

**Sherwood Special Committee – Sick Leave – First Draft**

*The City of Sherwood ordains as follows:*

Section 1. Title 5 of the Sherwood Municipal Code is hereby amended by adding Chapter 5.32 to read as follows:

**TITLE 5 – Business License and Regulation**

**Chapter 5.32 Protected Sick Time**

**5.32.010 Purpose.** The purpose of this Chapter is to promote a sustainable, healthy, and productive workforce by establishing minimum standards for Employers to provide sick leave and to ensure that all persons working in the City will have the right to earn and use paid sick time. Allowing employees to earn and take sick time will maintain a healthy workforce and promote a vibrant, productive, and resilient City. It is the City’s aspiration that all persons working in the City will be provided the right to earn and use paid sick time.

**5.32.020 Definitions.**

For purposes of this Chapter, the following definitions apply:

- A. “City” means the City of Sherwood as defined in Section 3 of the Sherwood City Charter.
- B. “BOLI Commissioner” means the Commissioner of the Bureau of Labor and Industries (BOLI) of the State of Oregon as established by ORS 651.020.
- C. “Employee” means an individual who has worked at least 240 hours in a calendar year within the geographic boundaries of the City, and is:
  - 1. An “Employee” under ORS 652.210 (1); or
  - 2. Employed as defined in ORS 653.010 (2);
  - 3. Engaged in work activity as a condition of receiving public assistance; or
  - 4. A home care worker as defined under ORS 410.600(8)
- D. “Employee” does not include:
  - 1. Independent contractors;
  - 2. Those who are participating in a work study program under 42 U.S.C. Chapter 2753; or
  - 3. Railroad workers exempted under the Federal Railroad Insurance Act (45 USC 363).
- E. “Employer” means the same as that term is defined in ORS 653.010(3), but does not include:

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1. The United States Government; or
  2. The State of Oregon, including any office, department, agency, authority, institution, association, society or other body of the state, including the legislature and the judiciary; or
  3. Any political subdivision of the State of Oregon or any county, city, district, authority, public corporation or public entity other than the City.
- F. "Family Member" means the same as that term is defined in ORS 659A.150 (4) and includes domestic partners as defined under ORS 106.310.
- G. "Health Care Provider" means the same as that term is defined in ORS 659A.150 (5).
- H. "Paid Time Off" or PTO is a bank of time provided by an Employer to an Employee that an Employee can use to take paid time off from work, without having to specify a reason.
- I. "Sick Time" means time that has been accrued and may be used by an Employee under this chapter, and that is calculated at the same hourly rate and with the same benefits, including health care benefits, as the Employee normally earns during hours worked and is provided by an Employer to an Employee at the accrual rate described in Section 5.32.030.
- J. "Sick Leave" means time off from work using Sick Time.
- K. "Retaliatory Personnel Action" means:
1. Any threat, discharge, suspension, demotion, other adverse employment action against an Employee for the exercise of any right guaranteed under this Chapter; or
  2. Interference with, or punishment for, participating in any manner in an investigation, proceeding or hearing under this Chapter.
  3. Adverse employment actions based on Sick Leave use not covered in this Chapter are not Retaliatory Personnel Actions.

#### **5.32.030 Accrual of Sick Time.**

- A. Employers with a minimum of 6 Employees shall provide Employees with a minimum of one hour of paid Sick Time for every 30 hours of work performed by the Employee, except as otherwise provided in this Chapter.
- B. Employers with a maximum of 5 Employees shall provide Employees with a minimum of one hour of unpaid Sick Time for every 30 hours of work performed by the Employee, except as otherwise provided in this Chapter.
- C. Employees who are paid base wage plus piece rate, tips or commission shall accrue and be paid Sick Leave based on the base wage.
- D. Salaried executive, administrative or professional Employees under the federal Fair Labor Standards Act or the state minimum wage and overtime laws will be presumed to work 40 hours

in each work week for purposes of earning and accruing Sick Time unless their normal work week is less than 40 hours, in which case Sick Time is earned and accrued based upon that normal work week.

- E. Employees who travel to the City and make a stop as a purpose of conducting their work accrue benefits under this Chapter only for the hours they are paid to work within the City.
- F. Employees may accrue a maximum 40 hours of Sick Time in a calendar year, unless the Employer provides, or is contractually obligated to provide, more. Sick time equivalent to this amount may be given at the beginning of a calendar year to meet this requirement for accrual.
- G. Sick Time accrued by an Employee that is not used in a calendar year may be used by the Employee in the following calendar years. An Employer is not required to allow an Employee to carry over accrued hours in excess of 40 hours.
- H. If an Employee is transferred by an Employer to a separate division, entity or location of the Employer within the City, the Employee is entitled to all Sick Time accrued at the prior division, entity or location and is entitled to transfer and use all Sick Time as provided in this Chapter. If a Sick Time equivalent is given at the beginning of a calendar year, in accordance with subsection G of this section, the Employer is not required to allow an Employee to carry over accrued hours.
- I. Accrued Sick Time shall be retained by the Employee if the Employer sells transfers or otherwise assigns the business to another Employer and the Employee continues to work in the City.
- J. An Employer shall provide previously accrued and unused Sick Time to an Employee who is rehired by that Employer within six months of separation from that Employer. The Employee shall be entitled to use previously accrued Sick Time immediately upon re-employment.
- K. An Employer with a minimum of 6 Employees who provides a minimum of 40 hours in a calendar year of paid time off through a PTO policy, or an Employer with a maximum of 5 Employees who provides a minimum of 40 hours per calendar year of unpaid time off that can be used under the same provisions of this Chapter is not required to provide additional Sick Time.
- L. Sick Time will begin to accrue for Employees who are employed on the date this ordinance takes effect on the effective date. New Employees shall begin accruing Sick Time on commencement of employment.
- M. An Employer with a Sick Leave or PTO policy in effect that provides the Employee with accrual of Sick Time that equals or exceeds the requirements of this Section is compliant with this section.

#### **5.32.040 Use of Sick Time.**

- A. An Employee may use Sick Time for the following qualifying absences:
  - 1. Diagnosis, care, or treatment of the Employee's, or the Employee's Family Member's, mental or physical illness, injury or health condition including, but not limited to, pregnancy, childbirth, post-partum care and preventive medical care;

2. Purposes described in ORS 659A.272 Domestic Violence, Harassment, Sexual Assault or Stalking.
  3. An absence from work due to:
    - a. Closure of the Employee's place of business, or the school or place of care of the Employee's child, by order of a public official due to a public health emergency;
    - b. Care for a Family Member when it has been determined by a lawful public health authority or by a Health Care Provider that the Family Member's presence in the community would jeopardize the health of others; or
    - c. Any law or regulation that requires the Employer to exclude the Employee from the workplace for health reasons.
- B. An Employee may use Sick Time:
1. In increments of one hour, unless a lesser time is allowed by the Employer.
  2. To cover all or part of a shift.
  3. To cover a maximum of 40 hours per calendar year, unless otherwise allowed by the Employer or as provided by law.
- C. An Employee may not use Sick Time:
1. If the Employee is not scheduled to work in the City on the shift for which leave is requested;  
or
  2. During the first 90 calendar days of employment, unless the Employer allows use at an earlier time.
- D. Except as allowed under subsection 5.32.040 F, an Employee, when absent from work for a qualifying reason under subsection 5.32.040 A, shall use accrued Sick Time hours on the first day and each subsequent day of absence until all accrued time has been used.
- E. An Employer may not require the Employee to:
1. Search for or find a replacement worker as a condition of the Employee's use of Sick Time.
  2. Work an alternate shift to make up for the use of Sick Time.
- F. If the Employer allows shift trading, and if an appropriate shift is available, then the Employer shall allow the Employee to trade shifts instead of using Sick Time.
- G. Employers shall establish a written policy or standard for an Employee to notify the Employer of the Employee's use of Sick Time, whether by calling a designated phone number or by using

another reasonable and accessible means of communication identified by the Employer for the Employee to use.

- H. The Employee shall notify the Employer of the need to use Sick Time, by means of the Employer's established policy or standard, before the start of the employee's scheduled work shift or as soon as practicable.
- I. When the need to use Sick Time is foreseeable, the Employee shall provide notice to the Employer by means of the Employer's established policy or standard as soon as practicable, and shall make a reasonable effort to schedule the Sick Leave in a manner that does not unduly disrupt the operations of the Employer. The Employee shall inform the Employer of any change to the expected duration of the Sick Leave as soon as practicable.
- J. For absences of more than 3 consecutive days, an Employer may require reasonable documentation that Sick Time has been used for one of the purposes listed in Subsection 5.32.040 A, including but not limited to:
  - 1. Documentation signed by a licensed Health Care Provider;
  - 2. Documentation for victims of domestic violence, harassment, sexual assault or stalking as provided in ORS 659A.280 (4); or
  - 3. A signed personal statement that the Sick Leave was for a purpose covered by Section 5.32.040.
- K. If an Employer chooses to require documentation of the purpose for the use of Sick Time, the Employer shall pay the cost of any verification by the Health Care Provider that is not covered by insurance or another benefit plan as provided in ORS 659A.168 (2).
- L. Employers suspecting Sick Leave abuse, including patterns of abuse, may require documentation from a licensed Health Care Provider verifying the Employee's need for leave at the Employee's expense. Indication of patterns of abuse may include but are not limited to, repeated use of unscheduled Sick Time on or adjacent to weekends, holidays, or vacation, pay day, or when mandatory shifts are scheduled.
- M. Nothing in this Chapter requires an Employer to compensate an Employee for accrued unused Sick Time upon the Employee's termination, resignation, retirement, or other separation from employment.
- N. An Employer with a Sick Time or PTO policy in effect that provides the Employee with use of Sick Leave that equals or exceeds the requirements of this Section is compliant with this section.

**5.32.050 Exercise of Rights Protected; Retaliation Prohibited.**

- A. It shall be unlawful for an Employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this Chapter.
- B. An Employer shall not take Retaliatory Personnel Action or discriminate against an Employee because the Employee has exercised rights protected under this Chapter.

- C. Retaliatory Personnel Action shall not be taken against any person who mistakenly, but in good faith, alleges violations of this Chapter.
- D. It shall be a violation for an Employer's absence control policy to count earned Sick Leave covered under this Chapter as an absence that may lead to or result in an adverse employment action against the Employee.

**5.32.060 Notice and Posting.**

- A. Employers shall provide and post notice of Employee rights under this Chapter. The notice shall be in English and other languages used to communicate with the Employer's workforce. The City may contract with the Bureau of Labor and Industries to create and disseminate the required poster. The City shall provide a template for the notice.
- B. In addition to providing Employees with written notice, Employers may comply with posting requirements of this section by displaying a poster in a conspicuous and accessible place in each establishment where Employees are employed.
- C. An Employer who knowingly violates the notice and posting requirements of this section may be subject to a civil fine as provided in administrative rules.
- D. Fines shall not be assessed against any Employer who mistakenly, but in good faith, violates this Section.

**5.32.070. Employer Records.**

Employers shall retain records documenting hours worked, and Sick Time accrued and used by Employees, for a period of at least two years as required by ORS 653.045(1). Employers shall allow access to such records by BOLI or other agency authorized to enforce this Chapter.

**5.32.080 Administrative Rules Implementing this Chapter.**

- A. The City Attorney may adopt rules, procedures and forms to assist in the implementation of the provisions of this Chapter.
- B. All rules adopted to implement this Chapter shall be subject to a public review process.
- C. Not less than ten or more than thirty days before such public review process, a notice shall be published in a newspaper of general circulation and sent to stakeholders who have requested notice. The notice shall include the place and time, when the rules will be considered and the location at which copies of the full text of the proposed rules may be obtained.
- D. The duration of public review process shall be a minimum of 21 calendar days from the date of notification for written comment.
- E. During the public review process a designee of the City shall hear testimony or receive written comment concerning the proposed rules.
- F. The City shall review and consider the comments received during the public review process, and

shall either adopt, modify, or reject the proposed rules.

- G. Unless otherwise stated, all rules shall be effective 60 days after adoption by the City Attorney and shall be filed in the office of the City Recorder.
- H. Notice of changes in Administrative Rules shall be published in a newspaper of general circulation, sent to stakeholders who have requested notice and posted on the BOLI and City web sites.

#### **5.32.090 Enforcement.**

- A. The City may contract with BOLI to enforce this Chapter.
- B. Pursuant to agreement between BOLI and the City, enforcement may be governed by the procedures established pursuant to ORS 659A.800 *et seq.*, ORS Chapter 652 or ORS Chapter 653, or such other procedures as may be agreed upon by BOLI and the City. Rules adopted by the City pursuant to Section 5.32.090 of this Chapter may also be used to implement enforcement and administration of this Chapter.
- C. Pursuant to agreement between BOLI and the City, any person claiming to be aggrieved by an unlawful employment practice under this Chapter may file a complaint with BOLI under procedures established under ORS 659A.820, ORS Chapter 652 or ORS Chapter 653, or such other procedures as BOLI or the City may establish for taking complaints which shall include options for resolution of complaints through such means as mediation.
- D. Pursuant to agreement, BOLI shall have the same enforcement powers with respect to the rights established under this Chapter as are established under ORS 659A.820 *et seq.*, ORS Chapter 652 and ORS Chapter 653, and if the complaint is found to be justified, the complainant may be entitled to any remedies provided under ORS 659A.850 *et seq.*, ORS Chapter 652 and ORS Chapter 653 and their implementing regulations and any additional remedies, provided that those remedies are specified in the agreement between the City and the BOLI Commissioner.
- E. Any person claiming to be aggrieved by a violation of this Chapter shall have a cause of action for damages and such other remedies as may be appropriate. Election of remedies and other procedural issues relating to the interplay between administrative proceedings and private rights of action shall be handled as provided for in ORS 659A.870 *et seq.* The court may grant such relief as it deems appropriate.

