



BOARD OF COMMISSIONERS OF COOK COUNTY
Cook County Building, Board Room, 118 North Clark Street, Chicago, Illinois

Fourth New Items Agenda

for the

Meeting of the Board of Commissioners

Wednesday, June 29, 2016, 11:00 AM

16-4229

Sponsored by: BRIDGET GAINER, County Commissioner

PROPOSED ORDINANCE

ESTABLISHING EMPLOYER PAID SICK LEAVE FOR RESIDENTS OF COOK COUNTY

WHEREAS, the County of Cook is a home rule unit of government pursuant to the 1970 Illinois Constitution, Article VII, Section 6 (a); and,

WHEREAS, pursuant to their home rule powers, the Cook County Commissioners may exercise

any power and perform any function relating to their governments and affairs, including the power to regulate for the protection of the public health, safety, morals, and welfare; and,

WHEREAS, employees in every industry occasionally require time away from the workplace to tend to their own health or the health of family members: and,

WHEREAS, paid sick leave has a positive effect of the health of not only employees and their family members, but also the health of fellow workers and public at large and the most comprehensive national survey of U.S. restaurant workers found that two-thirds of restaurant wait staff and cooks have come to work sick; and,

WHEREAS, paid sick leave reduces health care expenditures by promoting access to primary and preventative care and reduces reliance on emergency care; and,

WHEREAS, nationally providing all workers with paid sick leave would result in 1.1 billion in annual savings in hospital emergency department costs; and

WHEREAS, over 20 municipalities including New York City, San Francisco, Seattle, Portland and Jersey City have passed legislation requiring employers within their jurisdictions to provide paid sick leave; and,

WHEREAS, a cost model developed by the Civic Consulting Alliance found that a paid sick leave framework similar to the one reflected in this ordinance would result in only a small, 0.7 to

1.5 increase in labor costs for most employers; now therefore

NOW, THEREFORE, BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 42, Human Relations, Article 1, In General, Section 42-1 of the Cook County Code is hereby enacted as follows:

Sec. 42-1. - Short title.

This article shall be known and may be cited as the Cook County Employer Paid Sick Leave Ordinance.

Sec. 42-2. - Definitions.

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Construction Industry means any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving, wrecking, painting, decorating, demolishing, and adding to or subtracting from any building, structure, highway, roadway, street, bridge, alley, sewer, ditch, sewage disposal plant, water works, parking facility, railroad, excavation or other structure, project, development, real property or improvement, or to do any part thereof, whether or not the performance of the work herein described involves the addition to, or fabrication into, any structure, project, development, real property or improvement herein described of any material or article of merchandise. Construction shall also include moving construction related materials on the job site to or from the job site, snow plowing, snow removal, and refuse collection.

Covered Employee is any employee employed for at least 80 hours for an Employer within a 120-day period.

“Domestic partner” means any person who has a registered domestic partnership, or

qualifies as a domestic partner under Section 2-152-072 of this Code or as a party to a civil union under the Illinois Religious Freedom Protection and Civil Union Act, 750 ILCS 75/1 et seq., as currently in force and hereafter amended.

Employee means an individual permitted to work by an employer regardless of the number of the number of persons the Employer employs.

Employer means:

(1) Any person employing one or more employees, or seeking to employ one or more employees:

- a. If the person has its principal place of business within Cook County; or
- b. Does business within Cook County.

(2) The term "employer" does not mean:

- a. The government of the United States or a corporation wholly owned by the government of the United States;
- b. An Indian tribe or a corporation wholly owned by an Indian tribe;
- c. The government of the State or any agency or department thereof; or
- d. The government of any municipality in Cook County.

Sec. 42-3. Employer Paid Sick Leave

(a) General Provisions

- (1) Any covered employee who works at least 80 hours for an Employer within any 120-day period shall be eligible for Paid Sick Leave as provided under this section.
- (2) Unless an applicable collective bargaining agreement provides otherwise, upon a Covered Employee's termination, resignation, retirement or other separating from employment, his or her Employer is not required to provide financial or other reimbursement for unused Paid Sick Day.

(b) Accrual of Paid Sick Leave

- (1) Paid Sick Leave shall begin to accrue either on the 1st calendar day after the commencement of a Covered Employee's employment.
- (2) For every 40 hours worked after a Covered Employee's Paid Sick Leave begins to accrue, he or she shall accrue one hour of Paid Sick Leave. Paid Sick Leave

shall

accrue only in hourly increments; there shall be no fractional accruals.

