



Memorandum

TO: RULES AND OPEN
GOVERNMENT COMMITTEE

FROM: Mayor Sam Liccardo

SUBJECT: SICK LEAVE ORDINANCE

DATE: March 24, 2020

APPROVED:

DATE: 3/24/20

RECOMMENDATION

Direct the City Manager to ensure that the City fills gaps in the Families First Corona Virus Response Act (FFCRA) to protect the public health and safety, by:

1. Return at the next Council meeting to enact, pursuant to the City's emergency powers, an urgency ordinance that requires employers that are lawfully permitted to continue operations under the County and State stay-home mandates to provide sick leave of:
 - An immediate grant of 40 hours of sick leave;
 - An additional hour of sick leave for every two hours worked, up to a cap of 80 hours sick leave is reached; until the expiration of the City's state of emergency.
2. The following employers will be exempt from this mandate:
 - Any employer that has already enacted a policy that provides a maximum paid personal leave of at least 160 hours, including PTO & Vacation (or some other level that staff has deemed to be substantially higher than standard comprehensive leave caps for California employers);
 - Any employer not permitted to operate or employ people at a California work site pursuant to current State/County public health mandates;
3. Staff should further consider and propose to Council whether to impose a lower cap or exemption for small employers, at a threshold it shall propose to Council, after consultation with public health officials or experts.
4. Any proposal for imposition of sick leave mandates in the City of San Jose beyond the duration of the State of Emergency should be referred to the Council's standard prioritization process, for staff and Council to evaluate, and to allow for input from the public and our employers.

5. Direct the City Manager, through the Office of Economic Development, to
 - Ensure that all small and medium-sized businesses receive, along with any outreach relating to this requirement, information about
 - eligibility for federal tax credits made available through recent legislation that will offset the cost of the federal and local mandate,
 - Small Business Administration loans,
 - no-interest loans through SiliconValleyStrong funds, and other federal and state and philanthropic programs;

Create a process by which the City can rapidly notify San Jose residents of those necessary-service employers—such as Costco, Safeway, or residential construction contractors—that are hiring in light of current shifts in the economy under the recent mandates, through the SiliconValleyStrong.org website, Work2Future, and other recognized communication channels.

DISCUSSION

I thank Councilmembers Esparza, Carrasco, and Arenas for their work on this initiative. Our current State of Emergency and the public health threat posed by infected workers makes it imperative that we minimize the risk at businesses that provide essential services and functions so that employees do not have to choose between foregoing a paycheck and showing up sick for work. It is a critical matter of public safety and health that we ensure that ill employees stay home.

The proposal today offers sick leave to employees not covered by Congress' recent Families First Coronavirus Response Act (i.e., of employers of greater than 500 and fewer than 50 employees), and far in excess of the 24 hours mandated by the State of California, or by other major California cities (at most, 40 hours/ 72 hours, depending on the size of the employer). The need for 80 hours arises from the data available to us about the roughly two-week latency and duration of a typical COVID-19 illness.

Fortunately, many of our large employers already provide generous benefits and sick leave, and will not be affected by this mandate, but small employers will need help. Recent federal legislation offers a 1:1 offset for tax credits for small businesses precisely for this purpose, and we should take advantage of that legislation to support our businesses' costs of keeping our residents safe and healthy.

We are mindful of the extraordinary financial burden faced by small businesses today, many of which are teetering on the edge of bankruptcy, and most are facing the brutally difficult decision of laying off many employees. The intent of this memorandum is to provide additional protections for employees while also connecting businesses to a variety of resources to offset the cost of this mandate, such as federal tax credits, SBA low-cost loans, and other grants and/or loans.

HONORABLE MAYOR AND CITY COUNCIL

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Unfortunately, some of these resources may not provide immediate relief for businesses, particularly restaurants. In response, staff will work with small businesses to identify gaps in assistance and promote programs that generate revenue and offset costs, such as through our partnership with DoorDash to help restaurants move seamlessly to delivery-based model. We are grateful to donors like Apple and Google for the dollars we are able to provide for assistance through our local SiliconValleyStrong small business loan program to help our small businesses.

The larger question of imposing a more permanent sick-leave mandate should be referred to standard prioritization process for proposals requiring substantial analysis, community input, and consumption of staff time. At this perilous moment, all of our staff time and energy must be focused wholly on addressing the current crisis.