

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

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 2025

CHAPTER _____

1 AN ACT concerning

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

4 FOR the purpose of defining “anchor date” to establish certain reference points for the
5 calculation of a certain covered employee’s average weekly wage and eligibility for
6 increases in weekly benefits under the Family Medical Leave and Insurance
7 Program; requiring the Maryland Department of Labor to adopt regulations
8 establishing an optional self-employed enrollment program governing the
9 participation of self-employed individuals in the ~~Family and Medical Leave~~
10 ~~Insurance~~ Program; repealing certain requirements related to the payment of
11 contributions to the Program by participating self-employed individuals; altering
12 certain dates related to annual reporting and the implementation of the Program;
13 excluding participating self-employed individuals from certain provisions of law
14 governing the payment of benefits under the Program; altering the definition of
15 “application year” for purposes of the Program; altering the frequency with which
16 subsequent payments are to be made under the Program; authorizing the Secretary
17 to announce, rather than notify each employer of, a certain increase to the maximum
18 weekly benefit amount; prohibiting the Department from requiring certain
19 employers to escrow employer and employee contributions before the issuance of
20 Program benefits by the Department; and generally relating to the Family and
21 Medical Leave Insurance Program.

22 BY repealing and reenacting, without amendments,
23 Article – Labor and Employment

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Section 8.3–101(a), ~~(d)~~, and (e) ~~and 8.3–703(b)(3)~~
Annotated Code of Maryland
(2016 Replacement Volume and 2024 Supplement)

BY adding to

Article – Labor and Employment
Section 8.3–101(a–1)
Annotated Code of Maryland
(2016 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, with amendments,

Article – Labor and Employment
Section 8.3–101(b) ~~and (d)~~, 8.3–201, 8.3–406(a), 8.3–601, 8.3–701(a), and 8.3–703(a)
~~and (b)(1) and (2)~~, (b), (c), (d)(5), (e)(2), and (f)
Annotated Code of Maryland
(2016 Replacement Volume and 2024 Supplement)

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

Article – Labor and Employment

8.3–101.

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

(A–1) “ANCHOR DATE” MEANS THE EARLIER OF THE DATE ON WHICH:

(1) AN APPLICATION FOR BENEFITS IS COMPLETE IN ACCORDANCE
WITH § 8.3–701(B)(2) OF THIS TITLE; OR

(2) LEAVE BEGINS FOR A COVERED INDIVIDUAL FOR WHICH BENEFITS
MAY BE PAID UNDER THIS TITLE.

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

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

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

1 8.3–201.

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

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

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

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

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

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

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

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

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

24 **(C) ON OR BEFORE JULY 1, ~~2027~~ 2028, THE SECRETARY SHALL ADOPT**
25 **REGULATIONS THAT ESTABLISH AN OPTIONAL SELF–EMPLOYED ENROLLMENT**
26 **PROGRAM AND INCLUDE:**

27 **(1) CONTRIBUTION AMOUNTS;**

28 **(2) BENEFIT AMOUNTS; AND**

29 **(3) ENROLLMENT PROCEDURES.**

30 8.3–406.

(a) On or before [November 15] **OCTOBER 1** each year, the Secretary shall submit to the Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly an annual report on the administration and operation of the Program during the immediately preceding fiscal year.

8.3–601.

(a) (1) **(I)** Beginning ~~July 1, 2025~~ **JANUARY 1, 2027**, 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~~ **MAY 1, 2026**, 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~~ **JANUARY 1, 2027**, to ~~June 30, 2026~~ **DECEMBER 31, 2027**, both inclusive.

(c) (1) On or before ~~November 15~~ **OCTOBER 1** each year, beginning in ~~2026~~ **2027**, 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~~ **OCTOBER 1** each year, the Secretary shall report the results of the cost analysis to the Senate Finance Committee, the House Economic Matters Committee, and the Joint Committee on Administrative, Executive, and Legislative Review in accordance with § 2–1257 of the State Government Article.

(d) (1) Subject to paragraph (2) of this subsection and subsection **[(a)(2)] (A)(1)(II)** of this section, on or before ~~February~~ **NOVEMBER 1** each year, beginning in ~~2026~~

1 **2027**, the Secretary shall set the total rate of contribution that will be in effect for the
2 12-month period beginning on the immediately following ~~July~~ **JANUARY** 1.

