

HOUSE BILL 102

K3

(PRE-FILED)

5lr0378
CF SB 225

By: **Chair, Economic Matters Committee (By Request – Departmental – Labor)**

Requested: October 12, 2024

Introduced and read first time: January 8, 2025

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Family and Medical Leave Insurance Program – Application Year and**
3 **Participation of Self-Employed Individuals**

4 FOR the purpose of requiring the Maryland Department of Labor to adopt regulations
5 establishing an optional self-employed enrollment program governing the
6 participation of self-employed individuals in the Family and Medical Leave
7 Insurance Program; repealing certain requirements related to the payment of
8 contributions to the Program by participating self-employed individuals; excluding
9 participating self-employed individuals from certain provisions of law governing the
10 payment of benefits under the Program; altering the definition of “application year”
11 for purposes of the Program; and generally relating to the Family and Medical Leave
12 Insurance Program.

13 BY repealing and reenacting, without amendments,
14 Article – Labor and Employment
15 Section 8.3–101(a), (d), and (e) and 8.3–703(b)(3)
16 Annotated Code of Maryland
17 (2016 Replacement Volume and 2024 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Labor and Employment
20 Section 8.3–101(b), 8.3–201, 8.3–601, and 8.3–703(a) and (b)(1) and (2)
21 Annotated Code of Maryland
22 (2016 Replacement Volume and 2024 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
24 That the Laws of Maryland read as follows:

25 **Article – Labor and Employment**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 8.3–101.

2 (a) In this title the following words have the meanings indicated.

3 (b) “Application year” means the 12–month period beginning on the Sunday of
4 the calendar week [for which benefits are approved] **IN WHICH LEAVE UNDER THIS TITLE**
5 **BEGINS.**

6 (d) “Covered employee” means an employee who has worked at least 680 hours
7 performing services under employment located in the State over the four most recently
8 completed calendar quarters for which quarterly reports have been required immediately
9 preceding the date on which leave is to begin.

10 (e) “Covered individual” means a covered employee or a self–employed individual
11 who elects to participate in the Program under § 8.3–201 of this title.

12 8.3–201.

13 (a) In this section, “self–employed individual” includes an individual [that] **WHO:**

14 (1) is the sole owner of a sole proprietorship, limited liability company, C
15 corporation, or S corporation; and

16 (2) is the only individual employed by the sole proprietorship, limited
17 liability company, C corporation, or S corporation.

18 (b) **[(1)]** A self–employed individual who is a resident of the State may elect to
19 participate in the Program [by filing a written notice of election with the Secretary] in
20 accordance with regulations adopted by the Secretary **UNDER SUBSECTION (C) OF THIS**
21 **SECTION.**

22 **[(2)]** An election made under paragraph (1) of this subsection becomes
23 effective on the date the written notice is filed.

24 (c) (1) If a self–employed individual elects to participate in the Program
25 under subsection (b) of this section, the individual shall participate for an initial period
26 of not less than 3 years.

27 (2) Once the initial participation period expires, the self–employed
28 individual may renew participation in the Program for a period of not less than 1 year.

29 (3) If the self–employed individual does not wish to renew participation in
30 the Program under paragraph (2) of this subsection, within 30 days before the participation
31 period expires, the self–employed individual shall notify the Secretary in writing of the
32 self–employed individual’s withdrawal from the Program.

(d) During the period a self-employed individual participates in the Program, the self-employed individual shall pay the contribution required under § 8.3–601 of this title.]

(C) ON OR BEFORE JULY 1, 2027, THE SECRETARY SHALL ADOPT REGULATIONS THAT ESTABLISH AN OPTIONAL SELF-EMPLOYED ENROLLMENT PROGRAM AND INCLUDE:

(1) CONTRIBUTION AMOUNTS;

(2) BENEFIT AMOUNTS; AND

(3) ENROLLMENT PROCEDURES.

8.3–601.

(a) (1) **(I)** Beginning July 1, 2025, each employee of an employer[,] AND each employer with 15 or more employees[, and each self-employed individual participating in the Program] shall contribute to the Fund.

[(2)] (II) The total rate of contribution established under this section FOR EMPLOYEES AND EMPLOYERS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH:

[(i)] 1. may not exceed 1.2% of an employee's wages; and

[(ii)] 2. shall be applied to all wages up to and including the Social Security wage base.

(2) EACH SELF-EMPLOYED INDIVIDUAL PARTICIPATING IN THE PROGRAM SHALL CONTRIBUTE TO THE FUND IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER § 8.3–201(C) OF THIS TITLE.

(b) (1) Subject to subsection [(a)(2)] **(A)(1)(II)** of this section, on or before February 1, 2025, the Secretary shall set the total rate of contribution based on available cost analyses of the Program.

(2) The rate set under paragraph (1) of this subsection shall be in effect for the period from July 1, 2025, to June 30, 2026, both inclusive.

