

My name is Ralph Parshall; I live on Elysium Avenue, in Eugene. Thank you for your service. You do make a difference.

I run a small business in Eugene that started in 1997 with 9 employees. At that time we knew we had to attract good employees and benefits were an important part of that decision. We also knew the importance of good community relations and have always strived to do the very best for our city.

We did start with above average wages, vacation pay, sick leave, and a strong health plan to attract the best! As we grew we were pulled by the commitment to our employees and the needs of our community. With our management team we decided to forego sick leave benefits, and continue to support our employees with the other mentioned items. We saw extensive erosion when the economy swung with force in 2007, but to our credit we never laid off one person, or gave up on our commitment to strong health care and wages.

We now have just hired our 40th employee and through the struggles of the recent past continue to offer living wages and benefits.

The misguided and ill-timed attack by our Mayor and City council brings me here today to speak out about mandatory sick leave. This will add several thousand dollars to our tight budget. Those added expenses must come from somewhere. Without changing our present employment offering we must look at other sources of cost control. Those would be our commitment dollars to the very charities and other needy organizations we presently support that are doing the yeoman's job in our city. We know The Relief Nursery, Food for Lane County; Volunteers in Medicine are just few.

With added costs, I cannot afford to support organizations like these without making changes in our services and employees. Can our city afford these dollars? I do not think so today.

The very businesses that meet these needs daily are the same businesses that will be affected adversely with this ordinance. Please protect my business from the unintended consequences this ordinance will bring on all of us in Eugene.



101 South A Street • PO Box 155 • Springfield OR 97477 • [p] 541 746 1651 • [f] 541 726 4727
www.springfield-chamber.org

Wednesday, June 18, 2014

Contact:

Erik Jensen, Chair – 541-953-3426
Dan Egan, President – 541-746-1651
Springfield Area Chamber of Commerce

Springfield Area Chamber of Commerce Board of Directors

Oppose Paid Sick Leave Format per Eugene City Council Discussions

Springfield: At the regularly-scheduled Board of Directors meeting on Wednesday, May 21, 2014, the Springfield Board of Directors voted to oppose the Paid Sick Leave proposed ordinance contemplated by the Eugene City Council – “in its present discussion format.”

The Directors present at the meeting were unanimous in their opposition.

Among several objections voiced, chief among them was the impact the ordinance would have on employers and businesses beyond the city limits of Eugene. As currently discussed, all businesses in the workforce metro area and wider communities could be subject to an ordinance not adopted by their own city councils. That would include businesses in the city of Springfield.

The Springfield Chamber recognizes that a majority of the organization’s business members have some sort of sick pay policy as part of their human resource policies and business plan. That is an individual business decision. The Springfield Chamber questions the precedent of local governments determining what human resource policies will be in both the public and private sectors of the local economy. The Chamber urges a wider deliberation before taking any such step in dictating business decisions through passing of an ordinance.

The Springfield Area Chamber of Commerce is a membership organization representing 1,100 businesses and 37,000 employees. The organization was incorporated in 1949 and has offices at 101 South A Street in the historic Southern Pacific Railroad Depot.

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July 8, 2014 Written testimony by Dennis Morgan regarding Lane County Proposed Ordinance 14-04

To: Lane County Board of County Commissioners

Regarding: Lane County Proposed Ordinance 14-04

I am Dennis Morgan, Vice President Research and Development for Renewable Resource Group. RRG owns two analytical laboratories in Eugene. We have 18 employees who all have sick leave matching or exceeding the current Portland and proposed Eugene Sick leave laws. I am also the volunteer Executive Director of Healthy Communities Initiative.

The Lane County Board of Commissioners should approve an ordinance that exempts the county **and all employers within the county** from the Eugene and Portland or other municipalities' mandatory sick leave laws due to:

- Violation of the sanctity of contracts in Oregon Constitution;
- Preemption by the National Labor Relations Act;
- Interference with county business;
- Extraterritorial and undemocratic nature of the Eugene and Portland sick leave laws;
- Lane County's exclusive responsibilities for public health in Lane County
- Limits of the Home Rule authority granted to Eugene and Portland by the Oregon Constitution and ;
- Interference with Lane County economic development.

