



DELAWARE GENERAL ASSEMBLY
STATE OF DELAWARE
LEGISLATIVE HALL
DOVER, DELAWARE 19901

Shift Worker Protection Study Group

**Tuesday, September 25th, 2018
10:00a.m. – 12:00p.m.
House Chamber, Legislative Hall, Dover, DE**

Study Group Members Present:

1. Senator John “Jack” Walsh, Delaware State Senate
2. Representative Stephanie T. Bolden, House of Representatives
3. Senator Colin Bonini, Delaware State Senate
4. Representative Steve Smyk, House of Representatives
5. Bill Silva, Delaware Hotel and Lodging Association
6. PierAngeli Bronson, Department of Labor
7. Michael Dickinson, Delaware Chamber of Commerce
8. Carrie Leishman, Delaware Restaurant Association
9. Steve Chambliss, Delaware Retail Council

Senator Jack Walsh, Co-Chair, called the meeting to order at 10:05 a.m. Study Group members introduced themselves. He asked the Study Group members to review the minutes from the August 25th meeting and make a motion to approve if no changes were needed to be made.

Bill Silva, Delaware Hotel and Lodging Association, made a motion to approve the minutes and Carrie Leishman seconded the motion. The minutes were approved with Senator Colin Bonini and Representative Steve Smyk abstaining due to not having attended the previous meeting.

Ryan Dunphy, Legislative Aide, reported on a question from the previous meeting regarding funding of the Seattle Baseline Study.

Carrie Leishman, Delaware Restaurant Association, noted that the report was partially funded by an organization that was in favor of Advanced Scheduling Laws.

Senator Colin Bonini, Delaware State Senate, stated that Seattle and other cities whose legislation was being reviewed do not translate to Delaware, and that it is wrong to consider such legislation in Delaware.

Senator Walsh stated that this is just a study group to look at the status of shift working in Delaware. Representative Bolden added that these pieces of legislation serve primarily as tools to guide conversation.

Senator Bonini mentioned that in previous study groups, legislation was produced. He also asked if a minority report could be produced.

Senator Walsh stated that he would be willing to allow a minority report. He also explained that neither he nor Representative Bolden were co-sponsors on the enacting resolution.

Bill Silva explained that each individual county has differences and that the study group needs to be conscientious of that in case legislation did come out affecting the entire state.

Michael Dickinson, Delaware Chamber of Commerce, asked if the Department of Labor had quantitative data on complaints made by shift workers. Senator Walsh explained that the Department of Labor was a member of the Study Group and was running late, as they would be the agency collecting such data.

Senator Walsh posed a question to the study group regarding some good aspects of the current system in Delaware pertaining to shift work.

Carrie Leishman stated that flexibility in scheduling is beneficial to both employers and employees. Bill Silva, Senator Bonini, and Michael Dickinson offered similar sentiments.

Steve Chambliss, Delaware Retail Council, added that in retail, sales trends usually dictate the necessity of employees and that flexibility is the key to scheduling employees in this way.

Representative Stephanie T. Bolden, Co-Chair, made note of the responses.

Michael Dickinson added that non-punitive flexibility is a great aspect in the current system in Delaware.

Senator Walsh asked about the idea of advanced scheduling and how it works in practice.

Michael Dickinson explained how his employer, SoDel Concepts, makes an effort to work with employees before they are hired to note their availability and willingness to work certain dates and times. Senator Walsh asked how his business handles times when employees need to take off when they are originally scheduled. Michael Dickinson further elaborated that by making schedules in advance, accommodations or switches to the schedules could be made without much issue mostly. By limiting flexibility, it will affect the employer and employee and eventually cause the business to fail.

Representative Bolden asked how that process had been working. Michael Dickinson responded that because there are no current regulations, this system works very well. He again mentioned that flexibility in scheduling made the process work. He concluded by adding that in his business, employees have all of the leverage when it comes to scheduling. They are able to accrue paid sick leave and time off.

Steve Chambliss mentioned that in retail, scheduling on a two week basis is standard. He added that when things change and “life happens”, this is where the flexibility in scheduling is needed.

Bill Silva explained that his hotels were able to survive the economic downturn of 2008 by flexible scheduling and that good employers will provide flexible scheduling anyway.

Senator Walsh, seeing that the representatives from the Department of Labor had arrived, asked Michael Dickinson to ask his previous question regarding employee complaint statistics. Mr. Dickinson then proceeded to ask his question again.

