CLIENT ALERTS & INSIGHTS

Chicago May Become Latest City to Require Predictive Scheduling

MAY 31, 2019

Authors: Margo Wolf O'Donnell

On the first day of the current legislative session, the Chicago City Council introduced a reincarnated version of the Fair Workweek Ordinance, backed by Mayor Lori Lightfoot (D). The revised bill, first introduced last year, would require employers to provide predictable schedules and pay penalties to employees for last minute changes to schedules. A number of other jurisdictions, including San Francisco, the state of Oregon, and Philadelphia have enacted similar measures in recent years. However, the Chicago bill would be one of the most expansive.

If passed, the bill will require employers to provide employees with at least 10 days' written notice of schedules, beginning April 1, 2020. The notice period would increase to 14 days beginning on April 1, 2022. The bill requires employers to post the schedule for all employees at the workplace, though the schedule may be provided by electronic means if requested by the employee. The bill also provides an exception for employees who are victims of domestic or sexual violence and do not wish for their schedules to be posted.

When an employer adds hours to an employee's schedule after the required notice period, the bill would permit such employee to decline the added hours. Additionally, employers will be required to provide employees with varying amounts of "predictability pay," in addition to pay for actual hours worked, depending on the nature and timing of schedule changes after the notice period.

Employers will also be required to provide new employees with an initial, good faith estimate of their work schedule prior to the start of employment. This estimate must include the median number of weekly hours to be worked by the employee, whether the employee will be required to work on-call shifts, and a subset of days and times (or shifts) when the employee can expect to work, as well as the days, times, or shifts the employee will not be scheduled to work. Likewise, on (or prior to) a new employee's first day of employment, employers will be required to provide such employees with an initial work schedule that runs through the date that the next work schedule is release for existing employees.

Further still, the Chicago bill would require employers to offer additional hours of work to existing employees prior to hiring new employees, and details an explicit procedure for employers to follow.

The revised bill would apply to employers with facilities within the city of Chicago, or which have at least 30 locations globally and have some employees working within the city of Chicago, and which 100 or more employees in aggregate.

In addition to Mayor Lightfoot's support, the bill has 30 co-sponsors, while needing only 26 votes to pass once it clears committee. Given its current support, the bill appears likely to pass into law.

Accordingly, employers should consider reviewing their scheduling practices for potential changes and studying the potential fiscal impact associated with anticipated penalties.

For more information on this topic, please contact a member of the firm's Labor & Employment Practice Group.

Margo Wolf O'Donnell at modonnell@beneschlaw.com or 312.212.4982.