#### **5.32.100 Confidentiality and Nondisclosure.**

- A. If the Employer obtains health information about an Employee or Employee's Family Member, such information shall be treated as confidential to the extent provided by law.
- B. All records and information kept by an Employer regarding an Employee's request or use of Sick Time under subsection 5.32.040 (A)(2) shall be confidential as described in ORS 659A.280(5).

#### **5.32.110 Other Legal Requirements.**

This Chapter provides minimum requirements pertaining to Sick Time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or

standard that provides for greater accrual or use by Employees of Sick Time, whether paid or unpaid, or that extends other protections to Employees.

**5.32.120 Public Education and Outreach.**

The City shall develop and implement an outreach program to inform Employers and Employees about the requirements for Sick Time under this Chapter.

**5.32.130 Severability.**

If any provision of this Chapter or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or application of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared severable.

**5.32.140 Application.**

This Chapter is effective January 1, 2014.

**652.210 Definitions for ORS 652.210 to 652.230.** As used in ORS 652.210 to 652.230, unless the context requires otherwise:

(1) “Employee” means any individual who, otherwise than as a copartner of the employer, as an independent contractor or as a participant in a work training program administered under the state or federal assistance laws, renders personal services wholly or partly in this state to an employer who pays or agrees to pay such individual at a fixed rate. However, when services are rendered only partly in this state, an individual is not an employee unless the contract of employment of the employee has been entered into, or payments thereunder are ordinarily made or to be made, within this state.

**653.010 Definitions for ORS 653.010 to 653.261.** As used in ORS 653.010 to 653.261, unless the context requires otherwise:

(2) “Employ” includes to suffer or permit to work but does not include voluntary or donated services performed for no compensation or without expectation or contemplation of compensation as the adequate consideration for the services performed for a public employer referred to in subsection (3) of this section, or a religious, charitable, educational, public service or similar nonprofit corporation, organization or institution for community service, religious or humanitarian reasons or for services performed by general or public assistance recipients as part of any work training program administered under the state or federal assistance laws.

(3) “Employer” means any person who employs another person including the State of Oregon or a political subdivision thereof or any county, city, district, authority, public corporation or entity and any of their instrumentalities organized and existing under law or charter.

**ORS 659A.150(4).**

(4) “Family member” means the spouse of an employee, the biological, adoptive or foster parent or child of the employee, the grandparent or grandchild of the employee, a parent-in-law of the employee or a person with whom the employee was or is in a relationship of in loco parentis.

**106.310 Definitions for ORS 106.300 to 106.340.** As used in ORS 106.300 to 106.340 (Oregon Family Fairness Act):

(1) “Domestic partnership” means a civil contract described in ORS 106.300 to 106.340 entered into in person between two individuals of the same sex who are at least 18 years of age, who are otherwise capable and at least one of whom is a resident of Oregon.

(2) “Partner” means an individual joined in a domestic partnership. [2007 c.99 §3; 2009 c.561 §1]

**ORS 659A.150(5).**

(5) “Health care provider” means:

(a) A person who is primarily responsible for providing health care to an eligible employee or a family member of an eligible employee, who is performing within the scope of the person’s professional license or certificate and who is:

(A) A physician licensed to practice medicine under ORS 677.110, including a doctor of osteopathy;

(B) A podiatrist licensed under ORS 677.825;

- (C) A dentist licensed under ORS 679.090;
  - (D) A psychologist licensed under ORS 675.030;
  - (E) An optometrist licensed under ORS 683.070;
  - (F) A naturopath licensed under ORS 685.080;
  - (G) A registered nurse licensed under ORS 678.050;
  - (H) A nurse practitioner certified under ORS 678.375;
  - (I) A direct entry midwife licensed under ORS 687.420;
  - (J) A licensed registered nurse who is certified by the Oregon State Board of Nursing as a nurse midwife nurse practitioner;
  - (K) A regulated social worker authorized to practice regulated social work under ORS 675.510 to 675.600; or
  - (L) A chiropractic physician licensed under ORS 684.054, but only to the extent the chiropractic physician provides treatment consisting of manual manipulation of the spine to correct a subluxation demonstrated to exist by X-rays.
- (b) A person who is primarily responsible for the treatment of an eligible employee or a family member of an eligible employee solely through spiritual means, including but not limited to a Christian Science practitioner.

**659A.272 Employer required to provide leave.** Except as provided in ORS 659A.275, a covered employer shall allow an eligible employee to take reasonable leave from employment for any of the following purposes:

- (1) To seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or the employee's minor child or dependent, including preparing for and participating in protective order proceedings or other civil or criminal legal proceedings related to domestic violence, harassment, sexual assault or stalking.
- (2) To seek medical treatment for or to recover from injuries caused by domestic violence or sexual assault to or harassment or stalking of the eligible employee or the employee's minor child or dependent.
- (3) To obtain, or to assist a minor child or dependent in obtaining, counseling from a licensed mental health professional related to an experience of domestic violence, harassment, sexual assault or stalking.
- (4) To obtain services from a victim services provider for the eligible employee or the employee's minor child or dependent.
- (5) To relocate or take steps to secure an existing home to ensure the health and safety of the eligible employee or the employee's minor child or dependent. [2007 c.180 §3; 2011 c.687 §2]

**ORS 659A.168(2).**

(2) A covered employer may require medical verification for leave taken for the purpose described in ORS 659A.159 (1)(d) only after an employee has taken more than three days of leave under ORS 659A.159 (1)(d) during any one-year period. Any medical verification required under this subsection must be paid for by the covered employer. An employer may not require an employee to obtain the opinion of a second health care provider for the purpose of medical verification required under this subsection.

**653.045 Records to be kept by employers; itemization of deductions from wages.**

- (1) Every employer required by ORS 653.025 or by any rule, order or permit issued under

ORS 653.030 to pay a minimum wage to any of the employer's employees shall make and keep available to the Commissioner of the Bureau of Labor and Industries for not less than two years, a record or records containing:

- (a) The name, address and occupation of each of the employer's employees.
- (b) The actual hours worked each week and each pay period by each employee.
- (c) Such other information as the commissioner prescribes by the commissioner's rules if necessary or appropriate for the enforcement of ORS 653.010 to 653.261 or of the rules and orders issued thereunder.



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## Portland Adopts Mandatory Sick Leave Law

Labor & Employment, Employee Benefits & Executive Compensation, Tax, Benefits & Compensation

03.27.2013

Portland has become just the fourth U.S. city to require that employers provide sick leave. The Portland ordinance goes into effect January 1, 2014. Following is a brief summary of the ordinance. As the effective date approaches, we will provide updates dealing with the many traps and reporting difficulties created by the ordinance.

### Who Is Covered?

The ordinance covers any employee who works more than 240 hours per year in Portland. This includes anyone who travels to the City of Portland to work, who works in an office in Portland or who makes a stop in the city. However, an employee can use Portland sick time (PST) only for work in Portland.

The employer does not need to be based in Portland or in Oregon for the coverage to apply.

### Required Sick Time

**Employers with five or fewer employees** will be required to provide one hour of unpaid PST for every 30 hours worked.

**Employers with six or more employees** will be required to provide one hour of paid PST for every 30 hours worked.

Employees can accrue 40 hours of PST per year. An employee may carry over the PST, but the total bank of PST cannot exceed 40 hours in a calendar year.

Accrued but unused PST does not need to be paid out upon termination of employment. The ordinance does require, however, that employees be allowed to carry PST over to their new employer if the business is purchased and the employee continues to work in Portland.

### Safe Harbor

Employers will not be required to provide additional PST under the ordinance if the employer already provides time-off benefits, such as sick time or paid time off, at least equivalent to those provided under the Portland ordinance.

In addition, unionized employers can negotiate a waiver of rights under the ordinance as long as the collective bargaining agreement provides for paid time off that is at least equal to the requirements of the ordinance.

### Use of Sick Time

Employees will begin to accrue PST beginning January 1, 2014. New hires after that date will begin to accrue PST 90 days after they begin employment.

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Any employee who has worked 240 hours in the City of Portland and has accrued sick time will be able to use that PST. Employees may use up to 40 hours per year of PST in one hour increments. PST may be used for:

- Treatment of mental or physical illness, injury or health condition, including pregnancy, childbirth, postpartum care and preventive medical care, of an employee or the employee's family member;
- Leave provided for domestic violence, harassment, sexual assault or stalking under Oregon law; and
- Leave required because:
  - The employer's business or an employee's child's school or place of care closes for a public health emergency;
  - A family member is determined to be a risk to the health of others and needs assistance; or
  - The employer is required by state law or regulation to exclude the employee from the workplace for health reasons.

### **Notice Requirements**

Employers must create a contact protocol in the form of a telephone number or other reasonable means of communication through which an employee can give notice of a need for PST leave. Employers also must post a notice of the requirements of the ordinance.

For unforeseeable leave, an employee must provide notice before the start of a shift or as soon as possible. If possible, the employee should tell the employer how long the leave is expected to last.

For foreseeable leave, the employee should provide notice as soon as possible and make a reasonable attempt to schedule the leave in a manner that does not disrupt the operations of the employer.

### **Verification**

Employers may require verification of the need for leave in order to investigate a pattern of usage of unscheduled sick time, such as taking PST on Fridays.

If an employee is absent for more than three consecutive days on PST, the employer can require documentation that the PST was used for one of the ordinance's required purposes.

### **What Do I Need to Do Now?**

Employers should start planning for the ordinance even though it does not become effective until January 1, 2014. This can include such things as:

- Revisiting current paid time off policies to determine whether they meet the requirements of the ordinance.
- Creating a contact protocol for leave purposes.
- For unionized employers, outlining plans to negotiate with their unions regarding a potential waiver of rights under the sick leave ordinance. These employers may also want to seek legal guidance

regarding the attempt by the City of Portland to regulate sick leave requirements in a collective bargaining agreement.

**Important Note:** *This Update only highlights the Portland City Ordinance. It is not a complete discussion of the potential compliance issues that a given employer might face. It is also not intended to be, and should not be used as a substitute for, specific legal advice. Legal opinions may be given only in response to inquiries regarding specific factual situations. Subsequent legal developments may affect some of the legal standards and principles discussed. If legal advice is required, the services of counsel should be sought.*

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# Employers' Perspectives on San Francisco's Paid Sick Leave Policy

*Shelley Waters Boots, Karin Martinson,  
and Anna Danziger*

**Low-Income Working Families**  
Paper 12

*March 2009*



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This report is part of the Urban Institute's Low-Income Working Families project, a multiyear effort that focuses on the private- and public-sector contexts for families' success or failure. Both contexts offer opportunities for better helping families meet their needs.

The Low-Income Working Families project is currently supported by The Annie E. Casey Foundation and The John D. and Catherine T. MacArthur Foundation.

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# EMPLOYERS' PERSPECTIVES ON SAN FRANCISCO'S PAID SICK LEAVE POLICY

Over the past several years, paid sick leave has become an important issue on the policy stage.<sup>1</sup> A 2004 report by the Institute for Women's Policy Research helped thrust sick leave into the spotlight when it found that 49 percent of all workers were unable to take paid sick leave for themselves or for sick family members (Lovell 2004). Other research has confirmed that an even greater share of the workforce—54 percent—cannot take time off from work to care for sick children without losing pay or using vacation time (Galinsky, Bond, and Hill 2004). Eighty-three percent of workers go to work when they are ill, and 21 percent do so explicitly to save their sick leave to stay home when their children are sick (ComPsych Corporation 2007).

A key finding in much of this research is that low-income workers often lack access to paid time off. In fact, data from nationally representative samples show that high-wage employees are more than twice as likely as low-wage employees to be able to take time off without penalties to care for their sick children (Galinsky et al. 2004). According to the Labor Department, private-sector workers making less than \$15 an hour are less likely than higher-paid workers to have access to any paid sick time, paid vacation time, or paid personal time (U.S. Bureau of Labor Statistics 2007). Children in low-income families are also much less likely to have a parent with paid sick leave than children in higher-income families, even among families with two employed parents (Clemans-Cope et al. 2008).

To address this lack of paid sick leave, several jurisdictions have implemented or are considering a new labor standard that would require employers to provide paid sick leave. The city of San Francisco was the first to pass such a law in 2006, but it is by no means alone in its efforts. In March 2008, the District of Columbia became the second locality to pass a mandate on employers guaranteeing paid sick leave to

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workers. The bill is modeled after the San Francisco ordinance, but it differs on several details. Milwaukee, Wisconsin, voters also passed a sick leave mandate in November 2008. In addition, the federal government as well as other states and localities have introduced legislation on this issue (box 1).

A growing body of research shows the benefits to employees of having access to paid sick leave. In particular, the public health benefits appear strong; paid sick leave helps reduce the spread of infectious diseases, such as influenza, and hospitalizations and health care costs for preventable chronic conditions (Bhatia 2007; Hartmann 2007). One analysis finds that workers with preventable chronic conditions have less access to paid sick leave, suggesting that workers with greater medical care needs face an additional barrier to addressing their illnesses (Bhatia et al. 2008).

