



ILLINOIS DEPARTMENT OF LABOR

LABOR ADVISORY BOARD

DRAFT BOARD MEETING MINUTES

Thursday, April 11 2024

12:00 pm – 2:00 pm

In-Person: Illinois AFL-CIO Springfield Office; 534 S 2nd Street, Suite 200, Springfield

Virtual: Join Zoom Meeting

<https://aflcio.zoom.us/j/84995013312?pwd=Iw4UfPDleDb2b7obOxaghuUuHFLO1E.1>

Meeting ID: 84995013312

Passcode: 916076

CALL TO ORDER.....Cherita Ellens

ROLL CALL.....Sophia Zaman

Present In Person

- Chairwoman Cherita Ellens
- Tim Drea
- Anthony Alfano
- Mike Newman

Present Virtually

- Secretary Sophia Zaman
- Jerry Womick
- Steven Avalos
- Pam Monetti
- Marisa Richards
- Scott Cruz
- Alec Laird

Not in Attendance

- Karen Harris
- Stacey Brown

Quorum is established

REVIEW & ADOPT MINUTES.....Board

- January 10, 2024 Minutes

- Motion to adopt the minutes as presented made by Anthony Alfano
 - Seconded by Mike Newman
 - No discussion
 - Motion carries

PRESENTATIONSIDOL

- Department Updates: Grants; Community Engagement; Staffing & Personnel
 - IDOL received tradeswomen infrastructure grant via USDOL in collaboration with Chicago Women in Trades with the goal to increase women in construction and trades jobs in infrastructure projects
 - Grant also includes employer education and outreach to strengthen hiring and development of women in construction and trades jobs, including via best practice trainings
 - Marisa Richards: PDC30 previously worked with CWIT to develop sexual harassment training and course for Illinois workers; happy to share resources to IDOL including powerpoint presentations and training exercises
 - Guest Participant from Carpenters Local 174: focus on port-a-potties that provide inclusive comfort for women; we need a broader understanding of sexual harassment
 - IDOL provided grant funding to Illinois Coalition on Immigrant and Refugee Rights to provide labor Know Your Rights trainings at migrant shelters, with a particular focus on child labor laws in English and Spanish
 - Sophia Zaman: Can you speak more to process of selecting organizations for community partnerships? Pleased to hear that IDOL is investing resources in outreach and education in migrant shelters, but there are many organizations with a focus on immigrant workers so would like to hear more about the selection process.
 - Director Flanagan: Grant provided was a subgrant pursuant to the Governor’s Emergency Declaration via IDHS; IDOL suggested workers rights be included and IDHS suggested ICIRR as an already established grantee
 - Chairwoman Ellens: How does IDOL make decisions around grant opportunities?
 - Director Flanagan: We are always open to discussing with partners who bring us grant opportunities. These are the first 2 grants and we haven’t established a process.
 - Chairwoman Ellens: Want to ensure that the public is aware that IDOL is open to grant partnership opportunities.
 - Other Outreach and Education
 - Paid Leave for All – IDOL staff Elizabeth Guerrero and Lydia Colunga-Merchant have conducted Facebook livestreams with workers and community organizations on the new paid leave law

