



WORKPLACE JUSTICE

## RECENTLY ENACTED AND INTRODUCED STATE AND LOCAL FAIR SCHEDULING LEGISLATION

Employees increasingly face “just-in-time” scheduling practices, including being given very little notice of their work schedules, being sent home early when work is slow without being paid for their scheduled shifts, being assigned to work split shifts that are broken up over the course of a day, and being assigned to “on-call” shifts that require them to call their employer or wait to be called by their employer to find out whether they will be required to report to work.<sup>1</sup> In addition, many employees have very little ability to make adjustments to their work schedules without penalty.<sup>2</sup> And nearly 6 million workers are currently working only part-time, but would like to be working full time.<sup>3</sup>

**There is a growing movement to improve workplace scheduling practices so that workers and their families can better plan their lives.** In 2014, San Francisco passed the Retail Workers Bill of Rights, which provides scheduling protections for workers in certain types of jobs.

During the 2015-2016 legislative sessions in the states, New Hampshire signed into law a bill granting workers the right to request flexible schedules, and fair scheduling legislation was considered in Arizona, California, the District of Columbia, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Carolina, and Rhode Island. Toward the end of 2016, the cities of Emeryville, Seattle, and San Jose passed fair scheduling ordinances. **This report provides an overview of this recently enacted and proposed state and local legislation.**

### Fair Scheduling Provisions

#### Advance Notice

Requiring employers to provide employees with a certain amount of advance notice of their schedules. Some provisions also require employers to provide estimates of schedules and minimum hours before an employee begins employment.

#### Predictability Pay

Requiring employers to pay employees a certain number of hours of compensation, in addition to payment for any time actually worked, when employers make last-minute changes to employees' schedules.

#### On-Call Pay

Requiring employers to pay employees for a certain number of hours of compensation when employees are required to be available to work a shift and to contact the employer or wait to be contacted to determine whether they must report to work.

#### Reporting Time Pay

Requiring employers to pay employees for some portion of their originally scheduled shifts when employees report for work but are then told that their shifts have been cancelled or reduced.

#### Right to Rest

Requiring employers to provide a minimum amount of rest time between shifts and to pay employees who consent to work without the rest time at a higher rate.

### Split Shift Pay

Requiring employers to pay employees additional wages as compensation for any day on which they are required to work shifts in which they have a gap or gaps between scheduled hours in the same day.

### Retention Pay

Requiring employers to compensate employees for their availability by making a minimum biweekly payment that can be met through wages or benefit payments in order to discourage employers from hiring employees and then failing to offer them any or sufficient hours.

### Right to Request

Protecting employees who want to request changes to their schedule or flexible working arrangements by granting them the express right to do so free from retaliation by their employers.

Some provisions would also require employers to grant requests for flexible working arrangements to employees who request them because of a serious health condition, education or career training, care-giving responsibilities, or to accommodate another job, unless the employer has a bona fide business reason for denying the request.

### Promotion of Full-Time Work

Requiring employers to offer additional available hours to their qualified existing employees before hiring any additional employees to work those hours.

### Part-Time Parity

Requiring employers to treat part-time and full-time employees equally with regard to wages, ability to accrue benefits, and eligibility for pay raises and promotions.

## Summary of Fair Scheduling Legislation

	Advance Notice	Consent for Changes	Predictability Pay	On-Call Pay	Reporting Time Pay	Split-Shift Pay	Right to Request	Right to Rest	Promotion of Full-Time Work	Part-Time Parity
<b>AZ</b> (S.B. 1436)	14 days		✓	✓	✓	✓	✓			
<b>CA</b> (A.B. 357)	14 days		✓	✓						
<b>CA</b> (S.B. 878)	21 days		✓	✓						
<b>DC</b> (L.B. 21-0512)	21 days	✓	✓	✓					✓	✓
<b>Emeryville, CA*</b>	14 days	✓	✓				✓	✓	✓	
<b>IL</b> ( H.B. 3696)	7 days		✓		✓					
<b>IL</b> (H.B. 3554)	14 days						✓			
<b>IN</b> (S.B. 212)	14 days		✓	✓		✓	✓		✓	
<b>ME</b> (H.P 761)	14 days		✓	✓					✓	✓
<b>ME</b> (H.P 835)	14 days		✓						✓	✓
<b>MD</b> (S.B. 664)	21 days	✓	✓	✓	✓				✓	✓
<b>MA</b> (H.B. 1708)	21 days	✓	✓	✓	✓		✓	✓		
<b>MA</b> (S.B. 973)	14 days		✓							
<b>MI</b> (H.B. 5175)	14 days		✓	✓	✓	✓	✓			
<b>MN</b> (H.F. 1093/1139)	21 days	✓	✓				✓	✓	✓	✓
<b>New Hampshire</b> (S.B. 416)*							✓			
<b>NJ</b> (A.B. 1117)	14 days		✓	✓	✓	✓	✓			
<b>NY</b> (A.B. 261A)				✓	✓					
<b>NY</b> (A.B. 736)						✓				
<b>NY</b> (A.B. 3055)							✓			
<b>NY</b> (A.B. 6418)	14 days		✓							
<b>NY</b> (A.B. 8952)	14 days		✓	✓	✓	✓	✓			
<b>NY</b> (S.B. 4363A)	7 days									
<b>NC</b> (H.B. 741)	14 days	✓	✓	✓	✓		✓	✓	✓	✓
<b>RI</b> (H.B. 7515/7634)	14 days	✓	✓	✓	✓		✓	✓	✓	✓
<b>San Francisco, CA*</b>	14 days		✓	✓	✓				✓	✓
<b>San Jose, CA*</b>									✓	
<b>Seattle, WA*</b>	14 days	✓	✓	✓	✓		✓	✓	✓	

\* Locations marked with an asterisk have passed and enacted the legislation.

# Recently Enacted Legislation

## City of Emeryville

On November 1, 2016, the City of Emeryville, California passed a secure scheduling ordinance that covers employees in retail firms with 56 or more employees globally and fast food firms with 56 or more employees globally and 20 or more employees within the Emeryville city limits.<sup>4</sup>

- **Advance Notice:** The ordinance requires employers to provide an employee, upon hiring, with a good faith estimate of the employee's work schedule. It also requires employers to provide employees with at least 14 days' notice of their work schedules covering seven-day periods on a biweekly schedule. An employer is also required to provide a new employee, prior to his or her first day of employment, with an initial work schedule that runs through the date that the next biweekly schedule for existing employees is scheduled to be posted.
- **Consent to Scheduling Changes:** The ordinance prohibits employers from requiring an employee to work additional hours not included in the initial work schedule unless the employee consents.
- **Predictability Pay:** The ordinance requires employers to pay one extra hour of pay at the employee's regular rate for each shift that is changed with less than 14 days' notice. For each shift that is cancelled or reduced with less than 24 hours' notice, employers are required to pay the employee extra hours of extra pay or the number of hours in the scheduled shift, whichever is less, at the employee's regular rate of pay.
- **Exceptions:** The ordinance's consent and predictability pay provisions do not apply to voluntary shift-trading or when operations are suspended due to threats to employees or property, failure of public utilities, acts of nature, war, civil unrest, strikes, or other causes not within the employer's control.
- **Right to Request:** The ordinance grants employees the right to request, free from retaliation, additional shifts or hours, changes in days or times of work, a predictable work schedule, permission for shift-trading, limitations on availability, part-time employment, job sharing arrangements, changes in work duties, and part-year employment.
- **Right to Rest:** The ordinance prohibits employers from requiring employees to work within 11 hours of the end of the previous day's shift or a shift that spans two days, and would require hours worked during these times to be compensated at one-and-a-half times the employee's regular rate.

