Be Careful What You Wish For: FLSA and Philadelphia Fire EMS

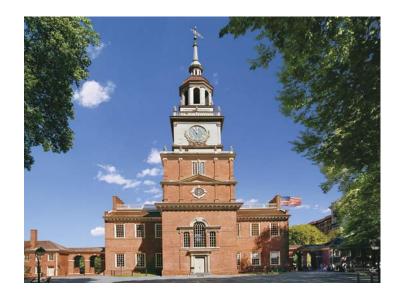


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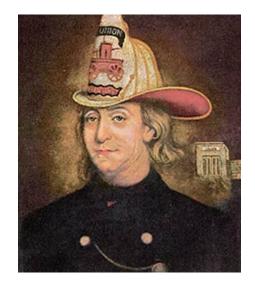
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This is the City. Philadelphia

- 6th largest U.S. city
- Population ~ 1,540,000
- Chartered by William Penn in 1701



Independence Hall



1736, Union Fire Company

The Philadelphia Fire Department

- Sole 9-1-1 fire, EMS responder
- 37 ALS, 13 BLS ambulances
 - Fire Service Paramedics, FF-EMTs
 - Members of Local 22 of IAFF
- Follow statewide protocols
- 223,241 medical runs in 2010
- Budget very tight

Fire Service Paramedic

- In 1970s, some FFs attended medic training, became full-time paramedics
- - Calls them "Fire Service Paramedics"
 - Their PFD orientation includes:
 - Familiarization with fire equipment
 - Basic firefighting skills
 - Safe operation on fireground



The Schedule

Medics worked platoon schedules:

- **1. 2** 10-hr day shifts \rightarrow **2** 14-hr night shifts \rightarrow **4** days off
- **2. 4** 12-hr day shifts \rightarrow **4** days off
- In 8-day cycle, medic could work
 34 hrs/wk or 48 hrs/wk

The Schedule

- Per 2 wk pay period, medics paid for 42 hrs/wk
 - Whether they worked 34 or 48 hrs
 - Paid "premium rate" for hrs 41 &42
- Paid overtime if they worked >15 minutes after end of shift



The Story

- 2003, FSP filed suit against City
 - Claimed violation of overtime payment requirements of Fair Labor Standards Act
 - Not paid overtime when worked 48 hrs/wk
 - Others joined suit. Ultimately ~ 300 current and former FSPs involved







Passed in1938 as part of New Deal

- Addressed low wages, long work hrs
- For most workers, requires that overtime be paid at time-and-a-half

Starting at 41st hour of work wk



FLSA

- Congress exempted some employees from standard overtime rule:
 - Public employees engaged in *fire protection* or law enforcement activities
 - Allows agencies to calculate overtime according to wider range of work periods

FLSA

- "Employee in fire protection activities" includes firefighter, paramedic,who:
 - 1. Is trained in fire suppression
 - 2. Has legal authority, responsibility to engage in fire suppression
 - 3. Is employed by fire department

The Argument

- Plaintiffs argued FSPs were not FFs, were not exempt from overtime
- The City argued they were FFs:
 - Trained in fire suppression
 - Carried SCBA, bunker gear
 - Would help with fire suppression if ordered, i.e. had legal authority



The Ruling(s)

- 2006, District Court decided for City
- FSPs appealed
 - 2008, US Court of Appeals ruled in favor of FSPs
 - FSPs are not certified firefighters
 - Firefighting not part of job description
 - FSPs not exempted from overtime





The Consequences – Part 1

- FSPs got lots of back overtime \$\$\$
- But then, FSP schedule changed to comply with FLSA
 - Some on permanent days, some on permanent nights
 - No longer have 4 days off
 - Out of sync with FF schedule

The Rest of the Story

- PA Act 111
 - Police and Firefighter Collective Bargaining
- Police, <u>FFs</u> may organize in units represented by employee organizations for collective bargaining with employers





The Consequences – Part Deux

- March 2009, City filed "petition for unit clarification" with Pennsylvania Labor Relations Board
 - Argued since FSPs are not FFs, they should be excluded from the collective bargaining unit represented by Local 22
- Sept 2010 PLRB finds in favor of the City
 - FSPs appealed, and lost

The Consequences – Part Trois

- FSPs became non-represented civil service employees
- Terms of collective bargaining agreement & interest arbitration awards between City, Local 22 no longer applied to FSPs
- Potential to impact health plan, pension, grievance process



The Response

Philadelphia paramedics booted from union

-October 4th, 2010





Mayor Nutter



Philadelphia Paramedics To Appeal Labor Board Ruling



Councilman to Nutter: Keep Paramedics in the Firefighters' Union -October 07, 2010



How Does the Story End?

- Not totally clear
- FSPs suing Mayor
- Local 22 will most likely represent FSPs as separate bargaining unit
 - Medics will negotiate new contract
 - Reduced bargaining power

Conclusions

- Labor issues have had profound impact on EMS operations, budget, and morale
 - Inherent to fire-based EMS systems
 - Unique Philly twists
- Be careful what you wish for because it might come true









