

Will Chicago Be The Next Big City To Pass A Predictive Scheduling Law?

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It's hard to predict the future fate of [Chicago's proposed Fair Workweek Ordinance](#), particularly in an election year.

But the Chicago City Council may have taken a step closer this week when it [created an Office of Labor Standards](#) to put teeth into its relatively new Paid Sick Leave and Minimum Wage ordinances.

The [new Office of Labor Standards](#) will include a staff of five to address employee wage-and-hour complaints and investigate employers for possible ordinance violations. It could also be assigned oversight to enforce a predictive scheduling law if the Chicago City Council chooses to enact one.

When first introduced in 2017, the Chicago Fair Workweek Ordinance went nowhere. But earlier this year a new version of the Fair Workweek Ordinance was introduced, with a notable change that exempts small businesses that employ fewer than 50 employees.

If enacted, the Fair Workweek Ordinance would include, among other things:

- A requirement that employers give employees at least two weeks advance notice of their work schedules
- An obligation that employers offer current employees additional hours at work before an employer hires new workers.
- A right for an employee to decline any previously unscheduled hours than an employer adds to the employee's schedule if the employer has provided advance notice of less than 14 days.
- A provision for pay at no less than one-half times the employee's regular rate of pay per hour for any scheduled hours the employee does not work because the employer, with less than 24-hours' notice, either subtracts hours from the employee's regular or on-call work shift or cancels a shift.
- A requirement that employers pay an extra hour of "predictability pay" per shift (in addition to pay for hours worked) if the employer adds hours to a shift, changes the date or time of a work shift with no loss of hours, or with more than 24 hours of notice cancels or subtracts hours from a regular or on-call shift.
- A "right to rest" provision that would allow an employee to decline to work hours that occur less than 11 hours after the end of the previous day's shift or during the 11 hours that follow the end of a shift that spanned two days. An employee who agrees in writing to work extra hours would be entitled to overtime pay (time and a half the regular hourly rate) for hours worked less than 11 hours from the end of their previous work shift.

In addition, newly hired employees would have to receive a good-faith written estimate of their work schedule, including the median number of weekly

hours of work to expect and whether the employee can expect to work any on-call shifts.

The policy behind the Fair Workweek Ordinance, as stated in the proposed ordinance itself, is “to enact and enforce fair and equitable employment practices in the City of Chicago” and “to provide the working people of Chicago with protections that ensure employer scheduling practices do not unreasonably prevent workers from attending to their families, health, education and other personal and familial obligations.”

Such public policy considerations tied to scheduling stability for workers in Chicago and Illinois have been studied in depth, with recommendations similar to provisions in the proposed Chicago ordinance, in a [report released earlier this year](#) by the School of Labor and Employment Relations at the University of Illinois Urbana-Champaign.

The study’s authors, drawing on data from a survey of 1,717 workers throughout the state of Illinois between October 2017 and March 2018, took a deep dive into the issue of scheduling stability and noted the impact of unpredictable schedules on workers in various industries.

But critics of the proposed ordinance maintain that it will unreasonably tie the hands of employers, particularly in industries such as retail, food service, hospitality, and health care, that rely on flexibility in scheduling their employees to meet the ebb and flow of business.

If Chicago’s Fair Workweek Ordinance is passed, Chicago will join the state of Oregon and the cities of New York, San Francisco, San Jose, and Seattle in the ranks of those that have enacted some form of a predictive scheduling law.