- **Promotion of Full-Time Work:** The ordinance requires employers to offer additional available hours of work to existing qualified employees before hiring additional employees or subcontractors. An employer is required to offer to a part-time employee only the number of hours necessary to give the employee more than 35 hours of work in a week. Before hiring additional employees or subcontractors, employers would be required to give employees 72 hours to accept the additional hours if the additional work is expected to last more than two weeks and 24 hours to accept the hours if the additional work is expected to last two weeks or less.

## City of San Francisco

The San Francisco Retail Workers Bill of Rights was passed by the San Francisco Board of Supervisors on a unanimous 10-0 vote on December 5, 2014 and became effective on January 5, 2015.<sup>5</sup> It applies to employees of "formula retail" establishments, which are defined as retail stores, fast food businesses, restaurants, hotels, and banks with 40 or more similar stores nationwide, which also have at least 20 employees in San Francisco. The ordinance provides:

- **Advance Notice:** Prior to the start of employment, employers must provide a good faith estimate in writing of the employee's expected minimum number of scheduled shifts per month, excluding on-call shifts. Employers are required to post schedules of hourly workers two weeks in advance and communicate any changes to their employees.
- **Predictability Pay:** If an employer makes changes to the posted schedule with less than seven days' notice but more than 24 hours' notice, the employee receives one extra hour of pay for each shift that is changed. This includes on-call shifts modified with less than seven days' notice. If the employer changes the schedule within 24 hours of the scheduled shift, the employee receives two hours of extra pay for each shift of four hours or less and four hours of additional pay for each shift of more than four hours.
- **On-Call Pay:** The Ordinance requires employers to pay employees two hours of pay at the employee's regular rate for each unused on-call shift of four hours or less, and four hours of pay for each unused on-call shift of four hours or more.
- **Part-Time Parity:** Employers are prohibited from discriminating against part-time employees with respect to rate of pay, ability to earn paid or unpaid time off, or access to promotion opportunities. It also prohibits employers from requiring employees to have open availability to receive full-time status.



- **Promotion of Full-Time Work:** Employers with additional available hours of work must offer those hours first to existing, qualified, part-time staff before hiring new employees. Employees have up to 72 hours to accept any additional hours offered to them by the employer; after 72 hours the employer may hire new employees to work the additional hours. The 72 hours begin when the employee receives written notice of the additional hours or whenever the employer posts the offer of additional hours, whichever is later. An employee who wishes to accept the additional hours must do so in writing.
- **Exceptions:** The employer is not required to provide additional pay to the employee for schedule changes that the employee requests, such as employee-requested sick leave, time off, shift trades, or additional shifts, or when the change is a result of another employee's inability to work that shift and the employer did not receive at least seven days' notice of the absence. It also does not apply when operations cannot begin or continue due to threats to employees or property, a failure in the public utilities or sewer system, or an Act of God or other causes not within the employer's control.

## City of San Jose

On November 8, 2016, voters in the city of San Jose voted on and passed a ballot initiative that would provide access to hours for part-time employees.<sup>6</sup> The ballot initiative applies to all employers with 36 or more employees.<sup>7</sup>

- **Promotion of Full-Time Work:** The ballot initiative requires employers to offer additional available hours to existing, qualified part-time employees, and distribute such hours according to a transparent and nondiscriminatory process, before hiring additional employees, unless doing so would require paying overtime or another premium rate. It authorizes the City to issue guidelines encouraging employers to train existing employees for work for which employers are likely to have additional need.
- **Exceptions:** The ballot initiative allows 12-month exemptions for employers that have made a good faith attempt to comply, but for whom compliance would be impossible, impracticable, or futile.

## City of Seattle

On September 19, 2016, the City of Seattle passed a secure scheduling ordinance that covers employees in retail and fast food companies that employ more than 500 people worldwide, as well as employees at full-service restaurants with more than 500 employees and more than 40 locations worldwide.<sup>8</sup>

- **Advance Notice:** The ordinance requires employers to provide an employee, upon hiring and annually, with a good

faith estimate of median number of hours and whether they will be expected to work on-call shifts. It also requires employers to provide employees their work schedules 14 days in advance.

- **Consent to Scheduling Changes:** The ordinance prohibits employers from requiring an employee to work hours not included in his or her initial work schedule. It also prohibits employers from requiring employees to find a replacement to cover their shifts when they are unable to work due to an emergency or major life event or a reason covered by another local, state, or federal law that prohibits asking such questions or protects the absence from employer interference.
- **Predictability Pay:** The ordinance requires employers to pay one hour of extra pay for each employer-initiated schedule change after the schedule is posted that adds hours of work or changes the date or start or end time of a work shift with no loss of hours. If the employer reduces the hours in a scheduled work shift, changes the date or start or end time of a work shift resulting in a loss of hours, or cancels a work shift, the employer shall pay the employee no less than one-half times the employee's scheduled rate of pay for any scheduled hours not worked.
- **Reporting Time Pay:** If an employee reduces the hours in a scheduled work shift after the employee reports for duty, the employer is required to pay the employee no less than one-half times the employee's scheduled rate of pay for any scheduled hours not worked.
- **On-Call Pay:** For any on-call shift for which the employee does not need to report to work, the employer is required to pay the employee no less than one-half times the employee's scheduled rate of pay for any scheduled hours not worked.
- **Exceptions:** The employer is not required to provide predictability, reporting time, or on-call pay for employee-requested changes to a schedule; when an employee finds replacement coverage for hours through an employee-to-employee shift swap; when an employer provides notice of additional hours through mass communication and an employee volunteers to cover hours; or when an employer conducts an in-person group conversation with employees currently on shift to cover new hours to address customer needs and an employee consents to take the hours. Such additional pay also does not apply when operations are suspended due to threats to employees or property, the recommendation of a public official, the failure of public utilities, natural disaster, or another cause not within the employer's control.
- **Right to Request:** The ordinance gives employees the right to request not to be scheduled for work shifts during



certain times or at certain locations and the right to identify preferences for the hours or location of work. Employers are required to engage in a timely, interactive process to discuss the request and must grant employee schedule requests related to the employee's serious health condition, education, caregiving responsibilities, second job responsibilities, or changes in the employee's transportation or housing, unless the employer has a bona fide business reason for denying the request. In the event of a denial, the employer must state the reason for the denial in writing and the bona fide business reason for the decision.

