**Last Week at the State House**

**Senate Labor Passes Comparable Pay Bill**

Last week, the Senate Labor Committee voted 6-1 to recommend passage of S.270, An Act Relating to Labor and Labor Relations – Fair Employment Practices. Voting in favor of passage were: Senators Burke, Ciccone, Goldin, Lombardi, Lombardo and Sosnowski. Senator de la Cruz voted against passage. The bill goes to the full Senate for a vote on Tuesday, March 2nd.

S.270 dramatically changes the work world by requiring employers to pay employees equally for “comparable” work, defined as “work that requires comparable skill, effort, and responsibility, and is performed under similar working conditions.” This change creates tremendous uncertainty in the workplace and opens the door to endless litigation. S.270 also extends this wage payment system beyond gender to religion, sexual orientation, gender identity, age (41 and older) and ancestral origin. Under the bill, employers can pay differing rates based on seniority or a merit system if the policy is in writing. If the employer does not have a written policy and a wage differential exists, the employer is still ok if it can prove:

1. The reason for the differential is for some reason other than race, color, religion, sex, sexual orientation, gender identity or expression, disability, age, or ancestral origin;

2. The reason is job-related to the position in question; AND

3. It is a “business necessity” which means essential to effective job performance.

If the employer can prove all three, the employee then has the opportunity to demonstrate that an alternative to the pay differential existed and the employer refused to accept the alternative. If that happens, the employee wins the case. An aggrieved employee is entitled to unpaid wages – the difference between what the employee is getting paid verses the other employee – compensatory damages and liquidated damages up to three times the amount of the unpaid wage and benefits deemed to be owed.

The Chamber testified against the bill and offered to work with the committee to re-work the legislation. However, the committee did pass the bill. ***If this bill is of concern to your business, please contact your State Senator today. The House has an identical bill – H.5261. Contact your State Representative about both bills.***

**This Week at the State House**

**COVID Workplace Presumption/Hazard Pay/Parental and Family Leave/ Removal of Women MBE**

The chamber submitted testimony opposing the passage of H.5474, An Act Relating to Labor and Labor Relations – Workers’ Compensation – Occupational Diseases. The hearing will be held ***Monday, March 1st at 6:00 pm in the House Labor Committee***. H.5474 creates a presumption that the contraction of COVID-19 is work related for employees in essential jobs. Currently, the Worker’s Compensation Act provides benefits for those where causation to work is established. H.5474 would give the presumption to public safety officials, including, but not limited to, police, fire, EMS, medical facility workers, correctional officers, dispatchers, paramedics, pharmacists, pharmaceutical technicians, grocery or retail workers, essential state and municipal employees, public transportation employees, parcel and freight delivery employees, and truck drivers and utility workers. This change would result in increased premiums to Rhode Island businesses. Under current law, employees who cannot provide a direct causation, have benefits available to them through unemployment insurance, pandemic federal benefits, TDI and TCI. This change unfairly places the financial burdens associated with COVID-19 on the business community.

H.5721, An Act Relating to Labor and Labor Relations – Minimum Wages, requires employers employing fifty (50) or more employees to pay "hazard pay" to employees involved in providing essential services during a declared public health emergency. The hazard pay would be at a rate of one and one-third (1⅓) times the regular rate of pay. Additionally, employers would be prohibited from taking adverse employment action against an employee who refuses to work during a public health emergency. “Essential services” include the following businesses: (1) Agricultural equipment and supply; (2) Auto repair and supply; (3) Banks and credit unions; (4) Child care; (5) Construction; (6) Electronics and telecommunications; (7) Firearms; (8) Food and beverage stores, supermarkets and distributors, liquor stores, specialty food stores, bodegas and convenience stores, farmers' markets, food banks and pantries; (9) Funeral homes; (10) Gas stations; (11) Harm reduction organizations, recovery and treatment organizations, and organizations conducting in-person outreach with vulnerable populations such as those who use drugs, unhoused individuals and people recently released from incarceration; (12) Health care; (13) Industrial, construction equipment and supply, hardware stores, general power equipment; (14) Laundromats; (15) Pet supply; (16) Pharmacies, medical supply stores and compassion centers; (17) Printing shops, mail and delivery stores and operations and office supply businesses; (18) Professional uniform suppliers and stores; (19) Restaurants; (20) Seafood equipment and supply; (21) Security and public safety; and (22) Any commercial business, operation or entity designated as providing essential services by the director of the department of labor.

H.5720, An Act Relating to Labor and Labor Relations – Rhode Island Parental and Family Medical Leave Act, doubles the time an employee can take off for parental or family leave, from 13 weeks to 26 weeks over a two-year period. The granted leave time may still be unpaid; and if an employer currently pays for 13 weeks of leave, that employer is not required to provide payment for the addition 13 weeks. The employer is required to hold the job for the employee or to reinstate that employee to a similar position upon returning to the company. If passed, H.5720 would take effect upon passage.

