



dc paid **family leave** Q4 report



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PURPOSE OF THE REPORT

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

The purpose of this report is to provide an update on the work completed to date and currently underway by the Administration to implement the Universal Paid Leave Amendment Act of 2016 ("Paid Leave Act"). This document further serves as the quarterly report required by section 104 of the Paid Leave Act, and will explain in detail the requirements needed in order to develop all software necessary to administer the paid leave system established pursuant to this Act. This quarterly report includes information on program administration, information technology (IT) procurement and development, staffing, marketing and outreach, key program deadlines, research findings and key considerations. The findings in this quarterly report are based on the current Council-passed legislation, and it captures all implementation activities from October 1, 2017, through September 30, 2018. If there are any amendments to the current Council-passed legislation, the activities in the next quarterly report may change.

BACKGROUND

In 2017, the Paid Leave Act, which provides paid leave for family members who are bonding with a new child, caring for a family member with a serious health condition, and/or caring for the employee's own serious health condition, became District law. To qualify for Paid Family Leave (PFL) benefits, an individual must be a part-time or full-time employee in the District, regardless of their residence, and meet all of the requirements, monetary and non-monetary, outlined within the law. District government and federal employees are excluded. The duration of benefits provided by the Paid Leave Act allows for eight (8) weeks of parental leave, six (6) weeks of family leave, and two (2) weeks of medical leave for every fifty-two (52) weeks worked. The maximum weekly benefit amount is \$1,000 and is currently funded in the District solely by employer contributions. The current rate is 0.62 percent of wages or the annual self-employment income.

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

To appropriately prepare to administer the program, a working group was created prior to the availability of any funding in order to continually move each component of the District's implementation plan forward. The internal working group established by the Administration consists of representatives from (but not limited to) the Office of the City Administrator (OCA), Office of the Deputy Mayor for Greater Economic Opportunity (DMGEO), Department of Employment Services (DOES), Office of Human Rights (OHR), Office of the Chief Technology Officer (OCTO), Office of the Chief Financial Officer (OCFO), Department of General Services (DGS), Department of Human Resources (DCHR), and the Office of Contracting and Procurement (OCP). The overarching goal of the working group was to create a detailed road map for implementing the Paid Leave Act, with a specific focus on the following areas:



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

ROADMAP TO PFL IMPLEMENTATION

As an increasing number of states begin to establish PFL programs, the District has made significant strides this fiscal year to ensure that the District stands as a leader in national best practices. The District has made a conscious effort to adopt new approaches to implementation as a result of the various state site visits, with the agile project management methodology being the most beneficial to the implementation strategy and approach. The District has set the tone in regards to creating a world-class program by focusing its efforts on key components consisting of technology, staffing, talent management, and program development. There have been essential staffing additions made to the department and with the release of the Tax System Request for Proposal (RFP) on August 10, 2018, the volume of the team will double. With this addition of new staff, the District will continue its execution of the OPFL onboarding and talent management plan. This plan will position contracted and full-time staff members and successfully retain and foster an environment of innovation.

OPFL Road Map Chart





PROCUREMENT

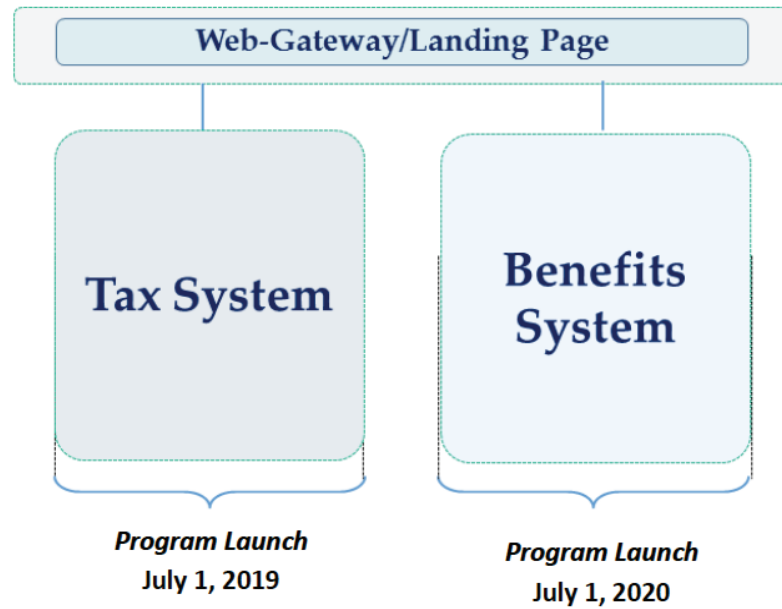
During the acquisition planning process, the District identified and described the needs, capabilities, and requirements for the design and development of a functional PFL system. In collaboration with procurement stakeholders, the District also determined the best methods for meeting those requirements in order to ensure the launch of the PFL system is consistent with the statutory timeline. The District decided to have two separate solicitations, one for tax and one for benefits, which provides the opportunity to individually evaluate all tax and benefits solutions available in the market.

