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Proposed Regulation
Agency Background Document

Agency name	Virginia Employment Commission (VEC)
Virginia Administrative Code (VAC) Chapter citation(s)	16 VAC50-90 [New]
VAC Chapter title(s)	Paid Family & Medical Leave [New]
Action title	Paid Family Medical Leave Implementation Regulations
Date this document prepared	Oct. 6, 2026

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Chapter 981 and Chapter 1093 of the 2026 Virginia Acts of Assembly require the Virginia Employment Commission (VEC) to promulgate regulations necessary for implementation of a Paid Family and Medical Leave (PFML) Insurance Program for the Commonwealth of Virginia, as outlined in Code of Virginia § 60.2. VEC intends to promulgate a new chapter of regulations, 16 VAC5-90, to meet this statutory mandate. VEC must promulgate all regulations by April 1, 2028. VEC drafted this proposed regulation to help fulfill this mandate.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

- The "Act" means Chapters 981 and 1093 of the Virginia Acts of Assembly, as codified in Chapter 8 (§ 60.2-800 et seq.) of the Code of Virginia.
- "APIP" means an Approved Private Insurance Plan.
- "Commission" or "VEC" means the Virginia Employment Commission.
- "Commonwealth Plan" means the paid family and medical leave insurance program established and administered by the Virginia Employment Commission.
- "FMLA" means the federal Family and Medical Leave Act, 28 U.S.C. § 2601 *et seq*.
- "PFML" means Paid Family and Medical Leave.
- "UI" means Unemployment Insurance.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

The mandate for this regulatory change is a directive from the General Assembly. Specifically, Chapter 981 and Chapter 1093 of the 2026 Virginia Acts of Assembly require the VEC to promulgate regulations necessary for implementation of a PFML Insurance Program for the Commonwealth of Virginia, as outlined in Chapter 8 (§ 60.2-800 et seq.) of the *Code of Virginia*.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The promulgating agency is the Virginia Employment Commission. VEC has legal authority to issue these regulations pursuant to Chapters 981 and 1093 of the 2026 Virginia Acts of Assembly, which create a new chapter in Title 60.2 of the Code of Virginia, consisting of sections numbered 60.2-800 through 60.2-818, governing the PFML Insurance Program. Specifically, the second enactment clause of Chapters 981 and 1093 expressly directs VEC to "promulgate all rules and regulations necessary for implementation of this act." In addition, VEC's general authorizing statute, Section 60.2-111 of the Code of Virginia, provides, in part: A. It shall be the duty of the Commission to administer this title. The Commission may establish separate divisions as necessary to carry out the duties and powers prescribed by this section. It shall have power and authority to adopt, amend, or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action, including the appointment of advisory groups, as it deems necessary or suitable to that end.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

The purpose of this action is to promulgate a new regulatory chapter to establish regulations for Virginia's new PFML Insurance Program.

When established, Virginia's PFML Insurance Program will protect the public health, safety, and welfare of Virginians by providing up to 12 weeks of paid, job protected leave per year to any eligible worker across the Commonwealth who provides the required supporting information and certifications for the following reasons: 1. Caring for a new child during the first year after the birth, adoption, or placement of that child; 2. Caring for a family member with a serious health condition; 3. Receiving care for a serious health condition that makes the covered individual unable to perform the functions of the position of such individual's employment; 4. Caring for a covered service member who is the covered individual's next of kin or other family member; 5. Taking qualifying exigency leave arising out of the fact that a family member of the covered individual is on active duty, or has been notified of an impending call or order to active duty, in the Armed Forces; or 6. Seeking safety services for the covered individual or a family member. Leave to seek safety services under this subdivision is limited to a maximum of four weeks in a benefit year for any covered individual.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

VEC intends to promulgate regulations necessary to implement the PFML Insurance Program, as authorized by the Code of Virginia § 60.2, including all regulations required by the text and enactment clause of Chapter 981 and Chapter 1093 of the 2026 Virginia Acts of Assembly and other "rules and regulations necessary for the implementation" of the PFML Insurance Program.

The proposed regulation consists of the following substantive sections:

- Definitions & General Provisions: This section defines key terms used in the statute and throughout the regulation. This section also includes general provisions related to VEC's administration of the PFML Insurance Program, including emphasizing that the PFML Insurance Program establishes a legally-required floor and that employers are free and encouraged to provide more generous policies to their employees. To promote certainty and clarity for employers and workers, this section aligns key definitions with definitions that apply under the FMLA.
- Benefits, Claims & Certifications: This section clarifies the application process and timing for submitting a claim for PFML leave benefits, including the necessary certifications and information that people seeking benefits must provide to the Commission when applying for benefits. This section also provides further clarification about: eligibility, including for leave related to a serious health condition; leave duration; the process for modifying a claim that has been approved; how benefits will be calculated and paid; and how overpayments and underpayments unrelated to fraud may be identified and collected. To provide certainty and clarity for workers, healthcare providers, and employers, this section aligns key definitions with definitions that apply under the FMLA.
- Employees' Notice of Leave to Employers: This section sets forth requirements related to timing, form, contents, and waiver of notice of leave.
- Employer Contributions and Responsibilities: This section provides greater detail about employers' responsibility to register and report information and make contributions to VEC, including by establishing which employees are localized to Virginia for purposes of the PFML Insurance Program. To prevent duplicative or unnecessary compliance costs, the proposed regulation would align these requirements closely with employers' existing wage reporting responsibilities under the unemployment insurance (UI) program. This section also establishes employer responsibilities related to wage deductions for contributions, recordkeeping, and notice of rights to employees.

- Job Protection, Anti-Retaliation, and Anti-Interference Rules: This section clarifies employers' responsibilities under §§ 60.2-808 and 60.2-809, including by defining key terms, elaborating on employers' responsibility to restore workers to their jobs upon returning from leave, clarifying exceptions, and providing examples of unlawful retaliatory activities. To promote clarity and smooth implementation, this section aligns many aspects of the job protection and anti-retaliation protections with employers' analogous responsibilities under the FMLA.
- Additional Program Integrity Rules: Program integrity is a core priority for VEC, and program integrity tools are integrated throughout the proposed regulation. This section establishes additional anti-fraud tools available to VEC and elaborates on penalties that will apply.
- Coordination of Benefits Rules: This section clarifies how the new PFML Insurance Program benefits will interact with other leave and wage replacement programs.
- Self-Employed Individuals Electing Coverage: This section describes the process for a self-employed individual to opt into the PFML Insurance Program, including the process and information required to elect coverage, self-employed individuals' income reporting responsibilities, how contributions and benefits for self-employed individuals will be calculated, and how elective coverage can end.
- Intermittent and Reduced Leave Schedules: This section elaborates on employees' ability to apply for and use leave on an intermittent or reduced leave schedule basis, pursuant to § 60.2-807, including by establishing required information that employees must provide to the Commission when seeking intermittent leave, the consultation process between the employee and employer, and the process for making changes to scheduled leave.
- Private Insurance Plans: This section governs employers' option to satisfy requirements under the PFML Insurance Program through an Approved Private Insurance Plan (APIP) that provides equivalent or greater benefits to employees. This section clarifies key definitions, lists details about the private plan application, approval, accounting, and reporting requirements, establishes timelines, and provides greater detail about how an employer may move to or from a private plan.
- Reconsiderations and Appeals: This section establishes the administrative appeals system which VEC will use to hear appeals under the statute. Individuals and employers can use the appeals system to challenge certain final decisions made by VEC. Individuals can also use it to challenge a benefits determination about benefits made by an Approved Private Insurance Plan.
- Family and Medical Leave Insurance Trust Fund: This section explains what the fund is used for and clarifies that unused money stays in the fund rather than returning to the state's general budget.

Across all sections, the proposed regulation incorporates best practices and lessons learned from the 13 other states and the District of Columbia that have previously passed and implemented PFML programs. The proposed rule also builds on thirty years of experience related to the federal FMLA and Virginia's UI program. If adopted, the proposed regulation would provide clarity and consistency to workers and employers alike, including by aligning several portions of the PFML program with employers' and healthcare providers' familiar responsibilities under FMLA, Virginia's UI program, and other PFML programs, except where VEC believes there is a compelling reason to vary the approach. Further, the proposed regulation also builds on lessons learned in administering those programs, refining those programs to promote effective implementation, smooth access to benefits for workers, reduced administrative burdens for employees, program and trust fund integrity, and administrability.
For more detail, please see "Proposed Changes" below.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public.

If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

1) The primary advantage to the public of the proposed regulation is that it facilitates the implementation of the new PFML Insurance Program that will provide wage replacement to Virginia workers who take time off from work to meet needs associated with any of six qualifying events. This program will help workers stay financially stable, support families and caregivers, strengthen workforce participation and economic stability, and provide workers with employment protection. It will also allow employers who otherwise would not be able to provide this paid leave benefit to their employees to do so, supporting those employees and providing employers with an additional recruitment and retention tool. The program is mandatory, so it applies broadly to the public. The regulation provides clarity and information to employers, workers, health care providers, insurers, third-party administrators, and other members of the public about how VEC intends to administer the statutory program so that they can access and otherwise interact with it. This clarity will reduce uncertainty and help program participants know what to expect as statutory implementation deadlines approach in 2027 and 2028.

   Employers will have some administrative responsibilities and compliance costs associated with implementing the statutory requirements, including: compliance costs associated with reviewing and revising existing leave policies; updating payroll, reporting, and recordkeeping practices; and providing employee notices and manager training. Because many of these obligations arise directly from the authorizing statute, the proposed regulation has been drafted to minimize administrative burden for employers, including by aligning localization rules and employers' quarterly wage reporting responsibilities with those that apply under Virginia's UI program.

2) The primary advantage of the proposed regulation to the agency and to the Commonwealth is the same as that for the public: the regulation facilitates implementation of the PFML Insurance Program, enabling VEC to meet statutory deadlines, clarify program details, and develop the necessary agency operations to administer the program. The proposed regulation, if adopted, would further provide clarity and assist the public with access and compliance. The proposed regulation would promote good, effective governance, program integrity, and public confidence and trust in the government's ability to deliver services as required. When implemented, the costs of administering the program will be paid for by the program. There are no disadvantages to the Agency or the Commonwealth.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

The proposed regulation implements a new law establishing a PFML Insurance Program for the Commonwealth of Virginia. 13 other states and the District of Columbia have previously passed legislation to create a PFML program. While there are several federal labor laws (such as the FMLA and UI) that impose similar requirements on employers and employees for the purposes of implementing other labor-related programs, there are no federal requirements that specifically apply to paid family and medical leave. Thus, there are no directly applicable federal requirements for paid family and medical leave to which the agency can compare the proposed regulation.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations.

"Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected: The Department of Labor and Industry will be responsible for enforcing the provisions of §§ 60.2-808 and 809, as clarified by this regulation. No other state agencies will be disproportionately impacted by this regulatory change.

Localities Particularly Affected: Localities that do not currently offer paid family and medical leave benefits will be particularly affected by the regulation.

Other Entities Particularly Affected: Other entities that do not currently offer paid family and medical leave benefits will be particularly affected by the regulation.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits) anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

For your agency: projected costs, savings, fees, or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources.	The legislation requires VEC to create and administer the PFML Insurance Program. VEC estimated one-time start-up costs of $116.5 million when the legislation was considered by the General Assembly. The start-up cost estimate included procurement of new IT systems and hiring of up to 314 additional staff to support program operations. A treasury loan was provided to fund the start-up expenses. The legislation requires repayment of that loan by January 1, 2034. By statute, the loan and the agency's ongoing costs to administer the program are to be paid from the trust fund into which the mandatory payroll contributions and assessed fees, fines, interest, and penalties will be deposited. The legislation also requires VEC to rely on sound actuarial principles to set the initial contribution rate by October 1, 2027. New actuarial analyses and the rate-setting process will provide further information needed to determine the agency's likely ongoing operating costs and anticipated capitalization and funding level of the program's trust fund.
For other state agencies: projected costs, savings, fees, or revenues resulting from the	The Act created new responsibilities for several other state agencies, including the Department of

regulatory change, including a delineation of one-time versus on-going expenditures.	Human Resource Management (DHRM), DOLI, and the State Corporation Commission (SCC). However, the proposed regulation does not create additional independent costs for those state agencies. Rather, the proposed regulation provides the benefit of clarity about program features and requirements related to those agencies' responsibilities.
For all agencies: Benefits the regulatory change is designed to produce.	Regulations that provide clarity and assist the public with access and compliance promote good, effective governance and support public confidence and trust in the government to deliver required services. This proposed regulation is required for implementation of a statutory program that will help workers across Virginia stay financially stable, support families and caregivers, strengthen workforce participation and economic stability, and provide workers with employment protection.

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

Projected costs, savings, fees, or revenues resulting from the regulatory change.	Costs and projected savings related to this regulatory change are derived from the enabling legislation and carry the same impact as costs and projected savings for other employers. See below.
Benefits the regulatory change is designed to produce.	This proposed regulation is required for implementation of a statutory program that will help workers stay financially stable, support families and caregivers, strengthen workforce participation and economic stability, and provide workers with employment protection.

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	This regulation implements a statutory mandate that applies broadly to Virginia workers and the businesses that employ them. **Workers:** The legislation created a new insurance program that allows Virginia workers to take paid time off to bond with a new child, to care for a family member with a serious illness, to recover from a serious health condition, or for another qualifying event. The legislation also extends job protection benefits to workers who receive PFML benefits and have worked for their

	employers for 120 days or more. In this respect, the Act closes coverage gaps in the federal FMLA framework, which excludes 44% of American workers—including 62% of low-wage workers.[1] The legislation thus promotes economic security by ensuring that many Virginia workers, especially low-wage workers, can remain attached to their jobs upon returning from leave. The PFML Insurance Program covers both full-time and part-time workers. The proposed regulation clarifies that the program will be available to all workers localized to Virginia in accordance with current guidance on localization for the unemployment insurance program. **Self-Employed Individuals:** Self-employed workers localized to Virginia may elect to participate in the program. Self-employed workers who elect coverage will have the opportunity to take paid family and medical leave for a qualifying event. **Employers:** The legislation requires that employers with one or more employees localized to Virginia participate in the PFML Insurance Program. Employers will be required to provide up to 12 weeks of job-protected leave to workers who have a qualifying event. Leave under the Act will typically run concurrently with FMLA leave. Employers will be required to remit payroll contributions to cover the cost of the program. Employers are responsible for paying at least one half of PFML contribution rate and may deduct the other half of the contribution from employees' payroll. **Small Businesses:** This legislation will lower the costs to small businesses to offer competitive PFML benefits to employees. In surveys, the large majority of small business owners report that they would like to offer more paid leave benefits than they currently do;[2] this legislation will support small businesses in doing so. Further, employers with 10 employees or less will be exempt from paying the employer's share of payroll contributions, allowing small businesses to offer PFML benefits to their employees at considerably reduced cost.

[1] Scott Brown et al., Abt Assocs., *Employee and Worksite Perspectives of the FMLA: Who Is Eligible?* (July 2020), https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHD_FMLA2018 PB1WhoIsEligible_StudyBrief_Aug2020.pdf.

[2] Nat'l P'ship for Women & Fams., *Small Businesses Support a National Paid Family and Medical Leave Program* (Oct. 2024), https://nationalpartnership.org/report/small-businesses-support-national-paid-family-medical-leave-program/.

	Health Care Providers: The legislation requires certain information and documentation to be provided by health care providers. Providers must comply with the law and regulations if they do assist their patients with accessing the program. The regulations clarify the role that health care providers will fill. Health care providers can be located in any state or country. **Insurers:** The legislation permits employers to apply to VEC for approval to meet their obligations under the Act using an Approved Private Insurance Plan (APIP). The legislation does not require any insurer to participate in the program, but insurers must comply with the law and regulations if they do so.
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated, and; b) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million.	The legislation applies broadly to Virginia workers and the businesses that employ them. **Employees:** As of July 4, 2026, there were 3,923,103 workers in covered employment in Virginia, meaning that the workers would be covered by the state unemployment insurance program if they met other eligibility criteria.[3] Because localization and eligibility rules in the proposed regulation align with localization rules for unemployment insurance purposes, this is a reasonable estimate of the number of Virginia workers who, beginning in 2028, will have a legal right to receive up to 12 weeks of paid, job-protected family and medical leave in Viriginia. **Self-Employed Individuals:** The legislation creating the PFML Insurance Program allows self-employed individuals to opt in and voluntarily participate in the program. The latest available Nonemployer Statistics (NES) data from the U.S. Census Bureau is from 2023. It shows a total of 740,321 businesses in Virginia that had no paid employees, but sufficient earnings to require the filing of a federal tax return.[4] Since program participation is optional, it is not clear how many of these individuals will be affected by the regulation. **Employers, Including Small Businesses:** To estimate the number of affected employers, VEC analyzed administrative data about employer participation in Virginia's

[3] Federal Reserve Bank of St. Louis, U.S. Employment and Training Administration via FRED®, Covered Employment in Virginia (VACEMPLOY) for 2026-07-04, upd. Sept. 4, 2026, https://fred.stlouisfed.org/series/VACEMPLOY. Note that workers may be counted more than once in this figure if they hold more than one job that is covered by Virginia's unemployment insurance program.
[4] U.S. Census Bureau, 2023 Nonemployer Statistics – Virginia – All Establishments, https://data.census.gov/table?q=NONEMP2023.NS2300NONEMP&g=040XX00US51.

	unemployment insurance program. Because the proposed rule aligns eligibility and localization rules with the UI program, the number of employees participating in the UI program provides a reasonable estimate of the number of employers to which the proposed regulation will apply when the PFML Insurance Program goes into effect in 2028. As of June 30, 2026, there were 251,741 employers covered by Virginia's unemployment insurance program. Of those covered employers, 239,425 had fewer than 500 employees (full-time or part-time). These numbers are inclusive of state employers that will not be affected by the regulation.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	Most costs associated with the PFML Insurance Program derive from the legislation that mandates participation in the program. The legislation further required VEC to promulgate regulations. Potential costs are discussed below. **Statutory Background:** By statute, VEC must annually set the payroll contribution rate as that is a key to the self-funding mechanism for the program. Workers will pay up to 50% of contributions while employers with more than ten employees will pay at least 50% of the contribution amount. Self-employed workers will be able to opt into the program. The statute mitigates the potential impact of these contributions for small businesses and for minimum-wage workers. The payroll contribution cannot reduce a worker's pay to an amount below the applicable minimum wage. Employers with ten or fewer employees are not required to pay the employer's share of the contribution. Employees or employers who currently have a different paid family or medical leave benefit may find that the cost of participation in the PFML Insurance Program could result in savings relative to the cost of their current plan. **Employers:** Some employers will incur one-time compliance costs pursuant to this regulation, including the costs of reviewing and updating employer handbooks and policies; costs associated with updated payroll systems; and seeking Commission approval to meet their obligations under the statute through an APIP. Employers will also have ongoing compliance responsibilities, such as providing quarterly information reports to the Commission. To reduce those compliance costs, VEC has drafted this

	proposed regulation to closely align with existing administrative and reporting responsibilities under the Virginia UI program and the FMLA. Employers will also have to decide how to modify, redistribute, or otherwise handle ongoing work while employees take paid leave. VEC notes, however, that many employees who will take leave under the Act would previously have taken unpaid leave from work. The need to handle job responsibilities during a period of leave remains the same for those employers. Further, research suggests that the costs associated with shifting workloads or hiring temporary workers appear to be relatively modest for many employers.[5] Because the PFML Insurance Program will replace a portion of an employee's wages during that employee's leave, employers that previously paid those benefits themselves may be able to redirect those funds toward temporary workers or overtime to cover the employee's absence. **Workers:** Workers who seek access to the program may incur costs associated with fulfilling the certification and documentation requirements for the application process. For instance, they may need to pay a copay or incur other expenses from a health care provider who completes a medical certification form or for travel to and from appointments to complete the necessary documents. These are indirect costs. Completing the required application materials will take some time and effort. Timeframes for submitting documents are designed to allow sufficient time to complete the program requirements. To mitigate these costs, the proposed rule was drafted to reduce administrative burdens for workers, such as by authorizing the Commission to accept certification forms directly from medical providers. Throughout implementation, the Commission will strive to reduce unnecessary time and administrative burdens for workers in the application process. **Health Care Providers:** Due to the legislation, health care providers may be asked to complete more paperwork and forms to help their patients access the PFML Insurance Program. To reduce compliance costs, the proposed rule has aligned

[5] See Virginia Employment Commission, *Virginia Paid Family and Medical Leave Study: 2024 Update* (Nov. 2024), 51-53, available at https://rga.lis.virginia.gov/Published/2025/RD31/PDF (discussing the literature on employer outcomes from paid family and medical leave programs in the United States).

	many aspects of healthcare providers' responsibilities with familiar requirements under the FMLA, including by using the same or similar definitions of key terms.
Benefits the regulatory change is designed to produce.	**Worker Impacts:** An estimated 3.2 million Virginia workers—about 36 percent of people in the Commonwealth and 70 percent of all workers—lack paid family and medical leave through their jobs.[6] Low-wage workers, part-time workers, Black workers, and Hispanic workers are even less likely to have access to leave.[7] Beginning in 2028, this program will guarantee those workers the right to take paid family and medical leave during the most important moments of their lives, including to care for a new child, a sick family member, or for themselves when facing a serious health condition. This proposed regulation is required for implementation of a statutory program designed to help workers stay financially stable, support families and caregivers, strengthen workforce participation and economic stability, and provide workers with employment protection. It provides clarity to regulated entities so they can access and comply with the program, deriving all intended benefits. Paid family and medical leave programs help keep families financially secure during their most difficult moments, reduce the likelihood that new parents will fall into poverty, and boost women's labor force participation[8] and earnings after

[6] National Partnership for Women & Families, Press Statement: NPWF Celebrates Virginia Becoming the 15th State and First in the South to Pass Paid Family and Medical Leave (Mar. 13, 2026), https://nationalpartnership.org/news_post/npwf-celebrates-virginia-becoming-the-15th-state-and-first-in-the-south-to-pass-paid-family-and-medical-leave/ (providing 3.2 million estimate of Virginia workers who do not have comparable paid leave yet). According to the US Census Bureau, the estimated population of Virginia as of July 1, 2025, was 8,800,107. (3,200,000 / 8,800,107 = 36 percent when rounded.) US Census, QuickFacts: Virginia, https://www.census.gov/quickfacts/fact/table/VA/PST045225#PST045225. As of June 2025, the US Bureau of Labor Statistics (BLS) measured Virginia's labor force at 4,558,425. (3,200,000 / 4,558,425 = 70 percent when rounded.) BLS, Databases, Tables & Calculators by Subject, Local Area Unemployment Statistics for Virginia Statewide for June 2025 (extracted Mar. 17, 2026), https://data.bls.gov/timeseries/LASST510000000000006?amp%253bdata_tool=XGtable&output_view=data&include_graphs=true. During the same period, the BLS measured Virginia's employed labor force at 4,398,121. Using that figure as a reference point reveals that nearly 73 percent of those workers lacked PFML at that time. *Id.* (3,200,000 / 4,398,121 = 73 percent when rounded).

