

BETTER LATE THAN NEVER: LABOR AND EMPLOYMENT EFFECTS OF THE STATE BUDGET “IMPLEMENTER”

Working Together

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By Mark Sommaruga

While several bills were enacted earlier this year affecting Connecticut employers (see our post on them here), the 2017 regular session of the Connecticut General Assembly was not the final word. Due to the lack of a budget, the General Assembly had to convene a “special session.” Finally, in late October, our long state nightmare was over, with a bipartisan budget enacted and signed by Governor Malloy.

Whenever a budget is enacted, the General Assembly must pass a bill to “implement” the budget” (i.e., the so-called “implementer”). This year’s implementer, which is 881 pages long, contains several provisions that will affect employers (primarily in the public sector). The following is a brief description of labor and employment provisions in the implementer.

RETIREMENT AND PENSION ISSUES

Out of concern over the State’s mammoth pension liabilities, the General Assembly sought at least to give lip service to addressing this long term issue. In this spirit, **Section 109** of the implementer requires the Office of Policy and Management (“OPM”) to annually report a stress test analysis for the teachers’ and state employees’ retirement systems. **Section 180** creates the “Connecticut Pension Sustainability Commission”; **Section 59** establishes the “Teacher Retirement System Viability Commission” for the purpose of developing and implementing a plan to maintain the System’s financial viability. Of greater substance and practical effect, **Section 559** increases the contributions of public school teachers into the Teacher Retirement System by 1% (commencing in 2018).

WORKERS COMPENSATION

In the same spirit of at least attempting to achieve longer term cost savings (and address issues that affect Connecticut’s competitiveness), **Section 179** of the implementer requires the Office of Policy and Management and the Department of Administrative Services to recommend ways to reduce workers’ compensation costs.

pullcom.com  @pullmancomley

BRIDGEPORT
203.330.2000

HARTFORD
860.424.4300

SPRINGFIELD
413.314.6160

WAKEFIELD
401-360-1533

WATERBURY
203.573.9700

WESTPORT
203.254.5000

WHITE PLAINS
914.705.5355

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COLLECTIVE BARGAINING: MUNICIPAL EMPLOYEES

In this time of reduced aid, the State had to at least consider providing some mandate relief (and potential costs savings) for municipalities. **Section 158** of the implementer establishes an irrebuttable presumption that 15% of a municipality's budget reserve cannot be used to pay for arbitration awards under the Municipal Employee Relations Act (“MERA”). However, a proposal to revise the “last best offer” system of arbitration by allowing arbitrators the flexibility to issue a ruling different from either party’s last best offer did not make it into the final version of the implementer bill.

Sections 349 through 376 of the implementer describe a process by which financially distressed municipalities may submit to state oversight (via the “Municipal Accountability Review Board”) in exchange for being able to access additional state financial assistance and use existing statutory debt financing tools. In turn, the Municipal Accountability Review Board will be given the same power as the municipality’s legislative body in the collective bargaining approval, rejection, and arbitration process.

COLLECTIVE BARGAINING/TERMS OF EMPLOYMENT FOR STATE EMPLOYEES

The terms and conditions of employment of state employees have been a hot button issue. The State is required to negotiate state employee pension and healthcare benefits with a coalition committee that represents all unionized state employees (i.e., the State Employee Bargaining Agent Coalition or “SEBAC”). **Section 218** of the implementer will limit all future agreements with SEBAC to four-year terms. **Section 332** will require the General Assembly to affirmatively vote to approve (as opposed to approving by inaction) state employee collective bargaining agreements and arbitration awards; it will also establish caps on the time allowed for the legislature to debate the approval (or rejection) of collective bargaining agreements and will require arbitration (as opposed to further negotiation) after the legislature rejects an agreement or award.

Section 643 will allow state employees to take seven days of paid leave for donating bone marrow, and 15 days of paid leave for organ donations. This is in addition to other authorized leave.

PAY FOR ARBITRATORS

Section 209 of the implementer increases the additional fee an arbitrator for the State Board of Mediation and Arbitration receives for writing the arbitration panel’s decision from \$175 to \$500.

PREVAILING WAGE

After years of discussion, there will finally be some long sought modification of the “prevailing wage” statute, which mandates the wage rates (and/or benefits) that contractors working on public works and municipal construction projects must provide to their employees. **Sections 566 and 567** of the implementer increase

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the prevailing wage law thresholds for public works and municipal construction projects from \$400,000 to \$1 million for “new construction”; the bill also temporarily exempts certain projects in a certain New Haven County city (Derby) from prevailing wage requirements. Conversely, the implementer will apply prevailing wage requirements to certain Department of Economic and Community Development (“DECD”) funded projects (i.e., those projects receiving at least \$1 million in DECD assistance).

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