



# COUNTY OF HUMBOLDT

For the meeting of: 4/14/2020

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File #: 20-459

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**To:** Board of Supervisors

**From:** County Administrative Office

**Agenda Section:** Departmental

**SUBJECT:**

Resolution Relating to Updated Employee Procedures and Leave Accruals in Response to COVID-19 and the Family First Coronavirus Response Act

**RECOMMENDATION(S):**

That the Board of Supervisors:

1. Adopt Resolution 20-\_\_\_\_ relating to updated employee procedures and leave accruals in response to COVID-19 and the Family First Coronavirus Response Act.

**SOURCE OF FUNDING:**

All county funds

**DISCUSSION:**

On March 30, the Humboldt County Health Officer Dr. Teresa Frankovich issued a revised shelter-in-place order which is now effective until rescinded. On the same day, Sheriff Honsal proclaimed a local emergency, which was ratified by your Board on April 6. Since then, major federal legislative changes have occurred that require action from your Board, as well as local issues for your Board to consider.

**Benefit Time Accrual Caps, Extension of Wellness Benefit**

Under current memorandums of understanding (MOUs) with bargaining units, employees cannot continue to accrue time off indefinitely. Many employees are responding to the current emergency, and the current emergency calls for allowing employees to continue to accrue time beyond these cap levels in order to continue delivering vital public services.

In addition, some MOUs include a \$1,000 wellness benefit reimbursement for services and purchases that support employee wellness. Under current rules, employees have until June 30, 2020 to claim the reimbursement. However, due to the COVID-19 emergency, many gyms have closed and other services that are normally allowable and frequently claimed for reimbursement are temporarily unavailable. Therefore, attached resolution would extend that expiration date until rescinded by the Board to allow employees more time to receive reimbursement for their wellness benefit. Similarly, the resolution lifts time limits for use-or-lose holiday pay and administrative leave.

### **5% Emergency Response Pay Premium**

The Humboldt County Emergency Operations Center, Joint Information Center and many county departments are providing essential services that require them to leave their homes to interact with members of the public and generally work in spaces that put them at higher risk of acquiring the COVID-19 virus. The services these employees are providing are critical, and staff recommends offering a temporary 5% increase in pay for employees deployed to field operations that interact with members of the public, custodial operations, or transportation related to the emergency. The Director of Human Resources, in conjunction with the County Administrative Officer are delegated authority to make individualized determinations of applicability of emergency response pay consistent with this provision. This increase in pay would cease when the local emergency is over.

There is already a hazard pay benefit for employee in the American Federation of State and County Municipal Employees (AFSCME) bargaining unit at a rate \$0.95 per hour. The 5% increase in pay will be available to these employees. However, under the proposed resolution employees would need to choose to use either the hazard pay benefit or the 5% increase for eligible hours worked as hazard pay would be more beneficial to some employees.

### **Families First Coronavirus Response Act; Employer Paid Leave**

On April 1, the Families First Coronavirus Response Act (FFCRA) (HR 6201) became effective. Generally, the act provides that covered employers, which includes the county, must provide to all employees:

- Two weeks (up to 80 hours) of paid sick leave at the employee's regular rate of pay in cases where the employee is unable to work because the employee is quarantined (pursuant to federal, state, or local government order or advice of a health care provider), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; or
- Two weeks (up to 80 hours) of paid sick leave at two-thirds the employee's regular rate of pay because the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to federal, state, or local government order or advice of a health care provider), or care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19, and/or the employee is experiencing a substantially similar condition as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of the Treasury and Labor.

In addition, covered employers must provide to employees that it has employed for at least 30 days the following:

- Up to an additional 10 weeks of paid expanded family and medical leave at two-thirds the employee's regular rate of pay where an employee is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.

The FFCRA is expansive and presents two noteworthy issues for the county. First, the county's payroll system is outdated, and making large, complex, sweeping changes like those required of the FFCRA takes time to implement as it involves staffing and Information Technology resources that are already

being used to capacity due to the county's emergency response to COVID-19. At this point, the county is unable to process pay at a two-thirds rate for the number of staff likely to use the sick leave and additional time authorized under the expanded Family and Medical Leave Act (FMLA). Therefore, any county employee wishing to use these benefits would receive full pay until the county could modify its payroll system to catch up. While offering two-thirds pay (which employees could turn in to full pay by using their benefit time to make up the other one-third) serves as a disincentive to stay away from the workplace, the county simply cannot offer that option at this time. This significantly increases the cost the county will pay for these expanded federal benefits. These costs are likely not eligible for state and federal reimbursement under the state and federal emergency declarations as the employees claiming the benefits are not responding to the emergency.

