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Senate Bill 1257 (as introduced 12-10-20)
Sponsor: Senator Wayne Schmidt
Committee: Committee of the Whole

Date Completed: 12-15-20

CONTENT

The bill would amend Public Act 238 of 2020, which governs employment rights concerning COVID-19, to exempt a food processor employee, an employee of an employer whose primary business involved food or beverage distribution, or an essential critical infrastructure or water worker from a prohibition against reporting to work after close contact with an individual who tested positive for or displayed the principal symptoms of COVID-19.

Under the Act, except as otherwise provided, an employee who has close contact with an individual who tests positive for COVID-19 or with an individual who displays the principal symptoms of COVID-19 may not report to work until 14 days have passed since the employee last had close contact with the individual or the individual with whom the employee had close contact receives a medical determination that the individual did not have COVID-19 at the time of the close contact. The Act specifies that this provision does not apply to certain employees including a health care professional, a worker at a health care facility, or a first responder, among other employees.

Under the bill, the provision above also would not apply to the following:

- A food processor employee.
- An employee who was employed by an employer whose primary business involved food, feed, or beverage distribution.
- An essential critical infrastructure worker who did not display principal symptoms of COVID-19.
- An essential critical water and wastewater worker who did not display principal symptoms of COVID-19.

The bill specifies that an essential critical infrastructure worker or an essential critical water and wastewater worker who did not display principal symptoms of COVID-19 would have to comply with the United States Cybersecurity and Infrastructure Security Agency's Interim Guidance for Implementing Safety Practices for Critical Infrastructure Workers Who May Have Had Exposure to a Person with Suspected or Confirmed COVID-19.

The bill would define "food processor" as an employer that is a food processor as that term is defined in Section 1107 of the Food Law: a food establishment that processes, manufactures, wholesales, packages, labels, or stores food. "Food processor employee" would mean an employee who is employed by a food processor.

"Essential critical infrastructure worker" would mean a worker who constructs, maintains, or rehabilitates critical infrastructure as described in the United States Cybersecurity and Infrastructure Security Agency's Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response, Version 4.0, August 18, 2020.

"Essential critical water and wastewater worker" would mean a worker in the water or wastewater industry who performs essential water services as described in the United States Cybersecurity and Infrastructure Security Agency's Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response, Version 2.0, March 28, 2020.

BACKGROUND

According to its website, the United States Cybersecurity and Infrastructure Security Agency's Interim Guidance for Implementing Safety Practices for Critical Infrastructure Workers Who May Have Had Exposure to a Person with Suspected or Confirmed COVID-19 includes allowing a critical infrastructure worker to continue work following potential exposure if he or she remains asymptomatic and additional precautions are implemented to protect the worker and the community.¹

The United States Cybersecurity and Infrastructure Security Agency's Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response, has been updated three times, the most recent version being Version 4.0. Earlier versions primarily identified essential work functions during community restrictions, while Version 4.0 also identifies essential workers who require specialized risk management strategies to work safely. The Guidance categorizes essential critical infrastructure workers into healthcare, energy, and water and wastewater, among other things, and provides a list of workers for each category. Generally, the water and wastewater category includes operational staff at water authorities, community water systems, and wastewater treatment facilities, among other workers.

MCL 419.401 & 419.405

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

The bill could have a positive fiscal impact on State and local government. If a critical infrastructure worker or water or wastewater worker employed by a unit of government were not required to stay home from work because of the proposed changes, that unit of government would experience decreased labor costs. Also, the addition of critical infrastructure workers to the Act could decrease court filings and legal expenses for the State and local units of government to an unknown degree.

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¹ "Identifying Critical Infrastructure During COVID-19", www.cisa.gov. Retrieved on 12-15-2020.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.