- (3) A Covered Employee who is exempt from overtime requirements shall be assumed to work 40 hours in each work week for purposes of Paid Sick Leave accrual, unless his or her normal work week is less than 40 hours, in which case Paid Sick Leave shall accrue based upon that normal work week.
- (4) For each Covered Employee, there shall be a cap of 40 hours Paid Sick Leave accrued per 12-month period, unless his or her Employer sets a higher limit. The 12-month period for a Covered Employee shall be calculated from the date he or she began to accrue Paid Sick Leave.
- (5) At the end of a Covered Employee's 12-month accrual period, he or she shall be allowed to carry over to the following 12-month period half of his or her unused accrued Paid Sick Leave, up to a maximum of 20 hours.
- (6) If an Employer is subject to the Family and Medical Leave Act, each of the Employer's Covered Employees shall be allowed, at the end of his or her 12-month Paid Sick Leave accrual period, to carry over up to 40 hours of his or her unused accrued Paid Sick Leave.

(c) Use of Paid Sick Leave

- (1) An Employer shall allow a Covered Employee to begin using Paid Sick Leave no later than on the 180th calendar day following the commencement of his or her employment. A Covered Employee is entitled to use no more than 40 hours of Paid Sick Leave per 12-month period, unless his or her Employer sets a higher limit. The 12-month period for a Covered Employee shall be calculated from the date he or she began to accrue Paid Sick Leave.
- (2) A covered Employee may use Paid Sick Leave when:
 - a) He or she is ill or injured, or for the purpose of receiving medical care,

treatment, diagnosis or preventative medical care.

- b) A member of his or her or for the purpose of receiving medical care, treatment, diagnosis or preventative medical care.

(3) An Employer shall not require, as a condition of A Covered Employee taking

Paid

Sick Leave that he or she search for or find a replacement worker to cover the hours during which he or she is on Paid Sick Leave.

(4) If a Covered Employees' need for Paid Sick Leave is reasonably foreseeable, an Employer may require up to seven days' notice before leave is taken. If the need for Paid Sick Leave is not reasonably foreseeable, an Employer may require a Covered Employee to give notice as soon as is practicable on the day the Covered Employee intends to take Paid Sick Leave by notifying the Employer through via phone, e-mail, or text message. For purposes of this subsection, needs that are "reasonably foreseeable" include, but are not limited to prescheduled appointments with health care providers for the Covered Employee or for a family member, and court dates in domestic violence cases. Any notice requirement imposed by an Employer pursuant to this subsection shall be waived in the event

a

Covered Employee is unable to give notice because he or she is unconscious, or otherwise medically incapacitated.

(5) Where a Covered Employee is absent for more than three consecutive work days, his or her Employer may require certification that the use of Paid Sick Leave was authorized under this section.

(6) Nothing in this section shall be construed to prohibit an Employer from taking disciplinary action, up to and including termination, against a Covered Employee who uses Paid Sick Leave for purposes other than those described in this section.

(d) This Section provides minimum Paid Sick Leave requirements; it shall not be construed to affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater Paid Sick Leave benefits.

Sec. 42-4. Reporting Requirements

Cook County Employers are required to report their sick leave policy on a public website maintained by Cook County, no later than March 1 of each calendar year. The format for reporting this information and the operation of the website, which shall be publicly accessible, shall be determined by regulations of the Cook County Commission on Human Rights.

Sec. 42-5. Application to collective bargaining agreements

Nothing in this chapter shall be deemed to interfere with, impede, or in any way diminish the right of employees to bargain collectively with their employers through representatives of their own choosing in order to establish wages or other conditions of work in excess of the applicable minimum standards of the provisions of this chapter. The requirements of this chapter may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms. Nothing in Section 42-3 shall be deemed to affect the validity or change the terms of bona fide collective bargaining agreements in force on the effective date of this amendatory ordinance of 2016. After that date, requirements of Section 42-3 may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms. In no event shall Section 42-3 apply to any Covered Employee working in the construction industry who is covered by a bona fide collective bargaining agreement.

Sec. 42-6. Private Right of Action

If any Employer violates any of the Paid Sick Leave provisions, the affected Covered Employee may recover in a civil action damages equal to three times the full amount of any unpaid sick time denied or lost by reason of the violation, and the interest on that amount calculated at the prevailing rate, together with costs and such reasonable attorney's fees as the court allows.

