



LOS ANGELES COUNTY
CONSUMER & BUSINESS AFFAIRS

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May 22, 2023

To: Supervisor Janice Hahn, Chair
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Supervisor Holly J. Mitchell
Supervisor Lindsey P. Horvath
Supervisor Kathryn Barger

Director

Rafael Carbajal

From: Rafael Carbajal
Director

Chief of Staff

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**REPORT BACK ON ESTABLISHING COUNTY FAIR WORKWEEK
EMPLOYMENT STANDARDS FOR RETAIL WORKERS (ITEM NO. 15,
DIRECTIVE #1, AGENDA OF DECEMBER 20, 2022)**

On December 20, 2022, your Board adopted a motion,¹ directing the Department of Consumer and Business Affairs (DCBA), through its Office of Labor Equity (OLE), in collaboration with the Director of the Department of Economic Opportunity (DEO) and County Counsel, to report back findings that would inform the development and implementation of a Fair Workweek Ordinance for the unincorporated areas of the County of Los Angeles (County).

The attached report provides a summary of DCBA's research and recommendations, incorporating your Board's requested four elements:

- A summary of Los Angeles County's current retail worker and industry landscape;
- Comparable local jurisdictions' Fair Workweek policies' outcomes and lessons learned;
- Other worker groups or industries that could also benefit from the adoption of fair workweek policies;
- Additional findings from engagement of key relevant stakeholders such as employers, workers, labor, economic development, and community-based organizations.

¹ <https://file.lacounty.gov/SDSInter/bos/supdocs/175807.pdf>



The attached report supports the passage of a Fair Workweek Ordinance, as suggested in your directive and provides the following recommendations for consideration, including the need for simplicity in regulation and adequate resources to fund education, outreach, and enforcement. DCBA looks to balance expanded worker protections, with a commitment to ensure administrative capacity and support for workers across the County.

RECOMMENDATIONS

Recommendation #1: Maintain consistency, as appropriate, with the City of Los Angeles

Throughout the stakeholder engagement process, the predominant opinion regarding the structure of a County Fair Workweek Ordinance was to maintain alignment with the recently enacted ordinance of the City of Los Angeles (City). Advocates for both worker and business interests agreed that the best path forward would prioritize uniformity in the rules and practical applications for the affected businesses. While academics and national proponents voiced a preference to see future iterations continue to provide for stronger protections, the shared border of unincorporated areas with the City and the overall likelihood that the majority of covered employers would have locations in both jurisdictions, reenforced the benefits for alignment of both awareness and compliance.

DCBA continues to work with County Counsel to curate a list of recommended modifications to the City ordinance in the development of a County ordinance, while attempting to preserve core requirements. These recommendations include:

1. Extensive language requirements to support Limited English Proficiency worker populations;
2. Mandatory training on Fair Workweek regulations for covered businesses;
3. Removal of barriers present in the City ordinance to allow for aggrieved workers to file a complaint or civil action unimpeded;
4. Added protections for workers who are undocumented or victims of domestic violence;
5. Streamlined penalty and remedy structure to alleviate the resource burden of complex Fair Workweek investigations.

Recommendation #2: Ensure Adequate Staffing and Funding is in Place Prior to Implementation

As detailed in DCBA's report of May 2, 2023 regarding the recommended expansion of OLE, the responsible support and enforcement of a Fair Workweek ordinance is reliant on staffing resources and funding that are currently not in place.² As part of its submission during the County's Final Changes budgeting phase for Fiscal Year 2023-24, DCBA has

² <https://file.lacounty.gov/SDSInter/bos/bc/>

requested budget allocations that would initiate the build-out of OLE. Additionally, DCBA is recommending another three positions and a \$400,000 budget allocation to fully support the initial administrative needs that the passage of a Fair Workweek ordinance would require. OLE would also need sufficient ramp-up time to put into place the administrative/regulatory structures and partnerships necessary to implement this complex ordinance. Thus, DCBA would recommend an operative date to be timed, at minimum, nine months after the requested resources are made available in order to adequately support needed outreach and education for the affected businesses and workers and to prepare for complaint intake and pro-active investigation.

Recommendation #3: Pave a Clear Path for Expansion to other Industries

The reach of the ordinance as recommended by your Board is limited to a select number of businesses within the unincorporated area. DCBA recommends taking steps to allow for OLE to encourage a coordinated expansion with the City to provide coverage for workers in several other vulnerable industries, particularly food service. This would need to include the commission of a study that would provide specific findings the County and City would require to potentially expand their respective ordinances.

NEXT STEPS

DCBA is currently awaiting budgetary decisions, as referenced in Recommendation #2 above, that will define OLE's capacity to support this ordinance. In the interim, OLE will continue to develop contingency strategies that account for current limited resources, partnerships, and explore other potential funding.

DCBA will also continue to collaborate with County Counsel on proposed ordinance language. Once preliminary language is in place, DCBA will look to convene sessions once again with relevant business and worker stakeholder groups for additional feedback.

Should you have any questions concerning this report, please contact me or Rose Bazmadzhyan, Chief, Office of Labor Equity, at (213) 712-5518 or vbasmadzhyan@dca.lacounty.gov.

RC:JA:CO
MR:RB:JP:EV:ph

Enclosure

c: Executive Officer, Board of Supervisors
Chief Executive Office
County Counsel
Department of Economic Opportunity



**RECOMMENDATIONS FOR ESTABLISHING COUNTY
FAIR WORKWEEK EMPLOYMENT STANDARDS
FOR RETAIL WORKERS**

REPORT

May 22, 2023

Prepared by:

Los Angeles County Department of Consumer and Business Affairs
Rafael Carbajal, Director

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INTRODUCTION

Most front-line service sector workers continue to live in a constant state of uncertainty. These workers are unfairly forced to navigate daily work-life within an employment structure that, will often leverage the financial precarity of its workforce to more efficiently address the fluctuating and often unpredictable business cycles.

Both national and local studies have found, particularly in the areas of retail and food service, that schedule instability strips away the basic dignity of steady, reliable employment and the physical and mental well-being that comes with it. In the County of Los Angeles (County) it was estimated that eight out of ten workers had a routine schedule change from week-to-week.³ Research further highlighted that workers of color were particularly exposed to this scheduling practice. The ramifications of this exposure (poor sleep quality, psychological distress, challenges in maintaining caregiving and/or education commitments, overall economic insecurity) continues to undermine the overall health of the most vulnerable workforce and compels, at a minimum, the consideration of additional protections that can potentially assuage these adverse conditions.

The absence of federal and State regulation has opened the door for local jurisdictions to address the issue through the adoption of “Fair Workweek” laws (FWW) that establish minimum scheduling standards for employers. Several municipalities in California and elsewhere have already implemented these measures. While these standards vary to some degree in the industries covered, , the common factor in most FWW laws is the establishment and/or fortification of the following worker rights:

- 1) Advance notice of work schedule;
- 2) Opportunity to either decline or receive adequate compensation for employer-initiated last-minute changes;
- 3) Opportunity to provide input on schedules;
- 4) Adequate rest between shifts;
- 5) Increased access to additional hours.

