PLEASANT VALLEY RECREATION & PARK DISTRICT
ADMINISTRATION OFFICE – CONFERENCE ROOM
1605 E. BURNLEY ST., CAMARILLO, CALIFORNIA

2024 PERSONNEL COMMITTEE AGENDA

Wednesday, March 27, 2024
3:00 PM

1. **CALL TO ORDER**
2. **APPROVAL OF AGENDA**
3. **PUBLIC/COMMITTEE COMMENTS**
4. **UPDATED SICK LEAVE POLICY**
5. **REPRODUCTIVE LOSS LEAVE**
6. **ORAL COMMUNICATIONS**
7. **ADJOURNMENT**

Note: Written materials related to these agenda items are available for public inspection in the Office of the Clerk of the Board located at 1605 E. Burnley Street, Camarillo during regular business hours beginning the day preceding the Committee meeting.

Announcement: Should you need special assistance (i.e. a disability-related modification or accommodations) to participate in the Committee meeting or other District activities (including receipt of an agenda in an appropriate alternative format), as outlined in the Americans With Disabilities Act, or require further information, please contact the General Manager at 482-1996, extension 114. Please notify us 48 hours in advance to provide sufficient time to make a disability-related modification or reasonable accommodation.

PLEASANT VALLEY RECREATION AND PARK DISTRICT
STAFF REPORT / AGENDA REPORT

TO: **PERSONNEL COMMITTEE**

FROM: **MARY OTTEN, GENERAL MANAGER**
By: Kathryn Drewry, Human Resources Specialist

DATE: **March 27, 2024**

SUBJECT: **REVIEW UPDATED EXPANSION OF PAID SICK LEAVE**

BACKGROUND

On January 1, 2024, Senate Bill 616 went into effect and expanded paid sick leave (PSL) for California employers and employees. SB616 amends Labor Code sections 245.5, 246, and 246.5, and expands mandatory paid sick leave from three days or twenty-four hours to five days or forty hours, whichever is more.

SB 616 enhances the Healthy Workplace Healthy Family Act of 2014 (AB 1522). This previous bill entitled an employee who works in California for 30 or more days within a year from the beginning of employment to paid sick leave. Employees, including part-time and temporary, were able to earn at least one hour of paid leave for every 30 hours worked or were provided with at least 24 hours upfront or by the 120th day of employment.

ANALYSIS

SB 616 not only increases the number of paid sick days available to employees but also extends the use of paid sick days to employees.

Key provisions of the newly expanded Healthy Workplace, Healthy Families Act of 2014:

- Raising the employer's authorized limitations on the use of carryover sick leave to 40 hours or 5 days in each year of employment.
- Redefines "full amount of leave": to mean five (5) days or forty (40) hours.
- Allowing eligible employees, subject to an employer's existing paid leave or paid time off within 6 months of employment.
- An increase in total allowable accrual to eighty (80) hours or ten (10) days

In addition to increasing the minimum amount of PSL to forty (40) hours or five (5) days, SB 616 also provides for how employers accrue the PSL. The District can choose any of the following options:

1. Employees accrue one (1) hour of PSL for every thirty (30) hours worked;
2. District can "front load" PSL by giving employees an up-front accrual of forty (40) hours (or 5 days) of PSL at the beginning of employment and each 12 months thereafter; or

3. Employees can accrue PSL at a rate other than one (1)hour for every thirty (30) hours worked so long as the accrual is regular and results in at least 24 hours (or 3 days) of PSL by the 120th day of employment and forty (40) hours (or 5 days) of PSL by the 200th day of employment.

SB 616 permits the District to select from the aforementioned options. However, due to the bill's stringent requirements and the sporadic hours of part-time employees, the only viable choice to fulfill these criteria is option two: front-loading the accrual of forty (40) hours (or 5 days) of paid sick leave at the commencement of their employment and every twelve (12) months thereafter.

The District can require the employee to work for 90 days before taking PSL, or the District can choose to advance PSL if not yet accrued.

If the District chooses to accrue sick pay instead of front-loading it, then we can impose a maximum accrual cap of 80 hours (or 10 days) of PSL. The District can restrict employees from using more than 40 hours (or 5 days) per year of the PSL they have accrued.

The District cannot limit less than 40 hours (or 5 days) of accrued PSL to carry over, i.e., if an employee has 40 hours of unused PSL or more, at least 40 hours must be allowed to carry over to the next 12-month period.

