Better Late Than Never: Council Clarifies New Wage Law Requirements

By Charles F. Walters and Adam J. Vergne

Just in time, the DC Council passed an emergency amendment this afternoon to clarify several ambiguous provisions in the Wage Theft Prevention Amendment Act of 2014 (“WTPAA”), which is currently under Congressional review with a projected effective date of February 26, 2015.

As originally reported, the language of the WTPAA was anything but clear when it came to what was required of employers. This was especially true with regard to the WTPAA’s notice and recording keeping requirements. The DC Council today tried to answer some of those questions by enacting the Wage Theft Prevention Clarification Emergency Amendment Act of 2015.

Recording of “Precise Time” Worked

As originally enacted, the WTPAA required employers to maintain records of the “precise time” worked each day and each workweek by all employees. As written, this left employers with the daunting task of implementing a time keeping system and policies for recording the precise hours worked by exempt employees, with the threat of civil penalties for any failure to comply. Employers can now breathe a sigh of relief, however, as today’s Emergency Amendment amended the WTPPA so that employers are now required only to maintain records of the “precise time” worked each day and each workweek by non-exempt employees.

Payment Notice Requirement

As originally enacted, the WTPAA also required employers provide all new and existing employees a written notice, in English and in the employee’s primary language, containing:

- The employer’s name, address, and telephone number;
- The employee’s rate of pay and regular payday; and
- Any other information deemed material and necessary by DC.

While the WTPPA made it clear the Mayor’s office would issue a template notice in English, it was not clear if the Mayor’s office would provide non-English templates or if employers would be left to translate the template notice and accept the risk for any information lost in translation.

Today’s Emergency Amendment now requires employers to provide employees with a written notice in a second language only if the Mayor has issued a translated notice in that second language available. Employers still must provide all existing employees a copy of the notice in English within 90 days of the law’s effective date, while new employees must receive the notice upon hire once the law goes into effect.
While today's Emergency Amendment answered some of the biggest questions facing employers, others are likely to arise. For example, does the requirement that employers include the hours worked during each pay period on paystubs apply to exempt employees? In light of today's Emergency Amendment, the answer would seem to be no, but only time will tell the answer to this and other remaining questions.

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