



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R 16 - 0 1 6 5
MAY 20 2016

REPORT RE:

**DRAFT ORDINANCES AMENDING ARTICLES 7 AND 8 OF CHAPTER XVIII
OF THE LOS ANGELES MUNICIPAL CODE TO ADD AN EXEMPTION FOR
TRANSITIONAL JOB EMPLOYEES, SICK TIME BENEFITS AND MAKE
VARIOUS PROCEDURAL AND TECHNICAL CHANGES**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 14-1371

Honorable Members:

Pursuant to your request, this Office has prepared and now transmits for your consideration the enclosed draft ordinances, approved as to form and legality. The draft ordinances would amend Articles 7 and 8 of Chapter XVIII of the Los Angeles Municipal Code to include temporary exemptions for transitional job employees, sick time benefits and other procedural and technical changes to the minimum wage and enforcement ordinances.

On April 19, 2016, the Council requested this Office to draft an ordinance to create a paid sick leave policy modeled after state law as detailed in recommendations also acted on by Council. Those recommendations included a provision that an employer could not require an employee to submit documentation in order to use sick time. That provision is not wholly consistent with state law because state law allows an employer in some circumstances to require documentation. We note that Council's action included an amending motion by Councilmember Krekorian that requested this Office to report on providing an employer with the option of requesting documentation.

Because there is ambiguity in the Council direction with respect to whether an employer may require documentation when an employee uses sick time, this Office has transmitted two alternative draft ordinances for Council to consider. One prohibits an employer from requiring documentation and the other allows an employer to require reasonable documentation, with the DAA authorized to promulgate rules as to what constitutes reasonable. Because the Citywide minimum wage is first implemented July 1, 2016, affording Council these two alternative options preserves the ability of Council to act as timely as possible.

Responding to Council's action with respect to Councilmember Krekorian's amending motion, our research determined that state law allows an employer to ask for documentation in some circumstances from an employee when an unscheduled absence occurs. In addition, no California city with a sick leave law has a provision in its ordinance which prevents employers from asking for documentation for sick time taken. San Francisco and Oakland allow employers to take reasonable measures to verify the use of sick time. These cities, in their rules and regulations, affirmatively state that it is reasonable for an employer to require a doctor's note for the unscheduled absence (three or more consecutive work days in Oakland and more than three consecutive work days in San Francisco). Santa Monica and Emeryville are silent with regard to documentation, thus allowing employers to follow their own policies and practices.

Council Rule 38 Referral

A copy of the draft ordinances was sent, pursuant to Council Rule 38, to the City Administrative Officer and the Office of Wage Standards of the Bureau of Contract Administration with a request that all comments, if any, be presented directly to the City Council when this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Basia Jankowski at (213) 978-8136. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 

DAVID MICHAELSON
Chief Assistant City Attorney

DM:BJ:ac
Transmittal