

LEGISLATIVE DIGEST

[Initiative Ordinance - Police Code - Public Health Emergency Leave]

Motion ordering submitted to the voters at an election to be held on November 3, 2020, an Ordinance to amend the Police Code to require employers to provide public health emergency leave during a public health emergency.

Existing Law

The federal Families First Coronavirus Response Act, Public Law No. 116-127, requires employers to provide emergency paid sick leave to certain employees who are unable to work or telework due to the COVID-19 pandemic, but it exempts private employers with 500 or more employees. As of the date of introduction of this initiative ordinance, an emergency ordinance (Ordinance No. 59-20) addressed the gap created by the federal act's exemption of private employers with 500 or more employees by temporarily requiring private employers with 500 or more employees to provide paid public health emergency leave during the public health emergency related to COVID-19.

Amendments to Current Law

If Ordinance No. 59-20 is reenacted and remains in effect on the operative date of this ordinance, this ordinance sunsets that emergency ordinance and replaces it with provisions described below.

Background Information

This initiative ordinance replaces the emergency ordinance, with some changes. The ordinance eliminates the minimum employer size and exempts certain non-profit organizations from its requirements. Public health emergencies include local emergencies related to contagious, infectious, or communicable diseases and air quality emergencies.

Under the ordinance, employees may use up to 80 hours of paid public health emergency leave if unable to work (including telework) because:

- (1) The recommendations or requirements of a health order related to the public health emergency, including any applicable recommendations for an employee who is a member of a vulnerable population.
- (2) The employee has been advised by a health care provider to isolate or quarantine.
- (3) The employee is experiencing symptoms of and seeking a medical diagnosis for a possible infectious, contagious, or communicable disease associated with the public health emergency.

- (4) The employee is caring for a family member who is subject to an order as described in (1), has been advised as described in (2), or is experiencing symptoms as described in (3).
- (5) The employee is caring for a family member if the school or place of care of the family member has been closed, or whose care provider is unavailable, due to the public health emergency.
- (6) An air quality emergency.

The ordinance allows an employer of an employee who is a health care provider or an emergency responder to limit this leave, but requires such employers to provide such leave when the employee is unable to work: (1) due to a health care provider's advice to self-quarantine; (2) because the employee is experiencing symptoms of an infectious, contagious, or communicable disease associated with the public health emergency, and does not meet state or federal guidance to return to work; or (3) during an air quality emergency, if the employee has been advised by a health care provider not to work.

Public health emergency leave must be provided in addition to paid leave the employer provided before the date the public health emergency is declared and must be made available for immediate use during a public health emergency. Employers are not required to roll over any unused public health emergency leave from year to year.

The Office of Labor Standards Enforcement ("OLSE") will implement and enforce the ordinance. Additionally, OLSE will publish a notice suitable for employers to inform employees of their rights under the ordinance. Employers were required to post and provide the notice to employees, in English, Spanish, Chinese, Filipino, and any language spoken by at least 5% of the employees at the worksite.

The ordinance includes anti-retaliation protections that, among other provisions, prohibit interfering with any right protected under the emergency ordinance and taking any adverse action against an employee for exercising rights protected under the ordinance.