

Empower Employers to Determine Paid Leave

Problem:

In recent years, the issue of paid family leave has garnered attention from lawmakers on both sides of the aisle. Along with the COVID-19 pandemic, three recent developments have pushed the debate forward: 1) the increasing patchwork of state and local paid leave law requirements; 2) the new paid family leave benefit for federal government employees, which began in 2021; and 3) the paid family and sick leave provisions of the Families First Coronavirus Response Act (FFCRA).

- Although the *Family and Medical Leave Act of 1993* (FMLA) requires employers with at least 50 employees to provide employees with up to 12 weeks of unpaid leave in a 12-month period, pre-COVID-19, no federal law required private-sector employers to provide paid leave of any kind.
- As part of the 2017 Tax Cuts and Jobs Act, employers can claim tax credits for voluntarily offering at least two weeks of paid leave to their employees, a subsidy designed to cover up to 25 percent of the cost of employers providing paid family and medical leave.
- The FFCRA established a refundable tax credit for the mandated paid sick leave and family leave for private-sector employers with under 500 employees. The FFCRA's mandatory paid leave provisions expired on Dec. 31, 2020, however, Congress extended the tax credit for covered employers who voluntarily provide leave.
- To this effect, President Biden has called for legislation to:
 - Reinstate the requirements for employers to provide paid leave and expand coverage to virtually all employers.
 - Expand paid sick and family medical leave to 14 weeks for the same reasons included in the FFCRA, including time off to cover inoculations.
 - Provide a maximum paid leave benefit of \$1,400 per-week for eligible workers.
 - Reimburse employers with fewer than 500 employees for the full cost of the leave by extending the tax credits.
- NSBA surveys show a majority of our members (83 percent) already offer some kind of paid sick leave, with a majority of this majority offering 11 days or more.

Solution:

Proposals to mandate or increase leave, both paid and unpaid, impede job creation when we need it most, and will likely create complex new regulations for smaller employers.

Employees and employers should be able to determine for themselves the allocation of compensation between money, paid sick leave, paid vacation leave, health insurance, retirement and other employee benefits. There is no particular approach that meets the needs of all employees or employers.