

LEGAL UPDATES

PUBLISHED: FEBRUARY 16, 2018

Service

Labor & Employment

Professional

KEVIN KORONKA

AUSTIN:

512.479.1162

KEVIN.KORONKA@

HUSCHBLACKWELL.COM

Austin City Council Passes Ordinance Mandating Paid Sick Leave

The Austin City Council has voted to make paid sick leave a requirement for all non-government employers in Austin. The ordinance will take effect October 1, 2018, but micro-businesses (those with five or fewer employees) will be given until October 2020 to comply.

The ordinance that the City Council enacted in the early morning hours of February 16, 2018, makes Austin the first city in Texas to mandate paid sick leave for employees. More than 200 individuals testified before the City Council passed the controversial ordinance on a 9-2 vote.

The new ordinance varies slightly from the original proposal and will require most non-governmental employers located within the corporate boundaries of the City of Austin to offer employees up to eight paid sick days (or 64 sick leave hours) annually. Small businesses with 15 or fewer employees will only be required to provide up to six paid sick days (or 48 hours total). The sick leave requirements do not apply to independent contractors or unpaid interns, and labor organizations may modify the yearly cap of sick time through collective bargaining agreements.

Details of the Ordinance

Employers can attribute any type of paid leave (e.g., paid time off or vacation days) toward the paid sick day requirement. Therefore, if an employer already offers its employees paid vacation days that meet or exceed the requirements of the ordinance, the employer is not required to offer additional paid sick days.

Under the ordinance, employees accrue one hour of paid sick leave for every 30 hours worked, and they can start using sick leave as soon as it is earned. (However, employees who will be employed for at least one year can be

restricted from using sick time during the first 60 days of employment.) Eligible workers will be able to use sick time if they are hurt or ill, need to care for a family member who is injured or sick, require medical attention or have a doctor's appointment for preventative care, among other things.

If an employee does not utilize all earned sick leave during the applicable year, any accrued, unused leave must be "rolled over" to the next year. The ordinance does not require employers to (1) allow employees to accrue more than the annual cap of paid sick leave, or (2) roll over accrued, unused leave if the employer makes at least the yearly cap of paid sick leave available to eligible employees at the beginning of the year. Employers are permitted to ask for reasonable verification of the reason for the employee's leave if a worker takes more than three paid sick days consecutively.

The ordinance mandates that Austin employers update their employee handbooks to include a notice to employees of their rights and remedies under the paid sick leave ordinance and requires the posting of signage advising employees of their right to paid sick leave. The ordinance also prohibits any retaliatory action against an employee for requesting or using paid sick leave.

What This Means to You

Employers with operations in Austin should ensure that their time-off and leave policies are updated, consistent with the new ordinance, prior to October 1.

Some lawmakers have vowed to preempt the local ordinance by enacting a statewide law prohibiting mandatory sick leave. Whether that occurs remains to be seen. Companies should continue to monitor the situation from a legislative perspective, to the extent other laws and/or ordinances may be enacted that alter these new requirements.

Contact Us

For more information about how the new ordinance may impact your business, or for assistance with revising your handbook policies, contact Kevin Koronka, Leslie Brockhoeft or another member of Husch Blackwell's Labor & Employment team.