



STATE OF MAINE
DEPARTMENT OF LABOR
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Laura A. Fortman
COMMISSIONER

**Testimony of Laura Fortman
Commissioner, Maine Department of Labor**

To the Joint Standing Committee on Labor

**In Support of LD 894,
An Act to Amend the Laws Governing Paid Family and Medical Leave
And**

**In Opposition to
LD 406, LD 539, LD 575, LD 952, LD 1169,
LD 1249, LD 1273, LD 1307, LD 1333, LD 1400, and LD 1712**

April 23, 2025

Senator Tipping, Representative Roeder, and Members of the Joint Standing Committee on Labor, my name is Laura Fortman, and I am the Commissioner of the Maine Department of Labor. I am here to address the Paid Family and Medical Leave bills being heard this afternoon.

In 2023, Maine became the 13th state to adopt a state-run paid family and medical leave program. We believe that no one should have to choose between their health – or the health of a loved one – and their job. Paid leave helps workers stay attached to the workforce and maintain their income while meeting family needs.

The creation of this program was the result of years of careful study and the development of thoughtful recommendations through research and data. A legislative commission was established in 2021 to study the implementation of a Paid Family and Medical Leave program and to make recommendations on the program. The experiences of workers and employers helped to shape the legislation that was passed by the Legislature and signed by the Governor in 2023. In 2024, the Department of Labor held multiple public listening sessions and held two public comment periods while developing the agency rules. The Department has joined dozens of group meetings to present on and answer questions about PFML. A summary of our outreach efforts is included with my testimony.

During the public comment periods, people representing workers and employers provided over 1,600 comments and suggestions. Their strong participation helped to shape a program that balances the needs of workers and employers. At the same time, it ensures that Mainers have critical financial support in circumstances that temporarily prevent them from working. Any changes that substantially affect the program before it is even fully implemented and that have not been thoroughly vetted can disrupt that balance.

To date, the Department has met all of the ambitious benchmarks that were identified in the legislation. These include a robust rulemaking process, procurement of systems and vendors, and the creation and implementation of a contributions and wage reporting system. The system implementation is on par with systems such as the ReEmployME unemployment system, and was implemented in about six months. Reports from employers so far have been positive. Requests for Proposals have been issued for the benefits administrator and the actuarial study, and we fully expect that those components will be delivered on time.

Included with my testimony is an attachment that provides additional information on the bills scheduled for today's public hearing. Given the number of bills, I will not address each of them individually.

During our review of the bills, we kept in mind three primary criteria, and I'd like to share those with the Committee.

We oppose any change that will:

- Repeal or delay the implementation of the program;
- Create confusion among either workers or employers who participate in the program; or,
- Negatively affect the solvency of the trust fund.

Except for LD 894, all of the listed bills include changes that would meet these criteria. Therefore, we are in opposition to all bills except LD 894.

LD 894 will make technical changes to Maine's Paid Family and Medical Leave law. These provisions were proposed because of gaps the Department identified during implementation or through requests for clarification that could not be addressed through rulemaking.

Section 1 clarifies that intermittent leave cannot be taken for less than one work day, unless both the worker and the employer agree. It also clarifies that the taking of intermittent leave appropriately reduces the amount of leave available to an individual.

The Department received many requests for clarification regarding the use of intermittent leave. Section 1 of this bill removes an ambiguous line of statute that could be interpreted to mean that the use of intermittent leave would not reduce the available leave time within a benefit year by any amount. Rather, we believe the law intends to reduce available leave as a prorated amount based on the amount of intermittent leave used.

Sections 2 and 6 clarify that Paid Family and Medical Leave is a bureau of the Department.

Sections 2 and 6 establish Paid Family and Medical Leave as a bureau within the Maine Department of Labor. Section 2 enacts Title 26 §850-B sub-§13 to codify that the PFML Bureau is overseen by the Commissioner of Labor. The language is similar to that of other bureaus within the Department, such as Title 26 §1082 for the unemployment bureau. Section 6

amends existing statute §1401-A that lists the department's bureaus and to which we are adding the PFML bureau.

Section 3 provides contribution collection mechanisms that are like those used in other areas of the Department, particularly in unemployment.