Lane County should take the lead as one of the parties in resolving this Oregon constitutional issue. For the Board of County Commissioners to speak to the constitutional issues on behalf of the little guys who have existing contracts to protect is simply the right thing for intellectually honest public servants to do.

Oregon Contracts Clause

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Employment contracts are most often used by employees to show that the employer's right to fire an employee was limited. In Oregon, employment is generally considered "at will," meaning that the employer can terminate employment (or the employee may voluntarily leave) at any time. An employer's right to fire an employee may be limited, however, where the employee can show that the employer entered into either an explicit contract to retain the employee for a certain length of time, or an "implied contract" which dictates that employment will be terminated only for specific disciplinary reasons.

Employment contracts, whether written or implied from employee handbooks or policies, may also provide the terms and conditions of:

- Health benefits;
- Vacation and sick leave;
- Employee grievance procedures;
- Employee behavior after termination of the employment

Lane County as an employer may have many employees that are employed with written or verbal contracts, as do all other employers in the county. Both Lane County and many employers in the county are located within the City of Eugene and own, lease or rents property within the city at which one or more employees works, which would subject the county and other employers to the Eugene Sick Leave ordinance.

Collective Bargaining Agreements

Eckles v. State, 306 Or 380, 399, 760 P2d 846 (1988); *Strunk v. Pub. Employees Ret. Bd.*, 338 Or. 145, 207, 108 P.3d 1058 (2005). It is a direct violation of the Oregon Contract Clause to invalidate existing collective bargaining agreements and render them unenforceable.

National Labor Relations Act

National Labor Relations Act (NLRA) preempts laws that exert undue interference on the collective-bargaining process or substitute the free-play of political forces for the free-play of economic forces intended by the NLRA. *Chamber of Commerce of U.S. v. Bragdon*, 64 F.3d 497, 503-04 (9th Cir. 1995); see also *520 S. Michigan Ave. Associates, Ltd. v. Shannon*, 549 F.3d 1119 (7th Cir. 2008). "More specifically, local laws are preempted by the NLRA when they impact the bargaining process in a "more invasive and detailed" fashion," such as when

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Employers are facing real conflicts between the language in previously negotiated agreements and the requirements of the local law. A few specific examples from actual collective bargaining agreements are below:

- Labor dispute provisions: *"Unused PTO will not be scheduled or paid during a labor dispute instigated or supported by the Union."*
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- *... Management shall not deviate from the policy without the express written approval of the Union. (emphasis added).*

This is not an exhaustive list. These examples are meant to illustrate language that conflicts with the local law and raises legal issues like unconstitutional impairment of contracts. Also, these workplaces are not subject solely to the four corners of collective agreements and render them unenforceable. The Eugene and Portland Leave Law do not contain an express exception for employers with existing collective bargaining agreements, thus violate the NLRA.

Interference with County Business

Since the county seat for Lane County resides within the City of Eugene, many employers who have to conduct business with Lane County would be subject to the Eugene Sick Leave law. Would the Eugene Ordinance apply to out of city employers who send an employee to attend a meeting of the Commissioners or county staff to address their grievances? If so, chilling the rights of out of town employers to go to the courthouse, the planning department and other county offices is direct concern of the county and the county commissioners. The County Commissioners have a duty to protect the right to redress grievances with county officials and a city mandated cost to come to Eugene chills such long standing and well recognized constitutional rights.

Imagine the impact if the City of Eugene required Bureau of Labor and Industry to enforce civil action against out of town law firms representing clients whose cases were heard in the Lane County courthouse. Could BOLI enforce a civil action on out of town or out of state attorneys working in the Federal Courthouse? Can the city create a barrier to legal representation in courts situated within the city?

