


# **REPORT OF THE CHIEF LEGISLATIVE ANALYST**

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DATE: June 19, 2015

TO: Honorable Members of the City Council

FROM: Sharon M. Tso   
Chief Legislative Analyst

Assignment No: 15-06-0492

## **COMPENSATED AND UNCOMPENSATED TIME OFF SURVEY OF CALIFORNIA CITIES WITH MINIMUM WAGE ORDINANCES**

### **SUMMARY**

On May 12, 2015, the Economic Development Committee approved a Citywide minimum wage policy, with a request that the City Attorney draft an ordinance to implement the policy. The policy approved by Committee included a provision that required employers to provide their employees compensated and uncompensated time off. When the matter was considered by the City Council on May 19, 2015, the Council amended the policy to remove the provision for compensated and uncompensated time off, then instructed the Chief Legislative Analyst (CLA) provide a review of paid time off policies in other jurisdictions and provide recommendations concerning a sick leave policy.

This report provides a survey of paid time off policies adopted by local jurisdictions and the State of California. In addition to Los Angeles, nine other California cities have adopted paid time off policies. Four have included compensated time off as an employer requirement; one is considering adoption of such a policy; and four have not included such a policy. In addition, all three of the City of Los Angeles wage policies previously adopted included compensated time off requirements.

Finally, the State will require that employers provide a minimum of 24 hours or three days of paid leave for all employees beginning July 1, 2015.

### **RECOMMENDATION**

This is a policy matter for the Council's consideration. If the Council chooses to include a compensated time off benefit in the Citywide minimum wage law, then Council would request that the City Attorney prepare and present an ordinance that contains provisions for such a policy.

### **BACKGROUND**

On May 12, 2015, the Economic Development Committee adopted a Citywide approved a wage policy, with a request that the City Attorney draft an ordinance to implement the policy. The policy approved by Committee included a provision that required employers to provide their employees compensated and uncompensated time off. When the matter was considered by the City Council on May 19, 2015, the Council amended the policy to remove the provision for compensated and uncompensated time off, then instructed the Chief Legislative Analyst (CLA)

provide a review of paid time off policies in other jurisdictions and provide recommendations concerning a sick leave policy.

Several northern California cities and the State require employers to provide paid sick leave, while Los Angeles (Living Wage and Citywide Hotel Worker Minimum Wage ordinances) requires employers to provide compensated time off. Some paid sick leave laws allow employers with compensated time off policies that meet the paid sick leave criteria to qualify as compliant with the law.

Such policies include a requirement for a specified number of hours or an accrual formula to be received by employees. These serve as a cap on the number of hours that the employee may earn in a year, as well as a threshold for the maximum number of hours that an employee may retain at any given time. Some policies require that unused hours roll-over from year to year, while others do not. Only the Los Angeles Hotel Workers Minimum Wage Ordinance requires that employees be paid for unused time above the cap, while others specifically state that payment for unused hours is not required. Most policies provide discretion to the employer to provide higher benefits than those in the law.

Table 1 provides a comparison of the laws effective in the five cities with paid leave laws, as well as the State of California.

### **City of Los Angeles**

The City has previously adopted four wage-related laws:

- Living Wage Ordinance
- LAX Hospitality Zone Ordinance
- Hotel Worker Minimum Wage Ordinance
- Citywide Minimum Wage Ordinance

The LAX Hospitality Zone Ordinance was repealed in October 2014 in favor of the Hotel Worker Minimum Wage Ordinance. The Citywide Minimum Wage Ordinance does not provide for compensated or uncompensated time off, as noted above. The three City laws that include paid leave require that employers provide 12 days of compensated time off annually as well as 10 days of uncompensated time off annually for sick leave or family illness to be used when the employee has exhausted their compensated time off. Under the Living Wage Ordinance, employees accrue one day per month in compensated time off and uncompensated time off is earned as a lump sum once per year.

The Hotel Worker Minimum Wage Ordinance includes a definition of part-time and full-time employees, time off accrual procedures, and rules for the use of uncompensated time off. The ordinance also provides for payment of unused compensated time off when the employee accrues more than 192 hours.

The full text of these three City ordinances is provided in Attachment A.