The City of Los Angeles (City) passed its FWW, specific to the retail industry, on November 22, 2022 after years of engagement and negotiation with relevant stakeholders, both in support and opposition of the proposed legislation. The City’s success provides the County with a unique opportunity to extend these protections to the retail sector of the unincorporated areas of the County, without significant resistance. It is important to note that for every FWW initiative that has been put into effect, there are dozens of efforts that have been defeated nationwide. The business sectors affected by FWW continue to view this form of government regulation as particularly over-reaching, burdensome, and threatening to their bottom-line. An extension of the City ordinance to the County, however, is estimated to cover only a modest number of businesses, most of which having retail locations in both jurisdictions. Alignment across jurisdictional

³ https://www.labor.ucla.edu/wp-content/uploads/2018/06/FINAL_UCLA-Scheduling-Report-3-12-2018.pdf

boundaries would be deemed more acceptable for those businesses concerned than the potential County introduction of asymmetrical requirements.

This report will provide an overview of the existing FWW in the City, a comparative summary of other municipalities, key takeaways of the Department of Consumer and Business Affairs' (DCBA) literature review and stakeholder engagement, an inventory of other industries beyond retail whose workers could potentially benefit from FWW, and recommendations on a path forward informed by lessons learned from other jurisdictions.

THE “PILLARS” OF FAIR WORKWEEK LAWS

While the Fair Labor Standards Act (FLSA) provides a range of protections at the federal level, including minimum wage, overtime pay, and child labor, it does not specifically address scheduling. Studies throughout the years, however, have continued to confirm the detrimental effects schedule instability and nonstandard hours have on a worker's physical health, mental health, and work-life balance. This body of research helped form the backbone of current FWW that attempt, in near unison, to provide for and protect an established set of base principles. It is these principles or “pillars” that the consensus of FWW proponents believes effectively mitigate the primary worker ailments that stem from this condition and provide opportunity for increased income stability. In addition, every FWW maintains strong anti-retaliation provisions so covered employees feel comfortable in asserting their rights without fear of jeopardizing the employment on which they rely. These “pillars,” albeit varying in some details from jurisdiction to jurisdiction, are as follows:

Advanced Notice

Schedule stability is necessary for workers to adequately plan and attend to their lives, whether they be students trying to find time to attend classes or adults struggling to meet their caregiving responsibilities. Coping with the strain of last-minute scheduling changes and/or the day-to-day unpredictability of being “on-call” continues to be a voiced concern amongst those struggling under these business practices.

This provision looks to achieve some relief for the workforce by requiring a covered employer to provide an initial “good faith estimate” of a worker's schedule at the time of hire. And while not technically binding, the employer is supposed to provide justification of any significant deviation from that initial commitment.

Additionally, the employer is to provide and publicly post schedules a significant time in advance of a particular shift, in most cases 14 days. In requiring both an initial estimate and a minimum standard for notice of schedule, these provisions set the table for additional worker supports, including the ability to provide input and potentially receive additional compensation for employer-initiated last-minute changes that occur inside of the 14-day notice.

Ability to Have Input

Another critical and commonly held goal of FWW jurisdictions is establishing a new employee-employer dynamic that inspires a worker to engage with their manager and negotiate a schedule that is either better suited to their needs or that makes them more efficient. Provisions are generally written in to promote a safe environment, free from retaliation, that will encourage a worker's voice in scheduling, even though in most cases the employer still retains the right to decline without penalty.

Predictability Pay

Largely viewed as a critical tool to keep employers from making last-minute changes to schedules, this provision requires employees to be compensated for any employer-initiated changes made to a schedule after the advance notice period. Often viewed as a deterrent, "Predictability Pay" also incentivizes and rewards workers for adjusting with their employers to the ever-shifting demands of the workplace.

This incentive/deterrent is most commonly calculated as an extra hour of base rate pay for a shifting schedule or for the last-minute addition of (non-overtime) hours. Half-pay is often required for all hours reduced from the original schedule (or for hours not worked when on an "on call" shift).

As a concession to businesses, each jurisdiction usually has its own list of exceptions that allow for an employer to implement last-minute schedule changes without requiring Predictability Pay. The most common of these exceptions is when an employer must adjust for an unexpected absence due to illness or another protected form of leave. Other common exceptions include reduced hours as a result of a documented disciplinary action, or when changes are requested due to unpredictable events such as natural disasters, failure of utilities, and other occurrences of that nature.

Regardless of the type of employer-initiated change, however, the employee usually retains the right to refuse (again without fear of retaliation) any added hours not originally included in the posted advance schedule.

Right to Rest

This provision requires employee consent before being scheduled for two shifts in close succession, usually within ten hours of each other. An additional premium is commonly required for the second shift. These nonstandard hours most often involve working a closing shift to be immediately followed by an opening shift the next day, commonly known as "clopening" shifts. Clopening shifts remain particularly common in the retail and food service sectors and inhibit a worker's ability to receive adequate rest between full shifts. They are viewed by researchers as prime contributors to the poor health outcomes reported by employees.

Access to Hours

Income volatility is another area of concern that FWW jurisdictions seek to address. Schedule cancellations and an overall lack of hours often have acute financial consequences for low-wage workers particularly in regions where wages do not keep up with the cost of living. Most FWW include an “access to hours” provision that requires employers to present to the entirety of its covered workforce (without discrimination or bias) opportunities for additional hours before pursuing alternative staffing arrangements. This provision usually includes a minimum posting time of at least three days unless all employees have rejected the offer of additional hours.

CITY OF LOS ANGELES FWW ORDINANCE

On November 22, 2022 the City passed its own FWW ordinance⁴ which, along with explicit provisions related to compliance and enforcement, incorporated all of the standard elements referenced above. The “covered employer formula” under the ordinance is limited to retail trade categories (subcategories 44 through 45) as defined by the North American Industry Classification System (NAICS)⁵ for businesses that employ at least 300 employees in aggregate worldwide.

The ordinance also extends to franchisees under universally adopted franchisee/franchisor definitions (i.e., conducting business under a marketing system of a franchisor, use of their trademarks or advertising, and/or the payment of a franchise fee) but with an additional qualification, unique in the nation, that has the FWW apply only to those franchisee employers that utilize a fixed point of sale location that exceeds 15,000 square feet.⁶

In summary, the provisions of the City ordinance mandate the following:

Advanced Notice of Schedule

- The employer must provide a “good faith estimate” both prior to hire and within ten days of an employee request at any point during employment;
- The employer must provide work schedules (specific days, shift times, and locations) at least 14 days in advance.

