



Legislation Text

File #: 2021-0274, **Version:** 1

To: Board of Supervisors of the County of Sonoma, Board of Directors of the Sonoma County Water Agency, Board of Commissioners of the Community Development Commission, and Board of Directors of the Sonoma County Agricultural Preservation and Open Space District

Department or Agency Name(s): Human Resources Department

Staff Name and Phone Number: Janell Crane, 707 565-2885

Vote Requirement: Majority

Supervisory District(s): Countywide

Title:

Extension of Emergency Family and Medical Leave Extension Act Benefits as Previously Provided under the Families First Coronavirus Response Act and Encouraged under the American Recovery Plan Act, and Implementation of Supplemental Paid Sick Leave per new California law.

Recommended Action:

Adopt a Resolution to further voluntarily extend the Emergency Family and Medical Leave Extension Act benefits provided by the Families First Coronavirus Response Act through June 28, 2021 and implement Supplemental Paid Sick Leave per new California law as described in Appendix A for County of Sonoma, Sonoma Water, Sonoma County Community Development Commission, Agricultural Preservation and Open Space District, and Sonoma County Fair and Exposition, Inc. employees.

Executive Summary:

The Families First Coronavirus Response Act (FFCRA), including Emergency Family and Medical Leave Extension Act (EFMLEA) benefits and Emergency Paid Sick Leave Act (EPSL), expired on December 31, 2020. Your Board extended the use of EFMLEA and EPSL benefits for employees with remaining hours through March 31, 2021. On March 11, 2021, the federal American Rescue Plan Act (ARPA) of 2021 was signed into law. ARPA does not mandate the extension of FFCRA benefits, but effective April 1, 2021 may provide payroll tax incentives to employers who voluntarily extend the benefits previously provided under FFCRA.

Additionally, on March 19, 2021, Governor Newsom signed into law Senate Bill 95 (SB 95) codifying new obligations for public agency employers to provide up to 80 hours of COVID-19 Supplemental Paid Sick Leave (similar to EPSL under the FFCRA) to employees who are unable to work or telework due to specific reasons related to COVID-19 as listed in Appendix A.

In addition to the required implementation of the new Supplemental Paid Sick Leave (SPSL) benefits mandated under State law under SB 95, Human Resources recommends a further voluntary extension of the EFMLEA benefits as were provided under the FFCRA, effective April 1, 2021 through June 28, 2021. In addition, HR recommends increasing the total number of eligible weeks from 10 weeks (400 hours) to 12 weeks (480 hours) of partially paid leave, and expanding the qualifying reasons for use of the leave as outlined in Attachment A and the ARPA.

Discussion:

The FFCRA as originally enacted expired on December 31, 2020. There were two significant employer/employee leave benefits in the Act that provided forms of wage continuation for COVID-19 specific impacts that affected employee's ability to work. FFCRA included:

1. The Emergency Family and Medical Leave Expansion Act (EFMLEA): provided up to 12 weeks of job-protected leave, including ten weeks of partial (2/3rds) pay, for the care of children due to school closures or loss of childcare.
2. Emergency Paid Sick Leave Act (EPSL), which provided up to 80 hours of paid sick leave for an employee's own COVID-19 related illness or quarantine, for an employee to care an individual under a COVID-19 quarantine or isolation order, or for care of children due to school closers or loss of childcare.

Given the circumstances of the COVID pandemic in early January, and with no foreseeable replacement legislation, schools remaining closed, and continued childcare shortages, your Board voluntarily extended the use of FFCRA benefits for County employees through March 31, 2021 at the January 5, 2021 Board meeting.