Information on the business impacts of providing paid sick leave is more limited. To be sure, many employers already provide sick leave benefits to some of or all their employees, in part because of benefits to their business. For example, the availability of paid sick leave has been linked to reduced voluntary and involuntary job turnover for employers (Cooper and Monheit 1993; Dodson, Manuel, and Bravo 2002; Earle and Heymann 2002; Heymann 2000). In addition, the provision of paid sick leave appears to improve business productivity by limiting “presenteeism,” or when employees work while ill, and ensuring that workers are healthier while on the job (CCH Incorporated 2003; Goetzel et al. 2004; Hemp 2004; Lovell 2004).

However, mandated employer benefits increase labor costs for businesses, which can lead to employer actions to minimize or offset these costs. A large body of research on employer mandates shows that businesses will generally pass on any increased costs to their employees, through reduced wages and benefits, or to their customers, through increased prices. To minimize costs, employers may also reduce workers’ hours to avoid workers’ benefits from accruing, or maintain lower staffing levels than they otherwise would, for example by reducing the number of employees. This is particularly likely for employers with a minimum-wage labor force, who face wage rigidity (Summers 1989). An initial look at San Francisco’s employment rate in the year following implementation showed that the city “maintained a competitive job growth rate” (Lovell and Miller 2008, 1). However, a paid sick leave requirement has unknown longer-term implications. The Institute for Women’s Policy Research has analyzed potential costs and benefits of paid sick leave policies and predicts a net savings for employers, employees and their families, and society (Lovell and Miller 2005). The National Federation of Independent Business, on the other hand, estimates major job losses and lost sales revenue associated with sick leave requirements (Phillips 2008a, 2008b).

*BOX 1. Paid Sick Leave Policy Initiatives, 2008*

*Local legislation introduced*

Philadelphia, PA

*State legislation introduced*

Alaska, California, Connecticut, Illinois, Maine, Massachusetts, Minnesota, North Carolina, Ohio, Pennsylvania, Vermont, and West Virginia

*Federal legislation introduced*

The Healthy Families Act was introduced in March 2007 by Senator Kennedy in the Senate and Representative DeLauro in the House of Representatives.

Source: National Partnership for Women and Families, “In the States,” [http://www.nationalpartnership.org/site/PageServer?pagename=psd\\_toolkit\\_map\\_states](http://www.nationalpartnership.org/site/PageServer?pagename=psd_toolkit_map_states).

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## San Francisco Ordinance and Context

The San Francisco Paid Sick Leave Ordinance (PSLO) passed as Proposition F by a ballot initiative sponsored by the San Francisco Board of Supervisors in November 2006. It amended the city's administrative code by mandating that all employers grant their employees working in the city a minimum amount of paid sick leave. This law is notable in that it provides time off for health-related needs for the worker as well as the workers' family members or other "designated person." In addition, the law passed in San Francisco applies to all employers in the city, regardless of the size of the employer, and to all employees—part-time, full-time, and even temporary workers. The effective start date of the legislation was June 6, 2007. Additional details of the PSLO are explained in box 2.

The ordinance provided sick leave to an estimated 115,800 additional private-sector workers in San Francisco. These workers were eligible by the law's provisions but previously lacked access to any paid sick days. Overall, an estimated one-quarter of the city's private-sector workforce gained paid sick leave through the ordinance (Lovell 2006).

Two additional employer mandates implemented around the same time as the paid sick leave ordinance—a minimum wage increase (to \$9.36, a rate \$3.51 higher than the federal minimum wage, and \$1.36 higher than the state minimum wage, at the time the site visit was conducted) and a health insurance expenditure requirement—shaped employers' perspectives on San Francisco's business climate. It is important

### *BOX 2. San Francisco Paid Sick Leave Ordinance*

**The law:** The San Francisco Paid Sick Leave Ordinance (PSLO) requires that all employers provide paid time for employees to take sick leave for themselves when they are ill or injured, or to receive medical care, treatment, or diagnosis. Employees can also take time to care for a family member or for a previously registered designated person if the employee has no spouse or registered domestic partner.

Employers with fewer than 10 employees must provide at least five days (40 hours) a year of paid sick leave; employers with more than 10 employees must provide nine days (72 hours) a year.

Sick leave accrues at 1 hour of paid time for every 30 hours worked, after an initial probation period of 90 days for new employees. There is a cap on the amount of hours an employee may accrue (40 hours for firms with fewer than 10 employees, and 72 hours for larger employers), but sick leave may carry over from year to year.

**Effective date:** PSLO went into effect on February 5, 2007, 90 days after the ballot vote. In March 2007, the Board of Supervisors established a 120-day transition period in which employees were still able to accrue paid sick leave, but employers were not required to pay for any sick time used. This transition period was created to provide some extra time for employers and city officials to address implementation questions.

**Who is eligible:** The law applies to all employees working within the city, including part-time and temporary employees.

**Enforcement:** PSLO is enforced through employee complaints that can be filed with the city's Office of Labor Standards and Enforcement.

**Other issues:** Employers who already have paid leave policies that meet the requirements of the law do not have to provide additional paid sick leave. Employers governed by collective bargaining agreements are exempt from any requirements if the collective bargaining agreement explicitly waives them.

**Recordkeeping:** The ordinance also requires employers to maintain records of employees' hours worked and the amount of paid sick leave accrued and used for four years.

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to consider the effects of these additional mandates in interpreting the study findings. Box 3 describes these additional labor standards in San Francisco.

### About This Study

Despite the body of research outlining the benefits of paid sick leave as well as research on employer and employment effects of benefit mandates more generally, none of the research to date has examined the experiences of employers implementing the new law. Given that San Francisco has passed the nation's first paid sick leave mandate, the results of this study should help other states and localities as they consider enacting this type of law.

To that end, we examined how the new paid sick leave law affected 26 employers during the initial implementation period. The study focused on how the law affected their costs, staffing, and overall operations; whether it caused them to alter wages or other benefits provided, or the costs of their services or products; and whether it had noticeably affected employee retention or morale. Interviews were conducted in March 2008, approximately nine months after the law became effective.

In selecting employers to include in the study, we focused on those that had changed their personnel policies to comply with the ordinance. We sought to include a wide range of employers with at least some low-wage workers (paying \$15 an hour or less). Participants were identified via employer associations and groups, nonprofit organizations, Internet searches, and discussions with local experts.

The study team conducted 20 in-person or telephone interviews and held two focus groups with 6 additional employers. Respondents were business owners, human resources managers, or public policy direc-

#### *BOX 3. Additional California and San Francisco Employer Mandates*

##### *Minimum Wage*

- As of January 1, 2008, the minimum wage in California is \$8.00 an hour. There is no separate minimum wage for tipped employees; an employer may not use an employee's tips as a credit toward its obligation to pay the minimum wage.
- San Francisco has its own minimum wage ordinance, which requires employers within the city to pay a minimum wage that is higher than the rest of the state. As of January 1, 2008, this rate is \$9.36 an hour. This rate has been raised incrementally each year since 2004, when it was \$8.50 an hour. In 2009, the minimum wage will be \$9.79 an hour, effective January 1.
- A separate minimum compensation ordinance (MCO) in San Francisco applies to employees of all businesses and organizations that have contracts with the city or lease property at San Francisco International Airport. The MCO hourly wage is \$11.03 an hour. In addition, these employees are guaranteed 12 paid and 10 unpaid days off a year.

##### *Health Care Security Ordinance and Healthy San Francisco*

- The Health Care Security Ordinance, effective as of January 2008, sets a minimum expenditure that employers must pay for their employees' health care. It applies to for-profit businesses with 20 or more employees and nonprofit businesses with 50 or more employees.
  - The ordinance also mandates the Department of Public Health to create a health care access plan, called *Healthy San Francisco*. Employers may also purchase private health insurance coverage for their covered employees or make payments to the city for the benefit of their covered employees.
- The expenditure rates and the date in which the ordinance goes into effect vary by employer size and for-profit or nonprofit status: Rates vary from \$1.17 per employee-hour worked for businesses with 20–100 employees to \$1.76 for those with more than 100 employees. Rates are due to increase in January 2009.

tors, or they were employed in a similar role and able to represent their firms' personnel policies. The employers included in the study represented different business sizes, from an employer with one part-time employee to a national company with 10,000 employees in San Francisco alone. We identified small businesses as those with 25 or fewer employees, medium businesses as those with 26 to 99 employees, and large businesses as those with more than 100 employees. The sample included a range of industries as well. The sectors represented were chosen to reflect the industries in San Francisco that employed high percentages of low-wage workers: the restaurant, retail, service, and health/human services industries. Table 1 breaks down the employers by size and industry.

This subset of the business community was chosen to highlight the operational experiences of those affected by the paid sick leave ordinance. The sample is not representative of San Francisco employers as a whole or of all employers that changed personnel policies to meet the requirements of the ordinance. This study also does not address the benefits or effects of the ordinance on workers themselves.

### Employer Strategies for Implementing Paid Sick Leave

Employers in the study sample implemented the paid sick leave ordinance in various ways, from creating entirely new policies to tinkering with specific facets of previous policies in order to comply with the new requirements. The changes in their policies can be summarized into four broad categories: (1) expanding leave for all or some employees, (2) establishing a paid time off (PTO) policy, (3) replacing other benefits and compensation policies, and (4) changing accrual rates and probationary periods.

These strategies are not mutually exclusive, and a single employer can fall under more than one category. For example, an employer could change its policy from covering some employees to covering all workers, as well as change the probation period before new employees begin accruing sick time.

#### Expanding Leave for All or Some Employees

Four interviewed employers offered no paid sick or vacation leave to their employees before the law was passed and subsequently implemented a new paid sick leave policy and developed a new tracking system. These employers had allowed their workers to take sick leave, but it was unpaid and had limitations. One employer, the owner of a medium-sized restaurant, had in the past occasionally granted paid sick leave to workers informally and case by case, depending on the worker's circumstances. Several, particularly small business owners operated with more informal policies on leave before PSLO was passed, so meeting the requirements of the new law required them to formalize their policies. As one small business owner said, "Before, it was a courtesy—if someone wants to take a day off, I

TABLE 1. *Employers by Industry and Size*

Industry	Small	Medium	Large	Total
Restaurant	1	2	3	6
Retail	4	3	2	9
Service	2	2	2	6
Health and human services	1	1	3	5
Total	8	8	10	26

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wouldn't dock their pay—you have to consider whether you want to be a strict boss or be more informal, like a family.”

Ten employers expanded their sick leave policies to some workers who had not been covered by former policies, resulting in increased time off for more workers at the business. In most of these cases, sick leave had only been available to full-time employees; the ordinance thus opened these companies' policies to part-time employees. In one small business, the employer had offered paid leave only to her two salaried, managerial employees; she began offering paid leave to her hourly employees as well to comply with the regulations. A large financial services company expanded its paid time off policy to previously ineligible on-call workers.

### **Establishing a Paid Time Off Policy**

About one-quarter (seven) of the employers in the study enacted a paid time off system encompassing both sick and vacation leave to implement the paid sick leave ordinance, combining rather than separately tracking vacation and sick time accrual and use. Whether employees gained more paid days off depended on the employers' policies before the ordinance. For example, several employers went from granting some or none of their employees any paid vacation or sick leave to using PTO, thus increasing the overall amount of paid leave. Others reclassified what had previously been only vacation leave to encompass the sick leave requirement without providing any additional time off.

Employers switched to PTO for a range of reasons. Some employers believed PTO would be easier to track than separately calculating vacation and sick leave accruals, and thus switched out of convenience. Others didn't want to “police” their employees to ensure sick leave would be used for legitimate illnesses in employees' families. With PTO, the employee did not need to provide an explanation for taking the time off. For example, one dry cleaner changed what was a vacation policy to PTO to avoid the paperwork that would have been necessary for allowing workers to care for a “designated person” as specified by the city's regulations.

Several other employers were motivated to use a PTO system because they believed it would reduce unscheduled absences. For example, one small service-sector employee had a “historically bad pattern” of employees calling in sick on weekends and holidays even though she had not previously granted most of her employees any paid leave. She decided to implement a PTO policy because she preferred for her staff to give advance notice when they wanted time off and to pay for the leave rather than deal with the challenges of finding coverage for staff who called in at the last minute. Another employer, an owner of a medium-sized restaurant, described the switch to a PTO system as a way of providing a “disincentive” for workers to call in sick, as he assumes his workers prefer to save their paid leave for vacation.

### **Replacing Other Benefits and/or Compensation with Sick Leave**

Ten employers adjusted alternate aspects of their personnel policy to compensate for providing sick leave. Common approaches included eliminating vacation time or other benefits or decreasing pay raises or bonuses. For these firms, implementing the paid sick leave ordinance led them to trade off previous benefits.

Three employers reclassified vacation time as sick leave to meet the new requirements. Sometimes the paid sick leave ordinance was more generous than the employers' previous policies and provided more paid

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time off. This differs from PTO in that employees are typically not permitted to use their sick leave for non-health or caring purposes.

Interestingly, all three employers who replaced vacation time with sick leave were in the restaurant industry: two owned multiple restaurants or locations of the same restaurant and were classified as large employers, and one was a small restaurant. These employers explained that they could not afford to give their workers both forms of leave.

Three other employers eliminated or decreased benefits that they had supplied, such as end-of-year bonuses. Two small employers reported that they paid for sick leave with funds that had been allocated as bonus payments because no other funds coming into the business could be used to cover leave. Another medium-sized retail employer used to give her employees their unused sick leave at the end of the year as a time-and-a-half pay bonus; now, because paid sick leave can carry over to the next year, she does not provide the benefit as a bonus.