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (ii) community provider that is required to be licensed or certified
33 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.

8.3–701.

(a) (1) Subject to paragraph (2) of this subsection, beginning [July 1, 2026] ON A DATE NOT EARLIER THAN JANUARY 1, 2027, BUT NOT LATER THAN JANUARY 3, 2028, DETERMINED AND ANNOUNCED BY THE SECRETARY, a covered individual taking leave from employment may submit a claim for benefits:

(i) 1. to care for a newborn child of the covered individual during the first year after the child's birth; or

2. because a child is being placed for adoption, foster care, or kinship care with the covered individual or to care for or bond with the child during the first year after the placement;

(ii) to care for a family member with a serious health condition;

(iii) to attend to a serious health condition that results in the covered individual being unable to perform the functions of the covered individual's position;

(iv) to care for a service member with a serious health condition resulting from military service for whom the covered individual is next of kin; or

(v) to attend to a qualifying exigency arising out of the deployment of a service member who is a family member of the covered individual.

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 **THAT IMMEDIATELY PRECEDE THE ANCHOR DATE AND** 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,~~ **PERIOD BEGINNING ON THE DATE ANNOUNCED BY THE SECRETARY UNDER § 8.3–701(A)(1) OF THIS SUBTITLE AND ENDING DECEMBER 31, 2028, BOTH INCLUSIVE,** \$1,000; and

2. for the 12-month period beginning January 1, ~~2027~~ **2029**, and each subsequent 12-month period, the amount determined and announced by the Secretary under paragraph (4) of this subsection.

(4) (i) In this paragraph, “Consumer Price Index” means the Consumer Price Index for All Urban Consumers for the Washington–Arlington–Alexandria, DC–VA–MD–WV metropolitan area or a successor index published by the federal Bureau of Labor Statistics.

(ii) Subject to subsection (e) of this section, for the 12–month period beginning January 1, [2027] 2029, and each subsequent 12–month period, the maximum weekly benefit amount shall be increased by the amount, rounded to the nearest cent, that equals the product of:

1. the maximum weekly benefit amount in effect for the immediately preceding 12–month period; and

2. the annual percentage growth in the Consumer Price Index for the immediately preceding 12–month period, as determined by the Secretary under subparagraph (iii)1 of this paragraph.

(iii) Beginning September 1, [2026] 2028, and on each subsequent September 1, the Secretary shall determine and announce:

1. the annual percentage growth, if any, in the Consumer Price Index based on the most recent 12–month period for which data are available on September 1; and

2. the maximum weekly benefit amount effective for the 12–month period beginning the immediately following January 1.

(c) (1) Except as provided in paragraph (2) of this subsection, an increase in the weekly benefit amount under subsection (b)(4) of this section applies only to [a claim for benefits that begins] **AN APPLICATION YEAR WITH AN ANCHOR DATE THAT OCCURS ON OR** after the date the increase becomes effective.

(2) If the leave for which benefits are being paid is being taken intermittently, an increase in the weekly benefit amount shall apply to a claim for benefits as specified in regulations adopted by the Department.

(d) The Department shall:

(5) make subsequent payments **AT LEAST** every 2 weeks until the benefit period ends.

(e) (2) Subject to paragraph (4) of this subsection, on or before September 1 each year, beginning in [2026] 2028, the Board shall determine whether the seasonally adjusted total employment from the Current Employment Statistics series as reported by the U.S. Bureau of Labor Statistics for the most recent 6–month period is negative as compared with the immediately preceding 6–month period.

1 (f) The Department shall [notify each employer of] ANNOUNCE the increase to
2 the maximum weekly benefit specified under subsection (b)(3)(ii) of this section.

3 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Department of
4 Labor may not require employers who are allowed to pool together with other employers
5 under § 19–602 of the Insurance Article to purchase insurance to escrow employer and
6 employee contributions under § 8.3–601 of the Labor and Employment Article before the
7 issuance of Family and Medical Leave Insurance Program benefits by the Department.

8 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 June 1, 2025.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.