[7] Julia M. Goodman, et al., *Racial and Ethnic Inequities in Paid Family and Medical Leave: United States, 2011 and 2017-2018*, American Journal of Public Health (July 2022) 1050, https://pmc.ncbi.nlm.nih.gov/articles/PMC9222444/.

[8] Institute for Women's Policy Research, Fact Sheet: Paid Family Leave Increases Mothers' Labor Market Attachment (Jan. 2020), https://iwpr.org/wp-content/uploads/2020/01/B383-Paid-Leave-Fact-Sheet.pdf. *See* Linda Houser & Thomas P. Vartanian, Center for Women and Work, Rutgers the State University of

	taking paid leave, reducing likelihood of long-term reliance on public safety net benefits.[9] **Public Health Impacts:** Paid family and medical leave has a demonstrated impact of improving workers' access to medical care. When people seek care, they pay for appointments and the services they receive. That means business and benefits for health care providers. There are public health benefits associated with these behaviors, as well. Workers who do not have the resources or support to take unpaid leave may delay or skip necessary medical procedures to their detriment (and with a public health toll).[10] Studies show positive parental and child health outcomes associated with paid leave.[11] They include higher infant birthweight and improved parental mental health.[12] **Insurance Market:** Due to the new legislation, private insurance companies may opt to do business in Virginia or opt to expand their lines of business, taking advantage of new business opportunities related to the legislation. **Employer Impacts:** Research on paid family and medical leave shows that PFML provides meaningful benefits to businesses, including with regards to talent attraction and retention. Reduced turnover provides significant cost savings to businesses. The proposed regulation, if adopted, would support employers in successfully implementing PFML in their workplace and in reducing compliance costs. For example, the proposed rule provides that VEC will publish sample notices that employers can use to satisfy their responsibilities under the Act. Similarly, the proposed regulation would permit employers to satisfy many of their obligations under the Act using standardized forms. Further, the proposed rule would align many of employers' responsibilities for the new PFML program, such

New Jersey, *Pay Matters: The Positive Economic Impacts of Paid Family Leave for Families, Businesses and the Public* 2, 6-7 (Jan. 2012), https://nationalpartnership.org/wp-content/uploads/2023/02/pay-matters.pdf.

[9] Houser & Vartanian at 2, 8-9 (On p. 8, "Women who report paid family leaves of 30 or more days are 54% more likely to report wage increases in the year following the child's birth than are women who take no family leave.").

[10] *See, e.g.,* Molly Weston Williamson, Center for American Progress, *Lack of Paid Leave Hurts Americans' Health* (May 22, 2024), https://www.americanprogress.org/article/lack-of-paid-leave-hurts-americans-health/.

[11] VEC at 53-57.

[12] *Id.*

	as employers' quarterly wage reporting requirements, with employers' pre-existing responsibilities under the UI program with new responsibilities. These steps will significantly reduce employers' compliance costs and administrative burden. **Small Businesses:** These benefits are especially significant for small businesses, many of which cannot afford to provide paid leave benefits without a state PFML program.[13] Shared costs through a shared PFML program allow small businesses to participate and benefit from the associated reduced turnover, increased recruitment, and increased productivity.[14] These are among the benefits small business owners have reported in research on existing PFML programs in other states.[15] Through these programs, small business owners can benefit from taking paid leave, too, just as their employees can.[16]

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

There are no viable alternatives to regulation, as the regulation is mandated by the Code of Virginia.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

[13] *See* Trish Stroman et al., BCG, *Why Paid Family Leave Is Good Business* (Feb. 7, 2017), https://www.bcg.com/publications/2017/human-resources-people-organization-why-paid-family-leave-is-good-business; Weston Williamson, (Sept. 2024.

[14] Weston Williamson, Sept. 2024 (citing Benjamin Bennett et al., National Bureau of Economic Research Working Paper 27788 (Dec. 2020 rev.), *Paid Leave Pays Off: The Effects of Paid Family Leave on Firm Performance*, https://www.nber.org/system/files/working_papers/w27788/w27788.pdf). *See also,* Panorama and American Sustainable Business Council, *The Business Impacts of Paid Leave: A financial analysis of the return on investment of paid family and medical leave* (Oct. 2019), https://assets.website-files.com/62448c65f2a3dc7ae94193bd/62448c65f2a3dc0f7a4195a2_Business-impacts-of-paid-leave-A-Panorama-report.pdf; NPWF, Fact Sheet: Paid Family and Medical Leave Is Good for Business (May 2025), https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-good-for-business.pdf.

[15] Weston Williamson, Sept. 2024.

[16] *Id.*

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

The proposed regulation clarifies the structure of the PFML Insurance Program while also permitting flexibility that will be needed to support accessibility of the program and to respond to changing implementation conditions and other operational developments, including the procurement of the technology systems that program participants will use. While the authorizing legislation mandates participation in the program, the legislation and regulation provide employers, including small businesses, with flexible options for how they and their employees will interact with certain aspects of the program. For example: the proposed regulation allows employers to require employees to provide notice of their intent to take leave in a manner consistent with the employer's usual and customary leave policy; allows employers to establish reasonable policies related to intermittent leave increments; does not regulate any employer-provided short-term disability coverage or other employer-provided benefits which an employer may voluntarily offer its employees; and provides a transparent, workable framework for employers to meet their obligations to comply with the law through an APIP.

To reduce duplicative compliance costs, the proposed regulation takes significant steps to streamline or simplify compliance and reporting requirements for covered employers, including by building on existing frameworks and definitions that apply under current law. In particular, the proposed regulation aligns many employer responsibilities with employers' existing practice and legal responsibilities for recordkeeping, reporting, and remitting payments in connection with the UI program such that compliance with one program will assist in compliance with the other. If the proposed rule is adopted, covered employers would be able to submit a single set of documents to satisfy their quarterly reporting responsibilities under both the Virginia UI program and the PFML Insurance Program.

Further, entities that are covered by the federal FLMA will find that many definitions and practices associated with that law inform the proposed regulation.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Periodic Review and Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in EO 19 and the ORM procedures, e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable. In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to the which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic

conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

No periodic review/small business impact review is being conducted as part of this regulatory action.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency's response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

Commenter	Comment	Agency response
Anonymous	**Oppose** This is not going to help businesses stay afloat and the majority of us do not enjoy the work environments and practices that these c-suite people have to offer. They do not care and they are constantly measuring the wrong things! This is just another thing, that's going to drive up taxes and costs, while businesses are down and out an employee. This will be used and abused, just like all our other systems that are presented as a help and benefit to people. Don't many places already offer supplemental insurance, that something like this falls under? I call this a "feel good law".. it's meant to appeal to people as being compassionate and caring. But the reality of it is, it's not good for business, or lowering costs and taxes. Which is what our governor campaigned on, right? Affordable for whom, exactly? Not Virginians!	VEC thanks the commenter for the feedback. Because this comment objects to the text of the Act, this comment falls outside the scope of this regulatory action. Chapter 981 and Chapter 1093 of the 2026 Virginia Acts of Assembly require VEC to promulgate regulations necessary for implementation of the PFML Insurance Program for the Commonwealth of Virginia, as outlined in Code of Virginia § 60.2.
Anonymous	**Opposed** I fully agree with the previous comment in opposition of this legislation. I would like to add that I strongly believe that the Governor only did this to get her name in the papers, to appear as if she was doing this for the betterment of the citizens of the Commonwealth, but in all actuality, she has not helped anyone in VA by doing this. Her	VEC thanks the commenter for the feedback. Because this comment objects to the text of the Act, this comment falls outside the scope of this regulatory action. Chapter 981 and Chapter 1093 of the 2026 Virginia Acts of Assembly require VEC to promulgate regulations necessary for implementation of the PFML Insurance Program for the Commonwealth of Virginia, as outlined in Code of Virginia § 60.2.

	agenda has been nothing but smoke and mirrors. Quite frankly, I'm extremely disappointed and embarrassed to call her our leader.	
Susie	**Interested** I'm interested in hearing more.	VEC thanks the commenter for the feedback. The best way to hear more about VEC's work to implement the PFML Insurance Program is to join the PFML mailing list. You can sign up on VEC's website at https://vec.virginia.gov/pfml.
Anonymous	**Job killer** This program will kill jobs. Businesses cannot operate without their employees and this law like so many others enacted without considering the unintended impacts will kill local businesses and therefore the jobs that it is supposed to protect. Recommended action is to report back that this is an ill-advised law that needs to be repealed immediately.	VEC thanks the commenter for the feedback. VEC has considered your comment. Because this comment objects to the text of the Act, this comment falls outside of the scope of the regulatory action. Chapter 981 and Chapter 1093 of the 2026 Virginia Acts of Assembly require VEC to promulgate regulations necessary for implementation of PFML Insurance Program for the Commonwealth of Virginia, as outlined in Code of Virginia § 60.2.
Virginia Chamber of Commerce	**Virginia Chamber Comment on NOIRA for Paid Family and Medical Leave Insurance Program** The Virginia Chamber of Commerce is pleased to submit comments in response to the Virginia Employment Commission's Notice of Intended Regulatory Action regarding the establishment of a paid family and medical leave program as required by Chapters 981 and 1093 of the 2026 Acts of Assembly. As the largest business advocacy organization in the Commonwealth, representing thousands of employers of all sizes and in all industries, the Virginia Chamber has a direct interest in ensuring the rulemaking process results in regulations that are workable, clearly understood, and implemented in a manner that gives employers and employees alike sufficient time and guidance to comply. Recognizing that this regulatory process will be among the most significant ever undertaken in Virginia, the purpose	VEC thanks the commenter for the feedback. VEC has considered your comments. On Intermittent Leave: The proposed regulation, if adopted, establishes a clear, workable, and balanced framework for intermittent leave. The Proposed regulation includes reasonable regulations related to qualifying leave usage, additional certification for intermittent leave, and notice of leave taken. The Proposed regulation would align many aspects of the intermittent leave framework with the FMLA, such as calculation of weekly usage of leave, while making balanced improvements to the FMLA where appropriate, such as by allowing employers to establish reasonable policies governing leave increments under the Act and by expanding employees' ability to take parental leave in two separate blocks of time. The intent and likely effect of these regulations is to ensure that employers can effectively manage business operations while also protecting employees' health and access to intermittent leave. For more information, please review 16VAC5-90-90. On Stakeholder Engagement: VEC welcomes opportunities to engage with stakeholders during the implementation

	of this comment is to underscore the breadth and technical complexity of the process—technical complexity that is magnified for employers given the passage of separate legislation mandating employer provision of paid sick leave. As this work begins, we also respectfully urge the Commission to ensure the rulemaking process reflects that complexity and to recognize the importance of adequate time, transparency, and stakeholder engagement throughout the regulatory development period. Chapters 981 and 1093 require the promulgation of rules and regulations governing the program by April 1, 2028, less than two years from enactment. The scope of those rules must be recognized at the outset: the claims filing and processing system, certification standards, employer notification requirements and timelines, contribution rates and actuarial assumptions, private plan approval and certification processes, procedures for self-employed individual election, coordination of intermittent leave, appeals procedures, and enforcement. Coordination of intermittent leave is critical, as it presents unique operational challenges for employers, especially small and mid-sized businesses. The Commission should provide clear, workable guidance on the administration of intermittent leave and the Virginia Chamber strongly recommends the Commission adopt rules that align intermittent leave standards with those established in federal law under the Family and Medical Leave Act (FMLA), where applicable, to avoid creation of a duplicative or conflicting compliance burden. Virginia employers will require clear definitions of qualifying leave increments, certification requirements, notice obligations,	process, including through the 60-day comment period that will follow publication of this proposed regulation. VEC looks forward to reviewing comments upon the conclusion of the comment period. On Contribution Rates: This issue is beyond the scope of the rulemaking, but the agency will consider these comments as implementation continues. VEC will fully comply with the requirements laid out in § 60.2-806. On Job Protection and Tenure Requirements: Please review 16VAC5-90-50, which discusses the Act's tenure requirement to receive job protection benefits in detail. On Impact on Small Businesses: The Code establishes a reduced contribution rate for employers with 10 employees or fewer and forecloses the use of a different threshold. Although these suggestions are beyond the scope of the regulatory process, VEC will consider them as the agency continues to implement the PFML program. On Clarity for Private Plans: Please review 16VAC5-90-100. Per the Virginia Chamber's feedback, VEC has prioritized regulations that are clear, are predictable, and include transparent standards for employers who plan to meet their statutory obligations under the Act via a private plan or self-insurance that meets or exceeds the minimum standards established in Code of Virginia § 60.20.

	and protections against abuse to effectively manage workforce operations while adhering to the intent of the law. Without such clarity, intermittent leave provisions risk creating significant and unnecessary confusion for Virginia employers. In all areas of the rulemaking, we believe that efforts to reduce this complexity through shortcuts, rather than addressing it fully and directly, are likely to create ambiguities and compliance challenges that introduce uncertainty for both employers and employees. Stakeholder Engagement Stakeholder engagement should be emphasized from the outset and should not be limited to formal comment periods. We respectfully request the Commission convene a regulatory advisory panel that reflects the broad diversity of Virginia employers. Such panel should include a representative sample of employers of all sizes across the Commonwealth, including nonprofit organizations and the self-employed, as well as representatives from the insurance industry and legal and human resources professionals. We believe a collaborative approach to the rulemaking process would best ensure the quality and credibility of any regulations to be promulgated. We would also respectfully request the Commission ensure a formal comment period for proposed regulations of at least 60 days. A 30-day window will be inadequate for evaluating regulations of the anticipated breadth and complexity. A longer window will ensure Virginia employers have sufficient time to consult with counsel, model financial impacts, and prepare comments that are informative to the Commission. Contribution Rates Perhaps the most impactful of the regulations to be developed are	

	those concerning the contribution rates for the program. The requirements of Chapters 981 and 1093, particularly those made at the outset regarding initial contribution rates, will directly effect every employer and covered employee in Virginia. Uncertainty is inherent in this process, as Virginia has no direct experience upon which to draw and actuarial assumptions will have to be made. As such, we respectfully request that the Commission, prior to proposing contribution rate regulations, commission and make publicly available a full actuarial analysis of the program's projected costs, utilization assumptions, and fund solvency scenarios under a range of possible conditions. Employers will be unable to meaningfully plan or budget unless there is confidence that the underlying assumptions have been independently examined and disclosed. As Virginia will be the 14th state to establish a program of this type, the experiences of other states should be incorporated into this analysis and made publicly available. Job Restoration and Tenure Requirements Chapters 981 and 1093 condition job restoration on an employee having been employed with their employer for at least 120 days prior to the commencement of leave. The application of this rule in practice is heavily dependent on the Commission's regulations, and there are numerous questions which must be addressed with maximum precision. How is the 120-day period calculated—calendar days, workdays, or hours worked? How are gaps in employment to be treated? How will an employee who transfers between affiliated entities of a larger corporate family be treated? The regulations to be developed on this front must reflect the realities of	

	the modern workforce. The regulations to be developed must address these questions, and others, with precision and specificity; leaving these issues to be addressed on a case-by-case basis through the claims and appeals process only serves to create uncertainty for employers, employees, and the Commission. Impact on Small Businesses Although the statute anticipates unique impacts for Virginia's small employers—limiting the contribution obligation of employers of ten or fewer to the per employee share only—most Virginia businesses exceed that threshold. However, the impact on an employer of ten or fewer is likely to be similar to the impact on employers that would otherwise be considered small businesses. The disruptions experienced by an employer of 9 employees due to extended leave will not be dissimilar from the disruptions experienced by an employer of 11 employees. Indeed, in either example an employee taking 12 weeks of leave represents the loss of about ten percent of the employer's workforce for a full quarter, in addition to costs that no insurance benefit can offset, such as lost productivity and temporary replacement costs. We respectfully urge the Commission to conduct a rigorous economic analysis of the projected impact of employers of 50 or fewer employees, including estimated contribution costs as a percentage of payroll, projected utilization rates, and the consequences, financially and operationally, of simultaneous or consecutive leave events. Such analysis would benefit both the Commission, by informing regulatory design, and small employers who must plan now for the program's implementation. We would encourage the Commission to make this analysis as part of the larger process and to make it	

	publicly available for review and comment. Clarity for Private Plans Finally, Chapters 981 and 1093 provide that an employer may satisfy its obligations under the statute through a private plan, subject to the approval of the Commission. The Chamber strongly supports robust development of this pathway, as many Virginia employers already provide paid family and medical leave benefits at levels that meet or exceed the statutory minimums. We strongly believe these employers should not face unnecessary barriers to approval and certification by the Commission. We respectfully urge the Commission to develop regulations in this area that are clear, predictable, and which include transparent standards and a streamlined application process with defined timelines for decision by the Commission. Any ambiguity in the private plan option serves only to discourage employers from pursuing it, potentially limiting benefits for Virginia employees to the statutory minimum amount. The Virginia Chamber of Commerce thanks the Commission for its thoughtful consideration of this comment, and we look forward to continued engagement and active participation with the Commission at every stage of this process.	
Rebecca Duncan	Expanding Paid Family Medical Leave in Virginia to 80-100% for up to 12 weeks a year would allow for families to better prepare for end of life medical care, for family planning, medical emergencies and other medical care for residents. Access to paid leave would make it easier for families to consider growing knowing they could be better prepared and allow for longer bonding between parents and their children, when that decision is left	VEC thanks the commenter for the feedback. Your comments have been considered. VEC thanks you for your support of the program. For more information about bonding leave, please see 16VAC5-90-20.

	to employers families suffer, families that breastfeed are often pushed to formula because of the lack of access to proper time with their children and families could save more money by accessing paid family leave. Families considering growing under these current economic pressures would be less likely to consider growing without financial assurances such as paid family leave. The option of leaving it to employers often means parents get less time with their babies and less financial security for working families. Policies like this actually show up for working families in the Commonwealth. This is just the beginning.	
Stephanie Gilbert	**Comments Regarding Virginia's Paid Family and Medical Leave Insurance Program (NOIRA)** Thank you for the opportunity to provide comments regarding the implementation of Virginia's new Paid Family and Medical Leave Insurance Program. I submit these comments from several perspectives. I am both an attorney and the Chief Financial Officer and co-founder of a Virginia restaurant chain. For many years, I have been responsible for administering payroll, employee benefits, leave policies, and compliance with state and federal employment laws, as well as drafting and implementing many of our company's HR policies and procedures. I also write from personal experience. After the birth of my first child, I experienced firsthand how difficult it can be in the United States to balance the demands of a career with raising a young family. That experience ultimately led me to transition away from private legal practice and into our family business, where I have spent the last decade helping build policies that better support working parents while also ensuring our business remains sustainable. In 2014, our company was extremely proud to	VEC thanks the commenter for the feedback. The commenter's perspective as both a co-founder of a Virginia restaurant chain and a parent is valuable as VEC works to establish a PFML Insurance Program that must serve Virginia families and Virginia's business community alike. Your comment has been considered. Regarding learning from states that have already implemented successful programs: VEC has carefully reviewed other state program statutes, regulations, procedures, and business rules and will continue to do so throughout the implementation process. This research, as well as best practices and lessons learned from other states, is reflected in the proposed regulation. Regarding recognizing the realities faced by small businesses: VEC has enjoyed every opportunity to date to engage with small business owners both virtually and in person during the regulatory process. VEC looks forward to continuing to engage our small business partners in the coming months. Regarding flexibility for employers who already offer paid leave: Please review 16VAC5-90-70 and 16VAC5-90-100. The proposed regulation, if adopted, would make the approval process for private plans straightforward, timely, and predictable, as suggested by the commenter. Regarding educating employees about how the program will work and how it will be

	become one of the first small businesses in Virginia to implement paid parental leave for our staff despite having no legal obligation to do so. We made that decision because we believed it was the right thing to do and recognized that the United States has historically lagged behind many developed nations in supporting families during one of life's most important transitions. Since that time, we've had dozens of employees participate in our private paid parental leave program after their birth or adoption of a child, and many of those team members are still with us today. Accordingly, because I support one of the underlying objectives of Virginia's paid family and medical leave program, I want to see Virginia build a program that is sustainable, well-administered, and capable of serving employees for decades to come. My comments are not intended to oppose the concept of paid family and medical leave. Rather, they are intended to help ensure the program is implemented in a way that balances the needs of employees with the operational realities faced by Virginia employers. 1. Learn from states that have already implemented successful programs. Virginia has the advantage of not being the first state to implement a paid family and medical leave insurance program. Several states have already navigated the challenges of implementation, employer education, claims administration, funding, and fraud prevention. Rather than reinventing the wheel, I encourage the Commonwealth to carefully study states where these programs have been successful and adopt proven best practices whenever possible. This includes claim administration, technology platforms, communication strategies, appeals	funded: While it is beyond the scope of this regulatory action, Chapter 981 and Chapter 1093 of the 2026 Virginia Acts of Assembly require VEC to "develop and conduct a public education campaign to inform workers and employers regarding the availability of family and medical leave benefits. Such campaign shall include multiple ways to communicate to employers and employees about the new benefits system and leave rights, contributions, timeline, and eligibility requirements. Such campaign shall be an ongoing function of the Commission for the duration of the paid family and medical leave insurance program. In conducting and planning such campaign, the Commission shall work with stakeholders, including chambers of commerce, trade associations, nonprofit organizations, and labor unions, to develop and implement a statewide communication outreach strategy. Such campaign shall also include targeted outreach and education for small businesses. Outreach information shall be available in English, Spanish, and other languages spoken by more than five percent of the Commonwealth's population." Strong program integrity is a top priority for VEC and will be a focus throughout the PFML implementation, including in this regulation. The proposed regulation would establish clear eligibility standards, consistent documentation requirements, efficient claim review procedures, and meaningful safeguards against fraud and abuse. The proposed rule also reflects best practices in fraud prevention and response that have emerged in other states with PFML programs, including best practices for preventing fraud using stolen or fake identities and employer information. For more details, please review 16VAC5-90-20 and 16VAC5-90-60. We thank the commenter for their feedback regarding recent experiences engaging with VEC on our UI program. We are consistently working to improve customer experience for employers and claimants alike. We are putting the customer experience front and center as we build a PFML IT solution with user-centered design.

