

The City of Seattle is becoming your Partner in Running Your Business

Prepared for the North Seattle Industrial Association

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1/15/2014

I am writing this paper for the businesses of the North Seattle Industrial Association so that they can better understand the gravity of what is occurring in employment law in Seattle. This document is to inform you on how the City of Seattle will be involved in employee relations in Seattle businesses. These are my opinions only and do not represent legal advice.

Until very recently only the Federal and Washington State governments actively regulate how you interact with your employees. However recent events show that now the City of Seattle is joining these two governments in regulating business employment practices. City laws governing employer-employee relations were primarily directed toward discrimination, not compensation or benefits.

Local labor unions and their nonprofit affiliates have been working on ways to increase the role of local government in employer-employee relations by advocating for increasing the wages and benefits of lower income workers in the Seattle area. They have also been working to increase the number of unionized businesses. This effort is also part of a national movement to increase the minimum wage and use popular opinion about the increase in wealth inequality as the wedge. I know several of these local union leaders; they are very smart and very politically savvy.

Most Seattle businesses have assumed that only the Federal and Washington State governments could create and administer employment law. However that assumption is wrong.

In less than three years, the City of Seattle has passed sick leave, criminal background check and lost wage ordinances. Many businesses have wondered how it is that the City can create its own employment laws for its businesses. Is it legal for the City to take on this role?

Last November the citizens of SeaTac passed an initiative to set a minimum wage of \$15.00 an hour for certain business types, and create other intrusive employment rules. The Port of Seattle and other businesses appealed. Judge Andrea Darvas ruled in a decision on December 27, 2013 that while the initiative could not apply to businesses on the property of the Port of Seattle, it was legal for the City to apply the \$15.00 an hour and the other employment rules to businesses in the rest of the City of Seatac. SeaTac Proposition One can be found at [SeaTac Proposition No. 1](#)

The Judge Andrea Darvas in her decision laid out some of the elements of the initiative: "The Ordinance creates a \$15 per hour minimum wage, representing a 63% increase over Washington's current minimum wage of \$9.19, which, as the

plaintiffs point out, is already the highest state minimum wage in the United States. *Id.* The Ordinance also provides for automatic annual cost of living increases in the minimum wage; for paid sick leave; and for distribution of tips to the workers who earn them. It requires employers to offer additional work hours to part-time employees before hiring additional part-time workers, and it requires employers who acquire a business to provide at least 90 days of employment to the acquired business's existing employees. It additionally provides a private enforcement mechanism, with successful litigants being able to recover damages, reinstatement, injunctive relief, and attorney fees and expenses."

Notice the requirements: that businesses offer additional work to part-time employees before hiring additional part-time workers, must provide 90 days employment to existing employees if you buy a businesses and the ability of employees to sue. I am not mentioning these items as to whether they are good or bad, but to show you the breadth of authority of the cities in Washington have to regulate your business employee relationships.

Businesses that do business in Seattle, not just located here will find that Seattle has a lot of power to regulate their employment practices. Seattle, being a very liberal city, where the unions have a lot of power, will probably be in the forefront of Washington cities regulating the employment practices of businesses.

After reading this I am sure some of you are wondering:

Couldn't the state legislature change the powers of cities?

While bills will be drafted and discussed, I predict that the State of Washington will not restrict the powers of city governments to regulate employment practices as long as the Democrats control one house of the state legislature. They solidly control the State House of Representatives and the Governor's office.

Couldn't the City business community stop the City from taking more power in employment regulation?

There is just not a Seattle business organization with that kind of power. The Seattle Metropolitan Chamber is a regional business organization, with little power in Seattle. Local business organizations like the North Seattle Industrial Association do not have enough power to challenge the power of the Unions and their allies. The only alternative is probably some City initiative that limits the City's power and that would require a lot of money.

I cannot predict over time what employment laws the City of Seattle will enact, however you can bet the laws will be more restrictive on your business than elsewhere in the State.

What happens next? My predictions:

1. This year the Mayor Murray will propose and the City Council will approve a \$15.00 an hour minimum wage for a portion of Seattle businesses. It will probably exempt very small businesses (a strong signal to anyone who plans on being successful to move out of town as they grow) and non-profits and it

might not include every type of business. It might take several years to achieve \$15 an hour

2. In the 2015 City budget, given the sick leave, criminal background check and the \$15 minimum wage ordinances the Mayor and City Council will decide that they need to create a separate Office to deal with these employment issues (San Francisco has already done so). They will probably call it something like the Office of Employee Protection. They will also decide to hire staff to; provide information for employees and businesses, write new employment law ordinances and enforce the existing employment ordinances. They will probably create a fee for each business to pay to fund this new Office and staff.
3. In either 2015 or 2016 the Seattle City Council will establish a City Council committee on Employee Protection. The Committee will probably be chaired by Councilmember Licata or Councilmember Sawant. The City Council will probably hire a City Council staff person whose specialty would be employment law.
4. By 2016-2017 the City will be staffed up with employment code writers, information and enforcement staff. In other words a whole bureaucracy would be established on employment law and enforcement. The City would have the ability to enact more detailed ordinances which can be written and enforced. Enforcement staff will start to inspect businesses. While many of the ordinances will originally be on a complaint basis only, that will start to change as enforcement staff starts to inspect businesses employment records.
5. In 2018-2019, City government staff under outside pressure and their need to justify their existence will start to toughen the existing employee law ordinances and create new ones. Exemptions for small businesses will start to be restricted, new rules will be developed to be passed by City Council and enforced.

A recession might slow these processes down, but as soon as the economy picks up again the momentum for more will continue. I have seen how stormwater rules and enforcement have grown over the years. This is how I see where City employment laws will go.

The City employment laws and enforcement will become a part of the cost of doing business in Seattle. Whether it is a nuisance, minor or major cost of doing business depends on your business and how you choose to operate it. Whether you choose to deal with it, move your business or retire is your decision.

I tried to lay out the road ahead on the City of Seattle employment law as I see it. These predictions are based over 30 years of working with Seattle Mayor's and City Councils. If you have questions, feel free to contact me at eugene@ecwassociates.com.