Section 3 mirrors the language for the unemployment program regarding the collection of contributions, penalties, and assessments. These provisions will allow the Department, if necessary, to file a civil action in court or impose a levy on a third party in which the employer may have possession or control of that property with delinquent contributions owed to the Department. Section 4 provides the Department with the ability to extend the liability for amounts owed to the successor of the organization, similar to unemployment contributions.

Section 4 clarifies the liability for contributions, penalties, and assessments when a business is acquired by another.

If an employer's approved plan lapses at any time during the approved substitution period, the employees are left without access to coverage. This also raises the possibility that the employer and the employees return to the state plan, which affects the financial health of the trust fund. This provision addresses this scenario by codifying that the employer may be required to pay into the State trust fund an amount equal to the amount of contributions that would have been owed for the period during which coverage lapsed, plus a penalty of 1% of payroll for the same period.

Section 5 covers the payment of contributions if an employer's private plan lapses during the substitution period.

This section codifies that the employer may be required to pay into the State trust fund an amount equal to the amount of contributions that would have been owed for the period during which their private plan coverage lapsed, plus a penalty of 1% of payroll for the same period.

This concludes my testimony for this afternoon's hearing. I encourage you to review the additional materials provided with my testimony. I'm happy to address any questions you may have, now or at the work session.

For more information on Maine's Paid Family and Medical Leave Program,
Visit www.maine.gov/paidleave.

Additional Information in Support of LD 894

An Act to Amend the Laws Governing Paid Family and Medical Leave

LD 894 contains technical changes to Maine's Paid Family and Medical Leave law. These provisions were proposed because of gaps the Department identified during implementation or through requests for clarification that could not be addressed through rulemaking.

Intermittent Leave:

The Department received many requests for clarification regarding the use of intermittent leave. Section 1 of this bill removes an ambiguous line of statute that could be interpreted to mean that the use of intermittent leave would not reduce the available leave time within a benefit year by any amount. Rather, we believe the law intends to reduce available leave as a prorated amount based on the amount of intermittent leave used.

Establishing the Bureau of Paid Family and Medical Leave Program:

Sections 2 and 6 establish Paid Family and Medical Leave as a bureau within the Maine Department of Labor. Section 2 enacts Title 26 §850-B sub-§13 to codify that the PFML Bureau is overseen by the Commissioner of Labor. The language is similar to that of other bureaus within the Department, such as Title 26 §1082 for the unemployment bureau. Section 6 amends existing statute §1401-A that lists the department's bureaus and to which we are adding the PFML bureau.

Enforcement of delinquent contributions, penalties, and assessments:

Section 3 mirrors the language for the unemployment program regarding the collection of contributions, penalties, and assessments. These provisions will allow the Department, if necessary, to file a civil action in court or impose a levy on a third party in which the employer may have possession or control of that property with delinquent contributions owed to the Department.

If an employer fails to meet their obligations to remit premiums as required by law, the Department may need to take additional steps to ensure those delinquent contributions are collected. Before any enforcement actions, the language provides the employer with due process rights.

Section 4 provides the Department with the ability to extend the liability for amounts owed to the successor of the organization, similar to unemployment contributions.

Penalties for lapses in coverage of Approved Private Plan Substitutions:

Under existing law, employers may seek a private plan substitution if the employer can demonstrate that their plan meets the requirements set out in law. When an approved private plan substitution is in effect, it essentially means the employee must seek access to paid leave

through the employer's approved insurance plan. In addition, premiums will not be paid to the State for three years, which is the timeframe of an approved substitution.

If an employer's approved plan lapses at any time during the approved substitution period, the employees are left without access to coverage. This also raises the possibility that the employer and the employees return to the state plan, which affects the financial health of the trust fund. Section 5 addresses this scenario by codifying that the employer may be required to pay into the State trust fund an amount equal to the amount of contributions that would have been owed for the period during which coverage lapsed, plus a penalty of 1% of payroll for the same period.

Additional information in Opposition to

LDs 406, 539, 575, 952, 1169, 1249, 1273, 1307, 1333, 1400, and 1712

LD 406, An Act to Repeal the Laws Providing for Paid Family and Medical Leave and to Reimburse Taxpayers

LD 539, An Act to Repeal the Paid Family and Medical Leave Benefits Program.

