



DEPARTMENT OF EMPLOYMENT SERVICES

Q1

FISCAL YEAR
2019
REPORT



DC PAID FAMILY LEAVE



GOVERNMENT OF THE
DISTRICT OF COLUMBIA
MURIEL BOWSER, MAYOR

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PURPOSE OF THE REPORT

Pursuant to section 104 of the Universal Paid Leave Amendment Act of 2016 (D.C. Law 21-264; D.C. Official Code §32-541.04), the District of Columbia's Department of Employment Services (DOES) is submitting the enclosed report on behalf of the Executive.

The purpose of this report is to provide an update on the work completed to date and currently underway by the Administration to implement the Universal Paid Leave Amendment Act of 2016 ("Paid Leave Act"). This document further serves as the quarterly report required by section 104 of the Paid Leave Act, and will explain in detail the requirements needed in order to develop all software necessary to administer the paid leave system established pursuant to this Act. This quarterly report includes information on program administration, information technology (IT) procurement and development, staffing, marketing and outreach, key program deadlines, research findings and key considerations. The findings in this quarterly report are based on the current Council-passed legislation, and it captures all implementation activities from October 1, 2017, through December 31, 2018. If there are any amendments to the current Council-passed legislation, the activities in the next quarterly report may change.

BACKGROUND

In 2017, the Paid Leave Act, which provides paid leave for family members who are bonding with a new child, caring for a family member with a serious health condition, and/or caring for the employee's own serious health condition, became District law. To qualify for Paid Family Leave (PFL) benefits, an individual must be a part-time or full-time employee in the District, regardless of their residence, and meet all of the requirements, monetary and non-monetary, outlined within the law. District government and federal employees are excluded. The duration of benefits provided by the Paid Leave Act allows for eight weeks of parental leave, six weeks of family leave, and two weeks of medical leave for every 52 weeks worked. The maximum weekly benefit amount is \$1,000 and is currently funded in the District solely by employer contributions. The current rate is 0.62 percent of wages or the annual self-employment income.

To implement the paid leave program for the District, DOES has established the Office of Paid Family Leave (OPFL). The OPFL will be comprised of the Division of Tax (collection of taxes, premiums, contributions, and fees; and revenue functions); Division of Benefits (claim filing, claim processing, payment of paid leave benefits); Benefit Payment Control (prevention and detection of fraud and overpayments; and recovery of improper payments of benefits); Appeals (fair hearings on protested claims); Medical (physician certifications); Call Center (customer service); and Support (procedures, budget, studies, etc.). Staffing efforts are currently underway to ensure the timely delivery of all key program initiatives.

To appropriately prepare to administer the program, a working group was created prior to the availability of any funding in order to continually move each component of the District's implementation plan forward. The internal working group established by the Administration consists of representatives from (but not limited to) the Office of the City Administrator (OCA), Office of the Deputy Mayor for Greater Economic Opportunity (DMGEO), Department of Employment Services (DOES), Office of Human Rights (OHR), Office of the Chief Technology Officer (OCTO), Office of the Chief Financial Officer (OCFO), Department of General Services

(DGS), Department of Human Resources (DCHR), and the Office of Contracting and Procurement (OCP). The overarching goal of the working group was to create a detailed road map for implementing the Paid Leave Act, with a specific focus on the following areas:

- Administrative implementation of the program. Including regulations, tax collection, claims submission, claims review and benefit payment;
- Development of a more detailed budget for implementing the program. Including personnel, operational and capital costs;
- Development of a high-level information technology plan for the systems necessary to collect the payroll tax and for the administration and payment of PFL benefits;
- Development of a plan for program staffing and the timelines associated with each cohort of hires;
- Determination of spacing needs and developing a spacing plan in accordance to the needs identified; and,
- Development of a collective marketing and outreach strategy for the paid leave program.

