

CITY OF OAKLAND



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Councilmember Sheng Thao
DISTRICT 4
Councilmember Dan Kalb
DISTRICT 1
Councilmember Loren Taylor
DISTRICT 6

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Date: 4/30/2020
To: Members of the City Council
From: Councilmember Sheng Thao, District 4
President Pro Tempore Dan Kalb, District 1
Councilmember Loren Taylor, District 6
Councilmember Nikki Fortunato Bas, District 2
Re: Emergency Paid Sick Leave Ordinance

RECOMMENDATION

We Respectfully Request That The City Council: Adopt An Emergency Ordinance (1) Establishing Emergency Paid Sick Leave For Oakland Employees During The Novel Coronavirus (COVID-19) Pandemic and (2) Amend Chapter 2.44 Of The Oakland Municipal Code To Include Enforcement Of Emergency Paid Sick Leave As Part Of The Duties Of The Department Of Workplace And Employment Standards.

EXECUTIVE SUMMARY

The Coronavirus (COVID-19) Pandemic is an unprecedented crisis. As we navigate the current shelter in place order and the gradual reopening of the Oakland economy, we must provide emergency paid sick leave to workers in order to minimize the spread of COVID-19 in our workplaces and in our communities. This is especially the case for low-wage workers on the frontlines and in service occupations. Workers who have access to emergency paid sick days are less likely to feel compelled to come to work sick, fully comply with the 14-day quarantine period recommended by public health officials, and more easily able to care for their loved ones and navigate school and nursing home closures.. Low wage workers – who are predominantly people of color – are not only on the front lines of the crisis, but among the hardest hit economically. This ordinance builds on the Federal Families First Coronavirus Response Act, which requires certain businesses to provide 80 hours of Emergency Paid Sick Leave for full-time employees to minimize the risk of contracting or spreading COVID-19, care for a family member who has been exposed to COVID-19, or care for a child whose school has been closed. Using the Federal legislation as a scaffold, this ordinance enables workers to receive their full compensation when using their Emergency Paid Sick Leave to care for loved ones, expands Emergency Paid Sick Leave to businesses with more than 500 employees, and allows laid-off workers to collect accumulated Paid Sick Leave under Oakland’s Measure FF. The ordinance only requires

employers with less than 50 employees to follow what is already required by the Federal law in order to protect Oakland's small businesses.

The very workers we depend on to navigate this crisis must be able to protect themselves and their families. No one should have to choose between keeping their family safe and putting food on the table.

BACKGROUND

The Coronavirus (COVID-19) Pandemic has acutely alerted us to our reliance on, and the vulnerability of, our frontline, essential service workers. While the Federal Families First Coronavirus Response Act was an important step in protecting workers, California cities are realizing it is falling far short of what our workers need. Cities like Los Angeles, San Francisco, and San Jose have already passed expansions of the Federal legislation. It is imperative that Oakland follow suit to protect Oakland workers and continue to pave the way for statewide action, just as Bay Area Counties did by declaring a Shelter-in-Place Order. By eliminating the two-tier wage replacement system that limits workers' ability to use their Emergency Paid Sick Leave, this ordinance ensures that workers will not have to consider the financial impact of caring for a loved one, in line with Oakland's existing Paid Sick Day policy. Similarly, immune-compromised workers will not have to balance risking their lives with their checkbook. Our health depends on the health of the person next to us, and the person next to them. Protecting our workforce is critical to maintaining ongoing service, stopping this pandemic, and safeguarding the health and well-being of everyone in our community.

