

Minutes of the
Cook County Commission on Human Rights (Open Session)
July 13, 2017
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Attendance:

Present: Chairperson K. Gunn; Vice-Chairperson K. Ayala-Bermejo, Commissioners C. Harris, H. Ratner, A. Smock, G. Orr, T. Connor, C. Eatherton (telephonically)

Absent: Commissioners J. Block, E. Clarke-Bey, S. Schultz

Staff: Executive Director R. Hakim, Legal Counsel M. Dolan, Graduate Fellow C. Sabatier, Graduate Fellow T. Barron, Graduate Fellow B. Morningstar

Chairperson Gunn called the meeting to order at 10:14 a.m.

I. Adoption of Agenda

The agenda was approved and adopted by unanimous voice vote.

II. Statements by the General Public

No member of the general public requested to make a statement.

III. Approval of Meeting Minutes – May 11, 2017

The open and closed minutes of the May 11, 2017 Regular meeting of the Commission were approved and adopted by unanimous voice vote.

IV. Approval of Meeting Minutes – May 25, 2017

The minutes of the May 25, 2017 Special meeting of the Commission were approved and adopted by unanimous voice vote.

V. Executive Director's Report

Director Hakim reported that a significant percentage of the staff's time has been consumed over the course of the last six weeks fielding calls from employers making inquiries related to compliance with the Cook County Earned Sick Leave and Minimum Wage Ordinances. Director Hakim noted that since July 1, 2017, the Commission has received 6 inquiries from employees and 41 inquiries from employers.

Director Hakim reported that he attended the public meetings of the governments of Evanston, Skokie and Oak Park, three communities that were considering preempting the Cook County

Earned Sick Leave and Minimum Wage Ordinances but ultimately did not. Director Hakim noted that he was concerned to the extent that some communities had opted out on the basis of a misunderstanding of what the ordinances required. For example, the Cook County Minimum Wage Ordinance does not apply to employees who are under the age of 18. Director Hakim reported that he would pursue an outreach and educational opportunities to employers in these communities through their local chambers of commerce. Vice-Chairperson Ayala-Bermejo suggested that she could set up a call with an organization that would allow a similar educational event for several hundred non-profit employers.

Director Hakim noted that the Cook County Earned Sick Leave and Minimum Wage Ordinances were likely to be the subject of litigation originating from a private employer or employee who would challenge the authority of non-home rule municipalities to preempt the Cook County Earned Sick Leave and Minimum Wage Ordinances. In addition, this litigation may seek clarification about when legislation, particularly about wages, enacted by a home rule municipality actually conflicts with a County ordinance. Director Hakim noted that even if outside litigation does not materialize, both of these issues will have to be decided by the Commission if an employee in a so-called "opt out" jurisdiction files a complaint with the Commission. Any decision rendered by the Commission on these issues would ultimately be reviewed by a court on administrative review.

Commissioner Smock asked if the Cook County Board of Commissioners had given the Commission any instructions with respect to opt out municipalities. Director Hakim indicated that the only instruction from the County Board that the Commission has received with respect to enforcement of the Ordinances has been the Ordinances themselves. Director Hakim is certain that members of the County Board are aware that a number of municipalities have purported to opt out of the Cook County Earned Sick Leave and Minimum Wage Ordinances.

Commissioner Connor asked whether it is within scope for the Commission to suggest amendments to either ordinance to the Cook County Board of Commissioners that might address issues raised by opt out communities. Director Hakim shared his view that this would be outside of the appropriate scope of action for the staff of the Commission. Director Hakim shared his view that the Commission staff is charged with faithfully executing the legislation enacted by the County Board and that he would feel compromised in doing that if he was, for example, enforcing a \$13/hr minimum wage while advocating for it to be \$15/hr or \$8.25/hr. Director Hakim, however, views the appointed commissioners of the Commission as having a much freer role with respect to legislative policy, particularly when taking those positions away from their role as appointed commissioners.

Director Hakim indicated that he is aware that how the Commission enforces the Earned Sick Leave and Minimum Wage Ordinances may impact whether communities that have purported to opt out reverse that decision in the future. Director Hakim has instructed the Commission staff that while it is always important to provide tough, but reasonable and efficient, enforcement of any ordinance, the Commission should anticipate a higher level of scrutiny with respect to its enforcement of these particular ordinances. Director Hakim also indicated that

the Commission staff has a role to play in correcting mistaken understandings about what the ordinances require. For example, the County's Minimum Wage Ordinance does not apply to employees who are under the age of 18. As such, legislative or political opposition to the County's Minimum Wage Ordinance on the basis that local employers do not want to pay a teenage workforce \$10/hr. are unreasonable.

