



# **Philadelphia Moves One Step Closer To Providing A “Fair Workweek” For Retail, Food Service, And Hospitality Employees**

Insights

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In our October 3<sup>rd</sup> entry, we addressed the pending Fair Workweek Ordinance, currently being considered by Philadelphia City Council. The proposed Ordinance aims to provide predictable work schedules for Philadelphia’s 130,000 employees in the retail, food service, and hospitality industries and to help reduce the 26% poverty level in Philadelphia.

On October 30, the Committee on Law and Government held a public hearing on the Ordinance. The hearing drew a significant crowd, with impacted employees, community organizations, and business representatives in attendance. After three hours of testimony, the Committee approved the Ordinance, as amended, by a vote of 6 to 2.

Advocates have addressed the importance of its passage for the women of Philadelphia, who would benefit from schedule predictability for childcare purposes. Because of fluctuations in shift hours and compensation, employees with unpredictable schedules may not be entitled to childcare subsidies. Advocates have also suggested that, with more control over their work schedules, employees may be able to pursue additional educational and training opportunities, ultimately leading to higher paying jobs.

However, passage of the Ordinance could have an adverse effect and ultimately hurt employees. It may result in businesses hiring fewer employees and not filling last-minute shifts in order to avoid the associated additional payments required under the Ordinance. This could result in an employee being forced to assume additional responsibilities during a shift, leading to fatigue and poor customer service (*i.e.*, reduced gratuities). Moreover, jobs may be lost if businesses are discouraged by the Ordinance and decide to operate in the neighboring Pennsylvania suburbs, New Jersey, and/or Delaware.

Representatives of the hotel industry have expressed serious concern about the Ordinance and have requested exemption. Due to the unpredictable nature of hotel reservations and cancellations, staffing needs are difficult to anticipate. An amendment to the Ordinance provides an exemption if a ticketed event is cancelled that would impact hotel occupancy. However, the hotel industry is hoping to be afforded additional protections. In other cities where Fair Workweek legislation has been passed, hotels have not been included.

Due to the passage by the Committee, it will now be considered by the full City Council, with a final vote as early as November 29, 2018. There are currently 10 Councilmembers who have expressed their support for the Ordinance, one more than necessary for passage. If it is approved, as expected, it will then be presented to Mayor Kenney for his consideration. The Mayor's administration has shown support for Fair Workweek, but has not confirmed full support for the Ordinance in its current form. If the Mayor vetoes the Ordinance, City Council can override the veto with 12 supporting votes. If it is passed, the regulations are expected to become effective in January 2020.

As we addressed in our October 3<sup>rd</sup> entry, the proposed Ordinance could create significant demands on the City, its courts, and on its employers. With a large population of potential claimants in a concentrated geographic area, the implementation costs could be significant. The Mayor's office has represented that resources would be made available to support the Ordinance's goals, but the amount remains to be determined. Resources would be necessary not only for investigations, mediations, and administrative legal costs for complaints under the Ordinance, but likely also necessary for community outreach and education. Impacted employers will need to fully understand their obligations and employees will need to be fully educated on the rights provided by the Ordinance, as well as the recourse available for perceived violations.

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.

### ***Related People***

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