ROADMAP TO PFL IMPLEMENTATION

As an increasing number of states begin to establish PFL programs, the District continues to strive to stand as a leader in industry preferred practices. The District has made a conscious effort to learn and partner with other organizations and PFL programs to adopt new approaches to the implementation of the program. With an ongoing agile project management methodology, the District has found it beneficial to utilize sprint planning, while accomplishing multiple milestones at once.

In keeping with the vision of creating a world-class PFL program, the District will continue to focus heavily on components of technology, staffing, talent management, and program development. With the Tax System build-out quickly approaching, and the addition of the program's new members, OPFL is now preceding with the commencement of the benefits requirements. The District will continue its execution of the OPFL onboarding and talent management plan and prepare for the first phase of the program's Contact Center. Each phase of implementation also contains a critical component of marketing and outreach to educate the employer, employee, and medical communities to prevent fraud, maintain compliance, and ensure that all eligible workers in the District are knowledgeable of and may receive paid leave benefits. This plan, along with other developments, will continue to position OPFL in the direction of clear communication, innovation and the progress of the District's workforce.

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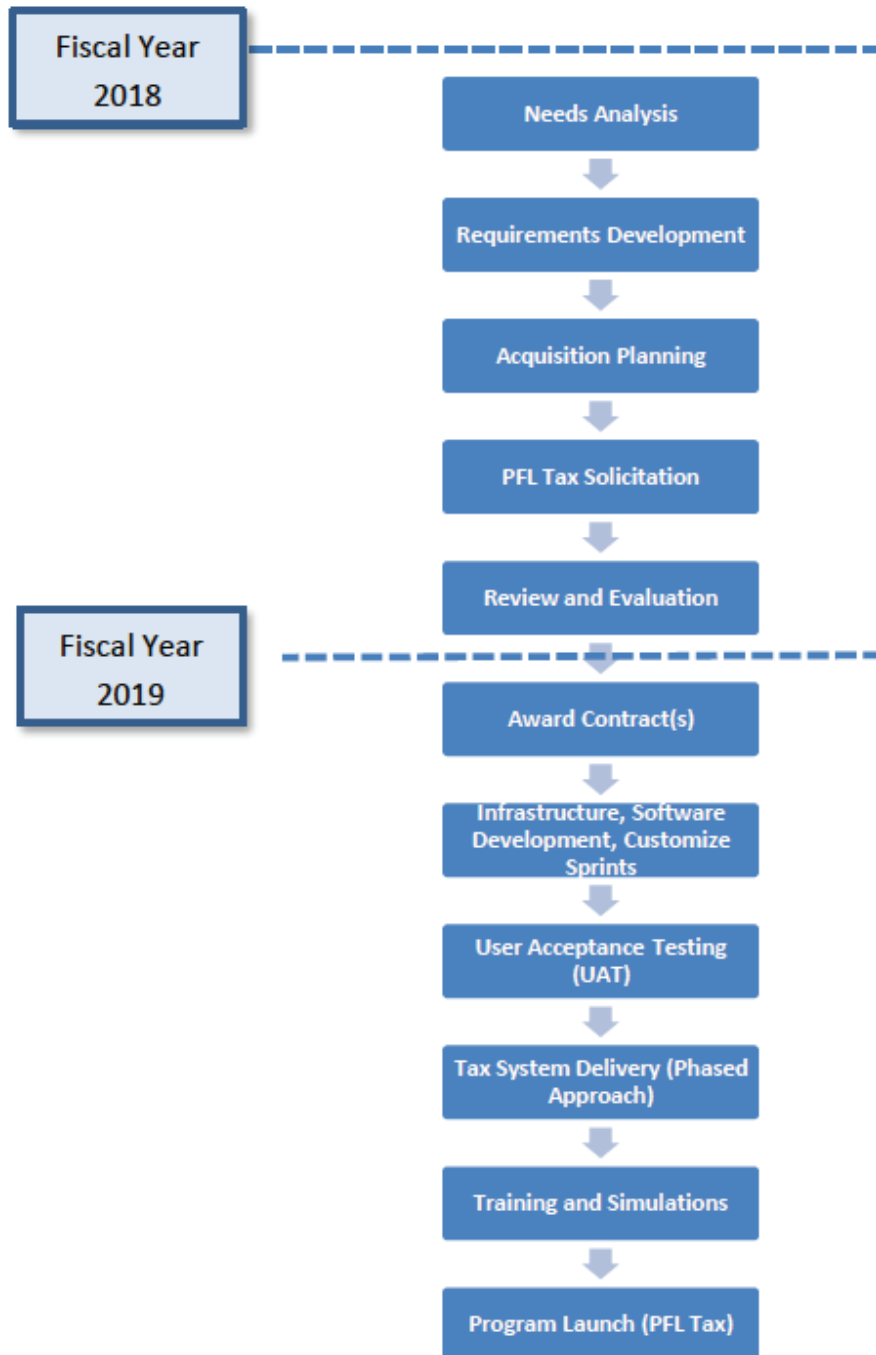
PROCUREMENT

