

March 14, 2016

City of Minneapolis Workplace Partnership Group (WPG)

Minority Statement submitted by WPG member Steve Cramer, Minneapolis  
Downtown Council (business association representative)

### **Summary**

**This statement is being submitted to present an alternative means of addressing the City's goal, supported by business leaders, of broadening access to sick/safe leave availability in Minneapolis through a partnership approach. It also highlights important considerations when approaching this topic.**

**Many employers already provide a robust benefit in a way that makes sense to them and their employees. There is a broad consensus within the business community that those who do should be left to implement their successful policies, and those who do not should be *encouraged* to consider doing so within the financial and operating constraints they face.**

**There are also many cautions to be considered if such a policy is to be mandated only in Minneapolis. The ironclad "rule of unintended consequences" will surely come into play when imposing a one size fits all regulation on a highly diversified City employment sector which exists as part of an inter-connected regional economy. Those intended to most benefit may in fact be most disadvantaged if the cost and complexity of business operations in Minneapolis becomes too great and the City becomes a less affordable "island".**

### *Statement*

The Workplace Partnership Group (WPG) developed a comprehensive record for the City's elected officials to consider when taking up the matter of a Minneapolis-only paid sick leave policy. Unfortunately, that record is not reflected in a complete way in the report prepared for referral to the Committee of the Whole. This is especially true because an alternative framework for promoting greater access to sick time through a unique, business sector – city government – community partnership was not presented. And despite the long hours put in by Group members and staff supporting the WPG, one aspect of the charge provided by the City Council was given short shrift throughout deliberations. Other relevant

issues were also given inadequate attention given their potential impact on employers and employees alike. For all these reasons more fully explained below this minority statement is submitted.

The City Council resolution establishing the WPG directed it, among other things, to consider “regional and cross-jurisdictional implications” of any policy proposals. This is a critical starting point for the City’s decision-making on this topic the WPG did not fully examine.

Minneapolis stands at the center of an inter-connected regional economy. The City has a smaller percentage of jobs within its boundaries (only 12%) compared to other jurisdictions which have adopted paid sick time requirements. Our region’s workforce is also more mobile than most. Under these circumstances the possible negative impacts of creating an “economic island effect” are significantly higher. As Minneapolis stands out relative to the rest of the Twin Cities economy due to higher cost of doing business and additional regulatory entanglements, the outcome could be job loss, job relocation and more limited future investment.

As a result, if there is to be a policy intervention affecting only Minneapolis, officials need to be confident benefits of an action outweigh risks and unintended consequences for the community as a whole. Several points must be carefully considered in this weighing process.

- Far more non-residents who happen to work in Minneapolis would be covered by a requirement than City dwellers. About 25% of the people who work in Minneapolis (75,000 of 300,000) are also residents. In fact, more City residents who are employed work outside Minneapolis (95,000) than the number who would be covered by provisions of a City-only policy.
- Available evidence is that “presenteism” – that is reporting to work sick - is not reduced by mandatory sick time requirements.
- Studies point to modest overall public health benefits where such law are adopted.
- Enforcement costs – both direct expenses by the City and cost to employers of compliance – were not examined critically or estimated. In other cities these costs have been reported to be substantial.
- Enforcement complexities due to the enormous variation and ever-changing nature of business practices which occur within Minneapolis daily

were not documented, and examples which came to the attention of the WPG as were glossed over. Employers will expect and deserve precise answers when questions about how their practices will be affected are posed; not “we’ll cross that bridge” if a complaint is lodged.

- There are many employment situations where accrual of paid sick leave is not an expectation of either the employee or the employer. Workers whose predominant place of employment is outside Minneapolis but who spend some time within the city’s boundaries, and occasional shift workers in several industries are prime examples. This situation was largely ignored in the report.
- There are also many employment situations where employees and employers have defined and memorialized the scope of sick time as part of an overall compensation approach in a collective bargaining agreement. It is unfair in such instances that a City requirement would supersede this mutual contract and confer additional non-bargained benefits.
- The many employers who provide a flexible paid time off benefit based on policies which largely mirror but may not exactly replicate the recommendations of the WPG cannot be confident that their existing, successful personnel practices will not be impacted by the report’s recommended approach.

