



The Voice of Small Business.®

2015 JOINT SENATE LABOR AND SOCIAL SERVICES COMMITTEE HEARING ON ISSUES
AFFECTING FAMILIES IN THE WORKFORCE

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Good morning.

Thank you to Senator Martins and Senator Carlucci as respective chairs to the Senate Labor and Senate Social Services committees for holding this hearing and inviting me to speak today. I also thank the additional members of both committees here with us today.

NFIB represents nearly 11,000 small and independent businesses all across New York and covering virtually every segment of our state's economy. The typical NFIB member has between five and eight employees and nets somewhere between \$450,000 - \$800,000 annually. Small business is integral to New York's economic competitiveness. Consider that 98% of all businesses in New York are small employers and approximately 40% of our workforce is employed by small businesses.

I describe our membership and the importance small business has on our economy to illustrate one of the key points of my testimony here today and what I think often gets lost in the public policy discussions here in Albany when it comes to labor and business issues.

There is no such thing as a "one size fits all" policy that works for every business or every industry. Consider the varied types of small business you frequent – pizza parlor, car service station, barber shop - some have employees that are strictly full-time, others strictly part-time or hourly. Some have a combination of both. Perhaps others are seasonal employers. Small businesses face complex issues that are unique to them and when solutions to perceived problems are put in place by government, they too often paint business with a broad brush and fail to take into account the unique structure of Main Street employers.

We are here discussing family issues as they relate to the workforce and primarily focusing on the topic of paid leave. NFIB has long opposed inflexible or mandated family leave requirements for a variety of reasons.

The problem with debating paid leave legislation is that it ignores the basic fact that most small business owners already provide their employees with paid time off. The question regarding paid leave is largely a solution in search of a problem. When the reality is that employers across the state provide flexible, mutually beneficial arrangements that allow employees time off when necessary in a predictable, fiscally responsible way.

According to an NFIB national small business poll, 97 percent of small business owners indicated that they already provide flexible leave. A 2010 survey conducted by the Partnership for New York City found that 70% of small business offered formal paid time off and 62% paid sick leave. Of those that did not offer a formal policy, most small employers offered informal options including pay and scheduling options on a case by case basis.

This is in spite of the fact that the Federal Medical Leave Act exempts small businesses with less than fifty employees. This suggests that a mandated paid leave policy imposed on small business is unnecessary government interference.

Small business owners compete for employees based on the flexibility and benefits they can provide. Studies show that mandated leave time will result in a decreased ability of employers to offer other benefits that employees may want more than paid family leave, such as pay increases, health insurance or additional vacation days. A paid leave mandate will impede small employers' ability to attract and retain employees based on desirable benefits offerings.

Additionally, for small employers, the owner themselves do not get paid leave benefits. If they are ill or have a family emergency, the business is closed. These circumstances alone differ tremendously from that of big box stores or major corporations. Consider these comments from current NFIB members:

“With liability and workers compensation costs going up every year...we cannot take another mandate that raises the cost of doing business. My liability rates went up 22%!” – Remsen, New York business owner

Or

“This increase in payroll costs would force us to raise our prices, decrease existing benefits or reduce raises. This will hurt our employees, the very workers a paid leave mandate would seek to protect.” – South Fallsburg Business Owner

And no matter how any such leave requirement would be structured, there will be increased costs.

These costs could include overtime for other employees filling in for the employee on leave or the cost of hiring and training a temporary employee. It is important to note that temporary employees often cannot be integrated into the operation of a small business as many small businesses require a specifically skilled and trained worker. Replacement workers with specialized skills also are difficult to attract to temporary positions, which means a position vacated by an employee on paid leave results in lost productivity for the small business.

Some proposals would increase the maximum daily benefit payment and broaden the use of disability benefits. Using the legislation that recently passed in the State Assembly as an example, the maximum benefit payments would dramatically increase from the current \$170/week to nearly \$700/week over three years. The proposal within the Senate one house budget resolution would utilize \$125 million of state general funds to help finance paid leave,

and we view this as an additional tax on business. You must also factor in the increase costs related to the disability components within both plans, which the employer will be forced to pay.

Additionally, with these types of mandates, it is important to consider that many small businesses do not have human resources or personnel departments. So with any proposal, additional paperwork, reporting or posting requirements will also impose significant compliance issues.

Some will argue or propose that the solution would be to exempt businesses with x amount of employees as an attempt to protect small employers. There are a few problems here as well. One would be that it could discourage growth, hiring and economic expansion, which is not an outcome our state can afford.

The second is that these efforts to expand labor mandates never stop. We have seen paid leave mandates put in place in other municipalities, such as New York City for example, which initially exempted employers with 15 employees. Today virtually all employers are incorporated within the requirements. Some other efforts initially were funded via payroll deductions, only to later be modified to be strictly employer funded. Many enacted paid leave mandates additionally incorporate private right of action language, which open small employers up to an increased threat of litigation.

My last point, and I say this all the time, is to not look at issues in a vacuum. New York still is among the highest cost states in energy costs and health care costs among others. Small businesses are dealing with a current phase in of minimum wage and could be dealing with another dramatic increase. Contrary to what the Governor is saying, his proposed “historic” tax cut for small business is anything but and excludes 90% of small businesses in this state. New family care mandates will have a negative fiscal impact on small employers and further cannibalize already narrow profit margins.

Most small businesses already offer flexible paid leave benefits. Those few that do not offer do so because of affordability. Mathematics leads to conclusions that cannot be argued with, regardless of what seems right, just or fair. Mandating new family care mandates will not change the ability of those businesses to offer these benefits, they will simply stop being in business.

Thank you.