PFL Tax System Procurement

The District released the PFL tax system solicitation, Doc392497, on August 10, 2018, and it was scheduled to close on September 10, 2018. On September 10, 2018, the deadline to submit proposals was extended to September 21, 2018. On August 17, 2018, the Office of Contracting and Procurement (OCP), DOES, and the Department of Small and Local Business Development (DSLBD) hosted a pre-proposal conference for potential bidders. This conference provided an opportunity for potential bidders to ask questions regarding the PFL tax system solicitation, and formal questions in writing could be submitted until August 22, 2018. On September 28, 2018, the Technical Evaluation Panel (TEP) commenced the evaluation of proposals. The tax requirements have been consistently reviewed, analyzed, and prioritized to facilitate a seamless initiation and project kick-off once the vendor comes onboard. As the District continues with its procurement-sensitive process for the PFL tax system, very few details can be shared at this time.

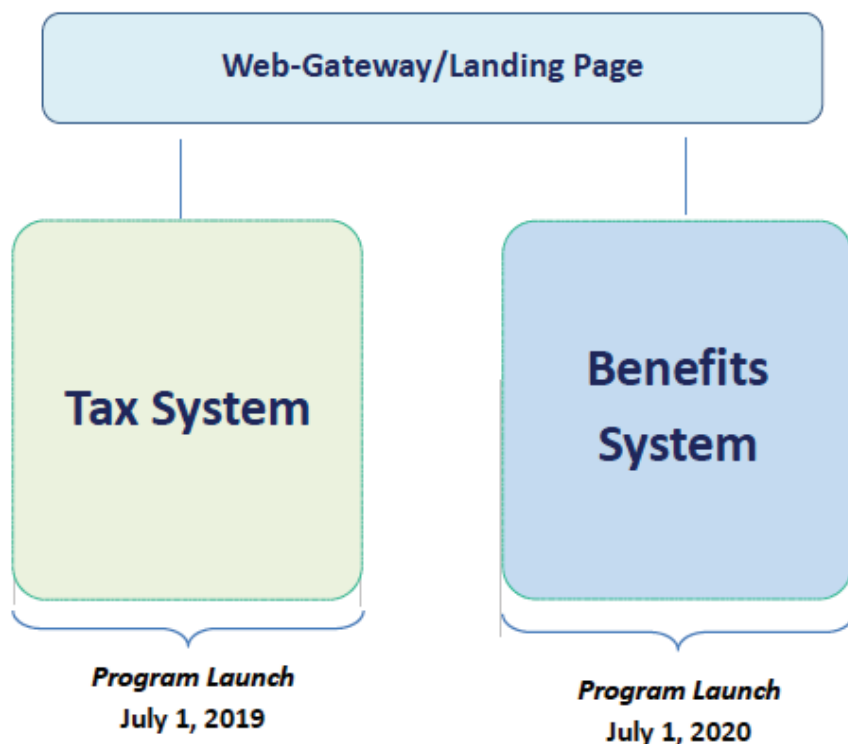
PFL Tax System Procurement Timeline

The following timeline depicts a high-level overview of the procurement milestones leading up to the implementation of the PFL tax system.