Below is a summarized representation of the detailed system requirements for the acquisition and development of the PFL systems:

- The technology required must be able to perform all functionality necessary to collect employer contributions and to pay benefits for eligible employees taking parental, family, or medical leave in accordance with the Paid Leave Act.
- In order to remove the risk associated with development, a commercial off-the-shelf (COTS) tool is under consideration, in addition to a custom software solution for all functions that is necessary to set-up, run, administer and manage an efficient, legally compliant PFL program.
- A fully functional tax system must be available by July 1, 2019, and a fully functional benefits system must be available by July 1, 2020. Phased implementations allow for ample time to train staff and make system modifications to begin the collection of taxes and the payment of benefits.
- All technology and functionality necessary to identify, manage, and administer eligible employees taking leave for the birth, adoption, or foster placement of a child should be provided.
- All technology and functionality necessary to identify, manage, and administer benefits for taking care of critically ill family members and medical leave for employees with serious health conditions should be provided.
- The system requires medical information to be certified from a licensed medical professional to ensure benefits.
- Technology is required to validate eligibility of benefits requests and the denial process. The tool must be able to support all types of family bonding applications allowable, including care for family members with a serious health condition, and employee recuperation from a determined serious health condition.
- Contribution collection also requires that all functions, documents, reports, and tools, including internet and Interactive Voice Response (IVR), are implemented to manage and administer collection, monitoring, issue resolution, and distribution of employer contributions. Integration with other District systems will be necessary to monitor claims and update account information for employers and associated employees.

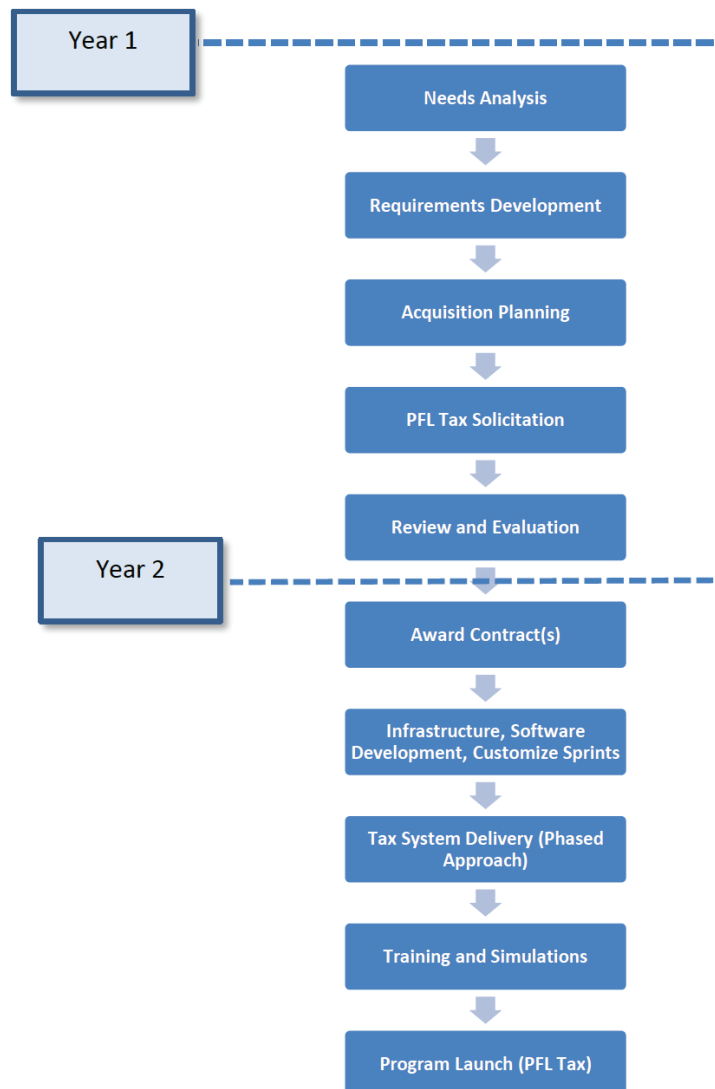
The District released the PFL tax system solicitation, Doc392497, on August 10, 2018, and it will close on September 21, 2018. On August 17, 2018, the Office of Contracting and Procurement (OCP), DOES, and the Department of Small and Local Business Development (DSLBD) hosted a pre-proposal conference for potential bidders. This conference provided an opportunity for potential bidders to ask questions regarding the PFL tax system solicitation. Potential bidders were allowed to submit formal questions in writing until August 22, 2018.