THEREFORE, BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter

34, Finance, Article IV, Procurement, Division 4, Disqualifications and Penalties, Section 34-179 shall be amended as follows:

Sec. 34-179. - Disqualification due to violation of laws related to the payment of wages and Employer Paid Sick Leave Ordinance.

(a) A Person including a Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) who has admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS

115/1 et seq., Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Employee Classification Act, 820 ILCS 185/1 et seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages shall be ineligible to enter into a Contract with the County for a period of five years from the date of conviction, entry of a plea, administrative finding or admission of guilt.

~~(a)~~ A person including a Substantial Owner who has admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of violating the Cook County Employer Paid Sick Leave Ordinance (Article 1, Section 42 of the Cook County Code) shall be ineligible to enter into a Contract with the County for a period of five years from the date of conviction, entry of a plea, administrative finding or admission of guilt.

~~(b)~~ (c) The CPO shall obtain an affidavit or certification from every Person or Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) from whom the County seeks to make a Contract with certifying that the Person seeking to do business with the County including its Substantial Owners (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) has not violated the statutory provisions identified in Subsection (a) and or (b) of this Section.

~~(b)~~ (d) For Contracts entered into following the effective date of this Ordinance, if the County becomes aware that a Person including Substantial Owner (as defined in Part

I, Chapter 34, Article V, Section 34-367 of the Cook County Code) under contract with the County is in violation of Subsection (a) or (b) of this Section, then, after notice from the County, any such violation(s) shall constitute a default under the Contract.

(e) If a Person including a Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) is ineligible to contract with the County due to the provisions of Subsection (a) or (b) of this Section, the Person seeking the Contract may submit a request for a reduction or waiver of the ineligibility period to the CPO. The request shall be in writing in a manner and form prescribed by the CPO and shall include one or more of the following actions have been taken:

- (1) There has been a bona fide change in ownership or Control of the ineligible Person or Substantial Owner;
- (2) Disciplinary action has been taken against the individual(s) responsible for the acts giving rise to the violation;
- (3) Remedial action has been taken to prevent a recurrence of the acts giving rise to the disqualification or default; or
- (4) Other factors that the Person or Substantial Owner believe are relevant.

The CPO shall review the documentation submitted, make any inquiries deemed necessary, request additional documentation where warranted and determine whether a reduction or waiver is appropriate. Should the CPO determine that a reduction or waiver of the ineligibility period is appropriate; the CPO shall submit its decision and findings to the County Board.

(f) A Using Agency may request an exception to such period of ineligibility by submitting a written request to the CPO, supported by facts that establish that it is in the best interests of the County that the Contract be made from such ineligible Person. The CPO shall review the documentation, make any inquiries deemed necessary, and determine whether the request should be approved. If an exception is granted, such exception shall apply to that Contract only and the period of ineligibility shall continue for its full term as to any other Contract. Said exceptions granted by the CPO shall be communicated to the

County Board.

THEREFORE, BE IT FURTHER ORDAINED, by the Cook County Board of Commissioners, that Chapter 74, Taxation, Article 2, Real Property Taxation, Division 2, Classification System for Assessment, Section 74-74 are hereby amended as follows:

Sec. 74-74- Laws Regulating the Payment of Wages and Employer Paid Sick Leave

(a) Except where a Person has requested an exception from the Assessor and the County Board expressly finds that granting the exception is in the best interest of the County, such Person including any Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367of the Cook County Code) shall be ineligible to receive any property tax incentive noted in Division 2 of this Article if, during the five year period prior to the

date of the application, such Person or Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367of the Cook County Code) admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., the Illinois Minimum Wage Act, 820 ILCS 105/1 et seq.,
the

Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101 et seq., the Employee Classification Act, 820 ILCS 185/1 et. seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages.

(b) The Assessor shall obtain an affidavit or certification from every Person and Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367of the Cook County Code) who seeks a property tax incentive from the County as noted in Division 2 of this Article certifying that the Person or Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367of the Cook County Code) has not violated the statutory provisions identified in Subsection (a) of this Section.

