



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:** May 18, 2021  
**Placement:** Administrative  
**Estimated Time:**  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** 4/5

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**TO:** Board of Supervisors  
**FROM:** Department Maria Elena De Guevara, Human Resources Director,  
Director(s) 568-2816  
Contact Info: Joseph Pisano, Employee Relations Division Chief, 568-2839  
**SUBJECT: Authorization and Ratification of Steps to Implement California SB 95**

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**County Counsel Concurrence**

As to form: Yes

**Other Concurrence:**

As to form: N/A

**Auditor-Controller Concurrence**

As to form: Yes

**Recommended Actions:**

That the Board of Supervisors:

- a) Approve the resolution in Attachment A authorizing and ratifying action to grant a bank of up to 80 hours of additional County paid leave to regular and extra help employees (up to 112 hours to Fire Department employees in 112 hour per pay-period shift assignments) to implement California Senate Bill 95; and
- b) Find, pursuant to County Code § 27-12 (i), that the action in recommendation a) is in the best interest of the County, and does not amount to a gift of public funds prohibited by the California Constitution, because it serves public purposes by retaining qualified and competent County employees; and
- c) Determine pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15378(b)(4) that the above actions are government fiscal activities which do 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:**

On March 19, 2021 Governor Newsom signed Senate Bill 95 (SB 95), which requires California employers to provide a bank of Supplemental Paid Sick Leave hours (SPSL) for use by employees who are unable to work or telework because of COVID-19. Such absences explicitly include time off needed to quarantine, to seek medical treatment, to get COVID-19 vaccinations, and to recuperate from adverse reactions to COVID-19 vaccinations. Absences eligible for SPSL leave also include those needed to care for a child whose classroom in a school or place of care has been closed after concern that a person who was present on the school or daycare premises on or after January 1, 2021 was exposed to, or contracted, COVID-19.

More specifically, SB 95:

- Mandates 80 hours of paid leave - prorated for part-time staff and adjusted for shift Fire Fighters – up to \$511 per day
- Must be in addition to other paid time off benefits employees receive
- Went into effect on March 29, 2021, but applies retroactively to January 1, 2021
- Is effective through September 30, 2021

SB 95 also requires separate designation of the use of SPSL hours on wage statements. In addition, although the law permits employers to cap the daily benefit paid under SPSL qualifying leave at \$511 per day, because that daily cap would inequitably impact employees working non-traditional schedules, such as Fire Fighters on 24 hour shifts, and because of the administrative burden of enacting the cap within the time constraints for implementation required by the law, County protocols for SPSL will allow employees to receive their normal compensation for any eligible absences.

**Background:**

On March 19, 2021 Governor Newsom signed Senate Bill 95 (SB 95) into law. SB 95 requires employers to provide a bank of 80 hours of Supplemental Paid Sick Leave (SPSL), prorated for part-time staff and adjusted for shift Fire Fighter, for use by employees who are unable to work or telework for qualifying reasons related to COVID-19. SPSL leave is required to be provided in addition to the 160 hours (224 hours for shift employees of the Fire Department) Paid Time Leave (PTL) the County previously made available to employees effective on March 23, 2020 if they were required to be absent from work for similar reasons related to COVID-19.

The original PTL leave satisfied, and in some ways exceeded, the County's legal obligations under the Families First Coronavirus Response Act (FFCRA), as PTL leave was granted prior to the April 1, 2020 effective date of the FFCRA leave; FFCRA leave also permitted employers to cap payments below rates employees would normally receive for paid time off, which the County declined to do. PTL leave was originally scheduled to sunset when the FFCRA leave expired on December 31, 2020, but on December 15, 2020, prior to the enactment of SB 95, the Board extended the use of any remaining PTL hours until June 30, 2021.

Of the PTL leave originally authorized by the Board, data available at the time staff prepared this Board letter indicated only 18.46% of all PTL hours granted had been used, leaving 81.54% of

those hours available through June 30, 2021. SPSL leave mandated by SB 95 is retroactive to January 1, 2021 and will expire on September 30, 2021.

Should employees separate before using any PTL or SPSL leave available to them, there will be no cash value associated with the hours, and they will not be added to service credit for purposes of retirement. Employees must submit an attestation that they meet the qualifying criteria at the time they request to use PTL or SPSL leave (Attachment B). Approval of the requested time off is subject to the ability of individual departments and the County to maintain essential operations.

**Fiscal and Facilities Impacts:**

**Budgeted:** Yes.

**Fiscal Analysis:**

The recommended actions provide 80 hours of legally mandated paid time off for qualifying reasons related to COVID-19, but provide for employees to receive their normal rate of pay for any hours used, rather than enforcing the legally permissible cap of \$511 per day. Although funds are currently available for all the hours employees are budgeted to work, any paid time off represents a loss of productivity.

In addition, while creating an additional bank of paid leave time does not create an unfunded liability, and it will not be paid out on separation or added to service credit for purposes of retirement, employees using SPSL will be paid for time off without reducing their existing leave balances to the extent they use this paid time off in lieu of other accrued time-off such as vacation or sick leave.

**Key Contract Risks:** N/A

**Staffing Impacts:**

**Legal Positions:**

N/A

**FTEs:**

N/A

**Special Instructions:**

**Attachments:**

- A. Resolution authorizing and ratifying action taken by the County to grant SPSL paid leave hours
- B. Attestation form for PTL and SPSL paid time off leave related to COVID-19

**Authored by:** Joseph Pisano

**cc:** Mona Miyasato, County Executive Officer  
Michael C. Ghizzoni, County Counsel  
Betsy Schaffer, Auditor Controller  
Assistant CEOs  
Department Heads