

## Guest Columns

### Sick leave ordinance violates state Constitution

By Gary Hays / Albuquerque Resident

Sunday, May 28th, 2017 at 12:02am

Everyone should have sick days! Just like everyone should have free health care! How about free food, free housing, free transportation, a guaranteed job?

Matthew Henderson's op-ed advocating mandatory sick leave under the proposed Healthy Workforce Ordinance is trying to convince voters that he really cares for people. Wrong! He is a surrogate for unions. ...

Not once, in his or any other rant regarding the plight of Albuquerque workers, has there been statistical proof that 50 percent of workers have no sick leave, that they are choosing between going to work sick or lose their jobs, that their poor kids are having to go to school sick. Show us the stats, Henderson. Don't just throw out innuendoes and lies hoping they will stick somewhere.

But let's discuss the facts regarding why the lawsuit was filed. It is not, as falsely portrayed, an attempt to deny workers fair treatment. It is purely a constitutional issue. Something that Henderson should be concerned about.

The first violation of the N.M. Constitution is related to log-rolling or, better said, the single subject aspect of ballot initiatives. The term "sick days" is used to deceive voters into thinking that this is just about mandating sick leave for Albuquerque workers. False. The fine print – the full ballot – is full of rules, penalties, government intrusion and class-action lawsuit opportunities for worker retribution that violate the N.M. Constitution. No provision is provided for businesses in any manner for legal or financial protection. In fact, even the penalties tied to business violations violate the Constitution, Article X, Section 6D 13-16-6.

The (proposed ordinance) violates NMSA 1978 Section 30-24-3, which requires employers to report to the legal authorities any employee who is in violation of state law. The (proposed ordinance) therefore requires businesses to hire, pay and keep under cover known criminals, which places the business owner in jeopardy of being charged as an accessory to a crime. Imagine that!

The (proposed ordinance) also violates NMSA 1978 Section 30-24-3 (B), by allowing workers to retaliate ... by filing a complaint against their employers related to the ordinance without actually being in violation of it.

The (proposed ordinance) also violates the home rule aspect of the state constitution, which grants to the cities the authority to rule themselves. This authority strictly provides the voters of municipalities the power to recall public officials and/or ordinances which they put in place. It does not provide for the placing of initiatives on public ballots at the bequest of special interest groups, which is why the Albuquerque minimum wage initiative is unconstitutional and should be repealed.

But honestly ... I, as a business owner, do not want anyone or any agency telling me what to pay or how to treat my employees. If I do not have enough sense to treat them well, as the most important asset of my business, then I do not deserve to be in business. In other words – leave me alone!