H.5717, An Act Relating to Public Property and Works – Minority Business Enterprise, removes “women” from the MBE program; and requires state procurement and construction projects to hire MBE qualified businesses for 25% of the value of an entire project. Last week the House Labor Committee heard testimony on a bill that would remove Portuguese as a minority under the MBE program. If both bills were to pass (the bill removing Portuguese seemed to have a favorable hearing) 25% of contracts would go to the remaining groups: Black, Hispanic, Asian American, American Indian or Alaskan Native, and any other groups defined as a minority under the Federal Small Business Act.

*Submit written testimony to: HouseLabor@rilegislature.gov Indicate your name, bill number, and viewpoint (for/against/neither) at top of message. Due to high volume, clerks are not screening this inbox for verbal testimony requests. This inbox is for written testimony only. DEADLINE: In order for materials to be shared with members and posted to the General Assembly website in a timely manner, written testimony must be submitted no later than 3:00 pm on Monday, March 1st. All testimony received after deadline will be sent to committee members and posted to the website -- as soon as possible. For faster processing, it is recommended that testimony is submitted as a PDF file*

**Senate Labor to Take Up Workplace Bullying Bill**

The Senate Labor Committee will take testimony on S.196 An Act Relating to Labor and Labor Relations – Dignity at Work Act, on Wednesday, March 3rd at 3:30 pm. This bill passed the Senate during previous sessions and died in the House. This year, it is hard to predict the fate of the legislation.

S.196 creates a general duty of employers to provide a workplace free from bullying and moral, psychological or general harassment and to provide a workplace that protects each employee's personal integrity, dignity and human rights. The idea of personal dignity appears to have come out of Universal Declaration of Human Rights in December of 1948, following World War II. The Declaration included human dignity at the same time it addressed slavery, torture, arbitrary arrest and recognition as a person.

Examples of workplace bullying outlined in S.196 include:

(A) Persistent or egregious use of abusive, insulting, or offensive language;

(B) Unwarranted physical contact or threatening gestures;

(C) Interfering with a person's personal property or work equipment;

(D) The use of humiliation, personal criticism, ridicule, and demeaning comments

(E) Overbearing or intimidating levels of supervision;

(F) Withholding information, supervision, training or resources to prevent someone from doing their job;

(G) Changing work arrangements, such as rosters, offices, assignments, leave, and schedules to deliberately inconvenience someone;

(H) Isolating, or marginalizing a person from normal work activities;

(I) Inconsistently following or enforcing rules, to the detriment of an employee;

(J) Unjustifiably excluding colleagues from meetings or communications;

(K) Intruding on a person's privacy by pestering, spying or stalking; and

(L) Spreading misinformation or malicious rumors.

The legislation states, that while the offender’s intent is relevant to the remedy provided, it is not an element to support a claim of workplace bullying. For harassment to be legally actionable, a victim must demonstrate the harassment “disturbed their emotional tranquility in the workplace” or the harassment affected their ability to perform their job as usual, or up to standard, or the harassment “interfered with and undermined their personal sense of well-being.” A single incident is enough to have a triable case.

If deemed to be a legitimate claim, the employer is vicariously liable for the action. Some of the remedies include: lost wages (both back pay and front pay), any expenses related to treatment related to the bullying, compensable damages to compensate for the pain and suffering, emotional and psychological damages resulting from such workplace bullying, punitive damages as deemed necessary to deter future acts of workplace bullying, and injunctive relief.

An employer can reduce its damages if it can prove three things: (1) The employer took reasonable steps to prevent and correct workplace harassment; (2) The employee unreasonably failed to use the preventive and corrective measures that the employer provided or otherwise avoid or mitigate harm; and (3) Reasonable use of the employer's procedures would have prevented at least some of the harm that the employee suffered. If the employer establishes that the employee, by taking reasonable steps to utilize internal complaint procedures, could have caused the harassing conduct to cease, the employer will only remain liable for any compensable harm that was unavoidable.

The bill has a three-year statute of limitations and would take effect upon passage.

