

Family-Friendly Workplace Ordinance: Economic Impact Report

Office of Economic Analysis

July 10th, 2013

Item #130622



Background

- The legislation was introduced on June 11, 2013.
- On July 2, the OEA was provided with an amended version of the legislation, which formed the basis of an OEA presentation at the Small Business Commission on July 8th.
- On July 10th, the OEA was provided with a second amended version of the legislation. This report is based on our analysis of the second amended version.

Overview of the Legislation

- The legislation allows a qualified employee to request a flexible or predictable working arrangement from a covered employer.
- A qualified employee is anyone responsible for the care of a child, someone with a serious medical condition, or a parent over 65, who has worked for their employer for over six months and works 8 or more hours per week. Temporary workers are included, but may only make requests to employers for whom they have worked for more than six months.
- An employer must consider at least two requests that are made within a 12-month period, or three if the employee experiences a major life event.
- A covered employer is any private employer in San Francisco with 20 or more employees, and the City and County of San Francisco.
- The City's Human Resources Director has the ability to exclude certain public safety and public health occupations from qualification.
- Approximately 8% of private employers in San Francisco are covered by this legislation. They employ 76% of private sector employees in the city.
- Under both a predictable and flexible work arrangement, a qualified employee may request any change to his or her hours, timing, location, work assignment, or any other term or condition of their employment that assists with their care.

Request and Reconsideration Process

- The initial request must be made in writing by the employee. It must provide details of the desired arrangement, how the employee believes the change will affect the employer, and how any such effect may be dealt with.
- If the request is made orally, the employer must notify the employee of the requirement for a written request.
- The employer may deny the request for a *good-faith business reason*, such as cost, a detrimental impact on customers, or insufficient work.
- If the request is denied, the employer must explain in writing the reason for the denial.
- A denied employee has the right to request a reconsideration from the employer. If this request is made, a meeting must be held and the employer must again state its basis for denial in writing.

Enforcement Process

- The City's Office of Labor Standards Enforcement (OLSE) is directed to establish rules, investigate potential violations, and impose penalties pursuant to the proposed legislation.
- OLSE may not find a violation on the basis of the good-faith business reason for which an employer denies a request. OLSE may find a violation if an employer fails to comply with noticing requirements, or violates an employee's rights.
- As is the case with other City policies, appeals against OLSE's determinations are made by a Controller-appointed hearing officer, and the burden of proof is on the employer.

Economic Impacts of Flexible Working Arrangements

- Voluntary working arrangements to maintain work-life balances are increasingly common, and are credited with increasing employee loyalty and productivity, reducing turnover and re-training costs, and reducing family expenditures on outside care providers.
- Legislation broadly similar to this proposal has been adopted in other jurisdictions, including recently in the U.S. state of Vermont.
- In the United Kingdom, the right-to-request originally applied to parents, but the Conservative-led coalition has recently introduce plans to extend it to all employees.
- By permitting employers to deny the request for a valid business reason, the legislation effectively insulates employers, and the broader city economy, from any negative impacts beyond minimal administrative costs.
- Indeed, the "nudge effect" of offering a right-to-request to all qualified employees will likely lead to greater realization of the benefits of flexible working arrangements, across the San Francisco workforce, at little if any additional cost.
- It is therefore highly likely that the economic benefits of this legislation will exceed its costs, under a reasonable valuation of costs and benefits.

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