

Latest Developments from the Connecticut General Assembly: The Labor and Public Employees Committee Has Spoken

Education Law Notes

04.12.2017

By Mark Sommaruga

We earlier had written on *Working Together* about the proposed bills that the General Assembly's **Labor and Public Employees Committee** voted favorably on and advanced out of committee at its February 21, 2017 and March 2, 2017 meetings. On March 9th, the Committee acted just ahead of its March 14, 2017 deadline and approved the following bills:

LEAVES OF ABSENCES AND ACCOMMODATIONS

S.B. No. 1 AN ACT CONCERNING EARNED FAMILY AND MEDICAL LEAVE. **This bill would provide paid family and medical leave benefits to eligible employees and also make other changes to the state's Family Medical Leave Act ["FMLA"]**. Specifically, this bill would create a "Family and Medical Leave Compensation Program" that will offer up to 12 workweeks of family and medical leave compensation to covered employees during any 12 month period. The Program will be funded by employee contributions to the Family and Medical Leave Compensation Trust Fund, to be collected on or before July 1, 2019, and would begin to provide compensation to employees on and after July 1, 2020. This bill also a) extends the applicability of the **state's FMLA** to municipalities, school districts, private schools, and **all employers with at least two employees**, b) changes the state FMLA's minimum eligibility requirement for employees from having to work at least 12 months for the current employer, and at least 1000 hours during the previous 12 months, to having merely to earn \$2,375 from one or more employers during the employee's highest earning quarter during the previous five quarters, c) aligns the maximum amount of leave for the state FMLA with the federal FMLA requirement (i.e., 12 weeks of leave during any 12 month period), d) adds siblings, grandparents, and grandchildren to the list of family members for whom an employee can take FMLA "caregiver" leave, and d) eliminates an employer's ability to require an employee taking FMLA leave to use his or her employer-provided paid leave.

H.B. No. 6212 AN ACT CONCERNING EARNED FAMILY AND MEDICAL LEAVE. This bill is substantially similar to S.B. No. 1, above

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

Latest Developments from the Connecticut General Assembly: The Labor and Public Employees Committee Has Spoken

H.B. No. 6668 AN ACT CONCERNING PREGNANT WOMEN IN THE WORKPLACE. This bill would expand the non-discrimination protections and accommodations employers must make for pregnant employees. The bill would expand the pregnancy discrimination/ accommodations protections to include lactation. The bill lists specific “reasonable accommodations” an employer may be obligated to provide (assuming the employer cannot establish an “undue hardship”) including being permitted to sit while working, more frequent or longer breaks, periodic rest, assistance with manual labor, job restructuring, light duty assignments, modified work schedules, temporary transfers to less strenuous or hazardous work, time off to recover from childbirth, or break time and appropriate facilities for expressing breast milk. The bill also explicitly prohibits employers from: 1) denying employment opportunities to an employee or person seeking employment due to the employee's request for a reasonable accommodation due to her pregnancy; 2) forcing an employee or person seeking employment affected by pregnancy to accept a reasonable accommodation if the employee or person seeking employment does not have a known limitation related to her pregnancy, or does not require a reasonable accommodation to perform the essential duties related to her employment; 3) requiring an employee to take a leave of absence if a reasonable accommodation can be provided in lieu of such leave; and 4) retaliating against an employee in the terms, conditions or privileges of her employment based upon such employee's request for a reasonable accommodation.

WAGE/HOUR

S.B. No. 747 AN ACT PROHIBITING "ON-CALL" SHIFT SCHEDULING FOR EMPLOYEES. This bill would require employers to provide to their employees (and post in a conspicuous place) a work schedule 21 days in advance of the first day on the schedule, and provide at least 24 hours prior notice of any changes in the schedule. This bill would prohibit employers from requiring an employee a) to work shifts not included in the work schedule without the employee’s written consent, and b) to search for or identify a replacement employee to cover any hours during which an employee is unable to work a scheduled shift. The bill also provides for payment of additional “predictability pay” to employees whenever an employer deviates from the schedule, with payment of one hour of such pay for changes taking place less than 21 days prior to the commencement of the shift, and four hours of such pay if the change occurs less than 24 hours prior to the start of the shift. The bill prohibits employers from requiring an employee to work a shift that a) begins within 11 hours after the end of a previous shift, or b) follows the end of a shift that began prior to midnight and ended after midnight on consecutive days; an employee would then have to be paid 1.5 times his/her regular rate for any shift so worked. This bill does not apply to any shift changes made at the request of an employee, and does not override any contract, collective bargaining agreement or benefit plan providing policies that are more “beneficial” to the employee.

H.B. No. 6914 AN ACT CONCERNING A MINIMUM WORKWEEK FOR PERSONS PERFORMING JANITORIAL OR BUILDING MAINTENANCE SERVICES. This bill would mandate a minimum workweek of 30 hours for individuals who perform janitorial or building maintenance services at certain “covered locations” which

Latest Developments from the Connecticut General Assembly: The Labor and Public Employees Committee Has Spoken

include 1) a covered office location having an area of not less than 100,000 square feet, 2) a private or public institution of higher education, or 3) a museum, except where the janitorial contract for that location is intended to create work opportunities for people with disabilities.

MUNICIPAL AND POLICE

S.B. No. 746 AN ACT AMENDING THE MUNICIPAL EMPLOYMENT RETIREMENT SYSTEM FOR NEWLY HIRED EMPLOYEES. This bill would exempt overtime payments from the calculation of pensions offered via the Municipal Employees Retirement System for employees hired after the bill's enactment.

