



November 27, 2018

Councilor At-Large Michael Flaherty
Chair, Committee on Government Operations
Boston City Hall, Suite 550
Boston, MA 02201

Councilor At-Large Michelle Wu
Boston City Hall, Suite 550
Boston, MA 02201

Dear Chairman Flaherty and Councilor At-Large Wu,

I write to express the Greater Boston Chamber's strong opposition to Docket #1543, an *Ordinance Regarding Fair Workweek Employment Standards for the City of Boston* sponsored by Councilor At-Large Michelle Wu. Although this proposal is targeted to businesses and employers doing business with the city, it sets a precedent for reducing our region's competitiveness by requiring strict limitations on our employers.

The Chamber opposes scheduling ordinances, especially on the municipal level, because they restrict the flexibility of both employees and employers, impose limits on normal business operations, and add to the administrative burden for those businesses operating only in the City. Furthermore, in addition to the Chamber's overall opposition to the ordinance, this particular proposal contains numerous items that are poorly defined or unrealistic for implementation.

Flexibility is a cornerstone for both employers and employees in the modern economy. The Harvard Business Review noted that employees value flexibility second only to health benefits when considering job opportunities.¹ Scheduling ordinances, including the one before the Council, reduce flexibility for both workers and employers by requiring schedules to be set far in advance and penalizing an employer for changes to that schedule. Penalizing employers for schedule changes with less than two weeks' notice will likely discourage employers from allowing employees to work additional unscheduled shifts or trade shifts with other employees because of concerns about penalties from the City. It also places a new bureaucracy and process where it is not necessary.

Hundreds of thousands of Massachusetts employees opt for flexibility in the form of part-time employment for reasons ranging from personal or family obligations, school schedules, and retirement. According to the Current Population Survey, between October 2017 and October 2018, an average of more than 300,000 workers per month in Massachusetts worked part-time for one of those reasons. Scheduling ordinances can also make workers who are voluntarily part-time less attractive to employers because of the difficulty meeting their scheduling preferences and the risks of penalties for adjustments that part-time employees may request.

There are also serious, and potentially long-term impacts resulting from limited flexibility. Youth employment, an important aspect of preparing young people for the future workforce, will likely suffer because of its often part-time nature. Furthermore, these mandates would interfere with scheduling practices that are governed by collective bargaining agreements which have been negotiated with local unions.

Scheduling proposals also impose serious limitations on employers and their business operations because they are based on assumptions that do not always reflect reality. Businesses and employers are required to adapt quickly to changing customer or client demands, unpredictable external events, and other factors that cannot be anticipated weeks or days in advance. By imposing scheduling restrictions, the City would penalize employers and make it substantially more difficult for them to respond to these events and changes. In today's fast-paced economy, being able to adapt quickly is critical for businesses. Hamstringing them with strict scheduling requirements is to the detriment of customers and clients and, ultimately, workers when businesses are unable to meet customer or client needs.

Scheduling ordinances also have administrative costs for businesses that need to navigate the added complexity and requirements to comply with a regulation. This would be a third major mandate on Boston employers that impacts schedules – the others are state laws on paid sick time and paid family and medical leave – in just a few years. Because these laws relate to employees' time off they can complicate scheduling. It would be a significant burden on all employers, but particularly small employers, to place additional restrictions on them as they implement these new laws. In addition, because this specific proposal applies to businesses contracting with the City, it risks reducing the competition for city contracts and result in higher costs to the City which have yet to be analyzed.

Lastly, the Chamber opposes regulating employers at the municipal level, particularly on wage and employment laws. In addition to the competitiveness issues described in the previous paragraph, it creates an extra hurdle for employers who aim to treat employees equitably regardless of location. Scheduling requirements such as those outlined within the proposed ordinance would be unfeasible for employers and difficult, if not impossible, for the City to enforce.

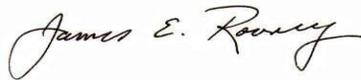
In addition to our wide-ranging objection to scheduling mandates, there are numerous technical and specific flaws in the proposed ordinance that would result in confusion, create significant disruption for employers and employees, and insert government oversight into the basic operations of businesses. These include but are not limited to:

- **Covered employers:** As written, the ordinance mandates new requirements without acknowledging the underlying differences between employers, including industry, firm size, and workforce. It is not clear how far-reaching the ordinance applies.
- **Covered employees:** The Chamber strongly opposes the current definition for covered employee. The ordinance applies to any person permitted to work by a covered employer, including those that are not on a City contract. In effect, the ordinance attempts to apply new mandates to employees far beyond the City of Boston. This is a significant overreach of the City's legislative and regulatory authority. Moreover, the current definition does not make a distinction between exempt and non-exempt employees which would make several of the requirements in the ordinance nonapplicable or impractical.
- **Advanced notice of work schedules:** Employers would be required to provide work schedules at least 14 days in advance of the first day of the new schedule or else face a fine of \$75 per employee per day. Planning schedules more than two weeks in advance would be difficult in numerous industries where a more fluid scheduling process is essential.
- **Predictability pay:** The proposed ordinance requires employers to pay additional wages to employees or face fines when work schedules are altered after the 14-day advanced notice period. By implementing predictability pay, businesses are financially punished for adapting their businesses to market demands or for circumstances outside of their control.
- **Offer of work requirements:** The ordinance applies significant constraints on employers' ability to cover existing work shifts or to hire new employees. These offer of work requirements would apply both to employees working on city contracts and those that are not.

- **Investigations:** The ordinance affords employers a ten-day period to confirm compliance or admit noncompliance and provide a plan for corrective action. This time-period is inadequate and onerous. It is also unacceptable for the City to invite representatives of unions or nonprofit organizations to inspect worksites and access employer records. Any investigation should be handled solely by the City's regulating Agency.

On behalf of the Greater Boston Chamber of Commerce and our 1,300 members representing nearly every sector, industry and profession in the state I urge the City Council to abandon this proposal. Thank you for your consideration of these concerns. Please do not hesitate to reach out with any questions.

Sincerely,

A handwritten signature in cursive script that reads "James E. Rooney".

James E. Rooney
President & CEO

cc: Members of the Boston City Council

¹ Jones, Jerry. 2017. "The Most Desirable Employee Benefits." *Harvard Business Review*. Data available at: <https://hbr.org/2017/02/the-most-desirable-employee-benefits>