Ability to Have Input

- The employer must entertain an employee’s input regarding their schedule, and if a particular request is denied, they must supply a reason in writing.

Predictability Pay

- Employer-initiated changes made inside of 14 days must be made in writing;

⁴ <https://wagesla.lacity.org/sites/g/files/wph1941/files/2023-03/Fair%20Work%20Week%20Ordinance.pdf>

⁵ https://www.census.gov/naics/reference_files_tools/2022_NAICS_Manual.pdf

⁶ This particular qualification was included to relieve mom-and-pop franchises with a limited physical and employee footprint from the FWW provisions. A good example to illustrate the City’s desired effect of this exception would be the owner of an individual “AM/PM” or “7-11” – a small business that would otherwise qualify given the number of employees associated with the franchise but is deemed exempt due to the small physical footprint of the location.

- Employees have the right to decline any additional hours requested inside of 14 days, and if agreeing to work, that consent must be in writing;
- Employees are paid half-time for cancelled shifts or for on-call shift hours scheduled but not worked;
- Predictability pay of one additional hour at the base rate is required for other employer-initiated changes, with only a few allowable exceptions (most notably when an employee consents to covering a shift for an absent employee).

Right to Rest

- The employer must first obtain written consent and then pay time and a half for the complete second shift of any two full shifts not separated by at least ten hours.

Access to Hours

- The employer must make an offer of additional hours to its current employees for at least 72 hours before hiring new staff;
- Employees have 48 hours to respond.

Additional Considerations

- The employer must provide at the time of hire, and post in a prominent place in the workplace, the employee’s rights under FWW;
- The employer must maintain all FWW-related documentation for at least three years;
- The employee must give the employer written notice and 15 days to cure an alleged FWW violation prior to filing a complaint with the City or an independent civil action.⁷

It is common for most FWW jurisdictions to institute a “ramp up” period between passage of the ordinance and actual implementation to give time for the promulgation of rules, the conducting of both worker and business outreach, the production of materials, and the hiring of staff for enforcement. These “ramp up” periods at a minimum are six months, but often have extended to one year or more.

The City took a more aggressive approach of only five months with the ordinance officially operative on April 1, 2023, but also provided for an additional six month “grace period” for covered businesses not to incur any financial penalties for non-compliance.

Recommendations for the County to implement its own FWW will follow later in this report, though it is prudent to mention that given the proximity of the City, County, and the numerous incorporated cities intertwined, a unique geographic condition exists that is not present in any other active FWW jurisdiction. As this report begins to detail the various other FWW laws around the country, it is important to consider that all the discussed

⁷ This is also a unique feature to the City of Los Angeles and has been universally condemned by academics and other jurisdictions with whom DCBA spoke

jurisdictions have clear separation from each other (with the exception of Berkeley and Emeryville) and did not have to strongly consider uniformity in its regulations.

FAIR WORKWEEK LAWS IN OTHER CALIFORNIA JURISDICTIONS

As mentioned previously, there currently is no state-level FWW provisions in California, but not for a lack of trying. In February of 2015, AB-357⁸ known as the Fair Scheduling Act of 2015 was introduced to the state legislature to provide for Advanced Notice and Predictability Pay for food and retail businesses with at least 500 employees in the state and at least ten fixed in-person sales locations in the country. The law was designed to resemble the requirements of the recently passed but not yet operative Predictable Scheduling and Fair Treatment for Formula Retail Employees Ordinance⁹ from the City and County of San Francisco (SF). The bill, however, died in committee in early 2016.



San Francisco

The earliest adopter of a FWW ordinance was SF. Made operative in July of 2015, six months after passage, the ordinance paved the way for future renditions of the law in California and elsewhere. Utilizing a specific formula designed to cover “chain retailers” in multiple categories, SF designed its FWW coverage to exempt smaller, locally owned businesses.

Industries Included and Covered Employer Formula

- Broad range of retail and food service – which also includes movie theatres, bars, massage providers, and financial services;
- Chain stores with at least 40 formula retail establishments worldwide and 20 or more employees in SF.

Advanced Notice of Schedule

- The employer must provide new employees with a good faith written estimate of the employee’s expected minimum number of scheduled shifts per month and the days and hours of those shifts;
- The employer must provide work schedules (specific days, shift times) at least 14 days in advance.

⁸ https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB357

⁹ https://codelibrary.amlegal.com/codes/san_francisco/latest/sf_police/0-0-0-47832

Ability to Have Input

- SF has a separate ordinance that provides for worker input into their schedule, particularly for caregiving responsibilities, that requires an interactive process meeting and an appeal process before denying the request.

Predictability Pay

- Employer-initiated changes made inside of seven days require a premium that increases on a sliding scale based on the amount of notice;
- Employees are paid a premium (sliding scale) for on-call shift hours scheduled but not worked;
- Employees do not have the right to refuse added hours;
- Exceptions to Predictability Pay include covering shifts for call outs with less than seven days' notice.

Right to Rest

- No protections.

Access to Hours

- The employer must offer any extra work hours to current qualified part-time employees in writing before hiring new employees or using contractors or staffing agencies to perform additional work;
- Employees have 72 hours to accept.

Emeryville

The City of Emeryville's Fair Workweek Ordinance¹⁰ passed and became immediately operative in July 2017 with a six month "grace period" identical to the City of Los Angeles ordinance.

Industries Included and Covered Employer Formula

- Retail and food service
 - Retail with 56 or more employees globally;
 - Food service with 56 or more employees globally and 20 employees in Emeryville.

Advanced Notice of Schedule

- The employer must provide a "good faith estimate" prior to hire;
- The employer must provide work schedules at least 14 days in advance.

Ability to Have Input

- The employer must consider employee input into the initial "good faith estimate" schedule and provide a denial of any changes in writing prior to commencement of work;

¹⁰ <https://www.ci.emeryville.ca.us/DocumentCenter/View/10190>

- The employee has a right to request a flexible schedule without fear of retaliation.

Predictability Pay

- Employer-initiated changes that add or subtract hours inside of the 14 days require a premium that increases on a sliding scale based on the amount of notice;
- Employee has right to refuse added hours;
- Exceptions to Predictability Pay include shift swaps and other shift changes of mutual consent;
- No specific protections addressing on-call shifts.

Right to Rest

- The employer must first obtain written consent and then pay time and a half for the hours of the second shift not separated by at least 11 hours from the end of the first shift.¹¹

Access to Hours

- The employer must offer any extra work hours to current qualified part-time employees in writing before hiring new employees or using contractors or staffing agencies to perform additional work;
- Employees have 72 hours to accept assignments that exceed two weeks; 24 hours for assignments of less than two weeks.

Berkeley

The City of Berkeley recently passed its own FWW ordinance¹² in December 2022, though it will not become operative until January of 2024. Similar to the FWW in Chicago, Berkeley’s version covers a broad range of industries. They are currently working with the neighboring City of Emeryville to align the rules as much as possible between the two neighboring jurisdictions.

