

## Paid leave would cost non-union employers over \$1.5 billion annually

Unions seek to exempt themselves from workplace mandates

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### Key Findings

1. *HB 1356 and HB 1163 would require that employers provide workers with a one-size-fits-all paid sick leave and paid vacation and place the burden of paying for the leave benefits solely on employers.*
2. *Both bills exempt employers whose workers are unionized.*
3. *HB 1356 would cost employers \$449 million per year, while HB 1163 would cost employers \$994 million annually—together, the bills would increase the cost of doing business in Washington State by more than \$1.5 billion per year.*
4. *While dramatically increasing costs on non-union employers, both bills deny workers the paid leave benefits if they are a union member.*
5. *Union workers may not receive the benefits of paid sick and vacation leave, but would still be forced to pay union dues or a representation fee in order to get and keep a job.*
6. *No state requires paid vacation leave, while just three states (Connecticut, California and Massachusetts) mandate paid sick leave.*
7. *The unfair, one-size-fits-all approach of HB 1356 and HB 1163 would be detrimental to the economy as a whole, increasing costs for non-union employers and consumers, while reducing job opportunities, wages and hours for workers.*

### Introduction

This Legislative Memo provides an overview and analysis of two bills, HB 1356 and HB 1163. These proposals would require that employers provide workers with paid sick leave and paid vacation.

HB 1356 would require employers with five or more employees to pay employees for five, seven or nine days of sick leave per year, depending on the size of the company.

HB 1163 would require employers with 10 or more employees for 20 weeks of the year to offer paid vacation for employees

who work 240 hours per year (that is less than five hours per week).

Both bills exempt employers whose workers are unionized.

Based on WPC's research and analysis, HB 1356 and HB 1163 would significantly increase the cost of doing business in Washington, harming our state's business climate and putting employers at a competitive disadvantage compared to companies based in other states.

## Background

There is no federal requirement that employers provide workers with paid sick or vacation leave. The federal “Family and Medical Leave Act” (FMLA) requires that workers in companies with 50 or more employees receive up to 12 weeks of unpaid leave for specified family and medical reasons. Congress has declined to require paid leave through federal law. The “Healthy Families Act,” (HR 1283/S 631) which would require all businesses with more than 15 workers to provide up to seven days of annual paid sick leave, has failed to pass in every year since 2004.<sup>1</sup>

Washington state does not require employers to provide paid sick or vacation leave. In fact, no state requires paid vacation leave, while just three states (Connecticut, California and Massachusetts) mandate paid sick leave.

However, 16 cities around the nation, including three cities in Washington, have ordinances mandating paid sick leave.

In the City of Seattle, employers with more than four employees must pay for five, seven or nine days of paid sick leave to every employee working within city limits. In the City of SeaTac, certain employers in the hospitality and transportation industries must provide one hour of paid sick leave for every 40 hours worked, with an unprecedented lump-sum cash out of unused leave time at the end of each year.<sup>2</sup>

Earlier this year Tacoma passed a paid sick leave mandate, requiring every business to offer three paid sick days per

year beginning in 2016. The paid leave can increase to five days in the employee’s second year of employment if they have accrued, but not used, sick leave during the first year.

Activists are pushing proposals in two dozen other cities and states.<sup>3</sup>

Efforts to prevent cities and localities from passing such mandates have gained traction; 11 states have passed preemption laws that make it illegal for localities to impose paid sick leave laws in the future and negate those already in place. Before 2010, Georgia was the only state with a law preventing the adoption of municipal paid sick leave ordinances. In 2011 and 2012 Wisconsin and Louisiana enacted preemption bills, and eight more states—Arizona, Florida, Indiana, Kansas, Mississippi, Alabama, Tennessee and Oklahoma—followed suit. At least a dozen other states, including Washington, have considered similar prohibitions.<sup>4</sup>

## Policy analysis

HB 1356 and HB 1163 would each impose a one-size-fits-all paid leave mandate on employers. Both bills place the burden of paying for the paid sick and paid vacation leave benefits solely on employers. However, employers would likely pass some or all of the added costs onto employees, in the form of cut-backs in hours, wages and non-mandated benefits. Consumers would also help bear the cost, in the form of higher prices.

