

INSIGHTS

San Antonio Paid Sick Leave Ordinance Will Not be Implemented on December 1

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Today, San Antonio Judge Peter Sakai granted a temporary injunction preventing the City's Sick and Safe Leave Ordinance from taking effect. The Ordinance's December 1, 2019, effective date has been indefinitely delayed.

Judge Sakai stated that a full trial to determine whether the Ordinance would become effective would be conducted as soon as possible. The plaintiffs, a group of business organizations, argue that the Ordinance is preempted by Texas and federal law regulating minimum wage and that the Ordinance violates their rights under the Texas Constitution. The City of San Antonio maintains that the earned paid leave required by the Ordinance is a fringe benefit, not an increase in the employee's wages, and is both constitutional and not preempted by state or federal law.

The City is considering its options to respond to the injunction, including a potential appeal to the Fourth Court of Appeals.

As a result, while businesses with employees working in San Antonio need not meet the Ordinance's requirements – which include not only to provide a minimum amount of accrued leave but also to meet notice, recordkeeping and other requirements – by December 1, they must continue to watch and wait as the litigation moves forward.

The San Antonio Ordinance is one of three similar ordinances mired in litigation in Texas. The City of Austin was the first to implement an ordinance mandating that employers allow employees to accrue paid leave for employee or family medical reasons or the need for time off due to domestic abuse, sexual assault or stalking. The Austin Ordinance was enjoined by the Third Court of Appeals, and is pending review by the Texas Supreme Court. Briefing in that case will likely not be completed until at least January, followed by a period of time for the Texas Supreme Court to determine whether to grant review. If such review is granted, the Court may hold oral arguments, resulting in additional time before the Court rules on the case. The City of Dallas also enacted a similar ordinance, which took effect on August 1, 2019, and is currently being litigated in the United States District Court for the Eastern District of Texas. The City of Dallas filed a motion to dismiss the case, to which plaintiffs responded in October. Just last week, the City of Dallas filed a reply to that response.

Bracewell's team continues to monitor these Texas ordinances, as well as similar laws and ordinances nationwide. Paid time off requirements are proliferating at the state and local level. For an in-depth analysis of paid time off developments nationwide, click [here](#) for a link to a

webinar we presented on November 6 on these issues.