Three small retail and two restaurant employers felt they could no longer afford to maintain previous rates of incentive-based wage growth. One explained that as paid sick leave added another component to labor costs and each employee's net pay, he does not promote employees or provide wage raises as quickly as he otherwise would. In his words, "If you're at \$10, you're going to stay there that much longer to make up for [the additional expense]." Another employer reported that he had frozen wage growth because of the ordinance, locking in wages at their pre-ordinance level rather than stepping them up over time.

### **Changing Accrual Rates and Probationary Periods**

Most employers in our study granted at least some of their employees some form of paid leave before the ordinance's passage, but they were required to change their policies to comply with the new regulations. Most commonly (as reported by 11 employers), they increased the rate at which sick leave or PTO accrues or shortened the probationary period before which new employees begin accruing leave.

Under the new law, employees accrue one hour of paid sick leave for every 30 hours worked. Eight interviewed employers who previously provided sick leave had a different formula for accrual (i.e., 1 hour for every 40 hours worked, etc.) or based the calculation on an alternative time unit such as calendar date rather than gradual, hourly accrual (i.e., six hours a month, eight days a year, one week a year, etc.). The employees working for these employers had a net gain in amount of paid leave they had access to per year.

According to the San Francisco ordinance, for employees hired after the implementation date, sick leave accrual begins after 90 calendar days. Nine employers in our sample had to change previous probationary policies to meet this regulation, resulting in newer employees having access to paid sick leave sooner than they would have had under prior policies. For example, accrual for paid sick leave for one large human services employer pre-implementation began after an employee had worked a total of 1,000 hours, which is significantly longer than 90 days, especially for a part-time employee.

### **Employer Experiences Implementing the Paid Sick Leave Ordinance**

Several findings regarding employers' experiences with the paid sick leave ordinance and issues they faced in implementing the new law were identified through our interviews.

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**By and large, most employers were able to implement the paid sick leave ordinance with minimal to moderate effects on their overall business and their bottom line.** Most respondents in our sample experienced some increased labor costs because of PSLO, either from expanding existing policy to cover all employees or increasing benefits. A few also noted additional minor costs in terms of accounting or tracking systems used to help monitor leave accrued and taken by their employees. Most employers reported they were able to absorb the cost of providing paid sick leave. Reasons for the minimal impact varied but included being a smaller employer with few employees affected by the law or adjusting only slightly the total number of paid days off (through substituting sick days for vacation days or making relatively minor adjustments to accrual rates or probationary periods).

As noted above, the paid sick leave ordinance was implemented at the same time two other employer mandates, a minimum wage increase and a health insurance mandate, were enacted. Many employers were focused on the “package” of these new requirements and what they meant for their business. Most employers were quick to say that of the three, the PSLO was the least costly to their bottom line. However, in a city where labor cost increases were piling up, the PSLO did not help. As one dry cleaning store owner said, “The paid sick leave, taken by itself, is not a big deal. But you get a triple whammy when you add that to the minimum wage increases and the health insurance.”

**About half of the employers interviewed tried to offset or minimize their recent increased labor costs.** Ten employers in our study reported that they passed on the costs of the PSLO to their workers through changes in other benefits or delayed wage increases to help defray costs. Because of the minimum wage requirement, employers were largely unable to significantly reduce wage rates. However, some delayed or cancelled planned wage increases for staff as a result of increased labor costs in general and the PSLO specifically. Some employers changed other benefit levels to help defray costs, such as eliminating end-of-year payouts for unused sick days or cancelling a planned extra week of vacation. Seven employers raised the prices or rates charged to their customers, but all noted that these increases were motivated by the impact of the three employer mandates and other economic conditions on their business, not just the paid sick leave ordinance. Rate increases were seen in restaurants, retail, and health care.

**Among the businesses included in our study, small or medium-sized employers were more affected by the paid sick leave law than larger employers.** Most medium-sized employers we interviewed had to expand benefits to a significant portion of their workforce, and their ability to both absorb the labor cost increases and to administer and track the leave was significantly affected. According to many owners, profit margins were tight, and the increased labor costs required companies to look for ways of decreasing costs in other areas of their business. Additionally, several companies lacked sophisticated payroll systems and therefore had trouble meeting the tracking requirements of the law. In our sample of businesses, small employers did not appear to be as significantly affected by the law in terms of increased labor costs because some usually provided some type of paid sick leave informally. However, some small businesses eliminated vacation or bonuses to reduce costs, and several had difficulties implementing a tracking system.

Larger employers, on the other hand, seemed better able to handle the tracking requirements of the law and to absorb the new labor costs into their business. Most had human resources departments and more formalized policies in place for significant portions of their workforce before PSLO. Many large employers had to expand their policies to additional workers, usually part-time or temporary workers. While this expansion was sometimes substantial—for example, one national retailer had to start providing paid sick

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leave benefits to almost a quarter of its San Francisco workforce, all of whom worked part time—the overall increase to the business's labor costs were small because the firm was very large.

**Some industries faced more challenges with providing paid sick leave than others.** In general, restaurants were more likely than other industries to respond to the increased labor costs, with many enacting some type of cost saving measure. Again, however, most restaurant owners said that these cost-cutting measures often were not related to PSLO itself but a combination of the PSLO and an increase in the minimum wage. Restaurant owners noted in particular that, unlike the federal minimum wage, San Francisco's minimum wage did not allow for a tip allowance, or a decreased minimum wage for workers who receive tips. Paying this wage rate while staying competitive with restaurants outside the city and keeping prices “affordable” was a challenge.

Even within this industry, restaurants responded in different ways to reduce their labor costs. Some owners tightened shifts and schedules so they did not have to hire so many part-time employees. Others shifted part-time workers to full-time positions, mostly through attrition but occasionally by letting staff go and replacing them with full-time workers. Other restaurants found additional ways to cut labor needs. One local restaurant chain with facilities outside the city decided to have all its vegetables and fruit prepared and chopped in a nearby city and have the food driven to its San Francisco restaurants to reduce the amount of San Francisco–employee time preparing food. Another owner started purchasing precut pork chops and preprepared vegetables to reduce his need for “back of the house” workers.

Some restaurant owners stressed that the increased labor costs hit the medium-sized restaurants—those that require a large number of wait-staff—the hardest. As one restaurant owner said, “The fine dining places are being driven out. Now, the only way to stay in business here is to open pizzerias, sandwich shops, taquerias . . . out-the-door restaurants, with fewer than 15 staff. But these types of restaurants don't provide as many jobs, and it cuts into our reputation as a food destination.”

Other industries also faced challenges. The health care industry employs on-call staff, many of whom work intermittently. Providing on-call paid sick leave is difficult, given that they are only called when needed and often are not guaranteed a certain number of hours each week or even each month. The wages of these workers, according to one health care employer, are typically higher given the nature of these positions (often at rates negotiated through a collective bargaining agreement), so adding a benefit onto this category of employee affects the employer's bottom line.

Similarly, a nonmedical home care agency expressed concerns about its “at-will” employees. When the agency hires a caregiver, the employee agrees to take on a particular assignment, and he or she is expected to stay with that client until the client no longer requires the employee's services. While the interviewed agencies allowed their workers to take unpaid leave before the ordinance to attend to their own or their families' health needs, the employers were not able to guarantee caregivers their assignment upon their return. Caregivers thus risked losing their jobs when taking time off: if a client preferred a particular caregiver's replacement, the client could switch caregivers. In addition, as employees' hours were based on individual clients' discretion and could be unpredictable, and as the work took place in clients' homes, the employer faced challenges in implementing and tracking paid sick leave accrual.

**Many businesses would prefer state or national employer mandates rather than a city mandate.** For many employers, the fact that their competitors just over the city line were not subject to the city's minimum wage, health insurance, or paid sick leave requirements made the cost of staying competitive

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difficult. While six employers noted that they might consider relocating outside San Francisco in the future, most reported that they did not have much of an option, given that their business relied on either local residents (such as dry cleaners or pet care) or tourists (for restaurants and hotels) drawn to San Francisco.

Given these realities, most employers explained that if the government was going to pass paid sick leave mandates, it should be the state or national government. This was true regardless of the employer's personal opinion of the law. For example one small employer said, "Philosophically, [PSLO] is a good thing. I just wish it were more spread out—and that all businesses had to comply—that way it would level the playing field, so that we are not at a competitive disadvantage." Another, who did not support the law, noted, "If everyone in the state was doing it, then okay. Who cares if taxes go up? If everyone else is paying, who cares?"

One hardware company owner suggested that the city could help San Francisco employers by giving them preference in their contracting and bidding processes. "Right now, I'm competing against companies outside of San Francisco who don't have to comply with these city mandates. So, to win the city contract, you either make less or you lose the bid because these other companies have lower costs. The city should take the lead on business-friendly legislation to offer San Francisco businesses preference in bidding for city contracts. It would make a statement from the city that they're asking a tremendous amount from the businesses here, but that the city wants to help them however it can."

Larger employers did not worry as much about competitive disadvantages, since their operations and larger business decisions were not typically driven by policy changes in San Francisco. But, for different reasons, larger employers also said they would prefer a state or national law, if paid sick leave was going to be an increasingly common requirement. These respondents were primarily concerned about administering different policies for employees in different cities and, for national companies, in different states. For these larger national employers, mandates requiring nine days of paid sick leave in San Francisco, seven days in Dayton, and five days in Washington would be difficult for human resource administrators. As one company representative noted, "It is a mess to try to have specific rules for each city. We don't want a patchwork solution and want to see laws at the federal level, whether we like the laws or not. A patchwork just causes confusion on top of administrative burdens."

**Few employers reported any early benefits from reduced absenteeism, lower turnover, or improved employee morale as a result of the paid sick leave ordinance.** Employers noted that turnover and retention seem less relevant to a mandated benefit, since now the same sick leave benefits are available across companies. As one small business owner observed, "The policies I had in place before were there to reduce turnover and get better employees—and they did have an effect. But now, since the new ordinance, employees will have the same benefit no matter where they work. There's less of an incentive to stay and work for me."

Some employers reported that the law limits their ability to reward full-time or longer-tenure workers with higher benefits than part-time or new workers. As one small business owner said "Now my part-time employees are getting to be equal to my full-timers, those full-timers are upset that they're getting the same benefits—they feel mistreated. There needs to be some distinction for those that work full time and have been working for me for a while. But, I don't have the ability to add additional benefits to full-timers because all of my fixed costs are up."

**Policymakers need to engage employers to inform the details of a paid sick leave law.** Employers stressed the need for employers to be at the table early on when crafting a paid sick leave policy. Accord-

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ing to many employers in our study, the development of San Francisco's policy did not include the employer perspective on critical issues, making implementation more difficult. As one employer noted, "When I have a problem, I go to the people who are going to be affected and ask their opinion. Here is a problem where they want to find a solution, and the stakeholders who should have been tapped weren't. No matter how you slice it, it is a cost, so business will still be against it—but HR folks and other businesses could have at least weighed in on how to get it right." Many employers noted that, from their perspective, the process seemed to have assumed an adversarial relationship between employers and employees. Employers stressed that this is not necessarily true and that involving employers in the conversation and viewing them as partners in crafting the policy would have been a better route to finding a mutually agreeable policy.

Employers noted an important area for their input was setting the sick leave accrual rates. Many noted that San Francisco's accrual rate of one hour of sick leave for every 30 hours worked was awkward to implement. Most human resource systems already account for benefits in increments of 20 or 40 hours, so the 30-hour accrual required additional calculations for most employers. In addition, the way the law was written, the sick leave caps at nine days a year (or five days for small businesses). But the cap is a rolling cap, so if an employee earns nine days in year one, then takes all nine days early in year two (say, in January), the employee can still accrue more sick leave time in year two and, theoretically, take more leave later in the year. The rolling cap is difficult to administer for many employers and runs counter to the way many businesses accrue and provide other benefits to their employees.

Employers also noted that a city or state should provide additional staffing and resources to the administering agency to help implement a PSLO, particularly technical assistance for employers to help them get their PSL systems up and running. Most employers, as well as city officials we spoke with, agreed that the administering agency lacked the staff and resources to meet the law's requirements and help employers implement the policy on time. In fact, the timeline for implementation was delayed by 120 days during which employees were able to accrue paid sick leave but employers were not required to pay for any sick time used. This transition period was created to give city officials and employers extra time to make the program operational and address implementation issues. Some major considerations worked out at this time included addressing exempt employees, further defining employers' "reasonable requests" for notice, and parameters for leave taking.

In addition to implementation, ongoing education and enforcement efforts are needed. Regulatory laws are only as good as the enforcement efforts that back them up. Yet, city officials and employers both noted the challenge of educating employers and employees about the benefit and ensuring compliance for the estimated 106,000 registered businesses in the city.<sup>2</sup> At the time of our interviews, officials were planning an employer education campaign to help tell people about the law and answer questions. As one small business owner said, "Many employers still don't know about this law. The city sent two fliers, and most people throw those out. They need some sort of acknowledgment from employers that they've read the law and have implemented it."

Enforcing PSLO is primarily driven by employer or employee complaints, which, employers and officials note, leaves the burden largely on employees to identify employers that refuse to comply with the law. In the words of one employer, "We keep passing more laws, and there's no enforcement. For the bad employers, employees will keep working quietly and not complain if they want to keep their jobs, and there's not an effort to go find the sweatshops in the city—the city doesn't have enough people to enforce labor laws in those places—this law won't be enforced either." When violations are reported and confirmed in San

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Francisco, noncompliance penalties are limited to the dollar amount of the paid sick leave withheld from the employee multiplied by three or \$250, whichever is greater. If the violation resulted in other harm to the employee, including discharge from employment, then employers may face an additional charge of \$50 for each employee harmed, accumulated for each day that the violation occurred or continued. Thinking through these implementation issues before a law goes into effect would go a long way in easing employers' challenges in complying with the new legislation and ensuring that employers implement the law as intended.