- **Right to Rest:** The ordinance prohibits employers from requiring employees to work within 10 hours of the end of the previous day's shift or the end of a shift that spans two days, and would require any hours worked during these times to be compensated at one-and-a-half times the employee's regular rate.
- **Promotion of Full-Time Work:** The ordinance requires employers to offer additional available hours of work

to existing, qualified part-time employees before hiring additional employees. Employers are required to post notice of additional hours for a minimum of three days before hiring additional employees. The ordinance permits employers to limit the offer of additional hours to employees who are on a written "availability list" maintained to receive notice of additional hours. Employers are encouraged to make reasonable efforts to offer employees training opportunities to become qualified for work for which the employer typically has additional need.

## New Hampshire

On June 10, 2016, the New Hampshire governor signed into law legislation<sup>9</sup> that applies to all employees and provides:

- **Right to Request:** Employers are prohibited from retaliating against employees who request a flexible working arrangement.

# Recently Proposed Legislation

## Arizona

On February 1, 2016, S.B. 1436, an employment and labor omnibus with comprehensive flexible scheduling provisions, was introduced in the Arizona Senate.<sup>10</sup> An identical version was introduced in the Arizona House of Representatives on May 5, 2016.<sup>11</sup> S.B. 1436's flexible scheduling provisions would apply to all private employers, while the remaining protections apply only to employees in retail, food service and, building cleaning jobs.

- **Right to Request:** S.B. 1436 would give employees the right to request changes in the terms and conditions of employment related to the number of hours the employee is required to work or be on call, the time and location of work hours, the prior notice the employee receives of work schedules and assignments, and the need to minimize changes in the number of hours the employee is scheduled to work on a daily, weekly, or monthly basis. It would require employers to engage in a timely, good faith, interactive process to determine whether those requests could be granted. It would require employers to grant requests made on the basis of an employee's serious health condition, caregiving responsibilities, career-related education or training, or (for part-time employees) second job, unless the employer has a bona fide business reason for denying the request. In the event of a denial, the bill would require employers to state the reason for the denial and consider alternatives to the change proposed by the employee.

For employees in retail, food service, and building cleaning jobs:

- **Advance Notice:** S.B. 1436 would require employers to provide an employee, on or before the employee's first day of work, with their work schedule and minimum expected monthly hours. It would also require employers to provide employees with new work schedules, and notice of any change to minimum expected work hours, at least 14 days before the first day of the new work schedule or change in minimum hours.
- **Predictability Pay:** S.B. 1436 would require employers to pay one extra hour of pay at the employee's regular rate for each shift that is changed with less than 24 hours' notice.
- **On-Call Pay:** S.B. 1436 would require employers to pay an employee at least one hour of pay at an employee's regular rate for each day on which the employee is required to be on call and learn whether they must report to work within 24 hours of the start of a shift.
- **Reporting Time Pay:** S.B. 1436 would require employers to pay an employee who reports for a scheduled shift but is given less than four hours of work at least four hours of pay at the employee's regular rate, or if the scheduled shift was less than four hours, payment for all scheduled hours.
- **Split Shift Pay:** S.B. 1436 would require employers to pay an employee an extra hour of pay, at the employee's regular rate, for each split shift.
- **Exceptions:** S.B. 1436's advance notice and predictability,



on-call, reporting time, and split-shift pay provisions would not apply when operations are suspended due to events beyond the employer's control. The bill's advance notice requirement would not apply to voluntary shift trades between employees, and predictability pay would not be required for such voluntary trades or for schedule changes made due to another employee's unforeseen unavailability.

## California

On February 17, 2015, a comprehensive fair scheduling bill, Assemb. B. 357,<sup>12</sup> was introduced in the California Assembly. On January 15, 2016, S.B. 878,<sup>13</sup> another comprehensive fair scheduling bill was introduced in the California Senate.

Assemb. B. 357 would apply to all employees, except executive, administrative, or professional employees, of food and general retail establishments that have 500 or more in-state employees and 10 or more locations nationwide.

- **Advance Notice:** Assemb. B. 357 would require employers to provide employees with at least two weeks' notice of their work schedules.
- **Predictability Pay:** Assemb. B. 357 would require employers to pay one extra hour of pay at the employee's regular rate for each shift that is changed with between seven days' and 24 hours' notice. For each change made with less than 24 hours' notice, employers would be required to pay two hours of extra pay for each shift of four hours or less, or four hours of extra pay for each shift of more than four hours that is changed.
- **On-Call Pay:** Assemb. B. 357 would require employers to pay an employee who is required to be on call to work a shift, and is not called in to work that shift, two hours of pay at the employee's regular rate for shifts of four hours or less, and four hours of such pay for shifts of more than four hours.
- **Exceptions:** Assemb. B. 357's advance notice, predictability pay, and on-call pay provisions would not apply to employee-requested shift changes, voluntary shift-trading, mandatory overtime, schedule changes due to another employee's unscheduled absence, and when operations are suspended due to certain circumstances outside employers' control, including threats to employees or property, failure of the public utilities, a state of emergency, and acts of God.

S.B. 878 would apply to employees of grocery stores, restaurants, and retail establishments, except executive, administrative, or professional employees in such establishments.

- **Advance Notice:** S.B. 878 would require employers to provide an employee with their schedule, covering at least 21 days, at least seven days before the first shift in the schedule.

- **Predictability Pay:** S.B. 878 would require employers to pay one extra hour of pay at the employee's regular rate, in addition to the hours worked, for each shift that is changed with between 24 hours' and seven days' notice. For each change made with less than 24 hours' notice, employers would be required to pay the employee equal to or greater than half of that shift's scheduled hours, but in no event for less than two hours nor more than four hours.
- **On-Call Pay:** S.B. 878 would require employers to pay an employee who is required to be on call to work a shift, and is not called in to work that shift, for at least half the hours they are required to be available to work.
- **Exceptions:** S.B. 878's predictability and on-call pay provisions would not apply to voluntary shift-trading, mandatory overtime, schedule changes due to another employee's unscheduled absence, and when operations are suspended due to certain circumstances outside employers' control, including threats to employees or property, failure of the public utilities, a state of emergency, and acts of God.

## District of Columbia

In December 2015, the D.C. Council introduced Legis. B. 21-0512, a comprehensive fair scheduling bill; the bill was marked up and reported favorably by the Committee on Business, Consumer, and Regulatory Affairs in June 2016.<sup>14</sup> As amended in committee, the bill would apply to overtime-eligible employees of food service establishments that are part of a chain or franchise with at least 40 locations nationwide, and of retail establishments that are part of a chain with at least 40 locations nationwide.

- **Advance Notice:** Legis. B. 21-0512 would require employers to provide employees, upon hiring, with a good faith estimate of expected hours, dates, and times of work. It would also require employers to provide employees with their schedules, covering seven-day periods, at least 14 days before the first day in the work schedule.
- **Consent to Scheduling Changes:** Legis. B. 21-0512 would prohibit employers from requiring employees to work hours not included in their initial work schedules without written consent. Legis. B. 21-0512 would further prohibit employers from requiring employees to find a replacement to cover their shifts when they are unable to work.
- **Predictability Pay:** Legis. B. 21-0512 would require employers to pay one extra hour of pay at the employee's regular rate for each shift that is changed with less than 14 days' notice but more than 24 hours' notice. For each shift that is changed with less than 24 hours' notice, Legis. B. 21-0512 would require employers to pay two hours of extra pay at the employee's regular rate for each shift of four hours or less, or four hours of such pay for each shift of more than four hours.



