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Duff on Hospitality Law

Two Proposed Bills to Watch in the Local Hospitality Industry

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As lawyers, we're responsible not only for knowing the existing law, but also keeping a close eye on proposed legislation. This week, Employment law specialist, Mike Brunet, highlights two proposed bills, one national and one local, that could have a huge impact on the hospitality industry.

On the national front, the National Labor Relations Board (NLRB), which publishes rules applicable to unions across the country, recently issued a proposed rule that has the potential to make unionization easier. It does so by changing various aspects of the procedure for union election campaigns. The most significant change is a shortened time frame between the date that union proponents file campaign documents to propose the creation of a union and the date that employees vote on whether to create a union. A process that normally takes weeks (median time frame is 38 days) could now take only 10 days. The shortened time frame is significant because it will give employers much less time to create and distribute educational materials to employees about the advantages and disadvantages of unions. Union proponents are not similarly pinched for time, given that they can prepare their entire campaign without disclosing it publicly until the date that it is filed. Other issues of concern for employers in the new proposed rule include:

- Disclosure of private employee information. Pursuant to the rule, employers must disclose employee telephone numbers and email addresses, in addition to other private information. This mandatory disclosure violates principles of employee privacy, and could lead to worker complaints.
- Deferral of disputes. The proposed rule defers litigation of certain disputes, such as the eligibility of voters in union elections, until after the elections are held. At that point, it may be too late to change the result of the election, even if it is held again.

The NLRB is currently seeking comments on the proposed rule, and will accept comments until August 22, 2011.

Locally, the Seattle City Council is considering an ordinance that would require every employer with employees working in Seattle to provide those employees with annual **paid** sick leave. As you are likely aware, a number of Federal and State laws require employers to provide **unpaid** sick leave to eligible employees for various purposes, such as for medical care, military duty, and jury duty. It is sometimes difficult for employers to navigate these various laws to determine which ones apply, whether their employees are eligible, and what leave they must provide.

On the bright side, the proposed ordinance would simplify that process. It applies to employers of any size, all employees working 80 or more hours per year in Seattle are eligible, and it provides paid leave for employees to care for their own or their family members' medical conditions, or to seek assistance related to domestic violence, sexual assault, or stalking. The amount of paid leave that must be offered varies depending on the size of employer, from 5 to 9 days per year.

Although it is more straightforward than the web of existing unpaid leave laws, the proposed ordinance would impose a significant cost on employers that they do not currently bear. Studies of the ordinance suggest that employers' ability to provide the leave required by the proposed ordinance increases with size, so that small businesses would be most heavily burdened by the legislation.

The Ordinance is currently being considered by the Seattle Council Committee for Housing, Human Services, Health, and Culture. It will undoubtedly be vetted in multiple public hearings if it is passed out of committee, as there is already considerable controversy surrounding the bill.

Be sure to check back here for additional coverage of the proposed legislation.

Posted in Employment Law, Food and Beverage

Tagged as Labor, leave, Ordinance, Seattle, sick, unionization

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