



**SHRM Vermont State Council Legislative Update**  
**Weekly Highlights**  
**February 6, 2016**

**STATE OF VERMONT**

**H.187 - Absence from work for health care and safety (Paid Sick Leave)**

The Senate had a lively week debating mandated sick pay, the bill passed in the Senate via voice vote on Tuesday but was then challenged by a number of amendments. The “Snelling” amendment calls for a one year delay in mandating paid sick leave for businesses with five or less full time employees, and this amendment passed unanimously. The “Campion” amendment sparked the most debate, and provides a total exemption for businesses with five or less employees to provide paid sick leave, and this amendment will be reconsidered this week on February 10.

Key changes the Senate Committee made to the original House bill:

- Exempts employees under the age of 18
- Exempts employees that average under 18 hours per week
- Allows delay for new businesses of one year after they hire their first employee
- Adjusted accrual formula to one hour of paid leave per 52 hours worked (up to three days’ benefit for first two years of the law and five days thereafter)
- Companies with current leave/vacation policies that provide for time that meets the minimum requirement do not have to add a new benefit
- The “Snelling” amendment noted above – one year delay for small businesses with five or less full time employees
- One year delay for new employees to use the benefit, however the accrual of time starts as of the first day of employment

**H.773, H.378, H.331, H.216 - Independent Contractors**

Four bills in total have been presented to the House Committee on Commerce and Economic Development on the topic of how to classify independent contractors. The controversial definition of “like work” continues to stymie legislators. As currently defined, if an independent contractor is hired by a business to do the same work as employees of that business, they are to be considered an employee. The Lake Champlain Chamber of Commerce, Associated Industries of Vermont and the Vermont Technology Alliance all provided testimony about how changing the status of independent contractors in Vermont will harm small contractors and businesses in the state. Testimony included concerns about both parties remaining competitive, allowing businesses to stay flexible with their needs, and the idea that just because a contractor is hired for a specific type of work for a set period of time, this should not require the business to bring in the contractor as an employee.

**H.673 – Alternative Work Arrangements**

This bill relates to workplace flexibility, and is designed to create a tax credit for employers that adopt alternative workplace arrangements for employees, including job sharing, telecommuting, part time opportunities, and onsite child care. The House Commerce and Economic Development Committee seemed open to these ideas, and may incorporate some of them into a larger bill.

## EXCISE TAX

On February 2, by a vote of 241 to 186, the House of Representatives failed to override President Obama's veto of a budget reconciliation legislation that would have dismantled major portions of the Affordable Care Act (ACA). Specifically, the legislation had proposed to repeal much of the ACA, including the excise tax on high value employer-sponsored health care benefits. Now that the override of the President's veto failed, there are legislative talks to pivot from ACA repeal to replacement for the remainder of 2016. Earlier this week the House Ways and Means Committee had a day-long retreat to determine legislative priority issues for this year. Among the priorities outlined include replacing the health care law and overhauling the tax code – both are of importance to the HR profession and could potentially impact employer-sponsored benefits. The Committee's top goal is to offer an alternative to the ACA and work with the Energy and Commerce and Education and the Workforce Committees to craft a legislative proposal. In addition, it is very likely that calls to repeal the ACA will dominate the campaign trail in the race for the White House. Support for an alternative health care plan this year could potentially lay the groundwork for the GOP's nominee for president. A timeframe and details of the release of an alternative health care plan have yet to be determined.

It is anticipated that any alternative health care proposal would likely include a provision to further delay, amend or even repeal the ACA excise tax. As previously reported, in December of 2015 Congress passed and President Obama signed into law the Consolidated Appropriations Act, which includes a two-year delay of the implementation of the excise tax on employer-sponsored health care benefits until 2020. The two-year delay could serve as a pendulum for full repeal of the excise tax in future legislative initiatives to overhaul the ACA.

As the three respective House committees work towards the development of an alternative health care plan, **SHRM will continue to advocate in support of proposals that will strengthen and improve the employer-based health care system, including full repeal of the excise tax.**

## OVERTIME RULES

After successfully testifying on proposed changes to the overtime rules at a congressional hearing in 2015, SHRM Advocacy Team member Elizabeth Hays was an invited panelist at a U.S. Chamber of Commerce symposium on the Impacts of the Proposed Overtime Regulation on Vulnerable Employers earlier this week. This symposium afforded another opportunity to highlight HR's serious concerns with the Department of Labor's proposed changes to the overtime rules.

As the Director of HR for MHY Family Services in Mars, Pa., Hays noted the dire consequences the proposed regulation would have on her non-profit and the population it serves as well as the negative impact it would have on MYH employees. MYH is a social services provider affording residential, educational and community-based services throughout western Pennsylvania that responds to diverse family hardships and traumas.

The DOL's proposed salary threshold of \$50,440, a 113 percent increase, would directly impact 50 of MYH's currently exempt employees. Hays explained this implication in a blog post that the "resulting costs to MYH for these employees is estimated at about three quarters of a million dollars of unfunded expenses; equal to 9 percent of our budget."

**SHRM will continue to advocate for changes to the proposed overtime rule, which is expected to be finalized later this year.**

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