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LEGAL ALERT



## Legal Alert: California Legislature Proposes Law That Would Mandate Paid Sick Leave

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Following the lead taken by San Francisco just a year ago, the California Legislature has proposed AB 2716, the “Healthy Families, Healthy Workplace Act of 2008.” If passed, this Act would mandate that all employers, regardless of size, provide some form of paid sick leave benefits to all employees who work in California for seven or more days in a calendar year.

Under the proposed legislation, employees accrue no less than one hour of paid sick time for every 30 hours worked. Exempt employees are deemed to have worked 40 hours in a workweek, unless the employee’s normal workweek is less than 40 hours. The employee is entitled to use accrued paid sick time beginning the 90<sup>th</sup> day of employment. Moreover, paid sick time shall be carried over from year to year.

Under this proposed legislation, paid sick leave can be used for the diagnosis, care, or treatment of an existing health condition, or preventive care for, an employee or the employee’s family member. The paid leave can also be used for leave related to domestic violence or sexual assault.

The employer cannot require the employee to find a replacement worker to “cover” the time the employee takes off pursuant to this proposed legislation, nor can the employer take any action against the employee for taking the time off.

There are two aspects to this proposed legislation that do provide some consideration for employers. First, there is a provision related to small employers. Small employers, who are defined as employers who employ 10 or fewer employees during 20 or more calendar workweeks in the current or preceding year, may limit the amount of time an employee uses to 40 hours (or five days) each calendar year. All other employers may limit employees’ use to 72 hours (or nine days) each calendar year.

Second, even though the paid sick time does accrue from year to year, the proposed legislation expressly states that employers are not required to pay employees for accrued, but unused, paid sick time when their employment ceases. The only exception to this is that if an employee separates from employment and is rehired by the same employer within one year, previously accrued, unused paid sick leave must be reinstated.

The proposed legislation also includes various paperwork, notice, and recordkeeping requirements, and amends other employment-related laws to

incorporate this legislation.

**Employers' Bottom Line:**

This proposed legislation is in its infancy. However, if it passes, either in its current form or in some similar form, it will have a significant impact on employers in many respects. In addition to the financial impact, employers will be subject to recordkeeping and tracking requirements when employees take time away from work.

Should you have any questions about this Legal Alert, or any issue related to benefits provided to employees, please contact the Author of this Alert, Helene Wasserman, in the Los Angeles office of Ford & Harrison at 213-237-2403 or [hwasserman@fordharrison.com](mailto:hwasserman@fordharrison.com).

Helene is the host of the Employer Helpcast, which is a "one stop website" for both "nuts and bolts" employment law advice and insight into new legal developments affecting employers. The Employer Helpcast can be found at <http://employerhelpcast.blip.tv>.