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April 23, 2025

To: Sen. Mike Tipping and Rep. Amy Roeder, co-chairs
Members, Committee on Labor

From: David R. Clough, State Director in Maine

Re: LD 1712, LD 1333, LD 575, LD 894
LD 406, LD 539, LD 1221, LD 1249, LD 1273, LD 1307

This statement is on behalf of the thousands of small business owners in Maine who are members of the National Federation of Independent Business. Member small businesses collectively span a wide range of economic activities; provide jobs and paychecks to about 30,000 people; and help form the economic backbone of hundreds of communities and the State.

Let Small Businesses Manage Their Workplaces

Small business owners are responsible for having enough money to meet payroll, pay suppliers and bills related to business operations, make bank financing payments, repair or replace malfunctioning and outdated equipment, invest in modernization and possible expansion, and so forth. In addition, small business owners must meet customer demands for timely delivery of products or services, and meet customer demands for value compared to larger competitors in Maine or elsewhere.

Running a successful small business is a balancing act. Maintaining stability is made more difficult, if not impossible, when laws and regulations impose micro-management requirements on small workplaces – and regulators are tasked with making decisions about daily staffing operations that are best made by the person who is most responsible for the workplace: the small business owner.

Small businesses are not scaled-down versions of larger businesses; small businesses have unique characteristics including more limited staffing flexibility and the absence of people with particular expertise in human resource law and management. Increased regulation of small workplaces often means increased workload stress – and increased overhead costs that must be absorbed in worker wages and customer prices.

Legislation to Repeal Paid Family & Medical Leave

By way of background, NFIB members did not support the legislation that was enacted in 2023. A copy of our statement at the May 25, 2023, public hearing on LD 1964 is attached below. NFIB member views and concerns have likely grown stronger as they become more aware of the complexities and obligations placed on small employers.

Make Less Onerous & More Practical, If Not Repeal

If there is to be a PFML law, it needs to operate in a way that minimizes the burden on small employers and accommodates the uniqueness of small workplaces.

Various provisions of LD 1712 and LD 1333 improve the practicality of the PFML program as it concerns small employers. NFIB thanks the of sponsors and cosponsors of these proposals.

“Undue Hardship” Reality

NFIB opposes LD 575. Undue hardship is meant as a realistic acknowledgement that 12 weeks of leave (60 working days) can have a significant impact on small workplaces – and working with an employer on the timing of leave, where possible, is important to business stability. The discretionary timing of leave may also impact the ability of other workers to take family vacations or the ability of small employers to honor employee requests for routine leave. Undue hardship enables the small employer to manage potential or inevitable difficulties that may arise. The provision is more than a seasonal issue for small employers; it can be an operational issue throughout the year.

Counting 52-Week Average of Employment

Exempting employers with 1-14 employees from remitting full 1% payment of taxable wages may be undercut by how employment is counted. The counting method is also important in how it may affect the undue hardship provision. The PFML rules provide that an employer will be considered an employer of 15 or more for the entire year if that employer has 15 or more workers for only 20 weeks.

NFIB supports averaging employment over a full 52-weeks (LD 1333), similar to what is done in Massachusetts and Oregon.

Intermittent Leave Parameters

The use of intermittent leave is largely open-ended with no parameters on the amount of 60 working days that can be taken without some sort of review.

NFIB supports building in a periodic review of intermittent leave (LD 1333, for example).

NFIB member interests in the PFML law include more than these highlighted issues. Over 79% of Maine employers have fewer than 10 workers and over 86% have fewer than 20 workers, for example. And there are many more small employers above that level. Small businesses are essential in Maine. If the law is not repealed, then it needs to be made as practical as possible for small employers.

Thank you for being mindful of Maine small business owners and all who depend on their success.

***If Paid Family & Medical Leave law and rules do not
work for thousands of Maine small businesses, they will
not work for Maine families or our economic vitality!***



May 25, 2023

To: Sen. Michael Tipping and Rep. Amy Roeder, co-chairs
Members, Committee on Labor & Housing

From: David R. Clough – Maine State Director

Re: LD 1964 – An Act to Implement the Recommendations of the Commission to Develop a Paid Family
and Medical Leave Benefits Program

This statement in opposition to LD 1964 is on behalf of the thousands of small business owners in Maine who are members of the National Federation of Independent Business. Member businesses collectively span a wide range of economic activities; provide jobs and paychecks to about 30,000 people; and help form the economic backbone of their communities as well as Maine overall.