### Summary

This study of employer perspectives on implementing mandated paid sick leave in San Francisco provides useful insights for policymakers, advocates, and the business community to consider as these policies are debated. According to our study, most employers were able to implement this mandate with minimal impacts on their business in the first year. However, San Francisco's experience suggests that it is critical to consider the policy environment affecting employers, such as health insurance or other mandates, when debating the addition of new labor costs.

This study also finds that not all businesses respond the same way when addressing these increased labor costs, with some affected more than others. Considering the law's effects on employers of different sizes and across different industries is critical to understanding the larger business and employment effects of a paid sick leave mandate. Further, policymakers should consider specific implementation challenges and economic effects that result when mandated paid sick leave is established locally, rather than statewide or nationally. Finally, ensuring that the business community is engaged in the design of these policies at the outset would help ensure that a paid sick leave law is implemented smoothly and that unintended consequences are avoided or minimized.

## NOTES

1. In this report, paid sick leave refers to the limited number of days off an employer provides employees for an illness or ill family member. Longer leaves can also be paid in California as part of the state's Paid Family Leave Insurance program.
2. San Francisco Planning and Urban Research Association, "Ballot Analysis November 2007: A Comprehensive Guide to San Francisco's Ballot Measures," [http://www.spur.org/documents/1107\\_ballot\\_analysis.shtm](http://www.spur.org/documents/1107_ballot_analysis.shtm).

## REFERENCES

- Bhatia, Rajiv. 2007. Testimony before the U.S. Senate Committee on Health, Education, Labor, and Pensions, February 13.
- Bhatia, Rajiv, Lili Farhang, Johnathon Heller, Korey Capozza, Jose Melendex, Kim Gilhuly, and Netsy Firestein. 2008. *A Health Impact Assessment of the California Healthy Families, Healthy Workplaces Act of 2008*. Oakland, CA: Human Impact Partners and San Francisco Department of Public Health.
- CCH Incorporated. 2003. "Unscheduled Employee Absenteeism Hits Lowest Point in CCH Survey History." *Human Resources Management and Trends* Special Issue 569 (October): 155–64.
- Clemans-Cope, Lisa, Cynthia D. Perry, Genevieve M. Kenney, Jennifer E. Pelletier, and Matthew S. Pantell. 2008. "Access to and Use of Paid Sick Leave among Low-Income Families with Children." *Pediatrics* 122:480–86.
- ComPsych Corporation. 2007. "Poll: 83 Percent of Workers Say They Work While Sick, Up from 77 Percent Previously." Press release. Chicago: ComPsych Corporation. [http://www.compsych.com/jsp/en\\_US/core/home/pressReleasesList2007.jsp?cid=422#](http://www.compsych.com/jsp/en_US/core/home/pressReleasesList2007.jsp?cid=422#).
- Cooper, Phillip F., and Alan C. Monheit. 1993. "Does Employment-Related Health Insurance Inhibit Job Mobility?" *Inquiry* 30 (Winter): 400–16.
- Dodson, Lisa, Tiffany Manuel, and Ellen Bravo. 2002. "Keeping Jobs and Raising Families in Low-Income America: It Just Doesn't Work." Cambridge, MA: Radcliffe Institute for Advanced Study.
- Earle, Alison, and Jody Heymann. 2002. "What Causes Job Loss among Former Welfare Recipients: The Role of Family Health Problems." *Journal of the American Medical Women's Association* 57 (Winter): 5–10.
- Galinsky, Ellen, James T. Bond, and E. Jeffrey Hill. 2004. *A Status Report on Workplace Flexibility: Who Has It? Who Wants It? What Difference Does It Make?* New York: Families and Work Institute.

- 
- Goetzel, Ron Z., Stacey R. Long, Ronald J. Ozminkowski, Kevin Hawkins, Shaohung Wang, and Wendy Lynch. 2004. "Health, Absence, Disability, and Presenteeism Cost Estimates of Certain Physical and Mental Health Conditions Affecting U.S. Employers." *Journal of Occupational and Environmental Medicine* 46 (April): 398–412.
- Hartmann, Heidi. 2007. Testimony before the U.S. Senate Committee on Health, Education, Labor, and Pensions, February 13.
- Hemp, Paul. 2004. "Presenteeism: At Work—but Out of It." *Harvard Business Review* 82(10): 49–58.
- Heymann, Jody. 2000. *The Widening Gap: Why America's Working Families Are in Jeopardy and What Can Be Done about It*. New York: Basic Books.
- Lovell, Vicky. 2004. *No Time to Be Sick: Why Everyone Suffers When Workers Don't Have Paid Sick Leave*. Washington, DC: Institute for Women's Policy Research.
- . 2006. *Valuing Good Health in San Francisco: The Costs and Benefits of a Proposed Paid Sick Days Policy*. Washington, DC: Institute for Women's Policy Research.
- Lovell, Vicky, and Kevin Miller. 2008. "Job Growth Strong with Paid Sick Days." Washington, DC: Institute for Women's Policy Research.
- Phillips, Bruce D. 2008a. *AB2716 The CA Healthy Workplaces Act of 2008: Economic and Small Business Effects*. Washington, DC: National Federation of Independent Business Research Foundation.
- . 2008b. *Ohio's Proposed Issue 4: The Economic and Small Business Effects of Mandated Sick Leave*. Washington, DC: National Federation of Independent Business Research Foundation.
- Summers, Lawrence H. 1989. "Some Simple Economics of Mandated Benefits." *The American Economic Review* 79(2): 177–83.
- U.S. Bureau of Labor Statistics. 2007. *National Compensation and Benefits Survey*. Washington, DC: U.S. Bureau of Labor Statistics.

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# An Investigation into the Economic Impact of Requiring Paid Sick Leave in Orange County

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## Key Findings

- *Estimated cost to businesses of between \$69.2 million and \$82.3 million each year*
- *Smaller businesses are more likely not to currently offer paid sick leave and will bear more of the impact*
- *40% of affected employees will lose other forms of compensation*
- *54% of affected business will incur reduced profits*

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July 25, 2013  
Date

New Business  
Agenda Item

Special Committee  
Gov. Body

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Exhibit #

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## **Executive Summary**

In recent years, some cities have approved mandatory paid sick leave programs (San Francisco and Seattle) while others have rejected them (Denver and Philadelphia). Currently, there is a proposal that may be on the November ballot that would require all businesses within Orange County with 15 or more employees to provide paid sick leave.

Though on the surface it's hard to oppose paid sick leave, simple economics informs us that there is no free lunch; there will always be costs as well as benefits. This study begins with an examination of the details of the proposal for Orange County followed by considering lessons learned from the experiences of other cities before evaluating the potential impact on Orange County.

The proposal applies to all employees in the private sector that work at least 160 hours a year. Unlike elsewhere, local government employees are not covered by the proposal. Businesses with fewer than 15 employees would be required to provide unpaid sick leave while those with more than 15 employees must provide paid sick leave. All employees, whether full time, part time or temporary, will be able to earn one hour of sick leave for every 37 hours of work, up to 56 hours of paid sick leave (businesses could choose to provide more). Since most sick leave programs currently only cover full-time employees, many firms who already offer paid sick leave will have to modify their policy. There is some complexity when it comes to determining who's an employee and how to determine whether a business has 15 or more employees. Employees include those working full time, part time, temps, and those provided by staffing agencies. Any business that has had at least 15 employees for at least 20 weeks in the current or previous calendar year must provide paid sick leave (note: these are not full-time equivalents, but each worker counts as one employee). Also, sick leave is earned by work done within the county, not work performed elsewhere.

A study of the San Francisco program, completed by a group supporting mandated paid sick leave (Institute for Women's Policy Research or IWPR), provides some insight into potential consequences of such a program. While their study reported the impact on all firms, even those that did not have to make any changes in response to the new requirement, more revealing information comes about when one focuses on those businesses directly impacted by the mandate (i.e., those that had to begin to offer paid sick leave). Once one excludes firms that did not have to make any changes to their sick leave policy, 65% of businesses reported lower profits and 43% reported reducing other forms of employee compensation as a result of being required to provide paid sick leave. When it came to understanding and implementing the new requirement, though nearly two-thirds of companies didn't need to make any changes, only a little more than half reported that the requirement was understandable and not too difficult to implement.



A recent study by IWPR underestimates the cost and overestimates the benefits of mandated paid sick leave in Orange County. One problem is that it assumes that the average employee will only use about 2.5 days of paid sick leave per year, while data from the Bureau of Labor Statistics indicates that 4 days is more likely. Also, it assumes that employee turnover will be reduced significantly, making it profitable to require firms to provide paid sick leave. Upon closer examination, it's doubtful that employers affected by the mandate will experience a significant reduction in employee turnover. Also, the majority of "community savings" are expected to arise from fewer visits to the emergency room; however, this is based on a study by IWPR which actually does not show evidence that paid sick leave reduces ER visits. Also, there is evidence from the IWPR study of the San Francisco program that "presenteeism" – the act of attending work while sick, is not significantly affected by having access to paid sick leave, thus calling into question much of the benefits cited.

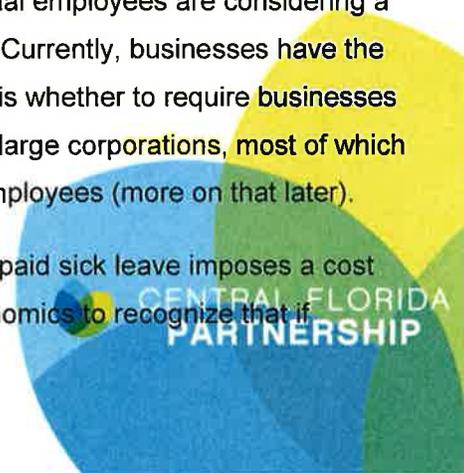
Using the results of the IWPR study of San Francisco and applying them to Orange County, 54% of firms affected by the mandate are likely to see reduced profits while 40% of employees will experience reductions in other forms of compensation. In addition, the cost to businesses in terms of being required to provide paid sick leave is estimated to be between \$69.2 million and \$82.3 million per year, with a large portion of the costs borne by small businesses.

## **Introduction**

Several cities around the country have considered requiring employers to provide paid sick leave for all of their employees. On the surface, it sounds great. Who can be against providing paid sick leave? Can't big business afford to pay workers when they're sick? Some cities have approved a mandatory paid sick leave proposal (for example, Seattle), others have already implemented one (San Francisco and Washington, D.C.), while others rejected it (Denver and Philadelphia; though Philadelphia ended up approving a very limited version). Proponents have now come to Orange County, Florida, to place a proposal before voters in November 2012. Organizations in favor the proposal, led by the Institute for Women's Policy Research (IWPR), state that businesses will actually increase their profits when required to provide paid sick leave while opponents cite studies by the National Federation of Independent Businesses (NFIB) which show significant job losses and reduced profits resulting from such proposals.

The issue isn't whether paid sick leave is good or not. There are a lot of fringe benefits that are desirable, but all of them have costs. When firms consider hiring employees or when potential employees are considering a job at a particular company, they consider the whole compensation package. Currently, businesses have the choice to provide paid sick leave as part of their benefits package. The issue is whether to require businesses to provide a particular benefit (paid sick leave). Also, it wouldn't apply only to large corporations, most of which provide some form of paid sick leave, but to all businesses with 15 or more employees (more on that later).

So what's wrong with requiring paid sick leave? Nothing is free and requiring paid sick leave imposes a cost when companies hire and employ workers. One doesn't need training in economics to recognize that if



something becomes more costly, fewer people are likely to acquire it. In this case, if it becomes more expensive to hire workers, companies will either hire fewer workers or they will seek to reduce other costs (other forms of compensation). Is this political rhetoric? Economists in general recognize this. For example, Lawrence Summers, former Secretary of Treasury under President Clinton and Director of the National Economic Council for President Obama, concluded that mandated leave programs are likely to lead to lower wages (compensation) and less employment<sup>1</sup>. As stated in the title of his article, this is simple economics. In an IWPR study of a proposed mandatory sick leave program in Massachusetts, it is stated that “By definition, employers pay wages (compensation) that are equal to each worker’s productivity, or the value they produce for the employer.”<sup>2</sup> Given that, if the cost of the compensation is increased by requiring paid sick leave, either other forms of compensation must be reduced or fewer workers will be employed (since compensation will now exceed productivity). The question is, what are the trade-offs of requiring paid sick leave? In other words, how much will other forms of compensation be reduced, hours cut back, or profits reduced?

### **State of the Local Job Market**

Orange County is still trying to recover from the depths of the Great Recession. Between December 2007 and December 2009, private-sector employment declined by nearly 8%. As most know, the recovery has been slow as employment has risen by 3.8%, leaving the county with 4.3% fewer jobs than prior to the recession. At its current pace, Orange County won’t regain all of the jobs lost until at least 2014.

### **Size of Firms Currently Offering Paid Sick Leave**

Which firms tend to already offer paid sick leave?<sup>3</sup> It shouldn’t be a surprise to learn that large corporations are much more likely to have paid sick leave plans, led by 82% of firms with 500 or more employees, 66% of firms with between 100 and 500 employees, 55% of those between 50 and 100, and 50% of firms with fewer than 50 employees. Thus, most of the firms impacted by mandated paid sick leave will be small businesses.