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1 “Expect More Employees to Get ‘Sick’ in 2014,” by Cindy Schmitt Minniti and Mark Goldstein, *Forbes*, January 13, 2014, at [www.forbes.com/sites/theemploymentbeat/2014/01/13/expect-more-employees-to-get-sick-in-2014/](http://www.forbes.com/sites/theemploymentbeat/2014/01/13/expect-more-employees-to-get-sick-in-2014/).

2 “Citizens Guide to Proposition 1: To enact mandated worker benefits in SeaTac,” by Erin Shannon, Washington Policy Center, October 2013, at <http://www.washingtonpolicy.org/sites/default/files/Proposition%201%20SeaTac%20PB.pdf>.

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3 “State and Local Action on Paid Sick Days,” National Partnership for Women and Families, February 2014, at [www.nationalpartnership.org/research-library/campaigns/psd/state-and-local-action-paid-sick-days.pdf](http://www.nationalpartnership.org/research-library/campaigns/psd/state-and-local-action-paid-sick-days.pdf).

4 “The paid sick leave battle continues, state by state,” *Fortune* magazine, February 11, 2015, at <http://fortune.com/2015/02/11/paid-sick-leave-state-laws-bans/>.

### ***HB 1356: establishing minimum standards for sick and safe leave from employment***

HB 1356 would require that workers receive paid sick and “safe” leave that could be used to care for themselves or a family member who is ill or injured, as well as for a worker or a family member who is a victim of domestic violence, sexual assault or stalking. Workers would be eligible to accrue paid leave if they work 240 hours per year, which is an average of less than five hours per week.

HB 1356 would create three categories (or “tiers”) of employers based on firm size:

- Employers with four or fewer full-time equivalent (FTE) employees would be exempt.
- A worker in a business with between five and 49 FTE employees would accrue one hour of leave for every 40 hours worked, up to 40 hours per year.
- A worker in a business with between 50 and 249 FTE employees would accrue one hour of leave for every 40 hours worked, up to 56 hours per year.
- A worker in a business with 250 or more FTE employees would accrue one hour for every 30 hours worked, up to 72 hours per year.

Employers whose workers are covered by a collective bargaining agreement would be exempt from the paid sick leave requirements.

### ***HB 1163: addressing paid vacation leave***

HB 1163 would require employers to provide employees with paid vacation leave. Employers with 10 or more employees for 20 weeks of the year would be forced to provide paid vacation leave to workers who work 240 hours per year, an average of less than five hours per week.

The leave would begin accruing after the first six months of employment at a rate of two hours of paid leave for every 40 hours worked.

Employers whose workers are covered by a collective bargaining agreement would be exempt from the paid vacation leave requirements.

### **The cost of government-imposed paid leave mandates**

Mandating any employee benefit comes with a cost for business, especially small employers. Since no state requires employers to provide paid vacation leave, no research exists that examines real-world impacts that proposals like HB 1163 would have on businesses. However, since paid sick leave laws have been implemented in several local jurisdictions and three states, the evidence suggests that HB 1356 would cause hardship for employers, as well as employees and consumers.

Overall, paid sick leave mandates have increased costs for employers.

In Seattle, a University of Washington (U.W.) report commissioned by the City of Seattle found employers that responded to the voluntary survey have taken one of the following cost-cutting measures in response to the new paid sick leave mandate:<sup>5</sup>

- 8.2 percent of employers raised prices on consumers.
- 6.4 percent of employers decreased pay raises or bonuses, reducing take home pay for workers.

