



Written Neutral Testimony

Before the Senate Committee on Commerce

On

SB 213 - Prohibiting an employer from taking any adverse employment against an employee because of the employee's vaccination status.

By Mark Tallman, Associate Executive Director

February 25, 2021

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to comment on SB 213. We appear as neutral. Our members have not taken a specific position on this bill. We are not aware of any school districts that are requiring or are planning to require vaccinations, or take adverse actions based on an employee's choice.

However, a review of this bill suggests that it raises some questions about possible legal issues for districts. The concern is that the bill could be interpreted to consider something an "adverse action" even if the employer – in our case, a school district – is following state or federal law, its own policies, or the negotiated agreement with teachers.

For example, consider an employee who does not receive a vaccination against COVID-19 (or other illness) then becomes ill and uses up all available leave. If the school district refuses to continue to provide paid leave, or terminates the employee because he or she is unable to perform their duties, could the employee claim an "adverse action?" If so, districts would be put in the position of having to defend a legal claim or extending additional benefits to certain employees because they did not receive a vaccination, but not provide similar benefits to other employees who did receive it.

If this bill is advanced, we urge that it be clarified to ensure that an employer's compliance with any leave or other requirements under the state or federal law or other school district leave policies will not be considered retaliation or an adverse employment action.

Thank you for your consideration.