



Written Testimony of Secretary W. Gerard Oleksiak

Department of Labor & Industry

Before the House Labor and Industry Committee

June 13, 2018

Good morning Chairman Kauffman and Chairman Galloway, thank you for the opportunity to testify before the House Labor and Industry Committee on House Bill 861.

The Department of Labor & Industry's Bureau of Labor Law Compliance (BLLC) enforces and administers twelve state labor laws, including the Minimum Wage Act and the Equal Pay Law. The department does not enforce, oversee, or monitor workplace-related ordinances approved by local governments, which are the subject of this bill. However, it's important to understand how state preemption efforts can stall progress and harm workers.

In 2006, Pennsylvania's Minimum Wage Act was amended to include a preemption clause that prevents local municipalities from raising the minimum wage above the statewide rate. Under that 2006 law, our state minimum wage rate is now at \$7.25 per hour – the lowest allowable rate nationwide and the lowest of all surrounding states. However, since 2006, the purchasing power of \$7.25 has fallen more than 12%. About two-thirds of Pennsylvania minimum wage earners are adults over the age of 20. A single minimum wage income may qualify for Medical Assistance. A mother working full time at the minimum wage lives below the federal poverty line. That's why the Governor strongly supports an increase in the minimum wage to \$12 an hour.

House Bill 861 goes further than minimum wage preemption by preventing local governments from regulating ANY employer practices or procedures. While the department would have no responsibilities in administering or enforcing this legislation, we are concerned that, if passed, it would have far-reaching implications on not only workers and businesses, but on overall economic and job growth.

Local governments throughout Pennsylvania, and throughout the United States, have taken steps to modernize and improve labor standards, including the ability to earn paid sick leave to recover from illness, prevent employment discrimination on the basis of sexual orientation or gender identity, and promote equal opportunities for individuals reentering the workforce. This bill would roll back many local protections that already exists in Pennsylvania, and – instead of encouraging economic activity – could drive away family-sustaining jobs.

From a public policy perspective, municipalities are currently empowered to enact rules and ordinances that they believe are viable and necessary for their local economies, and this issue should be no different. In terms of labor laws, the role of state government has been to set minimum standards for workplace protections, not maximums. Demographic and economic factors vary greatly from town to town. If local officials wish to approve higher standards, they have the right to do so.

A common argument is that so-called “patchwork” employment rules are a burden on businesses. But businesses have long operated under a system in which rules differ across towns, cities, and states. Every day, businesses successfully navigate different zoning laws, construction regulations, business licenses, and tax policy depending upon where they are doing business. If uniformity is a concern, I would encourage stakeholders to work with this Administration to examine and improve labor and wage standards statewide.

As this bill retroactively nullifies all local ordinances passed after January 1, 2015, HB 861 seems designed in large measure to negate the city of Philadelphia’s employment ordinances, including paid sick leave. If HB 861 passes, nearly 200,000 workers may be stripped of paid sick leave they are already earning under a law enacted three years ago.

Providing access to paid sick leave has been proven to improve the performance of employees and ensure that employers remain competitive in the search for dedicated and talented employees. Paid sick leave also improves the overall public health. Giving sick workers the occasional option of staying at home to care for themselves or a sick child decreases their recovery time and reduces the likelihood of spreading illness. Rollbacks of local leave time measures would be particularly hard on low-wage workers, because access to paid sick leave is not evenly distributed across the income scale. Workers in low wage jobs are the least likely to have access to paid sick leave, and often lack the financial ability to take time off without pay.

This bill wouldn’t just harm workers – it could also drive away jobs and businesses seeking to locate here. Regrettably, Pennsylvania has no statewide LGBT anti-discrimination laws, so local governments have chosen to enact their own protections. This bill will roll back many existing workplace anti-discrimination ordinances and prevent new ones. Such an action may imperil Pennsylvania’s attempts to attract major Fortune 500 companies to this commonwealth.

Last year, PayPal canceled plans to build its headquarters in North Carolina because of legislation that discriminated against LGBT citizens – which cost North Carolina more than \$2.5 billion in lost economic activity. Amazon, which is currently considering two Pennsylvania cities for a second headquarters, has been a strong supporter of LGBT protections. In 2017, state officials in Texas considered a “bathroom bill” and Amazon was one of dozens of companies that opposed the bill, joined by others including AT&T, ExxonMobil, Halliburton, and Apple. By stripping municipalities of the ability to protect workers, HB 861 may undercut Pennsylvania’s ability to recruit top companies from around the world, harming our ability to compete for new jobs and businesses.

To make it in the 21st century economy, we need to maintain a skilled 21st century workforce. The companies mentioned here have realized that competent and qualified employees are attracted to fair workplace rules and diverse and inclusive communities. In turn, good corporate citizens are attracted to areas that promote these policies.

I urge you to carefully consider the implications of this bill on both residents and businesses. I also encourage you to vet this bill with additional state agencies and local governments to more accurately determine its impact and consistency with our social and economic development goals.

I value the opportunity to have this conversation with you, and I hope that we may also work together to improve minimum workplace standards on a statewide basis. Thank you for your time, I would be happy to take questions.