LD 406 and 539 contain similar language that would repeal the PFML Program. We oppose the bills.

Since 2021, when discussions about a PFML program began in earnest, it has been clear that most Mainers support having such a program. Through the work of the PFML legislative commission, the testimony provided during the 131st legislature, the feedback provided to DOL during the public listening sessions, and the documented comments provided during the two rulemaking public comment periods, this support was reinforced.

To date, the Department has met all of the ambitious benchmarks that were identified in the legislation. These include a robust rulemaking process, procurement of systems and vendors, and the creation and implementation of a contributions and wage reporting system. The system implementation is on par with systems such as the ReEmployME unemployment system, and was implemented in about six months. Reports from employers so far have been positive. Requests for Proposals have been issued for the benefits administrator and the actuarial study, and we fully expect that those components will be delivered on time. There is no operational reason to repeal or delay the program.

LD 575, An Act to Ensure Equitable Access to the Paid Family and Medical Leave Benefits Program by Removing the Requirement That Leave Must Be Scheduled to Prevent Undue Hardship on the Employer

Maine is the only state in the nation to adopt the concept of undue hardship in relation to paid family and medical leave. As proposed, this legislation would remove all due process rights for the worker. In addition, the worker is paying into the program in most circumstances. To deny benefits to an individual who is otherwise eligible for a program they contribute to and to provide no recourse would be inappropriate. We have not been able to identify any other program in which this occurs.

Background

After extensive review of the public input, the agency rule clarified that an undue hardship exists when an employee's proposed schedule of leave creates a significant impact on the operations of the employer based on several factors such as the size of the workforce, nature of the industry and the financial resources of the employer that cannot be overcome by the amount of notice given by the employee. Turning to the outcomes, if an undue hardship exists, the administrator, who will be the entity assisting with claims administration of the program, will review the facts provided and determine the undue hardship claim.

If the Administrator finds that the employer's determination is reasonable, the employee will take their leave based on the employer's proposed schedule. If the undue hardship claim is not determined to be reasonable, the employee will take their leave based on the schedule submitted by the employee. I would like to note another caveat to the determination of reasonableness is when it comes to medical leave claims, and in those situations, the employer's proposed leave schedule must meet the healthcare needs of the employee in the judgment of the employee's healthcare provider.

Furthermore, we added in the Rule for instances where the employee's scheduling of leave does not create undue hardship on the employer, both the employee and the employer can sign a waiver that will be developed by the Department, which will expedite the review of the claim by the administrator.

The Department also reminds the Committee that any changes to the PFML law will impact how the market responds to already approved insurance policies. The current insurance plans that have been approved and certified as substantially equivalent plans vary in whether they include an undue hardship requirement or not. Furthermore, these policies will be the anchor in which employers will seek to obtain a private plan substitution through MDOL, and if approved, it will be in effect for three years. Any material changes to the law during the period the substitution is in effect may result in a re-review of plans that have been approved and certified by the Maine Bureau of Insurance and the Maine Department of Labor. This is in addition to any approved substitutions of those insurance policies.

LD 952, An Act to Exempt Agricultural Employers and Employees from the Maine Paid Family and Medical Leave Benefits Program

The intent of the PFML Program, as envisioned by the original Commission to study the impacts of a paid family and medical leave program which was codified in law, was to create a program that is accessible to all Maine workers, including temporary and seasonal workers¹. Exempting agricultural workers from the law would deny them access to a vital program that was specifically designed to be inclusive and accessible to the full spectrum of Maine's workforce.

The other provision in this bill requires refunding contributions made by agricultural employers to the PFML Fund. However, an individual's wages and contributions support future benefits, which will be portable. This means that the eventual benefits an individual may receive go with them wherever in Maine they work. Having benefits paid out when contributions were not paid because of the industry or category of previous work would significantly and negatively impact the PFML trust fund. The Department and the PFML

¹ Commission to Develop a Paid Family and Medical Leave Benefits Program (2022), pg ii.. Retrieved from legislature.maine.gov/doc/9693

Authority have a fiduciary responsibility codified in Title 26 §850-O sub-§7(A) to ensure the solvency of the trust fund.

