

# One Paid Leave Policy to Rule Them All – Or Not

Joshua D. Seidman, Partner, Seyfarth Shaw

Marlin Duro-Martinez, Partner, Seyfarth Shaw

Renate M. Walker, Associate, Seyfarth Shaw

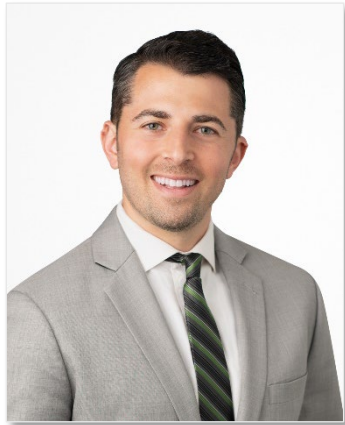


# Legal Disclaimer

This presentation has been prepared by Seyfarth Shaw LLP for informational purposes only. The material discussed during this webinar should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The content is intended for general information purposes only, and you are urged to consult a lawyer concerning your own situation and any specific legal questions you may have.



# Speakers



**Joshua D. Seidman**  
Seyfarth Shaw  
Partner  
New York Office  
[jseidman@seyfarth.com](mailto:jseidman@seyfarth.com)



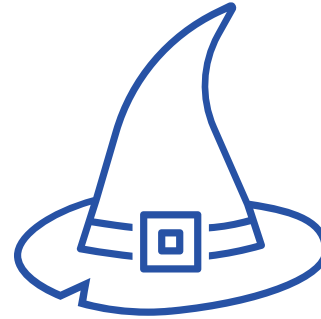
**Marlin Duro-Martinez**  
Seyfarth Shaw  
Partner  
New York Office  
[mduro-martinez@seyfarth.com](mailto:mduro-martinez@seyfarth.com)



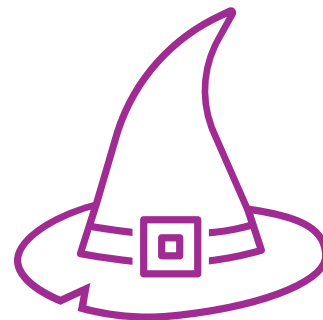
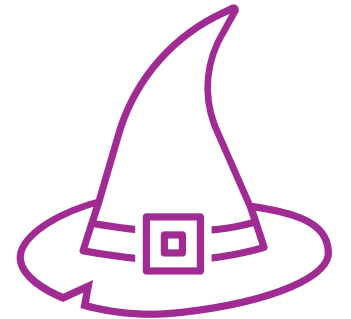
**Renate M. Walker**  
Seyfarth Shaw  
Associate  
Atlanta Office  
[rewalker@seyfarth.com](mailto:rewalker@seyfarth.com)



# Program Overview



- 1 National Overview
- 2 Multi-State Paid Sick Leave (PSL) Strategies
- 3 Multi-State Paid Family Medical Leave (PFML) Strategies
- 4 Final Thoughts
- 5 Questions



THE REALMS OF

PTO



PTO National PSL

and

PAID  
PRENATAL

PSL

PFML Overview

PTO/  
PSL

PFML

PFL



# Mandatory Paid Sick Leave (PSL) and PTO Laws

## Total Mandates

As of Feb. 2026:

**57 TOTAL PSL & PTO Mandates in the U.S.**

- **Why?** Several jurisdictions have enacted multiple mandates.

**Ex:** General PSL Law + COVID-19 Temporary PSL Law

**But number constantly changing due to COVID PSL laws + Sunset of Standard Laws.**

**As of Dec. 2020: Approx. 69 TOTAL Mandates in U.S.**

## Federal

### Executive Order 13706

PSL for many EEs of certain federal contractors

### Families First Coronavirus Response Act

Emergency PSL for EEs of certain sized ERs (**sunset** as of 12/31/2020; reimbursement for voluntary leave option for select ERs **ended** 9/30/2021)

## 21 States + DC

### PSL:

- AK (7/1/25)
- AZ
- CA (1/1/26 amendment)
- CO
- CT (1/1/25 amendment)
- DC
- MD
- MA (11/21/24 amendment)
- MI (2/21/25 amendment)
- MN (7/1/25 + 1/1/26 amendments)
- NE (10/1/25)
- NJ
- NM
- NY (1/1/25 amendment)
- OR (9/28/25 + 1/1/26 amendments)
- RI
- VT
- VA
- WA (7/27/25 + 1/1/26 amendments)

