



City of San Antonio

Agenda Memorandum

File Number:19-7147

Agenda Item Number: 4.

Agenda Date: 10/3/2019

In Control: City Council A Session

DEPARTMENT: San Antonio Metropolitan Health District

DEPARTMENT HEAD: Jennifer Herriott, MPH

COUNCIL DISTRICTS IMPACTED: Citywide

SUBJECT: Proposed revisions to Article XI of Chapter 15, of the City Code

SUMMARY:

An ordinance amending Article XI of Chapter 15 of the City Code, entitled "Earned Paid Sick Time" as previously adopted by the San Antonio City Council through Ordinance No. 2018-08-16-0620.

BACKGROUND INFORMATION:

San Antonio's Paid Sick Leave (PSL) ordinance was adopted by City Council in August 2018 following a petition drive that gathered more than 140,000 signatures in support of an earned paid sick leave ordinance. Council chose to adopt the ordinance as it was submitted with the intent to review the ordinance for possible revisions and clarifications after 6 months had passed consistent with the process set out in the City Charter.

To that end, Mayor Nirenberg formed an Ad Hoc Council Committee chaired by Councilmember Manny Pelaez. The rest of the Ad Hoc Committee is comprised of Councilmembers Melissa Cabello Havrda, Ana Sandoval, Roberto Treviño, and Rebecca Viagran. Mayor Nirenberg stated that "the ad hoc committee is charged with creating a Paid Sick Leave Commission and establishing a process that incorporates the input of all stakeholders to arrive at final recommendations for Council."

As such, the Ad Hoc Committee formed the Paid Sick Leave Commission. The PSL Commission is comprised of representatives from local businesses, chambers of commerce, the legal community, and advocates for PSL. The PSL Commission met from April to September of 2019 to review and recommend revisions to the PSL ordinance. The Chair of the PSL Commission, Danielle Hargrove, Esq., presented the PSL Commission's final recommendations on changes to San Antonio's PSL law to the Ad Hoc Committee on Tuesday, September 10, 2019. The Commission's key recommendations are as follows:

- All recommendations seek to stay true to focus on public health and ensure that the ordinance is more legally defensible;

- Rename the law ‘sick and safe leave’;
- Employer sizes removed in favor of equal applicability to all employers (‘one-size-fits-all approach’);
- Baseline hours of sick and safe leave that an employee can accrue in one year is 56 hours across the board, no longer 48 hours (small employer) or 64 hours (medium/large employer); and
- No delayed implementation for employers with five (5) or fewer employees.

At the conclusion of the September 10, 2019 meeting, the Ad Hoc Council Committee decided to hold another Ad Hoc Committee meeting on Monday, September 16, 2019 to further consider the PSL Commission’s recommendations and their impact. The Ad Hoc Committee’s September 16, 2019 meeting was adjourned without making a quorum and did not meet again.

The Chair of the PSL Commission, Danielle Hargrove, Esq., presented the PSL Commission’s and Ad Hoc Committee’s final recommendations on changes to San Antonio’s PSL law to the full council in a special meeting held on Thursday, September 19, 2019. During this same meeting, Dr. Colleen Bridger presented on the Economic Impact study done by St. Mary’s University Economists, Dr. Steve Nivin and Dr. Belinda Román as well as on the public health benefits of a Paid Sick Leave program.

During the special meeting additional changes were discussed and recommended by Council members.

Recommended changes incorporating the PSL Commission and City Council recommendations from the original ordinance language are as follows:

- ‘Earned paid sick leave’ (PSL) renamed to ‘sick and safe leave’ (SSL).
- All employees accrue SSL at a rate of 1 hour of SSL for every 30 hours worked, and can accrue up to 56 hours of SSL a year.
- ‘Medium or large employer’ and ‘small employer’ terms removed.
- An established eligibility period applying to the use of sick and safe leave may not exceed 90 days from the start of employment.
- Period of time for an employee to file a complaint: One (1) year from the date of the alleged violation.
- Collective bargaining agreements are not affected by the SSL law.
- Paid and unpaid interns are not subject to the SSL law.
- “Transient” employees who work for limited amounts of time in the City of San Antonio are addressed.
- An employer may adopt reasonable verification procedures when an employee uses SSL for more than three (3) consecutive days of work.
- SSL law applies to all employers with employees performing work in San Antonio on December 1, 2019.
- Metro Health’s annual report is mandatory.
- Inclusion of an acknowledgment within the abuse of leave provision that employers must abide by existing state and federal laws regarding discrimination.
- Limit scope of investigation to SSL law.
- Inclusion of a confidentiality provision regarding information provided by the complainant.

The City hosted two SASpeakUp sessions to solicit feedback regarding the proposed changes from the general public on Monday, September 23, 2019 and Wednesday, September 25, 2019. A survey will close on September 30, 2019. Approximately 226 residents attended the sessions. The public meetings were viewed on the City’s Facebook page by approximately 1700 residents. The meetings featured live audience polling. A complete breakdown of survey results and live audience polling will be provided prior to Council consideration of the proposed changes.

ISSUE:

The proposed revisions to Article XI of Chapter 15 of the City Code (the Sick and Safe Time Ordinance) will ensure that most employees in the City of San Antonio receive 56 hours of sick and safe time consistent with the ordinance's accrual and use provisions. Other notable changes recommended include removal of the delayed implementation for micro businesses (smaller than 5 employees); a change to the time to file a complaint; and a change to the title of the Article from "Paid Sick Leave" to "Sick and Safe Leave".

ALTERNATIVES:

If these changes to Article XI of Chapter 15 are not approved, the City Code would remain as is and the Paid Sick Leave Ordinance would be implemented December 1, 2019 with no changes.

FISCAL IMPACT:

The City has allocated \$549,340 in the Metro Health FY20 budget to implement the law.

RECOMMENDATION:

Staff recommends approval of this ordinance, to amend Article XI of Chapter 15, of the City Code (the Sick and Safe Leave ordinance) to provide a paid sick and safe leave benefit for employees working in the City of San Antonio (with exceptions as noted).