LD 1169, An Act Regarding Employer Payments for the Paid Family and Medical Leave Benefits Program

LD 1169 proposes to refund all contributions paid by employers who had a private plan in place before January 1, 2025. An employer could not have a private plan in place before that date.

Any requirement to refund contributions would significantly and negatively affect the solvency of the PFML trust fund. The Department and the PFML Authority have a fiduciary responsibility codified in Title 26 §850-O sub-§7(A) to ensure the solvency of the trust fund.

Background

As authorized in Section 850-H of the PFML law, an employer may apply for a private plan substitution that confers the rights, protections and benefits substantially equivalent to those provided to employees under the state plan. A private plan substitution can be satisfied through either a fully-insured or self-insured plan. A fully-insured plan is an insurance plan offered by an insurance carrier authorized to do business in the State of Maine. A self-insured plan is an insurance plan provided directly by an employer, rather than through an insurance carrier, and can be contracted to a third-party administrator that is licensed with the Maine Bureau of Insurance (BOI) as a third-party administrator with health authority.

In 2024, as part of the thorough rulemaking process, the Department established the minimum criteria of a plan that could be deemed substantially equivalent to the terms and conditions that need to be satisfied to maintain an approved substitution. The final rule was adopted in December 2024. Section 850-F (8) of the law provides that an employer with an approved private plan is not required to remit premiums. The rule clarifies that the Department will begin receiving and approving applications for private plans on April 1, 2025.

No approved private plans existed on or before January 1, 2025. Private insurance companies could not offer plans before the finalization of the agency rule, which was statutorily required to occur by January 1, 2025. The Department released the final agency rule on December 4, 2024. Applications from insurance companies began in January 2025, and on February 20, 2025, the Department announced the certification of the first batch of PFML insurance policies. As of April 2025, there are 19 certified fully-insured plans. Again, no private plan could have been certified as being substantially equivalent on January 1, 2025.

LD 1249, An Act to Delay Payment of Benefits Under the Paid Family and Medical Leave Benefits Program

The existing statute allows the PFML Authority to extend the benefit beginning date by up to three months based on the results of an actuarial study. Unnecessarily delaying the payment of benefits under LD 1249 would introduce uncertainty and confusion for both employers and employees. Employers, especially small businesses, and workers have already begun preparing for the program. The program is well-positioned to launch as scheduled, and we know of no advantage to substantial delays in benefits.

Background

Under current law, beginning January 1, 2025, employers will begin remitting contributions on behalf of employees, which is essential for funding the program.² These contributions will help ensure the long-term solvency of the program and allow eligible individuals to take paid leave when needed. The Department has made significant progress toward the program's successful launch. An external vendor was contracted to create an online portal for collecting premium contributions, which went live three months ago and has been a huge success, with most employers sharing positive feedback regarding registration.

The Department has encountered no budgetary or administrative delays, and public engagement continues to be positive. Delaying the start of benefits would undermine the trust and confidence that the public has placed in the program, the Department, and the state. The program has already been years in the making and is on track to be implemented as planned.

LD 1273, An Act to Make Paid Family and Medical Leave Voluntary

The intent of the Maine's PFML program is to create a program that is accessible to all Mainers. LD 1273 repeals the current statute for Maine's PFML Program and replaces it with a less comprehensive, voluntary plan. The proposal covers fewer workers, provides fewer benefits, and undermines the intent of the current law.

Background

As is currently written, LD 1273 exempts employers with fewer than 50 employees. This exemption would eliminate the opportunity for workers and employers of this size to participate in the program and access leave at the most critical time in their lives. Furthermore, the bill excludes self-employed individuals and tribal governments from participating in the program, which the Commission did not intend to exclude from the law.

² <https://legislature.maine.gov/legis/statutes/26/title26sec850-F.html>

As to the payment of benefits, the weekly benefit amount also runs contrary to the work done by the Commission as it was never explored to have a final program with a weekly benefit amount less than 80 percent of an individual's average weekly wage and the maximum amount of leave to be no less than 12 weeks.