FISCAL IMPACT

There is no fiscal impact at this time.

RECOMMENDATION

It is recommended the Personnel Committee review the updated expansion of paid sick leave and refer to the full Board for approval

ATTACHMENTS

1. Senate Bill 616 (9 pages)
2. Current Sick Leave Policy – Redline (1 page)
3. MOU (1 page)

Senate Bill No. 616

CHAPTER 309

An act to amend Sections 245.5, 246, and 246.5 of the Labor Code, relating to employment.

[Approved by Governor October 04, 2023. Filed with Secretary of State October 04, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 616, Gonzalez. Sick days: paid sick days accrual and use.

Existing law, the Healthy Workplaces, Healthy Families Act of 2014 (act), establishes requirements relating to paid sick days and paid sick leave, as described. The act excludes specified employees from its provisions, including an employee covered by a valid collective bargaining agreement, as described (CBA employees).

This bill would exclude railroad carrier employers and their employees from the act's provisions.

Existing law, with certain exceptions, entitles an employee to paid sick days for certain purposes if the employee works in California for the same employer for 30 or more days within a year from the commencement of employment. Existing law imposes procedural requirements on employers regarding the use of paid sick days, including by prohibiting retaliation for using paid sick days, by prohibiting the imposition of certain conditions on the use of paid sick days, and by requiring the use of paid sick days for specified health care and situations. Existing law requires the leave to be accrued at a rate of no less than one hour for every 30 hours worked, and to be available for use beginning on the 90th day of employment.

This bill would extend the above-described procedural requirements on the use of paid sick days to CBA employees.

Existing law authorizes an employer to use a different accrual method as long as an employee has no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period. Existing law also provides that an employer may satisfy the accrual requirements by providing not less than 24 hours or 3 days of paid sick leave that is available to the employee to use by the completion of the employee's 120th calendar day of employment.

This bill would modify the employer's alternate sick leave accrual method to additionally require that an employee have no less than 40 hours of accrued sick leave or paid time off by the 200th calendar day of employment or each calendar year, or in each 12-month period. The bill would modify that satisfaction provision to authorize an employer to satisfy accrual requirements by providing, in addition to the existing criteria for satisfaction above, not less than 40 hours or 5 days of paid sick leave that is available to the employee to use by the completion of the employee's 200th calendar day of employment.

Existing law requires accrued paid sick days to carry over to the following year of employment. Existing law, however, authorizes an employer to limit an employee's use of accrued paid sick days to 24 hours or 3 days in each year of employment, calendar year, or 12-month period. Under existing law, this provision is satisfied and no accrual or carryover is required if the full amount of leave is received at the beginning

of each year of employment, calendar year, or 12-month period. Existing law defines “full amount of leave” for these purposes to mean 3 days or 24 hours.

This bill would raise the employer’s authorized limitation on the use of carryover sick leave to 40 hours or 5 days in each year of employment. The bill would redefine “full amount of leave” to mean 5 days or 40 hours.

Existing law also entitles individual providers of in-home supportive services and waiver personal care services, as defined, to paid sick days in specified amounts in accordance with minimum wage increases, up to a maximum of 24 hours or 3 days each year of employment when the minimum wage has reached $15 per hour. Existing law authorizes the State Department of Social Services to implement and interpret these provisions.

This bill would increase the sick leave accrual rate for these providers to 40 hours or 5 days in each year of employment, beginning January 1, 2024.

Under existing law, an employer is not required to provide additional paid sick days pursuant to these provisions if the employer has a paid leave or paid time off policy, makes an amount of leave available to employees that may be used for the same purposes and under the same conditions as these provisions, and the policy satisfies one of specified conditions. Under that law, one of those conditions requires the employer to have provided paid sick leave or paid time off in a manner that results in an employee’s eligibility to earn at least 3 days or 24 hours of sick leave or paid time off within 9 months of employment.

This bill would change that condition so that the employee must be eligible to earn at least 5 days or 40 hours of sick leave or paid time off within 6 months of employment.

Under existing law, an employer has no obligation under these provisions to allow an employee’s total accrual of paid sick leave to exceed 48 hours or 6 days, provided that an employee’s rights to accrue and use paid sick leave are not otherwise limited, as specified.