<sup>5</sup> “Implementation and Early Outcomes of the City of Seattle Paid Sick and Safe Time Ordinance, Final Report,” University of Washington, for the City of Seattle, Office of City Auditor, April 23, 2014, at [www.seattle.gov/Documents/Departments/CityAuditor/auditreports/PSSTOUWReportwAppendices.pdf](http://www.seattle.gov/Documents/Departments/CityAuditor/auditreports/PSSTOUWReportwAppendices.pdf).

- 5.3 percent of employers decreased the vacation time they offered, again increasing the burden of the mandate on workers.
- 2.7 percent of employers reduced their number of Seattle employees or moved employees out of the City.
- 0.7 percent closed or relocated their business to another city.

Nearly 20 percent of Seattle employers said their profitability was worse or much worse as a result of the city's paid sick leave law.<sup>6</sup>

These survey results are not unusual. Surveys in San Francisco and Connecticut, which both mandate paid sick leave, reveal similar results. A survey of San Francisco employees by the Institute for Women's Policy Research found nearly 30 percent of the lowest-wage employees were laid off or given reduced hours after passage of that city's paid sick leave mandate.<sup>7</sup>

A survey by the Urban Institute similarly found some San Francisco employers had cut back employee bonuses, vacation time and part-time help to absorb the new costs. In Connecticut, employers reported that state's paid sick leave law forced them to raise prices, reduce hours, wages and benefits, and sometimes eliminate jobs. Others said they would likely hire fewer people in the future.<sup>8</sup>

Connecticut was the first state to mandate paid sick leave in 2011, and it ranks as having the 47th highest costs of

doing business in CNBC's annual "2104 Top States for Business." Not coincidentally, the CNBC study ranks Connecticut as the 48th highest cost of living. California's paid sick leave law went into effect in January 2015, and Massachusetts' paid sick leave law will go into effect July 1, 2015, so the impacts of paid sick leave laws on those states' cost of doing business and cost of living cannot yet be measured. However, even before the paid sick leave mandate, California and Massachusetts hold the 48th and 46th spots, respectively, in CNBC's cost of doing business ranking, and rank 47th and 45th, respectively, in the cost of living.<sup>9</sup>

One of the reasons for these states' high costs of doing business and high costs of living are the labor mandates forced on employers, such as paid sick leave. It remains to be seen if the new paid sick leave mandate in California and Massachusetts will push those states even lower in future rankings.

Proponents of paid sick leave argue employers will offset increased costs through reduced employee turnover. But the U.W. study shows Seattle's mandated paid sick leave law has not reduced turnover. And the Urban Institute survey in San Francisco found few employers reported reduced employee turnover as a result of that city's paid sick leave law.<sup>10</sup> As one business owner pointed out in that survey, if every employer is required to provide paid sick leave, turnover becomes a moot point because that benefit is no longer an incentive for an employee to remain with one employer over another. Workers receive the mandated benefit anyway, so there's no added reason to stay with one employer.

6 Ibid.

7 "San Francisco's Paid Sick Leave Ordinance: Outcomes for Employers and Employees," by Robert Drago, Ph.D., Vicky Lovell, Ph.D., Institute for Women's Policy Research, February 2011, at [www.iwpr.org/publications/pubs/San-Fran-PSD](http://www.iwpr.org/publications/pubs/San-Fran-PSD).

8 "Paid Sick Leave in Connecticut: A Pilot Study of Businesses' Responses to the Law," by Michael Saltsman, Employment Policies Institute, February 14, 2013, at [www.epionline.org/study/paid-sick-leave-connecticut/](http://www.epionline.org/study/paid-sick-leave-connecticut/).

9 "America's Top States for Business, 2014," CNBC, 2014, at [www.cnbc.com/id/101758236](http://www.cnbc.com/id/101758236).