The bill also presents several challenges regarding the procurement of an insurance company that will offer paid leave products to employers. As proposed, there would be only one insurance carrier. This eliminates the choice employers have under the current PFML structure to choose an insurance policy that fits the needs of their organization and workforce through a private plan. Other practical concerns surround the collection of premiums. It is unclear whether premiums will be collected by the insurance carrier or the State.

LD 1307, An Act to Suspend the Remittance Obligation for Paid Family and Medical Leave Private Plan Users (as amended)

The proposed amendment to LD 1307 would require employers and employees that remitted PFML contributions on or after January 1, 2025 to receive a refund of those contributions if the employer is approved for a private plan substitution by January 1, 2026. A refund must be made within 30 days after being requested by the employer. The bill would also require the Department to specify in its agency rule the timeline for approving private plans, not to exceed 30 days.

Private plans are approved for up to 3 years at maximum which means an employer could choose to return to the state plan after the three-year term. Furthermore, the wages that are considered under a private plan could also be eligible for benefits under the state plan. This is due to the fact employees may move around in employment during the three-year period the substitution is in effect. Therefore, if the provision to require refunds of approved private plans also occurs, it could result in employers and workers coming back into the Fund three years later but did not pay into the program during that time which affects the solvency of the Fund. In connection to solvency, this amendment would require additional analysis to determine the financial impact this will have upon the Fund given previous actuary studies done prior to the implementation of the program did not factor in this option.

LD 1333, An Act to Make Changes to the Paid Family and Medical Leave Benefits Program

LD 1333 proposes changes to multiple sections of the PFML statute. Information is provided by topic below.

120-day Requirement to Work for an Employer:

The Department is in opposition to the requirement that an individual work for an employer for at least 120 days before being eligible to take leave. This delay would negate the intended portability of the benefits. Portability means that an individual can take leave if they have a qualifying need and have met the earnings requirement during their base period,

even if the earnings were for a different employer. Also, most workers contribute a portion of their earnings to the program, and denying benefits for seeking new employment opportunities is inappropriate. The existing statute provides job protection for an individual after 120 days, but it does not delay the availability of benefits during that timeframe.

Amending the Definition of Self-Employed Individual

The proposal to amend the definition of self-employed to include LLCs, LLPs, contractors, and proprietors with fewer than 15 employees who can elect coverage into the program. The current statute and agency rule already address this issue, and this proposed provision would not be necessary to include in law.

Collective Bargaining Agreement Provisions:

The Department opposes any language that relieves the employer from the obligation to collectively bargain the premium obligations. The National Labor Relations Act governs matters regarding collective bargaining agreements (CBA).

Extending the public employer collective bargaining agreement waivers to private employer CBAs would unnecessarily delay benefits to a greater number of workers. Public sector CBAs are limited to a duration of three years; however, private sector CBAs do not have this same limitation and can run much longer. Public sector employers with CBAs were exempted in an effort to prevent towns and municipalities from having to reopen their budget proceedings.

Private sector employers do not have this same requirement. Exempting private sector bargaining agreements would significantly alter participation in the program and could cause confusion and disruption for both workers and employers.

Unpaid Family Medical Leave Acts and PFML Running Concurrently:

This provision would require that PFML leave must be taken concurrently with the Federal Unpaid Family Medical Leave Act and the Maine unpaid Family Medical Leave Act. The Department believes this provision is unnecessary.

Notification to Employer:

This provision would require the administrator to notify the employer within 5 business days that the employee's claim for leave is approved. The agency rule covers timely notifications and changes to this statute are unnecessary.

Notification posted on MDOL Website when Due Dates for Remittance of Premiums:

This provision would require the Department to make a publicly accessible webpage that identifies when contribution reports and premiums must be remitted. The PFML team has developed a very thorough employer guide that outlines the due dates for the premiums and wage reports. Further, these dates are the same as other quarterly payroll reporting dates, of which employers and third-party payroll processors are familiar. We would be happy to evaluate how to ensure the information is more accessible but including this in law would not be necessary to achieve this purpose.

Employee Deductions for Missed or Incorrect PFML Deductions by Employer and Employer Liability Count:

This provision would allow an employer to deduct in future pay periods PFML premiums from employees for any missed or incorrect deductions. The Department opposes this provision. As established in Rule, the Department has made clear that “if an employer fails to deduct the required employee share of the premium from wages paid during a pay period, the employer is considered to have elected to pay that portion of the employee share. The employer shall not deduct this amount from a future paycheck of the employee for a different pay period.

