



Testimony of
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Senate Bill 580
Pennsylvania Paid Family and Medical Leave Insurance Program
Senate Labor & Industry Committee
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Good morning. Many thanks to Chairwoman Bartolotta and Chairwoman Tartaglione, and the rest of the Labor and Industry Committee for the opportunity to speak today. My name is Julia Grubbs, and I am the Deputy Policy Director at the Pennsylvania Department of Labor & Industry (Department).

Senate Bill 580 (SB 580) designates powers and imposes duties on the Department of Labor & Industry to establish and administer the Pennsylvania Family and Medical Leave Insurance Program and the Family and Medical Leave Insurance Fund.

I am here today to express the Department's support for paid family and medical leave, to speak about the administration of SB580 from the Department's perspective, and to provide suggestions that would make the bill more practical to administer.

Generally, the Department is supportive of paid family and medical leave for several reasons. It:

- Increases employee retention; a 2012 study by Rutgers University's Center for Women and Work found that women with "paid leave were ninety-three percent more likely to be working at postpartum months ... than are those who did not take any leave."¹

¹ House, Linda; Vartanian, Thomas; *Pay Matters The Positive Economic Impacts of Paid Family Leave for Families Businesses and the Public*. Rutgers, the State university of New Jersey, Center for Women and Work. January 2012. <https://www.nationalpartnership.org/our-work/resources/economic-justice/other/pay-matters.pdf>

- Prevents employees from financial hardship during a time of need; According to the U.S. Bureau of Labor Statistics, only seventeen percent of workers have access to PFML.²
- Removes undue financial hardship from employers when they have an employee that needs to take a leave from work for medical reasons.

Pennsylvania workers should not have to choose between their jobs and taking care of a sick family member, welcoming a new child, or supporting a family member who has been deployed by our military.

As indicated in the “*Paid Family Medical Leave in Pennsylvania*” report released by the Department of Labor & Industry in November 2017, approximately 1.1 million people take some form of leave from work for medical reasons each year. This report projects that about five percent, or approximately 325,000 employees in the Commonwealth, would both qualify for and use a PFML program.³ This is an opportunity to support those employees and their employers.

The Department is the commonwealth’s lead labor and workforce development agency. Across a wide range of programs and through policy and regulation, the Department ensures that Pennsylvania employers have the talent they need to compete. We also create policies that reduce barriers to employment for employees, so individuals can find and stay at work. Part of developing and maintaining a skilled, dynamic, and resilient workforce is recognizing that life can be unexpected. Any one of us could be affected by unforeseen and unpreventable circumstances that keep us from work.

The Department is used to supporting workers and employers in times of need. We currently administer similar income replacement programs. The Department is tasked with the supervision and administration of several insurance programs and their trust funds. These include Unemployment Compensation (UC), the State Workers Insurance Fund (SWIF), and key aspects of the Workers’ Compensation System.

UC is an income replacement insurance program with contributions from both employers and employees. The triggering incident to collect unemployment compensation is job loss which is verified with the employer.

The State Workers Insurance Fund (SWIF) is a workers’ compensation insurance fund for new employers or a fund of last resort for employers with low insurance ratings.

The Department is also the administrator of the system of record, as well as the appeal and adjudication process for all workers’ compensation claims in Pennsylvania.

² TED: The Economics Daily, *Access to paid and family leave in 2018*, U.S. Bureau of Labor Statistics, February 27, 2019. <https://www.bls.gov/opub/ted/2019/access-to-paid-and-unpaid-family-leave-in-2018.htm>

³ Pennsylvania Department of Labor & Industry; Center for Workforce Innovation and Analysis, *Paid Family and Medical Leave in Pennsylvania: Research and Findings Report*, November 14, 2017. https://www.dol.gov/wb/media/Pennsylvania_Final_Report.pdf

As you can see, the Department brings extensive experience and expertise in administering income replacement insurance programs.

Both UC and SWIF are there for employees during their time of need should something unexpected happen to them, such as a layoff or injury at work. These funds have supported millions of Pennsylvanians during a time of transition so they can get back on their feet and back to work.

