

AGC: Paid Sick Leave Issue Summary
July 2014

Issue Evolution

Oregon Legislature

The Oregon business community's initial exposure to the paid sick leave proposal occurred during the 2013 legislative session when advocates introduced House Bill 3390, legislation mandating that employers provide employees paid sick leave.

House Bill 3390 failed to gain traction after several business associations including AOI, the Oregon Restaurant and Lodging Association (ORLA), and the Northwest Grocery Association (NWGA), objected to the concept as an unnecessary, costly and burdensome mandate.

As often is the case when a bill dies, an informal workgroup, co-chaired by Sen. Elizabeth Steiner-Hayward, D-NW Portland/Beaverton, and Rep. Jessica Vega-Pederson, D-Portland, emerged during the interim with an eye toward preparing legislation for the 2014 legislative session. The workgroup, which included sick leave advocate groups, the building trades, BOLI, AFL-CIO, local governments, the Farm Bureau, AOI, ABC, OHBA, NWGA, Oregon Association of Hospitals and Health Systems (OAHHS), the Oregon Nurses Association, ORLA, AGC and others, stalled after it became clear there was no path toward consensus. As a result, the co-chairs opted against introducing legislation for the short 2014 session.

Local Government Activity: Additional Local Sick Leave Ordinances?

Notwithstanding AGC's opposition along with a wide array of business interests, the City of Portland adopted a sick leave ordinance that went into effect January 1, 2014.

In order to mitigate impact on AGC members, AGC staff worked with legal counsel to provide AGC members technical assistance materials and seminars concerning how to prepare for and comply with the Portland ordinance. By most estimations, both within the commercial construction sector and in the broader Portland business community, the Portland sick leave ordinance is costly, creates compliance and reporting nightmares, and tends to punish those businesses that are already in compliance with the spirit of the law.

Now, other municipalities are considering adopting a similar ordinance. For example, Eugene is poised to approve a sick leave ordinance later this summer. By contrast, the Lane County adopted a set of defensive ordinances that may lead to litigation with the City of Eugene should Eugene ultimately adopt a sick

leave law. Corvallis and Ashland are not as far along in their discussions, but it is reported that they too are contemplating the topic.

Complying with a patchwork of incongruent local ordinances is all but impossible. Imagine a truck driver passing through Portland, Eugene and Ashland all the while having to keep track of the time they spent within city limits.

As a result, some stakeholders are resurrecting the notion a statewide bill that would preempt local governments from enforcing existing ordinances or approving new sick leave laws. Indeed, reportedly even the City of Portland may be willing to support a local preemption in order to help pass a statewide legislative concept in 2015. ORLA is also working on a concept.

Politics

While a statewide standard may have some appeal, particularly to businesses operating in municipalities such as Portland and Eugene, there is little understanding of how to pave a political path forward.

External

External stakeholders are all over the map. The sick leave advocates oppose state preemption of local ordinances because they want municipalities to have the flexibility to impose more stringent sick leave standards. Public and private unions support paid sick leave, but the building trades want to be excluded from operation of the law where a collective bargaining agreement is in place that includes a vacation bank for union employees.

Even within the business community there is lack of consensus. That is a reflection of that fact that each industry is unique and a one-size-fits-all approach is insufficient. A commission-based compensation employee is dramatically different from a grocer's produce delivery truck driver or a restaurant waiter that works off tips and less than a traditional eight-hour day. As a result, the solutions each organization contemplates are incongruent.

History suggests that when the business community is divided, it is very difficult to defeat a legislative concept when labor is unified. This fact makes paid sick leave a high-risk issue for AGC members.

Internal

There are two primary internal considerations for AGC members.

First, as noted above, the union collective bargaining exemption could create a union v. open shop dynamic.

Second, for businesses in more conservative regions of our state, Eastern Oregon for example, there is likely less appetite for a statewide standard because the risk of a local ordinance is minimal.

AGC Policy Perspectives

AGC staff believes it is a foregone conclusion paid sick leave legislation will be considered during the 2015 legislative session. That means AGC needs to consider the issue and prepare a core policy.

To that end, a subset of AGC members met in June of 2014 to consider paid sick leave.

They concluded that AGC should:

1. Oppose statewide legislation; but because of the risk that legislation will pass, AGC should have a;
2. Prepared policy argument and amendment to exclude the commercial construction sector from the law whether the law is a local ordinance or the statewide statute.

