



Health & Human Services and Public Safety Committee Minutes

Tuesday, July 17, 2018, 5:30pm, Council Chambers, City Hall

Committee Attendance: Councilors Belinda Ray, Chair (District 1), Brian Batson (District 3), Pious Ali (At-Large)

Councilor Attendance: Mayor, Ethan Strimling

City Attendance: Associate Corporation Counsel, Anne Torregrossa; Human Resources Director, Gina Tapp; Network Operations Specialist, Derek Gilman; Executive Assistant, Adam Harr

AGENDA ITEM 1 – Announcements:

Chair Ray announced that the Homeless Services Center is not on the agenda of this meeting.

The July 10th minutes will be reviewed for approval at the next meeting in September.

AGENDA ITEM 2 – Paid Sick Leave.

Corporation Counsel, Anne Torregrossa – Memo with Staff Answer

- PTO works with the proposed ordinance as long as it meets the conditions of the ordinance; PTO that does not distinguish between sick and vacation satisfies the requirements of the ordinance.
- Mayor asked that if they provide PTO that covers paid sick time, they would not have to track it separately
 - If you had 40 hours of PTO and are required to provide 40 hours of sick time, an employee can choose to use it for vacation, but that would be their choice.
- Some employers prefer awarding sick time up front vs accruals
 - This already exists in the ordinance. (page 2)
- Remote Employees/Teleworker/People who work from home:
 - Applies only to employers who have a place of business (physical location) within the City limits.
 - Chair Ray asked the committee if they had hoped the ordinance would cover teleworkers. Councilor Ali asked about co-working space; No, but if an employer rented an office and workers chose to work there, they would be covered. Councilor Batson affirmed that this is how he hoped the ordinance would work.
 - Mayor Strimling asked for clarification on co-working spaces versus rented offices. Permanence may be an element.
 - Councilor Batson is concerned about renting office space triggering sick leave effects on business growth.
 - Anne thinks it could be good to clarify ordinance effect on employers that have no physical location in Portland but projects/work in Portland such as construction companies.
- Councilor Ali asked about TIF policy and if there would something similar in Paid Sick Leave.

- Multi-site Employers: would only the employees working in Portland be covered by the ordinance? Yes
- Per Diem Employees:
 - MA is the only state that explains how to apply sick time to per diem employees; it only counts for when one is scheduled to work or if one is on call while being required to be on site.
 - Day Labor is something to consider; some day laborers establish semi regular schedules.
 - Laborers with regular schedules would be covered unless there was a carve out.
 - Mayor Strimling asked Councilor Batson about Per Diems in a hospital setting; does he see a difference between someone on-call or semi-regular scheduling. OR nurses and scrub techs can be on call.
 - The majority per diems employees in healthcare are employed all year as a per diem.
 - Most choose per diem work for the flexibility.
 - Councilor Batson does not think it makes sense to cover per diems in a healthcare setting as they are not scheduled.
 - Councilor Ali gave an example of per diems who work more than 40 hours a week and be entitled to overtime.
 - Mayor Strimling does not want to incentivize shifting full or part time positions to per diem.
 - Per Diems are essential for adequate amounts of staffing.
 - Gina said that moving people to per diem status may not make sense because of the ACA look back period requiring to offer health benefits to people who work more than 30 hours a week would be more expensive than offering paid sick leave.
- Definitions:
 - Family Member
<https://www.portlandmaine.gov/AgendaCenter/ViewFile/Item/6446?fileID=34175>
 - Chair Ray explained the Southern Maine Workers' Center requested chosen family be included as it an LGBT issue.
 - Chair Ray likes the New Jersey definition which is similar to the Proposed but elaborates on types of family members to make it easier to read. Mayor Strimling agreed and would like corporation counsel to say how different they are from a legal perspective. Councilor Batson echoed the Mayor.
 - Concerns over the definition are that it is too broad and could lead to abuse:
 - Berkeley's definition says that if the employee has no spouse or domestic partner, they can designate one person to care for. This limits the potential for abuse.
 - One state said to anyone with oral permission from the employer.
 - Councilor Batson is not looking to narrow the definition of family.

- Councilor Ali is concerned about covering immigrant communities in situation where community members are considered uncles and aunts.
 - Both he proposed and NJ ordinance would cover this type of person.
 - Mayor Strimling asked why it is importance to say regardless of age.
 - Chair Ray asked about Proposed (f) and if it is different than “any other individual related by blood to the employee or whose close association with the employee is the equivalent of a family relationship.” NJ would include more due to the blood relation.
 - The language in the proposed ordinance mirrors the federal government’s benefits.
 - In loco parentis: people caring for children that have no legal authority over the child may want to be added into the proposed ordinance.
 - Councilor Batson asked if “the equivalent of a family relationship” means it can cover anyone? Yes.
 - Can an individual be defined as something other than human? Does not need to be specified.
 - Amend individual to person
 - Anne will replace the definition of family member with the NJ definition, replace individual with person and add in loco parentis.
- Employer/Employee
 - <https://www.portlandmaine.gov/AgendaCenter/ViewFile/Item/6446?fileID=3417>

