Paid Family & Medical Leave

June 29, 2017

Honorable Members of the Washington State Legislature

Dear Honorable Members of the Washington State Legislature:

As member of the Business Negotiating Team for Paid Family Leave, we are aware that communication has been made by NFIB, urging your opposition on Paid Family & Medical Leave. It was important to make sure you have complete and accurate information when you are evaluating the proposed legislation.

We believe you will have the opportunity to vote on this proposal later this week. When making the decision to support the bill, we wanted to ensure you had accurate information. Please see below for factual responses to some of the claims that have been made.

"Despite record payouts during the Great Recession, the unemployment trust fund has a $4.37 BILLION surplus**,** paid entirely by employers**.** Those dollars are unavailable to reinvest in the company, add positions, increase wages, or provide additional *voluntary benefits."*

Response – We agree and this was addressed in the language in the proposed Paid Family & Medical Leave bill. It recognizes the potential for a surplus and allows the fund to be reinvested to pay down premiums instead of just sitting in the fund, unlike the unemployment trust fund.

"A long history of politicized rate-setting allowed Labor & Industries to squander workers compensation reserves, leading to a decade of rate increases to rebuild those reserves, and the current practice of annual rate increases to artificially peg rates to wage growth."

Response – We agree with the concern and therefore the proposed bill does not allow ESD to set the rate, the rate is determined by statute. This was an intentional policy decision because we agree with the above concern.

"The state's three leading health insurance carriers hold $3.5 BILLION in excess reserves – beyond those needed to pay future costs of claims – yet are requesting 13 percent to 39 percent rate hikes for 2018. The Insurance Commissioner cannot consider surpluses when approving rates. Consequently, small-business owners and working families continue to be overcharged for health insurance policies they are required by law to purchase**.**

Response – We agree -There are no requirements in this bill to provide health insurance.

"Premiums for this new program could swing annually from 0.10 percent to 0.60 percent of payroll, with no requirement for maintaining low, predictable rates, and no cap on reserves– which the Legislature could sweep for other purposes."

Response - We understand the concern. The bill contains language for rate smoothing – differential buy-down

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The Paid Family Leave premium rate is calculated annually and is a fund balance ratio calculation between the total covered wages of those participating in the program and the balance in the Paid Family Leave Fund. The premium rate is anywhere from 0.10%-0.60%. If the fund balance ratio is higher than is needed to maintain the fund, the premium rate automatically moves down and the employers/employees will pay less in premiums to allow the fund to decrease in size. We project the fund balance, once the program is fully implemented, to hover around $500 million per year.

"This program would allow 12 to 18 weeks leave with inadequate limitations on reasons for taking leave – even high pollen count and morning sickness would be permitted reasons for long-term absences [Sec. 2(20)(h)]

Response – This is current federal law under FMLA. Further, Employees must have their serious medical condition certified by a doctor. The bill only allows leave to be taken under the current definitions of disability under the federal Family Medical Leave Act.

It appears workers taking paid leave could still work on the side in "secondary employment," despite being unable to report for work with their primary employer [Sec. 5(1)(h)].

Response – We disagree. This is an incorrect interpretation. The secondary employment refers to family member who you are taking care of can still be employed.

Employers would be personally liable, even for unintentional accounting or administrative errors, and ESD allowed to lien assets, seize and sell property, and pursue civil litigation to collect premiums proponents claim are minor program costs.

Response – We disagree. These requirements are not in the proposal.

"It appears larger employers, including those utilizing collective bargaining agreements, could opt-out by establishing an ill-defined "voluntary plan." Requirements for those plans are unclear, as are the benefits they would offer. This threatens to create another uneven playing field where small businesses are trapped in a costly state-run program while bigger businesses operate under a different set of rules, much like the state's workers compensation monopoly."

Response – We disagree. This waiver program is available to ALL employers in Washington, of any size. Companies that apply for the waiver program MUST provide the same benefit that a worker would receive under the state program, and at no additional cost to the workers.

"Small-business owners are besieged with cost increases in this state, most resulting from legislation and initiatives, not market forces."

Response – We agree, small businesses would be radically affected by a statewide initiative with no local government preemption that puts almost all costs onto employers, regardless of size. This is why the business community worked with leaders in your caucus to find a reasonable solution.

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The proposal before you has been thoroughly vetted, reviewed, tweaked and adjusted. We believe this product is worthy of legislative support, and the collective recommendation of the business negotiating team is to support this proposal.

If you have any questions we would be happy to answer them. We also encourage you to reach out to the non-partisan staff and Caucus staff to confirm any responses. Thank you for your thoughtful consideration of this legislation.

Thank you for your consideration,

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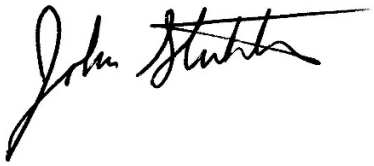

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