



Sick Leave Bill: A Symptom of Pittsburgh's Anti-Free Market Disease

After decades of implementing legislation in Pittsburgh that is anti-free market and anti-business, now comes another assault in the form of mandatory paid sick leave. What is so infuriating is that most large employers already have such a provision. And certainly all government and government entities have generous sick leave policies, though the ordinance would exempt Federal and state employees, independent contractors, seasonal workers, and members of a construction union covered by a collective bargaining agreement—if ever applicable.

Presumably the promoters of this legislation see no difference between large, successful companies that have had years to expand, become profitable with sizable market shares and the businesses that will be affected. And as far as governments are concerned? Most eligible government employees are in a union and legislators have mandated coverage for those who are not.

What is different between governments and small, start-up businesses? Statistics tell us that a large fraction of these firms will not survive for five years anyway because of competition, regulatory costs and not being able to develop adequate demand. Recent analysis and surveys of startup data show Pittsburgh to be near the bottom of the 40 largest urban areas (see *Policy Brief Volume 15, Number 28*). Added regulatory costs in the form of mandatory paid sick leave will hasten the demise of many more that might have otherwise made it and grown into a business that could offer, on its own volition, paid sick leave. Meanwhile, governments can just raise taxes if necessary to pay the generous benefits of its employees. It can do that until the government runs up against the reality that adding more to the tax burden drives away taxpayers and businesses. Something Pittsburgh, Philadelphia and many cities around the state and nation have experienced in recent decades.

The bill currently pending in Pittsburgh, in addition to being economically wrongheaded, is flawed by the very nature of the arbitrary cutoff of 15 employees for differential treatment. Those with more than 15 employees will face stiffer requirements for paid leave than those with 15 or fewer. (Although employees at any size firm would accumulate paid sick time at the same rate [one hour for every thirty five worked], the employee at a firm with 15 or fewer employees can accrue no more than 24 hours of paid sick time while the employee at a firm with more than 15 employees can accrue no more than 40 hours.) How does the City know if a certain business with 18 employees can better afford the greater paid leave requirements than other businesses with 14 employees? This is government hubris at its absolute worst. Businesses with plans to boost hiring beyond the 15 employee level might well ditch the plans because of the escalation in paid leave benefits for all its employees.

Have the proponents contemplated what will happen to the prices charged by the businesses affected and how that could cause them to move outside City limits? Or worse still, cause the businesses to lose customers to firms in surrounding communities? It seems reasonable to believe they have not; nor do they care or worry about such things. They can pat themselves on the back and brag about how they have helped the workers and brought business owners to heel.

The ordinance provides that some part of City government—either the Controller’s office or “another department or entity designated by the Office of the Mayor”—has to act as record keeper and enforcer of this policy. The ordinance states that a violation of the City’s sick leave policy by either an employer or an employee “...shall [result in] one warning by [the City’s designated agency] prior to administration of penalties” but the ordinance only notes that an employer who does not follow the ordinance will be fined \$100 for each offense. Presumably, if employers appear willing to pay the fines, the City would have to make the fines much stiffer to force employers to provide the employees some benefit; otherwise the exercise would have been useless from the workers’ view point. It is not clear what penalty would be imposed by the City on an employee infraction, but the employer is free to “...take disciplinary action, as per the employer’s policies”. Apparently the City is fine with not meddling in business affairs on this one point, not yet anyway.

In short it appears Pittsburgh’s City Council will seriously consider passing a bill that is not fair, is anti-business and amounts to paternalism at its worst. The City needs to get past a mindset that assumes because governments can be very generous with benefits that small and mid-sized businesses can as well. If the Council is content to have a City dominated by government employment and has no dynamic start up and small business sector that is important for a solid and growing tax base in the future, this is exactly the type of policy it needs to enact.

Council cites Article IX of the Constitution, the Home Rule Charter Law, the Second Class City Code, and the Disease Prevention and Control Law as justification for its foray into the area of public health, although public health seems a big stretch as justification for this bill.

In light of the fact that Pennsylvania is not a right to work state and allows public sector unions including teachers and transit workers to strike, this bill might be considered fairly innocuous. But in terms of highlighting Pennsylvania’s deep-seated, long-term struggle to grow at a rate anywhere close to the national average, the sick leave bill offers a profound insight into the ideological wasteland in which the state and its big cities are immersed.

Jake Haulk, Ph.D., President

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<p>Allegheny Institute for Public Policy 305 Mt. Lebanon Blvd.* Suite 208* Pittsburgh PA 15234 Phone (412) 440-0079 * Fax (412) 440-0085 E-mail: aipp@alleghenyinstitute.org</p>
