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More Cities to Require Paid Sick Leave

Eugene, Oregon and San Diego, California are the latest to join a growing list of cities that have enacted laws requiring employers to provide paid sick leave. The laws share many common characteristics, but local variations can complicate employers' leave and attendance policies and their administration. As the expanding patchwork of leave laws creates new compliance challenges, employers need to factor mandatory paid sick leave into their overall compliance strategies.

Background

Since San Francisco voters approved the first law in the nation requiring most private-sector employers to provide paid sick leave, six other major metropolitan areas have adopted similar requirements. Paid sick leave laws are currently in effect in San Francisco, Seattle, Portland, New York City, Newark, Jersey City, and Washington DC. (See our [May 28, 2014 For Your Information](#).) Philadelphia has a more limited sick leave law in place, affecting only certain city contractors and recipients of city subsidies.



Additional cities, such as Chicago and Tacoma, continue to explore the viability of paid leave laws in their communities, while Eugene, Oregon and San Diego, California have now enacted paid sick leave mandates.

Eugene — Eighth City to Mandate Paid Sick Leave

On July 29, Eugene enacted an [Ordinance Concerning Sick Leave](#) (Council Bill 5127), effective July 1, 2015. The ordinance, which was largely patterned after Seattle's, contains many of the same or similar core requirements for accruing and using paid sick leave. The ordinance applies to private employers regardless of size.

Under the ordinance, employees will accrue one hour of paid sick time for every 30 hours of paid work performed within the city of Eugene. Accrual of sick time will begin on the later of the employee's first day of employment or July 1, 2015, and will be capped at 40 hours per year. Employees will be allowed to use accrued time after 90 days and will be able to carry unused time into the following year. However, employers may limit the use of sick time to 40 hours in a year and will not be required to pay out unused sick leave when the employee terminates. An

employer that has a sick leave or paid time off policy that provides the employee with the same or greater leave accrual will be deemed compliant with the new accrual provisions.

Purposes for which accrued sick time may be used include the employee's or an employee's family member's illness or injury, reasons relating to domestic violence, harassment, sexual assault, or stalking. An employee cannot be required to find a replacement worker for his or her shift as a precondition to taking leave.

Employees who are not located in Eugene, but occasionally work in the city, will accrue paid sick time for time worked in Eugene. An employee who performs work for an employer that does not have a physical location within the city will be eligible to use sick time only after he or she has worked in Eugene for that employer for 240 hours, and will remain eligible regardless of the number of hours worked for that employer in subsequent years.

San Diego — Ninth City to Require Paid Sick Leave

On July 28, the San Diego City Council passed the earned [Sick Leave and Minimum Wage Ordinance](#). On August 18, the council overrode Mayor Kevin Faulconer's veto, becoming the ninth major city — and the second in California — requiring private employers to provide paid sick leave. The ordinance is expected to allow an estimated 279,000 workers in California's second-largest city who currently do not have access to paid sick leave to earn up to five days of leave annually. The ordinance, which applies to employers regardless of the number of employees, takes effect on January 1, 2015.

Comment. The ordinance also incrementally increases the minimum wage in San Diego to \$11.50 an hour by January 2017. San Diego is one of a growing number of cities (including San Francisco, Santa Fe, and San Jose) that have recently taken action to raise the local minimum wage well above the federal level. (See our [July 8, 2014 For Your Information](#).)

Under the ordinance, employees who work in San Diego at least two hours in one or more calendar weeks of the year will accrue one hour of paid sick time for every 30 hours worked within the city limits, beginning on the later of the employee's first day of employment or April 1, 2015. Unlike Eugene's new law, accrual will not be capped. Employees will be allowed to use accrued time beginning on the later of their 90th day of employment or July 1, 2015, and will be able to carry over up to 40 hours of accrued but unused sick time to the following year. Employers are not, however, required to pay out unused, accrued sick leave on termination.

Accrued sick time may be used for the employee's or the employee's family member's illness or injury, workplace and school closings due to public health emergencies, and reasons relating to domestic violence, sexual assault, or stalking. Employers may limit the use of sick time to 40 hours in a year, and may set a reasonable minimum increment not to exceed two hours for the use of earned sick leave. However, an employer cannot require an employee to search for or find a replacement worker for his or her shift as a precondition to taking leave.

An employer may require up to seven days' notice for foreseeable leave, and as much notice as is practicable if leave is unforeseeable. An employer must give employees notice of their rights to earned sick leave at the time of hire or by April 1, 2015 (whichever date is later), along with notice of the employer's name, address, and telephone number. Employers will also be required to post a notice informing employees of their rights under the new law. A template notice will be provided by the city.

Comment. On August 30, the California legislature passed the [Healthy Workplaces, Healthy Families Act of 2014](#) (AB-1522), which would require employers to provide California workers with up to three days of paid sick leave annually. If, as expected, Governor Jerry Brown signs the bill, California would become only the second state — after Connecticut — to require employers to provide paid sick leave.

Importantly, employers that already have a policy providing employees with equal or more generous paid leave (including paid time off, vacation, or personal days) will not have to offer additional time off, as long as leave can be used for the same purposes and under the same conditions as under the new law.

In Closing

Although the trend toward requiring private employers to provide paid leave has been growing at the local level, it does not enjoy universal support at state or federal levels. As lawmakers continue to debate whether employers should be required to provide paid sick leave, employers are left to determine whether the time off they now provide will satisfy new requirements. In the absence of federal laws that would allow workers to earn paid sick time or paid family leave, employers will have to continue integrating their leave and attendance policies with other federal, state, and local leave laws to ensure compliance at all levels.

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