

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

No. 1273

H.P. 848

House of Representatives, March 25, 2025

An Act to Make Paid Family and Medical Leave Voluntary

(EMERGENCY)

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script, reading "R B. Hunt".

ROBERT B. HUNT

Clerk

Presented by Representative FAULKINGHAM of Winter Harbor.
Cosponsored by Senator HARRINGTON of York and
Representatives: BAGSHAW of Windham, CARUSO of Caratunk, CIMINO of Bridgton,
COLLINS of Sidney, EDER of Waterboro, FOLEY of Wells, HENDERSON of Rumford,
LANCE of Paris.

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, contributions to the paid family and medical leave benefits program established in the Maine Revised Statutes, Title 26, chapter 7, subchapter 6-C began January 1, 2025; and

Whereas, this legislation makes the program voluntary and makes the program apply only for employers with 50 or more employees; and

Whereas, contributions to the mandatory program must stop and be refunded to employers and employees as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 5 MRSA §12004-I, sub-§54-F, as enacted by PL 2023, c. 412, Pt. AAA, §2, is repealed.

Sec. A-2. 26 MRSA c. 7, sub-c. 6-C, as amended, is repealed.

Sec. A-3. PL 2023, c. 412, Pt. AAA, §8 is repealed.

Sec. A-4. PL 2023, c. 412, Pt. AAA, §9 is repealed.

Sec. A-5. PL 2023, c. 412, Pt. AAA, §10 is repealed.

Sec. A-6. PL 2023, c. 412, Pt. AAA, §11 is repealed.

Sec. A-7. Department of Labor to refund contributions made by employers and self-employed individuals under former provision of law. The Department of Labor shall refund to employers and self-employed individuals contributions made to the Department of Labor pursuant to the Maine Revised Statutes, Title 26, section 850-F. An employer that deducted a portion of the premium required for an employee from that employee's wages shall remit that portion of the premium to the employee as part of the employee's wages.

Sec. A-8. Transfer; Department of Labor, Paid Family and Medical Leave Insurance Fund. Notwithstanding any provision of law to the contrary, on or before June 30, 2026, the State Controller shall transfer all unappropriated funds from the Department of Labor, Paid Family and Medical Leave Insurance Fund, Other Special Revenue Funds account to the unappropriated surplus of the General Fund.

Sec. A-9. Retroactivity. That section of this Part that repeals the Maine Revised Statutes, Title 26, chapter 7, subchapter 6-C applies retroactively to October 25, 2023.

PART B

Sec. B-1. 3 MRSA §959, sub-§1, ¶I, as amended by PL 2023, c. 412, Pt. AAA, §1, is further amended by amending subparagraph (5) to read:

(5) The voluntary paid family and medical leave benefits program established in Title 26, chapter 7, subchapter ~~6-C~~ 6-D in 2029.

Sec. B-2. 26 MRSA §42, first ¶, as amended by PL 2023, c. 412, Pt. AAA, §3, is further amended to read:

