In 2014, San Francisco became the first city in the country to pass a fair workweek policy. The Retail Worker Bill of Rights provides retail and restaurant workers with access to family-sustaining hours and stable schedules. In May 2016, the Employment Policies Institute (EmPI) released a study: "Weighing Priorities for Part-Time Workers: An Early Evaluation of San Francisco’s Formula Retail Scheduling Ordinance." Despite the Employment Policies Institute’s claims of rigorous and methodologically sound research, the study was funded by a pro-business lobbying group in an attempt to undermine the San Francisco law and halt the growing momentum across the country to pass similar policies.

What is the Employment Policies Institute?

D.C. lobbyist Richard Berman is the President of the Employment Policies Institute (EmPI) and lobbies for clients from the restaurant, hotel, alcoholic beverage and tobacco industries. According to recent tax filings, the Employment Policies Institute has an annual budget of $2.1 million. While EmPI claims to be a think tank that conducts research and develops original policy analysis, only $25,000 of its annual budget goes towards salaries. In 2013, Berman’s company, Richard Berman & Company, Inc., received $1,044,157 from EmPI in management and advertisement fees. The rest of EmPI’s budget went towards “advertising and promotional” activities. Berman is also the President of the Center for Organizational Research and Education, the Center for Union Facts, the American Beverage Institute, and the Enterprise Freedom Action Committee. Widely regarded as front groups for pro-business interests, Charity Navigator, has issued advisories to prospective donors on all these non-profits, noting that unlike most charities, Berman’s organizations filter most of their money to a single for-profit company, Berman, Inc.

"Weighing Priorities for Part-Time Workers"

A Report with Questionable Findings & Methodology

- The survey was administered from December 2015-January 2016, before rules of implementation were issued by the city in January 2016. As a result, the EmPI report findings cannot credibly claim to reflect the full impact of San Francisco’s policy and implementation.

- While EmPI estimates that over 600 businesses are covered by the fair scheduling law, only 52 employers in San Francisco were surveyed in their study. It's not clear this is a representative sample, both in terms of firm size and sub-sectors of the retail industry. The San Francisco law applies “to ‘Formula Retail Establishments’ (or chain stores) with at least 40 formula retail establishments worldwide and 20 or more employees in San Francisco as well as their janitorial and security contractors.”

- No employees were surveyed in this study, either at the retail firms included in the business survey or at other covered businesses throughout the city. Yet EmPI’s study fails to cite representative data regarding the experiences and preferences of employees.

- Consistent with past EmPI studies, the survey design is flawed. The questions read "How difficult will it be for your franchise/business to comply with the following requirements of this law?" and "Which San Francisco labor ordinance in most difficult for your business to accommodate?" This does not pass rigorous standards for survey instrument design which stress the importance of neutral, non-leading language in order to avoid introducing bias into the survey.
• When businesses were asked which local labor ordinances (minimum wage, earned sick time, etc.) were the most difficult to accommodate, only 27% of San Francisco businesses cited the fair scheduling law. Put another way, 73% of those businesses surveyed did not consider fair scheduling policies difficult to implement.

• In fact, the study concedes that among businesses surveyed “overall, many say that it has not been difficult to comply with giving equal treatment to both full- and part-time employees: only 4 percent of all businesses have experienced difficulties.”

• In general, 80 percent of businesses surveyed said it was not difficult to comply with the core provisions of the law: posting schedules two-weeks in advance and paying two to four hours for shifts a manager cancels within 24 hours.

• EmPI’s study ignores data showing that involuntary part-time employment is a persistent trend and part-time employees, including those who choose part-time work, are more likely to experience unpredictable schedules and fluctuations in weekly hours; challenges addressed by the San Francisco scheduling law. Instead EmPI attempts to assert that involuntary part-time employment is not an issue for San Francisco’s retail workforce. Furthermore their data analysis of the part-time workforce used faulty methodology:
  o EmPI claims that “just one in seven (13.9 percent) of part-time workers in San Francisco are estimated to be working that schedule involuntarily.”
  o EmPI created an algorithm and weighting system, which they applied to US Census data, to derive this number. The report authors did not release documentation on these weights and it is not clear they accurately capture employees covered by the bill.
  o Students are indeed likely to choose part-time employment, but EmPI ignores data showing that students are among those most vulnerable to erratic work schedules that give them little input. The San Francisco’s law ensure these this student workforce can request schedules that accommodate their schooling with protection from retaliation.


3 Internal Revenue Service (2013), Form 990 “Employment Policies Institute Foundation” page 8.
5 Internal Revenue Service (2013), Form 990 “Employment Policies Institute Foundation” page 8.
10 Aaron Yelowitz & Lloyd Corder, page 9.
11 Aaron Yelowitz & Lloyd Corder, page 10.