

Agreement in Place to Delay Required PFMLA Contributions Until October 1, 2019

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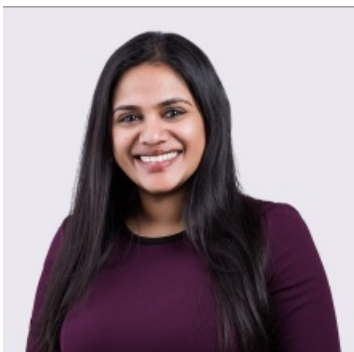
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Governor Charlie Baker, Senate President Karen Spilka, and House Speaker Robert DeLeo issued a joint statement on June 11, 2019, agreeing to amend the Massachusetts Paid Family and Medical Leave Act (PFMLA) and delay the required contributions until October 1, 2019. Support for delaying the contributions has grown since a coalition of business, labor, and social justice groups sent a letter to Baker, Spilka, and DeLeo on May 20, 2019.

In addition to the three-month delay for contributions, the joint statement also promised that the legislature would adopt technical changes to clarify the program's design. One of the likely changes proposed by the Governor would increase the total payroll contribution from .63% to .75% percent of earnings. The increase is designed to make up for the funds lost in the three-month delay to the start of contributions. It is unclear if these changes will affect the percentage split between required employer contributions and withholdings from employees.

Assuming the new legislation is actually enacted, this delay means that employers will not have to make the required employer contributions or deduct the employee portion of the contribution from employee paychecks on July 1, 2019. The delay will allow more time for the state to publish the final regulations, insurance carriers to create "private plans" that can exempt from the state system, and negotiations between employers and unions regarding the contributions. The proposed amendments do not alter the current timing or amount of the proposed benefits, which will still become available beginning in January 2021.

It is not clear what other amendments are being considered at this time. In the May 20, 2019 letter sent to Baker, Spilka, and DeLeo, the coalition proposed additional amendments that would further align the PFMLA with the federal Family and Medical Leave Act (FMLA). The letter proposed new language that clarifies intermittent leave counts against one's total allotment of leave and includes a definition of a 'serious health condition' as a condition that makes the covered individual unable to perform the functions of the covered individual's job.

The delay will provide some welcome relief for employers struggling to prepare for the new law without significant guidance from the state. At the same time, the prospect of changes to the law will undoubtedly be frustrating for companies that have already engaged in compliance efforts. Employers should continue to prepare for the upcoming contributions as this delay is only temporary. The legislature will need to advance and pass a bill with the amendments to the PFMLA and Jackson Lewis will provide updates regarding the specific contents of that bill when it becomes available.

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