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Appellate Court Overturns New York City's Equal Benefits Law

On March 15, 2005, a state appellate court overturned New York City's Equal Benefits Law ("EBL"), which required New York City contractors to provide equal employment benefits to domestic partners as such contractors provided for employees with spouses. *See Council of the City of New York v. Bloomberg et al.*, No. 2005 N.Y. Slip. Op. 01843 (1st Dep't March 15, 2005).

Last week's ruling is only the latest development in the EBL's contentious history. The EBL was enacted by the City Council after overriding Mayor Bloomberg's veto of the law in June 2004. Although the EBL was scheduled to become effective October 26, 2004, Mayor Bloomberg then challenged the EBL in court, which culminated in a November 8, 2004 ruling by a State Supreme Court Justice requiring the City to implement the law. In December 2004, the Mayor appealed to the Appellate Division of the Supreme Court, First Department, asserting that the EBL is invalid on grounds of state preemption and impermissible infringement of the Mayor's powers.

In overturning the lower court's decision, the Appellate Division held that the EBL was preempted by both state and federal law, thereby invalidating the law. Specifically, the court found that the EBL "impermissibly [ran] afoul" of the policy underlying the competitive bidding provisions of New York's General Municipal Law, which seek "to protect the public fisc [sic] by obtaining the best work at the lowest possible price, and to prevent favoritism, improvidence, fraud and corruption in the awarding of public contracts." The EBL, by contrast, "expressly excludes a class of potential bidders for a reason unrelated to the quality or price of the goods or services they offer." The court cited settled case law, stating that "the City Council cannot achieve even laudable goals by making illegal what is specifically allowed by state law."

The Appellate Division also found that the EBL "intrudes upon the ambit of the Federal Employee Retirement Income Security Act (ERISA) (29 U.S.C. §§ 1000 *et seq.*) which provides for uniform national employee benefit plan administration." The court ruled that the EBL – which "mandate[s] employee benefit structures or their administration … even if only conditionally, i.e., only if the vendor chooses to contract with the City" – was "connected with a core concern of ERISA" and "impermissibly interferes with its goal of uniform plan administration."

The City Council is expected to file an appeal with the New York Court of Appeals, the state's highest court. As it stands, covered employers are not required to comply with this now invalidated law. However, until the New York Court of Appeals rules, the EBL's future remains uncertain.

To view our November 15, 2004 *One Minute Memo*, which includes a more in-depth discussion of the EBL, please click here.

For questions or further information, please do not hesitate to contact your Seyfarth Shaw LLP attorney or any Employee Benefits or Labor & Employment attorney on the website at www.seyfarth.com.