

HUMAN RESOURCES & LABOR

The human resources and labor committee promotes streamlining areas of employment law that inhibit the development of productive employer/employee relationships. The committee also works towards ensuring the fair and objective administration of Kentucky's workers' compensation system and develops policy in key areas of human resources and benefit management.



COMMITTEE CHAIR

Suzanne Northern,
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Investing in employees

Today's fast-paced, highly competitive economic environment means that recruiting, training and continuously investing in employees is a top priority for most companies. Kentucky employers are meeting these challenges every day – even as it becomes more and more difficult to find individuals with the right skills and the right attitude.

In 2008, Kentucky's average cost per case for a workers' compensation medical claim was \$34,000 compared to the national average of \$28,000.

NCCI Kentucky's Workers' Compensation
State Advisory Forum, August 2009

Workforce Flexibility

State policy-makers must support employers as they invest in the Commonwealth's workforce. As employers embrace their responsibility to provide a safe working environment and create an honest, open dialogue with employees, businesses must have the flexibility to manage their workforce needs within the confines of a job market that rewards higher skills and high levels of dedication and commitment.

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It is within this context that the Kentucky Chamber opposes state and local wage mandates that go beyond federal requirements. When state or local governments attempt to mandate wage and benefit thresholds, safety regulations or additional standards that go beyond what is necessary to provide proven, uniform protections, the added cost of doing business – and the lack of focus on the real issues that could make a difference – de-

creases Kentucky's overall competitiveness, particularly with our border and peer states.

Improve Workers' Compensation

In 1996, the passage of the Kentucky Workers' Compensation Act brought sweeping reforms to one of the most flawed and expensive workers' claims programs in the country. For a time, the business community believed the pendulum of public policy had finally come to rest at the center. Unfortunately, recent years have seen some elements of reform diminished or overturned by Administrative Law Judges (ALJs) and the courts. Additionally, higher medical costs are putting substantial strain on the workers' compensation system.

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The Kentucky Chamber believes that an equitable workers' compensation program must clearly define injury and disability, require in-

dependent medical examinations and objective medical findings, protect the integrity of exclusive remedy, and minimize litigation. The Chamber supports legislation that overturns case law that runs counter to these core principles, as well as legislative and regulatory efforts to control rising medical and prescription drug costs. Enacting legislation that controls runaway medical costs generates substantial cost savings for employers, and can be done while ensuring high levels of service to injured workers.

Enact a Uniform Statute of Limitations Law

Kentucky's five-year time small business period on employee wrongful termination or discrimination lawsuits places an inordinate burden on employers. The Chamber supports changing state statutes to make all employment discharge and discrimination-type actions more uniform. The statute of limitations on wrongful termination or discrimination cases arising out of the employment relationship should be no more than two years after cessation of employment.

Support Safer Working Environments

While the devastating effects of drug and alcohol abuse on families and communities are well documented, the negative impact on employers is also significant. Higher absenteeism, theft, lost productivity, increased workers' compensation claims and employee

replacement costs are just a few of the strains put on business by substance abuse in the workplace.

To counter this growing problem in Kentucky, the Chamber encourages passage of legislation that empowers employers to be effective allies in the fight against illegal drug use. To help protect employees and promote a non-threatening workplace environment, the Kentucky Chamber also opposes any expansion of the current concealed/carry laws that would allow employees to bring deadly weapons into the workplace.

Support Paycheck Protection

Although requiring employers to deduct taxes from an employee's pay is a common and accepted practice, forcing businesses to administer payroll deductions to support the political activities of unions without compensation is a significant and unjustified intrusion into the administrative affairs of a company.

The Kentucky Chamber supports legislation that repeals the employer mandate to withhold union dues from an employee's salary.

Stop Expansion of Public Employee Collective Bargaining

The Kentucky Chamber is firmly opposed to any local or statewide expansion of public employee collective bargaining. The expansion of public employee collective bargaining can lead to inefficient administration of pub-

Loss cost filings, used by most insurers to determine workers' compensation premiums, fell for the fourth consecutive year in 2009, a first for the Commonwealth of Kentucky.