### PTO:

- IL
- ME (9/24/25 amendment)
- NV

## 25 Municipalities

(1) San Francisco, CA; (2) Seattle, WA; (3) Long Beach, CA; (4) SeaTac, WA; (5) New York City, NY; (6) Los Angeles City, CA; (7) Oakland, CA; (8) Philadelphia, PA; (9) Tacoma, WA; (10) Emeryville, CA; (11) Montgomery County, MD; (12) Pittsburgh, PA; (13) Santa Monica, CA; (14) Minneapolis, MN; (15) San Diego, CA; (16) Chicago, IL (PTO/PSL); (17) Berkeley, CA; (18) Saint Paul, MN; (19) Cook County, IL (PTO); (20) Westchester County, NY; (21) Bernalillo County, NM (PTO); (22) Allegheny County, PA; (23) West Hollywood, CA (PTO); (24) Bloomington, MN; (25) Orland Park, IL (PTO)



# Paid Family Medical Leave Laws Overview

- Existing PFL / PFML Laws: **16 TOTAL LAWS**

- **14 States + DC**

- CA, CO, CT, DC, DE, MA, MD, MN, NH\*, NJ, NY, OR, RI, VT\*, & WA

- **1 Municipality**

- San Francisco, CA

- Note: This list does **not** include states that have added paid family leave as a class of insurance.
- Note: SDI laws exist in CA, HI, NJ, NY & RI
- Note: At least AL, AR, FL, KY, SC, TN, TX, VA added Family Leave Insurance as a class of insurance

\*State has instituted voluntary PFML program.



# Multi-State PSL Strategies



# One-Size-Fits-All PSL Policy Components

- **Generous Accrual Rate**
  - One hour of PSL for every 30 hours worked.
  - Hours paid vs. Hours worked.
  - Chicago
- **Unlimited Accrual**
  - Employees accrue PSL on all hours worked with no cap.
- **No Cap on Year-End Carryover**
  - All accrued, unused PSL carries over from year to year, with no forfeiture.
- **No Cap on Annual Use**
  - Employees may use all available PSL – includes both accrued and carried over.
- **Must Meet Most Generous Substantive Components of All PSL / PTO Laws**
  - Reasons for use, covered family members, increments of use, treatment of new hires, notice, documentation, rate of pay, etc.



# One-Size-Fits-All PSL Policy Pitfalls

- Windfalls to Employees in PSL and non-PSL Locations
  - Unlimited accrual, usage, & carryover creates a huge windfall for many workers. This includes **both** those in PSL locations with less generous laws **and** those in non-PSL locations that don't require PSL at all.
- Potential for Employee Abuse
  - Large balances of protected time off can lead to abuse of sick leave rights.
- Administratively Burdensome
  - Employers struggle with non-policy obligations like recordkeeping & balance notification.



# One-Size-Fits-All PSL Policy Pitfalls

- **Uncertain Future PSL Laws**
  - A PSL policy drafted today may or may not meet future legal obligations.
- **PTO Law Compliance Considerations**
  - A PSL policy is insufficient to satisfy mandatory PTO laws.
- **Still not 100% Compliant**
  - Certain PSL laws have contradictory requirements



# Alternative PSL Policy Set-Up Options

- One-Size-Fits-Most
  - Applies to the majority of an employer's workforce.
  - Addenda for outlier locations.
- Location by Location
  - Separate PSL policies for each PSL location, providing only what is legally required for each site.
- PSL Policy Groupings
  - Maintain several PSL policies for different groups of employees.
  - Separated by geographic region or by PSL law commonalities.



# Additional PSL Policy Considerations

- PSL vs. Universal PTO
  - If using universal PTO, must consider impact of vacation time no forfeiture laws (restrictions on year-end forfeiture, payout upon separation, etc.).
  - Some PSL laws have more generous standards (e.g., MN, NJ, Seattle, etc.).
- Impact of State Kin Care Laws
  - Can create unlimited usage caps, expand family member definition, etc..
- Frontloading vs. Accrual
  - Accrue **vs.** Frontload
  - Single **vs.** Tiered – e.g., one accrual cap / frontload amount **vs.** tiered for different groups of workers (typically based on job classification and/or seniority).
- Different Treatment for Different Employee Groups
- System Capabilities



# Case Study: XYZ Company

- XYZ has largely been overlooking state and local PSL laws. Workers have raised questions and XYZ wants to develop a PSL compliant approach.
- Employee headcount data is provided on next slide.
- Transition Considerations:
  - What happens to the old policy / setup and existing PSL/PTO/vacation balances?
  - Timing of transition—end of year or mid-year?
    - Notice to employees?
  - HRIS/Payroll systems limitations?
  - Employee communications?
  - Other supporting materials (i.e., training; FAQs; etc.)?