Enormous Impact on Small Businesses

LD 1964 will, for the first time in Maine labor law, require that very small employers with only 1-14 workers provide long-term family leave. This would greatly compound the ongoing headaches small employers have ensuring adequate daily staffing of workplaces.

These very small employers will lose the ability to accommodate worker needs in a way that balances those needs with what the employer believes is necessary to manage vacations of other workers, key projects, seasonal busy times, and other factors that weigh on small employers.

This mandate would absolutely destroy my small women-owned business. On my staff I have a grandmother, two mothers, a pregnant single mother, a teacher, and 2 college girls. Having a mandated paid leave [law] would make it so hard for me to cover them!

– Manufacturer in Kennebec County

Small businesses with 15-49 workers will see a double whammy of workers taking longer leave and for expanded situations. Instead of 10 weeks every two years, these small employers will have to provide up to 12 weeks of leave every year under terms dictated by a one-size-fits-all state law that ignores the daily realities of running a successful small business.

Small employers, which are struggling to pay people to show up for work, will be forced to pay people to stay away from work regardless of the employees work history and regardless of business conditions at the small company.

NFIB members are very concerned about the new payroll costs and significant new workforce burdens that will be imposed by the paid leave program detailed in LD 1964. The legislation could make it much more difficult to employ workers and operate a successful small business.

Small business owners say they are concerned about the effects these costs and burdens on customers who may see higher prices, fewer workers, shorter business hours and delays in the delivery of products and services.

This proposal will not only cost our business money and difficulty in scheduling but this will be passed on to each of our clients who are already experiencing unprecedented project costs and delays

– Construction Company in York County

New Costs for Small Employers

LD 1964 will create new and difficult challenges for small employers.

The expanded scope, increased leave and more frequent usage envisioned by LD 1964 will entail a variety of costs and effects beyond whatever amount of the new payroll tax a small employer may pay. These items may include:

- Recruiting and training a temporary fill-in worker;
- Having to pay a higher wage in order to hire the fill-in worker;
- Paying more overtime due to increased worker shortage;
- Increased stress on other workers who are having to do more; and
- Higher prices for customers, reduced sales help, and product or service delays.

Passing a law like this will be a devastating burden to small business owners. There is an absolute limit to what we can absorb for costs without passing on to a customer. There also is a limit to what people can afford to pay for services offered.

– Restaurant in Hancock County

No one will want to start a new small business for the fear of these laws and for the fear of not being able to sell them when they want to retire.

– Service Business in Aroostook County

Other Effects on Small Businesses

Small employers typically cannot compete with larger employers that have bigger budgets, dedicated human resource managers, and more flexibility to adjust staff to fill in for absent workers. (Small employers may be like a very short rubber band that cannot be stretched compared to the greater elasticity of a larger employer.)

LD 1964 also will make it more difficult for small businesses to effectively compete with companies located in other states that do not impose extra costs in the way Maine does. Think New Hampshire.

Small employers also are facing the prospect of higher future payroll expenses, driven by minimum wage hikes and the effects on other wages, the rising cost of wages generally in order to recruit and retain workers, the prospect of more workers being covered by state or federal rules that set a higher salary threshold for payment of overtime.

***Our business historically employs 13-17 people. We currently have 7 employees because we cannot find the help we need. Mandated paid or even unpaid family medical leave could cause this company to have periods of time that we cannot operate...Our cost of doing business is through the roof. Mandated paid family leave would be very bad for this business.
– Service Business in Oxford County***

Small employers that use graduated paid leave as a way to encourage and reward longevity of workers would lose that valuable retention incentive under the one-size-fits-all program proposed in LD 1964.

Worker Shortage Widespread

News reports highlight the shortage of workers for particular businesses, particular areas, Maine and other states, and with no promising news of a quick and long-lasting enduring turnaround of the situation. Many small employers throughout Maine are suffering from too few workers. Yet LD 1964 contributes to the problem by making it worse, by encouraging workers to take longer leave and for more purposes – and affecting more employers than numerous existing Maine leave laws.