This bill would increase those accrual thresholds for paid sick leave to 80 hours or 10 days.

Existing paid sick days law sets forth provisions on, among other things, compensation for accrued, unused paid sick days upon specified employment events, the lending of paid sick days to employees, written notice requirements, the calculation of paid sick leave, reasonable advance notification requirements, and payment of sick leave taken.

This bill would provide that these provisions shall preempt any local ordinance to the contrary.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

DIGEST KEY

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 245.5 of the Labor Code is amended to read:

245.5. As used in this article:

(a) “Employee” does not include the following:

(1) Except as provided in subdivision (d) of Section 246.5, an employee covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of employees, and expressly provides for paid sick days or a paid leave or paid time off policy that permits the use of sick days for those employees, final and binding arbitration of disputes concerning the application of its paid sick days provisions, premium wage rates for all overtime hours worked, and regular hourly rate of pay of not less than 30 percent more than the state minimum wage rate.

(2) An employee in the construction industry covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of employees, premium wage rates for all overtime hours worked, and regular hourly pay of not less than 30 percent more than the state minimum wage rate, and the agreement either (A) was entered into before January 1, 2015, or (B) expressly waives the requirements of this article in clear and unambiguous terms. For purposes of this subparagraph, “employee in the construction industry” means an employee performing work associated with construction, including work involving alteration, demolition, building, excavation, renovation, remodeling, maintenance, improvement, repair work, and any other work as described by Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and other similar or related occupations or trades.

(3) An individual employed by an air carrier as a flight deck or cabin crew member that is subject to Title II of the federal Railway Labor Act (45 U.S.C. Sec. 151 et seq.), provided that the individual is provided with compensated time off equal to or exceeding the amount established in paragraph (1) of subdivision (b) of Section 246.

(4) An employee of the state, city, county, city and county, district, or any other public entity who is a recipient of a retirement allowance and employed without reinstatement into the employee’s respective retirement system pursuant to either Article 8 (commencing with Section 21220) of Chapter 12 of Part 3 of Division 5 of Title 2 of the Government Code, or Article 8 (commencing with Section 31670) of Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code.

(5) An employee as defined in Section 351(d) of Title 45 of the United States Code.

(b) (1) “Employer” means any person employing another under any appointment or contract of hire and includes the state, political subdivisions of the state, and municipalities.

(2) “Employer” does not include any employer described in Section 351(a) of Title 45 of the United States Code.

(c) “Family member” means any of the following:

(1) A child, which for purposes of this article means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status.

(2) A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee’s spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.

(3) A spouse.

(4) A registered domestic partner.

(5) A grandparent.

(6) A grandchild.

(7) A sibling.

(8) A designated person, which, for purposes of this article, means a person identified by the employee at the time the employee requests paid sick days. An employer may limit an employee to one designated person per 12-month period for paid sick days.

(d) “Health care provider” has the same meaning as defined in Section 12945.2 of the Government Code.

(e) “Paid sick days” means time that is compensated at the same wage as the employee normally earns during regular work hours and is provided by an employer to an employee for the purposes described in Section 246.5.

SEC. 2. Section 246 of the Labor Code is amended to read:

246. (a) (1) An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section. For an individual provider of waiver personal care services under Section 14132.97 of the Welfare and Institutions Code who also provides in-home supportive services in an applicable month, eligibility shall be determined based on the aggregate number of monthly hours worked between in-home supportive services and waiver personal care services pursuant to subdivision (d) of Section 14132.971.

(2) On and after July 1, 2018, a provider of in-home supportive services under Section 14132.95, 14132.952, or 14132.956 of, or Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of, the Welfare and Institutions Code, who works in California for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in subdivision (e) and subject to the rate of accrual in paragraph (1) of subdivision (b). For an individual provider of waiver personal care services under Section 14132.97 of the Welfare and Institutions Code, entitlement to paid sick days begins on July 1, 2019.

(b) (1) An employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later, subject to the use and accrual limitations set forth in this section.

(2) An employee who is exempt from overtime requirements as an administrative, executive, or professional employee under a wage order of the Industrial Welfare Commission is deemed to work 40 hours per workweek for the purposes of this section, unless the employee’s normal workweek is less than 40 hours, in which case the employee shall accrue paid sick days based upon that normal workweek.