(c) (1) On or before November 15 each year, beginning in 2026, the Secretary shall conduct a cost analysis of the Program that is focused on the cost of maintaining solvency and paying benefits to covered individuals that will be used to determine the appropriate total rate of contribution to the Fund.

(2) On or before November 15 each year, the Secretary shall report the

1 results of the cost analysis to the Senate Finance Committee, the House Economic Matters
2 Committee, and the Joint Committee on Administrative, Executive, and Legislative Review
3 in accordance with § 2-1257 of the State Government Article.

4 (d) (1) Subject to paragraph (2) of this subsection and subsection ~~[(a)(2)]~~
5 ~~(A)(1)(II)~~ of this section, on or before February 1 each year, beginning in 2026, the
6 Secretary shall set the total rate of contribution that will be in effect for the 12-month
7 period beginning on the immediately following July 1.

8 (2) The rate set under paragraph (1) of this subsection shall be based on
9 the cost analysis required under subsection (c) of this section.

10 (e) (1) (i) Except as otherwise provided in this section, each employer of 15
11 or more employees shall contribute an amount equal to 50% of the total rate of contribution
12 for each employee.

13 (ii) Except as otherwise provided in this section, each employee of an
14 employer shall contribute an amount equal to 50% of the total rate of contribution.

15 (2) (i) Except as provided in subparagraph (ii) of this paragraph, the
16 employer of the employee shall deduct the employee's required contribution from the wages
17 of the employee.

18 (ii) 1. An employer may elect to pay all or a portion of the
19 required employee contributions in whole or in part.

20 2. If the employer of an employee elects to pay a portion of
21 the employee's required contribution, the employer:

22 A. may deduct an amount that is less than 50% of the rate of
23 contribution required from the wages of the employee; and

24 B. shall notify employees of the rate of contribution set for
25 employees under subsection (d)(1) of this section and the portion of that amount that the
26 employer is electing to pay.

27 [(f) Each self-employed individual participating in the Program shall:

28 (1) pay contributions during each year that the self-employed individual
29 participates in the Program; and

30 (2) contribute an amount equal to the total rate of contribution set under
31 subsection (d) of this section.]

32 [(g)] (F) (1) The Maryland Department of Health shall reimburse each:

(i) community provider that is required to be licensed or certified under Title 7 of the Health – General Article for 100% of the employer contribution required under subsection (e) of this section for employees who manage or provide services under Title 7 of the Health – General Article;

(ii) community provider that is required to be licensed or certified under Title 7.5 of the Health – General Article for a percentage of the employer contribution required under subsection (e) of this section for employees who manage or provide services under Title 7.5 of the Health – General Article that is equal to the percentage of revenue that is attributable to federal and State Medicaid funding and any other State funding received by the community provider for the services during the period covered by the reimbursement; or

(iii) provider, as defined in § 16–201.4 of the Health – General Article, for a percentage of the employer contribution required under subsection (e) of this section for employees who manage or provide services described in § 16–201.4(a) of the Health – General Article that is equal to the percentage of revenue attributable to federal and State Medicaid funding and any other State funding received by the provider for the services during the period covered by the reimbursement.

(2) The Maryland Department of Health shall make the reimbursements required under paragraph (1) of this subsection at least quarterly.

(3) To receive reimbursement under paragraph (1) of this subsection, a provider shall provide to the Maryland Department of Health any information necessary to carry out this subsection in the form and manner required by the Maryland Department of Health.

8.3–703.

(a) For the purposes of this section:

(1) the covered [individual's] **EMPLOYEE'S** average weekly wage shall be calculated as the total wages received by the covered [individual] **EMPLOYEE** in the highest of the previous four completed calendar quarters for which quarterly reports have been required, divided by 13; and

(2) the State average weekly wage shall be the wage calculated under § 9–603 of this article.

(b) (1) Subject to paragraphs (2) and (3) of this subsection, the weekly benefit amount payable to a covered [individual] **EMPLOYEE** under this title shall be:

(i) if the covered [individual's] **EMPLOYEE'S** average weekly wage is 65% or less of the State average weekly wage, 90% of the covered [individual's] **EMPLOYEE'S** average weekly wage; or

(ii) if the covered [individual's] **EMPLOYEE'S** average weekly wage is greater than 65% of the State average weekly wage, the sum of:

1. 90% of the covered [individual's] **EMPLOYEE'S** average weekly wage up to 65% of the State average weekly wage; and

2. 50% of the covered [individual's] **EMPLOYEE'S** average weekly wage that is greater than 65% of the State average weekly wage.

(2) The benefit paid under this title and any additional paid leave cannot total more than 100% of the covered [individual's] **EMPLOYEE'S** average weekly wage.

(3) The weekly benefit amount payable under paragraph (1) of this subsection:

(i) shall be at least \$50; and

(ii) may not exceed:

1. for the 6-month period beginning July 1, 2026, \$1,000; and

2. for the 12-month period beginning January 1, 2027, and each subsequent 12-month period, the amount determined and announced by the Secretary under paragraph (4) of this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2025.