



CITY OF PHILADELPHIA

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JAMES F. KENNEY
Mayor

DARRELL L. CLARKE
President, City Council

March 20, 2018

Hon. Rob W. Kauffman
312 Main Capitol Building
PO Box 202089
Harrisburg, PA 17120-2089

Hon. John T. Galloway
301 Irvis Office Building
PO Box 202140
Harrisburg, PA 17120-2140

Dear Chairmen:

We write to express our concerns with House Bill 861, which is scheduled to be heard by the House Labor and Industry Committee on March 22, 2018.

We are deeply concerned with the implications of this potential legislation. If enacted in its current form, the bill would essentially repeal home rule with respect to a wide swath of matters that for decades have been within the realm of the City's home rule powers. It would have the same troubling impact on municipalities throughout the Commonwealth.

This legislation would preempt any Commonwealth municipality from regulating employer policies and practices, and from enforcing any mandate regarding employer policies and practices. In short, this legislation would drastically and permanently limit the City of Philadelphia's ability to legislate and enforce policies it has deemed necessary and proper.

At a time when our Federal government seems to be adrift in gridlock, we must increasingly look to local jurisdictions to ensure that our residents, in their capacity as employees, enjoy appropriate protections. That is what Philadelphia has historically and thoughtfully sought to achieve, as have other municipalities across the Commonwealth. HB 861 would wipe that progress away.

HB 861 reaches back in time to negate legislation adopted in 2015 or thereafter, with profoundly negative consequences for the City. In 2015, City Council passed an Ordinance requiring labor peace agreements for baggage handling services at the Philadelphia International Airport (PHL). The City of Philadelphia

operates PHL as the Division of Aviation within the City government. During the debate over this Ordinance, City Council heard from several employees of contractors and subcontractors at PHL who had been mistreated by their employer. If these workers were to walk off the job, or otherwise not perform their duties because of management decisions, operations at PHL would be disrupted. This disruption would have negative consequences not just for the City, but for the Commonwealth as a whole, since PHL serves as a gateway into Pennsylvania for millions of passengers every year. It is clear that Philadelphia has an interest in ensuring smooth and efficient operations of the Airport, and the proper treatment of its workers. If HB 861 is adopted, the City would be preempted from enforcing this statute.

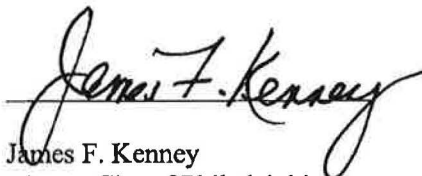
Also in 2015, after nearly seven years of debate and discussion, multiple amendments and changes to satisfy stakeholders, City Council passed a carefully crafted Ordinance mandating that some employers with 10 or more employees allow employees to accrue one hour of paid sick time for every 40 hours they work. During the debate on this Bill, City Council received extensive testimony from individual workers who were compelled to work while ill, jeopardizing their health and that of their coworkers and members of the public. The legislation also provided essential protections for employees who are the victims of domestic abuse, sexual assault or stalking. It is abundantly clear that the City of Philadelphia has an interest in ensuring the safety, health and well-being of its residents and workforce. Moreover, we want to emphasize that none of the negative consequences predicted by the bill's opponents have come to pass. Rather, this legislation represents the best that the legislative process has to offer – enacted only after a prolonged, healthy and transparent public debate.

Not only would HB 861 reach back in time to negate what the City has done; it would also freeze time by forbidding the City to amend legislation enacted prior to 2015. As a result, the City could not implement essential modifications to existing requirements. This prohibition would extend to a host of measures that have improved the quality of life for all Philadelphians. For example, the City could no longer revise its "Fair Practices Ordinance" which contains essential protections for women, LGBTQ individuals, and people of color. Similarly, further amendments would be prohibited with respect to the City's legislation protecting displaced contract workers; safeguarding employees from having their tips skimmed; protecting employees from hazardous asbestos situations; providing for unlawful employment practices based upon pregnancy, childbirth and related medical conditions; setting forth minimum wage requirements for city contractors and subcontractors, and protecting returning citizens from employment discrimination – all just by way of example.

This is a time of tremendous change in the relationships between employees and employers. The "gig economy" is a trend that seems destined to continue, and which challenges us all to find appropriate ways to safeguard the rights of workers while allowing new business models to emerge and evolve. This is the worst possible time to freeze in place the existing employer policies and practices that have been adopted by municipalities across Pennsylvania. Philadelphia, like all of the Commonwealth's municipalities, must retain its authority to change, to experiment, and to develop employer policies and practices that work in the decades to come.

We respectfully request that HB 861 be held over in your committee for the foreseeable future.

Sincerely,



James F. Kenney
Mayor, City of Philadelphia



Darrell L. Clarke
President, Philadelphia City Council

CC: All Members, Philadelphia Delegation