The second issue is that the size of the county workforce available to deliver public services may dwindle significantly as many employees are likely to miss work, especially due to the county-wide school closure and closure of childcare centers. The attached resolution retains the county's ability to exempt critical positions from the new leave provisions if necessary.

Considering these issues, staff recommends in the attached resolution to authorize full pay for employees utilizing benefits under the FFCRA until such time as the county payroll system can accommodate two-thirds pay for instances specified in the act.

### **80 Hours of Emergency Paid Sick Leave**

As stated above, the FFCRA requires all covered employers to provide to all employees with 80 hours of emergency paid sick leave. This benefit will apply to all part-time active employees regardless of whether they are full- or part-time, or extra-help. Retired annuitants are not eligible for paid leave.

### **Additional 80 hours of paid sick leave**

In Resolution 20-20, adopted by your Board on March 16, the county advanced 80 hours of sick leave to all employees, regardless of status. Those hours are normally accrued by employees each pay period, and it would take 22 pay periods to accrue 80 hours. During the month of March, some county departments directed employees to stay away from the workplace and not work either because the employee did not perform a service that was required at that time during the shelter-in-place order, or to have a facility cleaned. Therefore, staff recommends converting the advance sick leave to additional sick leave, and reinstating for all employees normal sick leave accruals. These 80 hours, which are in addition to the 80 hours provided under the Emergency Paid Sick Leave Act, are recommended to be applied retroactively for use by employees sent away from the workplace due to the COVID-19 emergency.

These 80 hours may be used to offset any unpaid or benefit time used by an employee sent home from work due to the COVID-19 emergency prior to this action. This time is also permanent, meaning employees can use this time to apply towards service credit, which potentially increases their retirement benefit, as well as county costs.

### **FINANCIAL IMPACT:**

### **Benefit Time Accrual Caps, Extension of Wellness Benefit**

These recommendations do 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, it will increase the amount of time eligible for cash payouts at retirement or at the end of the calendar year when certain bargaining units can convert vacation time to cash. Departments have already budgeted for use of the wellness benefit and extending the deadline by which wellness benefit claims need to be reimbursed should have minimal financial impact. Staff will monitor and adjust budgets as needed

**5% Emergency Response Pay**

Based on information staff received from departments regarding employees who are currently assigned to work in environments that would make them potentially eligible for this increase, staff estimates that approximately 50% of the county workforce fit into this category. Accordingly, a 5% increase in base pay is estimated to cost \$298,000 per month for all county funds, \$98,000 of which is estimated to come from the General Fund. While unclear at this point, due to the state and federal emergencies declared around COVID-19, these costs are potentially reimbursable via the California Office of Emergency Service and/or the Federal Emergency Management Agency.

**Families First Coronavirus Response Act; Employer Paid Leave**

Giving all county employees 160 hours of paid sick leave has a potential financial impact of \$11.9 million across all county funds, or as much as \$3.9 million for the General Fund. If these hours are used, then this would be a loss in productivity. Any hours not utilized would remain in the employee's sick leave bank to be utilized at retirement as a cash payout and/or to purchase service credits. The extent to which the latter would be realized or the rate of pay the employee would cash-in their sick leave is unknown.

Staff estimates that up to 15% of employees may have a need to utilize up to an additional 10 weeks of paid expanded family and medical leave due to an inability to work due to childcare needs related to COVID-19. This required benefit could cost as much as \$8.2 million for all county funds, or \$2.7 million for the General Fund. This expense would be realized in lost productivity. However, it should be noted that a reduction in the workforce of this magnitude could also hinder the county's ability to properly capitalize on revenue opportunities.

These estimates utilize the data available to staff at the present time. The COVID-19 pandemic is an evolving situation and more becomes known daily as to the impacts. Staff will continue to monitor and report back to your Board on the financial impacts of this pandemic as more information is known.

**STRATEGIC FRAMEWORK:**

This action supports your Board's Strategic Framework by investing in county employees .

**OTHER AGENCY INVOLVEMENT:**

None

**ALTERNATIVES TO STAFF RECOMMENDATIONS:**

Board discretion to modify any policy recommendations and amend the terms of the proposed

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resolution.

ATTACHMENTS:

Resolution 20-\_\_\_\_ Relating to updated employee procedures and leave accruals in response to COVID-19 and the Family First Coronavirus Response Act

PREVIOUS ACTION/REFERRAL:

Board Order No.: C-1

Meeting of: March 16, 2020

File No.: 20-384