



Legislation Text

File #: 2021-0533, **Version:** 1

To: Board of Supervisors

Department or Agency Name(s): Board of Supervisors

Staff Name and Phone Number: Tambra Curtis, Deputy County Counsel, 707-565-2421

Vote Requirement: 4/5th

Supervisory District(s): Countywide

Title:

Amendment and Extension of Local COVID-19 Paid Sick Leave Ordinance

Recommended Action:

Introduce, waive reading of, and adopt an Urgency Ordinance extending and amending Local COVID-19 Paid Sick Leave Ordinance 6336 (4/5th Vote Required)

Executive Summary:

On August 18, 2020, your Board enacted the Urgency Paid Sick Leave Ordinance No. 6320, which required that private employers with over 500 employees, including health care workers and first responders, afford employees with up to eighty (80) hours of paid sick leave benefits for the various COVID-19 reasons specified in the Ordinance. The Ordinance addressed gaps in coverage and ran concurrently with the Families First Coronavirus Response Act ("the FFCRA"), which expired on December 31, 2020. On January 26, 2021, your Board extended Ordinance No. 6320 through June 30, 2021, and directed County Counsel to draft a new ordinance that would provide supplemental paid sick leave to all employees within the unincorporated areas of the County, including those previously covered by the now-expired FFCRA. This Ordinance No. 6336, which was adopted by your Board on February 9, 2021, required all employers in the unincorporated areas of the County to allow their employees to use up to 80 hours of any unused paid leave benefits previously furnished to employees in 2020 for various COVID-19 sick purposes and/or for the care of the employee's immediate family member whose senior care provider or whose school or childcare provider was closed or was unavailable due to COVID-19 reasons.

In March, 2020, the federal American Rescue Plan Act was enacted, whereby employers who elect to afford their employees with the various COVID-19 specified leave benefits may be entitled to federal tax credits for such leave benefits. Under the American Rescue Plan Act, covered employees may be afforded with up to eighty (80) hours of paid COVID-19 sick and family and medical leave benefits from January 1, 2021 through September 30, 2021.

The State legislature enacted AB 85 and SB 95, which took effect on March 29, 2021, but is retroactive to January 1, 2021, and requires that covered employers offer eligible workers up to eighty (80) hours of supplemental paid sick leave through Sept. 30, 2021. Both the State and the Federal COVID-19 sick leave laws cover the original reasons specified in the FFCRA for which an employee could take COVID-19 paid sick leave, and add as additional bases leave when an employee has an appointment to receive a COVID-19 vaccine, and leave if the employee becomes ill after receiving a COVID-19 vaccine and cannot work or telework.

This proposed Ordinance amends Ordinance No. 6336, so as to align with the new State and Federal COVID-19 paid sick leave expiration dates, and adds the two new categories of vaccine-related benefits. It also affords covered employees with a new potential bucket of up to eighty (80) leave hours of paid leave benefits for full-time employees (pro-rated for part-time employees) that may be taken between January 1, 2021 through September 30, 2021 for the specified COVID-19 reasons. This Ordinance will become effective upon a 4/5ths vote from the Board of Supervisors, and will sunset on September 30, 2021.

Discussion:

Background of State, Federal, and Local COVID-19 Paid Sick Leave Benefits

On March 18, 2020, then-President Trump signed into law the Families First Coronavirus Response Act ("FFCRA"), which provided emergency paid sick leave to certain employees who were unable to work or telework due to the COVID-19 crisis. The mandatory provisions of the FFCRA expired December 31, 2020. Under the federal American Rescue Plan Act, employers who elect to afford their employees with the various COVID-19 specified leave benefits may be entitled to federal tax credits for such leave benefits.

On August 18, 2020, the Board enacted Ordinance No. 6320, which extended emergency paid leave to employees working in the unincorporated areas of the County who are employed by businesses with 500 or more employees on a local or national basis. Ordinance No. 6320 was tied to the expiration of the FFCRA, and thus expired on December 31, 2020.

On January 26, 2021, the Board extended Ordinance No. 6320 through June 30, 2021, and on February 9, 2021, adopted Ordinance No. 6336, which requires all employers in the unincorporated County to allow their employees the ability to use their accrued, unused 2020 supplemental paid sick leave balances through June 30, 2021.