WPG heard much compelling testimony from employers and employees alike. Employers typically described their relationship with employees as the element in business operations they valued above all else, and expressed concerns that a uniform city requirement would undermine unique circumstances shaping workplace culture. For individuals who told their story, the underlying issue they often described is the effect of poverty compounded by growing income inequality. These are large and challenging forces for our nation to address. It’s debatable what contribution, if any, a municipal paid sick leave requirement makes to solving them. If city-only policies in this area were highly effective, it would be expected that these conditions would be diminished in communities that have enacted sick time ordinances like San Francisco, Seattle, Washington DC, and Newark. Regrettably this isn’t the case.

Overall the City Council and Mayor must insure that potential benefits from a mandated, regulatory approach are not exaggerated and possible costs

underemphasized. In its enthusiasm to recommend an ordinance WPG did not adequately address this important question of “net benefit”. Surely some people will be helped. But what if more are not? What if small and emerging ethnic business can’t comply without reducing jobs or other current benefits, or closing altogether? What if employers located outside City limits avoid providing services, or raise prices for residents to offset higher costs? What if job growth is directed away from Minneapolis in ways that never will be known due to an unwillingness by employers to face mandatory sick time requirements in one City alone? Such effects would be felt mostly by those who proponents aim to help due to more limited future economic opportunities.

Accommodations the WPG supports for micro and small businesses are an acknowledgement that the recommended policies do have a real economic cost that must be mitigated. It undermines the public health rationale to believe employees are sick any less often at these places of work, yet the WPG suggests less rigorous provisions for such employers anyway because of the reality of the impact of new requirements. But these same economic effects will be broadly felt among employers, and without equivalent accommodation results could be negative for the community as a whole.

This leads to a preferred alternative framework. As the attached DRAFT framework states, the objective is to “become the first City to address the goal of broadening access to paid sick/safe time through a business – community – city government partnership approach to promote shared goals. This is an alternative to a regulatory, enforcement of city-determined standards against local employers approach. (Analogous to creation of the Clean Energy Partnership as an alternative to municipal take-over of private utilities).”

Also attached is a table which outlines elements of a sick/safe time standard that would be promoted through activities such as (but not limited to):

- workplace recognition for current practices – “Minneapolis Proud” employer designation;
- dissemination of best practices;
- volunteer “peer to peer” business practice consulting;
- on-going evaluation of administrative/cost efficiency opportunities with City policies and procedures as they impact business practices; and

- incentives.

Under the partnership approach the outlined elements would ideally function as a set of goals for employers not providing this level of benefit to strive for. This would avoid the risks associated with a Minneapolis-only mandate and associated enforcement.

These same elements could operate as a more realistic base level requirement if policy makers felt that course of action is justified, after taking into account the many factors outlined above. This is not preferred. But the elements of the partnership approach, if enacted in ordinance as part of a hybrid model which includes the bullet pointed activities, are considerably more achievable by employers. That course of action presents less risk to the community as a whole than implementing the recommendations contained in the WPG report.

**2/16/16 DRAFT**

**Objective:** Become the first City to address the goal of broadening access to paid sick/safe time through a business – community – city government partnership approach to promote shared goals. This is an alternative to a regulatory, enforcement of city-determined standards against local employers approach. (Analogous to creation of the Clean Energy Partnership as an alternative to municipal take-over of private utilities.)

**Step 1:** Create and name an initiative, and appoint a representative governance board to oversee the work.

**Step 2:** Endorse elements of a model sick/safe time policy.

**Step 3:** Establish initial goals for the initiative. Examples might include the following.

- Promote positive existing practices at City businesses.
- Create a national partnership model.
- Encourage broader adoption of policies including elements of a model program.
- Monitor and report on progress.

**Step 4:** Develop work-plan, along these lines, to implement the goals.

- Workplace recognition – Minneapolis Proud Employer designation.
- Dissemination of best practices.
- Volunteer “peer to peer” business practice consulting.
- On-going evaluation of administrative/cost efficiency opportunities within City policies and procedures as they impact business practices.
- Annual report to the community.

