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To: Members of the Assembly Labor Committee
From: Elissa Frank, NJBIA Vice President of Government Affairs
Date: November 30, 2023
RE: NJBIA Opposition to A-5166

On behalf of our member companies that make NJBIA the largest, most impactful association representing New Jersey businesses, I write to you in **opposition to Assembly Bill No. 5166** (Quijano/Reynolds-Jackson) which would extend unpaid and paid job-protected family leave to small businesses with as few as one employee. While the intent of A-5166 is laudable, NJBIA has concerns regarding this legislation's impact on small businesses and the increase in litigation costs.

This legislation acutely affects small businesses by requiring employers, no matter how few employees the employer has, to provide job-protected family leave. Currently, under the New Jersey Family Leave Act (FLA), employers with 30 or more employees are required to provide up to 12 weeks of unpaid, job-protected leave in a 24-month period to eligible employees. This legislation reduces, over time, the FLA's small business exemption threshold from 30 employees to one employee, thus requiring employers to provide unpaid, job-protected leave no matter how few employees the employer has. Additionally, this legislation extends the FLA's reinstatement rights to all recipients of Family Leave Insurance (FLI) benefits, requiring all employers to provide job reinstatement once the paid leave period has ended. The purpose of the Paid Family Leave Law is to provide for income substitution; it does not guarantee job reinstatement. Consequently, small businesses— many of which are not financially equipped to bear increased employee absenteeism – will likely experience higher labor costs occasioned by retaining and training employees to substitute for absent employees. This will make New Jersey unattractive for new businesses and impose further hardship on those already here.

Furthermore, this legislation will likely cause an increase in employee legal claims against their employer. Currently, the Paid Family Leave Law expressly states that an employee shall not have a common law cause of action against an employer based on its failure or refusal to restore an employee to employment after the period of paid family leave benefits expires. Nevertheless, this legislation unnecessarily changes the Paid Family Leave Law by requiring all employers to provide job reinstatement once the paid leave period has ended. As a result, employees who are denied reinstatement upon returning from a period of paid leave will have a common law right of action against their employer, and companies will bear the cost of defending those claims. These litigation costs can be unduly burdensome, especially for small businesses who may be unable to restore an employee to employment.

For these reasons, we respectfully request that you **vote NO on A-5166**. Thank you for taking our concerns and suggestions into consideration. If you have any questions or would like to further discuss this legislation, please do not hesitate to contact me at efrank@njbja.org.