- Child Labor – Conducting several trainings as well as tabling on child labor laws with young people preparing to work over the summer
 - Will soon prepare IDOL Newsletter with resources for education, upcoming events, and social media links
- Legislative Highlights
 - 3 Key IDOL initiatives include Child Labor Law of 2024, Electronic paystubs, and ODRISA improvements
 - Child Labor Law of 2024 (SB3646/HB5563)
 - Regulates employment of children 15 and younger
 - Reorganizes the law for improved clarity
 - Modernizes provisions for school and restricted occupations
 - Increases penalties for violations
 - Electronic Paystubs (SB3208/HB5300)
 - Amends the IWPCA to codify what should be included in electronic paystubs; requires employer to provide outgoing employees with copies of their wages for the prior 12-months if the employee won't have access to wage records after separation
 - Guest Participant: this is important and relevant, its very confusing to track hours and payment
 - Scott Cruz: isn't this already covered under the Personnel Record Review Act?
 - Anna Koepfel: PRRA does not specifically name wage records as a personnel record, so we wanted to create an affirmative right for employees to request this information; especially for employees who access pay records via online platform may not know to ask for this information
 - Scott Cruz: is it the IDOL's position that the PRRA doesn't include wage records?
 - Anna Koepfel: No. The benefit of this is the statutory clarity.
 - Scott Cruz: Should this bill pass, employees would have 1 year to request pay records?
 - Anna Koepfel: Yes, workers have 1 year look back from the date of separation; former employees within 1 year of separation, workers can request wage records for the prior year from the date of separation
 - Chairwoman Ellens: the key seems to be the affirmative right, that employers would offer these records to employees at the time of separation
 - Scott Cruz: How does the department define wage records? What is the scope?
 - Anna Koepfel: copied the definition of paystub in rule: hours worked, rate of pay, OT, OT worked, OT pay, deductions etc.

- Director Flanagan: part of a broader IDOL goal to recognize that the workplace has changed and is much more online so the law needs to catch up with technological advances
- Scott Cruz: How would involuntary separation be handled?
- Anna Koeppel: language says “outgoing” so doesn’t necessarily have to be the last day; it’s not meant to be super prescriptive, just that the employee is made aware that they’ll lose access to pay records and do they want a copy
- Chairwoman Ellens: Scott, in your advisory capacity, do you have concerns with this legislation?
- Scott Cruz: Without seeing the language, just trying to see how to best advise my clients in the situation of involuntary separation
- Anna Koeppel: Clarifies that employers can provide pay records via the mail after the fact. Please check out the bill, we got a lot of feedback from employer groups and most of them came to neutral.
- ODRISA Improvements (SB 2939/HB4602)
 - Amendments prohibit retaliation; codifies that the time an employee is “on call” does not count as rest; and restructures the permit/waiver process for employers who want to allow employees to work a 7th day in a row
 - Anthony Alfano: is there a restriction on the number of waivers in a year?
 - Anna Koeppel: employers can request 8 weeks with justification; after 8 weeks, employers have to provide justification of business necessity and economic necessity
 - Anthony Alfano: Is there a notice requirement to the employees that a waiver has been collected by an employer?
 - Anna Koeppel: I don’t think so currently.
 - Anthony Alfano: from a labor perspective, employees don’t know whether its been requested. It makes sense to have some kind of notice requirement to the employees, to know whether they can exercise a right under this Act
 - Chairwoman Ellens: Under a waiver, does the employee lose their right to say no?
 - Anna Koeppel: No. It is a waiver to allow employees to choose to work if they want. Employee can still decline.
 - Mike Newman: This is a law that a lot of workers will benefit from.
 - Anthony Alfano: I’m constantly talking to members and employers about ODRISA. If this bill goes into effect, education will be critical.
 - Director Flanagan: absolutely, on both sides we will do lots of education
- Other bills of note, not IDOL initiatives:

- SB 508 – new e-verify bill
 - HB3763/SB3735 – personnel records
 - HB 4445 – VESSA – Employer-owned Electronic devices
 - HB 4596 – Paid Leave for All – airline workers
 - HB6071/SB3464 – Work Without Fear
 - HB 5249 – NICU Unpaid Leave
 - HB 5345 – One Fair Wage
 - HB 5572/SB3649 – Worker Freedom of Speech
 - SB 3180 – Work hours for child performers
 - SB 3650 – IDTLA trailer
- Freelance Workers Act (07/01/2024 Effective Date) Update
 - Only applies to contracts taking effect after 7/1/2024
 - Protections for Freelance Workers
 - Independent Contractor
 - Provides products/services in IL or for a client in IL
 - Value of work = or greater than \$500 over 120-day period
 - Contracts
 - Shall be in writing
 - Client shall provide electronically or physically to freelance worker
 - Must contain name and contact info, itemization of products of services, date of compensation due, date of services provided, contract on file for 2 years
 - Anti-retaliation
 - Complaint Process:
 - IDOL doesn't have the power to investigate or issue penalties
 - FW files a complaint with IDOL, IDOL reviews whether there's cause to initiate the information facilitation process
 - If client doesn't respond, creates a rebuttable presumption in civil action
 - If client does respond, IDOL will share info to hopefully dissolve issue or notify FW right to bring an action in court, or the OAG can bring an action to court based on a pattern and practice
 - Civil penalties awarded by court
 - Next steps:
 - Creating webpage on IDOL website, setting up contact info, create complaint form, outreach and education
 - Director Flanagan: to IDOL this is a quasi-mediation process; on the outreach and education, this is a challenging group of workers to identify – welcome insight on how to reach FW
 - Chairwoman Ellens: There's websites dedicated for FW, like job boards, would be good to educate via those platforms or offer webinars; non-profits use FW all the time so non-profit education would be important
 - Scott Cruz: Is the definition of FW going to model the definition of independent contractor under 115-2

- Ganapathi Ramaswamy: statutory definition of freelancer does state independent contractor; independent contractor would use test in IWPCA
- Anna Koepfel: definition combines with ECA test
- Scott Cruz: Does IDOL retain subpoena authority under the facilitation process?
- Ganapathi Ramaswamy: IDOL does not, OAG does if they enforce

BOARD DISCUSSION..... Board & Director Flanagan
Implementation and Enforcement Updates:

- Paid Leave for All Workers Act Rules
 - JCAR and IDOL staff are meeting to resolve remaining issues; hopes to post on JCAR by next week
 - Scott Cruz: will revised rules go on JCAR website?
 - Anna Koepfel: at this stage, IDOL can't make changes, it has to be agreed to by JCAR; then they update on 2nd notice page
- Day & Temporary Labor Services Act Suit
 - Lawsuit filed by SSAI challenging provisions of IDTLA amendments on pre-emption and equivalent wages and benefits
 - Court denied most of the injunction, but did include the equivalent benefits portion of Section 42
 - Wage portion is in effective and enjoined – OAG is appealing the ruling to 7th circuit; while they appeal, parties have agreed to stay all other challenges
 - In the meantime, there is legislative amendment of further clarify components held up in court
- Wage Claims Progress
 - Wage claims is highest volume unit
 - IDOL has struggled with backlog due to limited staffing, but have made significant progress
 - Currently only 5 ALJs, but despite backlog has been brought up to 6 months
 - Rutgers University is offering IDOL investigator trainings to better screen and triage cases
 - Have been piloting voluntary resolution mediation services for small claims
- Other Subjects:
 - Anthony Alfano: Lydia from IDOL was helpful in a collective bargaining situation dealing with the Family Bereavement Leave Act; we will need more education and guidance from IDOL. Where employers have a collective bargaining agreement that includes paid time off, is that time in addition to the Family Bereavement Leave Act, or is it concurrent with existing time off
 - Director Flanagan: we created the new leave division to staff paid leave for all Act, but as we build up this division we want to do more for all forms of leave protections
 - Anthony Alfano: Unfortunately, if an employee takes the time off and they do not have that time unpaid, an employer is going to discipline the employee and maybe on a discharge basis. Could be even more harmful to employee so really needs to be clarified.

- Next Meeting
 - August 13 in Chicago at UB Greensfelder LLP
 - November 12 in Springfield/downstate location TBD

PUBLIC COMMENT.....Members of the Public

ADJOURN

Motion to adjourn made by Mike Newman and seconded by Anthony Alfano

Motion carries and meeting adjourns at 2pm.