Extraterritorial Limits and undemocratic nature of a City Ordinance

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That exception to the general rule has been qualified further by a requirement that any grant of extramural authority be "clearly expressed." As the Supreme Court explained in *Richards et al v. City of Portland et al*, 121 Or 340, 345, 255 P 326 (1927):

"It is elementary that a municipality, acting either in its governmental or proprietary capacity, can do so only by virtue of express or implied authority conferred upon it. Ordinarily, the jurisdiction of a municipality ceases at its boundaries and for it to exercise extraterritorial jurisdiction its powers to do so must be clearly expressed [.]"

In other words, although municipal authority generally may derive from express or implied grants from the state, the power to act beyond municipal boundaries may not be implied and instead must be based on an expressed--indeed, on a "clearly expressed"--conferral of authority.

The idea of a government whether local, state or national that passes taxes, laws or rules over citizens that cannot vote for the representative of that government is an anathema to the citizens of this country. The Boston Tea Party regarding the tax on tea, was not about the tax itself but was about the inability of the colonist to vote for members of Parliament who passed the tax. The idea that Eugene or Portland can force their ordinance on employers outside the city is un-American.

The City of Eugene does not have the authority to require record keeping or compliance to proposed sick leave ordinance on employers whose place of business is outside the corporate limits of the city even if employees of that business work part or full time within the city.

Public Health Issues

Oregon Legislature at ORS 431.480 has abolished city boards of health and instead at ORS 431.375(2) has designated the county government as the local public health authority at the city and county level.

It is the Oregon Department of Health or the County Commissioners via the local county health authority that has the authority to have direct supervision of all matters relating to the preservation of life and health of the people of the state. The Eugene Sick Leave Ordinance interferes with Lane County's exclusive responsibilities for health in Lane County delegated by the Oregon Legislature. If Lane County determines that the question of employee sick leave is best handled by employers and employees deciding what works best for them on an employer-by-employer basis, the city has no authority to override the county's decision.

Limitation of City Home Rule

The very generous disposition shown by the legislature toward cities has found expression in the granting by general laws of powers to do almost anything which the most enterprising and adventurous city would be likely to undertake.

Oregon courts have planted themselves pretty firmly in the position that the right of cities and towns to make their own organic laws, and thereby define the extent of their own powers, is conferred upon them by the constitution, subject to the superior authority of the state, whenever that authority is exercised by a general act of the legislature applying to all cities which fall within its scope, or by enactment of the people under the initiative.

The distinction between subjects which are of general and those which are of exclusively local and municipal concern has not been maintained so as to mark off a field within which municipal powers are definitely and at all events superior to or independent of those of the state. A like distinction is maintained at a step further down, however; that is to say, powers which are properly municipal may be exercised by cities unless they run counter to an act of the state, while powers which are not strictly municipal, but extramural, i.e. condemning lands without their boundaries, can be exercised only when the formal consent of the state is given.

The people of the state at large can apply the referendum to all general legislation enacted by the state legislative body, but the law-making body of a municipality cannot themselves refer or legislate any municipal measure in areas that the state legislative body has enacted general laws.

ORS 653.017

In 2001 the Oregon Legislature passed a bill that preempted municipal minimum wage laws or ordinances. The Oregon Legislature said there is one state minimum wage.

The cities of Eugene and Portland cannot set wages or compensation for any employment except for;

The city may set employee compensation, wages, rates of pay, hours, vacation hours or pay, paid time off, sick leave, health insurance or other terms or conditions of employment:

- (a) For its employees;
- (b) In specifications for public contracts entered into by the city; and
- (c) As a condition of the city providing direct tax abatements or subsidies for employers with 10 or more employees.

If the cities cannot set a minimum wage for working, they certainly cannot set a minimum wage for not working via a mandatory sick leave law.

Oregon Family Leave Act and Family and Medical Leave Act

The Oregon Legislature has passed the Oregon Family Leave Act (OFLA) and Family and Medical Leave Act (FMLA) provide eligible employees the opportunity to take unpaid, job-protected leave for certain specified reasons, firmly placing medical leave issues under the superior authority of the state. Whether medical leave is paid or unpaid is an issue for the state not local municipalities.