The bureau shall collect, assort and arrange statistical details relating to all departments of labor and industrial pursuits in the State; to trade unions and other labor organizations and their effect upon labor and capital; to the number and character of industrial accidents and their effect upon the injured, their dependent relatives and upon the general public; to other matters relating to the commercial, industrial, social, educational, moral and sanitary conditions prevailing within the State, including the names of firms, companies or corporations, where located, the kind of goods produced or manufactured, the time operated each year, the number of employees classified according to age and sex and the daily and average wages paid each employee; and the exploitation of such other subjects as will tend to promote the permanent prosperity of the industries of the State. The director is authorized and empowered, subject to the approval of the Governor, to accept from any other agency of government, individual, group or corporation such funds as may be available in carrying out this section, and meet such requirements with respect to the administration of such funds, not inconsistent with this section, as are required as conditions precedent to receiving such funds. An accounting of such funds and a report of the use to which they were put must be included in the biennial report to the Governor. Each agency of government shall cooperate fully with the bureau's efforts to compile labor and industrial statistics. The director shall cause to be enforced all laws regulating the employment of minors; all laws established for the protection of health, lives and limbs of operators in workshops and factories, on railroads and in other places; all laws regulating the payment of wages; and all laws enacted for the protection of the working classes. During an investigation to enforce those laws, the director may request records and other information relating to an employer's compliance with unemployment compensation and workers' compensation laws, including information needed to determine whether the employer has properly classified a worker as an independent contractor, and shall report suspected violations of those laws to the state or federal agency responsible for enforcing them. The director may adopt, in accordance with the Maine Administrative Procedure Act, rules regarding all such laws, except where this authority is granted to a board or commission. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The director shall, on or before the first day of July, biennially, report to the Governor, and may make such suggestions and recommendations as the director may deem necessary for the information of the Legislature. The director may from time to time cause to be printed and distributed bulletins upon any subject that is of public interest and benefit to the State, including, but not limited to, the voluntary paid family and medical leave benefits program established in chapter 7, subchapter ~~6-C~~ 6-D, and may conduct a program of research, education and promotion to reduce industrial accidents. The director may review various data, such as workers' compensation records, as well as other information relating to any public or private employer's safety experience. When any individual public or private employer's safety experience causes the director to question seriously the safe working environment of that employer, the director may offer any safety education and consultation programs to that employer that may be beneficial in providing a safer work environment. If the employer refuses this assistance or is in serious noncompliance ~~which~~ that may lead to injuries, or if serious threats to worker safety

1 continue, ~~then~~ the director shall communicate concerns to appropriate agencies, such as the
2 United States Department of Labor, Occupational Safety and Health Administration. As
3 used in this section, ~~the term~~ "noncompliance" means a lack of compliance with any
4 applicable health and safety regulations of the United States Department of Labor,
5 Occupational Safety and Health Administration or other federal agencies. The bureau is
6 responsible for the enforcement of indoor air quality and ventilation standards with respect
7 to state-owned buildings and buildings leased by the State. The bureau shall enforce air
8 quality standards in a manner to ensure that corrections to problems found in buildings be
9 made over a reasonable period of time, using consent agreements and other approaches as
10 necessary and reasonable.

11 **Sec. B-3. 26 MRSA §42-B, sub-§1, ¶H**, as enacted by PL 2023, c. 412, Pt. AAA,
12 §6, is amended to read:

13 H. ~~Paid~~ Voluntary paid family and medical leave as provided in chapter 7, subchapter
14 ~~6-C~~ 6-D.

15 **Sec. B-4. 26 MRSA c. 7, sub-c. 6-D** is enacted to read:

16 **SUBCHAPTER 6-D**

17 **VOLUNTARY PAID FAMILY AND MEDICAL LEAVE PROGRAM**

18 **§850-S. Definitions**

19 As used in this subchapter, unless the context otherwise indicates, the following terms
20 have the following meanings.

21 **1. Average weekly wage.** "Average weekly wage," as used to establish the maximum
22 weekly benefit amount for purposes of this subchapter, means 1/52 of aggregate total wages
23 paid in the State for a covered individual, as reported on employer contribution reports for
24 the calendar year, divided by the arithmetic mean of midmonth weekly covered
25 employment reported on employer contribution reports for the calendar year in the form
26 and manner determined by the department.

27 **2. Commissioner.** "Commissioner" means the Commissioner of Labor.

28 **3. Covered individual.** "Covered individual" means a person who is:

29 A. An employee employed by an employer that purchases paid family and medical
30 leave coverage in accordance with this subchapter; and

31 B. An employee employed by an employer that has not purchased paid family and
32 medical leave coverage in accordance with this subchapter who voluntarily purchases
33 paid family and medical leave coverage on an individual basis.

