Bill No.: HB-6924  
Title: AN ACT LIMITING "ON-CALL" SHIFT SCHEDULING.  
Vote Date: 3/21/2019  
Vote Action: Joint Favorable  
PH Date: 2/26/2019  
File No.: 406

Disclaimer: The following JOINT FAVORABLE Report is prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and does not represent the intent of the General Assembly or either chamber thereof for any purpose.

SPONSORS OF BILL:

Labor and Public Employees Committee.

REASONS FOR BILL:

Many employees are subject to “just-in-time’ scheduling holding open hours/days to match expected job demands.

RESPONSE FROM ADMINISTRATION/AGENCY:

None submitted.

NATURE AND SOURCES OF SUPPORT:

Elizabeth Fraser, Policy Manager, CT Association for Human Services (CAHS):
Although supporting this bill because it would lead to greater economic security for many CT families, she feels it should be expanded to weekly scheduling, providing predictability and security. This would allow families to plan ahead to make appointments, get a second job or return to school and even budget more efficiently. Provisions include protecting the businesses that are required to maintain certain employee ratios and allow substitutes or additional staff to be called to maintain these ratios when needed. “Just in time” scheduling, where hourly workers are called in based on fluctuating consumer demands, helps employers maximize profits, but harms working parents. People of color in low-wage jobs experience disproportionate effects and have less control over scheduling than their white coworkers.

Merrill Gay, Executive Director, CT Early Childhood Alliance: “On Call” shift scheduling is based on many factors ranging from the weather to social media buzz about new products. However, this takes a toll on employees and their families because you don’t know
when/whether you are going to work, how much you will have in your paycheck, or what hours you will be available for a second job. You can’t return to school to better your employment prospects or plan for formal child care or even do something as simple as make doctor’s appointments. This stresses parents which is not good for their children. The bill, however, should be strengthened to give employees 5 days, not 24 hours, advance notice and guarantee employees at least 11 hours between shifts.

Izzi Greenberg, Executive Director, Middlesex Coalition for Children: Families need predictability. Children need stability and quality, consistent care. This bill is the right start, but it should be taken further. Twenty-four hour notice isn’t enough for a parent to arrange childcare, modify a work schedule for another job or arrange for other family needs such as doctors visits. The bill should give employees five-days notice, not 24-hours, and guarantee employees at least 11 hours off before starting another shift. Families need a fair work week.

NATURE AND SOURCES OF OPPOSITION:

Julianne Roth, Chairperson, Association of CT Homecare Agencies & President, Companions for Living, LLC: Home care is a business of constant change dictated by client needs that set the schedules of employees. Agencies match a caregiver to a client in order to create a one-on-one relationship. To do this, they examine the required skills, personalities and schedules. When one caregiver is unavailable for any reason, there is a direct impact and another employee must be found to substitute. As client’s needs change, existing employees assume more hours prior to hiring new staff. A specific schedule is unmanageable because clients are often moved to a hospital, pass away, or for some other reason don’t need the caregiver for that day. The employee is notified as soon as the agency is informed, but frequently, this notification occurs less than 24-hours before the shift. They request this bill exclude the Home Care Industry.

Matthew V. Barrett, President/CEO, CT Association of Health Care Facilities
Barbara Faruggio, Task Home Care Services: The purpose of the bill is to prohibit unfair employment practices regarding on-call scheduling; this type of legislation would present considerable challenges for CT nursing homes where there is a dramatic fluctuation in the number of residents. It is essential they have flexibility to staff based on the needs of the residents. There are many variables in the staffing equation related to residents’ requirements/needs. There is also uncertainty in predicting the number of admissions/discharges each day and staffing needs change on short notice. They ask CT nursing homes be exempt from the bill’s requirements.

Michael Batista, President, CT Franchisee Association: They represent the owners of Dunkin’ Donuts restaurants and feel this is an unfair burden for small business owners with have only a small regular staff. It is over-reach for state government to regulate their daily operations. The ability to request an employee cover a shift with less than 24 hours notice is an invaluable tool when trying to manage unexpected absences or increases in business activity. It is completely voluntary by employees to accept/deny working the shift. Ironically, this is known as “predictive scheduling” but it ignores the fact that the availability of a ready workforce is often unpredictable and requires flexibility.
**CT Restaurant Association:** Many employees specifically seek work in the restaurant industry for the flexibility it allows. This bill eliminates this and mandates employers to prepare in advance for labor needs which can change quickly. On-call scheduling is essential because parties are booked/cancelled at the last minute, weather often forces a restaurant to close completely or close outside dining, employees call out sick at the last minute and need to be replaced. This is a one-size-fits-all proposal that would be a burden for both employers and employees and negatively impact the people it is trying to help.

**CT Hospital Association:** Scheduling requirements in this bill are not realistic for acute care hospitals and other healthcare environments. The nature of acute care is unpredictable, requiring flexibility to ensure the safe care of patients. Patient census can fluctuate, even dramatically within a given day. Core staffing plans must be able to have additional resources to meet needs when there is a sudden increase in patients. They request acute care hospital and other healthcare settings be excluded from the legislation.