(3) An employer may use a different accrual method, other than providing one hour per every 30 hours worked, provided that the accrual is on a regular basis so that an employee has no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period, and no less than 40 hours of accrued sick leave or paid time off by the 200th calendar day of employment or each calendar year, or in each 12-month period.

(4) An employer may satisfy the accrual requirements of this section by providing not less than 24 hours or 3 days of paid sick leave that is available to the employee to use by the completion of the employee’s 120th calendar day of employment, and no less than 40 hours or 5 days of paid sick leave that is available to the employee to use by the completion of the employee’s 200th calendar day of employment.

(c) An employee shall be entitled to use accrued paid sick days beginning on the 90th day of employment, after which day the employee may use paid sick days as they are accrued.

(d) Accrued paid sick days shall carry over to the following year of employment. However, an employer may limit an employee’s use of accrued paid sick days to 40 hours or five days in each year of employment, calendar year, or 12-month period. This section shall be satisfied and no accrual or carryover is required if the full amount of leave is received at the beginning of each year of employment, calendar year, or 12-month period. The term “full amount of leave” means five days or 40 hours.

(e) For a provider of in-home supportive services under Section 14132.95, 14132.952, or 14132.956 of, or Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of, and an individual provider of waiver personal care services under Section 14132.97 of, the Welfare and Institutions Code, the term “full amount of leave” is defined as follows:

(1) Eight hours or one day in each year of employment, calendar year, or 12-month period beginning July 1, 2018.

(2) Sixteen hours or two days in each year of employment, calendar year, or 12-month period beginning when the minimum wage, as set forth in paragraph (1) of subdivision (b) of Section 1182.12 and accounting for any years postponed under subparagraph (D) of paragraph (3) of subdivision (d) of Section 1182.12, has reached thirteen dollars ($13) per hour.

(3) Twenty-four hours or three days in each year of employment, calendar year, or 12-month period beginning when the minimum wage, as set forth in paragraph (1) of subdivision (b) of Section 1182.12 and accounting for any years postponed under subparagraph (D) of paragraph (3) of subdivision (d) of Section 1182.12, has reached fifteen dollars ($15) per hour.

(4) Forty hours or five days in each year of employment, calendar year, or 12-month period beginning January 1, 2024.

(f) An employer is not required to provide additional paid sick days pursuant to this section if the employer has a paid leave policy or paid time off policy, the employer makes available an amount of leave applicable to employees that may be used for the same purposes and under the same conditions as specified in this section, and the policy satisfies one of the following:

(1) Satisfies the accrual, carryover, and use requirements of this section.

(2) Provided paid sick leave or paid time off to a class of employees before January 1, 2015, pursuant to a sick leave policy or paid time off policy that used an accrual method different than providing one hour per 30 hours worked, provided that the accrual is on a regular basis so that an employee, including an employee hired into that class after January 1, 2015, has no less than one day or eight hours of accrued sick leave or paid time off within three months of employment of each calendar year, or each 12-month period, and the employee was eligible to earn at least five days or 40 hours of sick leave or paid time off within six months of employment. If an employer modifies the accrual method used in the policy it had in place prior to January 1, 2015, the employer shall comply with any accrual method set forth in subdivision (b) or provide the full amount of leave at the beginning of each year of employment, calendar year, or 12-month period. This section does not prohibit the employer from increasing the accrual amount or rate for a class of employees covered by this subdivision.

(3) Notwithstanding any other law, sick leave benefits provided pursuant to the provisions of Sections 19859 to 19868.3, inclusive, of the Government Code, or annual leave benefits provided pursuant to the provisions of Sections 19858.3 to 19858.7, inclusive, of the Government Code, or by provisions of a memorandum of understanding reached pursuant to Section 3517.5 that incorporate or supersede provisions of Section 19859 to 19868.3, inclusive, or Sections 19858.3 to 19858.7, inclusive, of the Government Code, meet the requirements of this section.

(g) (1) Except as specified in paragraph (2), an employer is not required to provide compensation to an employee for accrued, unused paid sick days upon termination, resignation, retirement, or other separation from employment.

(2) If an employee separates from an employer and is rehired by the employer within one year from the date of separation, previously accrued and unused paid sick days shall be reinstated. The employee shall be entitled to use those previously accrued and unused paid sick days and to accrue additional paid sick days upon rehiring, subject to the use and accrual limitations set forth in this section. An employer is not

required to reinstate accrued paid time off to an employee that was paid out at the time of termination, resignation, or separation of employment.