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



PFL Tax System Procurement Timeline

The following timeline depicts a high-level overview of the procurement milestones leading up to the implementation of the PFL tax system. The procurement timeline and solicitation for the PFL benefits system are currently in development.





RULES AND REGULATIONS

The first draft of the proposed rules and regulations, which provided additional clarity and guidance for the employer, employee, and health care provider communities about the Paid Leave Act, was published in the D.C. Register in Vol. 65 No. 14 NOO68274 on April 6, 2018, for a 30-day comment period. At the conclusion of the public comment period on May 7, 2018, the District received approximately 1,881 comments related to paid leave benefits, and 189 comments related to employer contributions. Public comments addressed the following policy areas:

- **Employer Contributions**
 - Computation of wages
 - Collection procedures
 - Household employer obligations
 - Opt-in and opt-out procedures for self-employed individuals
- **Paid-Leave Benefits**
 - Identity verification
 - Familial relationship documentation
 - Employment requirement

A matrix of the public comments collected for the proposed regulations was published on the PFL webpage in June 2018. The matrix can be viewed here: <https://does.dc.gov/node/1338336>.

Upon review of the responses received during the public comment period, the District decided to proceed with a second iteration of the proposed rules and regulations. As a result of the significant number of comments related to the benefits portion, the rules and regulations were divided into two separate chapters between employer contributions and paid leave benefits. Bifurcating the rules and regulations has allowed the District to thoroughly consider all public comments and to perform the proper policy research for each component.

The second iteration of the proposed rules and regulations for employer contributions, which provided additional clarity and guidance on registration, wages, and collection procedures, was published in the D.C. Register in Vol. 65 No. 27 NOO71392 on July 6, 2018 for a 30-day comment period. At the conclusion of the public comment period on August 5, 2018, the District received approximately 221 comments from the employer community, which included self-employed individuals, advocacy groups, and Certified Business Enterprises. Public comments addressed the following policy areas:

- **Coordination of Benefits**
 - Employer sponsored benefits
 - Concurrent use of paid leave
- **Definitions**
 - Wages
 - Employment
 - Worksites
- **Collection Procedures**
 - Delinquency notices
 - Payment periods
 - Penalties and interest



- **Self-Employed Individuals**
 - Opt-in process
 - Opt-out process
 - Documentation of income
 - Late payments and disenrollment
- **Online Portal**
 - Ease of use
 - Two way communication
 - Alternative methods of communication

A matrix of the public comments collected for the proposed tax regulations was published on the PFL webpage in August 2018. The matrix can be viewed here: <https://does.dc.gov/node/1338336>.

PHASED STAFFING PLAN

The District's phased staffing plan was restructured during Quarter 3 of Fiscal Year 2018 to include the establishment of a PFL project team. Following national best practices, the District's goal is to streamline operations and communication by utilizing a cross-functional project team during the initial phases of implementation.

