

# Getting to Yes: The Makings of Paid Leave in Massachusetts

**A Case Study of the Massachusetts Paid Family and Medical Leave Law**

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## Executive Summary

### How it Got Done: Making Paid Leave a Reality

Considered one of the strongest in the nation, the Massachusetts paid family and medical leave law is notable for its robust caregiving supports and protections for workers. But just as notable is how the law came to be. After all, paid leave bills had been filed for decades in Massachusetts. Yet until 2018, there had been limited movement in the legislature to establish a statewide program. What led to the passage of paid leave legislation in Massachusetts with approval from a Republican Governor? What factors influenced not only the scope and parameters of the paid leave program, but how it was developed and by whom? This case study, based primarily on in-depth interviews with those closely involved in the negotiation process that led to compromise legislation, tells the story of the makings of paid leave in Massachusetts.

### “Two-Pronged Strategy”: Pursuing Legislation and a Ballot Initiative

In 2014 a strong majority of Massachusetts voters cast their ballots in favor of earned sick time and laid the groundwork for the paid family and medical leave advocacy campaign launched in 2017. Taking a two-pronged legislative and ballot initiative approach to paid leave was a tested strategy for securing caregiving supports for workers. This approach also maximized the depth and breadth of the coalition that came together to move paid leave forward in the Commonwealth. The grassroots coalition Raise Up Massachusetts, comprised of labor, faith, and community organizations, proved to have the “people power” and “political muscle” that compelled legislative leaders to launch a negotiation process with coalition representatives and leaders of the business community.

### “Not a Monolith”: Understanding the Massachusetts Business Community

While some stakeholders from the business lobby opposed efforts to establish a statewide leave program,

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others indicated support for the concept of paid leave while raising a range of concerns about legislative proposals under consideration, as well as the ballot initiative spearheaded by Raise Up Massachusetts. As one member of the business community explained, “for a lot of employers, they were not in concept opposed to paid leave. It was about the details of paid leave.” Business stakeholders cited concerns about the cost to employers and employees, impact on economic competitiveness, alignment with federal Family and Medical Leave Act requirements, waiver process for employers already providing such benefits, hardships on

small businesses, and leave terms (including duration, intermittent utilization, and replacement rate), among others.

### “Good Faith Effort” Negotiations: Building Trust Between the Business and Advocacy Communities

With the intention of avoiding lawmaking at the ballot box and addressing key concerns raised by the business community, legislative leaders convened a working group to develop a feasible paid leave program through a closed-door negotiation process. With four individuals from the advocacy community and four from the business community, the group achieved consensus on the scope and provisions of a paid leave program. The clarity of the aim to reach consensus, hard deadline, development of trust among stakeholders with honest brokering by committed legislative leaders, incentives on both sides of

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the table, complexity of the issue with multiple decision points, trusted data modeling, and maintenance of integrity of negotiations outside of the news media all made a difference. The capacity of negotiators to serve as trusted representatives was also vital, lending legitimacy to the process by those most invested in it on both sides of the table.

### **“Getting it Right”: Developing a Workable Program**

By June 2018, the vast majority of program provisions were worked out with major items of dispute resolved. Some of the most contentious program parameters related to addressing the concerns of small businesses, determining the employer/employee cost-sharing arrangement, and allowing an opt out (private plan) option for employers already providing comparable benefits. Importantly, agreement was reached on the duration of various types of leave and wage replacement rates. Having cost and coverage estimates generated by a trusted simulator model was critical to reaching agreement on the opt out provision and several other program elements. The paid leave program resulting from the negotiation process represented a solution that wasn’t “one-size-fits-all” for just any state but was designed with the needs of the Commonwealth’s employers and employees in mind.

### **“As Good as We Could Get”: Reaching an Acceptable Compromise**

The plan that emerged from the negotiation process was considered one of the most generous in the country. Still, some from the business lobby, while accepting of the negotiated outcome, confirmed that the outcome

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was largely influenced by the advantageous position of paid leave advocates given the pending ballot measure. Following the compromise reached by the paid leave working group in late spring 2018, a broader set of negotiations addressing additional employment issues took place. Final negotiations on the legislative package took place in June 2018 and reflected agreement on the paid leave program, minimum wage, sales tax holiday, and Sunday and holiday (time and a half) wages.

### **“Getting to Yes”**

Making paid family and medical leave a reality in Massachusetts

took a multi-faceted effort to achieve consensus on a feasible program. Broad and deep grassroots organizing, steadfast legislative leadership, good faith bargaining with many leverage points, and trusted data were critical elements. Within the context of strong public support for paid leave and a looming ballot measure, members of the advocacy and business communities worked collaboratively to overcome preconceived notions and wrestled with contentious elements to land a compromise. Finally, ensuring that deliberations were conducted outside of the media and having those at the table trusted by their fellow negotiators as well as the constituencies they represented also mattered. The process involved tradeoffs, particularly for business stakeholders, and the program is likely to undergo refinements as implementation proceeds. Nonetheless, the adoption of Massachusetts’ paid family and medical leave law demonstrates that strategic grassroots mobilization combined with strong legislative leadership and a commitment to sincere deliberation can make getting to yes not only possible but the preferred approach to addressing complex policy issues.

The full case study may be found at: [https://scholarworks.umb.edu/cwppp\\_pubs/62/](https://scholarworks.umb.edu/cwppp_pubs/62/)

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