

Milwaukee Paid Sick Leave Ordinance Found Unconstitutional

Milwaukee County Circuit Court Judge Thomas Cooper has ruled that the Milwaukee Paid Sick Leave Ordinance (the Ordinance) is unconstitutional. Judge Cooper granted the Metropolitan Milwaukee Association of Commerce's (MMAC's) motion for a permanent injunction blocking the implementation and enforcement of the Ordinance.

City of Milwaukee voters approved the Ordinance in the November 4, 2008 general election. The MMAC challenged the Ordinance, asserting that it was invalid and unenforceable. On February 6, 2009, Judge Cooper granted the MMAC's motion for a temporary injunction, staying the implementation of the Ordinance. On June 12, 2009, Judge Cooper concluded that the MMAC was entitled to summary judgment and the permanent injunction it was seeking.

Judge Cooper's ruling was a narrow ruling based on two specific flaws with the Ordinance. First, Judge Cooper concluded that, because the language on the November 4, 2008 ballot referencing "paid sick leave" did not properly inform voters that paid leave under the Ordinance was available in connection with incidents of domestic or sexual violence, the ballot did not follow statutory guidelines. Second, Judge Cooper found that the Ordinance exceeded the City of Milwaukee's police powers to the extent that it allowed paid time off to victims of domestic violence for the purposes of seeking relocation and taking legal action related to such domestic violence.

9to5, National Association of Working Women, the organization that was the driving force behind the Ordinance, has already announced its intention to appeal Judge Cooper's decision to the Wisconsin Court of Appeals. It is unclear at this time if the City of Milwaukee will join the appeal.

Also worth noting is that Congress is currently considering the federal Healthy Families Act. If enacted, the Healthy Families Act would mandate paid sick leave for employees. More specifically, the Healthy Families Act would require employers with 15 or more employees to provide up to 56 hours per year of paid sick leave to eligible employees.

Reinhart's Labor and Employment Department will monitor the appeal of Judge Cooper's decision and the status of federal legislation mandating paid time off. If

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