(h) An employer may lend paid sick days to an employee in advance of accrual, at the employer's discretion and with proper documentation.

(i) An employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages. If an employer provides unlimited paid sick leave or unlimited paid time off to an employee, the employer may satisfy this section by indicating on the notice or the employee's itemized wage statement "unlimited." The penalties described in this article for a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226. This subdivision shall apply to employers covered by Wage Order 11 or 12 of the Industrial Welfare Commission only on and after January 21, 2016.

(j) An employer has no obligation under this section to allow an employee's total accrual of paid sick leave to exceed 80 hours or 10 days, provided that an employee's rights to accrue and use paid sick leave are not limited other than as allowed under this section.

(k) An employee may determine how much paid sick leave they need to use, provided that an employer may set a reasonable minimum increment, not to exceed two hours, for the use of paid sick leave.

(l) For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations:

(1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek.

(2) Paid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment.

(3) Paid sick time for exempt employees shall be calculated in the same manner as the employer calculates wages for other forms of paid leave time.

(m) If the need for paid sick leave is foreseeable, the employee shall provide reasonable advance notification. If the need for paid sick leave is unforeseeable, the employee shall provide notice of the need for the leave as soon as practicable.

(n) An employer shall provide payment for sick leave taken by an employee no later than the payday for the next regular payroll period after the sick leave was taken.

(o) The State Department of Social Services, in consultation with stakeholders, shall convene a workgroup to implement paid sick leave for in-home supportive services providers as specified in this section. This workgroup shall finish its implementation work by November 1, 2017, and the State Department of Social Services shall issue guidance such as an all-county letter or similar instructions by December 1, 2017.

(p) No later than February 1, 2019, the State Department of Social Services, in consultation with the Department of Finance and stakeholders, shall reconvene the paid sick leave workgroup for in-home supportive services providers. The workgroup shall discuss how paid sick leave affects the provision of in-home supportive services. The workgroup shall consider the potential need for a process to cover an in-home supportive services recipient's authorized hours when a provider needs to utilize their sick time. This workgroup shall finish its work by November 1, 2019.

(q) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the State Department of Social Services may implement, interpret, or make specific this section by means of an all-county letter, or similar instructions, without taking any regulatory action.

(r) Subdivisions (g), (h), (i), (l), (m), and (n) shall preempt any local ordinance to the contrary.

SEC. 3. Section 246.5 of the Labor Code is amended to read:

246.5. (a) Upon the oral or written request of an employee, an employer shall provide paid sick days for the following purposes:

(1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.

(2) For an employee who is a victim of domestic violence, sexual assault, or stalking, the purposes described in subdivision (c) of Section 230 and subdivision (a) of Section 230.1.

(b) An employer shall not require as a condition of using paid sick days that the employee search for or find a replacement worker to cover the days during which the employee uses paid sick days.

(c) (1) An employer shall not deny an employee the right to use accrued sick days, discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using accrued sick days, attempting to exercise the right to use accrued sick days, filing a complaint with the department or alleging a violation of this article, cooperating in an investigation or prosecution of an alleged violation of this article, or opposing any policy or practice or act that is prohibited by this article.

(2) There shall be a rebuttable presumption of unlawful retaliation if an employer denies an employee the right to use accrued sick days, discharges, threatens to discharge, demotes, suspends, or in any manner discriminates against an employee within 30 days of any of the following:

(A) The filing of a complaint by the employee with the Labor Commissioner or alleging a violation of this article.

(B) The cooperation of an employee with an investigation or prosecution of an alleged violation of this article.

(C) Opposition by the employee to a policy, practice, or act that is prohibited by this article.

(d) Notwithstanding subdivision (a) of Section 245.5, for purposes of this section, "employee" shall include an employee described in paragraph (1) of subdivision (a) of Section 245.5.

SEC. 4. The Legislature finds and declares that establishing uniform statewide regulation of certain aspects of paid sick leave is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections 1, 2, and 3 of this act amending Sections 245.5, 246, and 246.5 of the Labor Code apply to all cities, including charter cities.

Style Definition: Body

1. Full Time Employees Sick Leave Accrual

Every regular full-time employee shall accrue sick leave at the rate of 3.69 hours per pay period. Employees in regular positions budgeted less than eighty (80) hours per pay period shall receive sick leave accumulation on a pro-rata basis.

