

From: Cheney, Thomas S [Thomas.S.Cheney@vermont.gov]
Sent: Wednesday, January 20, 2016 1:29 PM
To: Dudley, Jahala; Pepper, James
CC: Spellman, Maribeth
Subject: RE: H. 187 in Senate Economic Development

Day 2 Summary:

Testimony from stakeholders continued. Major issues raised were the impact on Davis Bacon, the question of whether out of state contractors would have to comply with law, and how high schoolers/part-time/seasonal/state workers should be treated. It is likely that all of these issues will come up in some fashion during a mark-up. Department of Labor will be brought in to discuss the first two issues (I gave Matt Hill a heads up). I suspect a vote will not be possible tomorrow as schedule, however, it was not discussed either way.

Pepper, we'll discuss the major moving pieces in greater detail when we get on the phone at 4:30.

From: Cheney, Thomas S
Sent: Tuesday, January 19, 2016 4:42 PM
To: Dudley, Jahala <Jahala.Dudley@vermont.gov>; Pepper, James <James.Pepper@vermont.gov>
Cc: Spellman, Maribeth <Maribeth.Spellman@vermont.gov>
Subject: H. 187 in Senate Economic Development

Testimony on H. 187

Senate Economic Development, Housing and General Affairs (Rm 11)

Tuesday, January 19, 2016

Summary:

Damien Leonard of Legislative Council walked through the bill as passed the House. Senator Mullin was very prepared and drove the discussion, largely asking questions that appeared to be skeptical of the bill. Senator Baruth was the counterweight. Businesses from both sides were represented. The proponents appeared to be better prepared and have more solid arguments.

Tomorrow at 8:30 am Legislative Council will do a comparison of the bill with Senator Baruth's bill from last year and dive into more committee questions (which were cut off today to get stakeholder testimony). Additionally more advocates are slated to testify.

Details:

Specific concerns (raised by Senator Mullin unless otherwise noted):

- Why are part time, seasonal, and state workers were exempt. He used the example of a long-time committee assistant who would receive no benefits.
- High school students would qualify for paid leave

- Provision that allows employers to use leave in the smallest increments permitted by employer's payroll system.
 - He believes that it may require the employer to find coverage for a larger period of time and possibly have overlapping employees, adding additional cost.
 - Senator Baruth raised a concern that an employer could manipulate the payroll system in a way that made it difficult to take time in small increments.
 - Legislative Council believes both concerns can be fixed easily.
- Someone working part-time, say 35 hours, accrues leave at the same rate as a full time employee.
- Is it a real benefit to employees if employers that currently offer vacation time can replace it with this through a combine time off policy?
- Doesn't like the option for an employer to offer a payout, nor does he like the annual accrual cap. He thinks the cap is an incentive to use the time before you lose it. Baruth: the payout provision preserves the right for the employer to provide an additional benefit by doing the payout, but it is not mandated.
- 12 month rehire without waiting period provision needs to be fixed. Currently it would allow an employee who came back within 12 months to skip the waiting period even if they had only worked for 7 months. Baruth raised it and said we could easily fix it.
- Baruth: what does "as soon as practicable" mean in regards to the need to inform the employer of a planned absence for routine medical care? And what is a "reasonable effort" regarding scheduling during off hours?

Caleb Magoon—Power Play Sports—in support. Didn't use to be. The House bill is good for business. It won't be overly burdensome. Probationary period is good, if not too generous. Making sure temp and seasonal aren't sucked into the bill...good to exclude them. Will help ski resorts and summer jobs. Must apply a universal standard on all employers...don't exclude employers based on number of employees. Didn't want to see a top down approach on how employers had to put this program in place. Employers can determine their own HR policies...ie need a doctor's note etc. Was opposed to minimum wage hike but not this...burden is much smaller.

Marc Sherman—Stowe Mercantile—Offers a generous compensation package: base wage \$11 per hour, \$12 after probation, more for weekend work; shared pool if revenues beat projections; 3 days initially off, 5 years after; but they have eliminated paying health insurance.

Baruth—You offer it and most business do. So why oppose?

Sherman—More mandates mean employees get rid of other benefits and incentives. Also Federal DOL overtime rules are changing. Our business is way off due to horrible ski season.

Asks to make the bill better:

- exemption for small business; 10 employees or less. Baruth: that would essentially render the bill meaningless.
- high school and full time college students should not be able to accrue time off. Baruth—why shouldn't a high school student be paid for when they are sick? We spend tremendous time and energy on training students for their first job. That is an investment we are making in them. And they call out the most. Baruth— but you could require a doctor's note. Marc—did not have an answer.
- Delay implementation—provided a list of other mandates including the new credit card machines
- Record keeping—the accrual and tabulating of hours; it's difficult.

Greg Marchildon—AARP—Strongly supports the bill. Highlighted the full bill title "health and safety." Come at it from the need to support elder family members.

Angela Earle-Gray—Chroma Technology—Supports the bill. Chroma provides 80 hours of employee sick leave. The right thing to do and a good hiring incentive. Would rather have sick employee home than at home making mistakes. Our reputation as an employer as well as our reputation as a state is what encourages folks to move to Vermont to take the job. The only impact to hourly jobs where you're bringing in someone to cover. Those jobs are typically cheap labor. I don't think it will drive an employer out of business. From an administrative standpoint, it will not be hard to implement. I am the only person who does HR for our business. She see the following as the only burdens:

- Put a policy in place--that doesn't take long.
- Set up an excel spreadsheet to track it. DOL could easily put up a tool to help.
- Doctors note, verification, attempt to schedule on off hours (with over 15 people you are already thinking of these with FMLA) are only necessary only if employer choses to do so.
- High school students: often seasonal temps and if not, they are earning a very small amount of leave time.

Shelie Richardson—Freedom Foods—Opposed to the bill. Would be a high financial cost. Over \$7000 in first year. Baruth—but you already offer time off you don't have to go above and beyond.

John Dubie—Pearl Street Beverage—Opposed to the bill. They have a hard time finding employees and put together a generous benefits package including 50 hrs CTO. Do not give part time employees any accrued time off. \$10.25 or \$10.50 is starting with \$11.25 average. They have a lot of call in time weekly. Christmas eve, 3 employees called in sick—2 of whom were not sick. Same with Easter Sunday and July 4th. So now they overstaff on Fridays and holidays and pay a shift differential of \$1 an hour. Younger employees call in sick a lot.

Baruth—but this bill wouldn't change the issue you have with people calling out.

Dubie—big cost is paying OT to cover call outs.

Baruth—requires doctors notes.

Dubie—don't have the time; could become a long, drawn out process. Hard to get employees to switch shifts. Please limit bill to 3 days or 24 hours and to full time employees only.