A total of 49 full-time employees (FTEs) and contractors will be hired for the PFL project team through Fiscal Year 2020. Capital funds will be leveraged to hire 16 contractors for the IT and Project Management team, and 33 FTEs will be funded through the operational budget, as shown below:

PFL Implementation Project Team (FY18–FY20)		
Total Project Staff	Operational (FTEs)	Capital (Contractors)
49	33	16

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

A look ahead

In Fiscal Year 2019, the District is expected to hire key staff for the Division of Tax, including supervisors, claims examiners, call center representatives and IT staff, to assist with the development and deployment of the PFL tax system in July 2019. The total amount of new hires for Fiscal Year 2019 will be 58 employees.

By July 1, 2020, the OPFL will be a fully staffed program with 124 FTEs who will ensure the District remains in compliance with the appropriate laws, titles, regulations, directives, and requirements pertaining to the administration of an effective PFL program.



- **Fiscal Year 2018**
 - Total new hires: 39
*All 39 hires for Project Team
- **Fiscal Year 2019**
 - Total new hires: 58
*48 hires for program
*10 hires for Project Team
- **Fiscal Year 2020**
 - Total new hires: 54
*All 54 hires for program

*Total FTE hires for OPFL = 124

NATIONAL BEST PRACTICES & TECHNICAL ASSISTANCE

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

Best practices provided by California, New Jersey, and Rhode Island emphasized online claim applications, utilizing targeted marketing and outreach plans to ensure employees, employers, and healthcare providers are fully aware of the program, and leveraging modernized systems and technology to produce efficient workflows and to ensure the successful administration of benefits.

This quarter, the District continued to obtain expert-level knowledge of national best practices for paid leave technology and implementation by conducting a second site visit to California to observe the daily operations of the Fresno PFL branch. The District gained first-hand knowledge on running an efficient paid leave program. During Quarter 1 of Fiscal Year 2019, the District will conduct its first site visit to New Jersey.

National Conferences and Training Seminars

Many of the District's efforts in Fiscal Year 2019 will focus on attending national conferences and training seminars to advance our understanding of other laws that could potentially inform our paid leave implementation efforts. The District believes in the importance of gaining insight into other programs, but also leveraging these events to educate and inform the employer and employee communities in attendance about the upcoming requirement for District employers and the availability of benefits for District workers by July 2020.

In Quarter 3 of Fiscal Year 2018, the District attended the 2018 National Unemployment Issues (UI) Conference during which subject matter experts focused on the intersection between UI and PFL, and the competing visions for the role of the UI system. Paid leave continues to be a concern in the United States as workers balance their time between work and family responsibilities. The increased pressure to provide paid leave benefits has become a national conversation and many technology experts have taken this as an opportunity to begin exploring the potential of developing technology systems that can integrate PFL with other systems such as UI and disability insurance.



UNIVERSAL PAID FAMILY LEAVE QUARTER 4 REPORT

In Quarter 1 of Fiscal Year 2019, the District is scheduled to attend the “Making Paid Sick Days Work 2018 Convening” in Boston, MA, which will bring together paid sick days enforcement agencies, advocates, and other partners nationwide to discuss strategies to improve implementation and enforcement of paid sick days laws and other labor standards.

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

CALIFORNIA	
Conference Call held: 9/19/2017 at 2:00 – 3:00 PM EST	Key Takeaways: <ul style="list-style-type: none">California conducted increased marketing to minority populations and single fathers across all media platforms and print advertisements in an effort to access the groups that had the lowest access rates to the PFL program.California experienced challenges over knowledge transfer that they were able to overcome through increased collaboration efforts within their IT department.The District should anticipate a lengthy procurement timeframe as it took California six years, from development through the award, to procure their system.
Site Visit: 11/16/2017 – 11/17/2017	
Site Visit Overview: Presentations on California PFL history, tax structure, marketing, program integrity, fraud, information technology infrastructure; roundtable discussions and Q&A sessions.	
Site Visit #2: 9/18/2018 – 9/19/2018	Key Takeaways: <p>To be provided when the site visit has concluded.</p>
Site Visit Overview: Observance of the work processes in action for the various units in the PFL Field Office including the customer service center, claims unit, training unit, and the specialty unit which includes appeals, voluntary plans, worker’s compensation, and program integrity.	