10 "Employer's Perspectives on San Francisco's Paid Sick Leave Policy," by Shelley Water Boots, Karin Marstinson and Ann Danzinger, Urban Institute, March 2009, at [www.urban.org/UploadedPDF/411868\\_sanfrancisco\\_sick\\_leave.pdf](http://www.urban.org/UploadedPDF/411868_sanfrancisco_sick_leave.pdf).

## Cost analysis

According to the Bureau of Labor Statistics (BLS), the average cost to an employer for paid sick leave is 25 cents per hour, per employee.<sup>11</sup> The average cost for paid vacation is a steeper \$1.02 per hour.<sup>12</sup>

Taken in isolation, an extra 25 cents per hour, or even an extra \$1.02 per hour, may seem small. Looking at the numbers in aggregate, however, shows that seemingly negligible costs add up quickly.

There are 2,707,185 employees who work for companies with five or more employees in our state.<sup>13</sup> Nationally, 39 percent of private-sector workers do not receive paid sick leave.<sup>14</sup> So just over one million workers in Washington state might reasonably benefit from the paid sick leave bill. Assuming those workers work the national average of 1,700 hours per year, the annual cost to employers in our state for paid sick leave would be a staggering \$449 million.<sup>15</sup>

There are 2,492,679 workers in Washington businesses with 10 or more employees.<sup>16</sup> Nationally, 23 percent of private-sector workers do not receive

paid vacation, so approximately 573,316 Washington workers could benefit from the paid vacation mandate.<sup>17</sup> Assuming the national average of 1,700 hours worked per year,<sup>18</sup> the cost to employers in our state for paid vacation leave would be \$994 million every year.

Together, HB 1356 and HB 1163 would increase the cost of doing business in Washington State by more than \$1.5 billion per year.

Employers could not simply absorb an extra \$449 million or an extra \$994 million or an extra \$1.5 billion per year without a change in work hours, prices, or both. They would be forced to shift costs back to workers, by eliminating non-mandated benefits (such as undesignated leave) and by reducing hours, and to consumers, in the form of increased prices.

Given the high costs to employers of providing paid sick and paid vacation leave, it is not surprising labor unions want to exempt themselves from these requirements.

## Special waivers for unions

Both HB 1356 and HB 1163 include special exemptions for employers if the employee is covered by a union collective bargaining agreement. So while dramatically increasing costs on non-union employers, both bills deny workers the paid leave benefits if they are union members.

Labor unions' willingness to exempt their own members demonstrates the apparent political motive behind both

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11 "Beyond the Numbers: Paid leave in private industry over the past 20 years," Bureau of Labor Statistics, August 2013, Vol. 2/No. 18, at [www.bls.gov/opub/btn/volume-2/paid-leave-in-private-industry-over-the-past-20-years.htm](http://www.bls.gov/opub/btn/volume-2/paid-leave-in-private-industry-over-the-past-20-years.htm).

12 Ibid.

13 "Employment Data: Firm Size," Washington State Employment Security Department, 2014, at <https://fortress.wa.gov/esd/employmentdata/reports-publications/industry-reports/firm-size>.

14 "Beyond the Numbers: Paid leave in private industry over the past 20 years," Bureau of Labor Statistics, August 2013, Vol. 2/No. 18, at [www.bls.gov/opub/btn/volume-2/paid-leave-in-private-industry-over-the-past-20-years.htm](http://www.bls.gov/opub/btn/volume-2/paid-leave-in-private-industry-over-the-past-20-years.htm).

15 "Average Annual Hours Worked by Persons Engaged for United States," Federal Reserve Economic Data, 2013, at <http://research.stlouisfed.org/fred2/series/AVHWPEUSA065NRUG>.

16 "Employment Data: Firm Size," Washington State Employment Security Department, 2014, at <https://fortress.wa.gov/esd/employmentdata/reports-publications/industry-reports/firm-size>.

