



April 1, 2024

Senator Rotundo, Representative Sachs, and honorable members of the Joint Standing Committee on Appropriations and Financial Affairs;

I join you today on behalf of the Maine Paid Leave Coalition, a group of partners who work together to create a comprehensive paid family and medical leave system, and to implement a system that works for all Mainers. On behalf of our 40 member organizations, representing hundreds of thousands of Mainers, we offer the following subject areas related to contributions that require further clarification and consideration in the implementation of Maine's PFML program.

Part ZZZ of the change package has several changes to the Paid Family and Medical Leave statute, which this body passed and funded just last year, making Maine the 13th state in the nation to create a universal Paid Family and Medical Leave program.

There are several technical changes related to intermittent leave, the benefit year, and contributing quarters, about which we have no concerns. **We will keep our comments here on section 850 B-1**, which governs the competitive bidding process in the event that the state chooses to contract portions of this work through a third party vendor.

Section 850 B-1 strikes the section of the statute which governs evaluation and selection of bids for these services. Current statute requires that they consider all of the following if awarding a third party contract: *transparency of business operations; efficiency of business operations; quality of work related to the potential contracts issued; user experience; confidentiality and use of claimant data; software development, information technology and state ownership of software and specialized information technology; accountability; experience with providing education to the public related to claims; and a cost-benefit analysis documenting the direct and indirect costs of such a contract, including qualitative and quantitative benefits that will result from the implementation of such a contract.* If removed, the bidding will revert to the State's standard procurement process.

We are in active conversations with representatives from the Dept. of Labor, the Paid Family and Medical Leave Program, and the Office of the Governor regarding these changes. **It is my understanding that some of these changes are prompted by concerns that they will interrupt the process to identify and contract with vendors. Our Coalition recognizes that the timeline for implementation of this program is very tight; there was no intent during creation of this language or today to interrupt or delay the State's ability to seek and select vendors for this work.**

Our Coalition knew that private administration of this program was a possibility, and last year we worked with the sponsors and the Committee to develop a state which would ensure quality, transparency, and accountability regardless of how the program was administered. The intention of the original SS850B-1 was to ensure that a bidding process would reduce the risk of vendor-lock, increase transparency, and enhance public oversight. The paid family and medical leave law specifies at §850-B, sub-§1(B) that for a third party to submit a proposal, they must have a meaningful presence in Maine, as well as have no record of noncompliance with any applicable laws, attest to and pledge their compliance with all applicable laws (including labor and employment laws), and attest that they will not resort to underpaying their staff as a cost-saving measure. Without these key specifications in place that are designed to ensure a third-party administrator has a designated history of and commitment to following applicable laws, unreliable bidders may be incentivized to seek to contract with the DOL to administer this imperative program.

Our concern then, as now, is creating guardrails in the process beginning to end that maximize transparency and accountability - regardless of who administers the State or the program. Of the 13 states (plus DC) paid family and medical leave programs, only one State, Connecticut, has outsourced claims administration to a third-party, as is being considered in Maine. Connecticut did issue a \$375,000 penalty against their third-party administrator, "after the company failed to meet performance targets in the first year." Such performance difficulties—in light of a \$72 million contract in Connecticut—raise concerns about third-party administration and underscores why these guardrails were added to the statute.

We know this is not only a problem in Connecticut. We recognize the complex work of contracting that civil servants in our state undertake; still, there are examples in Maine, such as contracts with a third-party vendor in the unemployment system, as well as the TANF/ASPIRE program, where the existing procurement process does not achieve the level of transparency and accountability that we all agree we need in this system.

In our conversations with the Dept. of Labor, we know that we share these goals of quality, transparency, and accountability. It is our expectation that in the coming week we can find a compromise which allows for the inclusion of these factors in both the bidding process and the evaluative process, and remove only those portions of the statute (such as software ownership) which would cause a hardship in procurement, or ensure that these elements are part of ongoing contract management and reporting. We are confident we can work with our partners in the Administration and the Legislature to ensure that we build a program that works for all Mainers.

Thank you for the opportunity to comment; we will continue to share additional resources and information, and answer any questions you may have.

Respectfully,
Destie Hohman Sprague, of the Maine Women's Lobby
On behalf of the Maine Paid Leave Coalition