

# Reminder for Chicago Employers: Fair Workweek Ordinance Compliance Begins July 1

## Labor & Employment Law Update

By Peter Hansen on May 28, 2020

Chicago employers take note – beginning July 1, 2020, you may be required to post work schedules at least 10 days in advance in order to comply with the Fair Workweek Ordinance. This seems like as good a time as any for a refresher on the Ordinance.

### **Are We Subject to the Ordinance?**

Generally, employers must comply with the Ordinance if they meet each of the below conditions:

- They employ 100+ employees (both inside and outside of Chicago) or, for nonprofit corporations, 250+ employees;
- They employ 50+ employees who spend the majority of their time at work in Chicago and earn \$50,000 or less if salaried / \$26.00 per hour if hourly; and
- They are primarily engaged in one of the following industries: building services; health care; hotels; manufacturing; restaurants; retail; and warehouse services.

### **What About Union Workers?**

Employers subject to any existing Collective Bargaining Agreement (CBA) need not comply with portions of the Ordinance that conflict with the CBA as to the particular bargaining unit. However, any CBA entered into after July 1, 2020 must explicitly waive the Ordinance's requirements "in clear and unambiguous terms" in order to avoid compliance through the collective bargaining process.

### **What Does the Ordinance Require?**

The Ordinance places a number of requirements on employers, including:

- Providing new employees with a written estimate of days and hours of work within 90 days of their start of employment;

- Posting a written work schedule at least 10 days in advance for employees who earn \$50,000 or less / \$26.00 per hour or less;
- Paying employees 1 hour of “predictability pay” for each shift change that occurs after the 10 day schedule notice;
- Offering additional shifts to existing part-time employees first, then to full-time employees, then to temporary/seasonal workers; and
- Providing at least 10 hours of rest between shifts, unless the employee consents to a shorter rest period in writing and is paid at least 1.25 times their regular rate of pay for the shift.

Additionally, employers must both post and provide notice of the Ordinance to all covered employees with their first paycheck on or following July 1, 2020.

#### **But Wait, What About COVID-19?**

Given COVID-19’s far-reaching impact, Chicago employers may have assumed that the city would delay enforcing the Ordinance. This is not the case, however: the city made it clear that the Ordinance’s schedule change provisions apply unless COVID-19 caused the employer “to materially change its operating hours, operating plan, or the goods or services provided by the Employer, which results in the Work Schedule change.” This limited exception should be relied upon sparingly.

The city also delayed private employees’ right to file a lawsuit pertaining to alleged violations to January 1, 2021; however, the city can still enforce the Ordinance and issue fines – which could range from \$300 to \$500 per day, per employee.

This is a somewhat complicated topic, so any employers who are unsure of their covered status and/or how to comply on the most practical level possible should contact experienced labor and employment law counsel.

Reminder  
for Chicago  
Employers:  
Fair  
Workweek  
Ordinance  
Compliance  
Begins  
July 1