- **On-Call Pay:** Legis. B. 21-0512 would require employers to pay an employee who is required to be on call to work a shift, and is not called in to work that shift, two hours of pay for each on-call shift of four hours or less, or four hours of pay for each on-call shift of more than four hours.
- **Exceptions:** Legis. B. 21-0512's advance notice, predictability pay, and on-call pay provisions would not apply to voluntary shift-trading, mandatory overtime, changes made at the employee's request, or when operations are suspended due to threats to employees or property; failure of public utilities; failure, delay or closure of a local transit system; an act of God; a state of emergency; or another cause not within the employer's control. Advance notice, predictability pay, and on-call pay also would not apply when a food service establishment sets staffing in anticipation of an event within one half mile of the establishment that is subsequently cancelled.
- **Part-Time Parity:** Legis. B. 21-0512 would require equal treatment of part-time and full-time employees with regard to hourly wages.
- **Promotion of Full-Time Work:** Legis. B. 21-0512 would require employers to offer additional available hours to existing qualified employees before hiring additional employees. Employers would be required to post notice of additional hours for a minimum of five days before hiring additional employees. It would also require employers to make reasonable efforts to offer employees training opportunities to become qualified for work for which the employer typically has additional need.

## Illinois

In 2015, two fair scheduling bills were introduced in Illinois, and both were carried over into 2016. H.B. 3696<sup>15</sup> would apply to domestic workers.

- **Advance Notice:** H.B. 3696 would require employers to provide an employee notice at least seven days' in advance of the first day there is a change in the employee's schedule or the employee is not required to report to work for two or more consecutive schedule work periods on a temporary basis.
- **Predictability Pay:** H.B. 3696 would require employers to pay the greater of four hours of pay or payment for the hours scheduled to work, at the employee's regular rate, if the employer reduces the employee's hours with less than seven days' notice.
- **Reporting Time Pay:** H.B. 3696 would require employers to pay two hours at the employee's regular rate to any employee who reports for work but is not utilized for a minimum of two hours and did not receive notice to not report to work at least two hours in advance.

- **Exceptions:** H.B. 3696's predictability pay requirements would not apply when schedule changes were not foreseeable by the employer; however, an employer would need to pay the employee reporting time pay.

H.B. 3554 would apply to all employees of private employers.<sup>16</sup>

- **Right to Request:** H.B. 3554 would give employees the right to request changes in the terms and conditions of employment related to the number of hours the employee is required to work or be on call, the time and location of work hours, the prior notice the employee receives of work schedules and assignments, and the need to minimize changes in the number of hours the employee is scheduled to work on a daily, weekly, or monthly basis. It would require employers to engage in a timely, good faith, interactive process to determine whether those requests could be granted. In the event of a denial, the bill would require employers to state the reason for the denial and consider alternatives to the change proposed by the employee.

## Indiana

On January 1, 2016, a comprehensive fair scheduling bill, S.B. 212,<sup>17</sup> was introduced in the Indiana Senate. It would apply to employees of retail establishments, including food service establishments, operating in Indiana with at least 15 employees that have 10 or more locations worldwide.

- **Advance Notice:** S.B. 212 would require employers to provide an employee, before the employee's first day of work, with a good faith estimate of expected shifts per week, expected days and hours of shifts, and whether the employee is expected to be available for on-call shifts. It would also require employers to provide employees with schedules, including on-call shifts, at least 14 days in advance.
- **Right to Request:** S.B. 212 would give employees the right to request changes in the terms and conditions of employment related to the number of hours the employee is required to work, the time and location of work hours, the number of required on-call shifts, and the need to minimize changes in the number of hours the employee is scheduled to work. It would require employers to engage in a timely, good faith, interactive discussion regarding such requests.
- **Predictability Pay:** S.B. 212 would require employers to pay two hours of extra pay, at the greater of either the employee's regular rate of pay or the state minimum wage, for each scheduling change made with between seven days' and 24 hours' notice. It would also require two hours of extra pay for each scheduling change to a shift of four hours or less made with less than 24 hours' notice, and four hours of extra pay for each scheduling change to a shift of



more than four hours made with less than 24 hours' notice.

- **On-Call Pay:** S.B. 212 would require employers to pay an employee who is required to be on call to learn whether they must report to work within 24 hours of the start of a shift, and is not called in to work, two hours of pay at the employee's regular rate for shifts of less than four hours, and four hours of such pay for shifts of at least four hours.
- **Split Shift Pay:** S.B. 212 would require employers to pay an employee an extra hour of pay, at the employee's regular rate, for each split shift.
- **Promotion of Full-Time Work:** S.B. 212 would require employers to offer additional available hours to existing part-time employees before hiring additional part-time employees.
- **Exceptions:** S.B. 212's predictability, on-call, and split-shift pay provisions would not apply to voluntary shift-trading, schedule changes due to another employee's unscheduled absence, changes made at the employee's request, and when operations cannot begin or continue due to certain circumstances outside employers' control, including threats to employees or property, failure of the public utilities, and acts of God. The advance notice requirement does not apply to schedule changes requested by the employee, including sick leave, time off, shift trades, and added shifts.

## Maine

On March 25, 2015, H. Paper 761,<sup>18</sup> which would provide fair scheduling protections for retail workers, was introduced in the Maine House of Representatives. On April 2, 2015, H. Paper 835,<sup>19</sup> which also contains fair scheduling provisions, was introduced.

H. Paper 761 would apply to employees of private, for-profit retail employers with at least 10 employees.

- **Advance Notice:** H. Paper 761 would require employers to provide an employee, before the employee's first day of work, with a good faith estimate of expected minimum shifts per month and the days and hours of those shifts. It would also require employers to provide employees with at least two weeks' prior notice of their schedules on a biweekly basis.
- **Predictability Pay:** H. Paper 761 would require employers to pay one hour of extra pay, at the employee's regular rate, for each scheduling change made with between seven days' and 24 hours' notice. It would also require two hours of such pay for each scheduling change to a shift of four hours or less made with less than 24 hours' notice, and four hours of such pay for each scheduling change to a shift of more than four hours made with less than 24 hours' notice.
- **On-Call Pay:** H. Paper 761 would require employers to pay

an employee who is required to be on call to learn whether he or she must report to work within 24 hours of the start of a shift, and is not called in to work, two hours of pay at the employee's regular rate for shifts of less than four hours, and four hours of such pay for shifts of at least four hours.

- **Part-Time Parity:** H. Paper 761 would require equal treatment of part-time and full-time employees with regard to starting hourly wage, access to paid and unpaid time off on a proportional basis, and eligibility for promotions.
- **Promotion of Full-Time Work:** H. Paper 761 would require employers to offer additional hours to existing qualified part-time employees before hiring additional employees if the additional work is similar to the work existing part-time employees have performed. An employer is required to offer to a part-time employee only the number of hours necessary to give the employee more than 30 hours of work in a week.
- **Exceptions:** H. Paper 761's advance notice and predictability and on-call pay provisions would not apply to voluntary shift-trading, schedule changes due to another employee's unscheduled absence, mandatory overtime, and when operations are suspended due to certain circumstances outside employers' control, including threats to employees or property, failure of the public utilities, and acts of God.

