

Public Safety/HHS Committee Meeting Re: Earned Paid Sick Time

Questions and Point Person

Anne Torregrossa/Gina Tapp:

1. How should we define employee for the purposes of this ordinance? Should it apply to part-time employees? Seasonal employees? Interns? When it comes to PTO, employers typically have some flexibility in determining who receives the benefit. However, if we exclude part-time employees, is it likely that companies would shift full-time employees to part-time hours by hiring them for just under the number of hours that qualify them as full-time? How can we best address this while giving employers flexibility?
2. Definition of family seems very complicated here. I like the inclusive nature of this definition because the definition of “family” is so varied for individuals, and I’d like to be inclusive, but this seems more complicated than it needs to be. Seems like we need to work on this. In my view, (E) and (F) alone seem sufficient. Are there issues with only including those pieces?
3. Councilor Mavodones stated it was not unusual to require documentation from mutual agreed doctor such as a Concentra and is questioning if this draft will preclude that?
4. As written, the ordinance allows all unused sick time to roll over, even though an employee would never be able to use more than 8 days in a year. Is the roll over of unused sick time a standard practice? I also worry that if there is no accrual cap, employers will be tasked with the administrative burden of continuing to track accrued time far past the 48 hours allowed each year. Could/should we institute an accrual cap to avoid this?
5. (a)1 states an employer may not require more than five days’ notice for an employee to use earned paid sick time. Presumably, this is for doctors’ appointments or procedures or appointments that can be scheduled in advance. Is this a typical noticing requirement? Is there a typical/standard practice for handling sick time advance notification? **(Procedures for Taking Earned Paid Sick Time)**

6. Is six years a typical time frame for retaining these records

Gina Tapp:

1. Councilor Mavodones requested the following information from staff:
 - Stats on Union vs Non-union employees with the City of Portland
 - How would an employer monitor affiliation or close association by blood
 - Red line version of ordinance
 - FMLA information outlining types of employees such as Healthcare professionals

Anne Torregrossa:

1. Councilor Batson questioned Section #3 Accrued paid sick leave shall be awarded and available for use no more than eight days after it is accrued. Alternatively, an employer may award paid sick time in advance of accrual in an amount anticipated to be accrued over a year's time. Is there a grace period?
2. Accrual of earned sick time – Councilor Mavodones questioned regarding calendar year vs fiscal year? Where different businesses may have different budget dates.
3. Councilor Batson added that a trip to the ER on a weekend or holiday where the employer requires doctor's note that could be a large expense, falling on employer over \$1000.
4. What is the cities role in enforcement? Abuse of sick time and get fired. Does the City make a determination if this is occurring?
5. What constitutes an offense? Each day? Where does this fall? This needs to be clarified.
6. Councilor Mavodones needs clarification re: Section (E), the amount of earned paid sick time available to employee... who would keep track of this – would it be the employer's payroll?
7. Chair Ray reviewed Section (B) Employers shall allow the City of Portland access to records. Is this legal for the city to coordinate an audit?
8. Councilor Mavodones expressed concern with last sentence of Section (C) Private Cause of Action #2. Chair Ray questioned if there was another course of action and what would that be? Would they have to go to court to receive wages and what incentive for an employee to go thru this process to receive day's wages without enhanced penalties?

9. We should ensure the ordinance is written to specify that sick time is only accrued for hours worked. Time is not typically accrued for paid holidays or any PTO. Just want to make sure that is clear.
10. We need to address the inclusion of “leave to attend a school meeting,” which does not seem to be tied to health reasons for using sick leave.
11. According to the ordinance, an employer would be responsible for paying any out of pocket costs associated with the requirement for an employee to provide documentation of reasons for taking paid sick leave. Would this include the cost of a doctor’s visit? Transportation costs? Are there items other than documents signed by a health care provider that could be considered reasonable documentation?
12. Should we specify that this section only applies to employers who are subject to this ordinance? Those who already provide leave equal to or in excess of what is required here are exempt from the ordinance. **(Notice of Rights)**
13. Regarding the fine language, is this the language we want? Should we be linking this back to our standard policy instead? Including per instance/per day language? **(Enforcement)**
14. If we maintain this section, we should add the following to the end of (c): “...and shall be subject to measures outlined in Enforcement (b)(3) below.” **(Record Keeping Requirements)**

Danielle:

1. Committee request from Corporation Counsel:
 - Best estimate in terms of cost
 - What would be the staff time to prosecute one of these cases?
 - Is it possible to check with other municipalities and see what their legal departments do regarding penalties and how many do they process a year?

Brendan:

1. Councilor Mavodones requested information regarding financial impact for businesses along expense liability on sick leave usage.
2. Is there a way to find out the cost of the posters maybe by finding the cost when the city did the minimum wage posters?

3. Re: (c)(4) – What would be the cost to comply with this? **Enforcement**
4. What are the costs associated with the required education and outreach program?

Brendan/Gina:

1. Councilor Mavodones requesting the following from staff:
 - Stats to possibly include termination payout and FICA cost
 - Stats NOT including salary employees (where they are paid out regardless) per Mayor Strimling.

Brendan/Anne:

1. Re: (b)(3) – Does the City Manager have this authority? Will the city issue an invoice? Will the city apply the amounts under consideration to a tax bill or lien?

Jessica:

1. Chair Ray questioned staff regarding Section (C) – can the poster be on the website so the City wouldn't be tasked with cost of prints? **Enforcement**