

March 25, 2021

California SB 95 Provides Additional Sick Leave Benefits to Covered Public Employees

Many public employees have been forced to use significant amounts of their personal leave to cover absences mandated by COVID-19 exposures and quarantine protocols. While these requirements have helped protect the public health, they have also imposed economic hardships after the federal Families First Coronavirus Response Act expired last year. Now, in recognition of the ongoing need for paid leave benefits for COVID-19 related absences, California has enacted Senate Bill 95 to provide additional leave benefits to covered public employees.



Effective March 29, 2021, SB 95 grants covered employees (as described below) working for public agencies with more than 25 employees up to 80 hours of COVID-19 related sick leave. While the operative dates are January 1, 2021 through September 30, 2021, an employee who is receiving sick leave benefits at the time the law expires will still be entitled to the full amount. Further, as the law is retroactive to January 1, 2021, a covered employee who used his or her own sick leave prior to March 29, 2021 is eligible for payment. Whether an employee is requesting prospective sick leave or retroactive payment, an employer must immediately acquiesce when provided with an oral or written request. The law is silent as to whether employers may ask for documentation or verification to substantiate the need for the sick leave. It is unlikely, however, that they may do so, unless they suspect an employee is abusing his or her entitlement to leave.

An employee is considered a “covered” employee if he or she is unable to work or telework for *any* of the following reasons:

1. The employee is subject to quarantine or an isolation period related to COVID-19 as defined by an order or guidelines of the California Department of Public Health, the federal Centers for Disease Control and Prevention, or a local health officer with jurisdiction over the workplace; has been advised by a healthcare provider to quarantine; or is experiencing COVID-19 symptoms and seeking a medical diagnosis.
2. The employee is caring for a family member who is subject to COVID-19 quarantine or an isolation period; has been advised by a healthcare provider to quarantine due to COVID-19; or is caring for a child whose school or place

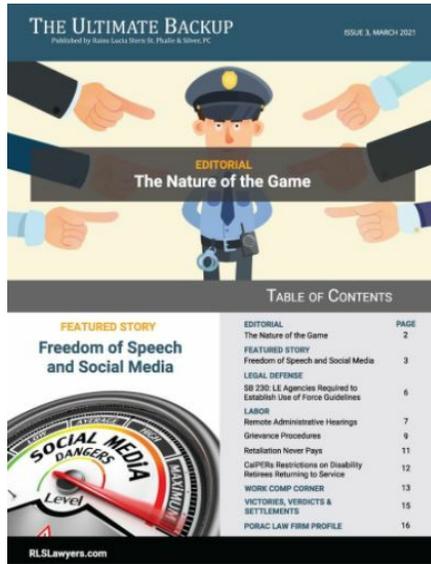
- of care is closed or unavailable due to COVID-19 on the premises.
- 3. The employee is attending a vaccine appointment, or is experiencing vaccine-related side-effects.

The total number of hours an employee can claim for paid sick leave benefits varies based on the employee’s work schedule. If the employee has a regular work schedule, then the employee’s supplemental paid sick leave equals the total number of hours they worked over the past two weeks up to a total of 80 hours. If the employee’s schedule varies, as is the case with firefighters, for example, the employee’s supplemental paid sick leave will become the average number of hours the employee worked in a two-week period over the past six months.

Non-exempt employees are to be paid the highest of the following for each hour of leave:

- The regular rate of pay for the workweek in which leave is taken
- State minimum wage
- Local minimum wage
- Average hourly pay for the preceding 90 days, excluding overtime pay

Exempt employees are to be paid the same rate of pay they are provided for non-COVID-19 related sick leave. However, COVID-19 related sick leave is not to exceed \$511 per day (\$5,110 total).



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