H. Paper 835 would apply to hourly employees of for-profit employers with at least 100 employees within the state. H. Paper 835 has similar requirements to H. Paper 761 except that it does not provide for specific pay for on-call shifts.

## Maryland

On February 5, 2016, comprehensive fair scheduling legislation, S.B. 664,<sup>20</sup> was introduced in the Maryland Senate. An identical bill was introduced in Maryland's House of Representatives on February 11, 2016.<sup>21</sup> The legislation would apply to all employees.

- **Advance Notice:** S.B. 664 would require employers to provide an employee, upon hiring, with a good faith estimate of expected hours, days, and times of shifts each week, including on-call shifts. It would also require employers to provide an employee with a work schedule covering the first 21 days of work before the employee's first day of work, and, thereafter, with work schedules covering seven-day periods at least 21 days before the first day of that work schedule.
- **Consent to Scheduling Changes:** S.B. 664 would prohibit employers from requiring an employee to work hours not included in the initial work schedule unless the employee consents in writing. Written consent would not be required if schedule changes are a result of the employee's request or voluntary shift-trading.





- **Predictability Pay:** S.B. 664 would require employers to pay one hour of extra pay for each scheduling change made with less than 21 days' notice.
- **Reporting Time Pay:** S.B. 664 would require employers to pay an employee who reports to work for a shift that is cancelled or reduced for four hours of work or the number of hours in the scheduled shift, whichever is fewer.
- **On-Call Pay:** S.B. 664 would require employers to pay an employee who is notified within 24 hours of a regular or on-call shift that the shift has been cancelled or reduced for four hours of work or the number of hours in the scheduled shift, whichever is fewer.
- **Exceptions:** S.B. 664's predictability pay provisions would not apply to voluntary shift-trading or changes made at the employee's request.
- **Part-Time Parity:** S.B. 664 would require equal treatment of employees holding substantially equal jobs, regardless of the hours for which the employees are scheduled or the expected duration of their employment, with regard to hourly wage, eligibility to accrue paid and unpaid leave and other benefits, and eligibility for promotions.
- **Promotion of Full-Time Work:** S.B. 664 would require employers to offer additional available hours of work to existing qualified employees before hiring additional employees or subcontractors. Before hiring additional employees or subcontractors, employers would be required to post notice of the additional hours of work for at least seven consecutive days if the additional employee would work for a period of at least seven consecutive days or at least two consecutive days if the additional employee would work for less than seven consecutive days. S.B. 664 would also require employers to make reasonable efforts to offer employees training opportunities to become qualified for work for which the employer typically has additional need.

## Massachusetts

On January 15, 2015, comprehensive fair scheduling legislation, H.B. 1708,<sup>22</sup> was introduced in the Massachusetts House of Representatives. On January 16, 2015, S.B. 973,<sup>23</sup> which would require the Executive Office of Labor and Workforce Development to promulgate fair scheduling rules, was introduced in the Senate.

H.B. 1708 would apply to all employees, except executive, administrative, or professional employees.

- **Advance Notice:** H.B. 1708 would require employers to provide an employee with a work schedule covering the first 21 days of work before the employee's first day of work, and, thereafter, with work schedules covering seven-day periods at least 21 days in advance of the first day of that

work schedule.

- **Consent to Scheduling Changes:** H.B. 1708 would prohibit employers from requiring an employee to work hours not included in the initial work schedule unless the employee consents in writing.
- **Right to Request:** H.B. 1708 would give employees the right to request changes to their work schedules, to limit their availability to work particular hours, or otherwise provide input into their work schedules.
- **Predictability Pay:** H.B. 1708 would require employers to pay one hour of additional pay, at the employee's regular rate, for each scheduling change made less than 21 days and more than 24 hours before the first hour of a scheduled shift. The bill would require one hour of such pay for each scheduling change made with less than 24 hours' notice that does not result in cancelling or decreasing a shift to less than four hours.
- **Reporting Time Pay:** H.B. 1708 would require employers to pay an employee who reports to work for a shift that is cancelled or reduced for four hours of work or the number of hours in the scheduled shift, whichever is fewer, at the employee's regular rate of pay.
- **On-Call Pay:** H.B. 1708 would require employers to pay an employee who is notified within 24 hours' of a regular or on-call shift that the shift has been cancelled or reduced for four hours of work or the number of hours in the scheduled shift, whichever is fewer.
- **Right to Rest:** H.B. 1708 gives employees the right to decline work hours that occur within 11 hours of the end of the previous day's shift or a shift that spans two days, and would require any hours worked during this time to be compensated at one-and-a-half times the employee's regular rate.
- **Exceptions:** H.B. 1708's predictability pay provisions would not apply to voluntary shift-trading or changes made at the employee's request.

S.B. 973 would apply to all employees, except executive, administrative, or professional employees, of fast food restaurants and retail stores.

- **Advance Notice:** S.B. 973 would require the Executive Office of Labor and Workforce Development to promulgate rules and regulations governing scheduling of employees employed at fast food and retail employers employing more than 75 people.
- **Predictability Pay:** S.B. 973 would require employers to pay between one and four hours of extra pay for any shift that is changed with less than 14 days' notice, according to rules and regulations to be promulgated by the Executive Office of



## Michigan

On December 17, 2015, fair scheduling legislation, H.B. 5175,<sup>24</sup> was introduced in the Michigan House of Representatives. An identical bill was introduced in the Senate on January 13, 2016.<sup>25</sup> The legislation would apply to hourly employees of private employers with at least 15 employees. The advance notice and reporting, on-call, and split-shift pay provisions would apply only to hourly food service, retail, and cleaning employees (except executive, administrative, or professional employees) of such employers.

- **Right to Request:** H.B. 5175 would give employees the right to request changes in the terms and conditions of employment related to the number of hours the employee is required to work or be on call, the time and location of work hours, the prior notice the employee receives of work schedules and assignments, and the need to minimize changes in the number of hours the employee is scheduled to work on a daily, weekly, or monthly basis. It would require employers to engage in a timely, good faith, interactive process to determine whether those requests could be granted. It would require employers to grant requests made on the basis of an employee's serious health condition, career-related education or training, caregiving responsibilities, or, for part-time employees, to accommodate another job, unless the employer has a bona fide business reason for denying the request. In the event of a denial, the bill would require employers to state the reason for the denial and consider alternatives to the change proposed by the employee.

For hourly food service, retail, and cleaning employees:

- **Advance Notice:** H.B. 5175 would require employers to provide an employee, before the employee's first day of work, with the employee's work schedule and minimum expected monthly hours. If the employee's work schedule changes, H.B. 5175 would require employers to provide the employee with a new work schedule, and notice of any change to minimum expected work hours, at least 14 days before the first day of the new work schedule or change in minimum hours.
- **Predictability Pay:** H.B. 5175 would require employers to pay one hour of extra pay, at the employee's regular rate of pay, for each scheduling change made with less than 24 hours' notice.
- **Reporting Time Pay:** H.B. 5175 would require employers to pay an employee who reports for a scheduled shift but is given less than four hours of work for at least four hours or for all scheduled hours, whichever is less, at the employee's regular rate of pay.
- **On-Call Pay:** H.B. 5175 would require employers to pay an

employee who is required to be on call to learn whether he or she must report to work within 24 hours of the start of a shift one hour of pay at the employee's regular rate.