ANALYSIS

The Families First Coronavirus Response Act (FFCRA) provides 80 hours of paid sick leave for fulltime workers and, for part-time workers, the FFCRA provides the number of hours of leave that the employee works on average over a two-week period. Workers can use FFCRA if they are subject to a Federal, State, or local quarantine or isolation order related to COVID-19; if they have been advised by a healthcare provider to self-quarantine related to COVID-19; if they are experiencing COVID-19 symptoms and are seeking a medical diagnosis; if they are caring for an individual under a quarantine or isolation order; if they are caring for a child whose school or place of care is closed due to COVID-19, or if they are experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services in consultation with the Secretaries of Labor and Treasury. FFCRA does not apply to companies with more than 500 employees, ironically the companies most able to provide Paid Sick Leave. Under FFCRA, if employees are caring for a child whose school or place of care is closed, or caring for someone subject to a quarantine or isolation order, they are only compensated for 66% of their regular pay. Also, FFCRA does not allow workers to use Paid Sick Leave if they are immune-compromised or have other pre-existing conditions which make them more vulnerable to contracting and experiencing potentially fatal complications from COVID-19.

This emergency ordinance:

- 1) requires Oakland companies with greater than 50 employees to provide 10 days emergency paid sick leave;
- 2) grants workers full compensation for using sick leave to self-isolate due to exposure to COVID-19, to care for a loved one or child, or to protect themselves if they are at high risk of COVID-19

- 3) allows workers to receive their accrued paid sick leave under Measure FF if they are laid-off
- 4) codifies FFCRA into Oakland law, so the city's new Department of Workplace and Employment Standards can play a larger role in implementing and enforcing the federal requirements
- 5) does not apply expansions to the FFCRA to businesses with fewer than 50 employees, to protect Oakland's small businesses

Councilmember Thao has worked closely with the Department of Economic and Workforce Development to understand which Oakland businesses will be affected by this Ordinance. Roughly 90% of Oakland's businesses have fewer than 25 employees. According to 2019 EDD data, which includes 21,183 Oakland businesses: there are 586 businesses in Oakland with more than 50 employees. Of those 586 businesses, only 38 employ more than 500 people. Of those 38 employers with more than 500 employees, only 25 are non-government entities.

COORDINATION & PUBLIC OUTREACH

Councilmember Thao worked extensively with the East Bay Alliance for a Sustainable Economy (EBASE), and Councilmembers Kalb, Taylor, and Fortunato Bas were consulted. She has worked, and will continue to work, with stakeholders, including both workers and businesses, to move forward. This ordinance was presented to the Oakland Chamber of Commerce, and CM Thao and her team reached out to, and met with the Oakland Chinatown Chamber of Commerce, the Oakland Vietnamese Chamber of Commerce, the Oakland African American Chamber of Commerce, the Oakland Latino Chamber of Commerce, and the Jobs and Housing Coalition. The co-sponsors have worked diligently and exhaustively to bring input from many stakeholders into this ordinance. The only issue we are still considering is if employees who already have accumulated generous paid leave from their employer that goes well beyond the 80 hours of supplemental paid sick leave required by the ordinance might be exempt from some provisions of this ordinance.

Registered Support:

ACLU of Northern California
 African Black Coalition
 Alameda Labor Council, AFL-CIO
 Asian Pacific Environmental Network
 Causa Justa::Just Cause
 Centro Legal de la Raza
 Chinese Progressive Association
 East Bay Alliance for a Sustainable Economy (EBASE)
 Economic Justice for Black Oakland
 Faith Alliance for a Moral Economy
 Faith In Action East Bay
 Ella Baker Center for Human Rights
 Gig Workers Rising
 HIP (Human Impact Partners)
 IFPTE Local 21
 Light House Mosque
 Mujeres Unidas y Activas
 National Employment Law Project
 Nomadic Press
 Oakland Education Association
 Oakland Peace Center

Oakland Rising
Partnership for Working Families
Qalbu Maryam Women's Mosque
Reem's
ROC the Bay
SEIU Local 1021
SEIU USWW
Street Level Health Project
Taylor Memorial United
The Urban Equity Group
UFCW Local 5
UNITE HERE Local 2850
Worksafe

ACTION REQUESTED BY THE CITY COUNCIL

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Sincerely,



Councilmember Sheng Thao
District 4



President Pro Tempore Dan Kalb
District 1



Councilmember Loren Taylor
District 6