We also oppose the provision codifying in law the employer count that requires an employer to determine whether they had 15 or more employees for 52 calendar workweeks in the 12-month period rather than the current framework in Rule of 20 calendar workweeks for the purpose of determining premium liability for the PFML program. The provision as currently established in Rule was amended based on the number of comments during the rulemaking process including the Maine PFML Benefits Authority which is comprised of multiple employers that suggested the current framework. Changing an already established counting formula, already used to establish company size within the first year, would result in more small business classifications which could affect the solvency of the Fund and this particular provision has which has not been studied by an actuary.

Cost of Administration for Private Plans:

The provision in the bill would codify in law the cost of the application fee for private plans based on the size of the employer. We oppose this provision as the current law allows the Department to determine this amount based on the cost incurred by the Department for the review and administration of private plans. The provision also limits the ability to consider whether the current fee structure is in line with costs arising out of overseeing the administration of private plans and staff time necessary to review what could be thousands of applicants per year. This would result in state-plan participating employers and their workers covering costs related to private plans.

Department to Post Documents Required of Employers:

The provision in the bill would require the Department to make available online the appropriate tax forms and other guidance related to private plans. The Department opposes this provision. Like other payroll payments and withholdings, it is the responsibility of the parties to ensure their compliance with federal and state tax laws. The Department does not provide tax advice, as it can be unique to the taxpayer’s situation. Taxpayers are encouraged to seek professional tax guidance on questions about tax implications.

Legislative Review of PFML Rules:

The bill includes an amendment to existing law to change the Department’s rulemaking from routine technical to major substantive. The Department opposes this change. All agencies must follow the Maine Administrative Procedures Act (MAPA), which includes the requirement for public comment and a written response from the Department on the comments.

Specific to PFML, the Department created a robust infrastructure for collecting feedback from the public. In 2024, the Department hosted four informal listening sessions touching on various topics related to questions or issues surrounding PFML that may benefit from further detail or clarification in the agency rule. In addition, the Department carefully considered and responded to more than 1,600 comments submitted by approximately 500 commenters during the two formal rulemaking comment periods.

LD 1400, An Act to Exempt Certain Public School Districts and Their Employees from the Paid Family and Medical Leave Benefits Program

The proposed legislation requires that a school district that provided paid family and medical leave benefits subject to an existing collective bargaining agreement that was in effect on January 1, 2025 is substantially equivalent to the state plan and continually maintains benefits for employees pursuant to a collective bargaining agreement or other contractual agreement, including benefits for sick leave and family sick leave, that accrue annually to at least 12 weeks of leave. This also has a retroactivity date to when the law took effect on October 25, 2023.

The Department opposes this change. A substantially equivalent plan does not include plans that consist of leave benefits that need to be accrued, as such plans fail to provide the statutorily required coverage in several ways. First, an employee must be eligible for the maximum leave, if required, at any point during their employment, not after building leave time available through accruals. Second, an employee must be eligible for 12 weeks of PFML time each year if the circumstances require it, similar to the federal FMLA. This may not be possible in an accrual system where time is depleted and must be accrued again. Finally, the statute prohibits employers from requiring an employee to exhaust their sick or vacation time accruals before or during a PFML leave period.

The statute requires that to be eligible for a private plan substitution, a plan must be fully insured through an insurance carrier licensed to do business in the State or a form of self-insurance with a surety bond provided to the State in an amount specified in Rule.

Next, the law delegates to the Department of Labor on what constitutes a substantially equivalent private plan. In 2024, as part of the thorough rulemaking process, the Department established the minimum criteria of a plan that could be deemed as substantially equivalent to the terms and conditions that need to be satisfied to maintain an approved substitution. The final rule was adopted in December 2024.

No approved private plans existed on or before January 1, 2025. Private insurance companies could not offer plans before the finalization of the agency rule, which was statutorily required to occur by January 1, 2025. The Department released the final agency rule on December 4, 2024. Applications from insurance companies began in January 2025, and on February 20, 2025, the Department announced the certification of the first batch of PFML insurance policies. As of April 2025, there are 19 certified fully-insured plans. Again, no private plan could have been certified as being substantially equivalent on January 1, 2025.