RHODE ISLAND

Conference Call held:

9/15/2017 at 11:00 AM – 12:00 PM EST

Site Visit: 11/29/2017 – 11/30/2017

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

Key Takeaways:

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

NEW YORK

Conference Call held:

6/1/2018 at 2:00 – 3:00 PM EST

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

Key Takeaways:

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



NEW JERSEY

Conference Call held:

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

Site Visit: To occur in FY19, Quarter 1

Site Visit Overview: Not applicable.

Key Takeaways:

- New Jersey's Family Leave Insurance (FLI) program is an employee-paid contribution.
- New Jersey currently administers the FLI program using a mainframe system, but they are in the process of finding a specific system for TDI and FLI.
- More information to be obtained at the future site visit.

WASHINGTON STATE

Conference Call held:

10/24/2017 at 4:00 - 5:00 PM EST

Site Visit: 3/27/2018 - 3/28/2018

Site Visit Overview: Presentations on Procurement, PFL Structure System and Structure, Tax Structure, Insurance Contributions and Fund, Fraud Deterrence and Program Integrity, Marketing and Outreach, and Work Methodology.

Key Takeaways:

- Washington State's PFL program is a shared employee-employer contribution program; premium collection from employers will begin 1/1/2019, and administration of benefits will begin 1/1/2020.
- Regarding system development, Washington State anticipates utilizing a continuous integration model.
- System implementation treated as a technology start-up: initial project team which transitions to a program team.
- Emphasis on branding and taking ownership of the program's public facing identity.
- Usability and accessibility testing with focus groups.

MARKETING & OUTREACH

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

During Fiscal Year 2018, the District focused on identifying best marketing practices, conducting market research, and collaborating with PFL stakeholders to determine innovative ways to engage the District's diverse population. The District will continue to proactively engage key stakeholders in order to gather additional input and insight from groups with a vested interest in the PFL program.

Stakeholder Interviews

The initial phase of the PFL engagement and outreach plan included direct interviews with community partners and support organizations that serve the District's population. The stakeholder interviews provided an opportunity to assess the stakeholders' perception of the PFL program, test messages, key branding, and outreach language, and gather information from stakeholders about where they are likely to receive information regarding PFL. Interviewed candidates were selected using carefully defined criteria for engagement with individuals and groups to meet DOES' goals of transparency and inclusiveness. Through the use of a communications vendor, these interviews allowed key influencers to share their opinions and ideas with a neutral party.



The feedback received from stakeholders will be used to guide ongoing outreach strategies and tactics to build public knowledge and support for the PFL program leading up to the collection of the employer taxes in 2019 and payment of benefits in 2020.

Town Hall Forum

The District held a town hall forum at Trinity Washington University on July 9, 2018. The town hall focused primarily on the upcoming employer responsibilities and the proposed tax regulations. The primary goals of the town hall forum were to inform the public on the current status and implementation timeline, share information about PFL tax regulations, and engage participants in conversation about their understanding of the District's new PFL program. At this event, a diverse audience of business owners, human resource representatives, accounting and payroll specialists, students, educators, and Council staff provided meaningful feedback. Among the prevailing concerns from the employer community were reducing the administrative burden placed on businesses, financial planning for the future, and the importance of marketing and outreach within educational, healthcare, and childcare facilities.

Community Partners and Organizations

The District met to discuss outreach strategies on how to increase awareness of benefits, to identify new organizations and entities to expand efforts to reach communities in need of PFL information and foster increased collaboration with the business community. During this process, the District and representatives from various PFL advocacy groups have committed to meeting regularly to share information, discuss outreach strategies, and provide updates. The District values the relationships and experience stakeholders have with workers.

Website

In Quarter 4 of Fiscal Year 2018, the District launched a PFL website for District residents, businesses, and advocates. The website can be viewed at: DCpaidfamilyleave.dc.gov. The website includes information about rules and regulations, upcoming events, and serves as a hub for PFL resources. The website also includes a Weekly Benefits Calculator that allows District workers to enter their average weekly wage and receive an estimate of what their potential Weekly Benefit Amount will be once the program is fully implemented on July 1, 2020. Additionally, the District created an e-mail subscription service. This tool provides workers, businesses, and organizations that represent and support local communities with a dedicated e-mail option for contacting PFL representatives and receiving PFL information and program guidance when assisting their clients.

