



County of San Mateo

Inter-Departmental Correspondence

Department: HUMAN RESOURCES

File #: 21-291

Board Meeting Date: 4/20/2021

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Rocio Kiryczun, Human Resources Director

Michelle Kuka, Employee Relations Manager

Subject: Resolution Authorizing an Amendment to the County's COVID-19 Emergency Sick Leave and Expanded Family and Medical Leave Policy

RECOMMENDATION:

Adopt a resolution authorizing an amendment to the County's COVID-19 Emergency Sick Leave and Expanded Family and Medical Leave Policy in order to align the COVID-19 Emergency Sick Leave policy with new state law and extend the availability of the County's COVID-19 Emergency Sick Leave and Emergency Family Leave to September 30, 2021.

BACKGROUND:

Due to the COVID-19 Public Health Emergency, the Federal Families First Coronavirus Response Act (FFCRA) created mandatory paid leave for certain employees in the form of Emergency Paid Sick Leave and Emergency Family Medical Leave. The FFCRA provided up to 2 weeks of paid sick leave to employees for COVID-19 related reasons and paid FMLA leave for school and child care closures related to COVID-19 from April 1, 2020 through December 31, 2020.

The County Board of Supervisors previously ratified a County policy providing County employees with Emergency Paid Sick Leave and Emergency Family Medical Leave pursuant to the FFCRA. After the FFCRA expired at the end of 2020, the Board ratified two extensions to the County's emergency leave policy, providing for County COVID-19 Emergency Sick Leave and Emergency Family Medical Leave until May 1, 2021.

In some areas, the County's policy went beyond the minimum requirements of the FFCRA. For instance, under specified circumstances the County's policy provides for sick leave hours and pay beyond the minimums required by the FFCRA.

DISCUSSION:

On March 19, 2021, California enacted a new statewide law, SB 95, requiring most employers to

provide up to two weeks of paid COVID-19 sick leave for employees who are unable to work or telework. The law has two key provisions.

First, the new state law mandates that full-time employees of most employers are provided up to 80 hours of paid supplemental COVID-19 sick leave from January 1 to September 30, 2021. Part-time employees receive a pro-rated number of hours. The County may deduct from this balance any paid supplemental COVID-19 sick leave used by an employee from January 1, 2021 through March 29, 2021 under the County's prior COVID-19 policy. Employees who would have qualified to use this new COVID-19 Emergency Sick Leave but instead took unpaid leave or used an alternative form of paid leave from January 1, 2021 through March 29, 2021 may request that the County retroactively apply the new COVID-19 Emergency Sick Leave.

Second, the new state law expands the reasons an employee qualifies to use COVID-19 to authorize leave for an employee being vaccinated or recovering from post-vaccination symptoms, and for an employee who is excluded from work under the County's COVID-19 Prevention Program.

The Human Resources Department is recommending an amendment extending the County's COVID-19 Emergency Sick Leave and Expanded Family and Medical Leave Policy to September 30, 2021. It is also recommending adding new qualifying reasons for the COVID-19 Emergency Sick Leave and restoring all employees' COVID-19 Emergency Sick Leave balances, up to a maximum of 80 hours, retroactive to January 1, 2021. This will align the County's policy with the new state law and allow County employees to continue to utilize COVID-19 Emergency Sick Leave and Expanded Family and Medical Leave through September 30, 2021.

These recommendations are in alignment with the County's goals of responding to the COVID-19 Emergency while maintaining fiscal sustainability, equity, and competitiveness with the Bay Area workforce market.

County Counsel has reviewed and approved the resolution as to form.

Financial Impact on County's Retirement System

Government Code Section 31515.5 requires the County to provide the estimated financial impact that proposed benefit changes or salary increases would have on the funding status of SamCERA's retirement fund, the County's retirement system. There are no salary increases and the County's actuary has previously determined that the increased amounts of paid leave will not increase the unfunded liability.

FISCAL IMPACT:

The fiscal impact is approximately \$1.27 million to align with SB 95 and extend the policy. The County might be able to obtain reimbursements for these leaves through Federal funding.