Commissioner Smock highlighted the importance of insuring that there is ample communication between the Commission staff and the Cook County Board of Commissioners and President's Office. She also asked the Commission staff and her fellow commissioners to ensure that employees were aware of their rights and responsibilities under the ordinances.

Commissioner Ratner highlighted the importance of the Commission staff and her fellow commissioners communicate with stakeholders about clarifying who is eligible for the ordinances' protections.

Commissioner Harris noted the distinct role that each commissioner plays in his or her role as an appointee to the Commission versus the roles they may play as individuals away from the Commission. Commissioner Harris expressed that as commissioners, commissioners should focus on enforcing the ordinances as written and correcting misinformation about the ordinances. Chairperson Gunn added that commissioner can help by distributing information about the ordinances. Vice-Chairperson Ayala-Bermejo suggested large-scale statewide calls with human services organizations.

Commissioner Orr inquired whether County Board Commissioners held town hall meetings in their districts in anticipation of these ordinances. Director Hakim was unaware of whether such meetings had occurred.

Director Hakim flagged two requests for amendments to the Commission's procedural rules regarding Earned Sick Leave. The first came from a labor attorney who argued that the County's Earned Sick Leave and Minimum Wage Ordinances should apply to employees covered by a collective bargaining agreement that was in place on July 1, 2017. The current rules would not make the ordinances applicable to such employees until bargaining re-opened in the agreement and an explicit waiver was not made a part of the new collective bargaining agreement. The commissioners were uninterested in this proposal as it appeared to mis-read the plain language of the Ordinance and would be inconsistent with public comments received by the Commission during rulemaking.

The second came from the Illinois Retail Merchant Association, which asked if the Commission would consider following BACP's separation of service rule instead of its own. The current rule is that an employee re-hired within 120 days of termination does not have to receive any of her unused accrued sick time from her initial employment, but also does not have to re-establish her coverage under the Earned Sick Leave Ordinance or satisfy a second use waiting period. BACP's analogous rule is that an employer may, but does not have to restore a separated employee's unused accrued sick leave when she is re-hired. The commissioner were

uninterested in this proposal as the City's protection for employees who may be terminated and re-hired to avoid the accrual or use of earned sick leave appears to have been non-existent.

Finally, Director Hakim notified the Commissioners that the Commission had been named as a Respondent in an investigation by the Illinois Department of Human Rights. The Cook County State's Attorney's Office represents the Commission in this matter.

VI. Case Pending Report

Director Hakim presented the case pending report.

VII. Review of Assistive Materials for Earned Sick Leave and Minimum Wage Ordinances

Director Hakim reported that four pages were added to the Commission's website to assist with education and outreach about the ordinances. Each ordinance has a page that includes the language of the ordinance as enacted by the County Board of Commissioners, the Commission's interpretative and procedural rules and frequently asked questions. Frequently asked questions are culled from inquiries received by the Commission and will be amended from time to time as new questions are raised. Director Hakim noted that these pages include the Commission's model notice of rights/workplace poster for each ordinance. Director Hakim noted that these posters are in English, but he would like to be able to make them available in Spanish and other commonly spoken foreign languages in Cook County. Commissioner Ayala-Bermejo offered to work with Commission staff to find appropriate resources to achieve this.

In addition, the Commission's website includes two additional pages that explain the process for filing complaints with the Commission under either ordinance.

Director Hakim asked for input on the website and suggestions for any additional materials, including handouts that might be useful for educating stakeholders be sent to him.

VIII. Commissioners' Reports

Chairperson Gunn reported that he observed a protest against a Palos Park Township trustee who had made anti-Muslim and anti-immigrant comments on her Facebook account. Chairperson Gunn observed that protesters were well-organized and did not react when they were taunted by passersby. Director Hakim noted that the trustee is also an appointee of County Board Commissioner Sean Morrison to the Cook County Commission on Women's Issues. President Preckwinkle has asked for the trustee's resignation from the Women's Commission.

Commissioner Smock reported that there will be an annual hate crimes conference in Chicago on October 25, 2017.

Vice-Chairperson Ayala-Bermejo reported that the Legal Aid Society received funding to represent victims of domestic violence in both civil and criminal proceedings in partnership with the Cook County State's Attorney's Office to improve resources.

Commissioner Orr reported that the Illinois Guardianship and Advocacy Commission (IGAC) has faced serious cuts in several departments, which has resulted in an inability to hire. Commissioner Orr states that, to mitigate this problem, her office has partnered with the Illinois Department of Human Services to create a program for training volunteer guardians and those who will do site visits for people with disabilities.

IX. Other Business, If Any

There was no other business.

X. Adjourn

By a unanimous voice vote, the meeting was adjourned at 11:25 a.m.