

Family and Medical Leave Act

Expansions to FMLA law could stifle job growth and exacerbate the economic downturn

NSBA urges Congress to oppose any move that would hinder an entrepreneur's ability to create jobs—something an expansion of the FMLA would surely do. A number of proposals to add to leave, both paid and unpaid, have surfaced so far. All of these would slow or stop job growth at precisely the time when we need it the most.

Despite the good intentions of those in Congress who would like to expand the Family and Medical Leave Act of 1993 (FMLA), such expansions could have dire consequences for the job-creation role of small businesses. Piling on added burdens to such an important sector of the economy is likely to exacerbate the global competitive disadvantages U.S. businesses face, and stands to significantly hinder small-business owners' ability to create jobs.

Currently, FMLA requires employers to provide employees with up to 12 weeks of unpaid leave in a 12-month period. FMLA leave provides employees extended time off for the birth or adoption of a child; care for a spouse, parent or child with a serious health condition; or when the employee is unable to work due to a serious health condition. FMLA applies to employers who have at least 50 employees. A final rule, effective on January 16, 2009, updates the FMLA regulations to implement new military family leave entitlements enacted under the National Defense Authorization Act for FY 2008.

Sen. Edward Kennedy (D-Mass.), Chair of the Senate Health, Education, Labor and Pensions Committee, and Rep. Rosa DeLauro (D-Conn.) introduced legislation, the *Healthy Families Act*, in the 110th Congress which would require employers with 15 or more employees to provide seven paid sick days to all employees working 20 hours or more per week. An employee's sick time would be accrued as of the date of hire, and awarded on a pro-rated basis just three months after the date of hire. Rep. Pete Stark (D-Calif.) also introduced legislation in the 110th Congress, the *Family Leave Insurance Act*, which would expand the FMLA threshold all the way down to employers with just two employees and provide up to 12 weeks of paid leave to employees. The legislation establishes an FMLA fund financed by employers and employees through a new fee/tax equivalent to 0.2 percent of each employee's earnings. That fund would then pay for individuals' paid FMLA leave. This legislation could prove to be an added expense to employers and employees at absolutely the wrong time.

A past NSBA survey found that the majority of responding members (62 percent) already offer some kind of paid sick leave, but only eight percent offer it for employees working only 20 hours per week. Under the *Healthy Families Act* bill, 28 percent of business owners fear that productivity would decrease. Furthermore, 25 percent of respondents expected the per-employee cost of complying with the *Healthy Families Act* would exceed \$1,000—for a business with just 15 employees, that would mean at least \$15,000, not counting lost productivity. That is at least one full time job that can't be added in order to allow the first 15 employees the luxury of paid time off. The administration of even the existing law has been a problem for business. Paperwork and legal requirements have overwhelmed small-business owners, who, prior to FMLA, often allowed employees time off without the government telling them how to do it.

Perhaps the most troublesome outcome of FMLA expansion is stifling job growth. Reducing FMLA thresholds to 30, 20 or even 15 could serve as a plateau above which small-business owners would hesitate to grow, especially if it means having to give paid leave to all employees.

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