FWW LAWS OUTSIDE OF CALIFORNIA

A table summarizing jurisdiction-specific coverage of the “pillars” follows at the end of this section.

New York

The City of New York passed its FWW¹³ in mid-2017, becoming operative six months later, with separate requirements for retail and fast-food industries. In 2021, New York updated the requirements for fast-food workers to include some of the strongest

¹¹ To qualify for the Right to Rest protections, the opening shift must occur either less than 11 hours after the end of (1) the previous day’s shift; or (2) a shift that spanned two calendar days

¹² <https://berkeley.municipal.codes/BMC/13.101>

¹³ <https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYAdmin/0-0-0-36312>

standards nationwide. In particular, this amendment required an employer commitment to a regular schedule that could only deviate 15 percent without the employee's consent, nor could an employer reduce scheduled hours without just cause or a bona fide economic reason.

While the fast-food industry requirements of New York City's FWW largely resemble most other jurisdictions' FWW, the provisions for retail employers are substantially different as noted below:

Industries Included and Covered Employer Formula

- Retail and food service
 - Retail businesses with 20 or more employees;
 - Fast food businesses that are part of a chain/franchise with 30 national locations.

(note: the following rules are only for retail)

Advanced Notice of Schedule

- The employer must provide a schedule spanning at least seven days no less than 72 hours in advance.
 - This schedule is "locked in" and cannot be revised by the employer inside of the 72-hour period without employee consent;
 - Employees have the right to decline any additional hours.
- No on-call shifts are allowed.
- Employers do not have to provide "good faith estimates" at time of hire.

Ability to Have Input

- Employees have a right to request flexible or modified working schedules.
 - Employees additionally have the right to request schedule accommodations through the use of two temporary schedule changes within the calendar year.¹⁴

Predictability Pay

- No Predictability Pay provisions.

Right to Rest

- No Right to Rest protections.

Access to Hours

- No Access to Hours provisions.

¹⁴ This right extends to most workers in New York City, not just fast food and retail

Chicago

The City of Chicago passed its FWW¹⁵ in July of 2019 with an operative date one year later on July 1, 2020. The list of industries covered was the most expansive at the time and has yet to be replicated by any other jurisdiction.

Industries Included and Covered Employer Formula

- The FWW applies to employers (including non-profits) in seven industries: building services, healthcare, hotels, manufacturing, restaurants, retail, and warehouse services.
 - Covered businesses must employ 100 or more employees globally (or if a nonprofit employer, 250 or more);
 - 50 of the above must be “Covered Employees” defined as those earning less than or equal to \$50,000 per year (if salaried) or \$26 per hour (if hourly).

Advanced Notice of Schedule

- The employer must provide a “good faith estimate” prior to hire, in writing, that covers the first 90 days;
- The employer must provide work schedules at least 14 days in advance.

Ability to Have Input

- The employer must consider employee input into the initial “good faith estimate” schedule and provide a denial of any changes in writing;
- The employee has a right to request a flexible schedule without fear of retaliation.

Predictability Pay

- Employer-initiated changes that add or subtract hours inside of the 14 days but with more than 24 hours’ notice requires a premium of one hour while any cancelled shifts inside of 24 hours requires half pay for all hours not worked;
- Employee has right to refuse added hours;
- Exceptions to Predictability Pay include shift swaps and other shift changes of mutual consent between the employee and employer.¹⁶

Right to Rest

- The employer must first obtain written consent and then pay time and a quarter for the complete second shift not separated by at least ten hours from the end of the previous day’s shift.

¹⁵ https://codelibrary.amlegal.com/codes/chicago/latest/chicago_il/0-0-0-2639907

¹⁶ In our interview with Chicago’s Office of Labor Standards, they singled out the concept of “mutual consent” as particularly problematic

Access to Hours

- The employer must offer any extra work hours to current qualified part-time before hiring new employees or using contractors or staffing agencies to perform additional work, but there is no defined process or timeline in the ordinance to do so.

Additional Considerations

- In order for an aggrieved employee to file a private right of action, they must first file a complaint with Chicago's investigation unit and allow the agency to provide opportunity to the Employer to contest or cure the alleged violation.¹⁷

Philadelphia

The City of Philadelphia passed its FWW¹⁸ in December 2018 with an operative date of April 1, 2020.

Industries Included and Covered Employer Formula

- Retail, food service, and hospitality
 - Employ 250 or more employees globally and have 30 or more locations worldwide.

Advanced Notice of Schedule

- The employer must provide a "good faith estimate" prior to hire in writing that covers the first 90 days;
- The employer must provide work schedules at least 14 days in advance.

Ability to Have Input

- The employer must consider employee input into the initial "good faith estimate" schedule;
- The employee has a right to request a flexible schedule without fear of retaliation.

Predictability Pay

- Employees have the right to decline any additional hours requested inside 14 days, and if agreeing to work, that consent must be in writing;
- Employees are paid half-time for cancelled shifts or on-call shift hours scheduled but not worked;
- Predictability pay of one additional hour at the base rate is required for employer-initiated changes, with few exceptions.

¹⁷ This requirement is unique to Chicago which we interpret as being a resource burden on the administering agency to process complaints timely

¹⁸ <https://www.phila.gov/media/20191218103134/Fair-Workweek-Law.pdf>

Right to Rest

- The employer must first obtain written consent and then pay a premium of \$40 for the complete second shift not separated by at least nine hours from the previous shift.¹⁹

Access to Hours

- The employer must offer any extra work hours to current qualified part-time employees in writing before hiring new employees or using contractors or staffing agencies to perform additional work;
- Employers must post the opportunity for 72 hours and give an additional 24 hours for employees to respond - unless the work is needed in a shorter time frame.

Seattle

The City of Seattle passed its FWW titled the Secure Scheduling Ordinance (SSO)²⁰ in September 2016, with it becoming operative in July 2017. This particular FWW ventured beyond all other jurisdictions in specifically addressing the work-life balance of its covered employees. Specifically, it called for employers to consider absences beyond what is covered in labor law, loosely defined within the ordinance as a “Major Life Event.”²¹

Seattle also built in a special provision that required a third-party impact analysis of its FWW at both one and two year intervals following implementation. Furthermore, that analysis was required to be conducted by “academic researchers who have a proven track record of rigorous analysis of the impacts of labor standards regulations.”

Industries Included and Covered Employer Formula

- Retail and food service
 - Employ 500 or more employees globally.

Advanced Notice of Schedule

- The employer must provide a “good faith estimate” prior to hire and annually thereafter.
 - Any significant deviation requires an interactive process with the employee.
- The employer must provide work schedules at least 14 days in advance.

