

Paid Sick Leave Mandated for Many Employers in Philadelphia

November 1, 2011

The Philadelphia City Council has passed a new ordinance, effective July 1, 2012, that will require certain employers in the City of Philadelphia to provide their employees with paid sick leave. The ordinance, which will become law without Philadelphia Mayor Michael Nutter's signature, was approved by the council in a 15–2 vote. Mayor Nutter had previously vetoed a similar bill that would have required all businesses in the City of Philadelphia with more than five employees to provide a minimum number of paid sick days. In essence, the new ordinance applies the provisions of the vetoed sick leave bill to a much smaller group of employers.

The ordinance amends Philadelphia's 21st Century Minimum Wage and Benefits Ordinance, Chapter 17-300 of the Philadelphia Code (21st Century Ordinance), which requires certain employers to pay employees at least 150% of the federal minimum wage and provide certain healthcare benefits. The 21st Century Ordinance, and by extension the new sick leave ordinance, applies to the following group of employers:

- (1) The City of Philadelphia, including all its agencies, departments, and offices
- (2) For-profit Service Contractors (as defined in the 21st Century Ordinance) that receive or are subcontractors on contract(s) with the city for \$10,000 or more of goods/services in a 12-month period, with annual gross receipts of more than \$1 million
- (3) Nonprofit Service Contractors that receive or are subcontractors on contract(s) from the city for \$100,000 or more of goods/services in a 12-month period
- (4) Recipients of city leases, concessions, or franchises, or subcontractors thereof, that employ more than 25 employees
- (5) City financial aid recipients, for which compliance is required for a period of five years following receipt of aid
- (6) Public agencies that receive contract(s) from the city for \$10,000 or more of goods/services in a 12-month period

In a somewhat convoluted method of legislative drafting, the new sick leave ordinance incorporates the provisions of the vetoed paid sick leave bill, providing that covered employers must “provide to each full-time, non-temporary, nonseasonal covered Employee¹ at least the number of earned sick leave days that the Employer would have been required to provide to such Employees if the provisions of Bill No. 080474-AA, as passed by Council on June 16, 2011, had been enacted into law.” Thus, the limited number of employers covered by the new law will be required to provide employees with at least one hour of paid sick leave for every 40 hours worked, up to a maximum of 32 hours per year for businesses with more than five but fewer than 11 employees and up to 56 hours per year for employers with 11 employees or more.

The 21st Century Ordinance, as amended by the new law, contains provisions for seeking waivers from the ordinance’s requirements from the city’s Office of Labor Standards, and also provides that the requirements of the law can be waived, in whole or in part, by a valid collective bargaining agreement.

Employers that have not already determined their coverage under the 21st Century Ordinance should do so now and consider repeating that process annually. In addition, employers covered by that Ordinance should assess how to comply with the new law under their existing leave policies, which may need to be amended, and may consider whether to seek an amendment to collective bargaining agreements or a waiver from the Office of Labor Standards.

If you have any questions concerning the information discussed in this LawFlash, please contact any of the following Morgan Lewis attorneys:

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1. The 21st Century Ordinance amended by the new law provides that it does not apply to bona fide student interns, students, or teenagers employed during summer job programs; employees on construction projects covered by federal, state, or local prevailing wage requirements; and certain trainees up to a 60-day period of time.

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