What are the limits that the city council of Eugene sees in their view of “all powers necessary or convenient for the conduct of its affairs”? The current council is setting forty (40) hours of paid sick leave, but future council could set it at eighty (80), two hundred forty (240) or even mandate that all of the twelve (12) weeks of unpaid leave granted by the Oregon Legislature be paid.

Could the Eugene City Council determine that it is beneficial to Eugene municipal affairs that all employees within the city should have four (4) weeks of vacation and that vacation must be taken at a tropical resort paid for by the employer?

Interference with Lane County economic development.

The commissioners ought to worry that any city only ordinance will discourage conventions, trade shows and sports events in Lane County as soon as other cities seeking to hold such events can point to the Eugene city ordinance as one more reason to avoid Eugene. Anyone with experience in economic development knows how fierce competition between cities to host conventions and trade shows can be.

Other areas of economic impact on the county include;

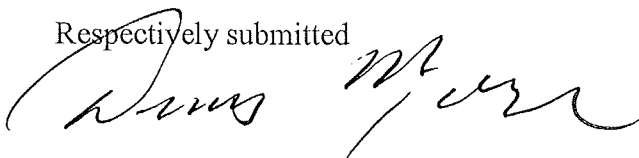
- Police and firefighters rendering mutual aid to Eugene.
- Talent and staff for College Game Day and all other production crews that come to Eugene to carry athletic events.
- Talent and staff for all news organizations that come to Eugene to cover trials, athletic events and other matters of public interest.
- Coaches, trainers, equipment managers and other staff of college teams that compete in facilities located within the city of Eugene.
- Players, coaches, trainers, equipment managers and other staff for minor-league baseball teams that compete in facilities located within the city of Eugene.
- Officials and conference staff working at events at Eugene athletic facilities (amateur, high school, college and professional).
- Production and promotion staff for and employees that exhibit, attend, entertain at or participate in events at the Lane County Fairgrounds. This is a long list but includes the Lane County Fair, the logging conference, home and garden, RV shows, boat shows, sportsman shows . . .
- All those that participate in, entertain at or conduct business at plays, concerts and other

events at the Hult Center, Cuthbert Amphitheater, the Shed, McDonald Theater, Matt Knight Arena and other Lane County venues.

- Out-of-town media that come to the Lane County Elections Division to report on the results of Lane County elections.
- Out-of-town clergy and ministers that come to worship at Eugene churches.
- Out-of-town scientists and researchers that come to collaborate with University and private scientist in Eugene.
- Promoters, organizers, staff, vendors, coaches, trainers and others involved with amateur, high school, conference, regional and national athletic events and those that attend to entertain and conduct business at the events (state high school championships, PAC-12 championships, NCAA championships, Olympic trials...).
- Talent, production staff and crew for movie and TV productions filmed in part in Eugene.
- Out-of-town employers that are crime victims that sends employees to Eugene to meet with the Lane County District Attorney's Office.
- Discourages new employers from expanding or locating in Eugene which reduces Lane County's future tax base and future tax revenue.
- May cause employers with marginal operations in Eugene to close those operations which will lead to reduced Lane County tax revenues.
- Hurts the development of Lane County youth that will not be able to find part time or summer jobs with Eugene employers.
- Lane County has an interest in maintaining and expanding its property tax base, the health of Lane County citizens, maintaining and expanding county room tax revenue and the development of Lane County youth.

Lane County has an interest in maintaining and expanding its property tax base, expanding the number of jobs in the county, the health of Lane County citizens, maintaining and expanding county room tax revenue and the development of Lane County youth. Lane County can determine that the Eugene Sick Leave law is a detriment to Lane County economic growth and prosperity.

Respectively submitted

A handwritten signature in cursive script, appearing to read 'Dennis Morgan', written in dark ink.

Dennis Morgan

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In 2001 the Oregon Legislature passed a bill that preempted municipal minimum wage laws or ordinances. The Oregon Legislature said there is one state minimum wage.

