

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: RAISSA DE LA ROSA,
ECONOMIC DEVELOPMENT DIVISION DIRECTOR
JEFF BERK, CHIEF ASSISTANT CITY ATTORNEY
SUBJECT: URGENCY ORDINANCE ADDING CHAPTER 10-47 TO THE SANTA
ROSA CITY CODE, TEMPORARY SICK LEAVE REQUIREMENTS
FOR CERTAIN PRIVATE EMPLOYERS, WHICH WILL SUNSET ON
DECEMBER 31, 2020

AGENDA ACTION: URGENCY ORDINANCE

RECOMMENDATION

It is recommended that the Council adopt an urgency ordinance adding Chapter 10-47 to the Santa Rosa City Code to establish temporary sick leave requirements for certain private employers, which will sunset on December 31, 2020.

EXECUTIVE SUMMARY

In response to the COVID-19 public health emergency and subsequent local, state and national emergency orders, which direct individuals to shelter in their place of residence, Congress enacted the Emergency Paid Sick Leave Act. This Act, part of the Families First Coronavirus Response Act, mandates that certain employers provide employees with 80 hours of paid sick leave for full time employees, prorated for part-time employees, to be used for any of a set list of COVID-19 related reasons, including child care. The Act does not apply to employers with more than 500 employees, it allows an exemption for businesses with less than 50 employees from providing the child care benefit, if that business is experiencing severe economic hardship, and it authorizes an employer to elect not to provide the benefit to employees who are health care providers or emergency responders. The proposed urgency ordinance adding Chapter 10-47 to the Santa Rosa City Code addresses some of these gaps in the Emergency Paid Sick Leave Act, and would apply to all employers, including those already subject to the Act, except government employers and the limited small employer exemption allowed under the Act. Like the Federal law, the ordinance will sunset on December 31, 2020. Under the City Charter, five affirmative votes are necessary to adopt an urgency ordinance.

BACKGROUND

The Emergency Paid Sick Leave Act (the Act) requires certain employers to provide employees with paid sick leave for specified reasons related to COVID-19. The

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Department of Labor's Wage and Hour Division administers and enforces the law's paid leave requirements. The provisions of the Act apply from the April 1, 2020, effective date through December 31, 2020.

Covered Employers in the Act include certain public employers and private employers with fewer than 500 employees. Small businesses with fewer than 50 employees may qualify for exemption from the requirement to provide leave due to school closings or child care unavailability if the leave requirements would jeopardize the viability of the business as a going concern. Employers of health care workers and emergency responders, as defined in the Act, can be exempted at the discretion of the Employer.

Under the Act, an employee qualifies for paid sick time if the employee is unable to work due to a need for leave because the employee:

1. Is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. Has been advised by a health care provider to self-quarantine related to COVID-19;
3. Is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
4. Is caring for an individual subject to an order described in (1) or self-quarantine as described in (2); or
5. Is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19.

Employees taking leave for any of the first three reasons above are entitled to pay at either their regular rate or the applicable minimum wage, whichever is higher, up to \$511 per day and \$5,110 total (over a 2-week period).

Employees taking leave for reasons (4) and (5) above are entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$2,000 total (over a 2-week period).

Full time employees can receive up to 80 hours of paid leave and part-time employees receive a pro rata amount.

PRIOR CITY COUNCIL REVIEW

There has been no previous Council review.

ANALYSIS

The request to consider extending the Act's coverage to additional employers by a local ordinance was presented to the Economic Recovery Task Force by the North Bay Labor Council (NBLC). Several cities, including Los Angeles, San Jose, San Francisco, and Oakland have passed local paid sick leave ordinances. It is expected that the County,

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which received the same presentation from NBLC in June, may be holding a study session to consider a similar ordinance in July.

In addition to staff meeting with NBLC and North Bay Jobs With Justice, the Economic Recovery Task Force, over a number of task force meetings, discussed differences in Labor's request in comparison with ordinances adopted by other cities. A summary of the Act and key points of the draft ordinance was distributed to business groups including the Santa Rosa Chamber of Commerce, Downtown Action Organization, Sonoma County Alliance and Los Cien, as well as other business groups. No feedback was received as of the writing of this report, and, unfortunately, timing did not allow for direct follow-up via meetings or independent research by staff.

The proposed urgency ordinance, like the Federal law, sunsets December 31, 2020. Because of the short time frame, the temporary nature of the ordinance, and the urgency of the benefits for impacted employees, it was decided to move forward expeditiously with the understanding it would take more time and resources than are currently available to further research and cull data on potential impacts to business.

Based on the above, staff prepared the draft ordinance consistent with direction from the Task Force as follows:

- Applies to all employers, including those already covered by the Act. This includes employers with Health Care Providers and Emergency Responders (as defined in the Act).
- Government employers are exempt.
- Employers with less than 50 employees that are experiencing severe economic hardship are not obligated to provide the benefit for employees needing to provide child care.
- Removes the \$2,000 maximum cap and 2/3 of salary limitation for child care and/or caring for another person for COVID reasons.
- Creates one benefits cap of \$510/day/employee up to \$5,110.
- Allows employers an offset for COVID related leave already given to an employee before the effective date of this ordinance.
- Would be enforced by an employee bringing an action in Superior Court.

Interim Urgency Ordinances

Section 8 of the City Charter authorizes adoption of an interim urgency ordinance, to take effect immediately upon passage, when deemed necessary by the Council to preserve the public peace, health or safety. In addition, Government Code section 36937(b) allows the Council to adopt an ordinance to take effect immediately, if it is an ordinance for the immediate preservation of public peace, health or safety, and it contains a declaration of the facts constituting the urgency. Under the City Charter, five affirmative votes are necessary to adopt an urgency ordinance.

FISCAL IMPACT

There may be additional costs related to the inclusion of first responders / emergency workers.

ENVIRONMENTAL IMPACT

The proposed action is exempt from the provisions of the California Environmental Quality Act (CEQA) under section 15061(b)(3) and 15378 in that there is no possibility that the implementation of this action may have significant effects on the environment, and that no further environmental review is required.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

On June 12, 2020, the Economic Recovery Taskforce reviewed and discussed the various policy options on how best to address the coverage gaps, weighing impacts to both employees and employers. The Taskforce ultimately decided to present Council with the attached urgency ordinance.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Ordinance

CONTACT

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