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17 "Beyond the Numbers: Paid leave in private industry over the past 20 years," Bureau of Labor Statistics, August 2013, Vol. 2/No. 18, at [www.bls.gov/opub/btn/volume-2/paid-leave-in-private-industry-over-the-past-20-years.htm](http://www.bls.gov/opub/btn/volume-2/paid-leave-in-private-industry-over-the-past-20-years.htm).

18 "Average Annual Hours Worked by Persons Engaged for United States," Federal Reserve Economic Data, 2013, at <http://research.stlouisfed.org/fred2/series/AVHWPEUSA065NRUG>.

bills—to pressure employers to accept union control in the workplace in order to take advantage of the exemptions. Unionizing becomes a low-cost option for employers to avoid paying the benefits mandated by the government. Meanwhile, unionized employers translate into more union dues, to the financial and political benefit of union executives.

Left out of consideration are the union workers who not only do not receive the benefit of mandated paid sick and vacation leave, but who must join the union (since Washington is not a right-to-work state) and pay union dues or fees in order to avoid being fired.

### **The reason paid leave mandates are rare**

There is a reason only three other states, Connecticut, California and Massachusetts, mandate paid sick leave, and why no state mandates paid vacation. It is because such one-size-fits-all mandates remove much-needed flexibility for employers and workers and significantly increase the cost of doing business. Officials in most states are reluctant to increase costs on their job creators, especially when economies, employment and working families are still lagging from the Great Recession.

Policymakers in Washington should be especially wary; the state's new business start rate has declined while the failure rate continues to increase. In 2010, Washington ranked 9th in business starts and 11th in closures.<sup>19</sup> In 2012 (the most recent year available), Washington slipped to 12th for new business starts and rose to 7th in business closures.<sup>20</sup> Investors and entrepreneurs are opening fewer businesses in Washington, and more businesses are failing, as compared to other states.

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19 "2012 Competitiveness Redbook: Key Indicators of Washington State's Business Climate," Washington Alliance for a Competitive Economy, September 2012.

20 "2014 Competitiveness Redbook: Key Indicators of Washington State's Business Climate," Washington Alliance for a Competitive Economy, September 2014.

Other states are performing better at fostering a positive business climate than Washington on the heels of the recession. Imposing hundreds of millions of dollars per year in higher labor costs on the state's job creators would do little to reverse this disturbing trend, and would likely make it worse.

### **Conclusion**

Paid leave mandates do not appear as line items in state budgets, but they are not free. They impose new burdens that increase the cost of doing business. Non-union employers would be forced to pay the wages of the worker who has used a paid leave day, while paying another worker to fill in for the absent worker. Alternatively, the employer could let the work of the employee on leave go unfinished and sacrifice service, productivity and sales (while still paying the absent worker's salary). Either way, higher costs and greater inefficiency are forced on the employer.

Some employers, especially the larger corporations, may be able to absorb the increased cost. But many employers, especially those running small businesses—mainstreet shops, neighborhood restaurants, small manufacturers—often operate on a narrow profit margin. They may have no other choice other than to pass new costs on to consumers, or on to the very workers the mandates are supposed to help.

Other employers will be encouraged to accept union control in the workplace in order to gain an exemption from the costly mandates. The employees of these unionized companies will take home smaller paychecks after paying the mandatory union dues or fees required to keep their job.

Increasing costs on businesses, workers and consumers is not the way to spur the economy and create jobs. Imposing

government mandates to coerce and incentivize employers to unionize will not improve our state's business climate, nor will it help workers.

The unfair, one-size-fits-all approach of HB 1356 and HB 1163 would be detrimental to the economy as a whole, increasing costs for non-union employers and consumers, while reducing job opportunities, wages and hours for workers. Such mandates would make our already struggling business climate even less attractive to local and to out-of-state investment.

Washington Policy Center has long recommended lawmakers reject efforts to replicate Seattle's paid sick leave mandate at the state level. The best way to keep workers healthy and productive is through voluntary measures based on the specific needs of a business and its employees.

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