

Earned Sick and Safe Leave:
Report to the Spokane City Council
June 10, 2015

Introduction

The Spokane City Council selected 12 citizens to form a working group (Resolution No. 2015-0036) representing particular constituencies and perspectives focused on earned sick and safe leave. The Council formed the group “to obtain feedback from key stakeholders” and to provide “specific recommendations to the Council on elements of an appropriate policy for the City that considers community health and well-being, preventing spread of disease, economic equality, business vitality, family and personal safety related to domestic violence, and regional competitiveness.”

The Council sought two pieces of input:

1. Completed matrix document of recommended Spokane policy elements; and
2. In conjunction with the Council Policy Advisor, completed draft document of recommended policy language for consideration by the City Council.

The working group met three times for two hours each, and undertook an extensive review and evaluation of relevant policies enacted by the cities of Tacoma, Seattle, Eugene, Portland, San Francisco, New York, Washington, D.C., and several cities in New Jersey, as well as the state of Connecticut. The working group meetings were open to the public. A local media outlet attended one of the meetings.

Policy Elements

The following policy elements were identified by the working group:

- Leave should begin accruing when the employee starts working, at the rate of 1 hour of leave for every 30 (or 40) hours worked.
- After working 90 days, employees could use leave for their own or a family member’s sickness or medical care, domestic violence response, or bereavement.
- Earned leave should be subject to an annual cap, and that cap amount is also the maximum which could be carried over from year to year.
- Employees should be able to donate time to a co-worker, provided the donating employee retains at least 10 hours of leave.
- Earned sick and safe leave is an insurance policy, not a bank account, so it could not be cashed out.

- All employees should be covered for earned sick and safe leave in Spokane.
- Employers should not be placed into tiers based upon size, unlike the approach in some other cities, to avoid difficulties in administration.
- Employers should have many options and the flexibility to implement the policy in a way that works best for them and their industry, such as “front-loading” leave accrual, shift-swapping, an “all-purpose” paid time off policy, disciplinary action for abuse of the leave policy, carry-over of leave hours for employees returning from layoff, and requiring documentation for 2 or 3 consecutive leave days.
- The policy should take effect at least one year from passage of an ordinance.

Major Benefits and Concerns

The challenge of this project was the working group’s interest in addressing two important values: (1) employee health and stress, and (2) the capacity of businesses to absorb the potential costs of implementing the policy. Impressively, despite some fundamental philosophical differences, the tone of the group was engaged and respectful, and the questions the working group considered were broad-ranging.

Working group concerns included:

- an interest in fairness,
- the importance of educating employers and employees about the issue,
- the need for privacy and support for those impacted by domestic violence,
- the cumulative effect of a proposed sick and safe leave policy and other policies and rules (*i.e.*, minimum wage, FMLA, the Affordable Care Act),
- unintended consequences,
- creating a simple, reasonable, effective policy that recognizes that one size won’t fit all and that achieves the goals,
- whether a policy is the most appropriate way to achieve the goals,
- whether the working group had enough information to make comprehensive recommendations,
- the effect of collective bargaining agreements on an earned sick and safe leave policy; and
- an acknowledgement that there are employers who do considerably more for their employees than a policy would require and that the tone of the policy should recognize this.

Additionally, as a way of working together, the working group wanted to avoid group polarization by hearing and sharing all sides of the issue, so that assumptions would be clarified and addressed. The group wanted to avoid blockades, inflexible results, and unfairness, and generally wanted to avoid the creation of a policy which would help some while hurting others. The working group also did not want to create a policy that would harm business, create competitive disadvantages, and “pick winners and losers.”

Attending to how the working group would work together prior to addressing the actual policies resulted in thoughtful consideration and research. Although some members had worked on this issue for years and others had come to it quite recently, the general education of the members was impressively quick.

The group was successful in agreeing on many components, tending to focus on the result, rather than the internal mechanism of a business, for achieving earned sick and safe leave, while considering the results of other programs. Other considerations that were discussed included: providing enough education and time for implementation; consideration for small and/or new business, such as providing exemptions (waiving city fees or other allowances); and reducing opportunities for 'gaming' the policy. The group also considered whether a policy like this is best left to the state legislature, and concluded that a state-wide effort at this point was impractical.

Implementation

Educating employees and employers, with enough time to implement a policy, was forefront in the consideration of the group. Although the working group sees this policy as a complaint-driven system, it was important to the working group that it be well-implemented and focused on compliance rather than punitive measures. Thus, the working group recommends that a first complaint would result in City efforts to help the employer come into compliance, rather than court action. A recognition of what employers currently do to work with employees was important to the working group.

The group was not familiar enough with City structure to recommend a home for the policy education and enforcement components, and some group members expressed a preference for this policy to be administered by an existing department. The Council may wish to issue voluntary compliance certificates, along the lines of the LEED or Energy Star programs.

Evaluation

The goals of the policy include:

- community health and well-being,
- preventing spread of disease,
- economic equality,
- business vitality,
- family and personal safety related to domestic violence, and
- regional competitiveness.

The working group viewed each policy element related holistically in relation to the goals, and suggests that the City Council include in its policy a periodic assessment point to evaluate if the policy is providing intended benefits and progressing toward the goals.

Because the Council provided a broad scope for the above-stated policy goals, group members identified their own understandings of each goal as a way to move the discussion forward. These understandings included such concepts as equal opportunity (all get the chance to “work hard to achieve”) to providing help to get a similar result (as where “three children are trying to look over a fence, but one needs a boost to be able to see”). In particular, what to measure, as well as how and when to measure the impact so the policy could be evaluated and modified was important to the group.

Several group members expressed frustration with the amount of time available, their personal inability to interact with their constituents, the large amount of factual and policy background information needed to be conversant on the subject, and differing conceptions of the group’s task involved the question of whether a policy is necessary. Instead of a vote prior to investigation, which may have led to less well-developed consideration of the topic and more polarization of the group, group members used a ‘gradients of agreement’ framework, which allowed for participation while “agreeing to disagree” about some of the specifics of the work. Working group members will be provided a copy of the draft policy and will continue to have the chance to discuss, comment and make further suggestions on their own and on their constituents’ behalf.

Conclusion

The earned safe and sick leave working group members worked together with interest, respect, and concern, despite their different perspectives. Their work serves as a useful foundation for the Council’s consideration of an earned sick and safe leave policy. The resulting policy should be is mindful of simplicity and unintended consequences, particularly because the group advocates education, a fairly long implementation phase for businesses new to the policy, and tools for evaluation and recalibration of the policy as the City accumulates experience with it.