As the impacts on working families are expected to continue for at least several more months, Human Resources is recommending further extension of EFMLEA benefits allowed under the Families First Coronavirus Response Act (FFCRA), with the following modifications, effective April 1, 2021 and ending on June 28, 2021, unless further extended:

- The extension of existing benefits would be supplemented by an additional 2 weeks of partially paid (2/3rds pay) leave for a total of up to 12 weeks of 2/3rds pay under the program.
- Expand the use of all remaining EFMLEA hours to apply to any of the reasons covered under EPSL, including two new reasons provided for under the federal ARPA legislation:
 - o Leave to obtain an immunization for COVID-19 and recovering from any injury, disability, illness or condition related to that immunization.
 - o Leave to seek or await results of a diagnostic test for, or a medical diagnosis of, COVID-19, when such employee has been exposed to COVID-19 or the employer has requested such test or diagnosis.

The extended and supplemented EFMLEA benefits will be administered in the same manner as the current program. A full list of eligible uses for EFMLEA are listed on Attachment A.

The further extension will provide continued flexibility to the County workforce impacted by COVID while balancing the need to provide critical services to the community. The recently approved American Rescue Plan Act provides a funding mechanism by which local governments that voluntarily elect to continue providing FFCRA-like paid leave benefits may receive reimbursement for such costs through payroll tax credits and/or the Coronavirus Local Fiscal Recovery Fund (subject to certain allocations and distribution rules). Specific guidance is expected from the Treasury on how in the coming days and Human Resources and the Auditor Controller Treasurer Tax Collector department will review and pursue reimbursement as available.

Human Resources will also be implementing Supplemental Paid Sick Leave as mandated by SB 95, which was signed into law on March 19, 2021. SB 95 obligates public agency employers to provide up to 80 hours of paid leave, retroactive to January 1, 2021 and effective through September 30, 2021, for those who are unable to work for specific qualifying reasons related to COVID-19. Use of the leave mirrors the federal EPSL reasons with two additions: 1) obtain a COVID-19 vaccination, and 2) for time lost due to any illness or injury resulting

from the vaccine. A complete list of eligible uses SPSL is provided on Attachment A. While some employees utilized EPSL during this period, others may have used their own leave accruals or been unpaid because their leave did not qualify under EPSL or because they had already exhausted their FFCRA benefits. Those employees may request to exchange EPSL pay for SPSL pay, or to receive SPSL hours for sick leave or unpaid leave used for a qualifying SPSL reason, retroactively to January 1, 2021.

Human Resources is not recommending an extension of the EPSL benefits encouraged under ARPA due to the new and very similar SPSL benefit mandated by SB 95. The legislation allows SPSL paid hours to apply retroactively to January 1, 2021 for specified COVID-19 related leaves including EPSL, which the Board previously extended through March 31, 2021. Human Resources recommends not replacing the EPSL benefits paid from January 1, 2021 through March 31, 2021 to SPSL, unless the employee requests it, to honor the prior EPSL extension.

SB 95 also allows employers to cap payments to employees utilizing SPSL at \$511 per day. However, the County did not implement the \$511 per day cap available under EPSL as it can create a benefit disparity based on the employees' work schedules and due to complexity of administration. Human Resources recommends eliminating the pay caps provided under SB 95 for these reasons and for consistency in new, temporary benefit administration during the pandemic.

All proposed benefits discussed in this item will be pro-rated for part-time employees as provided under FFCRA, ARPA and SB 95.

Prior Board Actions:

January 5, 2021 - Extension of Leave Benefits Provided by the Families First Coronavirus Response Act and Additional COVID-19 Leave Programs for County Employees

FISCAL SUMMARY

Expenditures	FY 20-21 Adopted	FY21-22 Projected	FY 22-23 Projected
Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures			
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
Total Sources			

Narrative Explanation of Fiscal Impacts:

The extension of EFMLEA benefits under the FFCRA and ARPA and implementation of SPSL as specified above

will be provided with existing budgeted funds.

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

Narrative Explanation of Staffing Impacts (If Required):

None.

Attachments:

Resolution

Attachment A: Emergency Family and Medical Leave Extension Act Benefit Extension and Implementation of Supplemental Paid Sick Leave

Related Items "On File" with the Clerk of the Board:

None.