



Pressure Grows For Statewide Paid Sick Leave In NJ

Law360, New York (August 29, 2014, 3:26 PM ET) -- Paid sick leave measures pending in several New Jersey towns are increasing the pressure for a uniform statewide standard, and while a bill poised for consideration in September currently calls for more time off for workers than local proposals do, that could be a tough sell to Gov. Chris Christie.

The state's two most populous cities, Newark and Jersey City, have already implemented paid sick leave requirements for local businesses, but advocates such as the Time to Care Coalition — which includes New Jersey Citizen Action, New Jersey Working Families Alliance and numerous other community and labor groups — are hoping six more municipalities will soon have ordinances similar to the Newark measure on their books.

“I definitely think it's going to give state lawmakers more momentum to try to pass a statewide policy for a number of reasons,” said Anna Maria Tejada, a partner at [Kaufman Dolowich & Voluck LLP](#). “They're going to say it's for worker rights, but on the other hand, it probably would give employers more of an opportunity to negotiate the terms of that bill or lobby for what is most appropriate from a business standpoint.”

Supporters have gathered enough signatures in Trenton, Paterson, Irvington, Passaic and Montclair to force ballot questions this November on whether employers should provide paid sick leave, though officials in at least Paterson and Passaic seem poised to adopt ordinances providing those benefits first, according to New Jersey Citizen Action Executive Director Phyllis Salowe-Kaye. Meanwhile, East Orange is moving forward on its own to mandate paid sick leave, with a second and final reading on an ordinance there expected next month, Salowe-Kaye said.

Salowe-Kaye said the proposals in those towns are modeled after the Newark ordinance, under which employers with 10 or more workers have to provide up to 40 hours of paid sick time annually. Smaller employers would only have to provide up to 24 hours, though child care, home health care and food service workers could take advantage of 40 hours of paid sick leave regardless of their employer's size. Employees would accrue one hour of paid sick time up to those limits for every 30 hours worked.

“The goal would be to have a really strong statewide bill that protects everybody; that's really what we would like,” Salowe-Kaye said.

Town-by-town sick-leave ordinances can be extremely burdensome for employers that operate across municipalities, according to Michelle Seldin Silverman, a partner with [Morgan Lewis & Bockius LLP](#).

“Imagine how complicated this could be if an employer had a salesperson who spends part of every day in Jersey City and Newark (both of which have paid sick time laws with somewhat different technical rules), and who spends the rest of his or her day working in several other municipalities that do not mandate paid sick time,” she said in an email.

A state law would resolve some of the problems, but it could still be troublesome if, for example, businesses that already provide more paid time off than required have to comply with new administrative requirements, Seldin Silverman added.

Earlier this month, Assembly Speaker Vincent Prieto, D-Hudson, announced that his house in September **would take up paid sick leave legislation** sponsored by Assemblywoman Pamela Lampitt, D-Camden. That bill, A2354, would help create uniformity for businesses in the state, according to Lampitt, who expects that the measure would preempt any local laws.

“We've heard that businesses don't know how to respond,” Lampitt said about the local laws. “We've got dyslexia in terms of the policies that are out there, and I think a more unified statewide effort is the reason that we're really focused about it now.”

While also allowing employees to accrue one hour of paid sick leave for every 30 hours on the job, the state bill would require that companies provide more sick days overall. Employers with fewer than 10 employees would have to allow up to 40 hours of earned sick leave, while employers with larger workforces would have to allow up to 72 hours. However, Lampitt cautioned that “a good piece of legislation has good compromises in it.”

“I think if we started off with one day a year, we would have ended up with nothing,” Lampitt said. “If you start off with more, there's room for compromise to happen.”

Another difference between the Newark-inspired measures and the state legislation is that Newark allows workers to begin accruing sick time on the start date, though they have to wait 90 days to use it. Under Lampitt's bill, workers would have to log 90 days with a company before they could start accruing paid

sick leave.

Some wonder whether the activism behind paid leave in New Jersey will produce a result akin to the “ban-the-box” legislation that Christie signed on Aug. 11, which came on the heels of local measures that restricted when employers could inquire about a job hopeful's criminal background.

“I think, similar to ban the box, this seems to be the activity that works best — start at the local level and see if that is going to encourage state action,” said Peter Frattarelli, chair of [Archer & Greiner PC's](#) labor and employment department. “For what it's worth, I think they have the right strategy.”

How the state bill impacts smaller businesses will likely be a focus of legislative negotiating going forward, according to Frattarelli. As an example, he noted that Jersey City's law exempts smaller companies from providing paid leave. In that town, employers with 10 or more employees must provide up to 40 hours of paid sick leave a year, while workers with companies that have fewer than 10 employees must provide up to 40 hours of unpaid leave.

“I do think that's where there's going to be the most resistance, from probably both sides of the aisle,” Frattarelli said.

No matter the changes, the state bill seems unlikely to win over opponents like the New Jersey Business and Industry Association. The uniformity of a statewide standard isn't worth the costs and lost flexibility that it would mean for employers, argued Stefanie Riehl, an assistant vice president with the organization.

“Would it provide some predictability? Yes, but it would provide predictability by implementing something that is incredibly costly and incredibly administratively involved,” Riehl said. “It would provide predictability, but it would be predictability for a system that may just not be workable for some employers.”

However, Lampitt argued that the experience of jurisdictions such as San Francisco and Connecticut that have implemented some version of paid sick leave have shown otherwise.

“We've closely monitored Connecticut and San Francisco and there have been no significant impacts and abuses of sick time,” Lampitt said. “What some of these locations have found is that you actually have employees who are more committed to their employers and there's a stronger sense of engagement within their businesses.”

A Christie spokesman did not return a request for comment.