



Paid family and medical leave (SF 2/HF 2) Talking points

March 30, 2023

The business community remains strongly opposed to the paid family and medical leave bill (SF2/HF2). While a somewhat substantial amendment was included in the Senate Jobs Committee last week that seeks to address some of our top criticisms of the bill, it does not change the overall impact – in fact, it might make it worse. The House language remains largely unchanged from its introduction.

The major changes in the most recent Senate amendment included: moving the total number of weeks to a stackable 20 based on a 12 weeks + 8 weeks formula, changing the definition of family member to remove the “affinity” language but replacing it with a new vague and indefinite “individual selected by the incapacitated person” concept, exempting seasonal employees who work 150 days but not attaching seasonal employees to a single employer, and providing certain small business (30 or fewer employees provided the company is “not profitable,” essentially) with relief from the employer portion of the payroll tax and access to a new grant assistance concept determined by complicated wage formulas.

Length of leave remains too expansive with the definition of a family member still too broad and vague

While it’s possible not every employee will take off the entire time allowed, experience shows that when provided, employees have the right to and will access this benefit. With the combined duration of over 20 weeks paired with a still overly broad and vague definition of a family member, the impact of this mandate continues to compound. Further, the stackability of the family and medical leaves, when combined with SF 34 (legislation mandating up-to-80 hours of paid sick and safe time), these proposals will place considerable strain on our workforce and employers. This is still a significant new standard. In certain workplaces, such as hospitals or manufacturing facilities that run 24/7, or in daycares or schools or care facilities, where staffing ratios are carefully calibrated and monitored, we already do not have enough workers ready to fill open positions. Having such a specific and extended leave mandate will unintentionally exacerbate problems related to our workforce challenge and disrupt existing benefits packages.

Too expensive and indirect costs are not factored in

We are highly critical of imposing a new payroll tax on every employer that will collectively cost Minnesota businesses nearly \$1.5 billion annually. This is based on a payroll tax rate that is subject to increase significantly in order to create and finance a broad new state-run insurance program that takes over an existing insurance market and thwarts an emerging one. This does not account for all of the indirect costs to employers – compliance, record keeping, workforce and operational management contingency plans, and potential lost productivity and sales.

In addition to the direct and indirect costs to employers, the proposal will take years of development and over 400 state FTEs to start, implement, and administrate. Once the program is up and running, the proposal assumes that roughly seven percent of the taxes collected annually will be needed to fund the operation and staffing of the state bureaucracy program.

To that point, we are extremely concerned that an outside actuarial analysis has not been conducted. Based on a preliminary review of the fiscal note, without modifications to its initial scope and design, we expect the program to exceed projections and run into solvency issues. This will result in higher payroll taxes on small employers and employees.

The small business, seasonal employee provisions are unworkable and provides little relief

Instead of clearly defining a small business based on employee headcount and explicitly addressing the employer portion of the payroll tax for small businesses in the statute, the bill creates a complicated set of conditions and new formulas to apply. Furthermore, by not attaching the seasonal employee to a particular employer, it remains an open question as to when an employee is exempt and when an employer becomes captured under this mandate. We remain concerned by the need for clearer drafting and do not support placing complicated new provisions specifically on our small businesses under the guise of providing small businesses with relief.

The business community remains strongly opposed to the paid family and medical leave bill (SF2/HF2). We continue to recommend that policymakers remove the stackability of leaves and cap the program at 12 weeks, match the definition of family member to the existing definition under the federal Family and Medical Leave Act (FMLA) and exempt small businesses with 50 or fewer employees from the impacts of this mandate.