# XYZ Company Employee Headcount by Location

PSL Location	Employees	PSL Location	Employees
Alaska - State	15	Minnesota - State	92
Arizona - State	100	Nebraska - State	88
California - State	256	Nevada - State	14
California - Los Angeles	10	New Jersey - State	52
California - San Francisco	22	New York - State	45
Colorado - State	75	New York – New York City	12
Florida - State	216	Ohio - State	67
Illinois - State	207	Pennsylvania - Allegheny County	178
Illinois - Chicago	207	Pennsylvania - Pittsburgh	12
Maine - State	8	Rhode Island - State	94
Maryland – State	71	Washington - State	99
Maryland – Montgomery County	71	Washington - Seattle	27



# XYZ Company Applicable PSL / PTO Laws

PSL Location	Employees	PSL Location	Employees
Alaska - State	15	Minnesota - State	92
Arizona - State	100	Nebraska - State	88
California - State	256	<del>Nevada - State</del>	<del>14</del>
California - Los Angeles	10	New Jersey - State	52
California - San Francisco	22	New York - State	45
Colorado - State	75	New York - New York City	12
<del>Florida - State</del>	<del>216</del>	<del>Ohio - State</del>	<del>67</del>
<del>Illinois - State</del>	<del>207</del>	Pennsylvania - Allegheny County	178
Illinois - Chicago	207	Pennsylvania - Pittsburgh	12
<del>Maine - State</del>	<del>8</del>	Rhode Island - State	94
Maryland - State	71	Washington - State	99
Maryland - Montgomery County	71	Washington - Seattle	27



# XYZ Company PSL Setup

- Frontloading Policy by Tiers (based on applicable PSL laws):
  - Tier 1 – 40 hours
  - Tier 2 – 56 hours
  - Tier 3 - Outliers
- Easy Programming
- Easy for Employees to Understand
- Eliminates Year-end Carryover in Some (but not all) Locations



# XYZ Company Frontloading Tiers

- Tier 1 – 40 hours:
  - AZ; CA (state); FL; GA; ME; NJ; NV; OH; Allegheny County, PA; RI
- Tier 2 – 56 hours:
  - AK; CO; Montgomery County, MD; NE; NY (state); NYC
- Tier 3 – Outliers:
  - Los Angeles, CA – 72-hour quasi carryover + bump up
  - San Francisco, CA – frontload treated as advance on accrual
  - Chicago, IL – 40 hours PSL + 40 hours PTO
  - MN – 80 hours
  - Pittsburgh, PA – 72 hours
  - WA (including Seattle) – frontload treated as advance on accrual



# XYZ Company Additional Decision Points

- Usage Caps
- Year-End Carryover
- Written Policy Requirements
- Notice in Employee Handbook Requirements
- Increments of Use
- Waiting Period
- Reasons for Use & Family Members
- Notice & Documentation
- Balance Payout / Reinstatement Upon Rehire
- Attendance and Punctuality
- Non-Policy Requirements – Rate of Pay; Notice / Posting; Balance Notification; Recordkeeping; etc.
- Coordination with Other Company Policies / Applicable Law(s)



# Multi-State PFML Strategies



# PFML – Is One-Size-Fits-All Possible?

- Some PFML laws do **not** include private plan options (i.e., state run only):
  - DC
  - RI
- Private plan standards are distinct and varied:
  - Self-Insured **vs.** Fully Insured
  - Substantive AND Administrative Requirements
  - Substantive Standards
    - Generally, must confer **all of the same rights and benefits** to employees as are provided under the applicable law.
    - Eligibility
    - Reasons for Use / Family Members
    - Amount of Leave / Intermittent Leave
    - Benefit Amounts
    - Funding Mechanisms and Contribution Amounts



# Key Differences in PFML Laws - Eligibility

- PFML eligibility is generally tied to earning a minimum amount of covered wages during a base period or alternative base period.
- Some states have additional eligibility criteria. For example:
  - **DE** – must have been employed by current employer for at least 12 months and completed 1,250 hours of service during previous 12-month period.
  - **MD** – must have worked at least 680 hours over 12-month period immediately preceding “anchor date” (the earlier of the date on which an application for benefits is completed or leave begins).
  - **NY** – must work 20+ hours per week and be employed by a covered employer for at least 26 weeks before leave begins, or if working fewer than 20 hours per week, become eligible after 175 workdays.