### **Examining the Details of the Proposal**

Before we get into the likely trade-offs involved, let’s look at the proposal in more detail.<sup>4</sup> While many companies offer fringe benefits to full-time employees, this proposal applies to all employees, whether full time, part time, or temp workers. Specifically, it applies to any employee who works at least 160 hours a year working for any company in the private sector. I’ve spoken with some small business owners who already

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<sup>1</sup> Some Simple Economics of Mandated Benefits, AEA Papers and Proceedings, May 1989, <http://www3.amherst.edu/~jwreyes/econ77reading/Summers.pdf>

<sup>2</sup> Valuing Good Health in Massachusetts: The Costs and Benefits of Paid Sick Leave, page 8, <http://www.iwpr.org/publications/pubs/valuing-good-health-in-massachusetts-the-costs-and-benefits-of-paid-sick-days-2>

<sup>3</sup> Selected Paid Leave Access, March 2012, <http://www.bls.gov/news.release/ebs2.t06.htm>

<sup>4</sup> Petition to Place Orange County Ordinance for Earned Sick Time for Employees of Businesses in Orange County on Ballot



provide a form of paid sick leave for their full-time employees, but are concerned that they may be required to also provide paid sick leave for part-time workers. Though 75% of full-time employees in the private sector currently have access to paid sick leave, only 23% of part-timers currently receive paid sick leave.<sup>5</sup> Thus, many companies that already provide paid sick leave are likely to have to modify their policies to cover those working part time and any temp workers they employ. It should also be noted that all businesses in the private sector are included, whether for-profit or not-for-profit.

***Government is exempt***

For some reason, government is exempt from the proposed requirement (federal, state, county, and municipalities within Orange County; see section 2b). Many, but not all, government employees already receive paid sick leave, but the same can be said of many private businesses. It's hard to come up with a consistent reason why there should be a special exemption. When Denver considered a similar proposal in 2011, local government employees were covered by the proposal.<sup>6</sup> However, that seems to have contributed to its defeat, so perhaps that's why it's not part of the proposal for Orange County. If it is perceived that governments are already in compliance, why not let them show it just like businesses in the private sector? If it's too much of a burden for the government, that same reasoning would also seem to apply to the private sector. An interesting situation arises when one consider work-study students. Under the proposal, students that work for the University of Central Florida (a state school) are exempt from the proposal while those that work for Rollins College (a private school) are covered by the proposal (assuming other requirements are met).

***Under what circumstances can an employee take paid sick leave?***

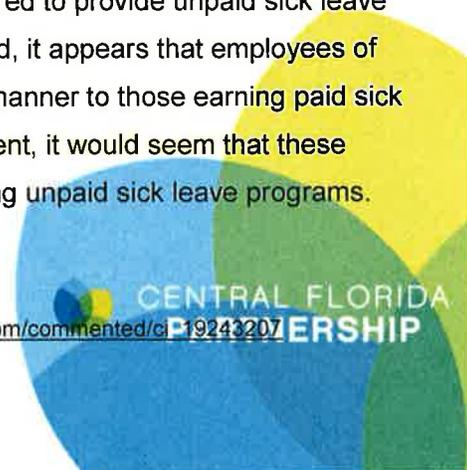
It's not limited to caring for the person or immediate family, but extended family as well (grandchildren, grandparents, siblings, in-laws, a designated person, ...). Though this may be appropriate in some cases, it seems to be a stretch to require companies to provide paid sick leave for those taking care of their brother-in-law or others not in their immediate family (see section 2c6).

***Mandated unpaid sick leave?***

Though companies with fewer than 15 workers are not required to provide paid sick leave, they are subject to restrictions on retaliating against employees who take sick leave up to 56 hours per year (section 2g). Thus, those companies that are not required to provide paid sick leave are still required to provide unpaid sick leave (also implied by the ballot summary and section 3a). Though not directly stated, it appears that employees of companies with fewer than 15 employees earn unpaid sick leave in a similar manner to those earning paid sick leave working at companies with 15 or more employees. Given this requirement, it would seem that these businesses may be required to show how they are implementing and managing unpaid sick leave programs.

<sup>5</sup> Selected Paid Leave Benefits, March 2012, <http://www.bls.gov/news.release/ebs2.t06.htm>

<sup>6</sup> Denver Voters Reject Initiative 300 Mandatory Sick Leave Measure, <http://www.denverpost.com/commented/c/19243207>



### *What's a small business?*

Small businesses are exempt from being required to provide paid sick leave. What's a small business (see 2i)? In this case, it's a company with fewer than 15 employees. However, it gets a little complicated. Employees include those provided by temp or staffing agencies. What if the number of employees fluctuates such that sometimes it's less than 15 while other times it's more than 15? If the company had at least 15 employees (full time, part time, or temps) for at least 20 weeks in either the current or prior year, it needs to provide mandatory paid sick leave. Even if it does not have to provide paid sick leave, a small business still needs to provide unpaid sick leave of up to 56 hours a year according to sections 3a and 2g.

### **Some Potential Issues with Implementation**

As with any proposal, there may be some unintended consequences. Since San Francisco was the first city to approve such a policy, we can consider issues that arose there.<sup>7</sup>

#### *Lessons from San Francisco: Clarifying some issues*

The city of San Francisco has developed a FAQ page designed to clarify many issues with its program. For example, what about people who participate in conferences or conventions or make deliveries in the city? In San Francisco, they're covered by the paid sick leave policy if they conduct 56 hours or more of business in San Francisco. A similar interpretation can be consistent with the proposal for Orange County (as long as other criteria are met). Similarly, those who live in San Francisco and work from home (telecommuters) are covered, regardless of the location of their business. On the flip side, those who primarily work in San Francisco do not accumulate paid sick leave for hours worked outside the city limits. That would seem to be consistent with the proposal for Orange County; so work undertaken within the county earns paid sick leave, but work done outside the county does not count. Thus, companies and employees must keep track of where the work is being done when determining how much paid sick leave has been earned. In the case of Orange County, employers and/or employees will have to maintain records indicating what work is being done in Orange County as opposed to surrounding counties or elsewhere. One can imagine the complexities this may bring up.

What if a company has some employees in the county and some outside the county? In the case of San Francisco, all employees count when determining what's a small business. Thus even though those working outside the county would not earn paid sick leave, they may still count as employees when identifying whether a company has enough employees to be required to provide paid sick leave. What if a business has different locations? From San Francisco's experience, we learn that all the employees are grouped together when determining the number of employees working for the company. Sounds confusing? Clearly it will take some

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<sup>7</sup> Paid Sick Leave Ordinance, <http://sfqsa.org/index.aspx?page=419>



time for companies to understand the nuances of such a policy. As discussed later, a study by the Institute of Women's Policy Research indicates that only about half of companies in San Francisco think that they understand the policy.<sup>8</sup>

#### *Who pays for coverage of temp workers?*

As mentioned earlier, temp workers count when determining whether a company is required to provide paid sick leave and they are also eligible to receive paid sick leave. However, given San Francisco's experience, it's not clear who provides the paid sick leave – the company or the temp agency? In the case of San Francisco, the company and the temp agency get together and decide who provides the sick leave. In the event that a temp worker works for several companies and does not earn paid sick time at any particular company, but would have if all the hours were at one company, the temp agency is responsible for providing the sick leave.

What can Orange County learn from San Francisco? Implementation of a mandated paid leave program is more complicated than first thought. Both businesses and employees are likely to have to keep track of where work is being done when determining how much sick leave is being earned.

#### **Potential Consequences of Mandatory Paid Sick Leave**

This is the place where one side is supposed to say there will be little, if any, costs; perhaps even stating that businesses will be better off by being required to provide paid sick leave for all their employees. The other side is supposed to state that it will lead to a depression, wiping out businesses in Orange County. Rather than resort to rhetoric and hyperbole, let's take a careful look at what's likely to take place and try to learn from the experience of others. Most of the studies conducted that support mandated paid sick leave have been conducted by the Institute for Women's Policy Research (IWPR) while many of the studies that focus on the harmful effects of mandated paid sick leave have been conducted by the National Federation of Independent Businesses (NFIB).

#### **IWPR Study of San Francisco's Program**

##### *Overview*

Given the newness of mandating paid sick leave at the local level (cities, etc.), there have been few studies of the impact of requiring paid sick leave in other cities. One that has been widely quoted as providing support for mandated paid sick leave was completed by the Institute for Women's Policy Research, a group that supports

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<sup>8</sup> San Francisco's Paid Sick Leave Ordinance: Outcomes for Employers and Employees, <http://www.iwpr.org/publications/pubs/San-Fran-PSD>



mandatory paid sick leave<sup>9</sup> (“San Francisco’s Paid Sick Leave Ordinance: Outcomes for Employers and Employees”). Their basic conclusions include that it provided substantial benefits with few negative consequences. However, when one looks at the details, a different perspective arises. The basis for their analysis was two surveys, one of employers and one of employees. As with any study, one should be careful in accepting the results at face value. The headlines indicate that only a small portion of companies were adversely affected and a majority supported paid sick leave (in addition to the benefits achieved by the employees). However, their results show that 51% of low-wage workers reported adverse consequences including such things as fewer hours worked or layoffs, less pay or reductions in other benefits, and more work. High rates of adverse consequences were also reported for companies in leisure and hospitality (38%), companies with 10-24 employees (41%), and part time, temp, and seasonal workers (about 35% for each). The industry most affected by the new requirement was accommodation and food services followed by construction. An unreported finding of the study was that there was little effect on “presenteeism” due to mandating paid sick leave (presenteeism refers to the act of attending work while sick). According to their survey results at the end of the appendix, only 3.3% of companies reported a reduction in presenteeism, but 3.4% reported an increase in presenteeism (an overwhelming number reported no change). Thus, the study by IWPR suggests that one of the main benefits of mandating paid sick leave didn’t take place in the first city in which it was implemented.

#### *Gauging the impact on firms affected*

Though they put a positive spin on the survey results, their reported findings are somewhat misleading since, according to the study, nearly two-thirds of companies reported that they didn’t have to make any changes in response to the new requirement. When considering the impact of mandatory paid sick leave, it would seem to make sense to consider firms affected by the new policy, not those who are already in compliance and thus unaffected. For example, when the study reports that two-thirds of companies favor the policy, this should be interpreted along with the fact that two-thirds of the companies did not have to make any changes in response to the new requirement. What about the companies that had to make changes? Let’s reinterpret the results of the study by considering only those affected by the new requirement (note: this interpretation makes use of the data collected by the IWPR; see appendix for further details).

#### *Impact on profits and other forms of compensation*

The study states that only 14% of companies reported lower profits as a result of the new mandate. However, given that almost two-thirds of companies were already in compliance and did not make any changes, it would be hard for their profits to be affected. When one considers only the firms impacted by the new policy, among those reporting a direct response (i.e., excluding those that said “don’t know”), 65% of companies reported

<sup>9</sup> San Francisco’s Paid Sick Leave Ordinance: Outcomes for Employers and Employees, IWPR, <http://www.iwpr.org/publications/pubs/San-Fran-PSD>



lower profits, including 92% of firms with fewer than 10 employees. Similarly, 43% of the companies affected reported that they reduced other forms of compensation as a result of implementing paid sick leave. Once again, a higher portion of smaller companies reported that they reduced compensation than large companies. Thus, firms that had to make changes in order to satisfy the new mandate tended to experience lower profits and a large percentage attempted to contain costs by curtailing other forms of compensation, with smaller businesses impacted the most. This is what the 'simple economics of mandated benefits' predicts (recall discussion earlier).<sup>10</sup>

### *Understanding the law and administering the program*

When it comes to understanding the requirements of the new program, 52% of all firms indicated that it was not difficult or not too difficult while 35% reported that it was somewhat or very difficult and the remaining 13% didn't know (if you don't know whether something is understandable, you probably don't understand it!). The percent of those who indicated they understood the program declined to 44% for the industry most affected (accommodation and food). In terms of administering the program, 54% of all firms found it to be not too difficult, but only 37% of firms in accommodations and food. Both of these figures suggest that implementation of such a policy is cumbersome, particularly for those most impacted. Remember, two-thirds of companies reported that they did not need to make changes, but only about half thought it was not too difficult to implement. Together, this suggests that compliance with the mandate is likely to be cumbersome and costly as firms seek to understand and implement the new requirements.

