



COUNTY OF HUMBOLDT

For the meeting of: 12/7/2021

File #: 21-1785

To: Board of Supervisors

From: Human Resources

Agenda Section: Departmental

SUBJECT:

Senate Bill (SB) 95 Supplemental Paid Sick Leave - Extension

RECOMMENDATION(S):

That the Board of Supervisors:

1. Extend the California Supplemental Paid Sick Leave (SPSL) effective to terminate Oct. 30, 2021 through Jan. 8, 2022, to those employees that have not exhausted the SPSL leave hours.

SOURCE OF FUNDING:

All county funds

DISCUSSION:

On March 19, 2021, Senate Bill (SB) 95 was signed into law. SB 95 expands Supplemental Paid Sick Leave (SPSL) up to 80 hours for use related to COVID-19. New Labor Code 248.2 is retroactive to Jan. 1, 2021 and extends protections through Sept. 30, 2021. This legislation was intended to continue and expand COVID-19-related sick pay as previously mandated by Families First Coronavirus Response Act (FFCRA) and Assembly Bill 1867. The law applies to all California employers with 25 or more employees.

On May 10, 2021, your Board adopted Resolution No. 21-46 effectuating SB95 effective from Jan. 1, 2021 through Oct. 30, 2021. Employees may use the SPSL banks when they are unable to work or telework in the following circumstances:

- Eligibility: No waiting period for eligibility for SPSL hours. New employees are eligible upon starting employment.
- Hours of leave: 80 hours of supplement sick leave (SPSL) shall apply to all regular employees, part-time employees, extra-help employees and retired annuitants.
- Qualifying reasons for SPSL: SPSL hours are available between Jan. 1, 2021 and is recommended to include a grace period and sunset date of Oct. 30, 2021, for employees who are

unable to work or telework due to one of the following reasons:

1. Employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
2. Employee has been advised by a health care provider to self-quarantine related to COVID-19.
3. Employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis.
4. Employee is seeking or awaiting the results of a COVID test or medical diagnosis, if the employee has been exposed or the employee's employer has requested the test or diagnosis.
5. Employee is obtaining COVID-19 immunization (vaccination) or recovering from an injury, disability, illness, or condition related to such immunization.
6. Is caring for a family member, as defined in subdivision (c) of Section 245.5 (parent; stepparent; legal guardian; spouse or registered domestic partner; person who stood in loco parentis while employee was a child; grandparent; grandchild or sibling) who is subject to quarantine or isolation order, advised to self-quarantine by health care provider due to COVID-19; or
7. Employee is caring for a child whose school or place of care is closed or partially closed (or childcare provider is unavailable) for reasons related to COVID-19, and no other suitable person is available to care for the child during the period of such leave.

If an employee took leave for an SB 95 covered reason on or after Jan. 1, 2021 and was not compensated in an equal amount as afforded by SPSL, or utilized other paid time off benefit banks, upon oral or written request by the employee, the employee must retroactively be compensated for the difference or have leave banks replenished. The county may not deny COVID-19 SPSL based on lack of certification from a health care provider. The employee is entitled to utilize SPSL immediately upon oral or written request. Should the county have reason to doubt the employee is using SPSL for a valid purpose, it may be reasonable to ask for documentation prior to paying the SPSL. SPSL is not eligible to be utilized as a cash payout or to purchase service credits.

- President Biden released the *Path Out of The Pandemic COVID-19 Action Plan*. This plan requires all employers with 100 or more employees to ensure their workers are either fully vaccinated or produce a negative test result on at least a weekly basis. This requirement will be developed and implemented by OSHA through Emergency Temporary Standards. Despite this announcement, the parameters and timeline of the ETS are unclear, and especially how Cal/OSHA will move forward.
- Some public agencies have revised the ordinances and/or resolutions to allow employees to use SPSL to cover time off for vaccine [testing] related reasons. For an example, San Mateo County provides county employees the right to take emergency

sick leave if they are unable to work or telework due to COVID19 related reasons from Jan. 1, 2021 through Dec. 31, 2021.

Since May 2021, in an effort to minimize departmental impact on retroactive requests for reimbursed hours, all requests are managed, tracked and audited by County Human Resources.

Recommendation: Approve the extension of the California Supplement Paid Sick Leave (SPSL) for employees that have not exhausted this leave bank effective Oct. 31, 2021. Furthermore, staff recommends including a grace period and sunset date of Jan. 8, 2022 as this date is the end of a pay period that encompasses the last week of calendar year 2021. In a continued effort to minimize departmental impact on retroactive requests for reimbursed hours, all requests will continue to be managed, tracked and audited by County Human Resources.

FINANCIAL IMPACT:

Extension of the SPSL does not have an immediate financial effect on the county as the cost for increased benefit time typically comes in the form of lost productivity when an employee takes time off work. However, as reflected in the May 2021 item before your Board seeking initial approval for the supplemental paid sick leave (SPSL), giving all county employees 80 hours of SPSL has a potential financial impact of \$5.59 million across all county funds and as much as \$1.8 million for the General Fund. However, it remains unlikely that each employee will use all 80 hours of SPSL, and any hours unspent after Jan. 8, 2022, will be removed. SPSL remains ineligible to be utilized at separation or retirement as a cash payment or to purchase service credits.

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework by providing community-appropriate levels of service and investing in county employees.

OTHER AGENCY INVOLVEMENT:

CDPH, Cal-OSHA, all county departments

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Your Board could choose not to extend the SB 95 Supplemental Paid Sick Leave. However, this is not recommended, with boosters and the vaccination age limit expanding at this time, and the impacts this may have to our employees.

Your Board could choose to extend the SB 95 Supplemental Paid Sick Leave beyond January 8, 2022, for those employees who have not yet exhausted the leave bank but may need it for reasons stated above, including booster vaccinations and the vaccination age groups expanding to include younger children, and the impact this may have to our employees.

ATTACHMENTS:

Resolution to support the SB95 Supplemental Paid Sick Leave (SPSL) extension.

File #: 21-1785

PREVIOUS ACTION/REFERRAL:

Board Order No.: Resolution No. 21-46

Meeting of: May 10, 2021

File No.: 21-558