

A proposal for the Emeryville Fair Workweek Ordinance

Many working people in Emeryville are employed too few hours to make ends meet and have schedules that vary wildly week to week, demanding 24/7 availability with no guarantee of work or income. Hourly workers in Emeryville need predictable schedules that make it possible to plan ahead to meet their responsibilities on and off the job; adequate time between shifts to commute, eat, and rest; and enough hours to earn a decent income.

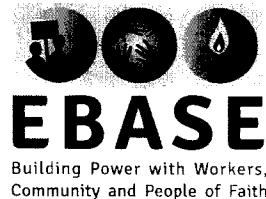
The Fair Workweek Ordinance will address these challenges with common-sense policy solutions that can be easily implemented by employers and are straightforward to enforce.

Who it covers:

- **Hourly workers at retail and fast-food establishments**, who are the most vulnerable to unstable, unpredictable scheduling practices.
- Employers with **at least 55 employees (employees may be located anywhere)**. Large businesses, which use workforce management technology to automate scheduling, can program the software to create predictable, healthy schedules. Focusing on large businesses therefore eliminates any concern about compliance. For chain and franchise companies, whose scheduling practices typically result from corporate-wide policies, the number of employees will be aggregated for purposes of this threshold.

What it does:

- **Require employers to provide 3 weeks advance notice of schedules**
 - *Problem:* Many workers in Emeryville receive their schedule less than a week in advance, making it hard to plan their lives, and learn about schedule changes at the last minute.
 - *Solution:* Employers post a schedule three weeks in advance (a practice already followed by many companies) and notify employees promptly if there are any changes.
- **Discourage changes to the schedule**
 - *Problem:* Frequent schedule changes wreak havoc in employees' lives, especially when they have carefully planned their college classes, caregiving responsibilities, carpooling or other arrangements. Yet 80% of labor hours are typically stable,¹ and innovations in scheduling technology allow employers to plan for variations in advance.
 - *Solution:* Paying employees one hour of predictability pay for schedule changes compensates workers for necessary adjustments, while encouraging managers to schedule thoughtfully to minimize changes. For shifts that are cancelled at the last minute, employees receive at least 4 hours (or half their shift) because they've missed the opportunity to make use of their time.



➤ **Protect the right to rest between shifts**

- *Problem:* “Clopening” shifts (late nights followed by early mornings) have significant negative health impacts. For example, commuting on inadequate sleep puts not only employees at risk but also those they encounter on the road.ⁱⁱ
- *Solution:* Workers should be able to refuse, without retaliation, to work back-to-back shifts that allow less than 11 hours for commuting, meals and sleeping, and should earn overtime for hours worked with less than 11 hours’ rest.

➤ **Give existing part-time employees access to additional hours before hiring new staff**

- *Problem:* Many employers hire far more workers than they need in order to maintain a large labor pool, even though studies show that excessive hiring of part-time and temp staff is bad for business.ⁱⁱⁱ Workers are told there aren’t enough hours for them to work full-time, then see new part-time staff hired. Cuts in hours are undermining the new minimum wage law – adequate hours are critical to ensure a decent paycheck.
- *Solution:* Require employers to invest in existing qualified employees by giving them the opportunity to work extra hours before hiring new staff.

How it’s enforced:

- Enforcement mechanisms are modeled on Emeryville’s minimum wage and earned sick leave law.
- Language will be drafted to minimize enforcement burden on the city.
- Cutting edge scheduling software makes it easy for employers to demonstrate compliance.

ⁱ Lambert, S., J. R. Henly. 2010. Work Scheduling Study: Managers’ Strategies for Balancing Business Requirements with Employee Needs. The University of Chicago.

ⁱⁱ US Department of Transportation, National Highway Traffic Safety Administration, National Center on Sleep Disorders Research, National Heart Lung and Blood Institute: Drowsy driving and automobile crashes.

ⁱⁱⁱ Kesavan, S., B. R. Staats, W. Gilland. 2014. Volume Flexibility in Services: The Costs and Benefits of Flexible Labor Resources. Management Science 60(8): 1884-1906.

