**Manchester Area Human Resources Association**

**February 12, 2019**

**LEGAL AND LEGISLATIVE UPDATE**

**by**

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**Workplace Bills Pending Before New Hampshire Legislature**

While the news is often focused on what is happening in Washington, there are several workplace bills pending before the New Hampshire Legislature that, if passed, could have a significant impact on employers in this state. Here are some of the more noteworthy bills and their current status.

**HB 178 Establishing a minimum wage.** *This bill would re-establish a state minimum wage and that rate would be $10 per hour.*

Prime sponsor: Peter Schmidt.

Introduced 01/02/2019 and referred to Labor, Industrial and Rehabilitative Services.

**HB 186 Establishing a minimum wage and providing adjustments to the minimum wage.** *This bill would also establish a state minimum hourly wage and provide for annual readjustment of the minimum wage. ($9.50-$12 per hour). This bill also establishes a training wage for employees under the age of 18 years ($8.50 per hour). [There is a competing bill HB 731* *with similar, but not identical, provisions)*.

Prime sponsor: Howard Moffett.

Introduced 01/02/2019 and referred to Labor, Industrial and Rehabilitative Services.

**HB 211 Relative to inquiries by prospective employers concerning salary history.** *This bill would prohibit an employer from requiring a prospective employee to disclose his or her salary history prior to an offer of employment.*

Prime sponsor: Janice Schmidt.

Introduced 01/02/2019 and referred to Labor, Industrial and Rehabilitative Services.

 ==CANCELLED== Public Hearing: 01/16/2019 11:00 am LOB 307.

Public Hearing: 01/23/2019 01:30 pm LOB 304.

Executive Session: 02/06/2019 10:00 am LOB 307.

**HB 223** **Relative to night work**. *This bill would limit the number of night work hours that a youth may work in a 24-hour period (Repeal of current standard and replace with: Any youth scheduled to work more than 2 nights in a week past 8 o'clock p.m. or before 6 o'clock a.m. shall not be permitted to work more than 8 hours in any 24-hour period during that particular week).*

Prime sponsor: Brian Seaworth.

Introduced 01/02/2019 and referred to Labor, Industrial and Rehabilitative Services.

Public Hearing: 01/16/2019 11:00 am LOB 307.

Executive Session: 01/23/2019 02:00 pm LOB 304.

Majority Committee Report: Inexpedient to Legislate for 01/31/2019 (Vote 11-8).

Minority Committee Report: Ought to Pass.

Special Order (Rep. Sullivan): MA VV 01/31/2019.

Recommit (Rep. Sullivan): MA VV 01/31/2019.

**HB 227** **Relative to the amount of time an employer may lease an employee through an employee leasing company.** *This bill would limit the length of time that a person may work for an employee leasing company (not to exceed 120 days).*

Prime sponsor: Richard Komi.

Introduced 01/02/2019 and referred to Labor, Industrial and Rehabilitative Services.  Public Hearing: 01/23/2019 10:00 am LOB 304.  Executive Session: 02/06/2019 10:00 am LOB 307.

**HB 252** **Establishing a committee to study certain labor statutes.** *(The Study Committee would review RSA 273 through RSA 283 and the associated labor department rules to identify which statutes or rules should be repealed, amended, or remain in current form.  The committee may solicit testimony and input as it deems necessary from the department of labor, organized labor groups, business and trade organizations, members of the public, and any other interested party.)*

Prime sponsor: Brian Seaworth.

Introduced 01/02/2019 and referred to Labor, Industrial and Rehabilitative Services.

**HB 253** **Relative to criminal records checks in the employee application process.** *(This is a BAN on the BOX bill—It would prohibit employers from including a question on any application for employment, as to whether the applicant has ever been arrested, charged with, or convicted of any crime or violation, or adjudicated as a juvenile delinquent, except when the applicant is applying for:*

1. *A position with, or related to, a law enforcement agency.*
2. *A position that requires a standard fidelity bond or equivalent bond, where the applicant's conviction of a crime would disqualify the applicant from obtaining such a bond.*
3. *Any other position that requires automatic disqualification of an applicant with a criminal history pursuant to federal or state law.*
4. *A position with an employer who is contractually prohibited from employing any person with a criminal record.*

Prime sponsor: Michael Cahill.

Introduced 01/02/2019 and referred to Labor, Industrial and Rehabilitative Services.

Public Hearing: 01/30/2019 10:00 am LOB 307.

Executive Session: 02/06/2019 10:00 am LOB 307.

**HB 255 Relative to Night work/shift differentials:** *This bill would require every employer to pay to each hourly employee working between the hours of 10 p.m. and 6 a.m. a minimum of $2 per hour in excess of the employee's regular hourly rate.*

Prime sponsor: SPONSORS: Rep. Komi, Hills

Introduced 01/02/2019 and referred to Labor, Industrial and Rehabilitative Services.

**HB 532 Relative to payment for earned but unused vacation time.**  *This bill would require an employer to pay its employees for earned but unused vacation or personal time.  The bill would also require employers to pay terminated employees for vacation time and personal time upon separation.*

Prime sponsor: Michael Cahill.

Introduced 01/03/2019 and referred to Labor, Industrial and Rehabilitative Services.

Public Hearing: 01/30/2019 11:00 am LOB 307.

Subcommittee Work Session: 02/05/2019 08:30 am LOB 307.

Executive Session: 02/06/2019 10:00 am LOB 307.

**HB 622 Prohibiting collective bargaining agreements that require employees to join or contribute to a labor union**. *This is a Right to Work bill that would prohibit joining a union a condition of employment.*

Prime sponsor: Robert Forsythe.