	processes, implementation timelines, and employer support resources. Virginia has a unique opportunity to build on what has already been learned rather than repeating mistakes other states have already solved. 2. Recognize the realities faced by small businesses. Although the legislation provides some relief from employer premium contributions for the smallest employers, compliance responsibilities remain significant. Unlike large corporations, many small businesses do not have dedicated HR departments, payroll specialists, or in-house legal counsel. Owners are often personally responsible for understanding new regulations, coordinating leave, maintaining documentation, communicating with employees, and ensuring compliance while simultaneously running their businesses. For many employers, these administrative responsibilities will be just as burdensome as the direct financial costs. I encourage the VEC to prioritize straightforward reporting requirements, standardized forms, practical guidance documents, comprehensive FAQs, model notices, user-friendly online systems, and realistic implementation timelines. Thoughtful regulations can dramatically reduce administrative burden without reducing employee protections. 3. Provide meaningful flexibility for employers who already offer paid leave. Many Virginia employers have voluntarily invested in paid leave benefits for years. The legislation appropriately allows employers to provide approved private plans that meet or exceed the state's requirements. I strongly encourage the VEC to make the approval	

	process for these plans straightforward, timely, and predictable. Employers who have already invested in generous employee benefits should not be disadvantaged or subjected to duplicative administrative requirements simply because they acted before the law required it. The Commonwealth should encourage employers who choose to exceed minimum standards, not inadvertently discourage them. 4. Educate employees about how the program will work and how it will be funded. Paid Family and Medical Leave Insurance is a new concept for many Virginians. Many employees may not fully understand how the program will be funded, what benefits it provides, what qualifies for leave, what documentation will be required, or how claims are processed. Because this program will be funded through payroll contributions and administered by the Commonwealth, I believe Virginia should invest in a comprehensive public education campaign before implementation. Employees deserve to understand both the benefits they will receive and the costs associated with maintaining the program. Clear communication will reduce confusion, improve compliance, and prevent employers from becoming the default source of information (which, in turn, often results in becoming the default source of frustration) for a program they do not administer. 5. Protect the long-term sustainability of the program through strong eligibility verification and program integrity. I want to acknowledge that, despite my comments above, Virginia's program extends well beyond paid parental leave. The legislation provides paid, job-protected leave	

	for an employee's own serious health condition, caring for family members, bonding with a new child, qualifying military family needs, and circumstances involving domestic violence, sexual assault, or stalking. Because the program intentionally covers a broad range of qualifying events, it is essential that the regulations establish clear eligibility standards, consistent documentation requirements, efficient claim review procedures, and meaningful safeguards against fraud and abuse. My concern is not that employees should be denied benefits when they genuinely qualify. I want employees experiencing serious medical or family circumstances to have confidence that this program will be available when they truly need it. However, every insurance program funded through payroll contributions depends upon public confidence that benefits are reserved for legitimate qualifying circumstances. Every fraudulent, unsupported, or improperly approved claim increases costs for the employees and employers funding the system and ultimately risks undermining confidence in a program designed to help Virginia families. Strong program integrity ultimately protects everyone, including the employees the legislation is intended to serve. 6. Ensure the Virginia Employment Commission has the resources necessary to successfully administer this program. To be candid, as an employer, my experience with the VEC has unfortuantely been one of inconsistent communication and limited accessibility. In recent years, since COVID, I've often spent hours attempting to obtain guidance, reach someone by telephone, or receive answers to relatively straightforward questions related to unemployment benefits for my employees. Unfortunately,	

	timely assistance is often difficult to obtain.This new program will create entirely new responsibilities for employers across the Commonwealth. Successful implementation will require knowledgeable staff, responsive customer service, modern technology, consistent guidance, and prompt communication. If employers cannot obtain accurate information when questions arise, confusion and noncompliance become much more likely, not because employers are unwilling to comply, but because they cannot obtain the assistance they need. I respectfully encourage the Commonwealth to ensure the VEC is adequately staffed, properly funded, technologically prepared, and operationally ready well before implementation begins in 2028. Virginia has an opportunity to create a Paid Family and Medical Leave program that meaningfully supports working families while remaining practical and sustainable for employers. As someone who personally made career decisions because of the challenges of balancing work and family, and as an employer who voluntarily chose to provide paid parental leave more than a decade before it was required, I sincerely hope Virginia creates a program that fulfills its intended purpose while remaining workable for the employers who will help make it possible. By learning from other states, supporting small businesses, encouraging employers that already provide paid leave, investing in employee education, protecting the integrity of the insurance fund, and ensuring the Virginia Employment Commission has the resources necessary to administer the program effectively, I believe the Commonwealth can build a Paid Family and Medical Leave program that earns the confidence of both employees and employers for years to come.	

	Thank you for the opportunity to provide these comments. I appreciate the VEC's willingness to seek stakeholder input throughout the rulemaking process and look forward to continued public engagement as the regulations are developed.	
Council of Independent Colleges in Virginia, Inc. (CICV)	**Paid Family and Medical Leave Implementation Regulations Non-Profit Higher Education Comments** The Council of Independent Colleges in Virginia, Inc. d/b/a Virginia Private Colleges appreciates the opportunity to submit comments in response to the Virginia Employment Commission's Notice of Intended Regulatory Action regarding implementation of Virginia's new Paid Family and Medical Leave Insurance Program established by Chapters 981 and 1093 of the 2026 Acts of Assembly. CICV represents 28 Virginia nonprofit independent colleges and universities. Our member institutions are employers, educators, community anchors, and providers of significant student employment opportunities. As the Commission begins this important regulatory process, CICV respectfully urges the development of regulations, guidance, FAQs, and implementation materials that are clear, practical, and attentive to the unique operational structures of institutions of higher education. Virginia's PFML program will require significant payroll, human resources, benefits administration, employee communication, and compliance planning. For colleges and universities, those responsibilities are complicated by the fact that institutions employ students in a variety of campus-based roles, including federal work-study positions, hourly student employment, graduate assistantships, resident assistant	VEC thanks CICV for their feedback. Your comment has been considered. The proposed regulation provides that "employment" has the same meaning provided in §§ 60.2-212 and 60.2-219 of the Code of Virginia, aligning coverage for this program with coverage for the UI program. If this Proposed regulation were adopted, the program would generally cover higher education workers, but would not cover work "performed by a student who is enrolled and is regularly attending classes at such school or institution." § 60.2-219(9). For more information, please see 16VAC5-90-10(A). The proposed regulation, if adopted, would establish a clear, workable, and balanced framework for intermittent leave. The Proposed regulation includes reasonable regulations related to qualifying leave usage, additional certification for intermittent leave, and notice of leave taken. The intent and likely effect of these regulations is to ensure that employers can effectively manage business operations while also protecting employees' health and access to intermittent leave. The proposed regulation also provides a transparent, predictable framework governing APIP approval, including standards and procedures for approval, applications, renewals, modifications, and appeals. Employers with APIPs will not be required to make contributions to the Commonwealth Plan for covered employees. Some aspects of CICV's comments, such as CICV's comments about actuarial analysis, are beyond the scope of the rulemaking. However, the agency will consider these comments as implementation continues. VEC will fully comply with the requirements laid out in § 60.2-806.

	roles, and other positions connected to a student's enrollment. Because certain student services may be excluded from "employment" under existing unemployment compensation principles, VEC guidance is essential to determine whether and how those exclusions apply in the PFML context. CICV respectfully requests that the Commission address certain questions in the forthcoming regulatory process, including but not limited to: Are student employees at institutions of higher education intended to be treated as covered individuals under the new PFML program? Are wages paid to students employed by the same institution in which they are enrolled and regularly attending classes intended to count toward monetary eligibility under the PFML program? Does the Commission anticipate that existing Title 60.2 exclusions applicable to certain student services will inform implementation of the new PFML program? Will forthcoming regulations or guidance specifically address student employees, graduate assistants, federal work-study positions, hourly student workers, resident assistants, and similar campus-based roles? CICV members have received early, but speculative, indications that student services performed for the institution where the student is enrolled and regularly attending classes may be excluded from "employment" under existing unemployment law principles, but clear guidance is needed. A key implementation question is whether the PFML statute incorporates all relevant unemployment-law exclusions, including those related to student services, or whether PFML coverage and monetary eligibility will be interpreted more broadly. Institutions would also benefit from	Finally, VEC welcomes opportunities to engage with stakeholders during the implementation process, including through the 60-day comment period that will follow publication of this proposed regulation. VEC looks forward to reviewing comments upon the conclusion of the comment period.

	confirmation on whether the following categories are likely to be excluded or covered: A work-study student employed by the institution where the student is enrolled and regularly attending classes: likely excluded. A student hourly employee employed by the institution where the student is enrolled and regularly attending classes: likely excluded. A recent graduate, non-enrolled student, or student not regularly attending classes: potentially covered. This clarification is not merely technical. Student employment is integrated into campus operations, financial aid, residence life, academic support, athletics, dining, libraries, admissions, advancement, and other institutional functions. Ambiguity regarding coverage, wage counting, contribution obligations, and monetary eligibility could create significant payroll and reporting complexity for institutions and confusion for students. CICV joins the broader employer community in urging the Commission to conduct an open, deliberate, and highly transparent regulatory process. This rulemaking will be among the most consequential employment-related regulatory actions undertaken in Virginia. The Commission's regulations will need to address claims administration, employer reporting, contribution rates, actuarial assumptions, certification standards, employee notice, private plan approval, intermittent leave, appeals, enforcement, and coordination with other leave and benefits programs. CICV joins others in requesting the Commission convene a regulatory advisory panel or comparable stakeholder workgroup that includes representatives of nonprofit employers, institutions of higher education, small and mid-sized employers, human resources professionals, payroll	

	administrators, benefits professionals, legal counsel, insurers, and other affected stakeholders. Formal comment periods are important, but they are not a substitute for sustained technical engagement during the development of regulations. CICV also encourages the Commission to provide a minimum 60-day formal comment period when proposed regulations are published. Given the breadth of the issues involved, employers will need adequate time to review the proposal, consult with counsel and benefits advisors, model financial and administrative impacts, and provide comments that will be useful to the Commission. Contribution rates also require particular care. CICV respectfully requests that, before proposing contribution-rate regulations, the Commission make publicly available a full actuarial analysis of projected program costs, utilization assumptions, solvency scenarios, and expected employer and employee contribution impacts. Institutions need reliable information to prepare future budgets, configure payroll systems, communicate with employees, and evaluate whether private plans may be viable. The Commission should consider providing clear rules governing intermittent leave. Colleges and universities operate on academic calendars, semester schedules, residential life staffing models, athletic seasons, clinical placements, lab schedules, and other time-sensitive operational structures. Intermittent leave rules should align, where appropriate, with federal FMLA standards to avoid duplicative or conflicting compliance burdens. Regulations should clearly define qualifying leave increments, certification requirements, notice obligations, employer response timelines, and coordination with existing institutional leave policies.	

	CICV asks the Commission to develop a clear and workable private-plan approval process. Many nonprofit colleges and universities already provide paid parental leave, short-term disability, long-term disability, sick leave, PTO, or other benefits that may overlap with or exceed portions of the new statutory program. The regulations should include transparent standards, defined application timelines, renewal procedures, and clear guidance on how private plans will coordinate with state-administered benefits. Ambiguity in this area could discourage employers from maintaining or expanding existing benefits. Finally, the Commission should consider the cumulative impact of the PFML program alongside other new employer mandates. Colleges and universities must prepare for payroll contributions, employee notices, coordination with existing leave programs, benefits continuation, job restoration requirements, student-worker questions, HRIS changes, and employee communications. These obligations carry real administrative and financial consequences, particularly for smaller institutions and nonprofit employers with limited administrative capacity. CICV appreciates the Commission's willingness to engage stakeholders early in this process, and we welcome continued dialogue as the regulatory process moves forward.	
Regent University	**Regent University Comment on Paid Family and Medical Leave Program** Regent University appreciates the opportunity to comment in response to the Virginia Employment Commission's Notice of Intended Regulatory Action regarding the establishment of a paid family and medical leave program as required by Chapters	VEC thanks Regent for their feedback. Your comments have been considered. Regarding coverage of higher education employees: The proposed regulation provides that "employment" has the same meaning provided in §§ 60.2-212 and 60.2-219 of the Code of Virginia, aligning coverage for this program with coverage for the UI program. If this Proposed regulation were adopted, the program would generally cover higher education workers, but would

	981 and 1093 of the 2026 Acts of Assembly. Regent is a nonprofit Christian university in Virginia Beach. It educates students across a broad range of undergraduate, graduate, and professional programs, and it serves one of the largest online and distance student populations in the Commonwealth. As an employer, Regent supports its academic mission through a workforce that includes faculty, staff, and a substantial number of student employees. Because Regent teaches and employs both on campus and remotely, its workforce spans on-site and remote arrangements, and many of its employees perform services from outside Virginia. Regent supports and incorporates the comments submitted by the Council of Independent Colleges in Virginia but writes separately to address several issues of particular importance to institutions like Regent. First, the treatment of student compensation. Regent shares CICV's questions about whether and how the unemployment-law student-service exclusions carry into PFML and adds that its graduate and professional programs compensate student workers in varied forms, including stipends, tuition remission, hourly wages, and housing allowances. Regent asks the VEC to confirm how each form is treated for eligibility and contributions, and whether excluded student services nonetheless generate wages for PFML contribution purposes. The regulations should also address the transition point when a student's exclusion ends. Regent asks the VEC to specify whether wages earned while the exclusion applied count toward monetary eligibility afterward, how enrollment breaks such as summer terms are treated, and what standards define enrollment and regular attendance for part-time and online students.	not cover work "performed by a student who is enrolled and is regularly attending classes at such school or institution." § 60.2-219(9). For more information, please see 16VAC5-90-10(A). Other higher education employees, such as adjunct faculty, will be covered in the same manner as those employees are currently covered for UI. Further, the Proposed regulation's localization rules are aligned to UI localization rules, which are already familiar to Virginia employers, and harmonize with localization rules that apply in other PFML states. Regarding coordination with the FMLA: This issue is beyond the scope of VEC's regulatory authority, as the coordination of leave under the Act and FMLA leave is governed by the Act's text and by federal law. For more information, please review Wage & Hour Div. Opinion Letter, FMLA2025-01-A (Jan. 14, 2025). However, to provide greater clarity to the regulated community, the proposed regulation provides additional information about the interaction between these two laws at 16VAC5-90-70.

	Regent also requests examples or safe-harbor guidance addressing common higher education scenarios, including graduate assistants, work-study participants, resident assistants, teaching assistants, and students who move between student and non-student employment within the same base period. Second, remote and multi-state work. Regent employs a large remote workforce, yet it is unclear whether the § 60.2-217 localization rules govern coverage under the new PFML program. Regent asks the VEC to confirm if and how the localization rules determine coverage for out-of-state and remote work, whether wages localized outside Virginia are excluded from contributions and eligibility, and how employers should report when a worker's location changes during a benefit year. Regent further asks the VEC to address coordination with other states' paid leave or unemployment systems so that employers are not required to report or contribute on the same wages in multiple jurisdictions absent clear statutory direction. Third, the treatment of adjunct faculty. Regent's adjunct faculty are paid a contracted amount per credit hour or per student. Regent asks the VEC to clarify how adjunct faculty compensation is treated for eligibility and contributions. Because most adjunct faculty hold primary employment elsewhere, and many work from outside Virginia, Regent also asks how primary and secondary employment and out-of-state work bear on eligibility. Fourth, coordination with the federal Family and Medical Leave Act. Regent asks the VEC to address how PFML and FMLA coordinate, including how concurrent use is administered and how the differing eligibility rules interact.	

	Regent appreciates the Virginia Employment Commission's engagement and welcomes continued discussion.	
Vincent Robert, American Council of Life Insurers	**Virginia Paid Family and Medical Leave Notice of Intended Regulatory Action** Dear Ms. Ervin and the Virginia Employment Commission: On behalf of our member companies, the American Council of Life Insurers (ACLI) appreciates the opportunity to provide comments on the Notice of Intended Regulatory Action (NOIRA) in connection with the newly enacted Virginia Paid Family and Medical Leave (PFML) program. While we understand that the NOIRA is the first step in implementation of the VA PFML program, we wanted to take this opportunity to express our support of the Virginia Employment Commission's (VEC) efforts, provide information regarding our involvement in PFML programs across the country, and let you all know that our industry stands ready to support any efforts and share decades of experience delivering and administering income-replacement benefits to help workers and employers access paid leave in a way that is effective, efficient, and workable. The American Council of Life Insurers ACLI advocates on behalf of 275 member companies dedicated to helping people build financial security through every stage of life. We protect 90 million American families with financial products that reduce risk and create certainty, including life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, paid family and medical leave benefits, dental and vision benefits, and other supplemental	VEC thanks ACLI for their feedback and for their ongoing engagement. Your comment has been considered. VEC appreciates ACLI's offer to share its experience administering wage-replacement benefits. VEC welcomes further opportunities to engage, including through the 60-day comment period that will follow the promulgation of this regulation. On Contribution Rates: While this issue is beyond the scope of the rulemaking, the agency will consider these comments as implementation continues. VEC will fully comply with the requirements laid out in § 60.2-806. On Coordination with the Bureau of Insurance: State Corporation Commission (SCC) and BOI are valued partners in the PFML implementation process. The agency looks forward to continuing conversations and coordination with the SCC and BOI in implementing a predictable, clear process for APIP approval and administration.

	benefits. As society and work changes, we are committed to solutions that protect all Americans, regardless of where and how they work, their stage in life, or the economic status of their household. Americans are living longer and often find themselves caring for other family members, placing added financial strain on households. Life insurers help provide certainty — and we are committed to making protection more available, accessible, and affordable for all. Life Insurers' Role in Paid Family and Medical Leave Our members are uniquely positioned as the only stakeholder group that has delivered paid leave benefits for nearly a century. In 2024 alone, life insurers and employers paid out $8.6 billion in paid leave benefits. Not only has the private sector been delivering paid medical leave in the form of short-term disability income (STDI) insurance for decades, but our members also have deep expertise in the administration and compliance needs under the Family and Medical Leave Act (FMLA) that requires unpaid job protected level for employers with more than 50 employees, and a wide range of other paid and unpaid leave benefits employers provide. Important to this discussion, our member companies have aided (and continue to provide aid) in the implementation of all mandatory state PFML programs and administer benefits in all jurisdictions that allow employers to meet PFML obligations through private-sector insurance or self funding, also referred to as the private plan option. This experience has provided valuable insight regarding the ways to provide highly protective and efficient paid leave benefits through productive	

	and collaborative public/private partnerships. As Virginia works to build out its PFML program, our members understand the effort and note that they stand ready to work in coordination with the VEC and provide any support requested during the implementation process. Our members are able to share information learned from past experiences and can provide insight regarding what has and has not worked in various state PFML programs across the country. Moreover, we are more than willing to share insight regarding regulatory considerations from PFML programs across the country. In addition, establishing contribution rates as early as possible will be critical to successful implementation. For example, employers need time to evaluate coverage options, budget for obligations, update payroll and administrative systems, and communicate requirements to employees, who similarly need time to plan. Early clarity on contribution rates will help ensure that the Commonwealth, carriers, employers, and employees can prepare responsibly and avoid unnecessary disruption as the program moves toward implementation. We ask that the VEC not hesitate to reach out with questions, comments, or concerns during the rulemaking process and offer to engage in sessions with our member companies to discuss any implementation items in more detail. Our members look forward to engaging in this process. Virginia Bureau of Insurance Involvement The ACLI also encourages the VEC to coordinate with the Virginia	

	Bureau of Insurance (BOI) to develop the framework around the filing and offering of PFML private plans. Insurers must file and receive approval from the BOI for short term disability and private family leave insurance policies while following established regulation for disability income products and could do the same for newly developed products for the PFML program. Leveraging the BOI's expertise would benefit any potential PFML program. This coordination is particularly relevant to providing seamless coordination of benefits between PFML and short-term disability or family leave insurance policies where other income benefits are generally offset from short-term disability or family leave insurance benefits. Involving the BOI in the development of regulations is critical to minimizing disruption to existing employee benefit programs. Conclusion In conclusion, the ACLI and our member companies can be a valuable resource to the Commonwealth's implementation efforts moving forward. We stand ready to help in any way possible and provide insight and information that may help with ongoing implementation efforts. As always, please feel free to contact us with any questions. We look forward to hearing from you and working with you on these important issues.	
Jodi Roth, Virginia Retail Federation	Virginia Retail Federation (VRF) recognizes the importance of paid family and medical leave and supports policies that help employees care for themselves and their families during significant life events. Healthy employees and strong families benefit our communities and our workforce. At the same time, VRF and its members encourage the Virginia	VEC thanks VRF for this feedback. Your comment has been considered. The proposed regulation sets forth a predictable, clear implementation framework which is informed by best practices from other states and which has a special focus on creating an efficient claims process and reducing administrative burden for both employers and workers. For example, the Proposed regulation harmonizes employers' wage reporting responsibilities with