PFL Benefits System Procurement

After procuring the tax system, the District will acquire a benefits system that seamlessly integrates with the tax system. The design below reflects the District's vision to have a single gateway for employers, employees, and health care providers to access the PFL system.



The District commenced requirements gathering for the PFL benefits system in Fall 2018, and the procurement timeline is in development. This system must have all technology and functionality necessary for:

- Claims filing management
- Adjudication of medical, family, and parental leave claims
- Verification of medical licensures
- Payment and administration of benefits
- Repayment recovery
- Fraud detection
- Prevention tools and analytics

RULES AND REGULATIONS

The first draft of the proposed rules and regulations, which provided additional clarity and guidance for the employer, employee, and health care provider communities about the Paid Leave Act, was published in the D.C. Register in Vol. 65 No. 14 NOO68274 on April 6, 2018, for a 30-day comment period. Upon review of the responses received during this period, the District decided to proceed with a second iteration of the proposed rules and regulations. As a result of the significant number of comments related to the benefits portion, the rules and regulations were divided into two separate chapters between employer contributions and paid leave benefits. Bifurcating the rules and regulations has allowed the District to thoroughly consider all public comments and to perform the proper policy research for each component.

The second iteration of the proposed rules and regulations for employer contributions, which focused on providing further details regarding registration, wages, and collection procedures, was published in the D.C. Register in Vol. 65 No. 27 NOO71392 on July 6, 2018 for a 30-day comment period.

The final iteration of the rules and regulations for employer contributions, which expand upon the requirements for self-employed individuals opting into the paid-leave program as well as methods of communication available for employers and employees are expected in early 2019.

Throughout the rulemaking process, the District has received nearly 2,300 comments from employers, employees, and the advocate community. Public comments addressed the following policy areas:

Employer Contributions

- Computation of wages
- Collection procedures
- Household employer obligations

Paid-Leave Benefits

- Identity verification
- Familial relationship documentation
- Employment requirement

Coordination of Benefits

- Employer sponsored benefits
- Concurrent use of paid leave

Definitions

- Wages
- Employment
- Worksites

Collection Procedures

- Delinquency notices
- Payment periods
- Penalties and interest

Self-Employed Individuals

- Opt-in and Opt-out process
- Documentation of self-employment
- Late payments and disenrollment

Online Portal

- Ease of use
- Non-electronic options
- Two-way communication
- Alternative methods of communication

The second iteration of the proposed rules and regulations for paid-leave benefits, which focuses on providing clarity regarding the documentation required for paid-leave claims, benefit calculations, procedures for continuous and intermittent leave, and specifying the familial relationships covered under the Act, is currently under official review. Following the internal review, the benefits rules and regulations will be published in the DC Register for a 30-day public comment period.

PHASED STAFFING PLAN

In Fiscal Year 2019, the District is expected to hire key program staff for the establishment of OPFL's Contact Center and Division of Tax. The Contact Center will be comprised of a supervisor and contact center representatives responsible for addressing all PFL inquiries over the phone and email. The Tax Division will include the Tax Chief, supervisors, and tax examiners dedicated to the Status, Collections, Accounting, and Audit and Compliance units. The District is also expected to hire key IT staff to assist with the development and deployment of the PFL tax system in July 2019. In Fiscal Year 2019, OPFL is expected to onboard 59 new hires.

The District's staffing efforts focused on hiring local and national talent by advertising all OPFL positions on LinkedIn, Indeed, Dice and the DC Department of Human Resources. The District will continue to leverage digital newsletters, the DOES main website and social media accounts, the PFL website, and community partnerships to ensure interested candidates have multiple ways of accessing OPFL hiring opportunities.

By July 1, 2020, OPFL will be comprised of 124 full-time employees (FTEs) who will ensure the District remains in compliance with the appropriate laws, titles, regulations, directives, and requirements pertaining to the administration of an effective PFL program.

