



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: September 15, 2015

TO: Mayor and Councilmembers

FROM: City Administrator's Office

SUBJECT: Compliance With Healthy Workplace Healthy Family Act Of 2014

RECOMMENDATION: That Council:

- A. Review sick leave administration changes for regular employees to comply with the Healthy Workplace Healthy Family Act of 2014;
- B. Ratify the agreement with the Hourly Bargaining unit through introduction and subsequent adoption of, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending the Existing 2014-2016 Memorandum Of Understanding Between the City Of Santa Barbara and the Hourly Employees' Bargaining Unit to Comply with the Healthy Workplace Healthy Family Act of 2014; and
- C. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Approving an Unrepresented Hourly Employees Paid Sick Leave Law Policy.

EXECUTIVE SUMMARY:

On July 1, 2015, the Healthy Workplace Healthy Family Act of 2014 (AB 1522) took effect, providing minimum amounts of paid sick leave for the vast majority of employees in California, and setting parameters for the use of such leave. Regular City employees already earned more sick leave than the amounts required under the Act, but small changes to administration were made to comply with the law. The City negotiated necessary related changes for represented Hourly employees with SEIU, Local 620. For unrepresented Hourly employees, a new policy was drafted to reflect the requirements of the law. The purpose of this action is to formally adopt the M.O.U. amendment and to memorialize the other policy changes made in response to the law.

DISCUSSION:

Effective July 1, 2015, the Healthy Workplace Healthy Family Act of 2014 (AB 1522) took effect, entering an already crowded field of federal and state laws providing employees with paid benefits and statutory protections for medical and family leaves of absence. Among the requirements of the new law, California employers must now:

- Provide for accrual of one hour of paid sick leave for every 30 hours worked (or another specified equivalent option);
- Allow carry-over of accrued sick leave from year to year (the employer may cap the maximum available paid sick leave at 48 hours, so that no further leave is accrued until the employee drops below the cap);
- After 90 days of employment, allow the use of at least 24 hours of accrued paid sick leave each year for specified reasons, upon the employee's reasonable request;
- Show how many days of sick leave an employee has available on a pay stub or a document issued the same day as a paycheck, and keep records showing how many hours have been earned and used for three years; and
- Reinstate accrued but unused paid sick leave if a terminated employee is rehired within one year.

Employees may take paid sick leave for themselves or a family member, for preventive care (e.g., annual physicals or flu shots) or for an existing health condition, or for specified purposes if the employee is a victim of domestic violence, sexual assault or stalking. The definition of "family members" include the employee's parent (including stepparents and in-laws), child, spouse, registered domestic partner, grandparent, grandchild, and sibling.

Retaliation or discrimination against an employee who requests or uses up to 24 hours per year of paid sick days is prohibited. An employee may file a complaint with the Labor Commissioner against an employer who retaliates or discriminates against the employee for exercising these rights.

Effect on City Employees

The Act will affect City employees in the following ways.

1. Regular Employees

Regular employees already earn significantly more sick leave than required by law. Nevertheless, certain changes to related policies will apply:

- "Family Sick" leave (Which is also called "kin care" and equals 48 hours per year for most regular full-time employees to care for a sick child, spouse or parent under a separate legal requirement) may now be used for the extended list of family members provided above;
- "Family Sick" leave may be used for diagnosis and preventative care of a family member (e.g. doctor's appointments), not just for treatment of a medical condition (However, as with the use of sick leave for an employee's own preventative care, advance notification must be given if the need for paid sick leave is foreseeable);

- “Family Sick” may be used for an employee who is a victim of domestic violence, sexual assault or stalking to obtain relief, including medical attention; and
- If an employee leaves City employment and is rehired within one year from the date of separation, any previously accrued and unused paid sick leave will be reinstated.

It should be noted that in some cases these changes are slightly more generous than what is required by the new law. For example, the City could limit use for grandparent, grandchild, parent in-law, and sibling sickness and for domestic violence to 24 hours, instead of the 48 hours available for other family members, but staff felt such restrictions were unnecessary. Staff will make these policy changes administratively.

2. Hourly Employees With Paid Time Off

Hourly employees who have worked more than 520 hours in the current or prior fiscal year already accrued a bank of Paid Time Off (PTO), which can be used as sick leave or vacation leave. Under the new law, PTO may be counted as sick leave by an employer if the employee may use it for sick leave purposes. To comply with the new law:

- The PTO accrual will be increased from 0.023 hours of PTO for each hour worked to 0.034 hours of PTO for each hour worked, in order to equal one hour for each 30 hours worked;
- PTO may now be used for sick or Family Sick reasons (see above), or for vacation;
- The maximum PTO accrual will increase from 40 hours to 48 hours.
- Since PTO is paid out upon termination of employment, it is not reinstated if an employee is hired back within a year.

The City and SEIU, Local 620, have agreed to amend the Memorandum of Understanding to include these changes.

3. Hourly Employees Not Eligible for Paid Time Off

Hourly employees who have not yet worked 520 hours in the current or prior fiscal year do not accrue PTO.

- These employees will begin accruing 0.034 hours of sick leave for each hour worked, beginning the first day of employment, up to a maximum sick leave bank of 48 hours. An employee may not use sick leave until the employee has been employed for at least 90 days. An employee may use up to a maximum of 24 hours of sick leave in a 12 month period. Sick leave may only be used for the diagnosis, treatment or preventative care of the employee’s own medical condition, for Family Sick, or for relief for domestic violence, sexual assault, or stalking.
- Once an employee has been with the City long enough to qualify for PTO accrual (see above) the employee will cease accruing sick leave. However, the

employee may continue to use the sick leave they have already accrued, subject to the applicable rules in the attached policy.

The “Unrepresented Hourly Employees Paid Sick Leave Law Policy” is proposed to be adopted here by Resolution.

BUDGET/FINANCIAL INFORMATION:

While the changes to sick leave may carry a cost, it is difficult to quantify since sick leave will only be used when medically necessary. The cost increase is not expected to be significant. The increase to PTO for represented hourly employees is easier to measure, and is estimated at \$31,863 per year, spread across the various funds supporting hourly employment.

SUBMITTED BY: Kristine Schmidt, Director of Administrative Services

APPROVED BY: City Administrator's Office