¹⁹ To qualify for the Right to Rest protections, the opening shift must occur either less than 9 hours after the end of (1) the previous day's shift; or (2) a shift that spanned two calendar days

²⁰ https://library.municode.com/wa/seattle/codes/municipal_code?nodeId=TIT14HURI_CH14.22SESC

²¹ A “major life event” is defined by the SSO as “a major event related to the employee's access to the workplace due to changes in the employee's transportation or housing; the employee's own serious health condition; the employee's responsibilities as a caregiver; the employee's enrollment in a career-related educational or training program; or the employee's other job or jobs”

Ability to Have Input

- The employee has a right to request a flexible schedule.
 - If the request is due to a “major life event” the employer must demonstrate, in writing, a legitimate reason for any denial;
 - If the request is not due to a “major life event” the employer must conduct an interactive process but may deny for any lawful reason.

Predictability Pay

- Employees have the right to decline any additional hours requested inside 14 days;
- Employees are paid half-time for cancelled shifts or on-call hours scheduled but not worked;
- Predictability pay of one additional hour at the base rate is required for employer-initiated changes.
 - Seattle’s FWW builds in more employer exceptions than any other FWW, including for hours requested on the spot due to “unanticipated customer need.”

Right to Rest

- The employer must first obtain consent and then pay time and a half for the hours of the second shift not separated by at least ten hours from the end of the previous shift.²²

Access to Hours

- The employer must make an offer of additional hours to its current employees for at least 72 hours before hiring new staff;
- Employees have 48 hours to respond.

Additional Considerations

- Employers are allowed to maintain an “Access to Hours” list and publish new opportunities for hours exclusively to that list;
- Seattle’s FWW has the most expansive requirements for translation: expanding beyond common language requirements for workplace postings provided its office of Labor Standards publishes templates.

²² To qualify for the Right to Rest protections, the opening shift must occur either less than 10 hours after the end of (1) the previous day's shift; or (2) a shift that spanned two calendar days

	Advanced Notice	Input into Schedule	Predictability Pay	Right to Rest	Access to Hours
Los Angeles	Yes 14 days	Yes Denial in writing	Yes May decline new hrs	Yes 10hrs	Yes Offer for 72hrs 48hrs to accept
San Francisco	Yes 14 days	Yes Denial in writing	Yes May not decline	No	Yes 72hrs to accept
Emeryville	Yes 14 days	Yes Denial in writing	Yes May decline new hrs	Yes 11hrs	Yes 72hrs to accept 24hrs for short term
New York	Yes 3 days - Retail 14 days - Food Service	Yes	No May decline new hrs	No - Retail Yes - Food Service 11 hrs	No - Retail Yes - Food Service
Chicago	Yes 14 days	Yes Denial in writing	Yes May decline new hrs	Yes 10hrs	Yes
Philadelphia	Yes 14 days	Yes	Yes May decline new hrs	Yes 9hrs	Yes Offer for 72hrs Add'l 24hrs to accept
Seattle	Yes 14 days	Yes Denial in writing	Yes May decline new hrs	Yes 10hrs	Yes Offer for 72hrs 48hrs to accept

Other Jurisdictions

Not covered in detail for this report are FWW in the State of Oregon²³ and Eules, Texas.²⁴ Every year new legislation is introduced at both the state and municipal levels proposing numerous variations of FWW. Currently at the state level, the most promising efforts are taking place in Connecticut²⁵ and Maine²⁶ with stalled efforts in Michigan and New Jersey. An FWW bill in Colorado, once considered to have a likely chance of passage, faced strong opposition from the restaurant industry and failed to get out of committee, dying in March of this year.²⁷ At the city level, Evanston, IL is actively considering an FWW law that aims to cover workers of more industries than any other FWW jurisdiction in the nation.²⁸ It is also noteworthy that there are several states that have preemption laws that limit local jurisdictions from passing fair scheduling laws.²⁹

IMPACT STUDIES

Despite the existence of FWW for over seven years, studies to measure the specific impact of these laws remains quite limited. While there is a significant body of work to demonstrate the overall positive effects that stability of both schedule and income have on overall health and work-life balance for low-wage workers, published research on the direct effects of FWW is limited to three studies performed separately in Oregon, Seattle, and Emeryville. Furthermore, these studies focus on the impact of FWW on workers and the adoption/compliance of covered businesses pre-pandemic. The unique conditions of the pandemic have complicated the ability to study and provide reliable analysis and conclusions on the potential effects of FWW in a post-pandemic environment. Only a portion of the Seattle reports, detailed later in this section, provided impact analysis within a COVID-19 context, and it was limited to anecdotal evidence resulting from qualitative surveys of covered employees and managers.

²³ <https://www.oregon.gov/boli/workers/pages/predictive-scheduling.aspx>

²⁴ <https://ecode360.com/39081780>

²⁵ https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&which_year=2023&bill_num=6859

²⁶ <https://legislature.maine.gov/legis/bills/getPDF.asp?paper=SP0486&item=1&num=131>

²⁷ <https://leg.colorado.gov/bills/hb23-1118>

²⁸ <https://www.cityofevanston.org/home/showpublisheddocument/89447>

²⁹ <https://www.epi.org/preemption-map/>

There also exists no cross-jurisdiction comparative analysis of current FWW nor any identification of which forms of FWW have seen more “success” than others. The lack of substantial evidence-based findings continues to complicate efforts for the passage of FWW in states and municipalities around the nation. Advocates and academics continue to assert that FWW can be beneficial to businesses, with the requirements resulting in labor cost savings from improved punctuality and less turnover, but those declarations are solely supported from the result of a single experiment performed in 2015-2016 with the GAP, Inc.³⁰ and not as part of any study conducted on businesses covered within an FWW municipal jurisdiction. As a result, business lobbies continue to have success defeating FWW bills as they are introduced.

A review of these three published works, along with subsequent interviews with some of the authors and other relevant subject matter experts, suggested these limited examinations have both positive and negative findings:

- FWW, where successfully implemented, has shown to improve schedule stability and result in positive outcomes for the covered workers’ lives, including increases in happiness, improved sleep quality and reductions in material hardship;
- Implementation, outreach, and enforcement of FWW is key
 - FWW is complex and difficult to understand, which results in managers failing to adhere to the requirements;
- Exceptions to FWW provisions combined with a lack of worker awareness or understanding of their rights allows employers to exploit those exceptions and undermine the desired effects of FWW.

Oregon

Approximately two years after passage of the statewide FWW, the University of Oregon conducted in-depth interviews with workers, managers, and schedulers of affected businesses across the State.³¹ The key positive takeaways from these interviews included modest improvement in worker’s Right to Rest and Advanced Notice.