LD 1712, An Act to Amend the Paid Family and Medical Leave Benefits Program to Balance Support of Businesses and Employees

LD 1712 proposes changes to multiple sections of the PFML statute. Information is provided by topic below.

Notice to the Employer and Undue Hardship:

Maine is the only state in the nation to adopt the concept of undue hardship in relation to paid family and medical leave. As proposed, this legislation would remove due process rights for the worker. In addition, the worker is paying into the program in most circumstances. To deny benefits to an individual who is otherwise eligible for a program they contribute to and to provide no recourse would be inappropriate. We have not been able to identify any other program in which this occurs.

Furthermore, the criteria as established are items that an employer can currently consider if an undue hardship claim is raised based on the nature of the industry. In Rule, when an employer claims undue hardship, they are required to provide a written explanation of the undue hardship to the employee, which may provide a more detailed explanation of how the leave will impact the operations of the employer.

Amending Premium Requirements:

The amendment removes the provision that allows employers with fewer than 15 employees to remit only 50% of the required contribution. The provision was included to minimize the cost for small employers. The Department opposes this change as it negates the intent of the program and creates additional burden for small employers.

Collective Bargaining Agreement Provisions:

The Department opposes any language that relieves the employer from the obligation to collectively bargain the premium obligations. The National Labor Relations Act governs matters regarding collective bargaining agreements (CBA).

Extending the public employer collective bargaining agreement waivers to private employer CBAs would unnecessarily delay benefits to a greater number of workers. Public sector CBAs are limited to a duration of three years; however, private sector CBAs do not have this same limitation and can run much longer. Public sector employers with CBAs were exempted in an effort to prevent towns and municipalities from having to reopen their budget proceedings.

Private sector employers do not have this same requirement. Exempting private sector bargaining agreements would significantly alter participation in the program and could cause confusion and disruption for both workers and employers.

Reduction of Wage Replacement Amount of PFML Benefits:

This provision would repeal the current two-tier wage replacement structure and amend the law to pay a flat 65% wage replacement. The Department opposes the amendment,

which would significantly impact Maine's low wage workers, in particular those who earn less than \$570 per week or about \$29,700 per year.

Under current law, an applicant's weekly benefit amount is based on the individual's reported wages to the program and on tiers tied to the State Average Weekly Wage (SAWW). If the language as proposed becomes law, it would have a significant impact on low wage workers and would be in direct contradiction to the recommendations issued by the Commission to Develop a Paid Family and Medical Leave Benefits Program, that the wage replacement would be near 80 to 90 percent and be a tiered wage replacement formula. Furthermore, this would put Maine as the second lowest wage replacement in the country and again would contradict the work of the Commission that took a careful review of other paid leave laws to craft a program that would work for Maine. An example of how the benefit amount is calculated is attached.

Amendment of Withholding from Employee Pay

This provision would allow an employer to deduct in future pay periods PFML premiums from employees for any missed or incorrect deductions. The Department opposes this provision. As established in Rule, the Department has made clear that "if an employer fails to deduct the required employee share of the premium from wages paid during a pay period, the employer is considered to have elected to pay that portion of the employee share. The employer shall not deduct this amount from a future paycheck of the employee for a different pay period.

Taxation of Benefits and Premiums:

In the proposed bill, multiple provisions relate to the taxation of benefits as well as premiums. In January 2025, the U.S Internal Revenue Service (IRS), released guidance regarding the taxability of paid family and medical leave benefits as well as premiums. The IRS clarified that family leave benefits are taxable, but medical leave is taxable for the part attributable to the employer portion of premiums paid, but not taxable to the employee portion of premiums paid. In the plan, medical leave benefits are 50% taxable. In February 2025, Maine Revenue Services (MRS) informed the Department of their intent to conform to this guidance. Due to this recent guidance, the Department believes that the language in the proposed bill on taxation of benefits and premiums may cause further confusion among employers and workers and is unnecessary at this time. Therefore, the Department opposes the amendment.