The District also created a branding package to effectively communicate unified messaging through a consistent logo and brand identity. As the program is rolled out, it is imperative to establish a brand identity that allows the public to effortlessly identify the OPFL. The District's brand identity provides a standard through which the public is able to identify the office by design, color, and other visual elements.

Throughout the implementation of the program, the District will continue to conduct the multi-year public education and outreach campaign that will include advertising (i.e. online, mobile, outdoor billboard, newspaper, radio, television, metro ads), informational and educational materials (i.e. brochures, posters, flyers), social media efforts, meetings with stakeholders, and other direct outreach initiatives.



RESEARCH & KEY CONSIDERATIONS

At the onset of the District's implementation efforts, lessons from across the nation's various paid leave programs were examined in an effort to establish the framework for a world-class PFL program. In light of recent PFL developments in other states, another comparison of the PFL laws was conducted to identify potential areas of improvement for the District's rule-making process. The District has also expanded its research to include proposed PFL legislation, as well as comparable paid sick leave laws, with a particular focus on Virginia and Maryland. During this quarter, a thorough analysis of Massachusetts' new PFL law was completed to identify key similarities and differences. Primary similarities include the payroll tax rate, the ability for self-employed individuals to opt in for coverage, and general employer responsibilities. The differences in administrative details and definitions have provided useful alternative approaches to consider for the District's rule-making.

At the Federal level, the District is monitoring Congress' renewed interest in creating a national PFL program, specifically the Economic Security for New Parents Act (S.3345) and the FAMILY Act (S.337). The District observed the July 11, 2018 Senate Committee on Finance Hearing to learn more about the proposed bills and their potential impact on the District's program. The testimonies reinforced the urgent need for paid leave and how PFL programs can provide countless benefits for both employers and employees. The testimony also showed that as national PFL programs are debated, existing PFL programs will be closely studied. The District will continue to remain proactive in researching and evaluating policies to achieve a successful program implementation.

While the current legislation for paid leave in the District established a recommendation for protecting fund solvency, the law does not grant DOES, the agency overseeing the District's PFL program, the authority to address any potential shortfalls. However, the Chief Financial Officer can recommend legislative changes, including a potential reduction in the employer contribution rate and/or changes to benefits.

Absent an amendment to the current legislation, the District may be required to address the taxable status of paid leave benefits in the rule-making process for the PFL program. The employer's contribution to the Universal Paid Leave Implementation Fund is non-employee tax revenue, which would classify paid leave benefits as taxable income. It is important to note that a large amount of the District's workforce consists of out-of-state residents who are employed in the private sector. Simply, the benefits paid to residents of Virginia, Maryland, and any other state may be subject to state taxes. As such, the Council should take into consideration that the tax revenue will not only go back to the District, but may also be disbursed to other states where District workers reside.