**Table 1  
Paid Leave Policies in California: State of California and California Cities with Minimum  
Wage Ordinances**

		State of California	Los Angeles			Emeryville	Oakland	San Francisco
			Living Wage	LAX Hospitality Zone	Hotel Worker Min Wage			
Compensated Time Off	Form of Leave	Paid Sick Leave	Comp Time Off	Comp Time Off	Comp Time Off	Paid Sick Leave	Paid Sick Leave	Paid Sick Leave
	Full-time Employee Annual Accrual Rate	1 hour for 30 hours worked*	12 days	12 days	96 hours (12 days)	1 hour for 30 hours worked	1 hour for 30 hours worked	1 hour for 30 hours worked
	Part-time Accrual Rate	Proportionate	Silent	Silent	Proportionate	Proportionate	Proportionate	Proportionate
	Maximum Accrual (Cap)	48 hours (6 days)	Silent	Silent	192 hours	72 hours	72 hours	72 hours
	Cap for Small Businesses	No	No	No	No	48 hours	40 hours	40 hours
	Payment for Unused Hours	No	Silent	Silent	Yes	Silent	No	No
	Roll-over	Yes	Silent	Silent	Yes	Yes	Silent	Silent
	Consideration for CTO Policy	Yes	n/a	n/a	n/a	Silent	Yes	Yes
Uncompensated Time Off	Accrual Rate	None	10 days	10 days	80 Hours	None	None	None
	Specified Purpose		For personal or family illness	For personal or family illness	For personal or family illness			
	Limitation		Must use CTO first	Must use CTO first	Must use CTO first			

CTO = compensated time off

\*This is the minimum required by AB 1522. An employer may provide 3 days or 24 hours up front, or allow accrual based on the hours worked. The State does not limit annual accrual, though the law states that employers may limit the use of accrued hours to 3 days or 24 hours per year.

### **Other California Cities**

In addition to Los Angeles, nine other California cities have adopted minimum wage ordinances or passed ballot measures implementing a citywide minimum wage. As noted in the following list, three of these cities require compensated time off or paid sick leave. Summaries of the compensated time off requirements for those three cities are provided below. The text of the laws implementing compensated time off in these cities is included in Attachment B.

The City of Berkeley does not currently require compensated time off or paid sick leave. But the city's Commission on Labor has instructed city staff to evaluate options and recommend a compensated time off model. It is anticipated that the Commission's recommendation will be considered by the City Council in late 2015.

The City of San Diego adopted a minimum wage ordinance with paid sick leave, but that has been placed on hold pending voter approval.

#### **No Compensated Time Off Required**

- Mountain View
- Richmond
- San Jose
- Sunnyvale

#### **Compensated Time Off Under Consideration**

- Berkeley (legislative approval)
- San Diego (referendum)

#### **Compensated Time Off Required**

- Emeryville
  - 48 hours of paid sick leave for employees in small businesses
  - 72 hours of paid sick leave for employees in all other businesses
- Oakland
  - 1 hour of paid sick leave earned for every 30 hours of work
  - Cap of 40 hours for employees in small businesses
  - Cap of 72 hours for employees in all other businesses
- San Francisco
  - 1 hour of paid sick leave earned for every 30 hours of work
  - Cap of 40 hours for employees in small businesses
  - Cap of 72 hours for employees in all other businesses

### **State of California**

On September 10, 2014, the Governor signed AB 1522, the "Healthy Workplaces, Healthy Families Act of 2014," to require employers to provide paid sick leave to employees who work in California for 30 or more days. Beginning July 1, 2015, eligible employees will

accrue 1 hour of paid sick leave for every 30 hours worked. Employees would be able to use accrued time beginning on the 90<sup>th</sup> day of employment.

AB 1522, however, provides additional criteria concerning the use and accrual of time. Employers may elect to limit an employee's use of sick days to no more than 24 hours or three days in each year of employment. Accrued sick leave must carry over to the following year. In addition, employees may retain no more than 48 hours or six days of sick time if an employer implements a policy to this effect. Finally, an employer has the option to offer 24 hours or 3 days of sick leave at the beginning of each calendar year, anniversary date, or twelve months basis instead of the accrual method.

Among the provisions of AB 1522, employers are required to comply with both local and State laws, and are obligated to provide the more generous provision or benefit to employees where there is a difference between the two.