Introduced 01/03/2019 and referred to Labor, Industrial and Rehabilitative Services.

Public Hearing: 02/07/2019 01:00 pm LOB 305-307.

**HB 637 Relative to criminal background checks by employers and public agencies**. *This bill would require the division of state police to maintain an electronic database containing public criminal history record information which would be accessible to an individual, and to a state agency to obtain public criminal history record information about applicants for positions or as a condition for occupational licensure.  The bill also removes the notarization requirement for requesting a criminal history records check for purposes of employment and occupational licensing.*

Prime sponsor: Erin Hennessey.

Introduced 01/03/2019 and referred to Criminal Justice and Public Safety.

Public Hearing: 01/23/2019 11:00 am LOB 204.

==CANCELLED== Executive Session: 01/30/2019 10:00 am LOB 204.

==RESCHEDULED== Executive Session: 02/07/2019 10:00 am LOB 204.

**HB 712 Relative to a family and medical leave insurance program.** *This bill would establish a Paid Family Leave Insurance program providing eligible employees with up to 12 weeks of paid family leave in a 12 month period. There would be conditions and caps on the benefit. Contributions to the fund would come from employee payroll deductions, employer contributions or a combination.*

Prime sponsor: Mary Jane Wallner.

Introduced 01/03/2019 and referred to Labor, Industrial and Rehabilitative Services.

Public Hearing: 02/06/2019 01:00 pm LOB 305-307.

**HB 724    Relative to certain rights of employees**. *This bill is a workplace law buffet as it would: 1) prohibit ban credit checks for any employment-related decision, 2) require employers to allow a certain amount of rest between work shifts, 3) give employees advance notice of work schedules, and 4) increase the minimum hourly rate of tipped employees to the minimum hourly rate for all employees.*

Prime sponsor: Ellen Read.

Introduced 01/03/2019 and referred to Labor, Industrial and Rehabilitative Services.

**SB 18** **Relative to authorized employee wage deductions.** *This bill would allow a public employee to specify voluntary deductions from wages for any insurance or employee benefit.*

Prime sponsor: Kevin Cavanaugh.

Introduced 01/03/2019 and Referred to Commerce.

Hearing: 01/22/2019, Room 100, SH, 02:30 pm.

Committee Report: Ought to Pass, 01/31/2019.

Ought to Pass.

**SB 20    Relative to notification requirements for employees, workplace inspections and the youth employment law.** *This bill would amends certain workplace notification and posting requirements; amend certain provisions of the youth employment law; amend the requirements for employer retention of hour and wage records; and establish prima facie evidence of a violation of the youth employment laws.*

Prime sponsor: Kevin Cavanaugh.

Introduced 01/03/2019 and Referred to Commerce.

Hearing: 01/22/2019, Room 100, SH, 03:00 pm.

**SB 59     Adding post-traumatic stress disorder and acute stress disorder to the definition of "injury" for purposes of workers' compensation and re-establishing the commission to study the incidence of post-traumatic stress disorder in first responders.** *This bill would add post-traumatic stress disorder and acute stress disorder to the definition of "injury" for purposes of workers' compensation.  This bill would also reestablish the commission to study the incidence of post-traumatic stress disorder in first responders and whether such disorder should be covered under workers' compensation.*

Prime sponsor: Regina Birdsell.

Introduced 01/03/2019 and Referred to Commerce.

Hearing: 01/29/2019, Room 103, SH, 01:15 pm.

**SB 60 Relative to advance notice of hourly employees of work schedules**. *This bill would require employers with 15 or more employees in this state to provide employees with advance notice (at least 14 days in advance) of the work schedule.*

Prime sponsor: Martha Fuller Clark.

Introduced 01/03/2019 and Referred to Commerce.

**SB 100    Relative to discrimination in employment based on criminal background checks.** *This bill would prohibit discrimination in employment based on the applicant’s/employee’s criminal history.*

Prime sponsor: Dan Feltes.

Introduced 01/03/2019 and Referred to Commerce.

**SB 146    Relative to eliminating the waiting period before eligibility to receive unemployment benefits**. *This bill would eliminate the* *waiting period before eligibility to receive unemployment benefits.*

Prime sponsor: Dan Feltes.

Introduced 01/03/2019 and Referred to Commerce.

Hearing: 02/07/2019, Room 100, SH, 01:00 pm.

**SB 197     Relative to non-compete agreements for low-wage employees**. This bill would prohibit employers from requiring low wage earners to sign and abide by a noncompetition agreement. "Low-wage employee" means an employee who earns:

1. An hourly rate less than or equal to 200 percent of the federal minimum wage; or
2. An hourly rate less than or equal to 200 percent of the tipped minimum wage pursuant to RSA 279:21.

Prime sponsor: David Watters.

Introduced 01/03/2019 and Referred to Commerce.

**SB 316     Relative to the protection of personal information**. *This bill establishes criminal penalties for failure to protect another person's personal information.*

Prime sponsor: Martha Hennessey.

Introduced 01/03/2019 and Referred to Judiciary.

**Conclusion**

**As you can see, it has already been a busy season in the New Hampshire House and Senate. There clearly has been a sea change in Concord from the last session as many of these bills favor employees. Said another way, if passed, several of these bills could have a significant impact on employers. Stay tuned.**

***Attorney Jim Reidy is a partner at Sheehan Phinney where he is the Chair of the Firm’s Labor and Employment law practice group. Jim is also MAHRA’s VP of Legal and Legislative Affairs.***

***Disclaimer***

***Please note: This outline is intended as general guidance and not specific legal advice. Your legal counsel should be consulted with specific questions or for advice on how to proceed with these matters.***