In providing for the other “pillars” of the FWW, namely Access to Hours and Predictability Pay, the study concluded that workers were seeing little to no improvement. Oregon’s unique provision for voluntary stand-by lists was considered the main culprit, contributing to a perceived pattern of deliberate under-scheduling of hours that could then be supplemented, as needed, by “volunteers” whose hours were exempt from Predictability Pay. Worker’s hungry for more hours felt compelled to join these lists, or to otherwise voluntarily consent to last-minute changes through the form of signed waivers, thus relinquishing their rights to added compensation under FWW. Efforts to receive Predictability Pay were generally limited to collective efforts that organized and assisted employees with documenting occurrences and then providing them “in bulk” to managers for consideration.

³⁰ <https://doi.org/10.1287/mnsc.2021.4291>

³¹ <https://lerc.uoregon.edu/files/2021/01/WorkSchedulesReport.pdf>

The report made a handful of recommendations which highlighted the importance of worker and manager education on FWW and investment in enforcement. Specifically, the report claimed the administering agency, the Oregon Bureau of Labor & Industries, was severely under-resourced and incapable of performing much needed proactive enforcement – a necessity in an environment where the awareness of FWW was limited. A lack of outreach and education, coupled with limited, complaint-driven enforcement, was deemed to be insufficient and critically damaging to upholding the protections. The study also found that employees who had filed a complaint with the Bureau of Labor & Industries were left waiting for a response that either never came or was severely delayed, leaving no additional recourse for the aggrieved employee.

A subsequent brief out of the Illinois Economic Policy Institute³² did suggest through a comparative analysis of Oregon versus the other 49 states, that FWW-covered industries in Oregon performed better than the collective percentages of the other states in terms of worker turnover and job stability. Within the same study, however, the authors also conceded that Oregon was also underperforming when it came to the number of hours worked and the percentage of underemployed in those FWW industries, somewhat validating the concerns highlighted in the University of Oregon study.

Seattle

As mandated through its FWW, the Seattle Auditor’s office contracted for an independent review of its FWW, choosing to conduct a baseline study shortly before its July 2017 implementation date followed by two required annual reports. Each of the reports were designed to measure impacts of FWW on the covered worker, as well as examine the levels of FWW implementation and compliance by the covered employers. The first of the published impact studies³³ combined both elements, while in the second year, the worker impact study³⁴ using data compiled in 2019 was published separately from a then-delayed employer implementation report³⁵ which eventually was published in 2023 and included research conducted through mid-2022.

The worker impact portion of the commissioned first-year evaluation focused on improvement of the workers’ scheduling experience from the established baseline. Of the five “pillars” of FWW, the study showed marked improvement in Advanced Notice – a ten percent increase in workers receiving at least 14 days’ notice of schedule, and a 50 percent increase in workers receiving Predictability Pay for last minute changes. While encouraging, there was no significant change reported, however, in the Right to Rest as there was only a minimal reported reduction of shifts scheduled too closely together, and (similar to Oregon) no reportable improvement in Access to Hours.

³² <https://illinoisepi.files.wordpress.com/2022/02/ilepi-pmcr-implementing-a-fair-workweek-law-in-illinois-final.pdf>

³³ https://www.seattle.gov/documents/Departments/CityAuditor/auditreports/EvaluationYear1Report_122019.pdf

³⁴ <https://www.seattle.gov/documents/Departments/CityAuditor/auditreports/SecureSchedulingYearTwoReport.pdf>

³⁵ <https://www.seattle.gov/documents/departments/cityauditor/auditreports/secsureschedulingreport2022.pdf>

The complexity of implementing the FWW and an overall lack of understanding of its requirements was the primary factor in the lack of a substantial initial impact. Despite significant outreach efforts made by Seattle to engage the covered business communities, compliance with its FWW after the first year was mixed at best, with only about 25 percent of those employers surveyed found to be in “strong” alignment with the provisions. Covered employers struggled particularly with providing good faith estimates of schedules at the time of hire, providing access to additional hours, and keeping up with the recordkeeping required.

While the first-year study solely focused on initial impact locally, the subsequent second-year worker impact report used a comparative study with non-FWW jurisdictions to demonstrate how workers with the protections saw better working conditions and health/life outcomes. Seattle outperformed the non-FWW control group in nearly every measured category, including overall work/life satisfaction, sleep quality, and ability to effectively cope with unanticipated expenses.

In the delayed follow-up report on employer adoption, which included evaluating conditions during the peak of the pandemic, businesses continued to show a mixed rate of adherence. While varied rates of compliance could be understood, as most retail and food service businesses struggled with the adverse and unpredictable conditions of the pandemic, the reported lack of awareness of the FWW in 2022, five years after taking effect, was of particular concern with the percentage of surveyed managers familiar with the requirements seemingly lower than in the first-year report.

Emeryville

A very specific study that looked to measure the effects of Emeryville’s FWW on parents with young children (estimated to be about 18 percent of the covered population) was conducted from 2017 to 2018, shortly after the FWW became operative. The results largely mirrored those observed in the analysis of Seattle’s ordinance, showing a modest decrease in last-minute schedule changes and improvement in receiving an advanced schedule with a connection of both to better sleep quality, successfully meeting caregiving needs, and overall well-being. Similar to Seattle and Oregon, there also was little movement in the improvement of number of hours worked, though there was some suggestion that working parents of young children were less likely to have the flexibility to take on additional hours than their child-less counterparts.

Other Studies:

An economist from the University of Kentucky compiled a working paper in 2022 suggesting that current predictive scheduling laws have, in fact, had a measurable adverse effect to the hours worked by the part-time employees it intends to support.³⁶ The study asserts that employers covered under FWW regulations will respond with more conservative scheduling of hours to avoid pay premiums and penalties associated with

³⁶ <https://isfe.uky.edu/research/2022/predictive-scheduling-laws-do-not-promote-full-time-work>

FWW, presenting an analysis of Current Population Survey³⁷ data pulled from FWW jurisdictions from 2014-2020 to prop up its assertions. This study is referenced in many business advocate arguments against recent efforts to pass new FWW legislation.

RETAIL LANDSCAPE OF LOS ANGELES COUNTY

In examining the current state of the retail industry in the County, it appears that an FWW is needed now more than ever. The retail industry in the County was heavily impacted by the pandemic both in lost jobs and in the adverse health effects on its workers. As such, the retail industry is estimated to see only a modest recovery (2 percent), putting it in line with national projections for the next five years. Employment in the sector will likely hold at just under half a million County residents.³⁸ Nationally, the U.S. Department of Labor reported a loss of almost 800,000 jobs in the retail sector during 2020, compared to a loss of about 200,000 jobs from 2017 to 2019. E-commerce growth, automation, and industry consolidation continue to be factors that drive long-term trends in the retail trade. The pandemic accelerated the effect of these factors. As a result, retailers are expected to make further investments in automation, resulting in faster productivity growth over the 2020–30 decade.³⁹ Consequently, fewer workers will be required to meet the projected growth in output, suggesting a long-term contraction by the end of the decade and further suppression of available hours to the workforce.