Twenty-seven labor market areas have seen a drop in available workers since 2013, according to average annual labor data from the Maine Department of Labor website. Areas in Aroostook, Franklin, Penobscot, Somerset, Piscataquis, and Washington Counties have experienced the biggest percentage drop. Only 3 labor market areas (all in southern Maine) have seen an increase.

www.maine.gov/labor/cwri/laus.html

This is the reality that small employers throughout Maine are facing. Finding workers is challenging. Small businesses are in competition with larger employers to hire workers. LD 1964 will make things much harder for small employers.

***Our business is still open but at 50% less than 3 years ago due to staffing shortages. We struggle to replace even one position if someone calls out and we often cannot operate a capacity because of it...This proposed law while well intended is not practical with the current labor market situation and should not be considered for passage.
– Restaurant in Washington County***

Maine Unlike Other States

Proponents say that various countries have paid leave laws and that the United States should do likewise. Proponents also say that Maine should join the small list of states that have adopted paid leave laws.

Apart from Maine not being a country and not having the power of a national government, Maine also is very different from the few other states with paid leave laws. For example:

- Maine is the only state that is bordered on two sides by a foreign country and the third side by an ocean. This geographic isolation and federal restrictions on the use of Canadian workers, for example, means that Maine employers must recruit employees from other New England states and elsewhere in America. That challenge is especially tough for small employers in northern and eastern areas.
- Maine has unique demographic challenges. Maine has the oldest median population in America and the highest percentage of people aged 65 and older. This situation affects not only the labor market, it also affects the ability of small employers to pass along higher costs because so many customers are living on retirement incomes.
- Maine also has sparse population density outside of southern areas. The two small states with paid leave laws – Delaware and Rhode Island – have much greater population density and a larger pool of potential workers within relatively easy commuting distance.

Paid Leave Mandate Wrong for Maine Small Business

NFIB members strongly oppose a paid leave mandate. The program envisioned in LD 1964 or that proposed in the Maine People's Alliance potential ballot initiative will make it harder for small employers to remain in business. These small enterprises are already facing significant workplace challenges and financial pressures. A paid leave mandate makes the situation worse, not better.

It would be enough of a hardship to have an employee take unpaid leave for 16 weeks. If we are required to provide paid leave and on top of that pay for temporary help (if we can find any) it could easily make it impossible for us to continue to run this business. It's not good for Maine!!
– *Manufacturer in Cumberland County*

Existing Maine Leave Laws

Proponents say a paid leave benefit is good for business, but that doesn't mean that mandating a uniform paid leave benefit for all workers in all businesses is a good thing. It's not.

Proponents who have a small business say they want a paid leave mandate for their business, but that doesn't mean their situation is representative of the thousands of other small businesses in Maine. They're not. What works depends on the type of business, location, customer base, product or service, age of the business and business cycle, composition of the workforce and various other factors.

Other Considerations

Proponents suggest that any hardship a small employer may experience can be handled through a case-by-case exemption but only regarding retaliation (e.g., firing). The hardship exception could be a hardship to use. Maine family leave law already recognizes a blanket hardship for small businesses with 1-14 workers. There is no need to create a new, cumbersome and less inclusive process.

Maine family leave law already recognizes that the length of leave and frequency of potential use is a key protective factor for small businesses with 15-49 workers. There is no need to treat these small employers as if they were large employers that are governed by the federal family leave law.

Maine family leave law also recognizes workplace staffing challenges for small employers with 15-49 workers and addresses the situation by setting parameters on who is considered a family member.

And other Maine leave laws already provide for safe leave and exigency leave.

***Let entrepreneurs and business people do what they do best:
make things work!
– Service Business in Somerset County***

Leave laws in Oregon and Washington state include special grants to help small employers hire temporary fill-in workers. Those grants are limited in amount and use. And, those grants only help small employers that are able to find temporary fill-in workers. With the widespread labor shortage in Maine, small employers may find it very difficult to use such a grant.

Thank you for being mindful of Maine small business owners. If it doesn't work for small business, it doesn't work for Maine.

We respectfully urge that LD 1964 be rejected.

***“STOP DESTROYING THE FAMILY WITH POLICIES THAT SOUND
FAMILY FRIENDLY BUT ONLY SERVE TO CLOSE DOWN
DESPARATELY NEEDED LOCAL BUSINESSES.”
– Manufacturer in Waldo County***