AGC's draft core policy statement is as follows:

PRESERVE AND ADVOCATE

Employee-Employer Relationship

We oppose additional unnecessary, "one-size-fits-all" government mandated benefit requirements that interfere in the employee-employer relationship (including statewide mandated paid sick leave) and we are committed to minimizing any future negative impacts to this relationship within the construction industry.

We oppose unnecessary government mandated intrusions, including statewide paid sick leave, into the construction industry's distinctive employee-employer relationship and recognize that a "one-size-fits-all" approach creates a detrimental regulatory burden on the industry.

We do not support unnecessary, "one-size-fits-all" government intrusions into the construction our industry, including additional mandated benefit requirements that disrupt an already heavily regulated mandated employee-employer relationship.

****Expected date of finalized core policy is 10/17/2014*

The rationale for excluding the commercial construction sector is as follows:

The problem that the bill is intended to resolve (protecting low income employees) is not applicable to commercial construction because our employees are highly compensated by comparison and already enjoy paid leave benefits.

To underscore that point, Attachment A illustrates one example of the wage and fringe benefit schedule for union construction employees (both full-scale and apprentice level). While fresh data is not available at this stage for open shop contractors, we anticipate that information later this year and, until that time, have provided a chart with average construction wages throughout the state in Attachment B.

Attachment A: Oregon Laborers Wage & Fringe Benefit Schedule for Full-Scale and Apprentice Workers *(signed agreement through 5/31/2015)*

Oregon Laborers CLASSIFICATIONS and WAGE SCALES EFFECTIVE: JUNE 1, 2014 THROUGH MAY 31, 2015					
NOTES:		See Schedule "A" for classification Groups. See Schedule "A" for Zone Wage Scale Information.			
Group	Zone A	Zone B (\$0.65)	Zone C (\$1.15)	Zone D (\$1.70)	Zone E (\$2.75)
1	26.43	27.08	27.58	28.13	29.18
2	27.44	28.09	28.59	29.14	30.19
3	22.86	23.51	24.01	24.56	25.61
Foreman A Premium: One Dollar and Sixty Cents (\$1.60) above highest classification supervised.					
Foreman B Premium: One Dollar and Ninety Five Cents (\$1.95) above highest classification supervised.					
Apprentices:					
63%	16.65	17.30	17.80	18.35	19.40
70%	18.50	19.15	19.65	20.20	21.25
80%	21.14	22.17	22.29	22.84	23.89
90%	23.79	24.44	24.94	25.49	26.54
FRINGE BENEFIT PACKAGE					
(per compensable hour)					
	Health & Welfare				5.70
	Pension				6.40
	Training				1.00
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	PWLE (Prevailing Wage Law Enforcement)				0.02
	CAF (Contract Administration Fund)				0.05
	LECET (Laborers/Employers Cooperative Education Trust)				0.10
	Drug Testing (Construction Industry Substance Abuse Program)				0.13
DEDUCTIONS from net pay <u>after taxes</u> :					
	FCF (Fair Contracting Foundation)				0.03/HR
	DUES				1.84/HR
Note: Dues and FCF are included in above Group/Zone rates of pay					

**Wages increase with skill; however, even the lowest wage (Apprentice at 63%) is 1.8 times higher than the Oregon minimum wage (\$9.10 as of 1/1/2014).*

Attachment B: Construction Wages Based on Occupation (Oregon)

Occupation	Median Hourly Wage	Average Annual	Middle Range
Laborers	\$16.49	\$36,676	\$12.96-21.56
1st Line Supervisors of Construction Trades & Extraction Workers	\$27.78	\$60,613	\$21.70-35.46
Carpenters	\$20.50	\$44,192	\$15.53-26.50
Construction Managers	\$38.97	\$85,389	\$29.94-48.91
Construction & Building Inspectors	\$30.48	\$62,454	\$24.92-35.27
Operating Engineers (and other Equip. Operators)	\$24.31	\$51,631	\$19.28-30.32
Civil Engineers	\$37.27	\$81,106	\$30.48-46.01
Paving, Surfacing & Tamping Equipment Operators	\$21.49	\$46,578	\$18.98-24.81
Electricians	\$33.51	\$68,674	\$27.03-40.39
Cement Masons & Concrete Finishers	\$21.89	\$50,199	\$17.25-29.13
Cost Estimators	\$29.94	\$61,857	\$20.76-37.53

**Figures from June 2014 Oregon Employment Department Occupational Summary Report*