- **Split Shift Pay:** H.B. 5175 would require employers to pay an employee an additional hour of pay, at the employee's regular rate, for each split shift.
- **Exceptions:** H.B. 5175's predictability pay provisions would not apply to voluntary shift-trading or when the need to schedule the employee is due to the unforeseen unavailability of an employee previously scheduled to work. The advance notice provision also would not apply to voluntary shift-trading. During periods when regular operations of the employer are suspended due to events beyond the employer's control, advance notice and predictability, reporting time, on-call, and split shift pay do not apply.

## Minnesota

On February 23, 2015, fair scheduling legislation, H. File 1139, was introduced in the House of Representatives.<sup>26</sup> A Senate version of that bill was introduced on March 4, 2015.<sup>27</sup> H. File 1139 would apply to all employees.

- **Advance Notice:** H. File 1139 would require employers to provide an employee with information regarding conditions of employment, including hours per day and days per week of work and wages, before the employee's first day of work and annually thereafter. It would also require employers to provide an employee with a work schedule covering the first 21 days of work before an employee's first day of work, and with work schedules covering seven-day periods at least 21 days in advance of the first hour of the work schedule thereafter.
- **Consent to Scheduling Changes:** H. File 1139 would prohibit employers from requiring an employee to work hours not included in the initial work schedule unless the employee consents in writing. It would also prohibit employers from requiring employees to seek or find a replacement for any shifts or hours that they are unable to work.
- **Right to Request:** H. File 1139 would give employees the right to request a change in work schedule, to request to limit their availability to work particular hours, or to otherwise provide input into their work schedules. H. File 1139 would also give employees the right to request a flexible working arrangement at any time. Employers would be required to begin good faith consideration of an employee's request for a flexible working arrangement within two days of receiving a request, and to grant or deny such a request within two days of the employer's last communication with the employee regarding the request. H. File 1139 would require employers to grant flexible working arrangements requested because of the employee's serious



health condition, career-related education or training, caregiving responsibilities, or, for part-time employees, to accommodate another job.

- **Predictability Pay:** H. File 1139 would require employers to pay one hour of extra pay, at the employee's regular rate, for each scheduling change made with between 21 days' and 24 hours' notice. It would also require one hour of such pay for each change made with less than 24 hours' notice that either adds hours to a shift or changes the start or end time of a shift without changing the total number of hours. For any other shift that is cancelled or reduced with less than 24 hours' notice, H. File 1139 would require four hours of pay at the employee's regular rate, or payment for all scheduled hours, whichever is less.
- **Exceptions:** H. File 1139's predictability pay provisions would not apply to voluntary shift-trading, changes made at the employee's request, and when operations are suspended due to threats to employees or property, when civil authorities have recommended that work not begin or continue, due to failure of public utilities, or due to a national disaster or weather event.
- **Right to Rest:** H. File 1139 would prohibit employers from requiring employees to work within 11 hours of the end of the previous day's shift or a shift that spans two days, and would require hours worked during this time to be compensated at one-and-a-half times the employee's regular rate.
- **Part-Time Parity:** H. File 1139 would require equal treatment of part-time and full-time employees with respect to hourly wages, eligibility for paid and unpaid time off, and eligibility for raises or promotions.
- **Promotion of Full-Time Work:** H. File 1139 requires employers to offer additional hours of work available in positions held by current employees to current qualified employees before hiring new employees or contractors.

## New Jersey

On January 17, 2016, the New Jersey Assembly introduced comprehensive fair scheduling legislation, Assemb. B. 1117.<sup>28</sup> The Senate introduced an identical bill on February 11, 2016.<sup>29</sup> The bills will carry over into 2017. Assemb. B. 1117's right to request provisions would apply to all employees of employers with at least 15 employees. Its advance notice and reporting, on-call, and split-shift pay provisions would apply to retail, food service, and cleaning employees, except executive, administrative, or professional employees, of such employers.

- **Right to Request:** Assemb. B. 1117 would give employees the right to request changes in the terms and conditions of employment related to the number of hours the employee is required to work or be on call, the time and location of

work hours, the prior notice the employee receives of work schedules and assignments, and the need to minimize changes in the number of hours the employee is scheduled to work on a daily, weekly, or monthly basis. It would require employers to engage in a timely, good faith, interactive process to determine whether those requests could be granted. It would require employers to grant requests made on the basis of an employee's serious health condition, career-related education or training, caregiving responsibilities, or, for part-time employees, to accommodate another job, unless the employer has a bona fide business reason for denying the request. In the event of a denial, the bill would require employers to state the reason for the denial and consider alternatives to the change proposed by the employee.

For retail, food service, and cleaning employees:

- **Advance Notice:** Assemb. B. 1117 would require employers to provide an employee, before the employee's first day of work, with the employee's work schedule and minimum expected monthly hours. It would also require employers to provide employees with new work schedules, and notice of any change to minimum expected work hours, at least 14 days before the first day of the new work schedule or change in minimum hours.
- **Predictability Pay:** Assemb. B. 1117 would require employers to pay one hour of extra pay, at the employee's regular rate of pay, for each scheduling change made with less than 24 hours' notice.
- **On-Call Pay:** Assemb. B. 1117 would require employers to pay an employee who is required to be on call to learn whether he or she must report to work within 24 hours of the start of a shift one hour of pay at the employee's regular rate of pay.
- **Reporting Time Pay:** Assemb. B. 1117 would require employers to pay an employee who reports for a scheduled shift but is given less than four hours of work at least four hours of pay or payment for all scheduled hours, whichever is less, at the employee's regular rate.
- **Split Shift Pay:** Assemb. B. 1117 would require employers to pay an employee an extra hour of pay for every day on which the employee is required to work a split shift.
- **Exceptions:** Assemb. B. 1117's predictability pay requirements would not apply to voluntary shift-trading or schedule changes due to another employee's unscheduled absence. Its advance notice and predictability, on-call, reporting time, and split-shift pay requirements would not apply when regular operations are suspended due to events beyond the employer's control.



## New York

In 2015, several pieces of legislation related to fair scheduling were introduced in the New York Assembly and Senate. Several would govern only a single area of fair scheduling, while one proposed bill contains comprehensive provisions.

Identical bills in the New York Assembly and Senate, Assemb. B. 261A<sup>30</sup> and S.B. 52A,<sup>31</sup> would apply to employees of employers with at least 30 establishments nationwide.

- **On-Call Pay:** Assemb. B. 261A and S.B. 52A would require employers to pay an employee who is required to be on call to learn whether he or she must report to work within 24 hours of the start of a shift for four hours of pay at the basic minimum hourly wage.
- **Reporting Time Pay:** Assemb. B. 261A and S.B. 52A would require employers to pay an employee who reports for a scheduled shift but is given less than four hours of work for at least four hours of pay or for all scheduled hours, whichever is less, at the minimum hourly wage.

Assemb. B. 736<sup>32</sup> would apply to all employees.