The cities of Eugene and Portland cannot set wages or compensation for any employment except for;

The city may set employee compensation, wages, rates of pay, hours, vacation hours or pay, paid time off, sick leave, health insurance or other terms or conditions of employment:

- (a) For its employees;

- (b) In specifications for public contracts entered into by the city; and
- (c) As a condition of the city providing direct tax abatements or subsidies for employers with 10 or more employees.

If the cities cannot set a minimum wage for working, they certainly cannot set a minimum wage for not working via a mandatory sick leave law.

Oregon Family Leave Act and Family and Medical Leave Act

The Oregon Legislature has passed the Oregon Family Leave Act (OFLA) and Family and Medical Leave Act (FMLA) provide eligible employees the opportunity to take unpaid, job-protected leave for certain specified reasons, firmly placing medical leave issues under the superior authority of the state. Whether medical leave is paid or unpaid is an issue for the state not local municipalities.

What are the limits that the city council of Eugene sees in their view of “all powers necessary or convenient for the conduct of its affairs”? The current council is setting forty (40) hours of paid sick leave, but future council could set it at eighty (80), two hundred forty (240) or even mandate that all of the twelve (12) weeks of unpaid leave granted by the Oregon Legislature be paid.

Could the Eugene City Council determine that it is beneficial to Eugene municipal affairs that all employees within the city should have four (4) weeks of vacation and that vacation must be taken at a tropical resort paid for by the employer?

Interference with Lane County economic development.

The commissioners ought to worry that any city only ordinance will discourage conventions, trade shows and sports events in Lane County as soon as other cities seeking to hold such events can point to the Eugene city ordinance as one more reason to avoid Eugene. Anyone with experience in economic development knows how fierce competition between cities to host conventions and trade shows can be.

Other areas of economic impact on the county include;

- Police and firefighters rendering mutual aid to Eugene.

- Talent and staff for College Game Day and all other production crews that come to Eugene to carry athletic events.
- Talent and staff for all news organizations that come to Eugene to cover trials, athletic events and other matters of public interest.
- Coaches, trainers, equipment managers and other staff of college teams that compete in facilities located within the city of Eugene.
- Players, coaches, trainers, equipment managers and other staff for minor-league baseball teams that compete in facilities located within the city of Eugene.
- Officials and conference staff working at events at Eugene athletic facilities (amateur, high school, college and professional).
- Production and promotion staff for and employees that exhibit, attend, entertain at or participate in events at the Lane County Fairgrounds. This is a long list but includes the Lane County Fair, the logging conference, home and garden, RV shows, boat shows, sportsman shows . . .
- All those that participate in, entertain at or conduct business at plays, concerts and other events at the Hult Center, Cuthbert Amphitheater, the Shed, McDonald Theater, Matt Knight Arena and other Lane County venues.
- Out-of-town media that come to the Lane County Elections Division to report on the results of Lane County elections.
- Out-of-town clergy and ministers that come to worship at Eugene churches.
- Out-of-town scientists and researchers that come to collaborate with University and private scientist in Eugene.
- Promoters, organizers, staff, vendors, coaches, trainers and others involved with amateur, high school, conference, regional and national athletic events and those that attend to entertain and conduct business at the events (state high school championships, PAC-12 championships, NCAA championships, Olympic trials...).
- Talent, production staff and crew for movie and TV productions filmed in part in Eugene.
- Out-of-town employers that are crime victims that sends employees to Eugene to meet with the Lane County District Attorney's Office.
- Discourages new employers from expanding or locating in Eugene which

reduces Lane County's future tax base and future tax revenue.

- May cause employers with marginal operations in Eugene to close those operations which will lead to reduced Lane County tax revenues.
- Hurts the development of Lane County youth that will not be able to find part time or summer jobs with Eugene employers.
- Lane County has an interest in maintaining and expanding its property tax base, the health of Lane County citizens, maintaining and expanding county room tax revenue and the development of Lane County youth.

Lane County has an interest in maintaining and expanding its property tax base, expanding the number of jobs in the county, the health of Lane County citizens, maintaining and expanding county room tax revenue and the development of Lane County youth. Lane County can determine that the Eugene Sick Leave law is a detriment to Lane County economic growth and prosperity.