



**REPRESENTATIVE ANDY OLSON
OREGON HOUSE OF REPRESENTATIVES
HOUSE DISTRICT 15**

FOR IMMEDIATE RELEASE
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CONTACT: 503.986.1415
rep.andyolson@state.or.us

**Representative Andy Olson Submits Letter To Legislative Leaders Regarding
Impact Of Paid Leave Law**

Salem, OR – On May 10, 2016, State Representative Andy Olson (R-Albany) submitted the following letter to House Business and Labor Committee Chair Paul Holvey and Senate Workforce Committee Chair Michael Dembrow regarding impacts of SB 454, Oregon's paid leave law:

May 10, 2016

Senator Michael Dembrow
900 Court St. NE, S-407
Salem, OR 97301

Representative Paul Holvey
900 Court St. NE, H-277
Salem, OR 97301

Dear Senator Dembrow and Representative Holvey,

As you are aware, **SB 454** became effective on January 1st this year. As described during the 2015 Legislative Session, while you passionately advocated for the bill, this measure has brought with it numerous and serious problems. Being the main sponsors of the bill, I wanted to share with you some of the unintended consequences this legislation has created. There are dozens from the business community as well as the public sector that reveal the damage this measure has caused, but I want to focus on what school districts are experiencing.

- Since the law took effect January 1st, the Bureau of Labor and Industry (BOLI) only finalized their rules near the end of December. As a result, all employers statewide, school districts included, had no time to prepare and implement the law. BOLI has stated they will hold employers harmless for this first year, but that does not absolve employers/school districts from any civil liability.
- For many years, Oregon Public Schools have operated under laws requiring they provide employees with sick leave (ORS 332.507). Most school districts have Collective Bargaining Agreements (CBA) with both licensed and classified staff that further expand and modify what employees receive. The new sick time law (SB 454) does not take this into consideration. Therefore, school districts now have to operate under two separate pieces of legislation that do not match up well. This creates additional work for Human Resources (HR) and payroll staff, as well as cause a great amount of confusion. In addition, SB 454 creates a mandatory subject for

bargaining and must be addressed if requested by the employee union. Once again, this requires additional time and work of the district staff.

- The law allows school districts to either *front load* leave for an employee group or to have them *accrue* time. The problem being that school districts operate (and have for years) under a process agreed upon in collective bargaining that is very different. While many hourly employees accrue sick leave, they are frontloaded the time and may use it immediately. The condition with this is that if they leave a school district's employment, they must pay for sick leave used but not accrued. The new legislation does not allow for this.
 - This means that if a school district chooses to *front load* they must give each employee 40 hours of leave. This opens the possibility to have an employee exhaust the available paid sick time and then choose to leave the district; costing the school district all payroll expenses, as well as PERS costs, without any means to re-coup even a portion of any overpaid wages as allowed by the CBA.
 - The *front load* option mandates school districts to give every employee, regardless of their work schedule, 40 hours of sick time. Most school districts have hourly employees who only work during lunch breaks; their work day may only be 90 minutes or less. Consider this; 40-hours of Sick Time for a 90-minute per day employee is over 26 days of sick leave for an employee who only works 175 days annually. This is 15% of their annual work calendar. On the other end of the spectrum this would be an 8-hour per day, 12 month employee who would also be awarded the same 40 hours. Their 40 hours represents 2% of their work calendar. How is that equitable?
 - The new law allows school districts to only separate and treat differently, groups not covered by a collective bargaining agreement. Since part-time and full-time employees are covered under CBA's school districts must treat them the same within their groups.
- Additionally, many school districts would most likely use an accrual method with their hourly employees to make it equitable and cost effective. This means they are *front loading* leave based on the old system, and then accruing leave under a different system, at two very different rates. This would allow staff to use leave under one system immediately upon award and then access additional leave after the accrual under a totally different system. An employee could exhaust all of their paid sick leave early in a year, while at the same time accruing sick time to be used later in the same year. This could potentially result in many more sick days covered by paid leave for which the district is responsible.
- Having substitute employees covered by sick time is also problematic. Subs often work for multiple school districts. A substitute could request sick time from a given school district and work elsewhere on the same day. Districts would have no way to monitor this, as school districts utilize different Substitute Calling Systems. There is not a single system that Substitutes access to look for daily job openings.
 - Many school districts have received conflicting information from BOLI on exactly what the rules are for providing sick time to substitutes. Do they have to accept a job, then cancel, listing sick time as the reason? Can they cancel at the last minute? Can districts require them to give notice of cancellation? School districts are still working this out as a practical matter.

- The potential example for the school district would be a regular employee needing to be out due to illness, a substitute accepts the job, but then states they are ill and would like to use their paid sick time; another Substitute then accepts and does the job. Ultimately, the district has now paid for the day three times!
- Finally, many school districts are now required to provide paid sick time to coaches and advisors. Many of these positions are held by current staff who are already receiving sick leave. These positions are paid as a flat stipend amount, and there is no reduction in pay if they are absent due to illness. The sick time law would now require the district to now track an additional group that already could be absent due to illness.

I appreciate you considering the impact SB 454 has made on school districts, and hopefully you will recognize the need for addressing the mentioned issues.

Sincerely,

Andy Olson

AMO/gk

CC: Senate President Peter Courtney
Speaker of the House Tina Kotek

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