34 **4. Covered service member.** "Covered service member" means:

35 A. A member of the United States Armed Forces, including the National Guard and
36 the Reserves of the United States Armed Forces, who is:

37 (1) Undergoing medical treatment, recuperation or therapy or otherwise receiving
38 outpatient treatment; or

(2) Otherwise on the United States Armed Forces' temporary disability retired list for a serious injury or illness that was incurred by the member in the line of duty in the United States Armed Forces or a serious injury or illness that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the United States Armed Forces; or

B. A former member of the United States Armed Forces, including the National Guard and the Reserves of the United States Armed Forces, who is undergoing medical treatment, recuperation or therapy for a serious injury or illness that was incurred by the member in the line of duty in the United States Armed Forces or a serious injury or illness that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the United States Armed Forces and manifested before or after the member was discharged or released from service.

5. Department. "Department" means the Department of Labor.

6. Domestic partner. "Domestic partner" has the same meaning as in Title 1, section 72, subsection 2-C.

7. Employee. "Employee" means a person who may be permitted, required or directed by an employer in consideration of direct or indirect gain or profit to engage in any employment in the State but does not include an independent contractor.

8. Employer. "Employer" means any person, sole proprietorship, partnership, corporation, association or other business entity that employs 50 or more employees at a location in this State. "Employer" includes:

A. The State, including the executive, legislative and judicial branches, and a state department or agency;

B. A county, city, town or municipal agency; and

C. A public employer, as defined in section 962, subsection 7.

"Employer" does not include the Federal Government.

9. Employment. "Employment" means a service performed for wages.

10. Employment benefits. "Employment benefits" means all benefits provided or made available to employees by an employer, including, but not limited to, group life insurance, health insurance, disability insurance, sick leave, annual or vacation leave, educational benefits and pensions.

11. Family leave. "Family leave" means leave taken pursuant to section 850-T, subsection 2.

12. Family member. "Family member" means, with respect to a covered individual or spouse or domestic partner of a covered individual:

A. Regardless of age, a child, including a child whose parentage has been determined under the Maine Parentage Act or any other biological child, adopted child, foster child or stepchild, or a child to whom the covered individual or spouse or domestic partner of the covered individual stands in loco parentis or a child the covered individual or spouse or domestic partner of the covered individual has under legal guardianship or any individual to whom the covered individual or spouse or domestic partner of the

1 covered individual stood in any of these relationships when the individual was a minor
2 child;

3 B. A parent, including a legal parent, biological parent, adoptive parent, foster parent,
4 stepparent, de facto parent or legal guardian or a person who stood in loco parentis
5 when the covered individual or spouse or domestic partner of the covered individual
6 was a minor child;

7 C. A grandparent, including a legal grandparent, biological grandparent, adoptive
8 grandparent, foster grandparent, stepgrandparent or de facto grandparent;

9 D. A grandchild, including a legal grandchild, biological grandchild, adoptive
10 grandchild, foster grandchild, stepgrandchild or de facto grandchild;

11 E. A sibling, including a legal sibling, biological sibling, adoptive sibling, foster
12 sibling, stepsibling or de facto sibling;

13 F. A spouse or domestic partner of a covered individual; or

14 G. As designated by the covered individual in accordance with rule, an individual with
15 whom the covered individual has a significant personal bond that is or is like a family
16 relationship, regardless of biological or legal relationship.

17 **13. Medical leave.** "Medical leave" means leave taken pursuant to section 850-T,
18 subsection 3.

19 **14. Qualifying exigency.** "Qualifying exigency" means an exigency determined
20 pursuant to the federal Family and Medical Leave Act of 1993, 29 United States Code,
21 Section 2612(a)(1)(E).

22 **15. Serious health condition.** "Serious health condition" means an illness, injury,
23 impairment, pregnancy, recovery from childbirth or physical, mental or psychological
24 condition that involves inpatient care in a hospital, hospice or residential medical care
25 center or continuing treatment by a health care provider.

26 **16. Spouse.** "Spouse" has the same meaning as in Title 18-C, section 1-201,
27 subsection 54.