	Employment Commission to carefully consider the unique challenges that businesses face when implementing this program. Many businesses have limited staffing and financial resources. Even one employee taking extended leave can create significant operational and financial strain, particularly when it is difficult to hire temporary replacements or redistribute work among a small team. VRF respectfully asks that the final regulations prioritize simplicity and predictability. Clear guidance, straightforward reporting requirements, and an efficient claims process will reduce administrative burdens for employers that may not have dedicated human resources staff. Advance notice requirements, when feasible, and timely communication between the program, employees, and employers will also help businesses plan for staffing needs while supporting employees who qualify for leave. VRF would encourage the VEC to consider implementation timelines, educational resources, and technical assistance specifically designed for businesses of all sizes. Providing employers with sufficient time to prepare and understand their responsibilities will improve compliance and reduce unintended hardships. The state of Maine was particularly successful in establishing a working PFML program. VRF recommends VEC look to Maine as an example of a successful program rollout and design. Virginia has an opportunity to create a paid family and medical leave program that supports workers while recognizing the realities faced by business owners. That is why the adoption of	employers' existing wage reporting responsibilities under the UI program, so that employers can satisfy their requirements under both programs with a single set of documents. The proposed regulation also provides that, where practicable, employees will provide their employers with 30 days' advance notice of leave; provides for prompt notice when it is not practical to provide notice 30 days' in advance, such as because the need for leave was unforeseeable; and provides that employers will receive key information about employees' applications for benefits at key points in the claims process. For more information, please see 16VAC5-90-20 and 16VAC5-90-30. Regarding Concurrency: For more information, please see 16VAC5-90-70. An employer and employee may mutually agree that an employee may use paid sick leave, employer-provided vacation, or other employer-provided paid leave to supplement family and medical leave benefits provided under the Act. VEC notes that the interaction between the employer-provided paid sick leave and PTO and FMLA leave is governed by federal law. Because most leave taken under the Act will run concurrently with FMLA leave, VEC has aligned regulations related to substitution with analogous portions of the FMLA. For more information, interested parties may review Wage & Hour Div. Opinion Letter, FMLA2025-01-A (Jan. 14, 2025). The proposed regulation provides employers with the flexibility to adopt, amend, or adjust short-term disability policies in a manner appropriate for their workplace. Thus, the proposed regulation would not regulate the interaction between the PFML Insurance Program and employer-provided short-term disability programs, leaving that issue to employer discretion. The proposed regulation also provides that the Commission will notify employers of an employee's weekly benefit amount so that employers who wish to supplement benefits under the Act to match 100% of an employee's weekly wages are able to do so. Employers are encouraged to offer more generous policies to supplement benefits provided by the Act. Regarding Reporting: Under the proposed regulation, employers will be required to

	regulations that balance these important goals by minimizing unnecessary administrative burdens, promoting transparency, and ensuring the program is sustainable for employers of all sizes. Below are suggestions from VRF that would ease the implementation of these regulations. Coverage: Covered individuals are defined as any individual other than an employee of the Commonwealth who (1) either meets the minimum monetary eligibility criteria set forth in subdivision A1 of 60.2-612 or is self-employed, elects coverage, and meets the requirements of 60.2-802; (2) meets the administrative requirements outlined in this chapter and in regulations; and (3) submits an application. Under subdivision A1 of 60.2-612, an unemployed individual shall be eligible to receive benefits only if, (1) He has, in the highest two quarters of earnings within his base period, been paid wages in employment for employers that are equal to not less than the lowest amount appearing in Column A of the "Benefit Table" appearing in § 60.2-602 on the line which extends through Division C and on which in Column B of the "Benefit Table" appears his weekly benefit amount. Such wages shall be earned in not less than two quarters. If employees are otherwise eligible for PFML, but do not meet the State's current minimum amount to qualify, are they still eligible for (a) protections, (b) time off, or (c) payment benefits under the PFML? Or at that point are they deferred back to either FMLA (if applicable), Paid Virginia Sick leave (if applicable) or their employer's PTO policies. Concurrency: The PFML outlines that leave taken that also qualifies as leave under the FMLA shall run	submit required information on a quarterly basis. As discussed above, the proposed regulation aligns employers' quarterly reporting responsibilities with their responsibilities under the UI program, limiting administrative burden. For employees with an open intermittent leave claim, certain, very limited information must be provided on a weekly basis. VEC will also work to ensure that its employer-facing portal is user-friendly and efficient. Regarding APIPs: For more information about the review criteria relevant to approval to satisfy certain responsibilities under the Act using a private insurance plan, please see 16VAC5-90-100. The commenter's comments about "work credit hours" were not sufficiently clear for the Commission to act upon them. VEC welcomes the commenter to submit more information about this issue in comments on the proposed regulation. Finally, some of VRF's comments and questions are beyond the scope of this rulemaking because they are addressed by the text of the Act or are beyond VEC's regulatory authority. For example, coordination of leave under the Act and FMLA leave is governed by the Act's text and by federal law. For more information, please review Wage & Hour Div. Opinion Letter, FMLA2025-01-A (Jan. 14, 2025). Similarly, the Act provides that § 60.2-808's job protection benefits are available to covered individuals who receive family and medical leave benefits and who have been employed with the covered individual's current employer for at least 120 days. An employee who is not eligible to receive PFML benefits may still be covered by other worker protection statutes, such as Virginia's paid sick leave law, or their employer's PTO policies.

	concurrently (60.2-810A) and that an employer may require that payments made pursuant to this chapter be made concurrently or otherwise coordinated with payments made or leave allowed under the terms of disability or family care leave under an employer policy (60.2-810B). However, it is silent as to whether this would permit the employer to require the employee to use PFML concurrently with PTO or Virginia's new paid sick leave, as is commonly required under employer leave policies. Can we get clarification on the stacking of paid leaves and the interplay of PFML in connection with STD/LTD and PTO or any other paid leave offered by an employer? For example, if an employee is already receiving full compensation from another form of leave or payment provision, is the intent of the PFML to place the employee in a situation to receive more compensation than they would if they were working? Or would this situation render PFML ineligible from providing additional benefits in those instances. Leave Stacking: What protections will be put in place to protect Virginia employers from the stacking of leaves outside of the 12 weeks contemplated to run concurrently under the PFML and FMLA? PFML not only covers federal FMLA qualifying reasons but adds a new category of "safety services" related to domestic violence, harassment, sexual assault, or stalking for which an employee can take extended paid leave (60.2-802(6)). PFML also expands the leave entitlement to allow extended paid leave for an employee to care for more attenuated relations than contemplated under federal FMLA (60.2-800). Given this, situations could occur where an employee takes leave covered under PFML (for a reason not contemplated or covered under federal FMLA) and	

	is then entitled to a subsequent 12 weeks of time off covered under the federal FMLA; extending protected leave past the contemplated 12 weeks. For example, 4 weeks of safety leave under PFML, 12 weeks for serious personal health conditions under the federal FMLA. Reporting: Claims pursuant to this chapter shall be payable for at least eight hours of family and medical leave accrued in one workweek unless the Commission sets a lower threshold. Employees are paid in weekly allotments. How will this reporting be required by the Commission to ensure proper payment especially for those employees using the leave intermittently? (60.2-804E/60.2-807A) What can be done to lessen the reporting burdens for employers when employees are paid weekly? Internal Plan Exemption: If employers provide STD and LTD equal to or greater than the benefits covered under PFML and the employer applies for approval with the Commission, will those benefits meet the obligations provided under the PFML.60.2-816, exempting an employer from also contributing under the PFML? Work Credit Hours: What impact, if any, will time taken under PFML have on work credit hours? Thank you for your time and attention to these comments. We respectfully urge the agency to carefully consider the concerns raised and the potential impacts as you evaluate this matter. VRF appreciates the opportunity to participate in the public comment process.	
Patricia Zuniga, FINEOS Corp	**16 VAC 50-90, Paid Family and Medical Leave Insurance Program Regulation** Greetings:	VEC thanks FINEOS for their feedback. Your comment has been considered. The Proposed Rule would provide clear, workable definitions of key terms and, where appropriate, these definitions align with the federal FMLA, the Commonwealth's UI

	We are writing on behalf of FINEOS Corporation, a global leader in providing core systems for life, accident, and health insurers. As a software provider specializing in absence management and employee benefits, FINEOS understands the critical role that robust, adaptable technology plays in the successful implementation of paid family and medical leave (PFML) programs. FINEOS is uniquely positioned to comment on the forthcoming PFML regulations due to our extensive experience in developing and implementing software solutions that manage employee benefits and leave programs. Our insights are grounded in our work with numerous insurers and employers who rely on our technology to navigate the complexities of leave administration in a compliant manner, ensuring that employees receive their benefits without undue delay or administrative burden. We encourage the Commission to begin with the most fundamental building blocks of program administration: clear definitions and operationally workable calculation methodologies. From an implementation perspective, paid leave programs are administered through software systems that rely on precise inputs, formulas, and decision rules to ensure consistent outcomes. When key terms or calculation methodologies are undefined or subject to multiple interpretations, employers, third party administrators, insurers, and technology vendors may implement the same statutory requirement differently. 1. Clarification of “Workweek” for Entitlement Tracking and Benefit Calculations The statute defines a “workweek” as a calendar week, but the term “calendar week” is not defined and	program, or other states’ PFML programs. VEC intends that the definition of “workweek” will be aligned with the FMLA. For more information, please see 16VAC5-90-20 D. Regarding intermittent Leave: Consistent with the commenter’s feedback, the proposed regulation would align both weekly usage calculations and prorated benefit calculations based on the percentage of an employee’s typical workweek in which the employee was on leave. This approach is consistent with the FMLA’s weekly usage calculation and provides a consistent, administrable, and clear standard for employers and workers alike. This approach can be readily and fairly applied to a variety of work schedules, including part-time, full-time, and variable schedules. Regarding Holidays: The proposed rule also includes additional provisions governing the treatment of holidays and temporary closures. These proposals are consistent with FMLA. Regarding Leave Increments: Further clarification on this issue is available at 16VAC5-90-90 B. Workers need not take eight hours of leave in a single block to be eligible for benefits and job protection. Consistent with the commenter’s suggestion, the proposed rule will allow employers to account for intermittent leave in one-hour increments. However, the proposed rule would permit employers who are not covered by the FMLA to require employees to take intermittent leave in increments of up to four hours. This proposal is intended to provide additional flexibility to small employers who are not covered by the FMLA. Coordination of leave under the Act and FMLA leave is beyond the scope of this regulation, because it is governed by Act’s text and by federal law. For more information, please review Wage & Hour Div. Opinion Letter, FMLA2025-01-A (Jan. 14, 2025). However, to provide more clarity to the regulated community, the proposed rule expands on this issue at 16VAC5-90-70. Regarding Eligibility: Pursuant to § 60.2-802, eligibility for benefits is determined at the time an individual applies. The proposed

	may be interpreted in multiple ways. For example, it could be understood as Sunday through Saturday or any period of seven consecutive days. Under the federal Family and Medical Leave Act (FMLA), leave is measured using an employer's established workweek and the employee's normal work schedule. The U.S. Department of Labor has stated that an employee's normal workweek is the controlling factor for determining FMLA leave entitlement and usage. Clarifying the meaning of "calendar week" and identifying acceptable week calculation methodologies would promote consistent administration. Allowing private plans to align their definition of a week with the federal FMLA would also support administrative efficiency, particularly given that Virginia PFML anticipates and requires concurrent use with FMLA. 2. Proration Calculation. Holidays, and Other Work Closures The statute permits intermittent and reduced-schedule leave and requires prorated benefits. Proration methods can differ for both entitlement and pay benefits, raising the need for a clear methodology for calculating partial week benefits. The Commission could, for example, consider regulations that rely on a claimant's normal workweek. Under such an approach, the percentage of the normal workweek missed during a calendar week would determine the prorated benefit. For example, an employee who normally works 40 hours per week and misses 8 hours would receive 20 percent of the applicable weekly PFML benefit. This approach provides consistency across employees, employers, and private plan administrators.	regulation also provides greater detail on the 120-day tenure requirement. Regarding Calculation of Benefits: For answers to the commenter's questions, please see 16VAC5-90-20 C. Regarding APIPs: More information on VEC's review criteria for APIPs is available at 16VAC5-90-100. Employers are encouraged to provide more generous benefits to employees than the floor guaranteed by the Act, such as by providing more frequent benefit payments and by implementing enhancements that improve the claimant experience, without creating additional barriers to benefits. VEC thanks FINEOS for its comments and welcomes further comments on the proposed regulation.

	Absent regulatory clarity, uncertainty may arise for employees with variable-hour, rotating, compressed, or other nontraditional schedules. An employee entitled to a weekly benefit who misses eight hours could receive substantially different benefit amounts depending on whether their normal workweek is 24, 40, or 48 hours. Regulations should therefore establish objective standards for converting weekly benefit amounts into partial-week payments and for tracking leave used in increments smaller than a full workweek. Clear standards for translating a calendar week into prorated benefits would promote consistent administration, reduce employer burden, and ensure equitable treatment of claimants. Regulations should also clarify how benefit calculations will be performed for employees whose weekly hours vary from week to week, including whether regularly scheduled hours, average weekly hours, or another methodology should be used. Finally, we recommend addressing how holidays and other work closures (e.g., plant shutdowns) should be treated during periods of leave. The FMLA's rules on these matters (29 CFR 825.200(h)) may provide useful guidance and promote administrative efficiency. 3. Leave Increment Standards and Coordination with Existing Leave Frameworks Section 60.2-804(E) provides that claims are payable for at least eight hours of family and medical leave accrued in one workweek, unless the Commission establishes a lower threshold. We encourage the Commission to clarify the meaning of this provision, including: • Whether the eight-hour rule means that an employee must take a single consecutive eight-	

	hour period of leave in a week to be entitled to VA PFML job protection and pay benefits in that week. • Whether the eight-hour rule means that an employee must take at least eight hours of leave in a week (regardless of the absence pattern) to be entitled to VA PFML job protection and pay benefits. • Whether the eight-hour rule mean that an employee can take leave in any pattern or length of time, and will be job-protected and entitled to pay, but the payment will not be sent to the employee until there are a minimum of eight hours of leave accumulated. • Whether the eight-hour rule mean that an employee must meet the eight-hour minimum once per claim in a week, and all weeks after that need not meet the eight-hour threshold. • Whether the eight-hour rule mandatory for private plan administration as well, or can a private plan choose to pay claims of shorter than one hour? • How is the eight-hour rule affected by an employee who works less than 8 hours per day or 8 hours per week? • If the eight-hour rule requires at least eight hours of leave in a week for job protection or payment, employees may "stack" leave by using FMLA for absences shorter than eight hours while preserving PFML entitlement. This could result in more than 12 weeks of job-protected leave in a year, which does not appear to be the intent of the legislation. Beyond the eight-hour rule, the statute does not specify the increments in which leave may be taken, tracked, reported, or deducted. We encourage the Commission to allow increments	

	comparable to those permitted under the FMLA, including hourly increments where appropriate. Many employers already administer intermittent and reduced-schedule leave through existing FMLA processes. Aligning Virginia PFML leave accounting with established FMLA practices would: • Reduce administrative burden; • Improve coordination of concurrent PFML and FMLA leave; • Minimize the need for separate tracking methodologies; • Improve accuracy of intermittent benefit calculations; and • Reduce disputes regarding leave balances and entitlement usage. Because PFML leave that also qualifies under the FMLA must run concurrently, differing increment rules could introduce operational challenges and have the potential impact of allowing leave stacking. We therefore encourage the Commission to clarify that the eight-hour minimum payable threshold is optional for private plans and does not restrict the increments in which leave may be taken or recorded, and to adopt leave-tracking standards aligned with FMLA practices. 4. Clarification of Concurrent Use of PFML and FMLA Leave Section 60.2-810(A) provides that PFML leave that also qualifies under the FMLA shall run concurrently. We encourage the Commission to clarify how this requirement applies when an employee takes FMLA-qualifying leave but does not apply for or receive PFML benefits. Specifically, regulations should clarify whether FMLA leave that could qualify for PFML automatically reduces PFML entitlement or whether PFML	

	entitlement is reduced only when an employee applies for and receives PFML benefits. Other state programs have taken different approaches, resulting in materially different administrative requirements. Early clarification will help employers, leave administrators, and technology providers design compliant processes and avoid significant rework, which has occurred in other states when this issue was resolved late in development or after program launch. 5. Eligibility Determinations We seek clarification on the timing and frequency of eligibility determinations, both for financial eligibility and job protection. The statute does not specify whether eligibility must be established at the start of each request for leave or only once per benefit year regardless of the number of leave reasons. Similar questions arise regarding the 120-day job protection requirement. Because eligibility determinations drive system logic, documentation requirements, and claimant communications, consistent regulatory guidance is critical. We also encourage clarification regarding whether employees are entitled to pay benefits after their employment has ended. The statute does not address this issue, and other state PFML programs vary in their treatment. Clear direction will help administrators design appropriate eligibility rules. 6. Calculation of Benefits Additional clarity is needed regarding the application of the maximum weekly benefit amount tied to the State Average Weekly Net Earnings (SAWNE). Although the statute provides that SAWNE is	

	adjusted annually on September 30 and takes effect on January 1, several questions remain: • Does the new maximum apply to all absences that begin after the January adjustment? • Does the new maximum only apply to absences in Benefit years that begin on or after that January 1? • Does the SAWNE in effect as of the first date of a Benefit year apply to all claims within that Benefit year, or does the new maximum apply regardless of the Benefit year? • If an absence crosses over January 1, how does the new maximum apply to that absence? • Does the answer differ if the absence is continuous, intermittent, or reduced schedule? • We also encourage clarification regarding how an employee's Average Weekly Wage (AWW) should be applied and recalculated. Clarity on the following questions would be useful: o Once an employee's Average Weekly Wage is calculated, does that AWW apply to all claims during the employee's Benefit Year, regardless of leave reason? o Or is the employee's AWW recalculated at the start of each leave request, irrespective of Benefit year? o Or is an employee's AWW recalculated at the first instance of leave after the	

	expiration of the employee's Benefit year? 7. Flexibility for Private Plans to Offer More Favorable Administrative Features Section 60.2-816(A)(1)(g) requires that approved private plans impose no additional conditions or restrictions beyond those authorized by statute or regulation. We support the intent of this provision, which appropriately prevents private plans from limiting access to benefits through additional eligibility requirements, documentation burdens, waiting periods, or other restrictive practices. However, we encourage the Commission to clarify that this provision is intended to prohibit additional restrictions, not more favorable administrative practices. Private plans should retain flexibility to implement enhancements that improve the claimant experience while preserving statutory rights. Examples include: • Reduced documentation requirements where permitted; • More frequent benefit payments; • Lower intermittent leave thresholds; and • More generous leave-tracking methodologies. Without clarification, private plan sponsors may interpret subsection (g) to prohibit any deviation from state-plan administration, even if the deviation is more generous and would benefit claimants. Clarifying that private plans may implement administrative provisions equal to or more favorable than the state plan—so long as they do not reduce rights or impose additional barriers—would be consistent with the statute's broader framework permitting private plans to provide benefits "equal to or greater than"	

	those available under the state program. Conclusion FINEOS Corporation urges the Commission to consider these points to ensure that the PFML regulations are practical, effective, and supportive of both employers and employees. We understand that the Commission has a tight timeline and cannot afford delays. Clear and precise regulations are essential to ensure that all stakeholders can implement necessary changes promptly and correctly. Ambiguities and repeated clarifications can create delays that make it more challenging for the Commission to meet its deadlines. By enhancing the regulations with these additional details, the Commission can provide the clarity needed to ensure effective and consistent compliance, in line with the law's intent and within the required timeline. FINEOS appreciates the opportunity to provide feedback and would welcome the opportunity to provide additional insights.	
Clayton Medford / Northern Virginia Chamber	**Northern Virginia Chamber Comments on Paid Family and Medical Leave** The Northern Virginia Chamber (NVC) submits these comments in response to the Virginia Employment Commission's Notice of Intended Regulatory Action (NOIRA) on establishing a Paid Family and Medical Leave (PFML) program under Chapters 981 and 1093 of the 2026 Acts of Assembly. NVC is one of Greater Washington's and Virginia's most influential business organizations, today representing close to 500,000 employees and impacting policy across this region and the Commonwealth. Our members have a strong interest in ensuring	VEC thanks the commenter for the feedback. Your comment has been considered. For more information on the comments submitted by the Virginia Chamber of Commerce, please see VEC's response to the Chamber's comments. On Stakeholder Engagement: VEC welcomes opportunities to engage with stakeholders during the implementation process, including through the 60-day comment period that will follow publication of this proposed regulation. VEC looks forward to reviewing comments upon the conclusion of the comment period.

	the resulting regulations to implement the PFML program are clear, workable, and provide employers sufficient time and guidance to comply, and to help employees understand the program. Given the scope, technical complexity, and cost of this effort, especially alongside new paid sick leave requirements, we urge the Commission to prioritize robust stakeholder engagement and to conduct a thorough analysis of the potential costs of implementing this program as it presents a major shift in how Virginia businesses operate. Because of the scope of the program and its subsequent impact on the cost of doing business in Virginia, employers must be engaged throughout the process in a meaningful way. First and foremost, we need all aspects of this process to be shared in a way that encourages engagement with the private sector. Transparency is key; this process must be done in the open and on a timeline that allows for maximum participation. We believe a robust and comprehensive statewide engagement strategy is needed in order to implement this program in the most effective and least disruptive way possible. Northern Virginia is proudly home to a strong business community representing a diverse set of industries and business sizes and types. In order to be sufficient, implementation must go beyond the minimum required. We align our comments with those of the Virginia Chamber of Commerce regarding the need for a new actuarial analysis prior to proposing contribution rates. The direct costs of this program will be borne by employers and employees, and all deserve to have the best and most recent cost analysis available when reviewing proposed regulations. This is particularly true when you consider the resources employers need to	

	expend to comply with the program and to inform employees both prior to implementation and going forward during the regular course of business. This is a brand new program, and education will be critical to its implementation. NVC is grateful for the opportunity to submit these comments to the NOIRA and thanks the VEC for reviewing. Please look to us as a resource as you continue your work to establish the Paid Family and Medical Leave (PFML) program under Chapters 981 and 1093 of the 2026 Acts of Assembly.	
Judy Hackler, Virginia Assisted Living Association (VALA)	**PFML Implementation Considerations for 24-Hour Care Providers** The Virginia Assisted Living Association (VALA) appreciates the opportunity to provide comments regarding the Virginia Employment Commission's Notice of Intended Regulatory Action for the development of regulations implementing Virginia's Paid Family and Medical Leave (PFML) program. VALA represents assisted living communities across the Commonwealth that provide housing, personal care, medication management, and health-related services to thousands of older adults and individuals with disabilities. Assisted living communities operate continuously, twenty-four hours a day, seven days a week, and must maintain adequate staffing to ensure the health, safety, and well-being of their residents. As the Commission develops these regulations, VALA encourages an implementation approach that fulfills the intent of the legislation while recognizing the unique operational responsibilities of licensed assisted living communities that provide long-term residential care and services to vulnerable Virginians. Because assisted living communities provide essential	VEC thanks VALA for their comments. Your comments have been considered. The proposed rule includes many provisions that aim to reduce administrative burden for employers. For example, the proposed regulation would align employers' quarterly reporting responsibilities with employers' existing wage reporting responsibilities under the unemployment insurance program, preventing duplicative or unnecessary compliance costs. Similarly, the proposed regulation provides that VEC will publish sample notices that employers can use to satisfy certain responsibilities under the statute, promoting compliance and reducing employer compliance costs. Although it is beyond the scope of the regulations, VEC intends to administer the program using streamlined, user-friendly electronic reporting systems. Regarding Coordination with Other Benefits Programs: For more information, please see 16VAC5-90-70. Here, the proposed regulation provides greater detail on coordination of benefits under the Act with the FMLA, Workers' Compensation, and employer-provided benefits. Regarding Timely Notice and Claims Administration: The proposed regulation provides a transparent, efficient, and effective claims administration process. As suggested by the commenter, the proposed regulation establishes standardized, robust application requirements and provides that VEC would notify employers within five business days when a complete claim is filed

	personal care, medication management, and supportive services around the clock, staffing challenges can have an immediate impact on resident care. Unlike many industries, assisted living providers cannot reduce operations or postpone services when employees are absent. Communities must continue to meet residents' daily care needs while maintaining compliance with state licensing requirements, ensuring adequate staffing, and responding to unforeseen employee absences without interrupting services. VALA encourages the Commission to consider these unique operational realities when developing regulations and to provide flexibility wherever the statute allows so that employers can effectively balance employee leave benefits with their ongoing responsibility to provide uninterrupted care to vulnerable Virginians. VALA also encourages the Commission to develop regulations that minimize unnecessary administrative burdens, particularly for small and medium-sized assisted living communities that often have limited human resources personnel. Many assisted living administrators are responsible for multiple operational functions, including regulatory compliance, human resources, admissions, resident care oversight, and business operations. Regulations should utilize standardized forms, electronic reporting systems, and streamlined documentation requirements whenever possible to reduce administrative complexity while ensuring effective program administration. Coordination with existing documentation requirements under other federal and state employment laws should also be considered to avoid unnecessary duplication and conflicting employer obligations.	and upon key updates in the case. Further, the regulation provides clear, workable documentation and certification requirements, fostering both access to benefits and accurate determinations on claims. For more information, please see 16VAC5-90-20. Similarly, the proposed rule includes robust program integrity measures. Certain aspects of VALA's comment—including requests related to the date of publication of the final rule, guidance documents, FAQs, and similar compliance assistance—are beyond the scope of this rulemaking. However, VEC will consider VALA's comments as the implementation process continues. VEC intends to publish robust compliance assistance materials in advance of employers' 2028 responsibilities. Finally, VEC thanks VALA for sharing its perspective on staffing shortages in its industry. VEC will continue to consider those challenges, among others, as it implements this regulation. VEC believes that guaranteeing paid family and medical leave benefits to employees will help support workforce stability by improving employee retention.