A Paid Family Medical Leave insurance program is also an income replacement insurance program. However, PFML would be funded solely by employee contributions, and the triggering incident is a medical issue verified by a healthcare professional. If an employee became ill, or an employee needed to care for a sick family member, or if an employee's family member was deployed with the military on short notice, a PFML program would provide support to affected employees during their time of transition. Assistance is crucial in these unexpected situations to help citizens of the commonwealth successfully get back on their feet and back to work. Additionally, just like UC and SWIF, PFML programs have shown to reduce dependency on public assistance.⁴

States have implemented PFML programs in various ways. Other states with PFML programs, such as California, New Jersey, Rhode Island, and New York, all had pre-existing temporary disability insurance programs that they have expanded. Three years ago, Washington State, like Pennsylvania today, did not have a state-wide disability program. Over the span of three years, Washington has built a PFML program from scratch which has started paying out benefits just this month. Pennsylvania can do that, too.

Based on these other states' experiences, the Department of Labor and Industry recommends a few administrative amendments to SB580 that would make it easier to successfully administer this program and serve residents of the commonwealth.

There are several areas where this bill extends the federal Family Medical Leave Act (FMLA). Since 1993, FMLA has provided access to unpaid family and medical leave to employees who work for employers with 50 or more employees. The Department does not enforce FMLA in Pennsylvania; rather, the federal government does through the US Department of Labor. Expanding job protections to employers with fewer than 50 employees would require the Department to take on a new enforcement and regulatory responsibility.

While the Department is supportive of the concept of expanding FMLA job protections to preserve employment during a time of illness, enforcing these job protections would require the Department to enforce a part of the law that it previously has not enforced. Washington did not expand FMLA coverage as part of their program; while they mirror the FMLA in many ways, paid family leave stands as a separate program. While L&I is

⁴ House, Linda; Vartanian, Thomas; *Pay Matters The Positive Economic Impacts of Paid Family Leave for Families Businesses and the Public*. Rutgers, the State university of New Jersey, Center for Women and Work. January 2012. <https://www.nationalpartnership.org/our-work/resources/economic-justice/other/pay-matters.pdf>

supportive of the concept of FMLA to preserve employment during a time of illness, enforcing expanded FMLA would require considerable resources.

Beyond expansion of FMLA to smaller employers, there are sections of the bill that propose expansions of FMLA definitions, such as definition of covered family member and duration of benefits; these are important factors that will affect the tax and benefit payouts of the fund. When these factors are decided, the Department can then work with an actuarial consultant to analyze appropriate revenues of the fund to ensure solvency; expenditures, including administrative costs; and to define requisite upfront costs to build the infrastructure for the program.

The bill does not currently address the upfront funding required to build this program. Building a PFML program will require funding for IT infrastructure, a phone system, online interface, promulgation of regulations, as well as hiring and training staff. Washington State's legislature provided these upfront costs in the form of two \$41 million loans, one in the first year and one in the second year of building the program. These loans were paid back through the fund, with interest, earlier than expected.

Additionally, this will be a new benefit that will affect all employers and all employees, so there must be money allocated within the act for initial and continual public education. For example, all employers will need to know they must enroll employees into the program and understand the payroll deduction process. All employees will need to know the eligibility requirement to be paid benefits by this program.

Lastly, Section 302 (c) of SB 580 is vague, it currently reads "the department may utilize procedures and appeals mechanisms established under the UC law." It appears that the intent of the bill is to create an appeal process similar to the one used by Unemployment Compensation, but to be clear - this program will need to have its own claim, appeal, and adjudication process, separate from UC for two reasons. First, UC uses federal dollars that can only be used for UC. Second, a program this size requires its own claim, appeal, and adjudication process and staff with specialized expertise.

I want to reiterate that the Department of Labor & Industry supports a paid family medical leave program. It will benefit employers and employees alike and help make Pennsylvania's workforce the strongest in the nation.

Again, thank you Chairwoman Bartolotta and Chairwoman Tartaglione, and the rest of the Labor and Industry Committee. I look forward to working with you all as this legislation moves forward. I am happy to answer any questions you may have at this time.