### **Studies by the National Federation of Independent Business**

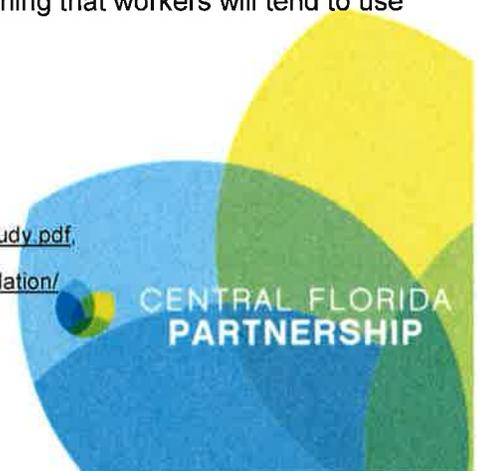
The National Federation of Independent Businesses (NFIB) has completed a series of studies regarding the potential effects of various mandatory paid sick leave proposals across the nation (Denver, Massachusetts, etc.).<sup>11, 12</sup> The results indicate high costs for employers as well as significant job losses. The costs arise from higher compensation costs due to providing paid sick leave (including wages, fringe benefits, and taxes such as the employer-share of payroll taxes; they also assume workers use the full allotment of paid sick leave). There will be lost production due to workers taking leave as well as costs of compliance in terms of paperwork and recordkeeping. Generally, they find that small-to-medium sized firms (those with fewer than 500 workers) incur two-thirds of the job losses and half of the loss in sales. Besides attempting to account for more of the costs incurred, their results tend to differ from that obtained by IWPR by assuming that workers will tend to use

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<sup>10</sup> Some Simple Economics of Mandated Benefits, AEA Papers and Proceedings, May 1989, <http://www3.amherst.edu/~jwreyes/econ77reading/Summers.pdf>

<sup>11</sup> Effects of Paid Sick Leave Mandate on Massachusetts Small Business, <http://www.nfib.com/Portals/0/PDF/AllUsers/research/studies/massachusetts-paid-leave-nfib-study.pdf>

<sup>12</sup> Cost of a Paid Sick and Safe Time Mandate in Colorado, <http://www.nfib.com/research-foundation/studies/more-studies/colorado-paid-leave>



all of the paid sick days available and by minimizing potential benefits resulting from reduced turnover (based in part on a study by the CBO of the effect of health insurance on worker productivity).<sup>13</sup>

Criticisms of the NFIB studies by IWPR include overestimation of cost and ignoring benefits of mandatory paid sick leave. In particular, the NFIB studies assume employees will use all of the available paid sick leave, based on a 2000 Department of Labor study of the Family and Medical Leave Act as well as data from the BLS and Center for Disease Control regarding the average number of days that employees miss work. As mentioned previously, a recent report by the BLS shows that the average number of paid sick days taken by the typical worker is four. Also, the NFIB studies assume significant administrative costs even for firms that already offer paid sick leave. It is likely that all firms will face some administrative cost of implementing the proposal, even if they are in compliance (must provide evidence of compliance).

### **Cost Analysis of Denver's Paid Sick Leave Proposal**

The city of Denver considered a paid sick leave proposal in 2011 which was similar to the one being proposed for Orange County, but the city's residents voted it down by nearly a 2 to 1 margin.<sup>14</sup> One reason was the potential cost to the city of Denver based on an analysis undertaken by the city itself. Unlike the proposal for Orange County, the Denver proposal also covered local government employees. The city of Denver already provides paid sick leave for full-time workers, but not for most part-time or seasonal workers. It estimated that it would cost the city \$450,000 to cover the paid sick leave time as well as overtime costs for those who cover shifts for those on sick leave.<sup>15</sup> In addition, it estimated costs of enforcing the proposal as well as informing businesses of the new requirement to be an additional \$245,000. One can argue that Orange County would face a lower cost since government employees are not covered by the proposal, but clearly the information and regulatory costs remain. Also, the estimated cost for the city of Denver demonstrates how businesses in the private sector are likely to be affected. These costs help to explain in part why the current Democratic mayor of Denver (Michael Hancock) as well as the former mayor and current Democratic governor of Colorado (Jon Hickenlooper) opposed the mandatory paid sick leave proposal.<sup>16</sup>

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<sup>13</sup> Key Issues in Analyzing Major Health Insurance Proposals, <http://www.cbo.gov/publication/41746>

<sup>14</sup> Denver Voters Reject Initiative 300 Mandatory Sick Leave Measure, [http://www.denverpost.com/commented/ci\\_19243207](http://www.denverpost.com/commented/ci_19243207)

<sup>15</sup> Sick-Pay Initiative to Cost Denver \$690,500, City Analysis Says, [http://www.denverpost.com/news/ci\\_18915060?source=pkg](http://www.denverpost.com/news/ci_18915060?source=pkg)

<sup>16</sup> Sick-Pay Initiative to Cost Denver \$690,500, City Analysis Says, [http://www.denverpost.com/news/ci\\_18915060?source=pkg](http://www.denverpost.com/news/ci_18915060?source=pkg)



## A Brief Look at the Washington, DC Program<sup>17</sup>

Another city that has approved and implemented a mandatory paid sick leave program was Washington, D.C. There are some similarities as well as differences with the proposal for Orange County.

### *Key aspects*

1. Employees earn paid sick leave based on size of firm (based on average monthly full-time equivalent (FTE) from prior calendar year)
  - Under 25: 1 hour for every 87 hours worked (max of 3 days)
  - 25-99: 1 hour for every 43 hours (max of 5 days)
  - 100+: 1 hour for every 37 hours (max of 7 days)
2. It exempts restaurant wait staff & bartenders (those that earn tips), work-study students, health care employees who opt for premium pay in lieu of benefits, and independent contractors
3. Employees are eligible after one year and having worked 1000 hours in the prior 12 months

One can notice clear differences between the program implemented in Washington, D.C. and the one proposed for Orange County. Several types of workers are explicitly not covered by the DC program as indicated in point two (including most restaurant workers). When considering the number of employees, DC considers FTEs as opposed to counting all employees equally (in other words, 4 part-time employees each working 10 hours a week would count as 4 employees under the Orange County proposal, but only as 1 FTE under the DC program). Also, the impact on small business is more limited as the maximum amount of paid sick leave is limited to three days for businesses with fewer than 25 employees and employees at those companies earn paid sick leave at a rate of one hour for each 87 hours worked. The criteria being proposed for Orange County (earning one hour for each 37 hours worked with a maximum of 7 days) does not kick in until firms have 100 or more employees in the DC program. In addition, employees must work at least 1000 hours a year to be eligible, rather than 160 as in the Orange County proposal. Thus, the DC program would be expected to be less costly than the one under consideration in Orange County, particularly in regard to small businesses.

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<sup>17</sup> Accrued Sick and Safe Leave Act of 2008, <http://www.udc.edu/docs/ogc/Accrued%20Sick%20and%20Safe%20Leave%20Act%20of%202008.pdf>



## **IWPR's Study of the Orange County Proposal**

In August 2012, IWPR released a briefing paper, "Valuing Good Health in Orange County: The Costs and Benefits of Earned Sick Time."<sup>18</sup> At the time of this writing, little information regarding the details behind the report was available. However, we can draw some conclusions about the validity of some of its conclusions. The study estimates that about 255,000 private sector employees lack paid sick leave in Orange County, about 45% of all workers. Apparently, the way they came up with this figure was to use the national figures for those without paid sick leave by industry and then applied it to the industrial composition within Orange County. The study states that about 148,600 (58%) of those without paid sick leave work for companies with fewer than 15 employees and thus won't qualify under the proposal. Thus, given the data in the study, the proposal requiring paid sick leave would extend the coverage to about 18% of private sector workers (a minority of those currently without paid sick leave). The primary conclusion of the report is that the benefits outweigh the costs with the overwhelming measured benefit resulting from reduced employee turnover for companies (savings of \$37 million). In addition, community savings result primarily from fewer visits to the emergency room as well as a reduction in presenteeism.

There are a few inconsistencies with a prior study, also conducted by IWPR, in which they found the median number of sick days taken following San Francisco's implementation of mandated paid sick leave was 3 days rather than the 2.5 assumed in this study.<sup>19</sup> Also, the study covering San Francisco indicated that ¼ of workers didn't take any paid sick days while the report for Orange County assumes ½ won't take any paid sick days. Furthermore, the study assumes that workers will only take 1.6 days per year, on average, for personal sick time, 0.5 days to care for family members, and 0.5 days for doctor's visits. Given all the attention being given to the need for mothers to stay at home to care for their sick children, it's interesting that when determining the cost of the program, they only assume that the average worker takes 0.5 day off per year to care for sick family members (of course some workers may not use this benefit while others will make above-average use of it).

The number of sick days actually taken is crucial when determining the cost of the mandate. Should we assume 2.5 days as in this study or 3 as in the study concerning San Francisco? Actually, according to a February 2012 report by the Bureau of Labor Statistics (BLS), the average is 4 days.<sup>20</sup> If the average worker takes 4 days of paid sick leave, as stated in the BLS report, based on the numbers provided by IWPR, the cost rises by \$23 million.

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<sup>18</sup> Valuing Good Health in Orange County: The Costs and Benefits of Earned Sick Time, August 2012.

<sup>19</sup> San Francisco's Paid Sick Leave Ordinance: Outcomes for Employers and Employees, <http://www.iwpr.org/publications/pubs/San-Fran-PSD>

<sup>20</sup> Paid Sick Leave: Prevalence, Provision, and Usage Among Full-Time Workers in Private Industry, <http://www.bls.gov/opub/cwc/cm20120228ar01p1.htm>



There is also some reason to question the primary source of savings, reduced turnover (with reported savings of \$37 million). Though details of this study were not available at the time of this writing, it's likely that estimates of perceived reductions in turnover from companies that voluntarily implemented paid sick leave across all industries were obtained and applied to this study. In an earlier study, IWPR assumed savings of 5.3% of payroll based largely on a 1993 study primarily examining the effect of health insurance on worker loyalty (though sick leave was included in that study, there is question as to how the 5.3% was derived from that study).<sup>21</sup> Provision of paid sick leave is supposed to increase the employee's loyalty to the company, thus reducing employee turnover. However, if the employee knows that the company is forced to provide paid sick leave, one wonders whether this would enhance employee loyalty? In addition, if all businesses are required to provide paid sick leave, the employee would realize that the same benefit can be obtained from any company in the area, so it's not clear why that would result in increased loyalty to the current employer. There is also reason to question whether savings from voluntary programs included in the prior study easily translate to mandated programs. Furthermore, estimated benefits in one industry may not be comparable to other industries. For example, assuming that turnover is reduced so companies save in terms of not having to recruit and train new workers, the benefits to companies that hire high-skilled workers would be significantly different from those that hire relatively low-skilled workers. Given this, it is unlikely that employee turnover will be reduced as much as claimed.

Another significant source of benefits is supposed to be from fewer visits to the emergency room, saving the community \$7.35 million. However, the study used to support this finding was self-published by IWPR (not peer reviewed).<sup>22</sup> Upon examination of the study, the relationship between the availability of paid sick leave and emergency room visits was found to be statistically insignificant (also, the R2 for different models based on the type of health insurance possessed ranged from 0.023 to 0.045; extremely low by any standard). Thus, the evidence presented does not indicate that access to paid sick leave results in fewer emergency room visits.

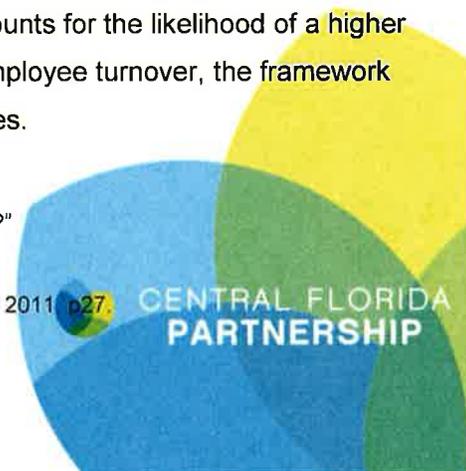
Finally, as discussed previously, the results of the IWPR study of the San Francisco program indicate that there was no noticeable change in those attending work while sick as a result of mandated paid sick leave (no net reduction in presenteeism). As a result, most of the other benefits to the community suggested are called into question.

Thus, it appears that the costs of the proposal for Orange County were underestimated while the benefits were overestimated. Rather than businesses achieving net savings, once one accounts for the likelihood of a higher number of paid sick days taken and a smaller benefit from any reduction in employee turnover, the framework provided by the IWPR would instead suggest a sizeable net loss for businesses.

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<sup>21</sup> Cooper P. and A. Monheit, "Does Employment-Related Health Insurance Inhibit Job Mobility?" *Inquiry*, 1993, 30 (4), 400-416.

<sup>22</sup> Paid Sick Days and Health: Cost Savings from Reduced Emergency Room Visits, November 2011 p27.



## **Estimating the Costs of Mandated Paid Sick Leave in Orange County**

A direct way to estimate the potential cost of mandating paid sick leave is to estimate the cost of compensating workers who take paid sick leave (see appendix for more details). Using the BLS number of workers taken, an average of 4 paid sick days (32 hours), and multiplying by the number of workers newly eligible for paid leave as well as their average hourly wage rate,<sup>23</sup> one can get a partial estimate of the cost.<sup>24</sup> Both the studies by IWPR and NFIB adjust this figure to include fringe benefits as well as payrolls taxes, workman's comp, and unemployment insurance. One final cost added is an administrative cost. A report by the IWPR uses the estimated fee for the TDI (temporary disability insurance program) program as the basis, which has been found to be 5.4%.<sup>25</sup> It assumes that a mandated paid sick leave program is much easier to manage and assumes a rate of 1.8%. Finally, based on the IWPR study of San Francisco, it is assumed that replacement workers are hired 10% of the time (that study reported that 8.4% of companies always or frequently hire replacement workers while 23.6% say they rarely hire replacements).<sup>26</sup> The result is a cost of about \$196 million per year (if all workers currently without paid sick leave are covered). However, this figure is then adjusted based on the estimate of the percent of workers likely to be impacted, as provided by IPWR, which indicates that only 42% of those currently without paid sick leave will gain access to it as a result of the proposal. Based on the most recently available data, the estimate of the cost is \$82.3 million per year. An alternative set of calculations reflecting different usage of paid sick days across industries (for example, below average use of paid sick days in leisure and hospitality) resulted in an estimated cost of \$69.2 million per year. This should be treated as a low-ball estimate in that it doesn't take into account the administrative costs of firms that already provide paid sick leave but now must satisfy regulators. Of course there are regulatory costs faced by the government. How much would it cost the government of Orange County? When a similar proposal was considered by residents of the city of Denver, Colorado, the city estimated that it would cost about \$245,000 per year to inform employees and enforce the requirement.<sup>27</sup> Given that the population of Orange County is nearly double that of Denver, Orange County's cost are likely to be significantly higher, probably about \$400,000 (not double since there are economies of scale in terms of both information and enforcement costs).

