



January 13, 2021

To: Finance and Administration Committee
From: Darrell E. Johnson, Chief Executive Officer
Subject: Extension of Coronavirus-Related Leaves

Overview

Federal law required Emergency Paid Sick Leave and Expanded Family Medical Leave under the Family and Medical Leave Act for coronavirus-related absences through December 31, 2020. This requirement was not continued in the most recent federal funding agreement. In order to address the anticipated need for leaves, Board of Directors' approval is requested to extend the Emergency Paid Sick Leave and Expanded Family Medical Leave for eligible employees, effective January 1, 2021 until March 31, 2021.

Recommendations

- A. Approve the extension of employees' ability to use Emergency Paid Sick Leave to provide compensation relief for coronavirus-related absences.
- B. Authorize the Chief Executive Officer, or designee, to administer continuation of Emergency Paid Sick Leave and Expanded Family Medical Leave for employees, effective January 1, 2021 until March 31, 2021, and allow program extension beyond that date as necessary to accommodate need and with notification to the Board of Directors.

Background

Since March 2020, the coronavirus (COVID-19) pandemic has continued to disrupt the normal operation of schools, businesses, and government. In response to the COVID-19 pandemic, Congress passed, and the President signed, multiple pieces of legislation in March 2020 requiring that employers provide leave for employees with COVID-19 related absences. The Orange County Transportation Authority (OCTA) implemented the statutorily required leave, as indicated below.

Emergency Paid Sick Leave (EPSL)

Eligible full-time employees received a one-time allotment of up to 80 hours (or ten days total, whichever came first) of EPSL as a result of any of the following:

- a) Was subject to a federal, state, or local quarantine or isolation order related to COVID-19.
- b) Was advised by a healthcare provider to self-quarantine related to COVID-19.
- c) Was experiencing COVID-19 symptoms and was seeking a medical diagnosis.
- d) Was caring for an individual subject to an order described in (a) above or self-quarantined as described in (b).
- e) Was caring for his or her child whose school or place of care is closed (or childcare provider was unavailable) due to COVID-19-related reasons.
- f) Was experiencing any other substantially similar condition specified by the United States Department of Health and Human Services.

Under EPSL, employees were paid their regular rate of pay for up to \$511.00 per day, for a total of \$5110.00 for qualifying reasons in sections a-c above. Employees were paid two thirds (2/3) of their regular rate of pay for up to \$200.00 per day, for a total of \$2,000.00 for qualifying reasons in sections d and f above.

The Executive Director of Human Resources and Organizational Development had discretion to compensate an administrative employee's rate of pay above the daily rates and maximums for each reason listed in sections a-f.

Extra help and part-time employees were eligible to take EPSL as determined by the average hours worked during the previous two weeks prior to the EPSL request.

Expanded Family Medical Leave (EFML)

Employees who needed to take time off to care for their child whose school or place of care was closed (or childcare provider was unavailable) due to COVID-19-related reasons, could apply for an expanded protected leave of up to twelve (12) weeks. Those employees were paid for up to twelve (12) combined weeks of EPSL (two weeks) and EFML (ten weeks), paid at two thirds (2/3) of their regular rate of pay up to \$200.00 daily, for a total of \$12,000.00.

Discussion

The recently-enacted federal funding agreement, which will be discussed in detail at the January 21, 2021 meeting of the Legislative and Communications Committee, did not extend the statutorily-required leave, although the bill did make administrative leave an eligible use of federal funds. To ensure that OCTA maximizes the health and safety of its employees and the public they serve, it is in its best interest to voluntarily extend the current employee leave programs until March 31, 2021, utilizing allowable existing Coronavirus Aid, Relief and Economic Security (CARES) Act funds. Orange County saw an unprecedented increase in COVID-19 cases in the month of December 2020 and the rate is predicted to continue to increase in January 2021. OCTA is experiencing similar increases in COVID-19 positive cases amongst staff. Extending the time within which OCTA employees may use both leave programs will allow for more flexibility to use this time during a period when cases are increasing.

Summary

Based on the information provided, staff recommends the Board of Directors authorize the Chief Executive Officer to administer continuation of EPSL and EFML for employees, effective January 1, 2021 until March 31, 2021, with discretion to extend the program beyond that date as needed.

Attachment

None.

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