NATIONAL PRACTICES & TECHNICAL ASSISTANCE

Throughout the course of the District's outreach to multiple states with paid leave programs, national preferred practices have been evaluated to determine the most effective approach for the implementation of the District's PFL program. Key takeaways from each of the states that the District has researched are helping to ensure that the PFL program is equipped with the appropriate funding and staff resources at the onset of program development, which supports the successful implementation of a world-class PFL program.

This quarter, the District has continued to obtain expert-level knowledge on national preferred practices for paid leave technology and implementation, by conducting a site visit to the New Jersey Department of Labor and Workforce Development's Division of Temporary Disability and Family Leave Insurance.

National Conferences and Training Seminars

Many of the District's efforts in Fiscal Year 2019 will focus on attending national conferences and training seminars to advance our knowledge of new and existing laws that could potentially impact our paid leave implementation efforts.

In Quarter 1 of Fiscal Year 2019, members of the OPFL policy team attended the 2018 Making Paid Sick Days Work: Sharing Strategies convening hosted by the Center for Law and Social Policy (CLASP) in Boston, Massachusetts. The convening brought together advocates, workers, labor standards enforcement agencies, and other partners from around the country to learn industry preferred practices for enforcing labor laws. This gathering highlighted the importance of partnering with other government agencies and advocates for outreach and enforcement. Additionally, attendees discussed how outreach and enforcement can ensure vulnerable workers and small businesses are aware of labor laws, and how to ensure that there are adequate resources to effectively enforce these laws. Many of the recommendations from the convening have already been included in the District's outreach plan and will be utilized throughout the implementation process.

The following chart outlines the previous site visits and ongoing outreach efforts:

CALIFORNIA	
Conference Call held: 9/19/2017 at 2:00 – 3:00 PM EST	Key Takeaways: <ul style="list-style-type: none"> California conducted increased marketing to minority populations and single fathers across all media platforms and print advertisements in an effort to access the groups that had the lowest access rates to the PFL program. California experienced challenges over knowledge transfer that they were able to overcome through increased collaboration efforts within their IT department. The District should anticipate a lengthy procurement timeframe as it took California six years, from development through the award, to procure their system.
Site Visit: 11/16/2017 – 11/17/2017	
Site Visit Overview: Presentations on California PFL history, tax structure, marketing, program integrity, fraud, information technology infrastructure; roundtable discussions and Q&A sessions.	
Site Visit #2: 9/18/2018 – 9/19/2018	Key Takeaways: <ul style="list-style-type: none"> California allows PFL benefits to be taken intermittently on an hourly, daily or weekly basis as needed. This provides flexibility to an eligible individual when bonding with a child or caring for an ill family member. California offers an optional Disability Insurance Elective Coverage (DIEC) program to business owners and self-employed individuals who want to be covered by PFL. There are major requirements that must be met in order to participate in the DIEC program including the individual must have a minimum net profit of \$4,600 annually, the major portion of their income must derive from the trade, business, or occupation, and business cannot be seasonal. California allows workers to pre-file seven days prior to the effective date of the claim. The worker must provide the date they would like their claim to begin upon submission of the application.
Site Visit Overview: Observance of the work processes in action for the various units in the PFL Field Office including the customer service center, claims unit, training unit, and the specialty unit which includes appeals, voluntary plans, worker's compensation, and program integrity.	

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RHODE ISLAND

Conference Call held:

9/15/2017 at 11:00 AM - 12:00 PM EST

Site Visit: 11/29/2017 - 11/30/2017

Site Visit Overview: Presentations on Rhode Island Temporary Disability Insurance/Temporary Caregiver Insurance (TDI/TCI) program, claims filing, processing, and managing, implementation, program integrity, fraud, and tax; roundtable discussions and Q&A sessions.