The majority of these workers (53 percent) are frontline store staff. While the gender demographics of all retail workers regardless of position remain at a relatively even split, when focusing specifically on the lower-wage, front-line jobs susceptible to schedule instability, such as cashiering (median hourly wage of \$14.50), the number of female workers increases substantially to upwards of 71 percent, of which the majority identify as Hispanic/Latinx, Asian or Black.

How these statistics translate to the retail sector in the unincorporated areas of the County is unknown due to a lack of available data, though given the intertwining geography, it would be reasonable to presume similarity exists. Included as part of the recommendations to follow, is the need to procure more reliable and accurate business data analytics both countywide and within the areas that encompass the County’s unique territorial reach. This would allow DCBA and other County departments to make more informed policy recommendations and programmatic decisions specific to unincorporated areas.

RECOMMENDATIONS FOR A FAIR WORKWEEK ORDINANCE IN UNINCORPORATED LA COUNTY

As directed by your Board, DCBA researched, collected feedback and best practices from a variety of subject matter experts to further inform the development of a FWW ordinance including the administrative/outreach mechanisms needed behind it to be properly

³⁷ <https://www.census.gov/programs-surveys/cps.html>

³⁸ Lightcast data provided by the Department of Economic Opportunity

³⁹ <https://www.bls.gov/opub/btn/volume-11/retail-trade-employment-before-during-and-after-the-pandemic.htm>

enforced. DCBA also conducted an extensive literature review and convened interviews over several months with a number of academics, advocates, consultants, and policy/enforcement staff of other FWW jurisdictions. This section represents the consideration of the entirety of DCBA’s engagement presented within the context of its May 2, 2023 report⁴⁰ to your Board which outlines recommendations to effectively expand the DCBA’s Office of Labor Equity (OLE).

STAKEHOLDER ENGAGEMENT	
Organization	Type
Office of Labor Standards - Chicago	FWW Jurisdiction
Office of Worker Protections - Philadelphia	FWW Jurisdiction
Office of Wage Standards - Los Angeles	FWW Jurisdiction
Office of Labor Standards - Seattle	FWW Jurisdiction
Office of Labor Policy & Standards - New York	FWW Jurisdiction
Economic Development & Housing - Emeryville	FWW Jurisdiction
Crown Family School of Social Work, Policy, and Practice - U. of Chicago	Academic/Researcher
State & Local Enforcement Project - Harvard Law School Center for Labor and a Just Economy	Academic/Researcher
The Shift Project - Harvard Kennedy School	Academic/Researcher
California Coalition for Worker Power	Worker Advocacy
Fair Workweek LA Coalition	Worker Advocacy
Valley Industry Commerce Association	Business Advocacy
Los Angeles Area Chamber of Commerce	Business Advocacy
Ca Retailer's Association	Business Advocacy
LA Latino Chamber of Commerce	Business Advocacy

Recommendation #1: Maintain consistency, as appropriate, with the City of Los Angeles

There is little debate that FWW requirements are complicated for employees to understand and employers to administer. A common mantra repeated by stakeholders engaged by DCBA, regardless of the particular interest or jurisdiction, was that simplicity in the design of a FWW is key. By design, the City in its development phases made a significant effort to simplify its FWW, limiting the number of exceptions and carve outs that often complicate compliance and undermine the protections intended in other jurisdictions. The documentation requirements of the City’s FWW, however, remain extensive, and while this will aid the County in conducting investigations and identifying violations, the burden remains considerable for the covered businesses.

For this reason, the advocates of both worker and business interests agree that the best path forward with regard to any future County FWW is to keep the foundational rules of the “pillars” identical. While academics and national proponents would prefer to see future FWW continue to provide for stronger protections with each iteration, the shared border

⁴⁰ <https://file.lacounty.gov/SDSInter/bos/bc/1141320>

with the City, and the overall likelihood that covered employers will have locations in both jurisdictions, compels the County to prioritize uniformity. Such conditions should allow for the potential use of common FWW scheduling methods and software across the neighboring jurisdictions, easing the burden on covered businesses of maintaining alignment with the FWW provisions and adequately documenting compliance. Workers would also benefit from a clear and unvarying message regarding their rights and protections.

Beyond a shared foundation, however, the County should consider certain modifications to better align ordinance requirements and enforcement provisions with existing County worker protections and overall County priorities. DCBA, as part of its collaboration with County Counsel on a draft ordinance, provided a list of additional considerations which included the following:

1. Include more extensive translation requirements
 - DCBA would like to require most, if not all, notification requirements to the employees be provided in their primary language, presuming the County made publicly available templates for those languages.
 - The City ordinance only requires a public notice of employee rights to be provided in other languages.
2. Mandate training for covered employers
 - Similar to what is already required in the County's Prevention of Human Trafficking Ordinance,⁴¹ DCBA would like to require covered employers to have its relevant managers view a County-produced or approved training component.
3. Remove intimidating barriers for employees to come forward with a grievance
 - The City ordinance requires the potentially aggrieved employee to engage directly with their employer and give opportunity to cure prior to filing a complaint or initiating a civil action.
 - The County should preserve the ability for a complaint to be made anonymously, but can also maintain the option for an employee to approach an employer directly to assert their rights without any prerequisites.
4. Add additional language to protect victims of domestic violence and undocumented workers
 - It is common in other jurisdictions to shield victims of domestic violence or sexual assault from having their names and corresponding schedules publicly posted.
 - The County should include retaliatory protections that extend to the implied or expressed assertion of reporting the citizenship/immigration status of an aggrieved worker.

⁴¹ https://library.municode.com/ca/los_angeles_county/

5. Streamline the penalties and remedy structure to ease the resource burden of investigations
 - As discussed later in this section, investigations of FWW violations are complex and require significant hours and potentially sophisticated data analysis to properly examine evidence and calculate restitution and penalties.

Recommendation #2: Ensure Adequate Staffing and Funding is in Place Well Before Implementation

The most successful FWW jurisdictions in terms of compliance, enforcement, and wages recovered, are jurisdictions that are adequately staffed and funded. San Francisco's Office of Labor Standards Enforcement and Seattle's Office of Labor Standards maintain robust operations that collect impactful amounts of restitution for all their workforce protections. In Fiscal Year 2021-2022 alone, San Francisco collected in excess of \$20 million while actively enforcing all its labor laws.⁴² Conversely, understaffed and unfunded ordinance adoption in other populous jurisdictions have struggled to recover any consequential figures.

In DCBA's recommended framework for its Office of Labor Equity, the report detailed the need to fully support any and all protections under its purview. This framework remains crucial for FWW enforcement as its complexity requires a disproportionate share of these resources to sufficiently educate the coverage area, provide businesses and workers with informational resources and compliance tools, and conduct meaningful investigations of significant complexity.