H.B. No. 5445 AN ACT CONCERNING MUNICIPAL BUDGET RESERVE BALANCES. This bill would provide that when assessing a municipality's "ability to pay" during binding interest arbitration proceedings under the Municipal Employee Relations Act, there shall be an irrebuttable presumption that a budget reserve of 15% is not available for payment of the cost of any item subject to arbitration.

H.B. No. 6913 AN ACT CONCERNING MUNICIPAL CONSTRUCTION PROJECTS. This bill would prohibit a legislative body of a municipality from approving any new municipal construction project for which the estimated cost is greater than 25 million dollars unless there has first been the opportunity for public comment on the project at a properly noticed public hearing.

H.B. No. 6663 AN ACT CONCERNING POLICE MISCONDUCT. This bill would expand the obligation of employing law enforcement agencies to provide all relevant information when there is an investigation by the Division of Criminal Justice of a police officer concerning the use of physical force. The bill further provides that if the Division determines that the use of physical force was not appropriate, the officer shall immediately be suspended without pay by the appropriate law enforcement agency until the conclusion of any further proceedings involving the incident. This bill also provides that if any officer is convicted of or pleads guilty or nolo contendere to the inappropriate use of physical force or a crime of violence involving the unlawful use or threatened use of physical force related to such officer's employment, the employing law enforcement agency must immediately terminate the officer's employment. This bill would prohibit any collective bargaining agreement provision entered into on or after July 1, 2017 from containing any provisions that contradict these new requirements.

H.B. No. 6662 AN ACT CONCERNING THE REVOCATION OF PENSIONS OF POLICE OFFICERS WHO COMMIT ANY CRIME RELATED TO EMPLOYMENT. This bill would enable the Attorney General's office to petition the court to seek the revocation of pension benefits for police officers who commit any crimes related to the inappropriate use of physical force. The bill also provides that an officer shall be immediately suspended without pay upon the commencement of an investigation of whether the officer's use of physical force was appropriate. The bill further provides that if the Attorney General applies to the Superior Court for an order to revoke or reduce the pension of the officer, the suspension without pay shall continue until a determination

Latest Developments from the Connecticut General Assembly: The Labor and Public Employees Committee Has Spoken

has been made by the Court concerning the pension.

WORKERS' COMPENSATION

H.B. No. 6666 AN ACT EXPANDING REMEDIES AND POTENTIAL LIABILITY FOR UNREASONABLY CONTESTED OR DELAYED WORKERS' COMPENSATION CLAIMS. This bill would permit a workers' compensation claimant to bring an action against an employer or insurer who has "unreasonably" contested liability or delayed payments or adjustment of such compensation.

S.B. No. 376 AN ACT AUGMENTING THE FEE SCHEDULE FOR RADIOLOGY SERVICES UNDER THE WORKERS' COMPENSATION STATUTES. This bill would increase the Workers' Compensation Commission's fee schedule for certain radiology services by 15%.

UNEMPLOYMENT COMPENSATION

H.B. No. 6461 AN ACT CONCERNING UNEMPLOYMENT COMPENSATION. This bill would revise the base period for determining the benefit rate for unemployment compensation. (from the highest quarter to the average of three quarters). This bill also provides that the maximum benefit rate shall not increase in any benefit year if the Unemployment Trust Fund is less than 70% solvent. Finally, this bill would revise the disqualification for receiving unemployment compensation benefits during the period that an employee is receiving severance pay so as to end the exemption for payments linked to an employee's waiver of claims against the employer.

H.B. No. 6907 AN ACT CONCERNING THE INTERSTATE PASSENGER CARRIER LAW. This bill would amend the unemployment compensation statutes to exempt the relationship between multi-passenger carriers and contractors under intrastate and interstate passenger carrier permits from the definition of "employee".

TASK FORCES AND STUDIES

H.B. No. 5590 AN ACT CREATING A TASK FORCE TO IMPROVE THE WORKFORCE DEVELOPMENT SYSTEM IN THE STATE OF CONNECTICUT. As the title suggests, this bill would establish a task force to study the effectiveness, impact, and cohesiveness of workforce development programs and initiatives in the state.

S.B. No. 723 AN ACT CONCERNING APPRENTICESHIP COSTS. This bill as amended would require a study by the State of the impact that apprenticeship costs have on small businesses.

H.B. No. 6219 AN ACT CONCERNING COMMUNITY REENTRY BY PERSONS WHO WERE INCARCERATED. This bill would require the state's Commission on Equity and Opportunity to study and recommend ways to provide 1) persons recently released from correctional facilities with enhanced employment opportunities, and 2) tax incentives to employers who provide employment opportunities to persons recently released from

Latest Developments from the Connecticut General Assembly: The Labor and Public Employees Committee Has Spoken

correctional facilities.

H.B. No. 6398 AN ACT CONCERNING OCCUPATIONAL LICENSING AND PERSONS WITH CRIMINAL HISTORIES. This bill would require executive agency personnel to review occupational licensing issuance criteria regarding the issuance of such licenses to persons with criminal histories.

PLEASE NOTE: Bills affecting labor and employment issues may also emerge from other committees (such as the Judiciary Committee). The 2017 session of the General Assembly is scheduled to adjourn on June 7, 2017, so stay tuned to see if any of the above bills are enacted.

Posted in CT General Assembly (CGA), Discrimination, Leave, Municipalities, State Legislation, Termination

Tags: CGA Labor and Public Employees Committee, Employee Relations, Minimum Wage