	As the Commission develops the Paid Family and Medical Leave regulations, clear guidance regarding the interaction between PFML and existing employment laws will be essential. Assisted living providers already administer a variety of federal and state leave requirements, including the federal Family and Medical Leave Act, the Americans with Disabilities Act, workers' compensation programs, employer-sponsored leave policies, and other statutory leave requirements. Regulations should clearly explain employer responsibilities, documentation expectations, notice requirements, and the coordination of these various leave programs to promote consistent administration and reduce confusion for both employers and employees. Timely communication regarding employee eligibility determinations and leave benefit determinations will also be critical for assisted living community employers. Assisted living communities must often make immediate staffing decisions to ensure resident care needs continue to be met. Prompt claim determinations, efficient communication between the Commission and employers, clearly defined documentation timelines, and an effective appeals process will help employers appropriately plan staffing while providing employees with timely access to program benefits. VALA supports reasonable verification standards that protect the integrity of the Paid Family and Medical Leave program while avoiding unnecessary burdens on employees with legitimate claims. Appropriate safeguards against fraud and misuse will help preserve public confidence in the program while ensuring that benefits remain available for individuals who qualify under the law. Regulations should seek to strike an appropriate	

	balance between program integrity and efficient access to benefits. Because this program represents a significant new benefit for both employers and employees, VALA encourages the Commission to place a strong emphasis on education and outreach prior to implementation. Employer guidance documents, frequently asked questions, webinars, model notices, sample policies, and implementation checklists will greatly assist employers in understanding their obligations and complying with the new requirements. Early and ongoing educational efforts will help reduce confusion, improve compliance, and promote consistent administration throughout the Commonwealth. VALA also encourages the Commission to provide employers with sufficient time following adoption of the final regulations to implement necessary operational changes before program requirements become employers are expected to comply with the final regulations. Employers will need adequate time to update employee handbooks, payroll systems, leave policies, internal procedures, and staff training programs. Providing meaningful implementation time after regulations are finalized will facilitate smoother compliance and reduce administrative challenges. Finally, VALA encourages the Commission to recognize the ongoing workforce shortages affecting Virginia's assisted living communities. Recruiting and retaining qualified nurses, medication aides, direct care staff, dietary personnel, and other essential employees remain one of the industry's greatest challenges. Extended employee absences frequently require communities to rely upon overtime, temporary	

	staffing agencies, shift incentives, or other costly staffing solutions to maintain continuity of resident care. As regulations are developed, VALA encourages the Commission to consider implementation approaches that support employees' access to paid family and medical leave while also recognizing the operational realities of licensed assisted living communities responsible for delivering continuous care to vulnerable populations. Staffing shortages in assisted living communities not only affect employers but also have the potential to impact continuity of care, resident relationships, and workforce stability. VALA believes thoughtful implementation of the Paid Family and Medical Leave program can successfully balance the important objectives of supporting Virginia's workforce while recognizing the unique responsibilities of assisted living communities to provide safe, uninterrupted care and services to residents throughout the Commonwealth. Because the Paid Family and Medical Leave program will affect employers of varying sizes and industries across the Commonwealth, continued stakeholder engagement will help ensure the final regulations are practical, understandable, and capable of consistent implementation. VALA appreciates the opportunity to provide comments during this early stage of the regulatory process and looks forward to participating in future stakeholder discussions as draft regulations are developed.	
VA Peninsula Chamber of Commerce	**NOIRA for Paid Family and Medical Leave Implementation Regulations** The Virginia Peninsula Chamber of Commerce appreciates the opportunity to submit comments in response to the Virginia Employment Commission's Notice	VEC thanks the Virginia Peninsula Chamber of Commerce for their comment. Your comment has been considered. Regarding Concurrency: For more information, please see 16VAC5-90-70. An employer and employee may mutually agree that an employee may use paid sick leave, employer-provided vacation, or other

	of Intended Regulatory Action regarding implementation of Virginia's Paid Family and Medical Leave Insurance Program. The Chamber recognizes and respects the intent of the law, and we also believe that implementation must recognize the practical realities faced by employers. Businesses cannot operate without their employees. A 12-week absence represents nearly one quarter of a working year. For a small business, the absence of even one employee may mean the loss of a significant share of its workforce. For larger employers, simultaneous, consecutive, or intermittent leave events can create serious operational challenges across production, customer service, health care, defense, construction, hospitality, nonprofit, and professional service environments. The Chamber's comments are offered in that spirit… not to detract from the purpose of the statute, but to ensure that the rules are clear, workable, and protective of both employees and employers. The Virginia Peninsula Chamber echoes the sentiments expressed by the Virginia Chamber of Commerce in its comments. We agree that this rulemaking is unusually complex and will require adequate time, transparency, stakeholder engagement, actuarial review, small-business impact analysis, and clear guidance on private plans, intermittent leave, contribution rates, and employer compliance obligations. We respectfully add the following recommendations from the perspective of employers on the Virginia Peninsula. First, VEC should establish clear rules preventing unintended benefit stacking above regular wages. The	employer-provided paid leave to supplement family and medical leave benefits provided under the Act. VEC notes that the interaction between the employer-provided paid sick leave and PTO and FMLA leave is governed by federal law. Because most leave taken under the Act will run concurrently with FMLA leave, VEC has aligned regulations related to substitution with analogous portions of the FMLA. For more information, interested parties may review Wage & Hour Div. Opinion Letter, FMLA2025-01-A (Jan. 14, 2025). The proposed regulation provides employers with the flexibility to adopt, amend, or adjust short-term disability policies in a manner appropriate for their workplace. Thus, the proposed regulation would not regulate the interaction between the PFML Insurance Program and employer-provided short-term disability programs, leaving that issue to employer discretion. The proposed regulation also provides that the Commission will notify employers of an employee's weekly benefit amount so that employers who wish to supplement benefits under the Act to match 100% of an employee's weekly wages are able to do so. Employers are encouraged to offer more generous policies to supplement benefits provided by the Act. Regarding Notice to Employers: As suggested by the commenter, the proposed rule provides that VEC would provide employers with prompt notice at key points in the claims process, including within five business days of receiving a completed application for benefits, making an initial determination regarding a claim for benefits, or modifying a claim for benefits. Further, like the FMLA, the proposed regulation provides that employees shall provide their employers with 30 days' advance notice of family and medical leave taken for a foreseeable reason, when doing so is practicable. Where it is not practicable for an employee to provide 30 days' advance notice, such as because of a lack of a change in circumstances, an employee must give notice as soon as practicable. For more information, please 16VAC5-90-20 and 16VAC5-90-30. Regarding the 120 Day Tenure Requirement: Proposed regulations governing the 120-day

	statute allows PFML payments to be coordinated with employer-provided disability or family care leave benefits, but the regulations should define how that coordination works. Without clear rules, an employee could potentially receive state PFML benefits at the same time as employer-provided paid leave, short-term disability, PTO, salary continuation, or other wage-replacement benefits in a way that exceeds 100 percent of normal wages. That result would be difficult to justify to employers and employees who are funding the program through payroll contributions. It could also increase pressure on the Trust Fund and distort future contribution-rate assumptions. The Chamber recommends that VEC define "coordinated" to include a dollar-for-dollar coordination of wage-replacement benefits for the same qualifying event and same period of leave. Total wage replacement from all sources should not exceed 100% of the employee's regular average weekly wages unless an employer voluntarily elects to provide a supplemental benefit above that threshold. VEC should also clarify that an employer policy complying with this regulatory coordination framework does not violate the statute's anti-diminishment language. Also, VEC should require timely employer notification when claims are filed, approved, denied, modified, extended, or withdrawn. Employers need timely notice to plan staffing, manage payroll, coordinate benefits, preserve health coverage, and avoid mistakenly treating a protected absence as unexcused. Notice only after a claim has been approved may come too late for practical business operations.	tenure requirement for job protection and job restoration are outlined in 16VAC90-50 B 3. As recommended by the Chamber, the proposed rule would provide that the 120-day tenure requirement is measured as 120 calendar days of employment prior to the commencement of leave. The proposed regulation would also provide additional information about common questions, including breaks in service. 16VAC90-50 B 7 proposes exceptions to restoration protections, including where an employee's position may have been eliminated due to legitimate downsizing or reorganization. Regarding Intermittent Leave: Please review 16VAC5-90-90. The proposed regulation, if adopted, establishes a clear, workable, and balanced framework for intermittent leave. The Proposed regulation includes reasonable regulations related to qualifying leave usage, additional certification for intermittent leave, and notice of leave taken. The proposed regulation would align many aspects of the intermittent leave framework with the FMLA, such as calculation of weekly usage of leave, while making balanced improvements to the FMLA in several respects, such as by allowing employers to establish reasonable policies governing leave increments under the Act and by expanding employees' ability to take parental leave in two separate blocks of time. The intent and likely effect of these regulations is to ensure that employers can effectively manage business operations while also protecting employees' health and access to intermittent leave. Regarding Program Integrity: Strong program integrity is a top priority for VEC and will be a focus throughout the PFML implementation, including in this regulation. The proposed rule would establish clear eligibility standards, consistent documentation requirements, efficient claim review procedures, and meaningful safeguards against fraud and abuse. The proposed rule also reflects best practices in fraud prevention and response that have emerged in other states with PFML programs, including best practices for preventing fraud using stolen or fake identities and employer information. The proposed rule does not propose to expand on the categories of

	The Chamber recommends that VEC notify an employer within five business days after a PFML claim is filed and again within five business days after the claim is approved, denied, modified, extended, or withdrawn. Employer notices should include the employee's name, anticipated start date, expected duration, whether the leave is continuous or intermittent, and the general leave category, while protecting confidential medical or safety-related information. VEC should provide these notices through a secure employer portal. We also believe that VEC should better define employee notice obligations. The statute requires employees to notify employers "as soon as practicable," but that phrase needs clarity. For foreseeable leave, employees should be required to provide reasonable advance notice, preferably at least 30 days where practicable. For unforeseeable leave, employees should provide notice as soon as practicable under the circumstances and, when possible, use the employer's ordinary call-in or leave-request procedures. The Chamber further recommends that an employee who files a PFML claim with VEC should notify the employer no later than the next business day after filing, unless emergency circumstances make that impracticable. Regulations should also provide a good-faith safe harbor for employers that apply a neutral attendance policy before receiving notice from either the employee or VEC that the absence may qualify for PFML protection. Also, VEC should clarify the 120-day employment requirement for job restoration. The statute does not specify whether the 120 days are calendar days, business days,	healthcare providers authorized to certify claims beyond those expressly authorized by the statutory text and their designees. For more details, please review 16VAC5-90-20 and 16VAC5-90-60. Regarding Health Benefits During Leave: 16VAC5-90-50 B 9 proposes a balanced framework for maintaining health care benefits, which accommodates both the concerns raised by the commenter and employees' continued access to health care benefits. Finally, while VEC has opted not to convene a regulatory advisory panel, the agency welcomes opportunities to engage with stakeholders during the implementation process, including through the 60-day comment period that will follow publication of this proposed regulation. VEC looks forward to reviewing comments upon the conclusion of the comment period.

	workdays, days on payroll, or hours worked. The Chamber recommends a simple, uniform rule… The 120 day period should be measured as 120 consecutive calendar days of active employment with the current employer, beginning on the employee's date of hire and ending on the day before PFML leave begins. The regulations should also clarify how breaks in service, rehires, successor employers, and transfers among affiliated entities are treated. A clear statewide standard will reduce disputes and help employers and employees understand job-restoration rights before leave begins. VEC should also clarify that PFML leave does not create a greater right to reinstatement than the employee would have had if continuously employed. If an employee's position would have been eliminated due to a legitimate reduction in force, project completion, contract expiration, shift elimination, or other business reason unrelated to the leave, the employer should not be required to restore the employee to a position that no longer exists, provided the employer can demonstrate the action would have occurred regardless of the leave. VEC should also adopt clear rules for intermittent and reduced-schedule leave. Intermittent leave is often the most difficult form of leave for employers to administer. The regulations should align with federal FMLA standards where appropriate, including clear rules on minimum leave increments, certification, recertification, scheduling, and temporary transfer to an equivalent position when necessary to accommodate recurring intermittent leave. A temporary transfer with equivalent pay, benefits, and seniority, used to accommodate foreseeable	

	intermittent leave, should not be treated as retaliation or demotion. Also, VEC should strengthen application integrity while respecting legitimate claims. The Chamber recommends that all PFML applications include a sworn attestation that the information provided is true and complete. This would not burden legitimate claimants but would strengthen fraud prevention and protect the integrity of the Trust Fund. VEC should also ensure that any expansion of the categories of health care providers authorized to certify PFML claims occurs through formal regulatory notice and comment rather than informal administrative action. Also, the statute requires employers to maintain health care benefits during leave and requires employees to continue paying their share of premiums. The regulations should specify what happens if an employee fails to make required premium payments. The Chamber recommends a process under which an employer may terminate coverage after providing 30 days' written notice of overdue payment and intent to terminate, provided the rule is applied consistently with other leave situations. VEC should also clarify that an employer's obligation applies to employer-administered group health benefits and does not extend to separate individual policies the employer does not administer, select, or fund. Finally, the Chamber urges VEC to convene a regulatory advisory panel with broad employer representation, including small businesses, large employers, nonprofits, insurers, payroll professionals, human resources professionals, and employment counsel. Our Chamber would be pleased to assist in this effort.	

	The Chamber appreciates VEC's work on this complex program. Clear regulations will help ensure that employees receive the benefits intended by the General Assembly while allowing employers to continue operating, serving customers, meeting contracts, and supporting Virginia's economy.	
Kurt Shoemaker, National Payroll Reporting Consortium	**National Payroll Reporting Consortium (NPRC) Comments on Paid Family and Medical Leave Regulations** The National Payroll Reporting Consortium (NPRC) appreciates the opportunity to submit comments in response to the Virginia Employment Commission's (the "Commission") Notice of Intended Regulatory Action regarding implementation of Virginia's new Paid Family and Medical Leave (PFML) Insurance Program, established by Chapters 981 and 1093 of the 2026 Acts of Assembly. NPRC is a non-profit trade association whose members provide payroll processing and employment tax services to more than one and a half million employers, representing well over one-third of the private sector workforce in the United States. Because our members provide payroll services and file wage and tax reports on behalf of employers across every state, NPRC has a longstanding interest in promoting reporting requirements that are efficient, administrable, and protective of both employer and employee interests. NPRC members will be responsible for operationalizing much of this program on behalf of Virginia employers — calculating and withholding contributions, remitting funds, filing wage reports, administering private-plan elections, and reflecting the tax treatment of benefits. Our	VEC thanks NPRC for their comment. Your comment has been considered. Regarding APIP Coverage Windows: VEC has prioritized regulations that are clear, are predictable, and include transparent standards for employers who plan to meet their statutory obligations under the Act via a private plan or self-insurance that meets or exceeds the minimum standards established in Code of Virginia § 60.20. To preserve employer flexibility, the proposed regulation does not prevent employers from applying for private plans mid-year. Employers that wish to align private plan coverage with the calendar year will be able to do so. VEC welcomes further comments on this issue. Regarding the Private Plan Approval Workflow: While this falls beyond the scope of this regulatory action, VEC intends to stand up its private plan application, review, and approval process in advance of the April 1, 2028 contribution start date, so that employers with qualifying private plans may obtain approval effective as of the first date contributions would otherwise be due. On Definitions of "Employment" and "Wages": Consistent with feedback from NPRC and from other stakeholders, the proposed regulation provides a clear definition of "employment" that has the same meaning provided in §§ 60.2-212 and 60.2-219 of the Code of Virginia, aligning coverage for this program with coverage for the UI program. 28. Similarly, the proposed rule aligns the definition of "wages" with the definition of wages provided in § 60.2-229 of the Code of Virginia for UI purposes, except that the wage base in § 60.2-229 [A13.1][SS13.2]B 1 of the Code of Virginia does not apply and the wage base in § 60.2-806 G of the Code of Virginia does apply.

	comments therefore focus on areas where the statute affords the Commission regulatory flexibility and where clear, early, and standardized rules will materially reduce implementation cost and error, drawing on our members' experience implementing similar programs in other states. We respectfully offer the following recommendations. 1. Private plan coverage periods and election windows aligned to the calendar year We recommend that the regulations establish private plan coverage periods that coincide with the calendar year, with mandatory minimum election periods of no less than one full calendar year, and that they prevent an employee from participating in both a private plan and the state plan during the same calendar year. In several states, rules permitting mid-year or quarterly transitions between the state plan and private plans have produced significant administrative difficulty: employers and their payroll providers must operate dual contribution regimes within a single year, reconcile split premium remittances, restart wage bases mid-year, and issue corrected or duplicative reporting. Aligning coverage and election periods to the calendar year — which is also the federal tax year and the natural boundary for wage reporting and Form W-2 preparation — avoids these problems, simplifies reconciliation, and reduces the risk of premium gaps or double-collection. A minimum one-year commitment also promotes actuarial stability and discourages adverse selection. 2. Early implementation of the private plan approval workflow We recommend that the Commission stand up its private plan application, review, and	Regarding Net Pay and Minimum Wage Protections: VEC believes this issue is sufficiently addressed in 16VAC5-90-40 C 4. Regarding Streamlined Reporting: As discussed above, and consistent with the NPRC's suggestions, the proposed regulation streamlines employers' reporting responsibilities, including by harmonizing employers' quarterly reporting responsibilities with the cadence and information fields that must be reported. VEC welcomes further comments on the potential for a single combined report for both PFML and UI. Finally, the proposed regulation clarifies that employers that satisfy some of their responsibilities using APIPs must still make quarterly reports to VEC, because those quarterly reports will be necessary to administer the program, including for purposes of administering appeals from APIPs, providing benefits to employees who were previously covered by an APIP during their base period but have since moved to coverage under the Commonwealth Plan, and for conducting oversight of APIPs. Regarding Pay Statement Itemization: This issue is beyond the scope of this rulemaking. Regarding Taxability of Benefits: This issue is beyond the scope of this regulation and VEC's regulatory authority. However, VEC welcomes stakeholder engagement on these issues as the implementation process continues, including to inform compliance assistance materials. Regarding Professional Employer Organizations: VEC believes that it is sufficiently clear that PEOs have the authority to serve many important roles within this program, and that further regulation on this topic is not necessary. Finally, VEC thanks NPRC for its offer of assistance. VEC looks forward to reviewing NPRC's comments on the proposed regulation.

	approval process — including forms, plan standards, any security or solvency requirements, and the submission portal — well in advance of the April 1, 2028 contribution start date, so that employers with qualifying private plans may obtain approval effective as of the first date contributions would otherwise be due. In other states, private-plan approval mechanisms became available only shortly before, or in some cases after, contributions began. As a result, employers who intended to satisfy their obligations through a private plan were nonetheless required to enroll in and remit to the state program on an interim basis, then seek refunds or transfers once their private plan was approved — reintroducing precisely the split-year, dual-participation complications described above. Publishing private-plan standards and opening the approval workflow early, ideally well ahead of the October 1, 2027 initial rate determination, would allow employers and their payroll providers to configure systems correctly before go-live and to elect private-plan coverage from day one. 3. A clear definition of covered employment and of wages subject to premium We recommend that the regulations specifically define the wages and forms of compensation that are subject to PFML premiums and those that are excluded. Payroll systems must be programmed to a precise wage base, and ambiguity on this point is among the largest drivers of implementation cost and reporting error. In particular, we ask that the rules address the treatment of tips and gratuities, commissions and bonuses, severance and other separation pay, equity and other non-cash compensation, elective deferrals and pre-tax contributions (such as Section 125 cafeteria-plan	

	and Section 401(k) amounts), third-party sick pay, and imputed income such as group-term life insurance, and that the rules confirm, consistent with the statute, that PFML contributions are calculated only on wages up to the Social Security wage base. To the fullest extent the statute permits, we encourage the Commission to conform the PFML wage definition to the one already used for Virginia unemployment insurance purposes. Because the Commission administers both programs, aligning the two definitions would allow employers and providers to rely on the subject-wage definition they already apply for unemployment insurance rather than build and maintain a separate calculation, materially reducing burden and error. Relatedly, we ask that the regulations provide a clear definition of the employees and the employment covered by the program. Employers and providers would benefit in particular from knowing whether covered employment is intended to mirror the definition used for Virginia unemployment insurance (SUI). If the two are not aligned, the regulations should identify the categories of workers who may be subject to PFML but not to SUI, or the reverse, because any divergence requires employers and providers to maintain a separate population of covered workers and a separate eligibility determination, adding materially to implementation complexity and to the risk of error. With respect to employees who perform services in multiple states, we encourage the department to consider using the same localization test as used for unemployment insurance if not already defined under the statute. 4. Flexibility for employers to catch up employee contributions when net pay is insufficient	