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<sup>23</sup> Florida Occupational Employment and Wages, <http://www.floridawages.com/eds.php?page=1>

<sup>24</sup> Valuing Good Health in Massachusetts: The Costs and Benefits of Paid Sick Leave, <http://www.iwpr.org/publications/pubs/valuing-good-health-in-massachusetts-the-costs-and-benefits-of-paid-sick-days-2>

<sup>25</sup> San Francisco's Paid Sick Leave Ordinance: Outcomes for Employers and Employees, <http://www.iwpr.org/publications/pubs/San-Fran-PSD>

<sup>26</sup> Sick-Pay Initiative to Cost Denver \$690,500, Says City Analysis, [http://www.denverpost.com/news/ci\\_18915060?source=pkg](http://www.denverpost.com/news/ci_18915060?source=pkg)

<sup>27</sup> "Colorado Gov. John Hickenlooper decries paid-sick-leave push", [http://www.denverpost.com/politics/ci\\_18856803#ixzz22nQt48x0](http://www.denverpost.com/politics/ci_18856803#ixzz22nQt48x0)



## *The impact on employee compensation and profits in Orange County*

As discussed earlier, the study of the San Francisco program by IWPR suggests that many workers not currently covered by paid sick leave will face reductions in other forms of compensation. Applying the results by industry for San Francisco to the Orange County economy suggests that 40% of those without paid sick leave will experience reduced compensation. In addition, also using the findings of the IWPR study of San Francisco, it is estimated that 54% of firms that do not currently offer paid sick leave will see lower profits, with smaller businesses being particularly hard hit.

### **Conclusion**

Though there may be some benefits to requiring businesses to provide paid sick leave, clearly there are costs in implementing such a program. Given IWPR's estimate of how many workers will be covered by the proposal (about 106,000), it is estimated that the costs to businesses will be between \$69.2 million and \$82.3 million per year. Opponents of the proposal will question this figure since it does not include the regulatory costs faced by firms that already provide paid sick leave but may now be required to demonstrate to regulators that they are in compliance. It also does not include administrative costs faced by firms with fewer than 15 employees that are now required to provide unpaid sick leave. Supporters of the proposal will question why the benefits of the proposal are not included. Two of the major savings claimed by the IWPR report for Orange County are \$37.5 million resulting from lower employee turnover and \$7.35 million in reduced use of emergency rooms. As discussed in this report, satisfactory evidence of reduced use of emergency rooms is not available (evidence in a prior IWPR study reveals no significant relationship). Also, any reduction in employee turnover will likely be considerably less than claimed. In addition, the IWPR study of San Francisco shows no net reduction in presenteeism as a result of the mandatory paid sick leave program, thus reducing the likelihood of several of the other proposed benefits. Thus, even though the IWPR study for Orange County claims about \$46.4 million of benefits, support for the benefits is lacking. Finally, using data from an IWPR study of the San Francisco program and applying it to the industrial composition of Orange County, it is estimated that 54% of firms affected by the proposal will experience reduced profits while 40% of employees without paid sick leave (about 42,500 employees) will face reductions in other forms of compensation. Based on the estimated cost of Denver's proposed program, it is estimated that Orange County government will incur costs of about \$400,000 to inform employees of the required paid sick leave as well as to enforce compliance.



Given the weakness of the local job market, the addition of extra costs to doing business resulting from mandating paid sick leave would further weaken the recovery. One governor summed it up by saying, "You could not pick a worse initiative at the present time... If anything, it's going to cost jobs."<sup>28</sup> Was that Rick Scott? No, it was the democratic governor of Colorado, John Hickenlooper, commenting on the mandated paid sick leave proposal rejected by voters in Denver in late 2011. A mayor commented "I care a great deal about paid sick leave, but I care even more about people getting paid. People need jobs, and that's our number-one priority."<sup>29</sup> Was that Teresa Jacobs? No, it was the democratic mayor of Philadelphia, Michael Nutter, who vetoed a paid sick leave proposal in 2011. Mayor of Orange County, Teresa Jacobs, has expressed her opposition to the proposal in part due to the fact that "This would put us (Orange County) at a disadvantage when competing with surrounding counties for new businesses, and also could cost us existing businesses;"<sup>30</sup> a point echoed by Mayor Nutter of Philadelphia.

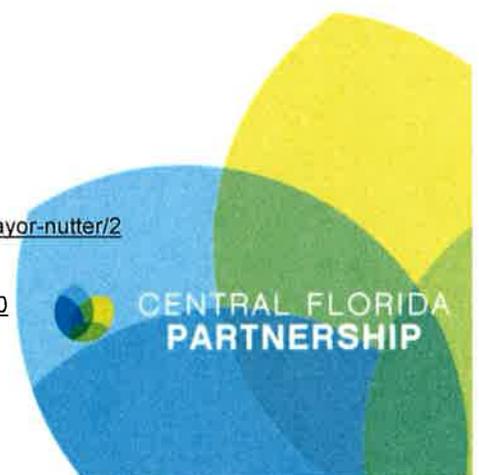
Though some portray the issue as big business vs. the little guy, the evidence suggests that the bulk of companies that currently do not provide paid sick leave are smaller businesses and thus much of the costs of mandating paid sick leave will be incurred by smaller businesses in terms of reduced profits and their employees in terms of reductions in other forms of compensation.

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<sup>28</sup> [http://articles.philly.com/2011-06-29/news/29717420\\_1\\_paid-sick-leave-bill-paid-sick-time-mayor-nutter/2](http://articles.philly.com/2011-06-29/news/29717420_1_paid-sick-leave-bill-paid-sick-time-mayor-nutter/2)

<sup>29</sup> My Word, Theresa Jacobs, Mayor of Orange County, August 14, 2012

<sup>30</sup> Florida Occupational Employment and Wages, <http://www.floridawages.com/eds.php?page=0>



## Appendix A: Details behind the Estimation of the Cost

### Estimating the Cost of the Mandated Paid Sick Leave Proposal<sup>31</sup>

Industry	Hourly Wage <sup>32</sup>	Not Currently Covered	Cost of Paid Sick Leave
Manufacturing	\$21.29	10,975	\$7,477,246
Construction	\$20.54	15,779	\$10,371,057
Transportation	\$21.58	8,833	\$6,099,716
Utilities	\$25.72	110	\$90,534
Wholesale Trade	\$23.69	5,395	\$4,089,751
Retail Trade	\$13.95	37,245	\$16,626,007
Information	\$24.96	1840	\$1,469,533
Finance	\$25.56	5079	\$4,154,412
Prof. & Tech. Serv.	\$29.99	16,053	\$15,405,743
Manag. Services	\$31.33	3,765	\$3,774,638
Admin. Services	\$15.57	20,739	\$10,332,940
Education/Health	\$22.57	26,047	\$18,812,546
Leisure/Hosp.	\$11.75	109,498	\$41,171,312
Other Services	\$15.92	7,942	\$4,046,227

Since the industries listed in the table reflect 99.4% of all private sector employees, the total cost of paid sick leave was adjusted accordingly, resulting in an estimate of \$144.8 million. As done in the studies by IWPR, one should also account for employers paying “certain benefits and taxes as a percent of their payroll: retirement contributions and legally mandated payroll taxes (the employer’s share of Social Security and Medicare taxes, plus federal and state unemployment insurance taxes and workers’ compensation).”<sup>33</sup> There are also the administrative costs of the program, estimated at 1.8% of payroll (as suggested by IWPR). In addition, as suggested by the survey results of the IWPR study of the San Francisco program, it is assumed that businesses hire replacement workers 10% of the time. Given this, the estimated cost is \$196 million, assuming all employees currently without paid sick leave are now covered. Given the estimate by IWPR that only 42% of those currently without paid sick leave in Orange County will be covered under the proposal, we arrive at an estimated cost of \$82.3 million per year (as noted elsewhere, allowing for different rates of usage of paid sick leave across industries results in an estimate of \$69.2 million per year).

<sup>31</sup> Valuing Good Health in Massachusetts: The Costs and Benefits of Paid Sick Days, May 2012, p11.

<sup>32</sup> San Francisco’s Paid Sick Leave Ordinance: Outcomes for Employers and Employees, <http://www.iwpr.org/publications/pubs/San-Fran-PSD>

<sup>33</sup> Valuing Good Health in Massachusetts: The Costs and Benefits of Paid Sick Days, May 2012, p11.



**Appendix B: Details from the IWPR Study of the San Francisco Ordinance**

The following quotes and tables are from the IWPR study of the San Francisco Paid Sick Leave Ordinance (PSLO) and are presented to provide better insight into the results of their study.<sup>34</sup>

“Two-thirds of San Francisco’s employers offered paid sick days before the PSLO went into effect, according to employer reports (Table 8) in response to the PSLO. Approximately one out of six firms enacted a new paid-sick-days policy. A similar share increased their existing PSD accrual rate, and one-sixth of employers expanded the share of their workforce covered by paid sick days (Appendix Table 2); and overall, one-third of employers made at least one of these three changes, and most employers (two out of three) were unaffected by the PSLO.” [p25]

**How Firms Changed Their PSD Policies in Response to PSLO**

Appendix Table 2

	One or more	No	Don't know
All firms	30.6%	63.7%	5.7%

When viewing the following tables, one should interpret them taking into account that nearly two-thirds of firms made no changes in response to the PSLO.

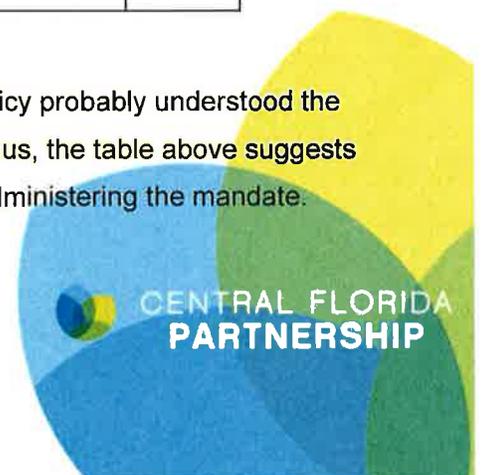
**Understanding the Requirements and Difficulty in Administering the PSLO**

Table 9: Firms’ Report of Difficulty Implementing PSLO

Understand the Requirements			Administering the PSLO		
Not too difficult or not difficult	Somewhat or very difficult	Don't know	Not too difficult or not difficult	Somewhat or very difficult	Don't Know
52.0%	34.6%	13.4%	53.9%	31.4%	14.7%

It is reasonable to assume that firms that didn't make any changes to their policy probably understood the requirements better than others and also had less difficulty administering it. Thus, the table above suggests even many of those already in compliance had difficulty understanding and administering the mandate.

<sup>34</sup> San Francisco’s Paid Sick Leave Ordinance: Outcomes for Employers and Employees, <http://www.iwpr.org/publications/pubs/San-Fran-PSD>



**Impact on Profitability**

Table 11: Impact on Profitability

	better	About the same	worse	Don't know
All firms	0.6%	70.6%	14.2%	14.6%
Those making changes	2.8%	31.8%	65.4%	

It is reasonable to assume that companies that did not need to make any changes to their policy probably did not experience any change in profit. Thus, among those that did need to make changes and reported a yes or no response, 65.4% reported a decline in profits.

**Impact on Compensation**

Table 12: Employer Changes to Compensation in Response to PSLO

	yes	Don't know	no	
All firms	12.8%	6.6%	80.6%	
Those making changes	43.1%		56.9%	

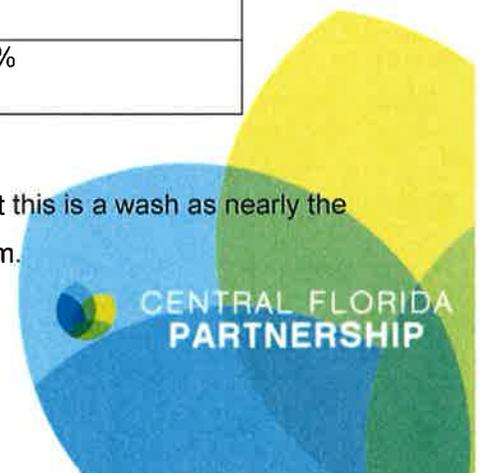
It is reasonable to assume that companies that did not need to make any changes to their policy probably did not make any changes in compensation. Thus, among those that did need to make changes and reported a yes or no response, 43.1% reported reductions in some other form of compensation.

**Impact on "Presenteeism"**

Appendix Table 4

	better	About the same	worse
All firms	3.3%	80.4%	3.4%

Even without adjusting for those that did not make any changes, it is clear that this is a wash as nearly the same amount of firms reported better and worse experience with presenteeism.



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Dr. Seyfried currently serves on the Econometrics Council of the Florida Chamber Foundation. During the 1990s, he served on the Governor's Council of Economic Advisors for the state of Arkansas. He is regularly quoted in numerous publications including the *Financial Times*, *Forbes.com*, *MSNBC.com*, *CNN-Money*, the blog of the Atlanta Federal Reserve, *LA Times*, *Chicago Tribune*, *Orlando Sentinel*, *Orlando Business Journal*, and various TV and radio stations.