MAINE PAID FAMILY & MEDICAL LEAVE



PFML Outreach Overview

2024 Outreach and Education:

- **January 2024:** Informal public listening sessions were held across the state to solicit general feedback and questions from interested parties.
- **Spring 2024:** Formal rulemaking process began. Conducted two public comment periods and held two public hearings resulting in over 1,600 comments from over 500 individuals.
- **October 2024:** Launched statewide public education campaign (social media, radio ads, TV ads, public relations campaign). Campaign concluding in April 2025.
- Ongoing communication with employers through e-blasts, UI mailers, outreach with third-party administrators.
- Collaborated with the Maine Municipal Association (MMA) on development of FAQ for municipalities and provided guidance on volunteer firefighter questions.
- Collaborated with the Maine State Chamber of Commerce, Maine Paid Leave Coalition, National Federation of Independent Business in Maine, Maine Immigrants' Rights Coalition during the public relations campaign to host webinars.
- Held Department sponsored webinars on Maine Paid Leave Portal in December 2024.

2025 Outreach and Education:

The PFML team has met with the following organizations below on PFML through webinars or in-person events:

- Maine Legislature (Labor Committee).
- 2025 Maine Agricultural Trades Show.
- Maine PFML Benefits Authority Public Hearing.
- SCORE Maine.
- NFIB of Maine.
- Maine Statewide Librarians Call.

- Maine Immigrant Rights Coalition.
- Immigrant Refugee Services.
- Maine Children Alliance.
- Gateway Community Services Maine.
- Maine Baptist Association.
- Maine Paid Leave Coalition.
- Maine Association of Non-Profits (MANP).
- Maine Organic Farmers & Gardeners Assn.
- National Federation of Independent Business.
- Permanent Commission on the Status of Racial Indigenous and Tribal Populations.
- Law Offices of Taylor, McCormack & Frame.
- Maine Automobile Dealers Association.
- Maine Government Finance Officers Assn.
- Mano en Mano.
- Maine Municipal Association (MMA).
- Lewiston-Auburn Chamber Maine B2B Trade Show.
- Sanford-Springvale Chamber of Commerce.
- MDOL Wage and Hour Division.
- Retail Association of Maine.

Upcoming outreach on PFML:

- In-person attendance at the 2025 Hospitality Maine Expo. (April 2025).
- In person presentation to the Central Maine Human Resources Association. (April 2025)
- Webinar or in-person attendance with the Maine Philanthropy Center. (May 2025)
- In person or webinar with the Eastport Area Chamber of Commerce (Awaiting confirmation from Chamber on date).
- In person presentation to the MMA Municipal HR & Management Conference. (June 2025).
- Additional webinars or in-person events will be conducted as requested or through proactive outreach.

Ongoing Outreach with State Agencies:

The PFML team has established quarterly briefings with the following state agencies to provide update and discuss emerging issues regarding the program. The PFML team recently met on April 14, 2025.

- Maine Department of Economic and Community Development (DECD).
- Maine Department Health and Human Services (DHHS).
- Maine Department of Education (DOE).
- Department of Agriculture, Conservation and Forestry (DACF).
- Department of Professional and Financial Regulation (DPFR).

How Benefits Are Calculated – Example

- Michael is employed full-time as a custodian and earns \$35,000 a year.
- Michael needs to take 6 weeks off to bond with his newborn daughter.

Calculation of Michael's Weekly Benefit (Estimate):

- Michael's average weekly wage is \$673 (\$35,000 divided by 52 weeks).
- Michael's weekly deduction from paycheck to pay into PFML fund is \$3.36 per week. (\$175 a year in contributions divided by 52 weeks).
- Assuming Michael's employer has 15 or more employees, the employer contribution is also \$3.36 a week. (\$175 a year in contributions divided by 52 weeks).
- Tier 1: 90% wage replacement on earnings up to 50% of SAWW: $\$1,144 \times 50\% = \572 .
- 90% of \$572 = \$514
- Tier 2: 66% wage replacement on earnings exceeding 50% of the SAWW
 - Michael's remaining earnings are \$101 (\$673 - \$572).
 - 66% of \$101 = \$66
- Michael's total weekly benefit for the next 6 weeks = \$580 (\$514 plus \$66). This is less than the SAWW, so there is no reduction.