AB 85 and SB 95 took effect on March 29, 2021, and offer eligible workers up to eighty (80) hours of supplemental paid sick leave through Sept. 30, 2021. The legislation is retroactive to Jan. 1, 2021. The legislation applies to businesses with more than 25 employees and covers California employees who are unable to work or telework for the following reasons:

- The employee must quarantine or isolate under an order or guidelines from certain state or local authorities or the U.S. Centers for Disease Control and Prevention (CDC).
- The employee has been advised by a health care provider to self-quarantine.
- The employee has an appointment to receive a COVID-19 vaccine.
- The employee is ill after receiving a COVID-19 vaccine and cannot work or telework.
- The employee has COVID-19 symptoms and is seeking a medical diagnosis.
- The employee is caring for a covered family member who needs to quarantine or isolate.
- The employee is caring for a child whose school or child care facility is closed or otherwise unavailable for reasons related to COVID-19 on the premises.

The Need for Continued Paid Sick Leave Coverage Benefits Afforded by this Ordinance

COVID-19 cases continue to impact our community, and there is a continued need to afford employees with paid sick leave and FMLA benefits as a result of the pandemic.

This proposed Ordinance will serve to amend Ordinance No. 6336 so that it will more closely mirror the leave

benefits afforded to employees in the most recent State and Federal COVID -19 paid sick leave laws by adding vaccination and sides effects from vaccination as additional covered bases, affording covered employees in the unincorporated areas of the County with a new up to eighty (80) hour bucket of leave (pro-rated for part-time employees and subject to potential off-sets), and extending coverage through September 30, 2021.

By mirroring the new buckets of COVID-19 leave afforded to employees under State and Federal law, and by extending the deadline for employees to use such leave benefits, this proposed Ordinance makes it more likely that employees will stay home from work when sick from COVID-19 and that employees will be able to care for their family and household members and ensure those family and household members stay home, thereby minimizing the spread of COVID-19 in the community. This proposed Ordinance also serves to provide economic protection to employees through September 30, 2021.

Scope of Changes to Ordinance 6336

This proposed Ordinance will serve to amend Ordinance No. 6336 as follows:

- **Expiration Date:** The expiration date shall be extended to September 30, 2021.
- **Additional Leave Benefit Hours and Offsets:** Covered employees shall be afforded a new bucket of up to eighty (80) hours of COVID-19 Supplemental Paid Sick Leave (pro-rated for part-time employees), that may be used between January 1, 2021 and September 30, 2021, subject to specified potential offsets to the extent equivalent benefits are provided to covered employees.
- **Permissible Bases for Receipt of the Benefit:** Employee COVID-19 vaccinations and side effects from such vaccinations will be added as eligible covered bases for the COVID-19 supplemental paid sick leave benefits.

It is recommended that your Board introduce, waive the reading of, and adopt the currently proposed Ordinance amending and extending Ordinance No. 6336 (Attachment A), to take effect immediately upon four-fifths approval and adoption. The Ordinance will serve to amend Ordinance No. 6336, and will sunset on September 30, 2021.

Prior Board Actions:

June 9, 2020 - Minute Order directing County Counsel to return with options for a local Emergency Sick Leave Ordinance.

August 6, 2020 -Your Board directed County Counsel to bring forward an urgency paid sick leave ordinance that incorporated the policy direction provided by the Board.

August 18, 2020 - Your Board adopted Urgency Paid Sick Leave Ordinance 6320.

January 5, 2021 - Your Board gave direction to County Counsel to bring forward an urgency ordinance that would extend the expiration deadline of Ordinance No. 6320, for further consideration by the Board.

January 26, 2021- Your Board extended Ordinance 6320 through June 30, 2021. Your Board also gave direction to County Counsel to bring back a new Ordinance.

February 9, 2021 - Your Board adopted Urgency Paid Sick Leave Ordinance 6336.

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:

There are no financial impacts to the County.

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

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

Draft Urgency Ordinance Amending the County's Urgency COVID-19 Paid Sick Leave Ordinance (Ordinance No. 6336) to Supplement and Extend the Ordinance's Expiration to September 30, 2021.

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

Ordinance No. 6336