The Fight over Paid Sick Leave

by Gotham Gazette Staff
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With the swine flu fears raging and the seasonal flu supposedly on its way, the City Council this week will take up a measure that its proponent hope will keep New Yorkers healthier in the face of these illnesses. The bill would require that all employers in the city - profit and nonprofit -- offer paid sick days to their employees.

The measure has mobilized forces on both sides of the issue. Some labor groups tout it as a top priority for protecting public health, while organizations representing businesses in the city adamantly oppose adding what they see as a costly burden in the midst of a recession.

Our coverage of the debate follows.

The Council Bill

Paid Sick Day Would Help Workers and Business -- Amy Traub, Drum Major Institute

Why Business Cannot Afford It -- Carl Hum, Brooklyn Chamber of Commerce, ob behalf of the 5 Boro Alliance

The Council Bill

The bill , Intro 1059, sponsored by Councilmember Gale Brewer holds that "providing workers time off to attend to their own health care and the health care of family members will ensure a healthier and more productive work force in New York City." It would give workers at small businesses up to five days of sick leave a year and those working for larger places, nine. Workers could use the days to care for a sick child or other relative and, in the case of domestic violence victims, to get counseling. Employees could also use the time if the city shuts their child's school for a health emergency -- such as a swine flu outbreak.

So far 38 of the council's 51 members have signed on in support -- far more than a majority and more than the number needed to override a veto by the mayor should there be one. The bill is a high priority for the Working Families Party, which played a key role in the election of several new City Council members this fall.

The measure, though, is not assured of passage. City Council Speaker Christine Quinn has not yet said whether she supports the measure, according to a spokesperson. In the past Quinn has not allowed legislation she did not support to even come to a vote. Whether the results of this week's elections and grumbling in the council about her leadership have made Quinn more accommodating remains to be seen.

Mayor Michael Bloomberg also has not announced his position on this specific bill. At a Working Families Party forum in July he reportedly endorsed paid sick days for people who worked for large companies, although he said he had concerns about what effect requiring paid sick leave might have on smaller businesses. That statement came as Bloomberg was wooing the Working Families Party, hoping for its support for his re-election campaign. (He didn't get it.)

A spokesman for the mayor said Friday that Bloomberg still supports requiring large employers to provide sick days but has questions about the effects such a law could have on smaller businesses.

The action here parallels steps now under consideration in Washington and in other states and cities. Sen. Christopher Dodd of Connecticut has proposed emergency legislation that would provide six paid sick days for people diagnosed with H1N1. A national Healthy Families Act would give workers an hour of sick leave for every 30 hours worked. The Obama administration has announced its supportfor the legislation.

While an overwhelming percentage -- almost 90 -- of state and local government workers have paid sick leave, only about 60 percent of workers in the private sector do. In general, according to a Bureau of Labor Statistics report , the likelihood of a worker having sick leave correlates with his or her wages. While only 22 percent of workers whose wages rank in the lowest 10 percent can call in sick and still get paid, 88 percent of those earning in the top 10 percent can.

In New York City, the number of low-income workers without sick leave has increased, according to a Community Service Society study . It found that only a third of workers in households earning $18,000 to $36,000 a year now have paid sick leave, compared to 56 percent of those workers in 2007. Low-income Latino workers are the New Yorkers least likely to have paid sick days.

Since many low-income workers cannot afford to do without their paychecks, some probably go to work sick, prompting concerns that they could spread swine flu and other diseases. Opponents say the measure would be costly and that the number of workers forced to go to their jobs when ill, particularly when suffering from a contagious disease like the flu, has been exaggerated.

Arguments for and against the bill appear below.

Paid Sick Days Boost the Health of Workers and Businesses

By Amy Traub

As he celebrated his re-election victory, Mayor Michael Bloomberg vowed to pursue a bold policy agenda in his third term. Among many campaign promises, the mayor pledged to "extend the most ambitious public health agenda in the country â€¦ taking the best ideas, no matter where they come from." One place Bloomberg should look for good ideas is San Francisco, a city that has taken great strides in addressing a public health problem New York has only begun

to consider: the widespread lack of paid sick time.