Paid sick leave shall continue to accrue during any period of leave with pay, including sick leave. Leave will accrue at a prorated rate if any part of the leave becomes unpaid. There shall be no cap on the number of sick leave hours an employee may accumulate for illness.

2. Part-Time Year-Round Employees

Employees in this classification will receive ~~twenty-four (24)~~forty (40) hours of sick leave upon ~~completion of six pay periods (84 calendar days)~~date of hire. Beginning the seventh pay period employees will accrue sick leave at 2.76 hours per pay period.

Paid sick leave shall continue to accrue during any period of leave with pay, including sick leave. Leave will accrue at a prorated rate if any part of the leave becomes unpaid. There shall be no cap on the number of sick leave hours an employee may accumulate for illness.

3. Temporary or Seasonal and/or Part Time Restricted Employees

Temporary or Seasonal Employees shall receive ~~twenty-four (24)~~forty (40) hours of sick leave upon ~~completion of six pay periods (84 calendar days)~~date of hire. Beginning their second year of employment the employee will receive an additional ~~twenty-four (24)~~forty (40) hours, not to exceed ~~forty-eight (48)~~eighty (80) hours.

ARTICLE 24 — SICK LEAVE

A. Accrual of Sick Leave: Every regular full-time employee shall accrue sick leave at the rate of 3.69 hours per pay period. Employees in regular positions budgeted less than eighty (80) hours per pay period shall receive sick leave accumulation on a pro-rata basis. Part-time year-round employees shall accrue forty (40) hours upon date of hire. Beginning the seventh (7th) pay period employees will accrue sick leave at 2.76 hours per pay period.

1. Paid sick leave shall continue to accrue during any period of leave with pay, including sick leave. There shall be no cap on the number of sick leave hours an employee may accumulate for illness.

2. Temporary or Seasonal Employees shall be entitled to paid sick leave. Sick leave for eligible Temporary or Seasonal Employees shall ~~accrue at the rate of one (1) hour for every thirty (30) hours worked and 31 accrual of sick leave shall be capped at six (6) days or forty-eight (48) hours. Sick leave may be used after thirty (30) days of employment~~receive forty (40) hours of sick leave upon date of hire. Beginning their second year of employment the employee will receive an additional forty (40) hours, not to exceed eighty hours.~~.~~

PLEASANT VALLEY RECREATION AND PARK DISTRICT
STAFF REPORT / AGENDA REPORT

TO: **PERSONNEL COMMITTEE**

FROM: **MARY OTTEN, GENERAL MANAGER**
By: Kathryn Drewry, Human Resources Specialist

DATE: **MARCH 27, 2024**

SUBJECT: **REVIEW LEAVE FOR REPRODUCTIVE RIGHTS**

BACKGROUND

Senate Bill 848, which became effective on January 1, 2024, entitles employees to five days of leave following a reproductive loss event. SB 8448 adds section 12945.6 to the Government Code and requires employers to provide reproductive loss leave to eligible employees under specified circumstances:

1. Any person who employs (5) or more persons to perform services for a wage or salary; and
2. The state and any political or civil subdivision of the state, including but not limited to cities, and counties.

An employee is eligible for reproductive loss leave after at least 30 days of employment. An eligible employee is entitled to take up to five days of reproductive loss leave (which may be taken nonconsecutively but shall be completed within three months) per reproductive loss event, up to a total amount of 20 days of reproductive loss leave within a 12-month period.

ANALYSIS

SB 848 defines a reproductive loss as "the day or, for a multiple-day event, the final day of a failed adoption, failed surrogacy, miscarriage, stillbirth, or an unsuccessful assisted reproduction" (i.e., an unsuccessful round of intrauterine insemination or of an assisted reproductive technology procedure). Employees under the following circumstances related to a reproductive loss event are eligible for reproductive loss leave:

- A failed adoption event applies to an employee who would have been a parent of the adoptee if the adoption had been completed.
- A failed surrogacy event applies to an employee who would have been a parent of child born as a result of the surrogacy.
- A miscarriage event applies to an employee who experienced miscarriage, who is the current spouse or domestic partner of a person who experienced a miscarriage, or who would have been a parent of a child born as a result of a pregnancy that resulted in miscarriage.
- A stillbirth even applies to an employee whose pregnancy resulted in a stillbirth, who is the current spouse or domestic partner of a person whose pregnancy resulted in a stillbirth, or who would have been a parent of a child born as a result of a pregnancy that resulted in stillbirth.

