

VDOL Legislative Development Meeting

Date: 10/15/2015

Present: Annie Noonan, Chad Wawrzyniak, Dirk Anderson,

1. Revisions to H.306 – Unemployment Insurance (currently on the wall in Senate Finance)
 - a. Allowing VDOL to make good faith estimates as to wage info if employers fail to furnish
 - b. Employees cannot double dip into unemployment fund for days employer paid them sick leave
 - c. Give commissioner authority to determine whether employers' UI payments are reimbursable vs. taxable (Austine School Issue); Commissioner has authority to review elections but not explicit authority to terminate them
2. Wage and Hour law – stop work order
 - a. Give Commissioner authority to issue a stop work order for repeat offenders of wage violations who also willfully ignore payment orders from VDOL in a “continuous and ongoing” manner
3. Unemployment Insurance – notice requirements
 - a. Employer must give notice to potential new hires that they are exempt from unemployment insurance requirements
4. Taskforce on Misclassification
 - a. At the last meeting, labor proposed changes to 21 VSA 601:
 - i. Chatham decision fix: LLC member that filed for exclusion would not be considered a statutory employer of a general contractor
 - ii. Workers presumed to be employees; shift burden of proving worker is free from direction / control to hiring entity
 - iii. Soften “nature of the business” test → sole proprietor/LLP only has to show separate and distinct business (actively registered with SoS)
 - iv. Prohibit efforts to evade WC by classifying everyone as an independent sole proprietorship
 - b. Annie's read of the meeting was that labor, business, and AG looked favorably on these changes EXCEPT Mickenberg wants NO changes to “nature of the business”
5. Disclosure of Records
 - a. Employees (current and former) who discloses confidential information shall be subject to fines up to \$1k or imprisonment for up to 1 year
6. Update dollar thresholds for employer coverage liability
7. Right of entry
 - a. Labor currently has no ability to get a warrant to enter a business to investigate labor violations; this provision would add same warrant rights as VOSHA
8. Electronic filing requirement for Workers Comp
 - a. Currently all paper; running out of space
9. Workers' Comp compliance statement submission time limits

- a. Currently VDOL may fine employers \$5k per week for not submitting their compliance statements on time, but no definition of on-time
 - b. VDOL wants to clarify this to mean 30 days from time of request
- 10. Vocational Rehabilitation amendment
 - a. Cut out duplicative step one from current statute
 - b. This will cost budget \$20k but will greatly increase efficiency
- 11. Allow appointed members of Workforce Investment Board to send designee in their place
- 12. Minimum Wage / Tipped employee tweak
 - a. section currently enumerates employers who may pay their employees at $\frac{1}{2}$ minimum wage
 - b. Remove "tourist place" replace with "other business in which employees are customarily and regularly tipped"