

February 26, 2020

The Honorable Sean Tarwater, Chairperson
House Committee on Commerce, Labor and Economic Development
Statehouse, Room 151D-S
Topeka, Kansas 66612

Dear Representative Tarwater:

SUBJECT: Fiscal Note for HB 2665 by Representative Parker

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2665 is respectfully submitted to your committee.

HB 2665 would enact the Kansas Paid Sick Leave Act. The bill would require that every employee accrue one hour of paid sick leave for every 30 hours worked. Sick leave could be used after the employee has worked 90 days. Unused paid sick leave of 24 hours or less would be carried over to the following year, except an employer would not be required to allow the use of more than 40 hours of paid sick leave in one calendar year of service. The bill would define what paid sick leave could be used for.

An employer could not retaliate against an employee for requesting or using paid sick leave. The bill outlines the procedure for an employee to provide notice to the employer of an intent to use paid sick leave. The bill would also allow employers to require reasonable documentation for more than a three-day absence. The Department of Labor would be responsible for enforcing the bill's provisions and adopting rules and regulations regarding notice and recordkeeping.

If any employee or former employee is aggrieved by a violation of the Act, the Department of Labor or Attorney General could bring civil action to a court against an employer for violating this Act. Upon prevailing in an action, employees and former employees would be entitled to legal or equitable relief as may be appropriate to remedy the violation, including, but not limited to, reinstatement of employment, back pay, and injunctive relief.

The Office of Judicial Administration states enactment of HB 2665 could increase the number of cases filed in district court because it allows an employee to file a civil suit, which would result in more time spent by court employees and judges processing and deciding these cases. According to the Office, a fiscal effect cannot be estimated until the Judicial Branch has had an opportunity to operate under the bill's provisions.

The Attorney General notes that the bill does not specify whether the Attorney General or Department of Labor would have the primary responsibility for bringing forward civil actions against an employer for violating the bill's provisions. If the Attorney General is expected to investigate violations of the Act, the agency estimates additional State General Fund expenditures of \$82,676 in FY 2021 for an additional Investigator FTE position. Of that amount, \$71,249 would be for salaries and wages and \$11,427 would be for other operating expenditures. Also, the agency indicates any litigation arising from complaints filed with the Attorney General could be handled within existing resources; however, depending on the number of cases generated, there could be a need to either use outside counsel or hire additional civil litigation attorneys.

The Department of Labor indicates administrative costs to develop the Kansas Paid Sick Leave Act are difficult to estimate without extensive research, including, but not limited to a review of other states that have implemented a similar program. The Department states enactment of the bill would add an additional administrative enforcement component to the Employment Standards Unit. Existing State General Fund monies utilized by the Unit would be insufficient to support the provisions of the bill.

The Department of Administration indicates enactment of the bill would have a negligible fiscal effect on the agency or any other Executive Branch state agency that follows the provisions of Kansas Administrative Regulation 1-9-5. The state's policy currently allows employees who work at least 30 hours to accrue more than one hour of sick leave. Employees can carry over an unlimited amount of sick leave from year-to-year and there is no waiting period for an employee to begin using accrued sick leave.

The Board of Regents indicates enactment of HB 2665 could have a potential fiscal effect on public postsecondary educational institutions since the bill requires employers to provide paid sick leave for every 30 hours an employee works. Current sick leave accruals and policies for staff at the Board of Regents Office and state universities follow the State of Kansas employee sick leave regulations. However, some employees, including temporary, part-time, and student employees at state universities are not benefit eligible and do not accrue sick leave. Under the bill's provisions, these employees would be relatively minimal. Other workers could cover the duties when the employee is not at work and on sick leave; however, there would be an increase in payroll costs for pay for sick leave hours taken. Any fiscal effect associated with HB 2665 is not reflected in *The FY 2021 Governor's Budget Report*.

Both the League of Kansas Municipalities and the Kansas Association of Counties state there could be a fiscal effect on local governments; however, the exact amount would vary based on what benefits are voluntarily offered to employees.

Sincerely,

A handwritten signature in black ink that reads "L. L. Campbell". The signature is written in a cursive style with a large initial "L" and a smaller "L" followed by "Campbell".

Larry L. Campbell
Director of the Budget

cc: Mary Rinehart, Judiciary
Jay Hall, Association of Counties
Trey Cocking, League of Municipalities
Dawn Palmberg, Department of Labor
Jeff Scannell, Department of Administration
Karen Clowers, Legislative Services
Kelly Oliver, Board of Regents
Willie Prescott, Office of the Attorney General
Dan Thimmesch, Health & Environment