Key Takeaways:

- Rhode Island successfully implemented the TCI program within six months by leveraging their existing TDI system and making the necessary technological modifications to support the added program.
- Rhode Island conducted a self-audit of all TCI claims, which allowed the state to preemptively estimate the number of fraudulent cases and create a plan for remediation in advance.
- Rhode Island employs one part-time physician and three full-time nurses that are critical for understanding medical jargon, determining if the leave allowance matches the care needed, and communicating with medical providers to resolve issues on complex claims.
- Rulemaking is utilized to address any area of legislation that requires further explanation or clarity. Rhode Island included robust definition sections for all areas under the claims process.
- It is important for the Agency to adjust the tax rate based on the solvency of the fund that pays the paid leave benefits.

NEW YORK

Conference Call held:

6/1/2018 at 2:00 - 3:00 PM EST

Conference Call Overview: Discussion on New York State's program structure, the role and responsibilities of the insurance carriers and New York's Workers' Compensation Board including claims, appeals, and customer service.

Key Takeaways:

- New York's PFL program is funded by employees through a small weekly payroll deduction.
- New York's Workers' Compensation Board does not process PFL claims. Insurance carriers are responsible for receiving/processing PFL claims, and administering all benefit payments.
- Employees can opt out of the PFL program if they do not expect to work for the employer for the minimum amount of time required for eligibility.
- A centralized state call center is used for PFL inquiries and additional government programs such as UI, Disability Insurance, etc.

NEW JERSEY

Conference Call held:

8/31/2017 at 9:45 - 10:45 AM EST

Site Visit: 11/27/2018 - 11/28/2018

Site Visit Overview: Discussion on New Jersey's Temporary Disability Insurance (TDI) and Family Leave Insurance (FLI) program, insurance contributions and fund, systems and Information Technology (IT) infrastructure, fraud prevention, and marketing. Observances of the call center and claims filing/processing unit.

Key Takeaways:

- New Jersey provides transitional bonding claims to expectant mothers who received TDI Insurance while they were pregnant. Upon the birth of a child, the TDI claim is transitioned to a FLI claim, which provides additional weeks to bond with a new child.
- New Jersey currently administers the FLI program using a mainframe system, but is in the process of identifying system enhancements that will aim to centralize TDI and FLI processes through a single application. This effort will promote online claims filing/management through a user centric webpage and allow automated processing for internal staff.
- New Jersey's fraud prevention measures are focused on detection and deterrence at the onset of the claim process. Tailored messaging and system prompts are utilized to educate the worker, employer, and medical community prior to the submission of a claim; system-generated reports are an essential component to detecting fraudulent behavior after a claim has been filed.
- New Jersey considers strategic partnerships with associations, advocates and community-based organizations to be critical to educating employers and workers about the law and program requirements.

WASHINGTON STATE	
Conference Call held: 10/24/2017 at 4:00 – 5:00 PM EST	Key Takeaways: <ul style="list-style-type: none"> Washington State’s PFL program is a shared employee-employer contribution program; premium collection from employers will begin 1/1/2019, and administration of benefits will begin 1/1/2020. Regarding system development, Washington State anticipates utilizing a continuous integration model. System implementation treated as a technology start-up: initial project team which transitions to a program team. Emphasis on branding and taking ownership of the program’s public facing identity. Usability and accessibility testing with focus groups.
Site Visit: 3/27/2018 – 3/28/2018	
Site Visit Overview: : Presentations on Procurement Paid Family Leave Structure System and Structure, Tax Structure, Insurance Contributions and Fund, Fraud Deterrence and Program Integrity, Marketing and Outreach, and Work Methodology.	

MARKETING & OUTREACH

The District is trailblazing a path forward for the implementation of the PFL program and has developed a robust plan for marketing and education intended to reach the employer, employee, and medical communities. The Paid Leave Act requires public education and awareness campaigns—and the District believes it is very important to have comprehensive and timely campaigns in both areas.

