



BOARD OF SUPERVISORS
AGENDA LETTER

**Agenda
Number:**

**Clerk of the Board of
Supervisors**
105 E. Anapamu Street, Suite
407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Human Resources
Department No.: 064
For Agenda Of: January 10, 2017
Placement: Administrative
Estimated Tme:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Lori Gentles, Human Resources Director, 568-2816

Contact Info: Joseph Pisano, Employee Relations Manager, 568-2839

SUBJECT: *Policy Change to Provide Equal Bonding Leave to All County Employees*

County Counsel Concurrence

As to form: Yes

Other Concurrence:

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

That the Board of Supervisors:

- a) Approves a proposed change in the County Family and Medical Care Leave Policy to provide married couples the same amount of bonding leave as unmarried couples are entitled to under the Family and Medical Care Leave Act (FMLA) , and
- b) Determines pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15378(b)(4) that the above action is a government fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment, and therefore is not a project subject to environmental review.

Summary Text:

The FMLA provides a lesser bonding leave entitlement to married couples than to unmarried ones, and the current County Family and Medical Care Leave Policy includes this provision for unequal bonding leave benefits. In the fall of 2016, the Board directed staff to meet and confer with labor groups about eliminating this disparity and to change the County policy to provide the same level of bonding leave for all represented and unrepresented County employees. The County has met its obligation to meet and confer with labor groups regarding this policy change, and the recommended action implements a change to the County Family and Medical Care Leave Policy to provide equal bonding leave benefits for all County employees, regardless of marital status.

Background:

The Family and Medical Leave Act allows employers to limit eligible spouses who work for the same employer to a combined total of 12 workweeks of leave in a 12-month period for bonding with a newborn child following the birth of a son or daughter, or following the placement of a son or daughter with the employees for adoption or foster care (i.e. bonding leave). No such restriction is allowed for unmarried couples.

The County's Family Care and Medical Leave Policy sets forth certain rights and obligations in the County's implementation of the FMLA and the California Family Rights Act (CFRA). The recommended action modifies this County policy to provide married parents the same rights to bonding leave that unmarried couples currently have. The intent of the change is not to increase the maximum amount of leave under the law, but merely to forgo the permissive limitation allowed by the FMLA for married couples.

The recommended changes are to Section V. B. of the current County Family Care and Medical Leave Policy, which states in relevant part:

In any case in which a husband and wife both employed by Santa Barbara County are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period if leave is taken for the birth or placement for adoption or foster care of the employees' child (i.e., bonding leave).

The recommended action would modify that language to say:

In any case in which a husband and wife both employed by Santa Barbara County are entitled to FMLA or CFRA protected leave, the aggregate number of workweeks of leave to which both may be entitled is 12 workweeks each, for an aggregate of 24 workweeks total during any 12-month period if leave is taken for the birth or placement for adoption or foster care of the employees' child (i.e., bonding leave). Any eligibility for FMLA and CFRA protected leave will run concurrently, but no more than 12 weeks aggregate will be charged against protected leave available under either statute.

Per the existing terms of the County's Family Care and Medical Leave Policy, employees could request to use accrued paid vacation or compensatory time or administrative leave, which if approved by their departments, would be substituted for all or part of any otherwise unpaid bonding leave for which employees are eligible under the policy or the law.

Fiscal Analysis:

Budgeted: Yes.

The recommended action expands the amount of available bonding leave for eligible married couples, but it does not require that the leave be paid. As with the existing leave provisions, employees may request paid leave, which may be approved by their departments.

Employee salaries are budgeted annually, so even if additional vacation were to be approved for married couples who use additional available bonding leave, there would be no direct increase in costs to the department, though there may be some loss in productivity or need to pay for temporary staff to fill in for employees on leave.

cc: Mona Miyasato, County Executive Officer
Michael C. Ghizzoni, County Counsel
Theo Fallati, Auditor-Controller
Assistant CEOs
County Department Heads