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Erin M. Edgerton Hall, AWI-CH

Bryan J. Morben

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Question of the Day: Minneapolis Earned Sick and Safe Time Ordinance

Legal Update

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By Bryan J. Morben and Erin M. Edgerton

Question

What is the current status of the Minneapolis Earned Sick and Safe Time Ordinance? Does my business, located outside Minneapolis, still have to comply for employees who sometimes work in Minneapolis?

Answer

Yes. The Minnesota Supreme Court recently confirmed that the Minneapolis Earned Sick and Safe Time Ordinance (the "Ordinance") applies to any employee who works a minimum of 80 hours per year within Minneapolis, even if the employer does not maintain a physical presence in Minneapolis.

The Litigation

The Minnesota Chamber of Commerce and several other business groups challenged the Ordinance, arguing (1) that Minnesota state law preempted the Ordinance, such that the Ordinance was attempting to regulate conduct that is already fully controlled by Minnesota state law or that ordinance conflicted with state law, and (2) that the Ordinance impermissibly regulated conduct outside of the City of Minneapolis (i.e., that it applied extraterritorially).

The district court originally entered an injunction preventing the City from enforcing the ordinance against businesses physically located outside Minneapolis city limits. That order was vacated by the Court of Appeals before the Minnesota Supreme Court agreed to hear the case.

The Decision

The Minnesota Supreme Court rejected both of the Chamber of Commerce's arguments. As to preemption, the Court stated that in Minnesota, "conflicts which would render an ordinance invalid exist only when both the ordinance and the statute contain express or implied terms that are irreconcilable with each other."

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The Court determined that although there is a Minnesota state statute that makes paid leave permissive, cities are within their rights to create stricter laws requiring paid leave because “the additional terms only further the policy underlying the statute rather than posing an irreconcilable conflict.” Additionally, the Court determined that the Ordinance was not preempted because the state statute “only applies to employers who already provide sick time benefits of their own accord” whereas the Ordinance creates an obligation to provide certain benefits.

Addressing the extraterritoriality argument, the Court credited the Minneapolis City Counsel’s findings and stated that the law was permissible because the accrual and use of sick and safe time only applied to hours worked and scheduled within the city, and therefore, the law did not impermissibly regulate conduct outside the City of Minneapolis.

Takeaways

Employers must be aware of the local laws in the cities in which their employees work. Duluth and St. Paul, for example, have also passed paid sick leave ordinances. The requirements under local laws vary from one city to another, and employers must be sure to comply with the local laws of each city where they have employees working.

Employers should also be cognizant that they may be subject to Minneapolis’ new Wage Theft Ordinance, which contains the same threshold for employees working 80 hours or more per year in Minneapolis.

If you need help navigating compliance with local employment laws, contact your Fredrikson & Byron Employment & Labor attorney.

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