(c) If the County or Assessor becomes aware that a Person or Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367of the Cook County Code) has

admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., the Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101 et seq., the Employee Classification Act, 820 ILCS 185/1 et. seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages during the five year period prior to the date of the application, but after the County has reclassified the Person's or Substantial Owner's (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) subject property under a property tax incentive classification, then, after notice from the Assessor of such violation, the Person or Substantial Owner shall have 45 days to cure its violation and request an exception or waiver from the Assessor. Failure to cure or obtain an exception or waiver of ineligibility from the Assessor shall serve as grounds for revocation of the classification as provided by the Assessor or by the

County Board by Resolution or Ordinance. In case of revocation or cancellation, the Incentive Classification shall be deemed null and void for the tax year in which the incentive was revoked or cancelled as to the subject property. In such an instance, the taxpayer shall be liable for and shall reimburse to the County Collector an amount equal to the difference in the amount of taxes that would have been collected had the subject property not received the property tax incentive.

(d) the Assessor shall obtain an affidavit or certification from every Person and Substantial Owner who seeks a property tax incentive from the County that the person has a Sick Leave Policy in accordance with , Article 1, Section 42 of the Cook County Code.

THEREFORE BE IT FURTHER ORDAINED, by the Cook County Board of Commissioners, that Chapter 54, Licenses, Permits and Miscellaneous Business Regulations, Article X, General Business Licenses, Section 54-384 and Section 54-390 are hereby amended as follows:

Sec. 54-384. - License application.

All applications for a General Business License shall be made in writing and under oath to the Director of Revenue on a form provided for that purpose.

(a) Every application for a County General Business License shall be submitted and signed by the Person doing business or authorized representative of the Person doing business and shall contain the following:

- (1) Name of the applicant.
- (2) Business address.
- (3) Social security numbers, Tax ID number, and residence addresses of its sole proprietor or the three individuals who own the highest percentage interests in such Person and any other individual who owns five percent or more interest therein.
- (4) Pin number of the property or properties where the business is being operated.
- (5) A brief description of the business operations plan.
- (6) Sales tax allocation code. The sales tax allocation code identifies a specific sales tax geographic area and is used by the State of Illinois for sales tax allocation purposes.
- (7) Certification that applicant is in compliance with all applicable County Ordinances.

(8) For Business Licenses applied for or renewed following the effective date of this provision, certification that the applicant has not, during the five-year period prior to the date of the application for a Business License, admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., the Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101 et seq., the Employee Classification Act, 820 ILCS 185/1 et. seq., the Fair

Labor

Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages.

(9) Certification that the applicant has an employer paid sick leave policy that conforms with Chapter 42, Human Relations, Section 42-1 of the Cook County Code

(b) The Director of Revenue shall be the custodian of all applications for licenses which [sic] under provisions of this Code. All information received by the Department from applications filed pursuant to this article or from any investigations conducted pursuant to

this article, except for official County purposes, or as required by the Freedom of Information Act, shall be confidential.

(c) The General Business License applicant may be subject to an inspection by the following county departments including, but not limited to, Health, Building and Zoning and the Environment, prior to licensing.

(d) It shall be grounds for denial and/or revocation of any license issued under the provisions of this article whenever the license applicant knowingly includes false or incomplete information in the license application or is in violation of a County Ordinance.

(e) The Director of Revenue shall be the custodian of all applications for licenses which [sic] under provisions of this Code. All information received by the Department from applications filed pursuant to this article or from any investigations conducted pursuant to this article, except for official County purposes, or as required by the Freedom of Information Act, shall be confidential.

(f) The General Business License applicant may be subject to an inspection by the following county departments including, but not limited to, Health, Building and Zoning and the Environment, prior to licensing.

(g) It shall be grounds for denial and/or revocation of any license issued under the provisions of this article whenever the license applicant knowingly includes false or incomplete information in the license application or is in violation of a County Ordinance.

Sec. 54-390. - Failure to comply-Code of Ordinances.

(a) Failure to comply with applicable Cook County Code of Ordinances may result in general business license suspension or revocation.

(b) Persons doing business in unincorporated Cook County must comply with this article

and, including but not limited to, the following Cook County Code of Ordinances:

- (1) Chapter 30, Environment; or
- (2) Chapter 38, Article III, Public Health and Private Nuisances; or
- (3) Chapter 58: Article III, Offenses involving Public Safety, and Article IV, Offenses Involving Public Morals; or
- (4) The Cook County Building Ordinance, adopted originally on March 11, 1949, as amended, and/or the Cook County Building Code; or
- (5) Chapter 74 Taxation; or
- (6) The Cook County Zoning Ordinance, as amended; or
- (7) Chapter 42 Human Relations.

Effective Date: This Ordinance shall take effect on July 1, 2017)