



Legislation Text

File #: 23-1372, Version: 1

CITY COUNCIL AGENDA ITEM

ACTION REQUESTED:

Pass the ordinance adopting the current City employee paid leave policies and exercising municipal home rule authority to opt out of the state Paid Leave for All Workers Act

DEPARTMENT: Legal Department

SUBMITTED BY: Dwight Pancottine, Labor and Employment Attorney

BOARD/COMMISSION REVIEW:

N/A

BACKGROUND:

On or about March 12, 2023, Governor JB Pritzker signed into law the Paid Leave for All Workers Act (820 ILCS 192/1 et seq.) (the "Act"). The Act becomes effective on January 1, 2024. It applies to all full-time, part-time, seasonal and other temporary positions once the employee has been employed for a period of 90 days. The Act is applicable to employers with 50 or more employees, including municipal government employers. Under the Act, covered employers must annually provide one hour of paid time off for every 40 hours worked up to a maximum of 40 hours per year.

DISCUSSION:

The City time off policies contained in the City Employee Policy Manual and the collective bargaining agreements covering various employee groups currently contain paid time off policies that provide paid time off in excess of the 40-hour state law mandate for all permanent full-time and part-time City employees.

The City does employ 15 temporary part-time employees who work up to 15 hours per week on a year-round basis and four part-time employees who work 40 hours per week for six months per year. These employees currently do not qualify for paid time off under City policy. Under the Act, these employees would be entitled to paid time off commensurate with the number of hours worked.

In addition to mandating paid time off for City employees who currently do not receive a paid time off benefit, the Act regulates employers regarding policies on time off usage by requiring that time off be "freely granted." The Act also imposes a relatively short seven calendar day notice for seeking time off for a foreseeable event such as vacation planning.

According to the Illinois Department of Labor, which has responsibility for administering the Act, employers may implement "limited reasons" for denying leave for operational necessity and any such policy must be communicated to employees and "applied equally" to all employees.

The City is a multifaceted operation, and each department has its own time off usage rules tailored to the specific operation. For example, in public safety operations, time off usage policies are implemented to account for necessary staffing levels. In the Public Works Department, time off policies differ during winter operations to account for sufficient staffing during weather events. It would therefore be burdensome and impractical to impose a “uniform” City-wide policy on time off usage for all employees, and doing so would likely impact the necessary operations related to core municipal functions.

It must also be noted that the Act’s requirement that leave be freely granted only applies to the statutorily granted 40 hours of time off. Although full and part-time City employees already have time-off benefits in excess of the requirements of the Act, they would be entitled to use 40 hours of their paid leave under the restrictive usage rules imposed by the Act. Implementation would therefore require segregation of time off hours to those covered and not covered under the Act. This would place the City in a circumstance where time off usage rules would be different depending on which paid time off bank an employee used, creating a management and recordkeeping burden.

Given the significant impact the Act could have on the ability of the City to render core services to its residents in an effective and efficient manner, and the fact that all permanent full-time and part-time employees current receive paid time off in excess of that required under the Act, this new law provides no value to permanent City employees or to residents.

Because the City is a home rule unit of government under the Illinois Constitution and possesses significant authority to exercise any power within its governmental affairs, which necessarily includes provision of benefits to its employees, and the General Assembly did not prevent the Act from being overridden by home rule governance, staff recommends that the City Council effectively “opt out” of the Act and its provisions for the reasons discussed above.

It is further recommended that in passing the attached ordinance applying home rule authority to opt out from the Act, that the City Council adopt the current paid time off policies contained in the City Employee Policy Manual and the various collective bargaining agreements governing employee terms and conditions of employment. Doing so will demonstrate the City’s commitment to the underlying purpose of the Act to provide adequate paid time off to employees and it will not impact the City’s ability to change or modify these benefits in the future.

Regarding provision of paid time off to temporary employees who would otherwise qualify for this benefit under the Act, the ordinance includes a statement that in no event shall the City provide less than one day of paid leave per year to any City employee who would otherwise qualify for paid time off under the Act. Staff recommends including this provision in order to implement a limited paid time off benefit for temporary employees who work for the City for more than 90 days so that the decision to opt out of the Act does not affect the statutory benefit conferred on them under the Act.

FISCAL IMPACT:

Staff estimates that the cost of providing a paid time off benefit to temporary employees who would otherwise qualify for paid time off under the Act to be approximately \$9,250 per year.