	We recommend that the regulations expressly permit an employer to recover, in a subsequent pay period within the same calendar quarter, the employee share of the premium that could not be withheld from a given paycheck because of insufficient net pay. This situation arises most acutely for tipped employees, whose direct cash wages may be small relative to the total (tip-inclusive) wages on which premiums are assessed, and also for employees with substantial pre-tax deductions or wage garnishments. Absent an authorized catch-up mechanism, an employer faced with insufficient net pay must either advance the employee's premium with no clear means of recoupment or under-withhold and fall out of compliance. A clear rule permitting later-period catch-up — together with guidance on its interaction with minimum-wage and permissible-deduction limits — would resolve this recurring problem and is consistent with the approach taken in other states. We ask, in particular, that the regulations address the interaction with minimum-wage limits. No deduction may cause an employee's wages, after the deduction, to fall below the minimum wage required to be paid to the employee by any applicable statute, regulation, rule, or ordinance. Where withholding the full employee premium would breach that floor, the regulations should specify the employer's correct course of action — for example, whether the employer should carry the uncollected amount forward to a future pay period within the quarter, or instead treat the uncollected premium as an employer-paid ("pick-up") contribution. That choice carries tax consequences the regulations	

	should make clear. Where an employer does not recoup a missed employee premium from subsequent pay, the unpaid employee contribution may be treated as an employer-paid, or "pick-up," contribution. Under IRS Revenue Ruling 2025-4, an employer's payment of an employee's required contribution is treated as additional taxable wages to the employee and must be reported on Form W-2, creating additional payroll reporting and withholding obligations that the employer must administer. Unclear or unduly restrictive correction procedures would therefore expose employers to avoidable administrative complexity and compliance risk, and we encourage the Commission to provide a workable and explicit correction path. 5. Wage reporting and contribution deadlines aligned to existing unemployment insurance due dates We recommend that PFML wage reporting and contribution remittance deadlines be set to coincide with the existing Virginia unemployment insurance quarterly due dates — the last day of the month following the close of each calendar quarter (April 30, July 31, October 31, and January 31) — and that, to the extent practicable, PFML reporting use the same filing cadence, file formats, and employer account identifiers as the existing quarterly UI wage report. Employers and payroll providers already prepare and transmit quarterly UI wage reports on this schedule. A separate PFML filing calendar would create avoidable exposure to late-filing penalties where a provider's single quarterly process would otherwise suffice. Co-administration with the unemployment insurance system is a structural strength of Virginia's program; aligning deadlines and formats realizes that efficiency for	

	employers and the Commission alike. At the same time, we ask the Commission to consider carefully the effect of combined PFML and unemployment reporting, should a single combined report be contemplated. When reports are combined, the integrity of each program can be adversely affected: a wage report or payment may be rejected for one program because of a data error affecting only the companion program, exposing the employer to penalties for information that would have been accepted had the two reports been administered separately. We also ask the regulations to clarify the reporting obligations of employers with approved private plans — specifically, whether private-plan employers will be subject to the same quarterly wage-reporting requirements as state-plan employers. Employers and providers need to know, well before go-live, whether a private-plan election eliminates, reduces, or preserves the quarterly reporting obligation, so that systems and processes can be configured accordingly. Finally, as the Commission develops the report specifications, we offer two practical suggestions. First, employer size is better captured through an employer's online attestation than as a field on each quarterly report, which avoids repeated and potentially inconsistent reporting of a relatively static attribute. Second, if wages and hours are to be included on the quarterly report, we ask that the specifications state precisely which wages and which hours must, and must not, be reported, so that providers can program a single, unambiguous rule. 6. Pay statement itemization and Form W-2 reporting of premiums	

	We recommend that the regulations address how PFML premiums are to be reflected on employee pay statements and on Form W-2, so that employers and providers can program consistent, compliant wage statements from the outset. On the pay statement, we ask the Commission to specify whether, and how, the employee-paid PFML premium must be itemized as a separate deduction. For year-end reporting, we ask the regulations to confirm the Form W-2 treatment of both the employee premium and any employer "pick-up" of the employee's required contribution. Under IRS Revenue Ruling 2025-4, the employee's own required contribution is included in the employee's Form W-2 wages, and an employer's voluntary payment of the employee's required contribution is likewise treated as additional taxable wages reportable on Form W-2. Confirming these points — including any Box 14 or comparable reporting the Commission expects — would allow providers to configure pay statements and Forms W-2 correctly and consistently across all Virginia employers. 7. Clear guidance on the taxability of benefits, reflecting federal treatment We further recommend that the regulations, in coordination with the Department of Taxation as appropriate, provide clear guidance on the tax treatment of PFML benefits — an area that payroll providers must reflect in withholding, wage statements, and information returns, and that current federal guidance addresses only in part. Specifically, we ask that the Commission clarify: (a) whether PFML benefits are subject to Virginia individual income tax and, if so, whether Virginia income tax will be withheld from benefits or a withholding election offered to	

	claimants; (b) whether benefits, or any portion of contributions, are treated as “wages” subject to Virginia unemployment insurance contributions; and (c) the information-reporting mechanism the Commonwealth will use to report benefits to recipients and to Virginia Tax. We further recommend that Virginia’s treatment be expressly reconciled with the federal framework so that state and federal reporting are consistent. Under IRS Revenue Ruling 2025-4, family-leave benefits are includible in the recipient’s federal gross income but are not wages for federal employment-tax purposes; medical-leave benefits attributable to the employee’s own contributions are excluded from income, while the portion attributable to employer contributions is includible and treated as third-party sick pay subject to FICA. Because that characterization turns on the source of the contributions funding a given benefit, we encourage the Commission to design its contribution accounting and recordkeeping so that the fund can track and report the employer-versus-employee contribution attribution necessary to characterize benefits correctly at year end. We note as well that the federal transition relief under Revenue Ruling 2025-4, as extended through calendar year 2026 by Notice 2026-6, will have expired before Virginia begins paying benefits on December 1, 2028; Virginia therefore has the advantage — not shared by the earliest-adopting states — of building fully compliant benefit-side reporting and withholding from the program’s first benefit payment, rather than retrofitting it later. Finally, because the federal guidance does not address benefits paid under approved private plans, we ask that the regulations speak to the reporting and taxability of	

	private-plan benefits as well, so that employers and providers administering private plans have parallel clarity. 8. Clarification on how the program applies to Employer who Contract with Professional Employer Organizations (PEOs) NPRC appreciates that SB 2 recognizes professional employer organization (PEO) relationships and provides important clarity regarding the treatment of client employers under the program. As the Commonwealth develops implementing regulations, NPRC encourages consideration of several additional clarifications based on lessons learned from other state paid leave programs and the unique administrative structure of PEO arrangements. Specifically, the regulations should clarify that, for purposes of determining employer size and applicable contribution requirements, employee counts are measured at the client company level rather than the PEO level; that a private paid family and medical leave plan sponsored or provided through a PEO may qualify as an approved private plan if it otherwise satisfies statutory requirements; that required contributions may be remitted by a PEO on behalf of its client companies; and that PEOs and client companies may enter into agreements under which the PEO assists with some or all of the client company's administrative, reporting, and compliance responsibilities under the program. These clarifications would provide certainty to employers, employees, insurers, regulators, and service providers, promote efficient program administration, and align implementation with established employment and benefits administration practices. An offer of assistance	

	NPRC and its members have collaborated with a number of other states in the design and implementation of their paid family and medical leave programs, and we would welcome the opportunity to serve as a resource to the Commission as it develops these regulations. We are glad to share operational detail, file-format and reconciliation experience, and lessons learned from other jurisdictions, and we extend an open invitation to the Commission to contact the undersigned at any time, with any questions, and at any stage of this rulemaking. NPRC appreciates the opportunity to comment and looks forward to the continued development of Virginia's program. Thank you for your consideration of the recommendations above, and please do not hesitate to contact us with any questions or to arrange a follow-up discussion.	
Virginia Manufacturers Association	**Virginia Manufacturers Association (VMA) Comment on Paid Family & Medical Leave Regulations NOIRA** The Virginia Manufacturers Association (VMA) appreciates the opportunity to provide comments regarding the Virginia Employment Commission's Notice of Intended Regulatory Action to implement Virginia's Paid Family and Medical Leave (PFML) program. The VMA represents manufacturers across the Commonwealth, ranging from small family-owned businesses to some of the world's largest industrial employers. Manufacturers operate in highly competitive national and global markets and rely on predictable regulatory frameworks that protect employees while allowing employers to effectively manage complex operations, production schedules, and workforce needs.	VEC thanks the commenter for the feedback. VEC has considered your comments. The proposed regulation, if adopted, would provide a clear, workable framework for many of the issues raised in this comment, including documentation and certification standards, payroll reporting requirements, and health care benefits and eligibility. The proposed regulation, if adopted, would provide an efficient, predictable, and timely approval process for employers who plan to meet their statutory obligations under the Act via a private plan or self-insurance that meets or exceeds the minimum standards established in Code of Virginia § 60.20. The regulations also establish a predictable framework for plan amendments, renewals, and transitions between private and state-administered coverage to minimize administrative disruption for employers and employees. For more information, please review 16VAC5-90-100. The proposed regulation also addresses some of the commenter's requests related to coordination of benefits with other employer-

	Throughout consideration of the underlying legislation, the VMA worked extensively with members of the General Assembly, the Governor's Office, and other stakeholders to improve the legislation's clarity, consistency, and administrative workability. As the Commission develops regulations, we respectfully encourage continued stakeholder engagement to ensure the program is implemented efficiently, transparently, and consistently with legislative intent. At this early stage of the rulemaking process, the VMA respectfully offers the following recommendations to help ensure the program is implemented in a practical, transparent, and administratively efficient manner. Private Plan Administration The legislation appropriately authorizes employers to satisfy their obligations through approved private plans. The regulations should establish an efficient, predictable, and timely approval process with objective standards, reasonable review timelines, streamlined renewal procedures, and practical mechanisms for plan modifications. Employers should have confidence that private plan applications will receive prompt review and consistent administration. The regulations should also establish clear standards for plan amendments, renewals, and transitions between private and state-administered coverage to minimize administrative disruption for employers and employees. Coordination with Existing Leave and Wage Replacement Programs Many manufacturers already provide paid leave benefits that exceed statutory minimum requirements. The regulations	provided benefits. The proposed regulation would not regulate the interaction of the PFML program with employer-provided short-term disability and long-term disability programs, leaving that issue to employer discretion. The proposed regulation also provides that the Commission will notify employers of an employee's weekly benefit amount so that employers who wish to supplement benefits under the Act to match 100% of an employee's weekly wages are able to do so. The proposed regulation also discusses how PFML benefits will be coordinated with other leave programs, such as workers' compensation. As requested by the commenter, the proposed regulation provides that the Commission will develop model notices that employers may use to satisfy notice responsibilities. The proposed regulation also provides clear, balanced notice requirements. Strong program integrity is a top priority for VEC and will be a focus throughout the PFML implementation, including in these regulations. The proposed regulation, if adopted, establishes clear eligibility standards, consistent documentation requirements, efficient claim review procedures, and meaningful safeguards against fraud and abuse. The Proposed regulation reflects best practices in fraud prevention and response that have emerged in other states with PFML programs, including best practices for preventing fraud using stolen or fake identities and employer information. For more details, please review 16VAC5-90-20 and 16VAC5-90-60. The Proposed regulation provides a transparent, efficient, and effective claims administration process. As suggested by the commenter, the Proposed regulation establishes standardized, robust application requirements and provides that VEC would promptly notify employers when a complete claim is filed and upon key updates in the case. Similarly, the Proposed regulation establishes a transparent, fair reconsideration and appeals process. Some issues raised by the comment are beyond the scope of this rulemaking, such as the commenter's suggestions about the

	should clearly explain how employer-provided paid leave, federal Family and Medical Leave Act requirements, disability benefits, workers' compensation, and other leave programs interact with Virginia's PFML program. The statute permits but does not require coordination of PFML benefits with employer-funded disability coverage. It does not define what it means for benefits to be "coordinated," does not cap combined benefits, or address how employers may administer employer-funded disability or paid leave benefits in conjunction with PFML while complying with the statute's anti-diminishment provision. Without regulatory clarification, employers may be unable to effectively coordinate overlapping wage replacement benefits, resulting in duplicative employer costs and the potential for employees to receive combined wage replacement that exceeds their normal compensation. Clear coordination rules will reduce confusion for both employers and employees, minimize unnecessary administrative burdens and duplicative employer costs, and help preserve employer-sponsored benefits that exceed statutory minimum requirements and support the recruitment and retention of a talented workforce. The regulations should also provide clear guidance regarding coordination when employees receive wage replacement or leave benefits through other federal or state programs, such as workers' compensation or benefits under the federal Longshore and Harbor Workers' Compensation Act. Contribution Rate Methodology Because Virginia is implementing a new program without historical claims experience, the VMA encourages the Commission to	contribution rate, stakeholder engagement, compliance assistance, and educational resources. However, VEC will continue to consider these comments as it continues implementing the statute. VEC is committed to providing robust compliance assistance and educational resources. Other issues raised by this comment are addressed by the statutory text, and thus beyond the scope of this rulemaking. For example, the statutory test for monetary eligibility allows an employer to qualify for benefits based on their work for multiple employers.

	make publicly available, to the extent practicable, the actuarial assumptions, utilization projections, and other analyses used to establish contribution rates. Transparency regarding the program's financial assumptions will improve confidence in the rate-setting process, assist employers with long-term budgeting, and allow stakeholders to provide more informed feedback as the program evolves. Health Insurance Continuation The regulations should clarify employer and employee responsibilities regarding continuation of employer-sponsored health coverage during leave, including procedures for employee premium payments during periods of leave and appropriate processes when required employee contributions are not timely made. Clear guidance will reduce uncertainty while protecting both employers and employees. Eligibility, Concurrent Employment, and Benefit Administration The regulations should provide clear guidance regarding eligibility determinations, calculation of benefit amounts, payroll contributions, and the treatment of individuals with multiple employers or concurrent employment. Many Virginians work for multiple employers simultaneously, and the regulations should clearly explain how wages from multiple employers will be treated for contribution and benefit purposes. Clear standards will promote consistent administration, reduce unnecessary disputes, and help prevent duplicate or improper benefit payments. Payroll Contributions and Employer Administration	

	Because payroll systems require significant planning, programming, testing, and implementation, employers and payroll vendors will need clear guidance well in advance of the program's effective date. The regulations should clearly address contribution calculations, payroll withholding procedures, reporting requirements, correction processes, administrative timelines, and technical specifications. If the Commission exercises its statutory authority to establish a minimum claim threshold of less than eight hours of leave in a workweek, the regulations should also clearly explain the circumstances under which a lower threshold would apply to allow employers and payroll vendors sufficient time to make necessary system and administrative updates. Early publication of standardized forms, implementation guidance, and educational resources will further support successful implementation. The regulations should also clarify employer responsibilities for administering PFML contributions when employees are not receiving regular wages through the employer's payroll system, including periods of workers' compensation, military leave, or other circumstances in which regular payroll withholding may not occur. Documentation and Certification Standards The regulations should establish objective documentation requirements sufficient to verify eligibility while protecting employee privacy and minimizing unnecessary administrative burdens. Certification requirements should be clear, standardized, and proportional to the nature of the requested leave. Employers and employees alike benefit from predictable documentation standards that reduce disputes and	

	promote consistent administration. The regulations should also clarify when employers may require a fitness-for-duty certification before an employee returns from leave taken for the employee's own serious health condition, particularly where employees perform safety-sensitive duties. Clear standards will promote workplace safety while protecting employee rights. Notice Requirements and Employer Communications The Commission should develop standardized employee notices, model forms, and administrative guidance that employers may voluntarily use to satisfy statutory notice obligations. Providing uniform materials will promote statewide consistency while reducing compliance costs, particularly for small and medium-sized employers. The regulations should clarify the statutory requirement that employees provide notice "as soon as practicable" in situations involving unforeseeable leave. The regulations should also establish clear timelines for Commission notification to employers when a claim is filed and when a determination has been made. Timely notification is essential to allow employers to arrange staffing, coordinate benefits, administer leave, and comply with other legal obligations. Whenever practicable, these notifications should be provided electronically through the Commission's employer portal or similar secure systems. Fraud Prevention and Program Integrity Program integrity is essential to maintaining public confidence in Virginia's Paid Family and Medical Leave program. The regulations should establish procedures for verifying eligibility, addressing	

	misrepresentations, recovering improper payments, protecting confidential information, and providing employers with reasonable opportunities to respond when factual disputes arise. The regulations should also establish consequences for individuals who knowingly and intentionally submit fraudulent claims or provide false information to obtain benefits. The Commission should also consider requiring applicants to certify, under penalty of perjury or other appropriate legal attestation, that information submitted in support of benefit claims is complete and accurate. Such certifications are common in public benefit programs and help strengthen program integrity. To the fullest extent permitted by law, the Commission should establish procedures that allow employers to report suspected fraud and provide relevant information during investigations and appeals. If the Commission determines that additional statutory authority is necessary to strengthen fraud prevention, recover improper payments, or address other program integrity issues, the VMA encourages the Commission to identify those issues and develop recommendations for future legislative consideration. Due Process and Appeals The regulations should provide transparent procedures governing determinations, reconsideration, appeals, timelines, evidentiary standards, and opportunities for employers to provide relevant information. Predictable administrative procedures benefit all parties and promote confidence in the program's fairness. Technology and Administrative Efficiency	

	Several states that have implemented paid family and medical leave programs have experienced significant claims processing backlogs, resulting in delayed benefit payments and increased administrative burdens for employees and employers alike. Virginia has the advantage of learning from those experiences. The VMA encourages the Commission to leverage modern technology, including automation and, where appropriate, artificial intelligence and data analytics, to improve administrative efficiency, support timely claims processing, and strengthen program integrity while preserving appropriate human oversight for eligibility determinations and other discretionary decisions. Efficient administration benefits employees through more timely benefit determinations, reduces compliance costs for employers, and supports the program's long-term financial sustainability, helping to keep contribution rates as low as possible. Implementation Timeline and Stakeholder Engagement Given the complexity of the new program, the VMA encourages the Commission to publish draft guidance, conduct stakeholder meetings, and provide opportunities for ongoing collaboration throughout the regulatory process. Early engagement with employers, payroll providers, insurers, employee representatives, and other stakeholders will improve implementation and reduce the likelihood of unintended consequences. Conclusion Virginia's manufacturing sector supports policies that provide clarity, consistency, and administrative efficiency while allowing employers to remain	

	competitive and continue creating high-quality jobs throughout the Commonwealth. The success of Virginia's Paid Family and Medical Leave program will depend not only on the statute enacted by the General Assembly, but also on the clarity, predictability, and practicality of the regulations adopted by the Commission. The VMA appreciates the opportunity to provide these comments and looks forward to continuing to work collaboratively with the Commission throughout the rulemaking process. Thank you for your consideration of these comments.	
Travis Smiley, Virginia Food Industry Association	The Virginia Food Industry Association (VFIA) appreciates the opportunity to submit comments regarding the Virginia Employment Commission's Notice of Intended Regulatory Action (NOIRA) for implementation of Virginia's Paid Family and Medical Leave (PFML) Insurance Program. VFIA represents Virginia's grocery retailers, manufacturers, delivery partners, and other food industry businesses that collectively employ tens of thousands of Virginians in every region of the Commonwealth. Our members range from independent family-owned businesses to regional and national employers operating hundreds of locations. As employers with large hourly workforces, significant employee turnover, and operations that serve communities every day of the year, our members have a strong interest in ensuring that the PFML program is implemented in a manner that faithfully executes the statute while minimizing unnecessary administrative burdens and compliance costs. VFIA recognizes that the General Assembly has enacted the PFML Insurance Program and that the Commission's responsibility is to implement the law through regulations.	VEC thanks the commenter for the feedback. VEC has considered your feedback. As discussed in greater detail below, the proposed regulation was drafted to promote administrative simplicity for employers and employees. For example, the proposed regulation harmonizes employers' wage reporting responsibilities with employers' existing wage reporting responsibilities under the UI program, avoiding duplicative compliance costs. The proposed regulation would provide clear, workable definitions of many of the terms that the commenter requested. Where appropriate, these definitions were harmonized with the federal FMLA, the Commonwealth's UI program, or other states' PFML programs. For more information, please see 16VAC5-90-10 (definitions); 16VAC5-90-20 (serious health conditions); 16VAC5-90-40(D) (localization rules); and 16VAC5-90-40(G) (familial relationships). Other terms, like successor employment, are well-established terms of art that do not require further definition in this regulation. Regarding coordination with existing leave laws, the Proposed regulation has aligned employers' responsibilities under the Act and under the FMLA where appropriate. For example, the Proposed regulation aligns the definition of key terms, such as "serious health condition," "continuing treatment by a healthcare provider," and "inpatient care," with the FMLA's definitions of the same terms. Similarly, like the FMLA, the proposed

	Accordingly, we encourage the Commission to develop regulations that emphasize clarity, consistency, administrative efficiency, and predictability for both employers and employees. General Principles for Rulemaking VFIA respectfully recommends that the Commission adopt the following guiding principles throughout the regulatory process: • Implement only those requirements expressly authorized by statute. • Avoid creating new employer obligations through regulations that exceed legislative intent. • Maximize administrative simplicity for employers and employees. • Coordinate implementation with existing federal and state leave laws whenever possible. • Provide employers with sufficient lead time before new requirements become effective. • Utilize modern electronic reporting systems that integrate with existing employer payroll systems. Specific Areas for Regulatory Development 1. Clear Definitions The regulations should include precise definitions for all key statutory terms to ensure consistent statewide administration. Particular attention should be given to definitions affecting: • Covered employment • Employee eligibility • Family member relationships • Serious health conditions • Intermittent leave • Seasonal and part-time employees	regulation provides that employees shall provide their employers with 30 days' advance notice of family and medical leave taken for a foreseeable reason, when doing so is practicable. Where it is not practicable for an employee to provide 30 days' advance notice, such as because of a lack of a change in circumstances, an employee must give notice as soon as practicable. Coordination of benefits with the FMLA is governed by the Act and by federal law, but the regulation provides greater clarity about those background legal responsibilities. The proposed regulation would promote streamlined reporting requirements by aligning reporting schedules and required data with employers' existing UI wage reporting responsibilities. Other aspects of this comment related to employer reporting are beyond the scope of this rulemaking, but VEC will continue to consider these suggestions as implementation continues. The proposed regulation provides a transparent, efficient, and effective claims administration process. As suggested by the commenter, the proposed regulation establishes standardized, robust application requirements and provides that VEC would promptly notify employers when a complete claim is filed and upon key updates in the case. The proposed regulation provides employers with the information needed to administer leave, while providing appropriate protection of confidential medical information. Similarly, the proposed regulation aims to streamline intermittent leave reporting requirements. The proposed regulation addresses many of the commenter's suggestions about contribution collection, including establishing clear contribution remittance schedules and record retention expectations. Other aspects of the comment, such as audit standards, are beyond the scope of this regulation and will be addressed in future stages of implementation. The proposed regulation also addresses many of the commenter's requests related to coordination of benefits with other employer-provided benefits. The proposed regulation would not regulate the interaction of the PFML program with employer-provided short-

	• Successor employers • Employer size calculations Clear definitions will reduce disputes, improve compliance, and lessen administrative costs. 2. Coordination with Existing Leave Laws Many VFIA members already administer leave under the federal Family and Medical Leave Act (FMLA), the Americans with Disabilities Act (ADA), workers' compensation laws, military leave statutes, and employer-provided paid leave programs. The regulations should clearly explain how the PFML program interacts with these existing legal obligations. Employers should not be required to duplicate documentation, certification, or administrative processes where equivalent information has already been provided under another applicable leave law. 3. Employer Reporting Requirements The Commission should prioritize streamlined reporting requirements by: • Utilizing electronic filing whenever possible. • Aligning reporting schedules with existing unemployment insurance wage reporting. • Minimizing duplicative submissions. • Providing standardized electronic forms. • Developing interfaces compatible with commonly used payroll software. For employers operating numerous locations or multiple legal entities, reporting requirements should be designed to reduce unnecessary complexity.	term disability and long-term disability programs, leaving that issue to employer discretion. The proposed regulation also provides that the Commission will notify employers of an employee's weekly benefit amount so that employers who wish to supplement benefits under the Act to match 100% of an employee's weekly wages are able to do so. Employers are encouraged to provide more generous benefits than the floor established by the Act. The proposed regulation also provides a transparent, predictable framework governing APIP approval, including standards and procedures for approval, applications, renewals, modifications, and appeals. Employers with APIPs will not be required to make contributions to the Commonwealth Plan for covered employees. The commenter's comments about "work credit hours" were not sufficiently clear for the Commission to act upon them. VEC welcomes the commenter to submit more information about this issue in comments on the proposed regulation. Many other aspects of this comment, such as requests for compliance assistance, training opportunities, and stakeholder engagement are beyond the scope of this regulation. However, VEC is committed to providing robust compliance assistance and meaningful stakeholder engagement. VEC will continue to consider this comment throughout implementation. Further, some of the topics raised by this comment are beyond the scope of this regulation because they are governed by Chapter 981 and Chapter 1093 of the 2026 Virginia Acts of Assembly. For example, the statute provides that job-protected leave is available to "[a]ny covered individual who receives family and medical leave benefits and has been employed with the covered individual's current employer for at least 120 days … ." § 60.2-808. Similarly, the coordination of leave under the Act and FMLA leave is governed by the text of the Act and by federal law. For more information, please review Wage & Hour Div. Opinion Letter, FMLA2025-01-A (Jan. 14, 2025).