Replicating San Francisco's landmark policy of guaranteeing earned paid sick days to all employees would enable working New Yorkers to take better care of their own health and that of their families, improve workplace productivity, and potentially help prevent outbreaks of the H1N1 virus and other infectious diseases.

San Francisco's track record demonstrates that the policy does not negatively affect employment or business performance. Despite early concerns about the law, the San Francisco Chamber of Commerce has affirmed that "we really have not heard much about it being a major issue for a lot of businesses."

After all, thousands of workers are now healthier, more productive, and more secure in their employment. The Earned Paid Sick Time bill currently before the New York City Council would bring San Francisco's remarkable success here.

New York City's Bureau of Communicable Disease has translated a brochure advising city residents to "stay home when you are sick," into 14 languages. But for a growing number of city residents, that public health message is beside the point. That is because as many as 1.85 million working New Yorkers do not have a single paid sick day, according to an alarming new survey by the Community Service Society of New York. They are disproportionately low-income workers -- those who can least afford to miss a paycheck. So when they or their children become ill, they are forced to make a wrenching choice between health and well-being and the need to pay rent. Some even fear that they'll be fired or otherwise penalized for taking unpaid time off.

It is no surprise that the Community Service Society found that workers without paid sick days are more likely to go to work when they are ill and send their kids to school sick. This is the opposite of what public health agencies advise. When these employees don't take time off, their illnesses may become worse, and they may spread infectious disease like the H1N1 virus or the seasonal flu to coworkers, customers and clients -- not to mention their fellow commuters sharing crowded subway cars, buses and sidewalks. Not yet convinced that this is a public health threat? Consider the fact that the workers handling food in the city's restaurants are among those least likely to have paid sick days.

Most of the world's nations have national policies guaranteeing employees paid time off when they get sick, but in the United States this reform is still at the city level. In the most significant advance in this country to date, voters in San Francisco in 2006 approved a ballot initiative guaranteeing that every person working within city limits receive paid sick time, including temporary and part-time employees.

The broad outlines of San Francisco's successful law are the same as the bill proposed in New York: Employees earn one hour of paid sick time for every 30 hours they work. Workers can amass a maximum of 72 hours (the equivalent of nine full-time days) of paid sick time in a year. Because policymakers recognize that small businesses face greater challenges filling in for absent workers, companies with fewer than 10 employees are required to provide only 40 hours of paid sick time in a year.

In both cities, employees can use the paid leave to recover from a personal illness or injury, seek medical care or provide care for a relative (including domestic partners). In New York, employees may also use the leave if their workplace or their child's school has been closed by the authorities due to a public health emergency. Victims of domestic violence and sexual abuse can use the time to get counseling, obtain services or seek relocation.

Concerned business owners should pay special attention the law's positive impact in San Francisco. Before San Francisco's paid sick leave ordinance was passed, businesses -- especially representatives of the restaurant industry, where paid sick time was rare -- claimed that the law would harm their bottom line and force them to lay off workers. But in the year after the law was implemented, job growth in San Francisco remained strong relative to surrounding counties that lacked similar legislation. In fact, employment in the restaurant and hospitality industries grew at an even faster rate than it had the year before.

This is consistent with international research suggesting that paid sick days do not increase unemployment. It is no surprise, then, that the Golden Gate Restaurant Association ultimately described the law as successful. A recent employer survey conducted by the Urban Institute sustains this conclusion: Most employers reported no more than a minor impact on their bottom line.

New York's paid sick days law will cost employers just 21 cents per hour worked for each employee, and only 15 cents per hour for small businesses. And these estimates do not capture the other significant benefits to companies in terms of improved employee retention, increased productivity from a healthier workforce, and reduced spread of disease on the job.

Other business concerns have been extensively addressed in New York's legislation. The bill includes provisions ensuring that employees don't misuse their sick time, even though the best research available indicates that employee abuse is rare. In fact, half of all workers with paid sick time do not take any days off for illness in a given year. Employers that already offer equivalent paid time off or vacation time don't need to change their policies.