- An unsuccessful assisted reproduction event applies to an employee who experienced such event, who is the current spouse or domestic partner of a person who experienced such event, or who would have been a parent of a child born as a result of a pregnancy had the assisted reproduction been successful.

Reproductive loss leave may be taken pursuant to any existing applicable leave. An employee may use vacation, management, compensatory time, or available sick leave, that may be available to the employee.

Under SB 848, it is an unlawful employment practice for an employer to refuse to grant a request from an eligible employee to take reproductive loss leave, or for an employer to retaliate against an eligible employee because the employee exercised the right to reproductive loss leave or gave information or testimony as to reproductive loss leave. It is also an unlawful employment practice for an employer to interfere with, restrain, deny the exercise of, or deny the attempt to exercise the rights afforded to employees under the reproductive loss leave law.

FISCAL IMPACT

There is no fiscal impact at this time.

RECOMMENDATION

It is recommended the Personnel Committee review the addition of Reproductive Loss Leave and refer to the full Board for approval.

ATTACHMENTS

1) Seante Bill 848 (4 pages)
2) Unrepresented Employee Manual Article 5 - Leave of Absence (1 page)

Senate Bill No. 848

CHAPTER 724

An act to add Section 12945.6 to the Government Code, relating to employment.

[Approved by Governor October 10, 2023. Filed with Secretary of State October 10, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 848, Rubio. Employment: leave for reproductive loss.

Existing law, the California Fair Employment and Housing Act, makes it an unlawful employment practice for an employer to refuse to grant a request by any employee to take up to 5 days of bereavement leave upon the death of a family member.

This bill would additionally make it an unlawful employment practice for an employer to refuse to grant a request by an eligible employee to take up to 5 days of reproductive loss leave following a reproductive loss event, as defined. The bill would require that leave be taken within 3 months of the event, except as described, and pursuant to any existing leave policy of the employer. The bill would provide that if an employee experiences more than one reproductive loss event within a 12-month period, the employer is not obligated to grant a total amount of reproductive loss leave time in excess of 20 days within a 12-month period. Under the bill, in the absence of an existing policy, the reproductive loss leave may be unpaid. However, the bill would authorize an employee to use certain other leave balances otherwise available to the employee, including accrued and available paid sick leave. The bill would make leave under these provisions a separate and distinct right from any right under the California Fair Employment and Housing Act.

The bill would make it an unlawful employment practice for an employer to retaliate against an individual, as described, because of the individual’s exercise of the right to reproductive loss leave or the individual’s giving of information or testimony as to reproductive loss leave, as described. The bill would require the employer to maintain employee confidentiality relating to reproductive loss leave, as specified.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

DIGEST KEY

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 12945.6 is added to the Government Code, to read:

12945.6. (a) For purposes of this section, the following definitions apply:

(1) (A) “Assisted reproduction” means a method of achieving a pregnancy through an artificial insemination or an embryo transfer and includes gamete and embryo donation.

(B) “Assisted reproduction” does not include any pregnancy achieved through sexual intercourse.

(2) “Employee” means a person employed by the employer for at least 30 days prior to the commencement of the leave.

(3) “Employer” means either of the following:

(A) A person who employs five or more persons to perform services for a wage or salary.

(B) The state and any political or civil subdivision of the state, including, but not limited to, cities and counties.

(4) “Failed adoption” means the dissolution or breach of an adoption agreement with the birth mother or legal guardian, or an adoption that is not finalized because it is contested by another party. This event applies to a person who would have been a parent of the adoptee if the adoption had been completed.

(5) “Failed surrogacy” means the dissolution or breach of a surrogacy agreement, or a failed embryo transfer to the surrogate. This event applies to a person who would have been a parent of a child born as a result of the surrogacy.

(6) “Miscarriage” means a miscarriage by a person, by the person’s current spouse or domestic partner, or by another individual if the person would have been a parent of a child born as a result of the pregnancy.

(7) “Reproductive loss event” means the day or, for a multiple-day event, the final day of a failed adoption, failed surrogacy, miscarriage, stillbirth, or an unsuccessful assisted reproduction.