Town Hall Forum

The District hosted its second town hall forum at the National Union Building on October 4, 2018. The town hall, which was attended by more than 75 stakeholders, focused primarily on the upcoming employer responsibilities and the proposed tax regulations. The primary goals of the town hall forum were to inform the public on the current status and implementation timeline, share information about proposed PFL tax regulations, and engage participants in conversation about their understanding of the District’s new PFL program. At this event, a diverse audience of business owners, human resource representatives, accounting and payroll specialists, students, educators, advocates and Council staff provided meaningful feedback. Among the prevailing policy concerns from the employer community were reducing the administrative burden placed on businesses, financial planning for the future, coordination of benefits, opt-out for employers with established PFL benefits, and the importance of marketing and outreach within educational, healthcare, and childcare facilities.

Community Partners and Organizations

The District held its third quarterly meeting with the DC Paid Family Leave Coalition to discuss proposed PFL regulations, ways to identify and partner with new community organizations to expand outreach efforts, and strategies to increase engagement and collaboration with the business community. The meeting was attended by representatives from the following organizations: Jews United for Justice, DC Fiscal Policy Institute, Center for Law and Social Policy (CLASP), Labor Project for Working Families/Family Values at Work, First Shift Justice Project, and the National Partnership for Women and Families.

A critical component of the District's marketing and outreach efforts will focus on the employer community and ensuring they have the resources necessary to comply with tax collection beginning July 2019. During Fiscal Year 2019, the District will continue its focus on identifying preferred marketing practices, conducting market research, and collaborating with PFL stakeholders to develop innovative and effective ways of communicating with the District's diverse population to proactively engage key stakeholders and gain additional input and insights.

RESEARCH & POLICY CONSIDERATIONS

In Quarter 1 Fiscal Year 2019, the OPFL policy team renewed its focus on analyzing the District of Columbia Family and Medical Leave Act (DCFMLA), the Family and Medical Leave Act (FMLA), and the District of Columbia Accrued Sick and Safe Leave Act (ASSLA). Specifically, OPFL evaluated the job protections, eligibility requirements, and compliance elements under these laws. This research will be used to ensure that the District's PFL regulations and policies are appropriately aligned. Alignment between the laws will help employees navigate their options and understand what will run concurrently when a major life event occurs, and assist employers with adapting to their new responsibilities. The OPFL outreach team will also use this information to better understand how the public views PFL in order to effectively communicate how PFL will differ from existing laws.

While the District paid leave legislation established a recommendation for protecting fund solvency, the law does not grant DOES, the agency overseeing the District's PFL program, the authority to address any potential shortfalls. However, the Chief Financial Officer can recommend legislative changes, including a potential reduction in the employer contribution rate and/or changes to benefits. In states with similar paid leave programs, such as Rhode Island, the agency director has the authority to make recommendations for changing the contribution and/or benefit rate in order to protect fund solvency. As the administrators of the program, DOES believes it is beneficial to consider assigning this authority to the agency director responsible for overseeing the program.

Absent an amendment to the current legislation, the District may be required to address the taxable status of paid leave benefits in the rule-making process for the PFL program. The employer's contribution to the Universal Paid Leave Implementation Fund is non-employee tax revenue, which would classify paid leave benefits as taxable income. Most of the beneficiaries of the District paid leave program reside outside of the District of Columbia. Benefits paid to residents of Virginia, Maryland, and any other state may be subject to state taxes. Most of the tax revenue will not go back to the District, but will be disbursed to other states where District workers reside.

CONCLUSION

The District has begun the process of implementing a world-class paid leave program, and we have made progress in the areas of program administration, information technology, staffing, regulations, and outreach. As a result of these efforts, OPFL is on track to carry out the first step of the program (collecting taxes) in July of 2019, and administering PFL benefits to eligible employees in July of 2020. Over the next fiscal year, OPFL will work diligently to increase strategic partnerships, create a user-friendly IT system, and continue to develop innovative approaches to implement the program.

dc paid **family leave**



DEPARTMENT OF EMPLOYMENT SERVICES
4058 Minnesota Avenue, NE, Washington, DC 20019 • does.dc.gov