**Jonathan Edwards, Owner, Jonathan Edwards Winery, Southington Resident:** Mandating employers to commit to the size of their workforce in advance forces a financial loss when they are unable to determine labor needs, as when business is slower/busier than expected. A one-size-fits-all approach is not feasible for many types of businesses, especially growers and retailers. Providing blanket legislation harms more businesses than it helps.

**Cheryl E. Dudas, Executive Director, Independent Electrical Contractors of New England:** This bill could have a negative impact on electrical contractors and the construction industry as a whole. Changes to weather (storms) impact scheduling in the construction industry, apprentices required to be supervised by journeyperson’s on the job site could be impacted when the journeyperson calls out sick just prior to the shift or a homeowner calls and cancels the project for that day and no other work is available for the employee. These are likely scenarios that make this bill unworkable.

**Chiam Gewirtzman, Chairman, Home Care Association of America:** They are sympathetic to the plight of workers balancing multiple responsibilities while planning for child care or attending school, but an on-call shift scheduling ban applied across all industries and sectors of a diverse economy could be very disruptive. Scheduling of caregivers often changes with little notice to the elderly consumer or agency. Agency owners work with their staff to minimize changes, but recognize it is part of the lives of busy employees. To be balanced and fair, this bill should apply to employee schedule changes as well. This bill would disrupt the home care industry and adversely affect the quality care and companionship provided by the vast majority of home care agencies who are managing many different variables. Imposing these restrictions makes it more challenging to compete in an already competitive marketplace.

**Daniel C. Giungi, Senior Legislative Associate, CCM:** Unpredictable events, such as inclement weather, may require a municipality to schedule more employees for a specific shift than are actually needed. To ensure judicious use of local resources, municipal leaders need the autonomy to adjust employee schedules accordingly and make appropriate decisions based on the actual amount of work needed. This mandate is impractical and limits the flexibility needed by local official to meet constantly changing needs.
Eric Gjede, Vice President of Government Affairs, CBIA: In most circumstances, employers are able to provide ample notice to employees of their scheduled shifts. However, on-call employment positions are a critical component of certain industries that are unable to determine labor needs in advance. It makes employers unable to adjust for unexpected employee absences. Daycare centers, for example, may be unable to meet their state-mandated student to teacher ratio if an emergency arises for a parent or teacher. Builders may be forced to pay workers to install materials than have not yet been delivered to the job site. This bill mandates the employer take a financial loss during periods when business is slower or busier than expected.

Jennifer Jennings, Executive Director, CT Heating &Cooling Contractors Association: This bill could unduly burden HVAC contractors and others in the trades must respond to varying customer demands, including “on-call” or “emergency no heat” calls. In the construction trades, there are often times when job site scheduling conflicts arise, through no fault of an employer, and for various reasons a work site may not be ready for a particular trade as anticipated. This bill doesn’t account for unexpected or dangerous/hazardous work site conditions where a job can be postponed. Shifts are sometimes are cancelled so as to ensure compliance with mandatory supervision (safety) ratios.

Mag Morelli, President, LeadingAge Connecticut: Adult service providers are responsible for providing high-quality direct care, services and support to older adults in need of post-acute rehabilitation and/or assistance with daily living. They must staff the needs of these clients/residents and the number they serve may change on a daily basis. Providers must be able to modify staffing levels and have the flexibility to fill positions arising from absences, new admissions or increased activity levels. Many providers have established rosters of per-diem staff available to respond to scheduling needs and augment core staff. Consider the need for per diem and on-call practices that are needed in direct care staffing.

Doug Murdoch, Executive Director, CT Association of Theater Owners, Inc: The motion picture business is unique and unpredictable. Flexibility is key to satisfying patron service demands as well as a theater’s profitability. Work schedules depend on film availability, film running times, and attendance and last minute weather reports. A sunny summer day may be slow but a rainy day will bring on crowds as well as special requests from summer camps. The majority of theater employees are part-timer senior citizens working to earn discretionary funds, or students in their first jobs. These people want flexibility and work between 12 -20 hours per week. They ask movie theaters be exempt from this legislation.

Philip Neaton, President, CT Environmental Council: This bill is impractical for the landscape, tree care, pest control, golf course and irrigation businesses. It would prove difficult for landscape businesses to cancel workers in instances of heavy weather extremes. Snow removal businesses require workers on call during impending storms. Tree care and removal experts must be available after wind damaging storms and power outages. After weather events, workers are needed to clean up golf courses, yards and businesses. Prohibiting the ability to have employees on call may impact the health and safety of workers.

Wayne Pesce, President, CT Food Association: These requirements would be challenging for CT’s grocery community having a workforce that primarily attracts employees who desire nontraditional/alternative work schedules with flexibility, such as students, retirees
and second jobbers. Last minute absences, illnesses, weather related occurrences, earned sick time off and other circumstances beyond control cause changes in scheduling. Employers try to accommodate requested work periods well in advance for scheduling stability. Distributors schedule deliveries based upon retailer needs and efficient routes, which can fluctuate due to daily changes in sales volume and store/consumer demand. They would be happy to work with the committee to craft a proposal that is practical and respects the demands of employees, and does not penalize employers.

Reported by: Marie Knudsen
Date: April 5, 2019