

MANCHESTER AREA HUMAN RESOURCES ASSOCIATION

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LEGAL AND LEGISLATIVE UPDATE

by

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LEGISLATIVE (NH) UPDATE

I. INTRODUCTION

Now that we are almost at “cross-over” in the state (NH) legislative calendar, we thought we’d take a look at pending workplace bills in the state (NH) legislature and their status so we can consider the “*what ifs*” to the extent that level of planning is possible in this ever-changing area of the law.

II. STILL JUST A BILL SITTING ON NORTH MAIN STREET (CONCORD): UPDATE ON PENDING WORKPLACE BILLS

The following is a list of some of the more noteworthy workplace bills currently pending before the New Hampshire Legislature. We highlighted the ones we thought were the most significant.

A. **HB 115-FN: Title: Establishing a state minimum wage and providing for adjustments to the minimum wage.**

Summary: New Hampshire doesn’t have a separate minimum wage under state law. Instead, New Hampshire has adopted the federal minimum wage which is currently \$7.25 per hour; the lowest minimum wage in New England. This bill would re-establish a state minimum wage and provide for adjustments to the minimum wage. The increase would be from \$7.25 to \$9.50 on January 1, 2019 and to \$12.00 on January 1,

2020 with subsequent increases tied to the Northeast Consumer Price Index. The bill would also increase the wage for tipped employees from 45% to 60% of the minimum wage. Finally, this bill would establish a training wage for employees under the age of 18 years.

Status: Introduced to House Labor, Industrial and Rehabilitative Services.

Majority Committee Report: Inexpedient to legislate. Minority Report: Ought to pass. The full House will vote on this on March 8th.

B. **HB 130: Title: Prohibiting an employer from using credit history in employment decisions.**

Summary: This bill has been introduced in one form or another in the last few legislative sessions. It would establish the Employee Credit Privacy Protection Act which would prohibit employers from using credit history in employment decisions except when credit history is substantially related to the employee's current or potential job and the employer still complies with FCRA.

Status: Introduced to House Labor, Industrial and Rehabilitative Services.

Majority Committee Report: Inexpedient to legislate. Minority Report: Ought to pass. The full House will vote on this on March 8th.

C. **HB 194: Title: Permitting employers to pay wages to employees weekly or biweekly.**

Summary: This bill would permit employers to pay wages to employees weekly or biweekly. Currently employers must pay weekly, unless the NH Department of Labor approves their request for bi-weekly, semi-monthly or monthly payrolls. This bill is a carryover from last year when it failed to pass.

Status: Introduced to House Labor, Industrial and Rehabilitative Services.

Majority Committee Report: Ought to pass. Minority Committee Report: Inexpedient to legislate. This bill passed the House last year but was scuttled by the Senate. The full House will vote on March 8th.

D. **HB 442: Title: Relative to criminal records checks in the employee application process.**

Summary: Ban the Box is a national (federal and state by state) effort that seeks to take criminal history inquiries out of job applications and the initial employment screening process. This bill would prohibit employers from asking a job applicant about his or her criminal history prior to an interview. The exceptions are when: the position is in law enforcement; the position requires a standard fidelity bond; or if criminal history, under state or federal law, would disqualify the applicant from that job. Employers could still ask about criminal history during an interview and

otherwise essentially follow EEOC guidance on comparing the criminal history to the job sought.

Status: Introduced to House Labor, Industrial and Rehabilitative Services.
Majority Committee Report: Inexpedient to legislate. Minority Committee Report: Ought to pass.

E. **HB 478: Title: Prohibiting discrimination based on gender identity.**

Summary: This bill would add another protected class to New Hampshire's Human Rights law (housing and employment) and prohibit discrimination based on gender identity. This bill also offers a definition of gender identity. The definition provides, in part, [Gender Identity means] *"a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth."*

Status: Introduced to House Health, Human Services and Elderly Affairs.
Committee Report: Ought to pass. The House will vote on March 8th.

F. **HB 520: Title: Relative to right to work.**

Summary: This bill would prohibit collective bargaining agreements and employment policies that require employees to join or contribute to a labor union as a condition of employment. If approved, New Hampshire would be the only right-to-work state in New England.

Status: Introduced to House Labor, Industrial and Rehabilitative Services.
This bill was recently defeated in a close vote.

G. **SB 22: Title: Relative to employer immunity for disclosure of certain worker employment information.**

Summary: This bill would provide immunity from civil liability to an employer who, in good faith, discloses employment information about an applicant to a prospective employer.

Status: Introduced to Senate Commerce.
Committee Report: Inexpedient to legislate.

H. **SB 226-FN: Title: Relative to eliminating the waiting period before eligibility to receive unemployment benefits.**

Summary: This bill would eliminate the waiting period before eligibility to receive unemployment benefits.

Status: Introduced to Senate Commerce.
Committee Report: Ought to pass with Amendment.

I. **HB 628-FN: Title: Relative to a family and medical leave insurance program.**

Summary: This bill would establish a system (for nongovernmental employers) of paid family and medical leave insurance based on contributions from employees through payroll deductions. These funds will not be co-mingled with unemployment fund contributions. Self-funded employers may opt out of the system if they demonstrate an adequate substitute program. This bill, which is similar to others that are introduced in other states as well as Congress, has been sent to committee for further study.

Status: Introduced to House Labor, Industrial and Rehabilitative Services.
Retained in Committee.

While the new Congress is now in session and there could be “Bigly” changes coming to federal workplace laws and regulations we are focusing on these bills because, for the time being, there has been more progress at the state level.

Stay tuned!

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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.