PierAngeli Bronson, Department of Labor, answered that the main complaint that is received by the Department of Labor surrounds employees believing that their employers guarantee them a certain amount of hours a week upon hiring and are not receiving all of those hours in their schedules. She stated that this could be fixed by adding language stating that employers do not guarantee hours in the employers' policy.

Senator Walsh asked from what industries are complaints most received. PierAngeli Bronson responded with restaurants, retail, and seasonal workers. She added that she could pull up the data for the next meeting.

Michael Dickinson asked if this Study Group was made due to a perceived problem with shift workers. Representative Bolden stated that this Study Group was to simply look at the current climate in Delaware.

Representative Steve Smyk, House of Representatives, clarified the difference between shift work and rotational work. He added that maybe a recommendation from this Study Group could be to encourage employers to put out schedules 2 weeks in advance. Senator Walsh noted his idea.

Representative Smyk explained that in his experiences that shift workers don't get enough work and that they are willing to pick up additional shifts. Senator Walsh explained that the legislation in other cities is geared towards employers with over 500 employees.

Michael Dickinson elaborated that if legislation is made for bigger companies, it would stifle growth. He stated that under no circumstances should advanced scheduling legislation be introduced, and that the way the system is set up now works very well.

Carrie Leishman stated that we also need to consider smaller businesses and how legislation could possibly stop them from wanting to grow.

Senator Walsh then asked the Study Group another question regarding what in the current system needs to be improved. He mentioned that transportation was brought up in the previous meeting.

Representative Smyk asked for a motion to not return to the issue of advanced scheduling throughout the course of the study group. Senator Walsh explained that he would not consider such motion yet because not all members were present and that it was the Study Group's second meeting.

PierAngeli Bronson, going back to the question asked by Senator Walsh, mentioned that the Meal Break Law does not extend to people possibly working longer shifts and that it may need to be revised to do so. Also, she added that there is no law saying that premium pay is required for overtime.

Michael Dickinson stated that the benefit of the free market is allowing employees to advertise their skills to employers who will accommodate their needs and wants. He added that employees need to know that they can market their skills. PierAngeli Bronson agreed that employees need to be educated on their rights and company policies.

Senator Walsh asked again if there were any negative aspects of the current system in Delaware.

Bill Silva mentioned transportation struggles, as mentioned in the first meeting. He also encouraged tax incentives similar to the bill that he worked with Senator Nicole Poore.

Senator Walsh posed the question to the Study Group regarding ways that the individual businesses or organizations go above and beyond the status quo.

Senator Bonini stated that he opposes any mandate to shift workers. He shared that flexibility in scheduling helps employees such as nurses. He said that employees should know that they have options when it comes to employment. Finally he explained that he believes that the current system in Delaware is working quite well.

Michael Dickinson stated that legislating during good times will only cause for bad times to last longer when they do inevitably arrive.

Carrie Leishman stated that she has seen Delaware businesses doing the right thing when it comes to treating employees.

Representative Bolden asked if any of the Study Group members had any responses to the question posed by Senator Walsh, especially in emergency situations.

Bill Silva mentioned that with hotels, you can accommodate people in ways unlike other businesses. Michael Dickinson added that good employers will help employees out in their time of need.

Senator Bonini mentioned a bill that he sponsored that allowed for pregnant workers to receive accommodations at their place of business and how all businesses in Delaware were all in support of the legislation. He added that Delaware businesses community goes above and beyond caring for their employees.

Senator Walsh asked if any members of the public would like to speak.

James DeChene, Delaware State Chamber of Commerce, reiterated that legislation would have unintended consequences and that employees enjoy the flexibility in scheduling.

Joe Fitzgerald, New Castle County Chamber of Commerce, echoed James DeChene's comments, adding that employee success equals business success, and that good employers will take care of their employees.

Senator Walsh and Representative Bolden thanked all for attending and mentioned that a Doodle Poll would be sent out to establish the next meeting date and time.

The meeting adjourned at 11:41 a.m.

Attendance List:

1. Dyron Green (Department of Labor)
2. Tarik Zerrad (Ruggerio Willson and Associates)
3. James DeChene (Delaware State Chamber of Commerce)
4. Amy Melendrez (Public)
5. Joe Fitzgerald (New Castle County Chamber of Commerce)
6. Deborah Gottschalk (Legislative Attorney, Division of Research)
7. Ryan Dunphy (Legislative Aide, Senate Majority Caucus)
8. Edwin Hernandez-Vargas (Legislative Aide, House Majority Caucus)
9. Christella St. Juste (Administrative Assistant, Senate Majority Caucus)