- **Split Shift Pay:** Assemb. B. 736 would require employers to pay an employee, at minimum wage, for any time in excess of one hour that the employee is not working during a split shift. It would also require employers to treat such time as time worked.

Assemb. B. 3055<sup>33</sup> was introduced in the New York Assembly in January 2015, and an identical Senate version, S.B. 2414,<sup>34</sup> was introduced two days later. They would apply to all employers.

- **Right to Request:** Assemb. B. 3055 would give employees the right to request flexible working arrangements, free from retaliation. It would require employers to engage in a discussion about the proposed arrangements and consider whether the employee's request for a flexible working arrangement could be granted in a manner that is not inconsistent with its business operations or its legal or contractual obligations. In the event of denial, it would require employers to explain the reason for the denial.

Assemb. B. 6418<sup>35</sup> would apply to employees of food and retail employers with at least 100 employees.

- **Advance Notice:** Assemb. B. 6418 would require employers to provide employees at least two weeks' notice of their schedules.
- **Predictability Pay:** Assemb. B. 6418 would require employers to pay employees extra pay as determined by the commissioner of labor for any schedule change made with less than two weeks' notice.

Identical bills, S.B. 4363A<sup>36</sup> and Assemb. B. 9274,<sup>37</sup> were introduced in March 2015 and February 2016, respectively.

The legislation would apply to retail, food service, and cleaning employees of employers with at least 500 full-time employees, or the proportionately equivalent number of part-time employees, nationwide.

- **Advance Notice:** S.B. 4363 and Assemb. B. 9274 would require employers to provide an employee, before the employee's first day of work, with their work schedule and minimum expected monthly hours. It would also require employers to provide employees with work schedules every seven days.
- **Exceptions:** S.B. 4363 and Assemb. B. 9274's advance notice requirements would not apply to voluntary shift-trading or when operations are suspended due to events beyond the employer's control.

The New York Assembly introduced comprehensive scheduling legislation, Assemb. B. 8592,<sup>38</sup> in December 2015, and the Senate introduced an identical bill in January 2016.<sup>39</sup> Assemb. B. 8592 would apply to employees of employers with at least 50 employees in the state. Its advance notice requirements and its on-call, reporting, and split-shift pay provisions would apply only to retail, food service, and cleaning employees (except executive, administrative, or professional employees) of such employers.

- **Right to Request:** Assemb. B. 8592 would give employees the right to request changes in the terms and conditions of employment related to the number of hours the employee is required to work or be on call, the time and location of work hours, the prior notice the employee receives of work schedules and assignments, and the need to minimize changes in the number of hours the employee is scheduled to work on a daily, weekly, or monthly basis. It would require employers to engage in a timely, good faith, interactive process to determine whether those requests could be granted. It would require employers to grant requests made on the basis of an employee's serious health condition, career-related education or training, caregiving responsibilities, or, for part-time employees, to accommodate another job, unless the employer has a bona fide business reason for denying the request. In the event of a denial, the bill would require employers to state the reason for the denial and consider alternatives to the change proposed by the employee.

For retail, food service, and cleaning employees:

- **Advance Notice:** Assemb. B. 8592 would require employers to provide an employee, before the employee's first day of work, with their work schedule and minimum expected monthly hours. It would also require employers to provide employees with new work schedules, and notice of any change to minimum expected work hours, at least 14 days before the first day of the new work schedule or change in



minimum hours.

- **Predictability Pay:** Assemb. B. 8592 would require employers to pay an employee one extra hour of pay at the employee's regular rate for each shift that is changed with less than 24 hours' notice.
- **On-Call Pay:** Assemb. B. 8592 would require employers to pay an employee who is required to be on call to learn whether he or she must report to work within 24 hours of the start of a shift one hour of pay at the employee's regular rate.
- **Reporting Time Pay:** Assemb. B. 8592 would require employers to pay an employee who reports for a scheduled shift but is given less than four hours of work for at least four hours of pay or payment for all scheduled hours, whichever is less, at the employee's regular rate of pay.
- **Split Shift Pay:** Assemb. B. 8592 would require employers to pay an employee an extra hour of pay, at the employee's regular rate, for each split shift.
- **Exceptions:** Assemb. B. 8592's advance notice and predictability, reporting time, on-call, and split-shift pay provisions would not apply when operations are suspended due to events beyond the employer's control. The advance notice and predictability pay provisions would also not apply to voluntary shift-trading. And the predictability pay provisions would not apply to schedule changes due to another employee's unscheduled absence.

## North Carolina

On April 14, 2015, a Shift Worker's Bill of Rights, H.B. 741,<sup>40</sup> was introduced in the North Carolina House of Representatives. The legislation was carried into the 2016 legislative session. It would apply to employees of private, for-profit employers with at least 20 employees in the state.

- **Advance Notice:** H.B. 741 would require employers to provide an employee, before the employee's first day of work, with a good faith estimate of expected minimum shifts per month, and the days and hours of those shifts. It would also require employers to provide employees with at least two weeks' notice of their schedules on a biweekly basis.
- **Predictability Pay:** H.B. 741 would require employers to pay one hour of extra pay, at the employee's regular rate, for each scheduling change made with between 7 days' and 24 hours' notice. It would also require two hours of such pay for each scheduling change to a shift of four hours or less made with less than 24 hours' notice, and four hours of such pay for each scheduling change to a shift of more than four hours made with less than 24 hours' notice.
- **On-Call Pay:** H.B. 741 would require employers to pay an

employee who is required to be on call to learn whether he or she must report to work within 24 hours of the start of a shift, and is not called in to work during that time, two hours of pay at the employee's regular rate for each such shift of four hours or less, and four hours of such pay for each such shift of more than four hours.

- **Exceptions:** H.B. 741's advance notice provisions would not apply to voluntary shift-trading or changes made at the employee's request. Its predictability and on-call pay provisions would not apply to voluntary shift-trading, schedule changes due to another employee's unscheduled absence, mandatory overtime, and when operations are suspended due to certain circumstances outside the employer's control, including threats to employees or property, failure of the public utilities, and acts of God.
- **Part-Time Parity:** H.B. 741 would require equal treatment of part-time and full-time employees with regard to starting hourly wage, access to paid and unpaid time off, and eligibility for promotions.

## Rhode Island

On February 10, 2016, H.B. 7515<sup>41</sup> was introduced in the Rhode Island House of Representatives. On February 12, 2016, an identical bill, H.B. 7634,<sup>42</sup> was also introduced in the House. The bills would apply to all employees except executive, administrative, and professional employees; forepersons; superintendents; and supervisors.

- **Advance Notice:** H.B. 7515 and H.B. 7634 would require employers to provide an employee, upon hiring, with a good faith estimate of expected hours, days and times of work per week. They would also require employers to provide an employee with a work schedule covering the first 14 days of work before the employee's first day of work, and with work schedules covering seven-day periods at least 14 days in advance thereafter.
- **Consent to Scheduling Changes:** H.B. 7515 and H.B. 7634 would prohibit employers from requiring an employee to work hours not included in the initial work schedule unless the employee consents in writing.
- **Predictability Pay:** H.B. 7515 and H.B. 7634 would require employers to pay one hour of extra pay, at the employee's regular rate of pay, for each scheduling change made with less than 14 days' notice.
- **On-Call Pay:** H.B. 7515 and H.B. 7634 would require employers to pay an employee who is required to be on call to learn whether they must report to work, and is not called in to work within 24 hours of the start of the on-call shift or is called in for fewer hours than scheduled, for four hours of work or for all scheduled hours, whichever is less, at the employee's regular rate. Such pay is also required when an



employee is notified less than 24 hours before a regular shift that the shift is cancelled or reduced.

