



Philadelphia Considers A “Fair Workweek” For 130,000 Employees

Insights

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In June 2018, Philadelphia City Councilmember Helen Gym introduced legislation designed to improve predictability in scheduled shifts for employees in the retail, hospitality, and food services sector – the second largest sector of the Philadelphia economy. The proposed “Fair Workweek” ordinance requires employers to provide advance notice of work schedules; pay additional compensation for changes to an employee’s scheduled shift; permit employees to take 11 hours off between shifts; and offer work to existing employees before hiring new employees. Employers would also be prohibited from retaliating against an employee for invoking any of these rights. The Fair Workweek Ordinance would apply to large businesses in the retail, hospitality, and food services sector that employ 250+ people and have at least 20 locations worldwide.

Philadelphia’s Fair Workweek Ordinance follows in the footsteps of New York City, San Francisco, San Jose, and Seattle, who have all passed similar legislation. While many employees in this sector, including students and those with other jobs and professional interests, enjoy the flexibility that these positions provide, the Fair Workweek Ordinance appears to target employees who need more predictability for purposes of income expectations and childcare. On a broader level, the Fair Workweek Ordinance is also designed to improve the poverty level in Philadelphia.

The legislation proposes the creation of an internal Agency to administer and enforce the law. Within two years of the violation, an aggrieved employee would be entitled to file a complaint with the Agency. The Agency would then investigate the complaint and, if appropriate, attempt resolution through mediation. After the Agency has rendered a final decision on the complaint, or 180 days after the complaint has been filed if no final decision was reached by the Agency, an aggrieved employee may bring a legal action against his/her employer. The prevailing employee can recover unpaid compensation, lost wages and benefits, attorney’s fees, and a matching amount of up to \$2,000 in liquidated damages. Moreover, the prevailing employee may be entitled to reinstatement of employment.

While the 130,000 employees in this sector in Philadelphia may be cheering for the proposed legislation, the number of potential claims stemming from this legislation could create significant demands on the City, its courts, and on employers.

Under the Fair Workweek Ordinance, employers would be tasked with implementation of the law’s predictable scheduling requirements, and may face a surprise lawsuit years down the road. On the

predictable scheduling requirements, and may face a surprise lawsuit years down the road. On the bright side, however, a recent study of Gap Inc. stores found that predictable scheduling practices led to increased sales and employee productivity. Predictable scheduling policies could also reduce the time and expense associated with hiring and training new employees, may improve employee retention, and may reduce the urgent scrambles to have last-minute shift coverage.

The Fair Workweek Ordinance is still in the incipient stages of City Council consideration. Prior to reaching the Mayor's desk, the Fair Workweek Ordinance still requires a public hearing and a majority vote of approval from City Council.

We will continue to monitor developments and provide updates as they are available. If you have any questions regarding how the Fair Workweek Ordinance could impact your business, please consult your Fisher Phillips attorney.

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