28 **17. State average weekly wage.** "State average weekly wage" means the average
29 weekly wage as published by the department for the State as a whole for the 12 most
30 recently reported months.

31 **18. Wages.** "Wages" includes, but is not limited to, salary, wages, tips, commissions
32 and other compensation as determined by rule.

33 **§850-T. Voluntary paid family and medical leave coverage**

34 **1. Voluntary paid family and medical leave coverage.** In accordance with this
35 section, after a competitive bidding process subject to the requirements of Title 5, section
36 1816-B, the commissioner shall contract with an insurance company authorized to do
37 business in this State to provide voluntary paid family and medical leave coverage to
38 employers with 50 or more employees and to individuals who elect to participate.

39 A. The commissioner shall issue the request for proposals as part of the competitive
40 bidding process no later than January 1, 2026.

1 B. The commissioner shall consult with the Superintendent of Insurance when
2 evaluating proposals submitted by insurance companies in response to the request for
3 bids.

4 C. The insurance company contracted under this section is subject to all applicable
5 insurance laws and regulations of the State, and the rates and forms for paid family and
6 medical leave benefits must be filed for approval with the Superintendent of Insurance
7 in accordance with the requirements of Title 24-A.

8 D. The coverage for voluntary paid family and medical leave benefits must be available
9 for purchase by employers and individuals no later than January 1, 2027.

10 **2. Family leave eligibility.** A covered individual is eligible for family leave for any
11 of the following reasons:

12 A. To bond with the covered individual's child during the first 12 months after the
13 child's birth or the first 12 months after the placement of the child for adoption or foster
14 care with the covered individual;

15 B. To care for a family member with a serious health condition;

16 C. To attend to a qualifying exigency;

17 D. To care for a family member of the covered individual who is a covered service
18 member; or

19 E. Any other reason set forth in section 843, subsection 4.

20 **3. Medical leave eligibility.** A covered individual with a serious health condition that
21 makes the covered individual unable to work is eligible for medical leave.

22 **4. Maximum leave requirements.** The following requirements apply to leave taken
23 under this subchapter:

24 A. A covered individual is not eligible for more than 6 weeks of family leave in a
25 benefit year;

26 B. A covered individual is not eligible for more than 6 weeks of medical leave in a
27 benefit year; and

28 C. A covered individual may not take more than 6 weeks, in the aggregate, of family
29 leave and medical leave under this subchapter in the same benefit year.

30 This subsection does not prevent a covered individual from taking medical leave that is
31 immediately followed by family leave when the medical leave is taken during pregnancy
32 or recovery from childbirth and is supported by documentation from a health care provider.

33 **5. Maximum benefit amount.** Subject to subsection 7, the following provisions apply
34 to leave taken under this subchapter:

35 A. A covered individual must receive 60% of the covered individual's average weekly
36 wage; and

37 B. Wages used to determine the amount required to be paid under paragraph A are
38 capped at the benefit base limit established annually by the federal Social Security
39 Administration for purposes of the federal Old-Age, Survivors, and Disability
40 Insurance program limits pursuant to 42 United States Code, Section 430.

1 **6. Voluntary participation.** The offer of paid family and medical leave coverage by
2 an employer pursuant to this subchapter is voluntary. A participating employer may choose
3 to provide coverage at no cost to its employees or on a contributory or partially contributory
4 basis.

5 **7. Other provisions of coverage authorized.** As part of the request for proposals
6 issued pursuant to subsection 1, paragraph A, the commissioner shall establish the
7 following additional elements of the benefit structure for voluntary paid family and medical
8 leave coverage:

9 A. The base period by which the average weekly wage must be determined;

10 B. The tenure requirement, expressed in terms of months of work, to be met before an
11 employee is eligible to be covered, except that a tenure requirement may not apply to
12 an employee who has already met the requirement and then changes jobs;

13 C. Any waiting period or elimination period, except that a waiting period is not a
14 required element of the benefit structure and the commissioner may implement a plan
15 without such a requirement;