	4. Claims Administration VFIA encourages the Commission to establish claims administration procedures that are transparent, timely, and provide employers with sufficient information to administer leave obligations accurately. The regulations should provide for: • Prompt employer notification when a claim is filed; • Reasonable deadlines for employers to submit wage, employment, and eligibility information; • Timely notification of all claim determinations, including approvals, denials, requests for additional information, benefit modifications, extensions, and claim closures; • Standardized documentation requirements; • Transparent claims review procedures; • Clearly defined employer and employee appeal rights; and • Appropriate protection of confidential medical information while ensuring employers receive the information necessary to administer leave. Timely communication throughout the claims process is essential. Many employers will be responsible for administering leave concurrently under the federal Family and Medical Leave Act (FMLA) and Virginia's Paid Family and Medical Leave (PFML) program. Employers must know when a claim has been approved, denied, modified, or otherwise resolved in order to accurately designate concurrent leave, maintain appropriate payroll and attendance records, coordinate staffing, and comply with federal and state leave requirements. Without timely notice of claim status, employers risk inconsistent	

	leave administration, inaccurate recordkeeping, and unnecessary disputes regarding employee leave entitlements. VFIA therefore encourages the Commission to establish clear notification requirements that keep both employers and employees informed throughout the claims process. 5. Premium Collection The premium collection process should be designed to integrate with existing payroll systems and unemployment insurance reporting whenever feasible. Regulations should clearly address: • Initial registration procedures. • Premium remittance schedules. • Correction procedures. • Overpayment and underpayment adjustments. • Record retention expectations. • Audit standards. Consistency and predictability will reduce compliance costs for employers while improving program administration. 6. Small and Independent Businesses Many food industry employers are independently owned grocery stores, neighborhood markets, convenience stores, and specialty food retailers that operate with limited administrative staff. The Commission should ensure that compliance procedures are accessible to employers without dedicated human resources departments by providing: • Plain-language guidance. • Standardized forms. • Online educational resources. • Frequently asked questions. • Employer training opportunities.	

	• Dedicated technical assistance. 7. Implementation Timeline Because employers will need to modify payroll systems, employee handbooks, leave administration procedures, and internal compliance processes, VFIA encourages the Commission to publish regulations, guidance documents, forms, and technical specifications as early as practicable. Employers and payroll providers will require significant implementation time before contribution collection and benefit administration begin. 8. Ongoing Stakeholder Engagement VFIA appreciates the Commission's commitment to continued stakeholder outreach and encourages ongoing engagement throughout the regulatory process. Given the complexity of the PFML program, VFIA recommends regular meetings with representatives of employers, payroll providers, employee advocates, insurers, and other affected stakeholders as regulations are developed. 9. Employee Eligibility and Coverage VFIA respectfully requests that the Commission clarify the interaction between the eligibility requirements established under §§ 60.2-800, 60.2-802, and the unemployment insurance monetary eligibility provisions incorporated by reference in § 60.2-612. The statute defines a covered individual, in part, as someone who satisfies Virginia's minimum monetary eligibility requirements. The regulations should clearly	

	explain how these provisions apply in practice, particularly for employees with limited earnings histories, part-time schedules, seasonal employment, or recent hires. Specifically, the regulations should clarify: • Whether an individual who otherwise qualifies for leave under the statute but does not satisfy the monetary eligibility threshold is entitled to any job-protected leave rights. • Whether such individuals are eligible only for leave protections, only for wage replacement benefits, or neither. • How these circumstances interact with the federal Family and Medical Leave Act (FMLA), Virginia's paid sick leave requirements where applicable, and employer-provided paid leave programs. Clear guidance on employee eligibility will reduce inconsistent application and help both employers and employees understand their respective rights and obligations. 10. Coordination of Paid Leave Benefits While the statute provides that leave qualifying under both the PFML program and the federal FMLA must run concurrently, it provides less certainty regarding coordination with other forms of paid leave. VFIA encourages the Commission to establish clear regulations addressing the interaction between PFML benefits and: • Employer-provided paid time off; • Vacation leave;	

	• Paid sick leave; • Short-term disability; • Long-term disability; • Salary continuation programs; and • Other employer-sponsored wage replacement benefits. Many employers currently require available paid leave to run concurrently with protected leave in order to simplify administration and avoid duplicative leave entitlements. The regulations should expressly address whether employers may require employees to use accrued paid leave concurrently with PFML benefits and whether PFML benefits are intended to supplement or replace other wage replacement benefits. Effective coordination of leave benefits also depends upon timely communication between the Commission and employers. Because PFML is intended to run concurrently with leave provided under the federal FMLA when both laws apply, employers should receive prompt notice of claim determinations and any subsequent changes in claim status. Without timely notification, employers cannot accurately designate concurrent leave or properly administer employee leave balances, increasing the risk of inconsistent application and compliance challenges. VFIA further encourages the Commission to ensure that regulations prevent circumstances in which an employee receives compensation exceeding his or her normal wages while on leave unless expressly authorized by statute. A predictable coordination framework will improve administration while preserving the intended purpose of wage replacement benefits.	

	11. Prevention of Leave Stacking VFIA is concerned that differences between the PFML program and the federal FMLA may unintentionally permit sequential periods of protected leave beyond what appears to have been contemplated by the General Assembly. Unlike the FMLA, the PFML statute includes additional qualifying reasons for leave, including leave associated with safety services related to domestic violence, harassment, sexual assault, or stalking, as well as an expanded definition of covered family members. Without regulatory clarification, an employee could potentially take leave under one of these PFML-specific qualifying events and subsequently qualify for an additional twelve weeks of protected leave under the federal FMLA for an unrelated qualifying reason. The Commission should clearly establish: • When leave must run concurrently; • When separate leave entitlements may exist; • Whether there are cumulative limitations on protected leave; and • How employers should administer situations involving multiple qualifying leave events occurring within the same benefit year. Providing this guidance will promote consistent administration and prevent unintended expansion of protected leave beyond the statutory framework. 12. Intermittent Leave Reporting	

	The statute contemplates payment of benefits in weekly increments while also allowing intermittent leave for periods as small as eight hours during a workweek. VFIA requests that the Commission develop reporting procedures that are practical for employers with hourly workforces and varying schedules. Specifically, the regulations should: • Minimize repetitive weekly reporting requirements; • Allow electronic submission through payroll-integrated systems; • Clearly identify employer reporting responsibilities when leave is taken intermittently; • Establish standardized reporting forms and deadlines; and • Avoid requiring duplicate reporting where payroll information has already been submitted through existing Commission reporting systems. Retailers, food manufacturers, wholesalers, and convenience stores often manage thousands of variable employee schedules each week. Efficient reporting procedures will significantly reduce administrative costs while improving benefit accuracy. 13. Private Plan and Equivalent Coverage Section 60.2-816 authorizes employers to provide approved private plans that meet or exceed the statutory benefits. VFIA encourages the Commission to establish an efficient approval process for employers offering equivalent or superior benefits through existing short-term disability, long-term disability, paid family leave, or integrated leave programs.	

	The regulations should clarify: • Approval standards; • Documentation requirements; • Renewal procedures; • Modification procedures; • Appeal rights; and • Whether employers with approved equivalent plans are exempt from mandatory contributions to the state insurance program for covered employees. Providing certainty regarding private plan approval will encourage employers that already provide generous leave benefits to continue investing in those programs while avoiding unnecessary duplication. 14. Treatment of Work Credit Hours Many employers utilize work credit hours to determine employee eligibility for bonuses, vacation accruals, seniority, retirement contributions, attendance incentives, and other employment benefits. VFIA requests that the Commission clarify how periods of leave taken under the PFML program affect work credit hours and whether employers may administer these programs consistently with existing leave policies. Clear regulations will reduce disputes regarding benefit eligibility and ensure consistent treatment across Virginia workplaces. Conclusion VFIA appreciates the Commission's efforts to implement the Paid Family and Medical Leave Insurance Program and recognizes the importance of developing regulations that are transparent, administratively workable, and	

	consistent with the General Assembly's statutory framework. The success of Virginia's Paid Family and Medical Leave Insurance Program will depend not only on the statutory framework enacted by the General Assembly, but on regulations that provide employers and employees with clear, predictable, and administrable rules. VFIA encourages the Commission to use this rulemaking process to resolve the practical implementation questions identified above, particularly regarding eligibility, coordination of leave benefits, leave stacking, intermittent leave administration, private plan exemptions, and employer reporting obligations. Providing this certainty at the outset will reduce litigation, improve compliance, and promote efficient administration of the program for all stakeholders. Our members are committed to complying with Virginia law while continuing to provide essential food access to communities across the Commonwealth. Thoughtful implementation will reduce unnecessary costs, improve compliance, and facilitate successful administration of the program for employers, employees, and the Commission alike. VFIA looks forward to continued participation throughout the regulatory process and welcomes future opportunities to provide technical input as draft regulations are developed.	

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

The Virginia Employment Commission is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, (iii) the potential impacts of the regulation, and (iv) the agency's regulatory flexibility analysis stated in that section of this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: https://townhall.virginia.gov. Comments may also be submitted by mail or email to Joanna Darcus, Deputy Commissioner, 6606 W. Broad St., Richmond, VA 23220, VAPFML_Comments@vec.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of this stage of this regulatory action.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If a new VAC Chapter(s) is being promulgated and is not replacing an existing Chapter(s), use Table 2.

Table 2: Promulgating New VAC Chapter(s) without Repeal and Replace

New chapter-section number	New requirements to be added to VAC	Other regulations and laws that apply	Change, intent, rationale, and likely impact of new requirements
90-10	**Definitions & General Provisions:** Clarifies key statutory and regulatory definitions. Provides that coverage for the PFML Insurance Program will align with coverage under Virginia's existing UI program; aligns several key definitions with analogous definitions under the FMLA; and defines average weekly wages. Explains that employers are encouraged to offer PFML benefits that exceed or supplement the benefits guaranteed by the Act and provides options for how they may do so.	Title 60.2 of the Code of Virginia, including Chapter 8 (§ 60.2-800 et seq.). Other state and federal civil rights and employment laws, including the Family and Medical Leave Act, 29 U.S.C. § 2601 et seq. and its regulations in 29 CFR Part 825; the Americans with Disabilities Act; the Virginia Human Rights Act; § 40.1-33.6:1 through § 40.1-33.6:7 of the Code of Virginia; and other laws incorporated by reference in individual definitions, as applicable.	This primary intent, and likely effect, of this section is to provide workers, employers, and health care providers with greater clarity about the definitions that apply under the statute and proposed regulation. For example, this section harmonizes key statutory and regulatory definitions with analogous definitions under the FMLA, including the definitions of "continuing treatment by a healthcare provider" and "inpatient care." This section also harmonizes key definitions with VEC's UI framework and other parts of Virginia law, promoting uniform administration.

	Clarifies VEC's authority to request additional information needed to review a claim, calculate benefits, or promote compliance with the Act. Clarifies that employers must comply with other applicable civil rights and employment laws.		This section also emphasizes that the Act operates as a floor, not a ceiling, and that employers are free to adopt more generous employer policies. The likely effect of this section will be to encourage employers to voluntarily provide more generous leave and benefit policies, including by supplementing benefits under the Act with additional compensation.
90-20	**Benefits, Claims & Certifications:** A. Definitions. Defines additional terms that are used in this section of the regulation. B. Eligibility for Family and Medical Leave Benefits, Generally. Discusses eligibility requirements for leave benefits and clarifying that bonding leave and other rights available to parents are equally available to all parents, whether or not they gave birth to a child. Explains that PFML benefits will first become available on December 1, 2028. C. Qualifying Events. Describes what constitutes a qualifying event including by clarifying the meaning of "serious health condition," elaborating on § 60.2-801's text providing that pregnancy is a per se serious health condition, D. Amount of Benefits. Explains how VEC will calculate, prorate, and pay weekly benefit amounts. Explains what information VEC will use to determine average weekly wages.	§ 60.2-800 et seq.; the Family and Medical Leave Act, 29 U.S.C. § 2601 et seq. and its regulations in 29 CFR Part 825; the Social Security Act; and state and federal laws governing civil and criminal legal matters, debt collection, employment, privacy and disclosure of health and personally identifiable information, as applicable.	First, the intent and likely effect of this section is to provide workers with greater clarity about eligibility, applications, and benefits. This section is intended to provide greater clarity about the information that they must submit to the Commission to receive benefits, including information that must be included in certifications before the Commission will determine that workers are eligible for benefits. Greater clarity is expected to: improve the accuracy of VEC's claims determinations, by improving workers' knowledge about what information and documentation should be included in their application; reduce disputes, including disputes between claimants and employers; promote fairness, by ensuring workers have notice of application requirements; and promote effective administration of the program. Second, this section was written to support an efficient, user-friendly, and timely claims process, which will be accessible to claimants seeking benefits during high-stress periods. For example, the proposed rule encourages claimants to apply for leave in advance of going on leave,

	E. Duration of Leave. Defines weekly usage. Clarifies how holidays, temporary closures, and requests for modification affect the duration of a claim for leave. F. Payment of Benefits by the Commission. Describes the timing of benefits payments and the methods by which benefits will be paid. G. Applications to the Commission for Benefits. Provides information about the application process and timeline, including providing that claimants may submit an application for benefits during a period beginning 60 days prior to a planned benefit start date and ending 30 days after the leave has begun. H. Required Documents and Certifications. Describes the required documents and certifications that applicants must submit to receive benefits based on the qualifying event. Elaborates on information that must be included in certifications submitted with an application for leave. Further clarifies how claimants can demonstrate their need to take leave for a person with whom they have a familial relationship within the meaning of § 60.2-800. I. Review of Applications and Initial Determinations. Establishes the process and timeline that will apply to VEC's review of applications. Establishes a mechanism for claimants to		including by establishing a "pre-approval" process through which workers can apply for benefits in advance of having a new child, a planned surgery, or other foreseeable reason for leave. Claimants who apply for leave in advance will benefit from certainty about whether or not they qualify for benefits, and will be able to provide required information and documentation before they have a child, have a major surgery, or experience another event that may make it more difficult for them to provide this information. Similarly, this section authorizes VEC to accept certification documents directly from certifying parties, such as by accepting electronic health records from employers. That process would reduce administrative burden on claimants and help promote efficient review of claims. Further, the proposed rule was drafted to ensure that applicants are required to submit all of the information that the Commission will need to verify claims—while also ensuring that claimants are not required to submit unnecessary paperwork that would not benefit the claims administration process. Third, this section is also intended to promote accuracy and program integrity, ensuring that the Commission has the tools it needs to effectively review claims. For example, the proposed rule provides clear benchmarks for information and documentation that must be included in applications to verify workers' need for leave; authorizes VEC to seek additional information and verification from relevant individuals; creates a mechanism for employers to provide additional information

	apply for pre-approval of benefits before leave begins. Provides that the Commission may seek additional information, clarification, or authentication from relevant parties. J. Notice From the Commission Regarding a Claim for Benefits. Establishes the process and timeline for VEC to provide workers and employers with information about their claims. Provides that VEC will notify both claimants and the claimant's employer: when the claimant files a complete application; when the Commission makes an initial determination; and when the Commission makes a determination that will extend a claim. K. Modifications to Approved Leave. Clarifies the process by which a claimant may apply to the Commission to modify a claim for benefits. Requires covered individuals to notify the Commission of events that could affect their claims. L. Designation of Representative. Establishes a process through which a claimant may designate a representative to act on the claimant or covered individual's behalf with regards to seeking family and medical leave benefits from the Commission, as well as the minimum requirements for serving as a designated representative.		to the Commission relevant to a claim; and establishes VEC's process to recover any inadvertent overpayments, including best practices from peer states' administration of PFML programs. Fourth, this section is intended to and will have the effect of promoting effective administration of the program. This section reflects best practices from other states related to PFML program administration, such as best practices related to the timeline for accepting applications, application requirements (including required information), and modification of claims. Fifth, this section is intended to reduce uncertainty for employers, as well as for workers. This section establishes the process by which the Commission will notify claimants and their employers regarding claims for benefits. Here, the proposed regulation is intended to balance employers' desire for information about workers' leave with employee privacy concerns. These provisions are intended to provide, and likely will provide, greater certainty to employers about their employees' application for job-protected leave under the Act. Further, VEC will provide the employer with any information needed to coordinate benefits, giving employers and workers flexibility to supplement benefits under the Act with more generous employer policies. However, to protect employee privacy, the Commission will not share sensitive claimant information, such as a claimant's medical condition.

	M. Inadvertent Benefits Overpayments and Underpayments Not Due to Fraud. Establishes the process by which VEC will identify and correct inadvertent overpayments and underpayments not due to fraud, including by recovering overpayments. Provides that the Commission will continuously monitor overpayments. Provides that, upon identifying the overpayment, the Commission will immediately take steps to recover the overpayment, beginning by notifying the claimant and seeking repayment. Provides options for repaying benefits and remedies available to the Commission if a claimant does not repay benefits. This section does not apply to any payments for benefits that are due to fraud, which will be subject to meaningful penalties.		Sixth, this section is intended to promote fairness, with an understanding that many Virginia workers will use this program during unpredictable medical or family emergencies. For example, to promote program administrability, the proposed rule establishes reasonable deadlines for claimants to submit applications for benefits. However, in the interest of fairness, the proposed rule also authorizes VEC to grant a good cause exception to those deadlines where warranted, such as when a claimant is unable to file an application because they are in a coma.
90-30	**Employees' Notice of Leave to Employers:** Clarifies the timing, form, and contents of an employee's notice of leave. The proposed rule would require employees to provide an employer where 30 days' advance notice of foreseeable leave under the Act, where doing so is practicable. Where it is not practicable for an employee to provide 30 days' advance notice, an employee must give notice as soon as practicable. The proposed rule also establishes requirements for the form and content of leave requests.	§ 60.2-800 et seq.; the Family and Medical Leave Act and its regulations; and state and federal employment laws, as applicable.	This section establishes clear, user-friendly standards for employees to provide notice to their employers of leave under the Act. The proposed rule's requirements related to the timing of leave notice are aligned with longstanding requirements under the FMLA. Because these requirements are familiar to employers and employees, the proposed rule will limit confusion for workers and employers alike. The proposed rule also balances employers' need for advance notice to plan for business needs with worker access to the program. For example, this section

	States the consequences for failure to provide the requisite notice and for late notice.		distinguishes between foreseeable leave, for which employees must provide substantial advance notice, and unforeseeable leave, for which employees may provide less notice through no fault of their own. The proposed rule, if adopted, would also create a plain language rule for leave requests: workers would not be required to use specialized legal terms to request leave. This proposal is intended to promote access to paid leave.
90-40	**Employer Contributions and Responsibilities:** A. Employer Registration and Reporting: Provides information about how employers will register to participate in the PFML Insurance Program. Requires employers to report wages and other information VEC needs to administer benefits and calculate contributions on a quarterly basis, using requirements that are aligned to employers' existing wage reporting responsibilities under the UI program. Establishes employer recordkeeping requirements. B. Payroll Contributions: Calculations and Remittance. Establishes and clarifies employers' responsibility to remit quarterly payroll contributions to VEC, including by establishing deadlines and a process for remittance. Clarifies common questions related to calculating contribution amounts owed, including the application of § 60.2-806(D)'s reduced contribution amount for	§ 60.2-800 et seq.; state and federal unemployment laws, regulations, and guidance, including 16VAC5-32-10; local, state, and federal laws regarding the calculation of applicable minimum wage rates and confidentiality of personnel records; and state and federal laws regarding debt collection, as applicable.	This section establishes employers' responsibilities under the PFML Insurance Program. This section of the proposed rule is intended to support employers as they participate in and comply with the program, including by streamlining administrative responsibilities and reducing duplicative compliance costs. To that end, the proposed reporting requirements, including the format, data elements, and timing of quarterly wage reports, are aligned with employers' existing wage reporting responsibilities under the UI program. Similarly, this section aligns employers' recordkeeping requirements with employers' existing responsibilities under the UI program, while adding additional requirements that are unique to the PFML Insurance Program (such as employer policies related to taking paid leave). Further, this section provides that VEC will publish sample notices that employers can use to satisfy their responsibilities under the statute, promoting compliance and reducing employer compliance costs.

	employers with 10 employees or less. C. Employee Wage Deductions. Establishes rules governing employee wage deductions including start date and cadence. Implements § 60.2-806(F), which prohibits deductions of employees' wages below the minimum wage. D. Virginia Localization of Employees. Establishes rules governing Virginia localization of employees. The proposed rule's localization rules are aligned to UI localization rules, which are already familiar to Virginia employers. E. Employer Notice to Employees. Clarifies the employer's responsibilities to notify employees about the program. Requires employers to provide all employees notice upon hiring or transfer to Virginia and when that employee requests leave. Provides that the Commission will issue sample notices to help employers meet their responsibilities under the statute. F. Contribution Underpayments. Describes the treatment of contribution underpayments, identification, notice, and penalties. This section provides an illustrative, non-exhaustive list of circumstances that may give rise to underpayments. G. Sensitive Information Requires confidentiality of sensitive information.		Aspects of this section are also aligned with FMLA to promote clarity and uniform standards. For example, the proposed rule would require employers to provide employees seeking leave with notice of their rights within five business days, which aligns with the FMLA standard. Similarly, the proposed rule's calculation of employer size is aligned with a widely-used standard that employers monitor for purposes of the FMLA and other applicable law. This section's provisions regarding employee wage deductions are intended to provide greater clarity to employers about their responsibilities, thereby promoting compliance. Likewise, the proposed regulation's localization rules are aligned to the localization rules that apply under Virginia's UI program. This is a best practice widely used and recommended by other states with PFML programs. This subsection will provide greater clarity to employers and workers about coverage and will reduce administrative costs for employers. Further, the proposed rule would harmonize Virginia's localization rules with those used by the neighboring jurisdictions of DC and Maryland, with a goal of preventing coverage gaps for relevant employees in northern Virginia. Other aspects of this section are intended and expected to provide clarity to employers and workers, to improve access to the program, and to improve compliance.