### **Policy Options**

The various compensated time off and paid leave policies reviewed above provide the City with two key models, if the Council chooses to incorporate such a policy into the Citywide minimum wage law:

- 1 hour of leave earned for every 30 hours of work
- 12 days of compensated time off, as well as 10 days of uncompensated time off for sick leave or family illness

Either policy could be modified to provide a different model or lower threshold for small businesses. In addition, either policy could include proportional accrual for part-time employees. Finally, such a policy should provide direction concerning pay-out of accrued compensated time off. Some policies require that employers pay out any excess hours accrued by the employee, while other policies do not allow an employee to accrue hours in excess of the accrual cap established in the policy.

The following tables provide specific decisions points for the development of a Paid Sick Leave or Compensated Time Off policy.

**Compensated Time Off**

<b>ACTION</b>	
Should the policy include compensated time off and uncompensated time off? -- Yes -- No	

<b>ACTION</b>	
How much compensated time off should employees accrue? -- 1 hour of leave earned for every 30 hours of work -- 12 days per year -- Other amount	

**Uncompensated Time Off**

<b>ACTION</b>	
Should employees also be provided uncompensated time off? -- Yes -- No	

<b>ACTION</b>	
How much uncompensated time off should employees accrue? -- 1 hour of leave earned for every 30 hours of work -- 10 days per year -- Other	

**Proportional Accrual**

<b>ACTION</b>	
Should employees who work part-time be allowed to earn a proportionate amount of time off? -- Yes -- No	

**Small Businesses**

<b>ACTION</b>	
Should time off accrual be calculated differently for small businesses?	
-- Yes	
-- No	

<b>ACTION</b>	
Is small business defined the same as in the minimum wage ordinance?	
-- Yes	
-- No	

<b>ACTION</b>	
Would the small business accrual be permanent or would it align with other businesses at some later date?	
-- Yes	
-- No	

<b>ACTION</b>	
If small businesses are assigned a different accrual rate, what would that rate be?	
-- 50% of policy accrual rate	
-- 60% of policy accrual rate	
-- 70% of policy accrual rate	
-- 80% of policy accrual rate	

**Rollover**

<b>ACTION</b>	
Should unused accrued hours roll over from year to year?	
-- Yes	
-- No	

### Total Accrual Cap

<b>ACTION</b>	
Should the maximum hours accrued be capped?	
-- Yes	
-- No	

<b>ACTION</b>	
If yes, at what rate?	
-- 100% of annual accrual	
-- 150% of annual accrual	
-- 200% of annual accrual	

### Accrued Hours in Excess of Maximum Cap

<b>ACTION</b>	
What should happen with hours earned in excess of the accrual cap?	
-- Accrued hours should roll-over from year to year until the cap is reached, but employer should not be obligated to pay employees for accrued hours in excess of the cap.	
-- Accrued hours should roll-over from year to year until the cap is reached, and Employer should pay employees for the hours in excess of the cap.	
-- Employees should not accrue any hours in excess of the annual accrual cap.	



## Attachment A

### City of Los Angeles Wage Laws Concerning Compensated Time Off

**Los Angeles Administrative Code**  
**Living Wage**  
**Section 10.37.2 (b) Compensated Days Off**

*(b) Compensated days off*

Employers shall provide at least twelve (12) compensated days off per year for sick leave, vacation, or personal necessity at the employee's request. Employers shall also permit employees to take at least an additional ten (10) days a year of uncompensated time to be used for sick leave for the illness of the employee or a member of his or her immediate family where the employee has exhausted his or her compensated days off for that year.

**Los Angeles Municipal Code  
Airport Hospitality Enhancement Zone  
Section 104.104 (b)**

**(This section has been repealed in favor of the Citywide Hotel Worker Minimum Wage.)**

B. Compensated Days Off. Hotel Employers shall provide Hotel Workers at least twelve accrued compensated days off per year for sick leave, vacation, or personal necessity at the Hotel Worker's request. Hotel Employers shall also permit Hotel Workers to take at least an additional ten accrued days a year of uncompensated time to be used for sick leave for the illness of the Hotel Worker or a member of his or her immediate family where the Hotel Worker has exhausted his or her compensated days off for that year.

