



## Legislation Text

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**File #:** 2020-0513, **Version:** 1

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**To:** Board of Supervisors

**Department or Agency Name(s):** Board of Supervisors

**Staff Name and Phone Number:** Supervisor Susan Gorin 565-2241

**Vote Requirement:** Majority

**Supervisorial District(s):** First

**Title:**

Emergency Paid Sick Leave Ordinance Minute Order

**Recommended Action:**

Adopt a Minute Order directing the Office of County Counsel to assess the feasibility of adopting an Emergency Paid Sick Leave Ordinance that would require certain employers not covered under the Federal Emergency Paid Sick Leave Act to provide paid sick-leave to during the public health emergency related to COVID-19.

**Executive Summary:**

This item requests Board approval to direct the Office of County Counsel to evaluate the feasibility of adopting an Emergency Paid Sick Leave Ordinance. The purpose of the emergency ordinance is to address the emergency paid leave coverage gap created by the Families First Coronavirus Response Act (FFCRA) by extending paid leave to employees in the County who are employed by businesses with 500 or more employees, small businesses with fewer than 50 employees exempt under FFCRA, and employees of health care providers and emergency responders for reasons related to COVID-19.

**Discussion:**

The novel coronavirus, COVID-19, was first detected in Wuhan City, Hubei Province, China in December 2019. The virus, which spreads person-person and symptoms include fever, cough, and shortness of breath, results in mild to severe illness, and in some cases death. Subsequent reports of COVID-19 illnesses emerged in a growing number of international locations, including the United States. On January 31, 2020, United States Health and Human Service Secretary declared a public health emergency for the United States to aid the nation's healthcare community in responding to the virus. In addition, the Centers for Disease Control and Prevention (CDC) determined that the virus presents a serious public health threat.

On March 3, the Board of Supervisors ratified the declaration of the local health emergency by the Public Health Officer and the proclamation of a local emergency by the Director of Emergency Services that began on March 2, due to the potential introduction of COVID-19 into the County of Sonoma/Sonoma County

## Operational Area.

On March 17, 2020 the Sonoma County Public Health Officer issued Order No.C19-03, replaced by Order. C19-09 on May 1, 2020, and subsequent amendments with no specific end date at this time, , directing the County to Shelter-in-Place to mitigate the spread of COVID-19 except as set forth in the Order. The Order requires individuals to shelter in place except for essential businesses, minimum basic operations activities and travel as set forth in the Order.

On March 18, 2020, President Trump signed into law the Families First Coronavirus Response Act to provide emergency paid sick leave to certain employees who are unable to work or telework due to the COVID-19 public health emergency. Qualifying private employers are provided a Federal tax credit toward the cost of providing the sick leave. Generally, the Act provides that covered employers must provide to all employees: (1) Two weeks (up to 80 hours) of paid sick leave at the employee's regular rate of pay where the employee is unable to work because the employee is quarantined, and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; or (2) 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 due to need to care for an individual subject to quarantine, or care for a child (under 18 years of age) whose school or child care provider is closed.

The Act, however, exempts employers with 500 or more employees, certain employers with fewer than 50 employees and provides that employers may exclude employees of health care providers and emergency responders, leaving their employees without the critical protections included in the Act.

Although some businesses are able to continue operations exclusively via teleworking, many employees are in positions that cannot be fulfilled through teleworking or are unable to perform the required telework hours because of the need to care for a child or other family member.

County Counsel would be evaluating the legal options available for a potential Sonoma County ordinance that would mandate public health emergency leave be provided by additional employers not covered under the FFCRA including the following provisions:

- Mandate that private employers with more than 500 employees, and employers with fewer than 50 employees exempt under FFCRA, provide COVID-19 related sick leave (without federal tax reimbursement) to employees who are permitted to work under the Health Order in order to ensure they are financially able to stay home and isolate if exposed to COVID-19 or exhibiting symptoms related to COVID-19.
- Address the coverage gap in the federal Families First Coronavirus Response Act and provide necessary additional protection for employees of businesses with 500 or more employees, health care providers, and emergency responders.
- Allow employees to care for their loved ones and ensure those loved ones stay home, and thereby minimize the spread of COVID-19 in the community.

The cities of Oakland, San Jose, Los Angeles, the city/county of San Francisco, and Los Angeles County have all recently approved similar emergency paid leave ordinances.

Note: Employers mandated under local ordinance but not covered under the FFCRA will not qualify for the federal tax credit so the cost of the leave would be entirely borne by the employer.

County Counsel anticipates that work on this proposal will require 30-40 hours, and the estimated cost to research and draft the ordinance by Counsel or outside counsel is \$15,000-\$20,000. If the minute order is approved by the Board, Counsel needs direction by the Board on whether this work should be phased so that the research comes back first to the Board with a range of options for the Board to consider and the second phase would be a draft ordinance. Alternatively, the Board could direct counsel to bring the draft ordinance back to the Board as soon as it is ready. This effort will also need to include coordination with the Human Resources Department and Economic Development Department. Staff time from these latter departments is difficult to estimate, however it is not expected to be more than County Counsel's estimated hours.

If approved, this item will give County Counsel direction to initiate work on evaluating the legal options of a proposed ordinance and return to the Board with an update and recommended next steps.

**Prior Board Actions:**

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**FISCAL SUMMARY**

<b>Expenditures</b>	<b>FY 19-20 Adopted</b>	<b>FY20-21 Projected</b>	<b>FY 21-22 Projected</b>
Budgeted Expenses			
Additional Appropriation Requested			
<b>Total Expenditures</b>			
<b>Funding Sources</b>			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
<b>Total Sources</b>			

**Narrative Explanation of Fiscal Impacts:**

Staff anticipates that the County Counsel's Office will expend approximately 30-40 hours of work to complete the work as directed by this minute order. The estimated cost to research and draft the ordinance by Counsel or outside counsel is \$15,000-\$20,000, and will be funded by the Litigation Contingency Fund in the Non-Departmental Budget.

Staffing Impacts:			
Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

**Narrative Explanation of Staffing Impacts (If Required):**

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**Attachments:**

Minute Order

**Related Items “On File” with the Clerk of the Board:**

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