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## **Court of Appeals Reinstates Milwaukee Paid Sick Leave Law Though Pending Legislation May Void It**

By Jill Pedigo Hall and Matthew J. Feery

In the latest development regarding the City of Milwaukee's paid sick leave ordinance, which would affect private employers with employees in Milwaukee, a Wisconsin court of appeals today reversed a lower court's grant of summary judgment and an injunction against enforcement of the ordinance.

In its June 2009 ruling, the Milwaukee Circuit Court had granted summary judgment for the Metropolitan Milwaukee Association of Commerce ("MMAC"), who sued to oppose the ordinance, and issued a full injunction against the ordinance. The 9to5 National Association of Working Women, Milwaukee Chapter ("9to5"), appealed that decision. In October 2010, a deadlocked Wisconsin Supreme Court sent the case back to the court of appeals for a decision on 9to5's appeal. This morning, the court of appeals held that the ordinance was constitutional, as the MMAC had not proven the ordinance violated or was preempted by various state and federal laws. The case was sent back to the lower court with instructions to enter judgment for 9to5 and lift



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the injunction preventing the enforcement of the ordinance.

This latest development will certainly not be the last, and it may be a while before the ordinance goes into effect, if at all. MMAC may appeal the appellate court's decision, though given the Wisconsin Supreme Court's previous deadlocked vote, it is more likely that MMAC will file a motion asking the appellate court to reconsider today's decision. Such a motion would delay the matter's return to the circuit court and subsequent enforcement of the ordinance.

Meanwhile, there are efforts in the Wisconsin legislature to void the ordinance. Senate Bill 23, which was unanimously passed by an all-Republican state senate earlier this month, would void the Milwaukee ordinance and prohibit any city, village, town, or county from passing or enforcing ordinances requiring employers to provide sick leave benefits above and beyond the requirements of current state family and medical leave law. Senate Bill 23 is scheduled for a hearing on March 30, 2011, before the Assembly Committee on Labor and Workforce Development. The bill is supported by MMAC and other employer groups, and employers should expect a new impetus toward bill passage after today's appellate court ruling.

In light of these ongoing efforts against the ordinance, it is unlikely that the ordinance will go into effect in the near future. GSH will continue to monitor the developments in the fight over the ordinance, and employers with further questions on the meaning of today's court of appeals decision should contact their legal counsel.

A copy of today's order may be found [here](#).

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