90-50	**Job Protection, Anti-Retaliation, and Anti-Interference Rules:** A. Definitions. Defines key terms used in this section, including by adopting the widely used Burlington Northern test for adverse action. B. Restoration to Same or an Equivalent Position. Clarifies the program requirements about an employee's right to restoration to the same or an equivalent position. This section provides that an "equivalent position" for purposes of the Act has the same meaning as "equivalent position" in the FMLA program, with two additional worker protections. This section also provides further clarification about § 60.2-808's tenure requirement, applicable exceptions to the § 60.2-808 job protection requirement, and the employers' responsibility to provide timely notice of the decision to deny restoration. The proposed regulation also provides that, consistent with the FMLA, time on leave does not count as a break in service for purposes of benefits that vest over time, like pensions, retirement plans, or restricted stock units. C. Additional Clarifications Related to Retaliation and Interference. Provides clarifications related to retaliation and interference, including by providing an illustrative, non-exhaustive list of examples of retaliation and interference. This section also reaffirms employers'	§ 60.2-800 et seq.; the Family and Medical Leave Act; and state and federal laws governing employment and civil rights, as applicable.	This section provides additional clarity about employees' right to be restored to their job, or to an equivalent position, upon returning from leave. By offering clarity of terms and program requirements, the proposed rule is expected to foster compliance, help ensure that workers understand their rights, reduce workplace discrimination, and help ensure that Virginia workers can remain attached to the workforce after a qualifying event. The proposed rule would align the definition of "equivalent position" under the Act with analogous requirements that apply under the federal FMLA regulations, while also building on this definition to address existing gaps in the FMLA. Because employers and workers are already familiar with the FMLA's longstanding standards, this section is expected to reduce confusion and duplicative compliance costs for employers. These well-established standards have proven effective in protecting workers' rights and giving workers the comfort they need to take needed leave. The proposed regulation fills key gaps in the FMLA framework by providing that employees who are not restored to the job they held when they went on leave must be restored to a position that with a substantially similar earning potential. The proposed regulation elaborates on common exceptions to the Act's restoration protections to answer common questions, including questions about job protection requirements for seasonal workers. This subsection is not intended to

	continued right to discipline employees for attendance issues or leave unrelated to the Act. D. Referrals and Investigations of Potential Violations of §§ 60.2-808 and 60.2-809 of the Code of Virginia Describes how the Commissioner of Labor and Industry may handle referrals and investigations of potential violations of the PFML Insurance Program and the available remedies.		establish new substantive exceptions to the Act's job protection requirements; rather, it is intended to provide greater clarity on the meaning of § 60.2-808's requirements. The intent and likely effect of these regulations is to foster compliance with § 60.2-808 of the Act, ensuring that employees can take job-protected leave without fearing that it will hold them back when they return to work. The proposed regulation is also intended to and will likely have the effect of promoting clarity about and compliance with § 60.2-809 of the Act, which prohibits retaliation and interference. The examples listed in this section are intended to provide greater clarity about conduct that is prohibited under the Act, rather than to establish additional forms of prohibited conduct. This section also provides greater detail about the process for investigating alleged violations of §§ 60.2-808 and 60.2-809. This section will promote clarity for workers seeking to enforce their rights.
90-60	**Additional Program Integrity Rules:** Authorizes VEC to use key program integrity tools, in addition to program integrity tools that are integrated into other portions of the regulation. Defines key terms, including "willful misrepresentation" and "reckless misrepresentation." Discusses disqualification and penalties that will apply to fraud.	§ 60.2-800 et seq.; state and federal civil and criminal laws regarding willfulness, recklessness, false statements, misrepresentations, and identity theft; and state and federal laws regarding debt collection, as applicable.	Program integrity is a core implementation principle for VEC. In all aspects of implementation, VEC intends to use a wide range of tools to prevent, investigate, and address fraud. This section is intended to supplement program integrity and fraud risk tools that are integrated throughout the rest of the proposed regulation. For example, this section provides that the Commission will monitor potential fictitious employers registered in its

	Provides VEC with tools to prevent key fraud risks, including tools to prevent the use of stolen or fake identities to submit claims or the use of stolen or fictitious employer information to submit claims. Provides and clarifies VEC's tools to investigate potential fraud and enforce anti-fraud rules, including providing that the Commission will accept complaints or reports of fraud, conduct proactive audits of claims, and will refer potential criminal activity to law enforcement. Elaborates on penalties that may apply when VEC determines that fraud has occurred.		system, including by monitoring suspicious claim patterns, to combat fraud using stolen or fake employer information. Similarly, this section provides that VEC will monitor potential fictitious or stolen medical provider identities and will further refer providers who defraud the program to medical licensing agencies for discipline. This section is intended to protect the Trust Fund from the primary fraud risks observed in other PFML states. This section also provides further clarification about the Act's provisions disqualifying individuals who commit fraud from the program, VEC's process for accepting reports of fraud, and penalties for fraud. Finally, this section provides that VEC will hold victims of identity theft harmless when a fraudster attempts to use a stolen identity to collect benefits. The intent of this provision is to ensure that victims of identity theft will not be prevented from accessing benefits because a fraudster stole their identity. These provisions are intended to, and expected to, empower the agency to prevent fraud before it occurs, as well as to effectively investigate and address any fraud that does impact the system. This section is expected to protect the integrity of the family and medical leave Trust Fund and better ensure VEC will be an excellent steward of employer and employee contributions to the Fund.
90-70	**Coordination of Benefits Rules:**	§ 60.2-800 et seq.; the Family and Medical Leave Act; the Virginia Workers' Compensation	This section clarifies how the new PFML Insurance Program may interact with other existing benefit and leave programs.

	A. General Provisions and Interaction with FMLA Clarifies how the PFML Insurance Program benefits will interact with the federal FMLA. Explains that, as set forth in § 60.2-810, leave taken under the Act that also qualifies as leave under the FMLA shall run concurrently with leave taken under the FMLA. B. PFML Benefits and Workers' Compensation Benefits Clarifies how the PFML Insurance Program benefits will interact with Workers' Compensation leave programs or wage replacement benefits. Establishes that a covered individual's Weekly Benefit Amount will be reduced by the amount of certain kinds of workers' compensation benefits, when the covered individual is on leave for their own serious health condition. C. PFML Benefits and Employer-Provided Paid Time Off Emphasizes that nothing in the Act prevents or discourages employers from electing to provide more generous benefits to employees, including providing additional compensation to supplement family and medical leave benefits provided under the Act. Describes the interaction between the PFML Insurance Program and other employer-provided leave, including paid sick leave provided pursuant to § 40.1-33.6:1 *et seq.*, including procedures for substituting employer-provided paid leave.	Act, Title 65.2 of the Code of Virginia; § 40.1-33.6:1 *et seq.*, governing paid sick leave; and state and federal employment and unemployment insurance laws, as applicable.	The intent is to answer commonly asked questions from employers and employees and to coordinate benefits when a covered individual might be eligible to receive wage replacement benefits under multiple programs. Subsection A clarifies how leave under the Act interacts with the federal FMLA, including explaining that paid leave taken under the Act that also qualifies as leave under the federal FMLA, 29 U.S.C. sec. 2601 et seq., shall run concurrently with leave taken under the FMLA. Claims data from other PFML programs demonstrates that the vast majority of PFML claims will run concurrently with FMLA leave. This section merely explains employers' existing obligations, which are governed by the Code and by federal law. This section is not intended to, and does not, substantively change the legal framework governing the interaction of leave under the Act and the FMLA. For more information, interested parties may review Wage & Hour Div. Opinion Letter, FMLA2025-01-A (Jan. 14, 2025). Subsection B clarifies how benefits under the Act interact with benefits under the Workers' Compensation Act. This section distinguishes between temporary total disability benefits or temporary partial disability benefits, which are meant to provide partial wage replacement to workers on temporary leave taken from work due to a workplace injury, and other benefits, such benefits for permanent partial loss, which are in the nature of compensation for a lasting injury. The intent of this section is to ensure that individuals can

	D. PFML Benefits and Unemployment Compensation Benefits Explains that a worker may not receive PFML and UI benefits at the same time.		choose whether to accept workers' compensation benefits or PFML benefits after a workplace injury, to ensure that workers will not be able to simultaneously claim workers' compensation and PFML benefits for the same period of leave in connection with the same workplace injury, and to promote fairness by ensuring that VEC will not reduce PFML benefits for other Workers' Compensation benefits which are not in the nature of wage replacement. Subsection C describes the interaction between the PFML Insurance Program and other employer-provided leave. This section is intended to give workers and employers flexibility to adopt more generous policies and to substitute employer-provided paid leave. Workers and employers may mutually agree to substitute paid sick days or employer-provided PTO to supplement the difference between the wage replacement rate provided by the Act and their typical pay. This section of the proposed rule would not regulate the interaction between the PFML Insurance Program and employer-provided short-term disability programs. Rather, the agency's intent is to provide employers with the flexibility to adopt or amend short-term disability policies in a manner appropriate for their workplace, rather than to require a one-size-fits-all policy. The effect of the proposed rule would be to give employers flexible options to acquire short-term disability policies that supplement wage replacement benefits available to employees under the Act.

			Finally, this section provides that individuals may not receive PFML benefits and unemployment compensation benefits at the same time, because of differences in the program eligibility criteria and because of administrability concerns.
90-80	**Self-Employed Individuals Electing Coverage:** A. Definitions Clarifies which income counts for purposes of establishing monetary eligibility for elective participation in the PFML Insurance Program. B. Requirements for Electing Coverage. Provides requirements for electing coverage, lists documents and information that must be filed to complete a notice of election, and states when a claim for leave benefits may be approved. C. Contributions, Benefits, and Supporting Documentation. Describes how contributions and the application and benefits will work for self-employed individuals. States the documentation VEC needs to calculate contributions and weekly benefit amounts, including any proration needed. D. Withdrawal and Termination of Coverage. Explains consequences for failure to pay required contributions and how elective coverage can be withdrawn or terminated.	§ 60.2-800 et seq.; the Social Security Act; the Internal Revenue Code and other state and federal tax laws, regulations, and guidance; and state and federal debt collection laws.	This section implements the Act's provisions allowing self-employed individuals to elect coverage, including by governing the process by which self-employed individuals will pay contributions and receive benefits. This section provides that VEC will assess contributions and pay benefits based on annual tax information submitted to the agency by individuals who elect coverage. Unlike employers, who are already required to provide quarterly wage reporting to VEC for purposes of the UI program, self-employed individuals are not generally required to provide quarterly wage reports to VEC. In other states with PFML programs, calculating premiums and benefits using tax information has emerged as a best practice to promote effective administration, ensure reliable calculations, and reduce paperwork burdens for self-employed individuals. This section is intended to ensure that VEC can effectively administer coverage for self-employed individuals, while lowering barriers to participation for those workers. The likely impact will be that some self-employed workers will opt-into the PFML Insurance Program.
90-90	**Intermittent and Reduced Leave Schedules:**	§ 60.2-800 et seq.; the Family and Medical	This section creates a framework for providing

	A. Intermittent Leave Benefits, Generally. Establishes a framework for intermittent leave, which is defined as leave taken in separate blocks of time. This section establishes how weekly usage will be determined for intermittent leave, providing that weekly usage will be calculated using the same methods that apply under the FMLA. B. Applications For and Use of Intermittent or Reduced Leave Schedules. Explains the application process and requirements, as well as how intermittent and reduced leave schedules will work, including the proration of benefit amounts. C. Coordination of Intermittent or Reduced Leave Schedules Between Employers and Employees. Requires notice and coordination between employers and employees. D. Modifications to Intermittent Leave and Reduced Leave Schedule Claims. Address modifications to an approved claim, including changing from intermittent to continuous leave, changing from continuous to intermittent leave, and how separation from employment impacts an intermittent leave or reduced leave schedule claim.	Leave Act and its regulations; state and federal employment laws and regulations, as applicable.	benefits to employees seeking intermittent leave pursuant to § 60.2-807. This section is intended to provide clarity to workers and employers alike, establish an administrable system for paying benefits for intermittent leave, and balance access to intermittent leave with employers' business needs. Many aspects of the proposed regulation's intermittent leave framework are aligned with the FMLA's treatment of intermittent leave. For example, the proposed rule provides that intermittent leave shall be prorated using the same methodology that would apply under the FMLA. Alignment with the FMLA framework will promote clarity for workers and reduce compliance costs for employers. Further, the Proposed Rule permits employers to track and provide intermittent leave in hourly increments, which many employers already use to administer intermittent and reduced-schedule leave through existing FMLA processes. This alignment is intended to, and will likely have the effect of, improving coordination of concurrent PFML and FMLA leave, reducing compliance costs by allowing employers to use one tracking methodology, and promoting access to leave under the Act for workers. In other areas, the proposed regulation would strengthen the FMLA framework based on lessons learned over the last 30 years of FMLA implementation, including by providing additional flexibility for employers and workers. For example, the proposed rule would provide that employees

			may take intermittent leave to care for a new child. This change to the FMLA framework will allow new parents to split their parental leave, providing flexibility to the many new parents who want to take a short period of leave immediately after the birth of a child and a latter portion of leave later, such as after the child's other parent returns to work. This change will give families additional flexibility to structure parental leave in ways that serve their caregiving needs and to reduce their childcare costs in their first year with a child. Other differences between the intermittent leave framework under the Act and the FMLA are intended to give employers who are exempt from the FMLA additional flexibility to meet their business needs, while still maintaining access to intermittent leave for their employees. For example, the proposed rule provides that employers may establish a reasonable written policy requiring covered individuals to take foreseeable intermittent leave in specific increments of time, so long as those increments are no greater than four hours. This proposal would give small employers, who are not covered by the FMLA, additional flexibility to set reasonable leave rules needed to cover shift work. VEC notes that employers who are covered by the FMLA may not account for leave in increments greater than one hour. *See* 29 C.F.R. § 825.205(a) (2025). This section also establishes procedures to ensure that VEC can reliably review applications for intermittent leave, including: (i) requiring that applicants seeking intermittent leave provide additional certifications

			and information; and (ii) creating a process to modify approved claims. These provisions are intended to, and expected to have the effect of, promoting administrability, accuracy, and program integrity. This section also implements the Act's requirement that covered individuals and employees coordinate intermittent leave schedules. This section creates a framework for employers and workers to mutually confer about intermittent leave schedules, promoting cooperation and positive labor-management relations, while providing safeguards to ensure that coordination does not disrupt employees' access to medical care or leave under the Act.
90-100	**Private Insurance Plans:** A. Definitions. Lists and defines additional terms that are used in the statute and this section of the regulation. B. General Provisions. Explains the different types of insurance plans that employers can choose from when applying for approval to meet the program requirements through a private plan and sets forth recordkeeping and reporting requirements. Clarifies that the PFML Insurance Program's job protection, anti-retaliation, and anti-interference benefits apply to employees who are covered by a private plan.	§ 60.2-800 et seq.; state insurance laws and regulations, including §§ 38.2-107.2, 107.3, and 14VAC5-141-60; and state and federal debt collection laws, as applicable.	This section provides a framework for employers seeking to satisfy certain responsibilities under the Act using an Approved Private Insurance Plan (APIP). This section is intended to provide additional clarity for the insurance marketplace, employers, and employees about the process through which employers can apply for private plan approval, the information required in each application, and the criteria that VEC will use to determine whether a private plan satisfies the Act requirement to provide "benefits equal to or greater than the benefits provided" by the Act. These review criteria are intended to ensure that employees covered by a private plan have comparable access to equivalent or more generous benefits, including by

	C. Initial Application Requirements and Effective Date of New Private Plans. Describes the private plan application and approval processes, including (when applicable) the role of the State Corporation Commission in conjunction with VEC. Establishes a timeline for applications. D. Additional Application Requirements for Self-Insured APIPs. Explains additional requirements that apply to employers seeking approval of a self-insured APIP. These requirements reflect best practices used to regulate self-insured Workers' Compensation plans in Virginia. *See* 16VAC30-80. E. Minimum Requirements for Approval of an APIP. Clarifies the statutory requirement for employers who use private plans to reimburse VEC for the costs of administering the private plan options and explains how cost-sharing assessments will be calculated and may be reconsidered or disputed. F. Additional Minimum Requirements for Approval of an APIP in the Form of Self-Insured APIPs. Clarifies the additional requirements for employers seeking to meet their obligations under the Act via self-insurance. G. Review of Private Plan Applications. Establishes an opportunity for employers with incomplete private plan applications to cure deficiencies. Establishes a		ensuring that APIP application procedures are not unduly burdensome, and do not take significantly longer than applications for benefits under the Commonwealth Plan. These criteria reflect best practices used in other PFML states and under federal law regulating insurance. This section also provides a timeline for the Commission's initial review of private insurance plans prior to April 1, 2028, the first date on which employers must provide contributions to the program unless they have an APIP in place. The intent of this section is to ensure that the Commission has adequate time to review private plan applications prior to April 1, 2028, to prevent employers from simultaneously paying contributions and paying the costs of private plans providing benefits that meet or exceed the minimum requirements of the statute. This section also provides employers an opportunity to cure any deficiencies in their application within 30 days, balancing the need to ensure that all APIPs provide compliant benefits with the agency's desire not to deny applications for unintended errors. This section includes additional review criteria for self-insured APIP. Additional review criteria are warranted because of the limited role that the State Corporation Commission (SCC) will play in reviewing self-insured APIPs, requiring VEC to conduct additional due diligence. These criteria are informed by Virginia's existing system for regulating self-insured Workers

	self-insurance template for self-insurance applications. H. Revocation of Private Plan Approval Establishes the treatment of repeat violations, involuntary termination of APIP approval, and what appeal rights are available to employers. I. Renewal Requirements Establishes the process for an APIP renewal. J. Recordkeeping and Reporting Requirements. Establishes recordkeeping and reporting requirements that mirror recordkeeping and reporting requirements for employers participating in the Commonwealth Plan. K. Oversight of APIPs by the Commission Clarifies the circumstances under which VEC may review an APIP, what documentation may be required, and what would be considered grounds for APIP termination. L. Notice to Employees Establishes rules governing notice to employees regarding employer private plan election. M. Transition To or From a Private Plan. Discusses transitions to or from a private plan. N. Fines & Penalties. Discusses potential consequences of violations of the private plan requirements.		Compensation plans. The likely effect of this subsection would be to ensure that self-insured plans remain solvent and have sufficient resources to pay employees' PFML claims. This section also establishes a transparent framework for cost-sharing assessments pursuant to § 60.2-817(G). This section will have the effect of ensuring that the Commission is reimbursed for costs associated with the administering APIPs, including reviewing APIP applications and hearing appeals from APIPs, and thus ensuring that the Commission can provide fast, high-quality services to employers with APIPs and ensuring that the costs of administering APIPs are not borne by workers and employers contributing to the Commonwealth plan. The likely effect of these provisions is to provide transparency and predictability to employers about the total costs of using an APIP to satisfy the Act. Finally, this section governs coverage when an individual transitions between coverage under an APIP or the Commonwealth Plan. This section of the regulations will have the effect of ensuring continuity of coverage, to ensure that employees do not lose this portable benefit when they transition jobs or when their employer transitions a coverage plan. Overall, the intent and likely effect of this section is to provide a predictable, durable, and transparent framework for private plan administration; to ensure that APIPs provide workers with equivalent access to benefits and promote adequate oversight; to provide

			employers with additional flexible options to satisfy their requirements under the Act.
90-110	**Reconsiderations and Appeals:** A. Definitions and General Provisions. Defines key concepts applicable to this section: Appeal, Determination, Party, and Scope. B. Claimants' Right to a Reconsideration of the Commission's Initial Determination. Clarifies when and how decisions or redeterminations regarding claims and benefits, fines and fees, private plans approval or withdrawal, and other matters may be resolved by or otherwise appealed to VEC and then to court. C. Appeals Procedures. Provides general information about the appeals process and how it differs depending on the issue presented and the parties to the appeal. Explains the role of VEC's hearing official in the fact-finding process. D. Judicial Review of Commission Decisions. Describes the process and timeline for filing an appeal in court if a dispute persists after administrative remedies are exhausted.	§ 60.2-800 et seq.; Article 5 of the Administrative Process Act; and other state laws and procedures governing administrative and judicial proceedings, as applicable.	This section fulfills authorizing statute's requirement to establish a system for reconsiderations and appeals related to denial of leave benefits by VEC and by a private plan. It also clarifies how VEC will handle appeals for fines related to private employer plans as required by the statute. The proposed regulation creates two key procedures. First, the proposed regulation provides claimants with an informal right to request a reconsideration of the Commission's initial determination. This subsection is intended to provide claimants an informal, non-adversarial, and accessible way for a claimant to discuss their claim with a Commission representative, ask questions to understand the reasons for the Commission's initial determination, and to provide additional information, such as a missing document, to perfect their application for a claim. Because this process is intended to be informal and inaccessible, reconsiderations are subject to fewer strict procedural rules than appeals. Second, this section creates an appeals process available to claimants, employers, or other parties seeking to formally appeal a decision or determination of the Commission. Because this process is intended to provide a formal avenue for administrative appeal, this section provides procedural

			rules intended to ensure fair process in appeals. Together, these procedures are intended to provide fairness and accessibility for all parties who may have cause to file an appeal. These procedures balance the need for expeditious review of appeals with the need to ensure that the Commission has adequate time to provide high-quality decisions.
90-120	**Family and Medical Leave Insurance Trust Fund:** Describes the non-reverting nature of the trust fund. Lists the sources of money that will be deposited into the trust fund and the limited purposes for which that money may be used.	§ 60.2-800 et seq.	This section provides greater clarity about VEC's management of the PFML Trust Fund. The intent and likely effect of this section is to promote responsible management of the Trust Fund.