16 D. The minimum participation requirement;

17 E. The parameters for open enrollment periods through which employers that choose
18 to sponsor coverage may contract directly with the insurance company contracted
19 pursuant to subsection 1;

20 F. The parameters for individuals who work for employers that choose not to offer paid
21 family and medical leave coverage under this subchapter or that do not offer paid
22 family and medical leave coverage that is at least equivalent to the coverage available
23 under this subchapter to have the opportunity to contract indirectly with the insurance
24 company contracted pursuant to subsection 1 through a purchasing pool for
25 individuals;

26 G. Procedures for the establishment of a premium rate for employers and individuals
27 to purchase paid family and medical leave coverage based on actuarially justified rating
28 factors; and

29 H. Procedures for payroll deduction and premium remittance for employers with 50 or
30 more employees for contributory plans, partially contributory plans and
31 noncontributory plans for employers.

32 **8. Consulting actuary.** In carrying out the requirements of this subchapter, the
33 commissioner may retain a consulting actuary or other benefit advisor.

34 **9. Employer outreach.** The commissioner shall develop and implement an outreach
35 program to ensure that employers that might benefit from sponsoring paid family and
36 medical leave coverage for their employees and individuals who may be eligible to
37 purchase paid family and medical leave coverage are made aware of this program.

38 **10. Annual report.** Beginning January 1, 2028 and annually thereafter, the
39 commissioner shall submit a report on the voluntary paid family and medical leave
40 coverage provided under this subchapter to the Governor and to the joint standing
41 committee of the Legislature having jurisdiction over labor matters.

11. Rules. The commissioner may adopt rules as necessary to implement this subchapter. Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§850-U. Employer requirements; return to work from family or medical leave

1. Restoration to position upon return to work. Except for an employee who has not been employed for at least 120 days, an employee who exercises the right to family leave or medical leave under this subchapter is entitled, upon return from that leave, to be restored by the employer to the position held by the employee when the leave commenced or to be restored to an equivalent position with equivalent employment benefits, pay and other terms and conditions of employment.

2. Retaliation prohibited. An employer may not discharge, fire, suspend, expel or discipline, through the application of attendance policies or otherwise, or threaten or in any manner discriminate against an employee for the exercise of any right to which the employee is entitled under this subchapter or with the purpose of interfering with the exercise of any right to which the employee is entitled under this subchapter.

3. Enforcement; violation. The department shall take enforcement action against an employer for a violation of this section.

§850-V. Effect of existing employer benefits for family and medical leave

This subchapter may not be construed to prohibit an employee entitled to receive benefits for family leave or medical leave under a collective bargaining agreement or employer policy from also receiving benefits under this subchapter as long as the employee is otherwise eligible for benefits under this subchapter.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

Part A of this bill repeals the provisions in law that established the paid family and medical leave benefits program. Part A requires the Department of Labor to refund contributions made by employers and self-employed individuals to the Department of Labor under the paid family and medical leave benefits program and requires an employer that deducted a portion of the premium required for an employee from that employee's wages to remit that portion of the premium to the employee as part of the employee's wages. Part A also requires the State Controller to transfer unappropriated funds from the Department of Labor, Paid Family and Medical Leave Insurance Fund, Other Special Revenue Funds account to the unappropriated surplus of the General Fund.

Part B of the bill establishes a voluntary paid family and medical leave program for employers of 50 or more employees and also allows individual employees whose employers do not participate in the program to voluntarily participate. Part B requires the Commissioner of Labor to contract with an insurance company authorized to do business in this State to provide this coverage after a competitive bidding process. The commissioner is required to issue the request for proposals no later than January 1, 2026, and voluntary paid family and medical leave coverage must be available for purchase no later than January 1, 2027. The program provides employees who are eligible for paid family and

- 1 medical leave with 60% of their average weekly wage, up to a maximum amount based on
- 2 the cap on wages eligible for social security benefits, for up to 6 weeks per year.