Written testimony can be submitted to the committee by emailing it to:
slegislation@rilegislature.gov \*Written Testimony must be submitted prior to 2:00 PM on Wednesday, March 3, 2021, in order for it to be provided to the members of the committee at the hearing and to be included in the meeting records. Members of the public can request to provide verbal testimony to the committee through the following link:[VERBAL TESTIMONY](https://forms.office.com/Pages/ResponsePage.aspx?id=LBHmn1akN0aJ3A8oTO_8ZrrkHo3ATJRAp4ByeeV8cWRUM1JIM1NRNElHRFNFN0dFTEFMODNHWjFVUy4u)

**\*Requests to provide verbal testimony must be submitted by 4:00 PM on Tuesday,**
**March 2, 2021.**

The following new bills have been filed:

House Bill No. 5603 Cardillo, Fellela, Costantino, Batista, Perez**,**AN ACT RELATING TO ALCOHOLIC BEVERAGES - RETAIL LICENSES (Allows holders of a Class P license to purchase alcoholic beverages from either a retail or wholesale establishment in the state of Rhode Island.) H5603.pdf (state.ri.us)

House Bill No. 5619 Noret, Casimiro, Vella-Wilkinson, Alzate, Solomon, Craven, Amore, Casey, Lima, Lombardi**,**AN ACT RELATING TO LABOR AND LABOR RELATIONS -- EMPLOYMENT OF WOMEN AND CHILDREN (Requires children who seek a special limited work permit to successfully complete a training program which shall address workers' rights, workplace health and safety, and workers' compensation, to be established and funded by the DLT.) H5619.pdf (state.ri.us)

Senate Resolution No. 230 Mendes, Acosta, Calkin, Mack, Bell, Kallman, Cano, Anderson, Quezada, Valverde**,**SENATE RESOLUTION CREATING A SPECIAL LEGISLATIVE COMMISSION TO STUDY AND ASSESS THE IMPLEMENTATION OF MEDICARE-FOR-ALL SINGLE PAYER PROGRAM IN RHODE ISLAND S0230.pdf (state.ri.us)

Senate Bill No. 233 Bell, Calkin, Mack, Anderson, Goldin, Quezada, Lawson, Mendes, Acosta, DiMario**,**AN ACT RELATING TO HEALTH AND SAFETY -- COMPREHENSIVE HEALTH INSURANCE PROGRAM (Establishes a universal, comprehensive, affordable single-payer health care insurance program which shall be referred to as, "the Rhode Island Comprehensive Health Insurance Program" (RICHIP)) S0233.pdf (state.ri.us)

Senate Bill No. 262 Lombardo, Lombardi, Archambault, DiPalma, Bell**,**AN ACT RELATING TO COMMERCIAL LAW--GENERAL REGULATORY PROVISIONS -- DECEPTIVE TRADE PRACTICES (Amends the deceptive trade practices chapter to clarify the law's exemptions and enhances the attorney general's authority to seek civil penalties for violations of the law.) S0262.pdf (state.ri.us)

Senate Bill No. 264 Coyne, Sosnowski, Valverde, Burke, Seveney, Euer**,**AN ACT RELATING TO FINANCIAL INSTITUTIONS -- THE ELDER ADULT FINANCIAL EXPLOITATION PREVENTION ACT (Requires employees of regulated financial institutions to report suspected financial exploitation of elder adults to the office of healthy aging and provide authority to the regulated financial institution to place a temporary hold on transactions.) S0264.pdf (state.ri.us)

Senate Bill No. 270 Goldin, Ruggerio, Gallo, Coyne, Goodwin, Valverde, Mendes, DiMario, Mack, Miller**,**AN ACT RELATING TO LABOR AND LABOR RELATIONS -- FAIR EMPLOYMENT PRACTICES (Comprehensively addresses wage discrimination, based on sex by expanding employee protections and the scope of the remedies available to employees who have experienced wage discrimination.) S0270.pdf (state.ri.us)

Senate Bill No. 272 Goldin, Goodwin, Murray, Coyne, Valverde, Mendes, DiMario, Mack, Miller, Quezada**,**AN ACT RELATING TO LABOR AND LABOR RELATIONS -- FAIR EMPLOYMENT PRACTICES ACT (Changes the definition of employee and employer for purposes of the fair employment practices act, while expanding personal liability for violations.) S0272.pdf (state.ri.us)

Senate Bill No. 279 Quezada, Picard, Calkin, Cano**,**AN ACT RELATING TO COMMERCIAL LAW--GENERAL REGULATORY PROVISIONS -- FILING OF ASSUMED NAME (Requires a person or persons who transact business under a trade name to register with a municipality, provides more extensive information when filing and to notify the municipality when the trade name is changed or discontinued.) S0279.pdf (state.ri.us)

Senate Bill No. 294 Ciccone, McCaffrey, Ruggerio, Goodwin**,**AN ACT RELATING TO TAXATION -- TAX AMNESTY (Creates a ninety (90) day tax amnesty program in the state fiscal year 2021-2022) S0294.pdf (state.ri.us)

Senate Bill No. 321 Euer, Cano, Murray, DiMario, Valverde**,**AN ACT RELATING TO WATERS AND NAVIGATION -- STATE AFFAIRS AND GOVERNMENT -- HEALTH AND SAFETY (Updates and modernize the Department of Environmental Management’s ability to enforce environmental laws, and more specifically modifies practices regarding a Notice of Violation.) S0321.pdf (state.ri.us)