

**SB 828 B STAFF MEASURE SUMMARY****Carrier:** Sen. Taylor, Sen. Knopp**Senate Committee On Rules****Action Date:** 06/14/17**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)**Vote:** 4-1-0-0**Yeas:** 4 - Beyer, Burdick, Ferrioli, Roblan**Nays:** 1 - Boquist**Fiscal:** Fiscal impact issued**Revenue:** No revenue impact**Prepared By:** Cherie Stone, LPRO Analyst**WHAT THE MEASURE DOES:**

Establishes employee work scheduling standards for certain employers in retail, hospitality or food service industries that have at least 500 employees worldwide. Beginning July 1, 2018, certain retail, hospitality and food service employers with 500 or more employees worldwide must provide good faith estimates of employees' work schedules at the time of hire and provide employee with advanced written notice of work schedule seven-days prior to first day of work. Beginning July 1, 2020 employer must provide employee with advanced written notice of work schedule 14-days prior to first day of work. Allows employee to decline work hours not included in schedule, and requires employer to compensate employees for schedule changes without required advanced notice. Establishes right to rest between work shifts, including hours following end of on-call shift, and requires employer to provide extra compensation for hours worked when fewer than 10 hours separate shifts. Allows employers to maintain standby list that includes employees who have agreed to work additional hours, provides criteria for employer use of standby list and prescribes penalties for violations of standby list requirements. Employees may request additional work shifts and exempts requested additional shifts from work schedule notice requirements. Allows employees to request not to be scheduled during specific times or at certain locations, and allows an employer to request reasonable verification of an employee's need for such a request. Requires employer to compensate employee at one and one-half times the regular rate of pay if employee works during prescribed rest period.

Establishes notice, record keeping and rulemaking requirements for employers, in addition to penalties for violations of work schedule notice requirements, and prohibits employers from engaging in a systematic pattern or practice of significant under-scheduling.

Interfering with, restraining, denying, or attempting to deny exercise of scheduling standards or to retaliate or discriminate against individual inquiring about standards is considered unlawful employment practice. Provides private right of action and administrative remedies for violations. Extends sunset date of existing preemption on local scheduling laws until July 2, 2022. Declares emergency, effective upon passage.

**ISSUES DISCUSSED:**

- Importance of work schedule predictability for employees with children or in school
- Work group participants
- Previous legislative efforts related to predictable work schedules
- Impact on subcontractors

**EFFECT OF AMENDMENT:**

Replaces measure.

**BACKGROUND:**

In 2015, San Francisco implemented the nation's first set of work scheduling protections. In 2016, Seattle, Washington and Emeryville, California followed suit by adopting scheduling policies for retail and food service

This Summary has not been adopted or officially endorsed by action of the committee.

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workers and fair workweek regulations. The State of Connecticut has also considered predictive work scheduling legislation.

During the 2015 legislative session, the Oregon Legislative Assembly's House Committee on Business and Labor heard measures related to predictive work scheduling. Although no measure passed out of committee, a work group was subsequently formed, holding meetings throughout the 2016 interim to discuss proposed policies regarding predictive scheduling, receive input from San Francisco and Seattle city officials and an academic researcher.

Senate Bill 828-B establishes the Fair Work Week Act, which provides scheduling standards for specified retail, food service and hospitality employers. Beginning July 1, 2018, the measure requires retail, food service and hospitality employers who have 500 or more employees worldwide to provide good faith estimates of employees' work schedules, seven-days advanced written notice of work schedules, predictability pay when schedules change, a right to rest between shifts and extra compensation for hours worked when fewer than 10 hours separate shifts. Beginning July 1, 2020 the measure requires that advance notice of work schedules be provided to employees 14-days in advance of first day of work. In addition, SB 828-B allows employers to maintain a standby list that includes employees who have agreed to work additional hours, provides criteria for employer use of the standby list and prescribes penalties for violations of standby list requirements. The measure allows employees to request additional work shifts and exempts requested additional shifts from work schedule notice requirements. Further, the measure allows employees to request not to be scheduled during specific times or at certain locations, and allows an employer to request reasonable verification of an employee's need for such a request.

The measure also establishes notice and rulemaking requirements for employers, in addition to penalties for violations of work schedule notice requirements, and prohibits employers from engaging in a systematic pattern or practice of significant under-scheduling.

Senate Bill 828-B provides the following exceptions to requirements for predictability pay:

- Employee mutually agrees with another employee to employee-initiated work shift swaps or coverage;
- Employer changes start or end time of an employee's work shift by less than 30 minutes;
- Employee on voluntary standby list consents to work additional hours;
- Employer has contacted all employees on the standby list and still requires additional employee coverage;
- Employer requests that employee work additional hours to address unanticipated customer needs or unexpected employee absence;
- Employee consents in writing to work additional hours;
- Employee requests changes to his or her work schedule, and documents the request in writing;
- Employer subtracts hours from an employee's work schedule for disciplinary reasons for just cause;
- Employee's work shift or on-call shift cannot continue due to threats to employees or property or due to recommendation of a public official;
- Employer requests employees to work additional hours through group communication;
- Operations cannot begin or continue due to problems with public utilities or sewer system;
- Operations cannot begin or continue due to natural disaster or similar cause not within employer's control; and
- Operations hours change because of cancellation, rescheduling or change in duration of a ticketed event due to conditions outside employer's control.

Senate Bill 828-B permits a worker who asserts a violation of work schedule requirements to file a complaint with the Commissioner of the Oregon Bureau of Labor and Industries (BOLI) or file a civil action. BOLI may assess a statutory penalty payable to the aggrieved party that is \$500 for violations related to poster giving notice of rights contained within the Act, and \$1,000 for other violations related to work schedule requirements. Lastly, Senate Bill 828-B extends the preemption of local laws that regulate employee work schedules until July 2, 2022.