# Key Differences in PFML Laws – Reasons for Use

- PFML laws cover leave to care for a family member with a serious health condition and baby bonding.
- Some (not all) include employee medical.
- Additional covered reasons vary by law. For example:
  - Safe Leave
  - Military Exigency
  - Injured Service Member
  - Organ / Bone Marrow Donation
  - Bereavement
  - Public Health Emergency
  - Additional Leave for Pregnancy / Prenatal Care
  - NICU Leave



# Key Differences in PFML Laws – Family Members

- Federal FMLA covers spouse, parent, & child.
- Most PFML laws are broader. For example:
  - Grandparents
  - Grandchildren
  - Siblings
  - In-Laws
  - Domestic Partners
  - Family-Like Relationships
  - Household Members (for certain absences)
  - Dating Relationships (for certain absences)
  - Designated Person (coming to California PFL 7/1/2028)



# Key Differences in PFML Laws – Amount of Leave / Intermittent Leave

- Length of leave / wage replacement benefits varies from 6 weeks to 52 weeks.
- Some states increase amounts for leave related to specific type of absence (e.g., pregnancy complications; NICU care; etc.).
- Some states place separate limits on different types of leave (e.g., family leave **vs.** medical leave) and/or cap the aggregate amount of leave of all types
- Intermittent Leave
  - Increments vary; partial days may or may not be allowed.
  - Some PFML laws allow EE to unilaterally decide to take intermittent leave for baby bonding.



# Key Differences in PFML Laws – Benefit Amounts

- Wage replacement calculations vary
  - Flat rate regardless of income
    - Ex. New York 67% (\$1228 max in 2026)
  - Progressive/sliding scale depending on income
    - Ex. California: 60-70% (\$1765 max in 2026)
    - Ex. Colorado: 50-90% replacement rate (\$1381 max in 2026)
    - Ex. Oregon up to 100% replacement rate (\$1636 through June 30, 2026)
- Wage replacement amounts vary greatly: \$900 DE to \$1765 CA\*
- For most jurisdictions, replacement wages are capped based on state average weekly wage, which changes each year.
  - Jurisdictions vary in when the adjusted replacement rate goes into effect (e.g. New York January 1 **vs.** Oregon July 1)



# Key Differences in PFML Laws – Funding Mechanisms and Contribution Amounts

- Funding methods
  - **Employee only:** CA, CT, NJ, NY, RI
    - **Note:** For CA, NJ, NY and RI – Distinctions may exist for PFL **vs.** Statutory Disability Insurance
  - **Employer only:** DC
  - **Shared contributions:** CO, DE, ME, MD, MA, MN, OR, WA
- Contribution amounts vary from approximately 0.4% to approximately 1.1% of employee wages, up to a cap.
  - NJ \$393.53 cap in 2026
  - WA \$2,084.85 (based on 1.13% rate and SS cap of \$184,500 in 2026)



# Administrative Considerations

- **Examples of Private Plan Administrative Requirements:**
  - Security deposit and separate bank account required
  - Employee contributions must be held in trust
  - Majority of employees must agree to private plan
  - Provide proof of solvency to the state
  - Application fees
  - Regular reports to the state required
  - State audits of claims required
  - Plan must include a review and appeal process
  - Plan must be approved by the state and approval renewed on a specified regular basis



# Final Thoughts



# Still want a one-size-fits-all??

There are many factors that impact how to setup a national / multi-state PTO policy and/or statutory paid leave compliance plan. Nonexclusive examples include:

- Employee headcount
- Nature of workforce
- Culture
- Employee relations
- Employee retention
- Systems limitations
- HR team capabilities
- Legal compliance
- Risk tolerance
- Financial cost (both in terms of employee use **and** purchasing a private plan)
- Benchmarking / Competitors



# Seyfarth Paid Leave Resources

If you're struggling with or have questions about the country's Paid Leave "Patchwork" here are some ways Seyfarth can help:

**(A) PSL & PFML Surveys:** Seyfarth maintains *comprehensive PSL & PFML surveys* breaking down the specific requirements of *each* existing state and local PSL & PFML law.

For more information contact: [paidleave@seyfarth.com](mailto:paidleave@seyfarth.com)

**(B) Paid Leave Mailing List:** Seyfarth regularly publishes Legal Updates and Blog Posts on PSL/PFML and other paid leave law developments.

**You can sign up here:**

<https://communication.seyfarth.com/9/7/landing-pages/subscription.asp>



# Seyfarth Paid Leave Resources (continued)

**(C) Webinar Series – Guidance on PSL & PFML:** Seyfarth hosts two separate webinar series—one on PSL and the other on PFML.

**(D) “Take It or Leave It” Podcast:** In late 2021, Seyfarth launched a podcast focused exclusively on workplace leaves, absence management, and accommodations. 45 episodes streaming on Spotify, SoundCloud, and Apple Podcasts, and available on Seyfarth’s website.

