

GENERAL SESSION

February 10, 2016

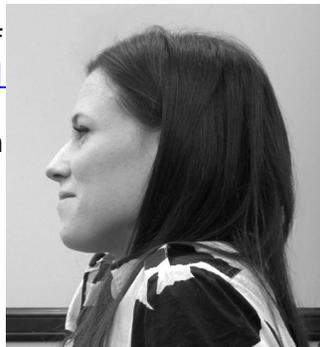
**Program Topics: *Paid Parental Leave, and
Workplace Non-Discrimination
for Pregnant and Nursing Women***

**Presented by: Business/Labor Committee
Brandy Farmer & Margot Thompson**

Speakers:

Stephanie Pitcher - Utah Womens Coalition
Sen. Todd Weiler - (R) District 23, Salt Lake/Davis

Stephanie Pitcher, filling in at the last minute for sponsor Rep. Angela Romero (D), spoke in favor of [HB 188 Paid Parental Leave](#) which makes paid parental leave a benefit for Utah state public employees in executive agencies (this includes university and college employees but not K-12 teachers). This bill modifies Utah state code in Title 67 "State Officers and Employees", Chapter 19, "Utah State Personnel Management Act" and "requires an executive agency to provide an eligible employee paid parental leave upon the birth or adoption of the employee's child" and further stipulates that the amount of time allowed shall be "up to 240 hours."



Stephanie Pitcher

Pitcher told the group that the positive impacts of the bill would come from

reducing employee turnover and making the state a more competitive employer. Parental leave could also strengthen families. Despite the importance of these benefits, Pitcher noted that the bill covers only a subset of public employees (for example, higher ed but not public ed). Based on the number of children added to state employee insurance plans, the legislative analyst estimates that about 1100 people would use the benefit each year.

Pitcher feels that the bill's fiscal impact is palatable when applied to the subset group, and the benefits would become obvious as the state's experience with it developed. The bill's scope might be expanded in future legislative sessions.

The federal Family and Medical Leave Act guarantees employees of covered employers with 50 or more employees 12 weeks of unpaid leave. Under HB188, this unpaid leave would run concurrently with the 6 weeks of paid leave.

There are large employers in Utah who currently offer parental leave similar to or even more generous than that specified in the bill. Adobe and Century Financial offer parental leave and have expressed interest in HB188.

Pitcher said supporters were still gathering data to bolster the claim of improved employee retention rates.



Sen. Weiler

Sen. Weiler spoke in opposition to the bill. He told the group that he “loves the idea”, but public employees are more in need of salary increases than parental leave. Allocating funds to pay for additional leave, on top of sick leave, vacation time, and comp time, would be less fair than increasing monetary

compensation.

Although Utah is a family friendly state, Weiler notes that it is not a liberal state, and the only two states that have adopted this are liberal Democratic states, like California. Utah will “get there eventually”, but is not ready for it now.

Pitcher replied that it might be the case that Utah is ready for HB 188 but the legislators are not. She further emphasized that although 3 or 4 other states mandate parental leave, it applies to all employers, not just the subset of “executive agency” employees covered by HB 188.

Weiler emphasized that other forms of paid leave can be saved up during pregnancy and used for parental leave. An audience member commented that some of that leave would probably be used for visits to obstetricians. Pitcher noted that taking unpaid leave as provided by FMLA is an expensive proposition for working parents.

The financial impact was HB 188 was discussed in the context of additional employer costs such as retraining. Weiler said that the fiscal notes accompanying bills are calculated with a complex formula, and costs that are more than 2 years in the future are not noted.

A questioner asked if Weiler would be more favorably disposed to the bill if the amount of paid leave were reduced, but Weiler reiterated that salary enrichment was preferable to benefit enrichment.

Sen. Weiler presented an overview of a bill he is sponsoring, [SB 59 Anti-Discrimination](#) (aka “Pregnancy Protection”). He took care to distinguish his bill from any other bill, past or present, that touches on LGBT rights. His bill is about making “reasonable accommodations” for employed mothers during and after pregnancy.

Recent Utah laws have prohibited discrimination against pregnant employees, but SB 59 goes further and requires employers to change working conditions, where possible, that make it difficult for pregnant or nursing women to perform their job duties. Weiler said that 14 states have enacted laws that are similar to SB 59.

Because SB 59 is modeled on the federal Americans with Disabilities Act (ADA), the definition of “reasonable accommodation” is well understood in employment law. Weiler gave examples of what is reasonable (an extra bathroom break) vs. unreasonable (changing the job description or hiring another employee to perform part of the job).

As with the ADA and Utah's non-discrimination statutes, SB 59 only applies to businesses with 15 or more employers. Small businesses would not be burdened. Nonetheless, some gas station and grocery store owners who would not be

exempted have told Weiler that they do not have private space to devote to women who nurse or use breast pumps.

The Utah Labor Commission would handle complaints about non-compliant employers, and employees do not need to hire an attorney to take a complaint to the Commission. When administrative remedies are exhausted, an employee can resort to the courts. Back pay awards, which are common in discrimination complaints, are typically on the order of three times the lost wages.

The bill is expressly directed at women and would provide no accommodation for men involved in newborn child care.

Weiler has no concerns about expansion of the scope of the term “reasonable” because the ADA has been in effect for 25 years and the interpretation of the term has stabilized.

Another question concerned possible extensions of non-discrimination to conditions such as obesity. Weiler said his bill was not meant to address this but it might be covered under ADA.

WSLC President Shauna Scott-Bellacomo commented that in her experience, pregnant women who work for the state are frequently the victims of discrimination by managers. She related an incident in which a manager asked for help in hiring people who would not get pregnant.

Breast feeding accommodations are currently required under the federal Affordable Care Act and Utah statutes that apply to public sector employees. HB 59 goes beyond those provisions in order to provide fair accommodation for all conditions related to pregnancy and childbirth.

This Bulletin is a publication of
The Women’s State Legislative Council of Utah, Inc.
<http://www.wslcofutah.org>

“Celebrating 96 years of service”
1920 - 2016

President: Shauna Scott-Bellacomo
Advisor: Carol Harley
Editor: Hilarie Orman
Reporter: Lorene Kamalu

*Printed by AlphaGraphics
117 West 900 South
Salt Lake City, UT 84101*