NCCI Kentucky's Workers' Compensation State Advisory Forum, August 2009



Medical benefits constitute 67% of total benefit costs to the workers' compensation system in Kentucky, compared to the national average of 58%.

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lic duties, increased costs to taxpayers and an increased likelihood of interruptions of essential government services to the detriment of all Kentuckians.

Revising Prevailing Wage Laws

While total repeal of the state prevailing wage law has long been advocated by the Kentucky Chamber, the Chamber supports a series of steps that would make Kentucky's economic and infrastructure development more competitive in the near term:

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- Kentucky's prevailing wage laws must be made more representative of local wages by utilizing more effective methods of data collection than through the current hearings process. Additionally, wages paid to workers on previous prevailing wage projects must be excluded from calculations for later projects, and the use of the majority wage should be discontinued.
- The definition of localities should be replaced with definitions that would reduce the number of unrelated counties grouped together. This would particularly help Kentucky's border counties, as well as counties that are grouped with larger urban areas.
- If no changes are made to make Kentucky's prevailing wage determination process more representative of local wages, then federal prevailing wages should be adopted wherever they exist. However, if the accuracy of Ken-

tucky's determination process is improved and more accurately reflects local wage rates, the use of federal prevailing wage rates should cease and be replaced with the improved state determinations.

- Kentucky should reinstate a prevailing wage exemption on education projects. Kentucky taxpayers' cost on new educational facilities and maintenance in primary through post-secondary education has increased substantially since the prevailing wage exemption was repealed by the General Assembly in 1996. By once again allowing an exemption for educational projects, higher investments can be made in technology, improved facilities and in the classroom.

Employee Free Choice Act

The Kentucky Chamber of Commerce opposes the Employee Free Choice Act (EFCA) currently being considered by Congress. EFCA will radically restructure 60 years of carefully crafted labor law balances that have served both unions and employers well for many decades.

EFCA consists of three main provisions, each of which is unacceptable to business:

- Elimination of the Secret Ballot: This provision mandates that a union be recognized if a majority of employees sign authorization cards as opposed to the current system where a federally supervised election process with secret ballots determines whether employees will have a union in their workplace. The

card check process of obtaining signatures is routinely characterized by harassment, intimidation, and coercion from union organizers toward employees.

- Government-imposed arbitration: The second provision would result in contracts being written by federal arbitrators instead of the process of collective bargaining and negotiating.
- Unreasonable and one-sided penalty expansion: Finally, the Employee Free Choice Act imposes dramatic new penalties on employers for violations of the National Labor Relations Act, but not a single new penalty on unions or labor organizers. As public and congressional support for EFCA has diminished, several compromises have been proposed, including the removal of the card check provision. However, many of these compromises do as much harm to businesses throughout the Commonwealth as the original proposal:
- “Quickie” elections would ensure that employers have no time to talk to their workers about unionizing, and that the only informa-

tion workers will get will come from the union.

- The “compromise” may include a union access provision — allowing union organizers onto the worksite to pressure workers in break rooms and lunch rooms. This would go against more than 70 years of labor law.
- The “compromise” would still impose one-sided penalties only on employers, with no new penalties to deter any union misconduct during organizing campaigns.
- “Baseball-style arbitration” is still binding interest arbitration, giving government-appointed arbitrators the authority to dictate union contracts. This would dramatically expand government’s reach into the private sector, and let arbitrators impose wages, benefits, and work rules on private sector employers.

The Kentucky Chamber will continue to voice its strong opposition to EFCA and any compromise proposals that upend decades of settled labor law at the expense of both employees and employers.



“Under EFCA, workers could lose the freedom to express their will in private, the right to make a decision without anyone peering over their shoulder, free from fear of reprisal.”

George McGovern, Former Democratic
Presidential Candidate,
August 8, 2008