CONCLUSION: END OF YEAR RECAP

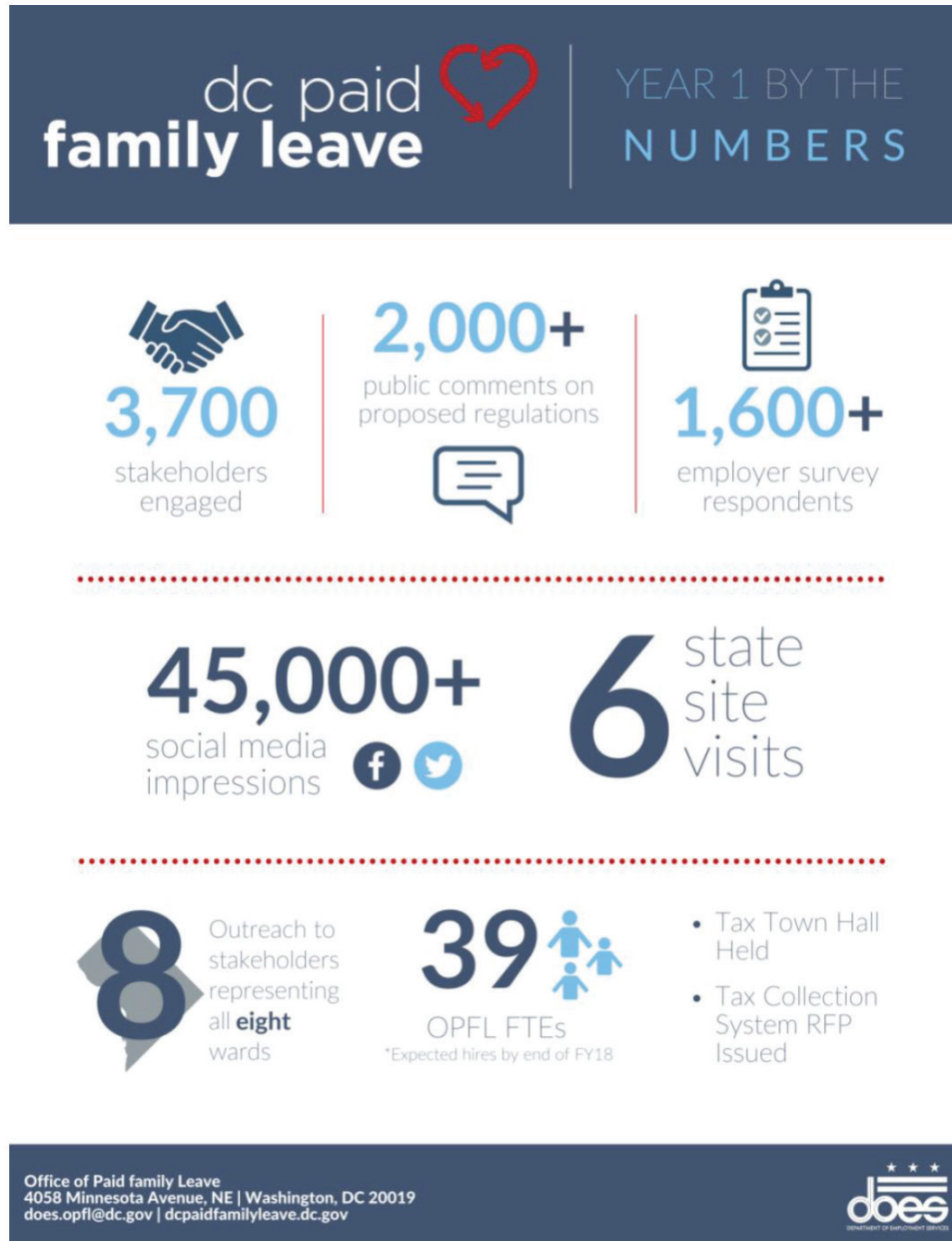
The District remains committed to implementing a robust paid leave program with a structure that can be effectively and efficiently administered. Consistent with this mission, the District is dedicated to ensuring that the financial burden on residents does not increase and that the impact on businesses is sustainable and does not discourage companies from creating jobs in the city.

During the first year of the District's implementation of the PFL program, the District has engaged with over 3,700 businesses across all eight wards, through an employer assessment survey, two 30-day public comment periods on proposed regulations, stakeholder interviews, and a town hall forum. Additionally, OPFL has diligently established open lines of communication to educate and inform District employers about their responsibilities and the benefit of the PFL program.

The District has effectively used the PFL website, agency social media accounts, and other digital efforts to communicate with key stakeholders regarding the implementation of the District's PFL program. These digital



tools have been leveraged to advertise OPFL job openings, promote events, receive feedback about proposed regulations, and educate District employers and employees about the program. In the last eight (8) months, our digital efforts have generated more than 45,000 social media impressions (views), as indicated in the graph below.



Paid leave benefits remain an important part of balancing work, family, and medical needs, and the District's implementation strategy has concentrated extensively on researching and developing the most innovative approach possible. At the forefront of our efforts, the District has been focused on creating an adaptable and flexible framework to better facilitate the process of responding to changes, both internally and externally. As such, the District will continue to build on the progress made in program administration, information technology, staffing, and outreach, while continuing to work on the many steps required for the successful implementation of the District's PFL program.

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