- **Reporting Time Pay:** H.B. 7515 and H.B. 7634 would require employers to pay an employee who reports for a scheduled shift that is cancelled or reduced four hours of pay or payment for all scheduled hours, whichever is less, at the employee's regular rate.
- **Exceptions:** H.B. 7515 and H.B. 7634's consent and predictability pay provisions would not apply to voluntary shift-trading or changes made at the employee's request.
- **Right to Request:** H.B. 7515 and H.B. 7634 would grant employees the right to request, free from retaliation, modified work schedules, additional shifts or hours, changes in days or times of work, a predictable work schedule, permission for shift-trading, limitations on availability, part-time employment, job sharing arrangements, working from home, telecommuting, changes in work location, changes in work duties, and part-year employment.
- **Right to Rest:** H.B. 7515 and H.B. 7634 would prohibit employers from requiring employees to work within 11 hours of the end of the previous day's shift or a shift that spans two days, or for more than six consecutive days, and would require hours worked during these times to be compensated at one-and-a-half times the employee's regular rate. H.B. 7515 and H.B. 7634 also provide that workers shall have at least 15 minutes of paid unaccounted time to meet their bodily needs, per eight hour shift, and more time if a doctor determines that more time is needed for that worker.
- **Retention Pay:** H.B. 7515 and H.B. 7634 would require employers to pay each employee a minimum of \$150 in retention pay per 14-day period, regardless of whether the employee works during that 14-day period, unless the employee voluntarily takes unpaid leave or chooses not to work. Amounts paid for hours worked or paid time off shall be counted towards the retention pay.
- **Part-Time Parity:** H.B. 7515 and H.B. 7634 would require equal treatment of employees, regardless of hours scheduled or expected duration of employment, with respect to hourly wage, eligibility to accrue paid and unpaid time off and other benefits, and opportunities for promotion.
- **Promotion of Full-Time Work:** H.B. 7515 and H.B. 7634 would require employers to offer additional available hours of work to existing qualified employees before hiring additional employees or subcontractors. Before hiring additional employees or subcontractors, employers would be required to post notice of the additional hours of work for at least seven consecutive days if the

additional employee would work for a period of at least seven consecutive days or at least two consecutive days if the additional employee would work for less than seven consecutive days. H.B. 7515 and H.B. 7634 would also require employers to make reasonable efforts to offer employees training opportunities to become qualified for work for which the employer typically has additional need.

- 1 See generally NATIONAL WOMEN'S LAW CENTER, COLLATERAL DAMAGE: SCHEDULING CHALLENGES FOR WORKERS IN LOW-WAGE JOBS AND THEIR CONSEQUENCES (Apr. 2014), available at [http://www.nwlc.org/sites/default/files/pdfs/collateral\\_damage\\_scheduling\\_fact\\_sheet.pdf](http://www.nwlc.org/sites/default/files/pdfs/collateral_damage_scheduling_fact_sheet.pdf).
- 2 WHITE HOUSE COUNCIL OF ECONOMIC ADVISERS, NINE FACTS ABOUT AMERICAN FAMILIES AND WORK 4 (June 2014), available at [http://www.whitehouse.gov/sites/default/files/docs/nine\\_facts\\_about\\_family\\_and\\_work\\_real\\_final.pdf](http://www.whitehouse.gov/sites/default/files/docs/nine_facts_about_family_and_work_real_final.pdf); Liz Watson & Jennifer Swanberg, FLEXIBLE WORKPLACE SOLUTIONS FOR LOW-WAGE HOURLY WORKERS: A FRAMEWORK FOR A NATIONAL CONVERSATION 19-20 (May 2011), available at <http://workplaceflexibility2010.org/images/uploads/whatsnew/Flexible%20Workplace%20Solutions%20for%20Low-Wage%20Hourly%20Workers.pdf>.
- 3 BUREAU OF LABOR STATISTICS, THE EMPLOYMENT SITUATION, JUNE 2016 2 (July 2016), available at <http://www.bls.gov/news.release/pdf/empstf.pdf>.
- 4 Emeryville Ordinance No. 16-651 (Nov. 1, 2016), available at <https://emeryville.legistar.com/LegislationDetail.aspx?ID=2866727&GUID=Ebbb6087-48C2-4E36-9AAB-32E027C9801B>.
- 5 San Francisco Ordinance No. 241-14 (Nov. 25, 2014), available at <http://sfgov.org/olse/formula-retail-employee-rights-ordinances>.
- 6 An Initiative Ordinance Amending Title 4 of the San Jose Municipal Code to Require Employers to Offer Additional Work Hours to Existing Qualified Part-Time Employees Before Hiring New Staff, available at <http://www.sanjoseca.gov/DocumentCenter/View/54088>.
- 7 San Jose, Cal. City Council Res. No. 77867 (filed July 6, 2016), available at <http://sanjoseca.gov/DocumentCenter/View/58203>.
- 8 Seattle Ordinance No. 125135 (Sept. 29, 2016), available at <http://seattle.legistar.com/View.ashx?M=F&ID=4706942&GUID=93513A97-92F2-4E76-A7E3-9A5F14761B6A>.
- 9 S.B. 416, 165th Gen. Ct. Sess. (N.H. 2015) (adopted May 11, 2016) (to be codified at N.H. Rev. State. Ann. § 275:37-b).
- 10 S.B. 1436, 52d Leg., 2d Reg. Sess. (Ariz. 2016), available at <http://www.azleg.gov/legtext/52leg/2r/bills/sb1436p.pdf> (in Committees on adjournment).
- 11 H.B. 2569, 52d Leg., 2d Reg. Sess. (Ariz. 2016), available at <http://www.azleg.gov/legtext/52leg/2R/bills/HB2569P.htm> (in Rules Committee on adjournment).
- 12 Assemb. B. 357, 2015-16 Reg. Sess. (Cal. 2016), available at [http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201520160AB357](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB357) (died on inactive file Feb. 1, 2016).
- 13 S.B. 878, 2015-16 Reg. Sess. (Cal. 2016), available at [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB878](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB878) (held in Committee May 27, 2016).
- 14 Legis. B. 21-0512, D.C. Council Period No. 21 (D.C. 2015), available at <http://lims.dccouncil.us/Download/34952/B21-0512-CommitteeReport1.pdf> (motion to table approved).
- 15 H.B. 3696, 99th Gen. Assemb., 1st Reg. Sess. (Ill. 2015), available at <http://www.ilga.gov/legislation/99/HB/PDF/09900HB3696lv.pdf> (in Rules Committee on adjournment).
- 16 See 820 Ill. Comp. Stat. Ann. 115/1 (West 2016) (defining “employer”).
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