

SEVERAL PROPOSED LAWS CURRENTLY PENDING BEFORE THE NEW HAMPSHIRE LEGISLATURE COULD IMPACT EMPLOYERS

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For the last several weeks, newspapers around New Hampshire have been filled with stories about various bills submitted to the 2012 session of the New Hampshire Legislature. The legislature has stated that its goal is to focus on economic issues affecting the Granite State. Indeed, several employment related bills have been filed and, if passed, would impact workplaces throughout the state; some of the proposed legislation would grant additional protections to employees, while others would repeal protections currently in place. Bills that would affect all employers are outlined below. Please note that there also are several bills pending before the 2012 session of the New Hampshire Legislature, not discussed here, that are directed at public employers and employees, including several bills dealing with union issues.

- HB 1323 would require any employer who offers employee benefits to full-time employees to make the same benefits available to part-time employees on a pro-rated basis. This means that any employer that voluntarily offers any leave policy, health, dental, or life insurance plan, or any deferred compensation or retirement program offered to full-time employees would need to offer the same benefits to part-time employees. As drafted, this bill does not define "part-time" employee, though the proposed law specifically excludes any requirement that employers to extend these benefits to temporary or seasonal employees. This bill only affects employers already offering these types of benefits; it does not impose any requirement for employers to offer benefits they are not currently offering.
- HB 1574 would repeal the current law, RSA 275:30-a, which requires an employer provide an employee who works more than 5 consecutive hours the opportunity for a ½ hour meal period unless s/he can eat during the performance of his/her work and is allowed to do so.
- HB1163 would amend N.H. RSA 275:48, I (b)(1) and make it unlawful for an employer to withhold union dues from employees' wages. As drafted, this means that an employer would be prohibited from deducting union

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dues from an employee's wages, even if the employee consented to the deduction in writing.

- HB 1270 would require an employer to disclose any non-compete and non-piracy agreement to a potential employee before the employee is hired. Any employer intending to require the execution of a non-compete or non-piracy agreement would need to provide a copy of the agreement either before or at the same time as making the job offer. Failure to comply with this section would render any non-compete or non-piracy agreement void and unenforceable. As drafted, presumably this bill would prohibit employers from introducing these types of agreements during employment.
- HB420 would amend the definition of "employee" under New Hampshire's various employment laws by eliminating several of the criteria currently necessary to show that an individual is an independent contractor (rather than employee).

This change would affect New Hampshire's Protective Legislation statutes, N.H. RSA 275:1, et seq., New Hampshire's Minimum Wage statutes, N.H. RSA 279:1, et. seq., New Hampshire's Whistleblower's Protection Act, N.H. RSA 275-E:1 et seq., and the Workers' Compensation statutes, N.H. RSA 281-A:1 et seq. However, it would not affect the New Hampshire Department of Employment Security's definition of "employee" nor would it affect the IRS's definition of "employee."

We will continue to provide information on developments on these and other bills impacting the workplace in New Hampshire. Employers are encouraged to stay tuned to these developments to ensure compliance with any new laws. Several of the proposed laws, if passed, would become effective within 60 days and employers will be held accountable to them.

The Devine, Millimet & Branch Labor, Employment and Employee Benefits Group offers this free Friday E-Mail Alert service to provide information on recent developments in labor, employment and employee benefits law. If you have any questions about this e-mail, or if you know of anyone else who may be interested in receiving these alerts, please send us an e-mail at employment@devinemillimet.com.

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