

## **SWANA Arizona Chapter Analysis of Proposition 206 December 2, 2016**

The Arizona ballot initiative Proposition 206 was passed by popular vote on November 8, 2016. The new law makes a number of changes to Arizona employment law related to minimum wage and sick leave provisions that are of interest to many Arizona SWANA members. Below is a summary of some of the major provisions that Arizona SWANA members should be aware of.

### **1. Changes to minimum wage laws:**

Proposition 206 establishes a new state minimum wage increase as follows:

- 2017: \$10.00 per hour.
- 2018: \$10.50 per hour.
- 2019: \$11.00 per hour.
- 2020: \$12.00 per hour.

Beginning in 2021, the state minimum wage is to increase each year by the cost of living consistent with existing minimum wage law. Employers are still permitted to pay employees who receive tips up to \$3.00 per hour less than the minimum wage.

### **2. Earned sick time benefit:**

Employers are now required to provide employees with "earned paid sick time" (sick time) for an employee's medical care or mental or physical illness, injury or condition, an employee's need to care for a family member with a mental or physical illness, injury or condition or a family member who needs medical care, a public health emergency or an absence due to abuse of a child or vulnerable adult, domestic violence, sexual violence or stalking. A small business currently exempt under the state minimum wage law will now be covered as an employer for the purposes of the sick time requirements. Persons receiving public benefits while engaged in work activity as a condition of receiving public assistance will now be covered as an employee for purposes of the sick time requirements.

### **3. Accrual of Sick Time:**

Beginning July 1, 2017, employers must now provide employees at least 1 hour of sick time for each 30 hours worked. Companies with fewer than 15 employees are not required to provide for the accrual or use of more than 24 hours of sick time each year and companies with 15 or more employees are not required to provide for the accrual or use of more than 40 hours of sick time each year. Employers may select higher limits for accruing or using sick time. An employee may use sick time as it accrues, except that an employer may require an employee hired after July 1, 2017 to initially wait 90 days before using accrued sick time. Unused sick time carries

forward to the following year. The employer may elect to pay the employee for the unused sick time at the end of the year and provide the employee with the required amount of sick time for use in the following year. An employee is not entitled to payment for unused sick time upon leaving employment.

#### **4. Conditions on Sick Time:**

Employers may require notice of the need to use sick time where the need is not foreseeable provided that a written policy with procedures for employees to provide notice is provided to the employee in advance. The employee cannot be required to find a replacement worker to cover the hours for which sick time is taken. The employer may require reasonable documentation for 3 or more consecutive days of sick time. An employer is not be allowed to interfere with, restrain or deny any wage or sick leave rights nor can an employer retaliate or discriminate against an employee because the employee exercised those rights. Employers may not implement an absence control policy that counts earned paid sick time taken as an absence that may lead to or result in discipline.

Proposition 206 also contains additional employer notice and recordkeeping requirements and enforcement and civil penalty provisions. Employers are required to treat information regarding health, domestic violence, sexual violence, abuse and stalking as confidential. The Industrial Commission of Arizona is now authorized to enforce and implement the sick time statutes. A local government may enact a law providing for greater paid sick time rights than established by Proposition 206. Employers may adopt more generous sick time policies than established by Proposition 206. The sick time requirements do not apply to employees covered by a current collective bargaining agreement or to a valid collective bargaining agreement if the requirements are expressly waived in the agreement.