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- Chair Ray noted the thresholds and exemptions among the examples such as temporary status, size, and hours worked etc.
 - MA and OR have sick leave laws that offer paid or unpaid sick leave based on the size of the business
 - Some tier leave based on number of hours.
 - How are tipped workers included?
 - The proposed ordinance does not have exemptions or restrictions.
 - What types of employees/employers may be appropriate for exemptions?
 - All employees will get sick; no workers should have to go to work sick to the extent possible.
 - What incentives will be created due to exemptions?
 - How can they be avoided?
 - Should there be a time frame or accrual threshold such as earning a full day before use?
 - Exemptions may be important for growing businesses that are working towards this policy but requiring it from day one may stifle business creation.
 - Chair Ray asked the committee what they think about the exemption for workers under age 18.
 - Is this provided in other states?
 - Is this assuming minors under 18 have someone to care them?

- Councilor Ali is against an age exemption as under 18 year old serve people food and could get to work sick
 - Is unpaid sick time an option for this population? (OR)
 - Would this incentivize hiring young people?
 - Would this harm impoverished families where children are working to support their family?
- The committee recommended not to exempt employees based on age.
- Independent Contractors are already not included as they are not employees.
- Seasonal Workers:
 - Must have an end date or hired for less than one year.
 - Mayor Strimling is wary of creating employee categories because of possible incentives and individuals going to work sick.
 - Councilor Batson asked if there is a list of Seasonal Employers/positions (such as for a busy season)
 - 20 Hour/Week employee would need to work 12 weeks to earn one day.
 - Councilor Batson doesn't see a need, nor does Councilor Ali.
 - The committee recommended not to exempt seasonal workers as a category.
- Per Diem workers
 - Councilor Batson supports and exemption for Per Diem workers.
 - Councilor Ali is cautious of exempting per diems as well as what counts as healthcare; social worker should not be exempted.
 - The Committee may include an exemption but needs further thought.
 - Who else in the city hires per diem workers?
- # Working hours/calendar year or week requirement/exemption.
 - Does this requirement incentivize employee to stay at their jobs?
 - Would consider a minimum number of hours that must be worked in order to be covered.
- Waiting Period, Cap or Exemption
 - No cashing out sick time
 - Does this help retain employees?
 - No cap accruals with roll over.
 - What is the administrative burden with record keeping?
 - Cap: Election workers have 2 1 hour shifts a year and may need an exemption.
 - Councilor Ali asked how often is an election worker sick on an election day? (Probably not recorded)
 - Councilor Batson thinks it makes sense for a dedicated employee to be able to earn sick time but it is only two days out of the year.
 - What should the hour number be (40 or 80)?
 - What other positions in the City that would be affected?
 - What could be the unintended consequences

- What have other towns done?
- Construction job sites don't count
- If moving an office to Portland saves employees money, will they migrate?
- Mayor Strimling said that if a business is conducting business in Portland, it should offer benefits.
- A lot of service industries are in this category.
- Could the amount of time working in Portland that are based outside of Portland. Is this too complex?
- The place where people are working is more important to the mayor versus where the employee is.
- Councilor Ali asked about people with o
- Chair ongoing contracts; number of days
- Are there jurisdiction issues?
- Chair Ray supports exemption for businesses (large based out of state) due to too many moving parts.
- Councilor Batson is concerned over potential litigation;
- 52 weeks seems long to wait to the mayor.
- Westbrook employers needing to pay the minimum wage
- The goal is stick to or jurisdiction but it would be advantageous to invite nearby municipalities.
- Is there a way to enforce long term contracts?
- Cover or exempt workers with collective bargaining units? They are covered and may not need exemptions because collective bargaining agreements tend to be more generous. However the family definition is broader than the CBAs in the City.
 - Councilor Ali asked about CBAs in the Portland healthcare system? There are none the Councilor Batson knows of.
 - How many unions operate in the city?
 - Could they be exempted from most of the ordinance but be included in the definition of family? Yes
 - Is there a legal reason for exemption and what trouble/cost does it avoid?
 - Any Additional cost for sick time for a close family friend was not included in cost estimate and would be the biggest change to CBAs.
 - How much sick leave
 - Why sock leave can be taken
 - What documentation is required
- The mayor is cautious of exempting City employees while asking other employers to offer such benefits; the City is not the only employer that has union employees.
- Workers at non-profit/recreation/childcare and education clarification (CT)
- Are we establishing an employee/employer relationship with babysitters?
- Summer camp staff that return?

- Reapply or continuous employment?

Next meeting: Homeless Services Center and Paid Sick Leave on September 11th

Meeting Adjourned at approximately 7:30