**Los Angeles Municipal Code**  
**Citywide Hotel Worker Minimum Wage**  
**Section 186.02      Time Off**

B. Time Off.

1. Compensated Time Off. A Hotel Employer shall provide at least 96 compensated hours off per year for sick leave, vacation, or personal necessity to full time Hotel Workers to be made available at the Hotel Worker's request.

(a) A full time Hotel Worker is classified as someone who works at least 40 hours a week or in accordance with the Hotel Employer's policies, if more generous. A full time Hotel Worker shall accrue at least 96/52 hours of compensated time off each week in a calendar year that the Hotel Worker has been employed by the Hotel Employer. Compensated time off does not accrue for work in excess of 40 hours a week. Full time Hotel Workers that work less than 40 hours a week will receive the compensated time off in proportional increments.

(b) A part time Hotel Worker is classified as someone who works less than 40 hours per week or in accordance with the Hotel Employer's policies, if more generous. A part time Hotel Worker shall accrue compensated time off in increments proportional to that accrued by someone who works 40 hours a week, in accordance with Section 186.02 B.1.(a).

(c) General Rules for Compensated Time Off.

(i) A Hotel Worker must be eligible to use accrued paid compensated time off after the first six months of employment or consistent with company policies, whichever is sooner.

(ii) A Hotel Employer may not unreasonably deny a Hotel Worker's request to use the accrued compensated time off.

(iii) Unused accrued compensated time off will carry over until the time off reaches a maximum of 192 hours, unless the Hotel Employer's established policy is more generous.

(iv) After a Hotel Worker reaches the maximum accrued compensated time off, a Hotel Employer shall provide a cash payment once every 30 days for accrued compensated time off over the maximum. A Hotel Employer may provide a Hotel Worker with the option of cashing out any portion of, or all of, the Hotel Worker's accrued compensated time off under the maximum, but, in no event, shall the Hotel Employer require a Hotel Worker to cash out any accrued compensated time off. Compensated time off cashed out shall be paid to the Hotel Worker at the wage rate that the Hotel Worker is earning at the time of cash out.

(v) A Hotel Employer may not implement any employment policy to count accrued compensated time off taken under this article as an absence that may result in discipline, discharge, suspension, or any other adverse action.

2. Uncompensated Time Off. Hotel Employers shall also permit full time Hotel Workers to take at least 80 additional hours per year of uncompensated time off to be used for sick leave for the illness of the Hotel Worker or a member of his or her immediate family where the Hotel Worker has exhausted his or her compensated time off for that year.

(a) A full time Hotel Worker is classified as someone who works at least 40 hours a week or in accordance with the Hotel Employer's policies, if more generous. A full time Hotel Worker shall accrue at least 80/52 hours of uncompensated time off each week in a calendar year that the Hotel Worker has been employed by the Hotel Employer. Uncompensated time off does not accrue for work in excess of 40 hours a week. Full time Hotel Workers that work less than 40 hours a week will receive the uncompensated time off in proportional increments.

(b) A part time Hotel Worker is classified as someone who works less than 40 hours per week or in accordance with the Hotel Employer's policies, if more generous. A part time Hotel Worker shall accrue uncompensated time off in increments proportional to that accrued by someone who works 40 hours a week, in accordance with Section 186.02 B.2.(a).

(c) General Rules for Uncompensated Time Off.

(i) A Hotel Worker must be eligible to use accrued uncompensated time off after the first six months of employment or consistent with company policies, whichever is sooner.

(ii) A Hotel Employer may not unreasonably deny a Hotel Worker's request to use the accrued uncompensated time off.

(iii) Unused accrued uncompensated time off will carry over until the time off reaches a maximum of 80 hours, unless the Hotel Employer's established policy is more generous.

(iv) A Hotel Employer may not implement any employment policy to count uncompensated time off taken under this article as an absence that may result in discipline, discharge, suspension, or any other adverse action.

## Attachment B

### Compensated Time Off Wage Laws in Other California Cities

**Emeryville  
Municipal Code**

**5-37.03. Paid Sick Leave**

a) Purpose and Intent

It is the purpose and intent of this Chapter to provide Paid Sick Leave benefits beyond the requirements of AB 1522, the Healthy Workplaces, Healthy Families Act of 2014. The provisions of AB 1522 shall apply to Paid Sick Leave requirements of this Chapter, unless otherwise provided by the provisions of this Chapter herein.