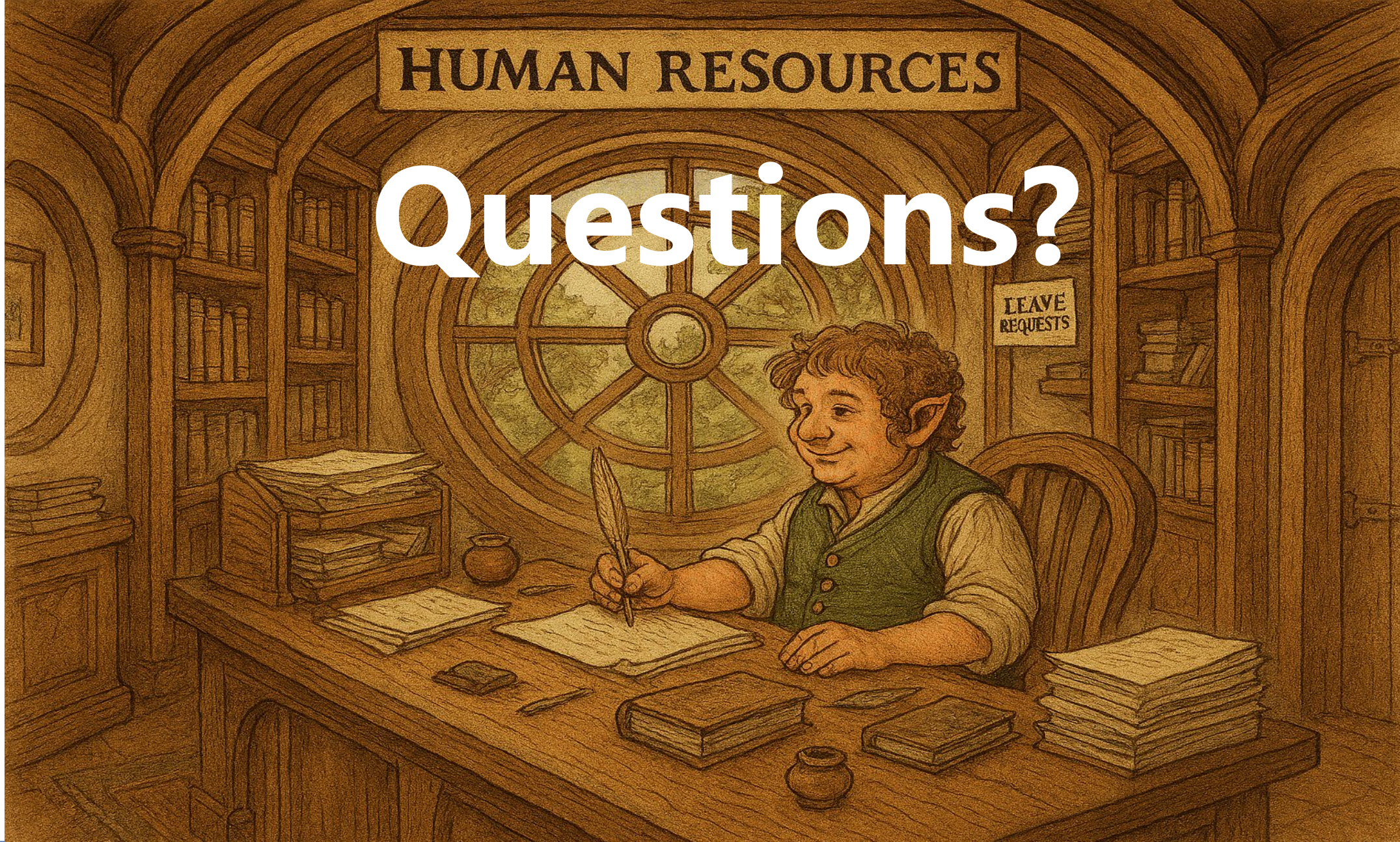
**More info at:**

<https://www.seyfarth.com/trends/take-it-or-leave-it-podcast.html>



HUMAN RESOURCES

# Questions?



# Thank You!



**For more information please contact:**

**Joshua D. Seidman**

Email: [jseidman@seyfarth.com](mailto:jseidman@seyfarth.com)

**Marlin Duro-Martinez**

Email: [mduro-martinez@seyfarth.com](mailto:mduro-martinez@seyfarth.com)

**Renate M. Walker**

Email: [rewalker@seyfarth.com](mailto:rewalker@seyfarth.com)