The success of San Francisco's paid sick time law has already inspired nearly three quarters of the New York City Council, led by Councilmember Gale Brewer, to co-sponsor the New York bill. Now Bloomberg, who already expressed cautious support for paid sick days at a forum over the summer, should commit to signing it. It is the next logical step in New York's ambitious public health agenda and it would enable the city to lead the way to much-needed national legislation.

Amy Traub is director of research at the Drum Major Institute for Public Policy in Manhattan.

A Measure Business Cannot Afford

By Carl Hum

It is rare when a diverse array of business owners, entrepreneurs, not-for-profit organizations, trade groups, chambers of commerce and other organizations that are committed to providing goods, services, and jobs throughout the five boroughs come together united against a

proposed bill. The legislation in question is Intro 1059 that will mandate businesses -- both for-profit and non-profit, and regardless of size -- to provide paid sick time to full- and part-time employees.

While Intro 1059 is no doubt well-intentioned, it simply does not take into account the day-to-day costs and challenges of doing business and creating and maintaining jobs in New York City. In response to the biggest economic crisis since the 1930s, many businesses, big and small, have already cut overhead, payroll and services. Add to that increased taxes (including the new mobility tax on payrolls to support the cash-poor Metropolitan Transportation Authority), increased water and electricity rates, and additional fines and fees, and it becomes clear why New York City is renowned for being a difficult and costly place to do business.

Despite this, the business community continues to press forward -- even now during what is being called the Great Recession -- by providing needed jobs and contributing to the New York's tax base. Meeting the requirements of Intro 1059 will force business owners and organizations to reconsider adding new employees, increasing wages or even extending additional benefits. This assumes, of course, that these businesses can even survive these tough economic times.

Proponents of the bill have cited the relatively low per-employee cost of implementing paid sick leave as contemplated by this bill at less than $10 per week depending on the size of the business. Now, assuming that the figures proffered by the Community Service Society indicating that as many as 1.85 million workers do not have paid sick leave are accurate, Intro No 1059 will cost New York City businesses a minimum of $684 million to enact.

And beyond the millions Intro 1059 will add to the cost of doing business, numerous regulatory requirements included in the bill will make operating a company in the New York City a legal and logistical nightmare.

For example, in addition to disregarding size, revenues or the nature of a business, the proposed legislation does not include any guidance or provisions for businesses with multiple offices headquartered in or out of New York City; it leaves employers vulnerable to employees who can use the legislation to avoid legitimate disciplinary actions; and, by broadening the traditional definition of sick time, which this bill does, businesses will now be mandated to pay

for absences not covered in many generally accepted sick leave policies. At the end of the day, Intro 1059 will put New York City businesses at a distinct competitive disadvantage with other cities and states (including, for that matter, other cities within the state).

Over the past several weeks, proponents of the bill have showcased many unfortunate workers who have either been fired or reprimanded for taking a sick day, or were too frightened to take a sick day in fear of losing their job. There is no doubt that in a city as large as ours that these stories exist and will continue to exist. However, let's address the bad actors on a case-by-case basis through creative, alternative means, such as enabling the Human Rights Commission to hear such complaints, rather than enacting a one-size-fits-all law that will end up compromising the competitiveness of our business community.

Let's be clear, the business community is not opposed to employees being entitled to paid sick time. In fact, a healthy, committed workforce is what successful businesses and organizations are built upon. What the business community opposes is a mandate that deprives it of the ability to be flexible in the midst of the worst fiscal crisis our nation has faced since the Great Depression. This broad stroke approach neglects the diversity of New York City's business community, its varying needs and strategies for creating and maintaining jobs.

Carl Hum is president and CEO of the Brooklyn Chamber of Commerce . He is writing on behalf of the 5 Boro Alliance , a coalition of the Brooklyn, Bronx, Manhattan, Queens and Staten Island Chambers of Commerce created to express their collective membership's strong opposition to the New York City Council's proposed sick time bill (Intro No 1059).