(8) “Reproductive loss leave” means the leave provided by subdivision (b).

(9) “Stillbirth” means a stillbirth resulting from a person’s pregnancy, the pregnancy of a person’s current spouse or domestic partner, or another individual, if the person would have been a parent of a child born as a result of the pregnancy that ended in stillbirth.

(10) “Unsuccessful assisted reproduction” means an unsuccessful round of intrauterine insemination or of an assisted reproductive technology procedure. This event applies to a person, the person’s current spouse or domestic partner, or another individual, if the person would have been a parent of a child born as a result of the pregnancy.

(b) (1) It shall be an unlawful employment practice for an employer to refuse to grant a request by any employee to take up to five days of reproductive loss leave following a reproductive loss event. If an employee experiences more than one reproductive loss event within a 12-month period, an employer shall not be obligated to grant a total amount of reproductive loss leave time in excess of 20 days within a 12-month period.

(2) The employer shall allow the days an employee takes for reproductive loss leave to be nonconsecutive.

(3) (A) Except as provided in subparagraph (B), reproductive loss leave shall be completed within three months of the event entitling the employee to that leave under paragraph (1).

(B) Notwithstanding subparagraph (A), if, prior to or immediately following a reproductive loss event, an employee is on or chooses to go on leave from work pursuant to Section 12945, 12945.2, or any other

leave entitlement under state or federal law, the employee shall complete their reproductive loss leave within three months of the end date of the other leave.

(4) (A) Reproductive loss leave shall be taken pursuant to any existing applicable leave policy of the employer.

(B) If there is no existing applicable leave policy, reproductive loss leave may be unpaid, except that an employee may use vacation, personal leave, accrued and available sick leave, or compensatory time off that is otherwise available to the employee.

(c) It shall be an unlawful employment practice for an employer to retaliate against an individual, including, but not limited to, refusing to hire, discharging, demoting, fining, suspending, expelling, or discriminating against, an individual because of either of the following:

(1) An individual's exercise of the right to reproductive loss leave.

(2) An individual's giving information or testimony as to their own reproductive loss leave, or another person's reproductive loss leave, in an inquiry or proceeding related to rights guaranteed under this section.

(d) It shall be an unlawful employment practice for an employer to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right provided under this section.

(e) The employer shall maintain the confidentiality of any employee requesting leave under this section. Any information provided to the employer pursuant to this section shall be maintained as confidential and shall not be disclosed except to internal personnel or counsel, as necessary, or as required by law.

(f) An employee's right to reproductive loss leave shall be construed as a separate and distinct right from any right under this part.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which adds Section 12945.6 to the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

The confidentiality provisions set forth in Section 1 further the need to protect the privacy rights of employees regarding a reproductive loss, and to protect the enforcement process related to violations of these provisions. These limitations are needed in order to strike the proper balance between the privacy interests of the employee and the employee's family, and the public's right to access.

ARTICLE 5 – LEAVE OF ABSENCE

Reproductive Loss Leave

An employee is eligible for reproductive loss leave after at least 30 days of employment. An eligible employee is entitled to take up to five days of reproductive loss leave (which may be taken nonconsecutively) per reproductive loss event, up to a total amount of 20 days of reproductive loss leave within a 12-month period.

Employees under the following circumstances related to a reproductive loss event are eligible for reproductive loss leave:

- A failed adoption event applies to an employee who would have been a parent of the adoptee if the adoption had been completed.
- A failed surrogacy event applies to an employee who would have been a parent of child born as a result of the surrogacy.
- A miscarriage event applies to an employee who experienced miscarriage, who is the current spouse or domestic partner of a person who experienced a miscarriage, or who would have been a parent of a child born as a result of a pregnancy that resulted in miscarriage.
- A stillbirth even applies to an employee whose pregnancy resulted in a stillbirth, who is the current spouse or domestic partner of a person whose pregnancy resulted in a stillbirth, or who would have been a parent of a child born as a result of a pregnancy that resulted in stillbirth.
- An unsuccessful assisted reproduction event applies to an employee who experienced such event, who is the current spouse or domestic partner of a person who experienced such event, or who would have been a parent of a child born as a result of a pregnancy had the assisted reproduction been successful.

Reproductive loss leave may be taken pursuant to any existing applicable leave. An employee may use vacation, management, compensatory time, or available sick leave, that may be available to the employee.