# Minneapolis Sick/Safe Leave Summary

Policy Segment	Partnership Approach	WPG Draft Report
<b>Approach</b>	Broadening access to paid sick/safe time through a unique employer-community partnership to promote shared goals and monitor, adjust over time. At the discretion of elected officials may include a base mandate as outlined below.	Mandated access to paid sick/safe time through city-regulation; similar to other local and state government approaches.
<b>Employees Covered – Location</b>	Working in Minneapolis	Employees working in Minneapolis regardless of employer location or home office.
<b>Employees Covered – Hours</b>	320 hours for one employer	80 hours for one employer.
<b>Accrual Rate</b>	1:30 hours	1 hour of sick/safe leave for every 30 hours worked.
<b>Accrual Begins</b>	Commencement of employment	Commencement of employment.
<b>Usage Begins</b>	After first 90 days	Access to leave available after provisional period consistent with employer practice and not longer than 90 days.
<b>Annual Accrual Cap</b>	24	No less than 48 hours.
<b>Maximum Bank/Cap</b>	48	80 hours.
<b>Exempt Employees</b>	Considered to work 40 hours unless documented at fewer hours	Exempt employees are considered to work 40 hours unless documented at fewer hours.
<b>Use Eligibility</b>	Current State statute 181.9413	Current State statute 181.9413 with addition of “household member” (mirroring Minneapolis Civil Service definition). 1. Broad City-funded effort with multilingual efforts and specific outreach to small employers and their employees.
<b>Education And Outreach</b>	Formation of public-private collaboration to work on shared goals.	2. Establishment of a City point of contact. 3. Pursuit of an ongoing city commission to assist in shaping sick leave goals and encouraging adoption.
<b>Protection From Retaliation</b>	Employees have protections from retaliation	Employees have protections from retaliation.
<b>Documentation Option</b>	Documentation for repeated, suspicious, or consecutive absence of three or more shifts	Employer may request sick/safe leave documentation following clear pattern of abuse.
<b>Increments Of Use</b>	As defined by employer policy or business practices	Consistent with business practices, as defined by industry standards or existing employer policy.
<b>Collective Bargaining Agreements</b>	Exempt	Not addressed.
<b>Small Employer Accommodations</b>	Employers with 24 or fewer covered employees: 1. May provide unpaid leave consistent with standards.	1. “Micro” employers with one to three employees (not including the owner) will not have to provide paid sick leave

	2. May delay implementation for 12 months (existing and startup).	but employees are afforded protections. 2. An additional 6-month delay in penalties for employers with 24 or fewer employees. Employers must provide the benefit during this time and be subject to compliance-focused remedies, but not penalties.
<b>Plans Deemed In Compliance</b>	Existing plans that provide adequate time off are deemed to be compliant.	1. Existing time off policies comply if they meet minimum standards established by the City. Minimum standards include: a) access to leave at the same rate or greater; b) leave use allowed consistent with City mandate. 3. Employers may voluntarily present plans for compliance review.
<b>Enforcement</b>	Complaint-based approach	4. City may compel employers to present plans for compliance review following a complaint. Complaint-based approach with specific City point of contact for employees and employers.
<b>Enforcement Begins</b>	One year from enactment	
<b>Notice and Recordkeeping</b>	The partnership would construct good-faith parameters for notice and record keeping.	1. Employers must display a sick/safe leave poster in languages provided by the City, including languages spoken by 10% of the employer's workforce. 2. Employers must provide written notice to employees at point of hire in English and the employee's primary language provided the City has made that available. 3. Employer must maintain relevant records for 2 years. 4. The City must produce an annual outcome report for at least 3 years of implementation.
<b>Private Right Of Action</b>	Not addressed	Not addressed.
<b>Supplemental Recommendations For Consideration</b>		1. Explore creation of a staffed Office of Small Business to foster growth of small businesses by providing support in navigating City processes. 2. Explore a payroll tax approach to fund sick time for workers in Minneapolis.