Many jurisdictions, policymakers, and consultants DCBA interviewed cautioned against enacting protections without proper supports. The documented struggles in the State of Oregon, as well as the experiences shared by the understaffed enforcement agencies of Chicago and Philadelphia further illustrate the concerns of moving forward without adequate oversight in place. Furthermore, the impact studies of Seattle and Oregon, as well as impressions provided through our interviews with other jurisdictions, strongly suggest a direct correlation between levels of awareness/enforcement activities and levels of compliance.

At minimum, the County should consider a "ramp up" period of at least nine months after ordinance adoption. This would allow DCBA sufficient time to recruit and arrange funding for adequate staffing, education and outreach as well as give DCBA enough time to re-engage with stakeholders to collaborate on the drafting of rules and regulations post-passage.

Ideally, the County would realize the recommended staffing and budget allocation of DCBA's Office of Labor Equity submitted in its report of May 2nd (and in DCBA's FY 2023-24 Final Changes Budget Phase submission to the Chief Executive Officer on April 24, 2023). OLE also recommends an additional FWW-specific allocation of three

⁴² https://sf.gov/sites/default/files/2023-01/Annual%20Report%20FY21_22%20spread.pdf

FTEs and \$400,000 prior to moving forward with the passage of a Fair Workweek ordinance as your Board designed. OLE could then deploy its intended strategic enforcement strategy, incorporate FWW investigations into its current workload, and manage multiple agreements with community partners to promote a broader outreach and education strategy.

Recommendation #3: Pave a Clear Path for Expansion to other Industries

The coverage of a potential retail-specific FWW for the unincorporated areas of the County, presuming the adoption of the same parameters as the City, would affect an estimated population of 4,000 to 6,000 workers of approximately 200 covered businesses.⁴³ While DCBA continues to agree with the Fair Workweek advocates for consistency with the City's formulas, DCBA recommends a deliberate strategy to: 1) formally assess other industries for FWW coverage that could result in findings that would justify an expansion; 2) engage with the relevant worker and business groups to build consensus and support; and, 3) collaborate with the City on potentially aligning efforts. The end goal of these efforts would be to present an amended FWW ordinance for adoption to your Board by December of 2024.

Within every FWW ordinance, the extent of its reach is defined through the business identifiers and formulas for its covered employers. While there exists a consistent effort throughout the nation to exclude the small, independent employer, all jurisdictions, except the City of Los Angeles (and potentially the County), chose to expand the breadth of its coverage to protect workers in other industries that find themselves subjected to the same schedule instability prevalent in retail. Specific academic authorities produced reports identifying food service⁴⁴ as an area of greatest concern, but in further consultation, they did not hesitate to suggest that any industry reliant on significant numbers of low-wage, part-time employees to support inconsistent or unpredictable work volume would likely produce working conditions that could benefit from FWW protections.

Some of these potential industries DCBA has identified in its research include the following:

Building Services: covering positions involved with the care and maintenance of property, including janitorial, maintenance, and security services.⁴⁵

Food Service: covering positions generally understood to be the most vulnerable to schedule instability - this category would look to include full and limited-service establishments, bars, caterers, and establishments that are housed within larger, non-covered businesses.

⁴³ This estimate was developed through a collaborative effort between the Department of Economic Opportunity and the Fair Workweek Coalition of Los Angeles

⁴⁴ <https://shift.hks.harvard.edu/>

⁴⁵ DCBA recommended to County Counsel that the FWW provisions proposed for retail businesses extend to any janitorial or security personnel, including those subcontracted

- As many food service employees that collect tips work at a reduced hourly rate, Predictability Pay rates would require specific provisions to adequately compensate for reduced hours.

Healthcare: covering positions that provide health care services or long-term care services including hospitals, nursing homes, assisted living, and dialysis facilities.

- Any FWW covering healthcare workers would likely require special exceptions written in to accommodate emergency situations that would require immediate increases in services.

Hotel/Hospitality: covering positions within an inn, hotel, motel, or other type of hospitality establishment that would also provide accommodation (such as casinos or a health spa).

- In this industry, workers often service events prone to last minute scheduling and cancellation such as banquets and conferences, requiring some form of exception to Advanced Notice and Predictability Pay provisions

Manufacturing: covering factory positions involving either hand or machine-assisted production.

- In our interviews with some of the academic authorities, they suggested looking closely into this industry, despite it usually employing workers covered by collective bargaining units.
 - A trend towards non-represented, part-time employees would suggest the need for a potential inclusion in coverage.
- The City of Chicago wrote in a few exceptions to Predictability Pay specific to manufacturing allowing for changes or cancellations in schedules related to the supply of necessary materials.

Warehouses: covered positions would include those that stock, pack, distribute or deliver goods.

- Fulfillment centers would be one of the primary targets for this coverage, though warehouses that maintain a public facing retail component to the business would likely be covered employers under a retail FWW.

	LA	NY	SEA	SF	EME	PHI	ORE	CHI	BER
Retail	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Building Services	No	No	No	No	No	No	No	Yes	Yes
Food Service	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Healthcare	No	No	No	No	No	No	No	Yes	Yes
Hotel/Hospitality	No	No	No	No	No	Yes	Yes	Yes	Yes
Manufacturing	No	No	No	No	No	No	No	Yes	Yes
Warehouses	No	No	No	No	No	No	No	Yes	Yes

As detailed earlier in this report, the City of Chicago (and soon the City of Berkeley) provide for the widest protections. With no formal evaluation of those efforts, however, the County and City have no foundational assessment which could potentially support additional regulations. DCBA recommends, either as part of the ordinance itself (similar to Seattle), or through other funding mechanisms, that the County commission an official study by a relevant local authority to provide analysis and recommendations for FWW to cover industries beyond retail.

This study should include at a minimum:

- A detailed analysis of the business landscape of the County as a whole, with “carve out” data available for unincorporated portions of the County and municipalities;
- An extensive review of scheduling practices within the County for industries that rely on part-time and low-wage workers, with a particular focus on the categories described above;
- A collection of baseline survey data of retail businesses in unincorporated County prior to the County’s retail FWW implementation;
- An impact analysis of both the City and County’s retail FWW ordinances;
- Recommendations for any adjustment to the existing County retail FWW or the outreach and enforcement effort behind it; and
- Recommendations for amending the County retail FWW to include other covered industries.

NEXT STEPS

DCBA is currently awaiting budgetary decisions that will define the capabilities of its enforcement arm to administer a FWW in the County. In anticipation of those decisions, DCBA will continue to collaborate with County Counsel on the drafting of an ordinance, having already provided recommendations borne out of the stakeholder engagement. Once preliminary language is in place, DCBA will look to once again convene sessions with relevant businesses and worker representation for additional feedback.

In parallel, DCBA will continue to monitor for additional studies of other jurisdictions and continue to look at best practices to better inform future outreach, education, and enforcement strategies should funding and staffing become available.