leave benefit to your employees. Public employers may choose to offer Paid Family Leave to their employees. Public employers with union-represented employees may offer Paid Family Leave if it is negotiated through a collective bargaining agreement.

What if you already offer Paid Family Leave?

You must ensure that your Paid Family Leave benefit offers what the law requires, at minimum; however, you may choose to supplement with a more generous leave policy. Covered employers are required to purchase an insurance policy or provide Paid Family Leave benefits directly if approved as a self-insured employer. If you pay full wages to your employees while they are on Paid Family Leave, you may seek reimbursement from your insurance carrier for the amount payable under your Paid Family Leave policy.

How is Paid Family Leave funded?

Paid Family Leave is funded through employee payroll contributions that are set each year to match the cost of coverage. The rate of employee contributions is reviewed annually, and is subject to change by the New York State Department of Financial Services. Visit PaidFamilyLeave.ny.gov/cost for the current contribution rate and annual maximum contribution.

What are the benefits?

Paid Family Leave provides time off and wage replacement benefits that phase in completely in 2021. Eligible employees can take time off and receive a percentage of their average weekly wage (AWW), capped at the same percentage of the New York State Average Weekly Wage (SAWW). The SAWW is updated annually.

The employee's AWW is the average of the employee's pay for the last eight weeks in which the employee worked and received wages prior to starting Paid Family Leave.

BENEFITS INCREASE THROUGH 2021

Year	Weeks of Leave	Benefits
2020	10 weeks	60% of employee's AWW, up to 60% of SAWW
2021	12 weeks	67% of employee's AWW, up to 67% of SAWW



Who is eligible for Paid Family Leave?

Covered employees are eligible to take Paid Family Leave for a qualifying event once they have met the minimum requirements:

- **Full-time employees:** Employees who work a regular schedule of 20 or more hours per week are eligible after 26 consecutive weeks of employment with their employer.
- **Part-time employees:** Employees who work a regular schedule of less than 20 hours per week are eligible after working for their employer for 175 days, which do not need to be consecutive.

Citizenship and/or immigration status is not a factor in employee eligibility.

How can Paid Family Leave help your employees' families?

- **Bonding with a child:** An employee can take time to bond with a newly born, adopted, or fostered child within the first 12 months of birth or placement.
- **Caring for a family member:** An employee can take time to care for a spouse, domestic partner, child/stepchild, parent/stepparent, parent-in-law, grandparent, or grandchild with a serious health condition.
- **Assisting a service member:** An employee can take time to assist a spouse, domestic partner, child/stepchild, parent/stepparent or parent-in-law when they are deployed abroad on active military service.

Can employees opt out?

Paid Family Leave coverage is not optional for most employees. Employees can only waive coverage if they:

- regularly work fewer than 20 hours per week and won't work 175 days in a year, or
- regularly work 20 or more hours per week but won't be in employment 26 consecutive weeks.

If an employee meets the criteria for waiving coverage, you must provide them with a waiver form (available at paidfamilyleave.ny.gov/pfl-waiver-form). If an employee chooses to waive coverage, they will not make contributions and will not be eligible for Paid Family Leave benefits. You must keep a copy of their waiver on file.

Can waivers be revoked?

If an employee's schedule changes and they no longer qualify for a waiver, it will be automatically revoked within eight weeks of the schedule change. An employee may voluntarily revoke a waiver at any time.

If an employee's waiver is revoked, you can begin taking Paid Family Leave contributions and collect any retroactive amounts due back to the date the waiver was signed. Keep in mind, however, that any amounts collected in excess of the PFL premium charged by your carrier must be promptly returned to employees.

What is the employer's role in the request process?

Employees are responsible for submitting Paid Family Leave requests to your insurance carrier; it is not your responsibility as the employer. Your role is simple:

- **Employees notify you:** Employees must notify you (as their employer) at least 30 days before the start of leave if it's foreseeable; otherwise, they must notify you as soon as possible.
- **Provide request forms:** You should have Paid Family Leave request forms available to give employees upon request. They can also get these forms from your insurance carrier or directly from PaidFamilyLeave.ny.gov/forms.
- **Complete the employer's portion of request forms:** The *Request for Paid Family Leave (Form PFL-1)* includes an "Employer Information" section (*Part B*) to be completed by the employer. When employees give you this form, you have three business days to complete *Part B* and return the form to them. If there is a delay, employees do not have to wait to proceed. They can send the *Form PFL-1* that they have filled out, along with the rest of their request package, directly to the insurance carrier. Their request cannot be considered incomplete solely because you did not fill out *Part B* of *Form PFL-1* within three business days.

Employees must submit their completed request package to the insurance carrier within 30 days after the start of their leave to avoid losing benefits. In most cases, the insurance carrier must pay or deny benefits within 18 days of receiving a completed request or the employee's first day of leave, whichever is later.