

2019 POLICIES

Labor-Management

An influx of younger workers, new technology, and an increasingly global economy bring changes and challenges to the workplace. New norms regarding work rules and conditions are evolving. Minnesota employers provide employees with innovative and robust benefits to promote wellness, build high morale, and attract and retain the best talent in a competitive marketplace. In fact, Minnesota employers consistently receive national recognition for providing some of the best places to work.

Nevertheless, policymakers across Minnesota continue to propose new mandates to control employers' relationships with their employees. Recently enacted local ordinances in cities such as Minneapolis, St. Paul, and Duluth - with others under consideration - have mandated that employers of all sizes must pay a minimum wage higher than the state-mandated wage as well as provide significant paid sick and safe time to all employees. Nationwide,

OUR KEY PRIORITIES FOR THE 2019 SESSION INCLUDE:

- Support explicit statewide preemption of local labor ordinances; preserve private-sector flexibility on wage, benefit, and scheduling decisions.
- Ensure changes proposed through the Minnesota Department of Labor and Industry consider impacts on employers in Minnesota.
- Conform prevailing wage to federal law.
- Remove automatic inflator from minimum wage.
- Preserve legal standard in hostile work environment claims while promoting prevention policies and workplace training programs.

legislative proposals on concepts in the economic and social policy spheres - such as predictive scheduling, sexual harassment, nutrition disclosure, product and packaging bans, tobacco and other sales restrictions - as well as in the emerging and evolving sharing and gig economies continue to be proposed, explored, and enacted by local policymakers. All of these policy changes - both employment and product related - put pressure on employers, particularly small employers.

Minnesota already has the highest minimum wage rate in the Upper Midwest - and one of highest in the United States - and continues to have prevailing wage laws in place. Furthermore, employers currently must adhere to a strict set of labor laws and workplace standards at both the state and federal level in order to maintain safe, healthy, respectful, and inclusive workplaces. Local and "one size fits all" mandates disrupt existing benefits and interfere in the operations of the workplace. Minnesota has 853 cities and 87 counties. While most do not appear to be interested in passing individual mandates, a patchwork of local laws is an administrative nightmare for employers and can lead to unintentional errors that could subject businesses to legal action.

OUR GOALS

Employers must have the flexibility to provide wages, benefits, and schedules that are appropriate for their workplace and responsive to industry needs. Local governments are right to impose certain requirements on public sector workplaces and local government employees, but enacting employee wage, benefit, or scheduling mandates on private employers is outside city authority. Accordingly, we support explicit statewide preemption of local government labor mandates. We oppose attempts by state policymakers to implement mandates at the state level without

including reasonable exceptions for the variety and nuances of the many workplaces across Minnesota.

We support broadly sharing employers' best practices so all businesses in the state are aware of voluntary approaches to compete for and retain the best employees and maintain progressive workplaces. State and local policymakers should be encouraging this trend and not imposing one-size-fits-all mandates.

ENSURE CHANGES PROPOSED THROUGH THE MINNESOTA DEPARTMENT OF LABOR AND INDUSTRY CONSIDER IMPACTS ON EMPLOYERS IN MINNESOTA

Historically, either through statute or practice, the Minnesota Chamber of Commerce has had a seat at the table during state negotiations on labor and workforce related proposals, including workers' compensation and unemployment insurance. We support preserving and protecting the Workers' Compensation Advisory Council, its structure, and its process for proposing changes to workers' compensation statutes at the legislature. We also support reforms that modernize and reduce the cost of such systems, including reducing administrative costs arising from submission and payment of claims.

CONFORM PREVAILING WAGE TO FEDERAL LAW

Minnesota ideally would not have a prevailing wage law; the local labor market and competition are the best determinants of wage rates paid on state-funded construction projects. However, while Minnesota continues to have prevailing wage laws in place, we support two specific improvements so it conforms to federal law:

- Change the calculation: Federal law defines the prevailing wage as the rate paid to the majority of those employed in a job classification. If there is not a majority paid at the same rate, then the average rate is used. State law should mimic this calculation.
- Change overtime trigger: Current law requires payment of overtime for prevailing wage projects at more than eight hours a day of work or more than 40 hours per week. Due to the nature of many prevailing wage jobs, it would be financially prudent to trigger overtime only at more than 40 hours per

week. This allows four 10-hour days before requiring overtime pay, a common industry practice.

REMOVE AUTOMATIC INFLATOR FROM MINIMUM WAGE

We support removing the automatic annual increase from the state's minimum wage law. No wage or tax should be on autopilot; rather, wage policy should require legislative debate and a vote. Furthermore, we oppose a city-by-city patchwork of minimum wages.

PRESERVE LEGAL STANDARD IN HOSTILE WORK ENVIRONMENT CLAIMS WHILE PROMOTING PREVENTION POLICIES AND WORKPLACE TRAINING PROGRAMS

Federal and state courts across the country have established a "severe or pervasive" standard for a hostile work environment claim to ensure that legitimate claims proceed when wrongful conduct creates a hostile work environment. This standard is reasonable and specifically enables claims to move forward if they involve conduct that is severe or pervasive. Minnesota employers are committed to providing professional and respectful workplaces, but Minnesota should not be an outlier in its approach to legal claims. Changes to this standard that would leave employers without guidance as to what is legally actionable conduct would foster frivolous litigation that can cost well-meaning Minnesota employers unnecessary legal fees. We support an approach that encourages Minnesota employers to engage in efforts to prevent hostile or offensive work behaviors in the first place, in compliance with the current standard, rather than encouraging more litigation after the fact – e.g. encouraging Minnesota employers to adopt thoughtful prevention policies and offer workplace training so that managers and employees are aware of and equipped to avoid behaviors and actions that may undermine safe, respectful, and professional workplaces.

AMEND WHISTLEBLOWER LAW TO AVOID ABUSES

Historically, Minnesota employees seeking whistleblower protections had to "expose an illegality"—that is, bring wrongful conduct to light. A 2017 decision of the Minnesota Supreme

Court, however, ruled that a 2013 amendment to Minnesota’s whistleblower law had stripped away that requirement—even though advocates at the time said that was not their intent. To ensure that whistleblower law is not abused and continues to protect employees actually exposing illegal conduct, we support amending the law back to its long-settled status: that to enjoy whistleblower protections, an employee must expose an illegality.

OPPOSE UNREASONABLE OCCUPATIONAL LICENSES

Reasonable regulation is essential to keep Minnesotans safe and healthy, but overregulation raises prices, thwarts competition, keeps people from earning a living, and harms our economy. Unfortunately, Minnesota’s training, testing, and licensing requirements across a number of industries are significantly more burdensome than in other states. We support reforms requiring the state to use the least restrictive regulation necessary and remove duplication — so that the law protects consumers while allowing new service providers to enter the market and grow local economies. ■