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S.B. 2170

Senate Workforce Development Committee

Sen. Michael A. Wobbema, Chairman
Sen. Michelle Axtman, Vice Chairman

Testimony of Nathan Svihovec

Commissioner of Labor
N.D. Department of Labor and Human Rights

NEUTRAL

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I. Introductory Summary

Chairman Wobbema, Vice Chairman Axtman, and members of the Senate Workforce Development Committee, my name is Nathan Svihovec and I was appointed as the North Dakota Department of Labor and Human Rights Commissioner beginning December 2022. I am a licensed attorney in the State and prior to my appointment, primarily practiced in labor and employment law as well as other civil litigation areas. I have been fortunate to formerly represent the Department as an Assistant Attorney General and to represent private businesses and individuals before the Department while I was in private practice.

Chapter (Ch.) 34-05 of the North Dakota Century Code (N.D.C.C.) created the North Dakota Department of Labor and Human Rights and prescribes the powers and duties of the Commissioner of Labor (Labor Commissioner). The Department's statutory duties can be most concisely summarized as ensuring citizens can live, work, and prosper in North Dakota. It is my deeply held belief that the mission of the Department is an essential service to the public.

II. Current Law

North Dakota's child labor laws are codified under [N.D.C.C. ch. 34-07](#). In general, minors under the age of 14 are prohibited from employment except in farm labor, domestic service, or while under the supervision of the minor's parent, guardian, or grandparent. A minor under the age of 14 is further restricted from employment during public school hours.

Minors aged 14-15 have reduced restrictions. With the exceptions of domestic services and farm labor, minors aged 14-15 may not work before 7:00 a.m. or after 7:00 p.m. From June 1 through Labor Day, minors aged 14-15 may work between the hours of 7:00 a.m and

9:00 p.m. They also may not work more than 18 hours during school weeks or more than 40 hours in non-school weeks.

All minors under the age of 16, however, are prohibited from certain work deemed too hazardous or detrimental to a child. Those include work involving the use of power-driven machinery, certain construction work duties, logging operations, sawmills or planing mills, explosives, operation of steam generating apparatuses, laundry machinery, acids, paints or white lead manufacturing, freight elevators, mines or quarries, immoral goods, elevated surfaces such as ladders or scaffolds, security, door-to-door sales, fertilizers and other chemicals, medical wastes, blood or bodily fluids, cooking, warehouses or storage, or commercial driving.

Minors ages 16-17 have no limitations under state law. Federal law under the Fair Labor Standards Act of 1938 ("FLSA"), however, does have limitations on minors 16-17 years of age. In the construction context, minors under the age of 18 may not be engaged in any roofing duties under the FLSA. This includes duties not only on a roof, but upon or in close proximity to a roof such as gutters, heating and ventilation equipment, or other duties that would require standing on a ladder or scaffold. Other limitations to a minor's use of certain power tools, power-driven hoist machines, and trenching/excavation machines are prohibited under the FLSA as well.

III. Bill Effect

This bill would add a requirement under state law that minors aged 16-17 years old obtain signed permission from the minor's parent or guardian. Upon receipt of the signed

permission, the Department would then issue a permit authorizing the minor to work in construction.

IV. Recommendation

I suspect the intention of this bill was to make it less restrictive for minors to work in construction jobs. Based on current state law, however, this bill actually makes it more difficult, not less, for a minor aged 16-17 years old to work in a construction job.

If the intent truly was to make it more restrictive and ensure a parent or guardian has authorized their child to work in a construction job, this bill certainly accomplishes that goal.

V. Fiscal Impact

At this time, it is difficult to estimate the number of minors aged 16-17 years old who will apply for these positions in North Dakota. I do not currently anticipate a fiscal impact or require additional FTEs to accomplish implementation of this bill.

VI. Conclusion

Thank you for your service to North Dakota. I would happily address any questions you have at this time.