



Dallas Paid Sick Leave Ordinance Blocked Just Days Before Scheduled Enforcement

Insights

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Just two days before the City of Dallas was set to begin enforcing its Paid Sick Leave ordinance – which went into effect for employers with more than five covered employees on August 1, 2019 – U.S. District Judge Sean D. Jordan of the Eastern District of Texas temporarily blocked the ordinance from taking effect while a lawsuit against the City remains pending. When the law was just about to take effect, we predicted that one way the paid sick leave requirement could be sidetracked was through a court intervention. Now, in the midst of a pandemic crisis and with federal paid sick leave about to take effect thanks to a new national law, employers in Dallas have received just such a reprieve from this city requirement. But what should you do while the law is now blocked?

What Happened?

The ordinance is intended to apply to all employers with employees working at least 80 hours per year in the City of Dallas. It requires that such employers provide those employees with paid sick leave. You can read a summary of the law – including eligibility requirements, sick leave usage, certification standards, notification provisions, carry-over principles, and more – by reading our previous alert on the subject.

Shortly before it went into effect, two North Texas companies – joined by the State of Texas – filed a lawsuit challenging the constitutionality of the ordinance. In an order issued on March 30, the federal court granted their motion for preliminary injunction, finding that their claim that the ordinance is preempted by the Texas's Minimum Wage Act (and, therefore, violative of the Texas Constitution) is substantially likely to prevail on the merits.

Noting an absence of a ruling from the Texas Supreme Court on this issue, the federal court relied on a decision from Texas's Third Court of Appeals that had blocked a similar ordinance that was to take effect in Austin.

What's Next And What Should You Do?

The City of Austin appealed the appellate court's order to the Texas Supreme Court. If the Texas Supreme Court decides to grant review, a ruling may be coming this summer. That could end up impacting the situation in Dallas. For now, however, employers in Dallas have no responsibility to offer city-based paid sick leave. The litigation over the validity of the local ordinance will no doubt continue, and you should not be surprised if there are several more twists and turns in this saga before all things are said and done.

Austin, San Antonio, and Dallas—three major Texas cities—each enacted paid sick leave ordinances requiring private employers to provide paid sick leave to employees. With yesterday’s ruling, all three have now been enjoined. While Dallas employers may have an obligation to provide federal paid sick leave under the Families First Coronavirus Response Act, they have no responsibility to provide Dallas sick leave – for now.

Conclusion

We will monitor the rapidly developing state of Dallas paid sick leave and provide updates as warranted, so you should ensure you are subscribed to Fisher Phillips’ alert system to gather the most up-to-date information. If you have questions, please contact your Fisher Phillips attorney or any attorney in our Dallas office.

This Legal Alert provides an overview of specific city ordinances. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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