

HOUSE BILL REPORT

HB 2171

As Reported by House Committee On:
Labor & Workplace Standards
Appropriations

Title: An act relating to vested vacation or paid time off upon an employee's termination.

Brief Description: Concerning vested vacation or paid time off upon an employee's termination.

Sponsors: Representatives Santos and Sells.

Brief History:

Committee Activity:

Labor & Workplace Standards: 1/20/20, 1/30/20 [DPS];
Appropriations: 2/10/20, 2/11/20 [DP2S(w/o sub LAWS)].

Brief Summary of Second Substitute Bill

- Requires payment of unused vested vacation leave or other paid time off, excluding sick leave, where provided by the employer and with some exceptions, upon termination of employment.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Sells, Chair; Chapman, Vice Chair; Gregerson and Ormsby.

Minority Report: Do not pass. Signed by 3 members: Representatives Mosbrucker, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Hoff.

Staff: Lily Smith (786-7175).

Background:

The Wage Payment Act establishes standards for the payment of wages. Generally, it is unlawful for an employer to withhold an employee's wages or to willfully pay an employee less than the employer is required to pay.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

If the employer fails to pay an employee wages owed, the employee may file a wage complaint with the Department of Labor and Industries (Department). The Department must investigate and if it finds a violation, must issue a notice and order of assessment and may order the employer to pay employees all wages owed, including interest. The Department may also order a civil penalty if the violation was willful. An employee may pursue a private cause of action to enforce a wage claim and may be entitled to damages.

With a limited exception, wages due to an employee upon termination of employment must be paid at the end of the established pay period. State employees employed for at least six continuous months must also be paid for any accrued vacation leave upon termination of employment.

Summary of Substitute Bill:

Upon termination of employment, employers with an established policy, practice, or agreement for vacation leave or other paid time off (time off) must pay out any unused vested time off as wages at the employee's final rate. This payout must occur along with other wages due at the time of termination. Employers may not require an employee to forfeit their vested time off upon termination.

The payout provisions do not:

- apply to state employees subject to existing requirements for vacation leave payouts;
- alter existing collective bargaining agreements until they expire; or
- include leave used to meet existing paid sick leave requirements or otherwise affect those existing requirements.

Vested time off is considered wages, and an employee may bring a wage complaint to enforce the payout provisions.

The payout provisions apply retroactively to employees terminated on or after January 1, 2019, and employees terminated between that date and the effective date of the bill may enforce the provisions either through a wage complaint or a private cause of action.

Substitute Bill Compared to Original Bill:

The substitute bill:

- replaces various references to vacation and paid time off with the terms "vacation leave or other paid time off;"
- removes the exemption for employees subject to a collective bargaining agreement (CBA);
- provides that the provisions do not alter an existing CBA until the CBA has expired; and
- specifies that leave covered by the bill does not include leave used to meet existing paid sick requirements, and that the provisions do not affect existing paid sick leave requirements.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Everyone should be held accountable to the same standard for payment of time off. Current law allows an employee to perform well for years, acquiring unused time off, only to be mistreated by their employer.

(Opposed) As companies are not required to provide paid time off, there should not be requirements on how to do it. By adding requirements, it will adversely impact employees through employer decisions on the level of benefits to provide. If payouts are required, they should be required for everyone, including those subject to a CBA.

Persons Testifying: (In support) Representative Santos, prime sponsor; and Garret Dong.

(Opposed) Bob Battles, Association of Washington Business; and Julia Gorton, Washington Hospitality Association.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Labor & Workplace Standards. Signed by 19 members: Representatives Ormsby, Chair; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Chopp, Cody, Dolan, Fitzgibbon, Hansen, Hudgins, Kilduff, Macri, Pettigrew, Pollet, Ryu, Senn, Springer, Sullivan, Tarleton and Tharinger.

Minority Report: Do not pass. Signed by 12 members: Representatives Stokesbary, Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Corry, Dye, Hoff, Kraft, Schmick, Steele, Sutherland and Ybarra.

Minority Report: Without recommendation. Signed by 1 member: Representative Mosbrucker.

Staff: Michael Hirsch (786-7157).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Labor & Workplace Standards:

The second substitute bill exempts other paid sick leave, in addition to that provided to meet existing paid sick leave requirements, from the provisions of the bill.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 3, 2020.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) People believe that vacation is an earned benefit. Employers are not currently required to pay accrued vacation and they use the law to circumvent an earned benefit. This bill is in the interest of workers in Washington.

(Opposed) This bill would be a significant cost to small business. It removes the flexibility of employers to provide employees with benefits through paid time off as opposed to sick leave.

Persons Testifying: (In support) Garret Dong.

(Opposed) Tammie Hetrick, Washington Food Industry Association.

Persons Signed In To Testify But Not Testifying: None.