B) Accrual of Paid Sick Leave

For Employees of Small Businesses, there shall be a cap of 48 hours of accrued Paid Sick Leave. For Employees of all other Employers, there shall be a cap of 72 hours of accrued Paid Sick Leave. Accrued Paid Sick leave for Employees carries over from year to year (whether calendar year or fiscal year), but is limited to the aforementioned cap. Nothing herein precludes an Employer from establishing a higher cap or no cap on the number of accrued hours.

c) Use of Paid Sick Leave

- 1) An Employee may use Paid Sick Leave not only when he or she is ill or injured or for the purpose of the Employee's receiving medical care, treatment, or diagnosis, as specified more fully in California Labor Code section 233(b)(4), but also to aid or care for a family member of Employee when the family member or members is or are ill or injured or receiving medical care, treatment, or diagnosis. For purposes of this subsection, "family member" shall have the meaning provided in Labor Code section 245.5. If the Employee has no spouse or registered domestic partner, the Employee may designate one person as to whom the Employee may use paid sick leave to aid or care for that person in lieu of a spouse or registered domestic partner. The Employee may use all or any percentage of his or her Paid Sick Leave to aid or care for the aforementioned persons. The opportunity to make such a designation shall be extended by the Employer to the Employee no later than 30 calendar days after the date on which the Employee begins to accrue Paid Sick Leave pursuant to this Chapter. There shall be a window of 14 calendar days for the Employee to make this designation after notice from the Employer. Thereafter, the opportunity to make such a designation, including the opportunity to change such a designation previously made, shall be extended by the Employer to the Employee on an annual basis by January 31<sup>st</sup> of each year with a window of 14 calendar days for the Employee to make the designation after notice from the Employer. An Employee may use Paid Sick Leave to aid or care for a guide dog, signal dog, or service dog, as those terms are defined by the California Disabled Persons Act, Civil Code section 54.1, of the Employee, Employee's family member, or the person designated by the Employee pursuant to this section.

- 2) An Employer may require Employees to give reasonable notification of an absence from work for which Paid Sick Leave is or will be use.
- 3) In each year of employment, an Employee may use up to the total number of Paid Sick Leave hours accrued, subject to the maximum number of accruable Paid Sick leave hours, as provided in this section.



**Oakland**  
**Ballot Initiative to amend the Municipal Code**

**Sec. 5.92.030. Paid Sick Leave**

**A. ACCRUAL OF PAID SICK LEAVE.**

1. Paid Sick Leave shall begin to accrue as of the 2nd of March, 2015. For Employees hired by an Employer after March 2, 2015, the Employee shall not be entitled to use Paid Sick Leave until after 90 calendar days of employment with the Employer.
2. For every 30 hours worked after Paid Sick Leave begins to accrue for an Employee, the Employee shall accrue one hour of Paid Sick Leave. Such leave shall accrue only in hour-unit increments; there shall be no accrual of a fraction of an hour of such leave.
3. For Employees of Small Businesses, there shall be a cap of 40 hours of accrued Paid Sick Leave. For Employees of other Employers, there shall be a cap of 72 hours of accrued Paid Sick Leave. Accrued Paid Sick Leave for Employees carries over from year to year (whether calendar year or fiscal year), but is limited to the aforementioned cap. Nothing herein precludes an Employer from establishing a higher cap or no cap on the number of accrued hours.
4. If an Employer has a paid leave policy, such as a paid time off policy, that makes available to Employees an amount of paid leave that may be used for the same purposes as Paid Sick Leave under this Chapter and that is sufficient to meet the requirements for accrued Paid Sick Leave as stated in subsections (a)-(c), the Employer is not required to provide additional Paid Sick Leave.
5. An Employer is not required to provide financial or other reimbursement to an Employee upon the Employee's termination, resignation, retirement, or other separation from employment, for accrued Paid Sick Leave that the Employee has not used.

**San Francisco**

**Proposition F, approved November 7, 2006, added provisions designated as a new Ch. 12W,  
Sick Leave**

CHAPTER 12W:  
SICK LEAVE \*

SEC. 12W.1. TITLE.

This Chapter shall be known as the "Sick Leave Ordinance."  
(Added by Proposition F, 11/7/2006)

SEC. 12W.2. DEFINITIONS.

For purposes of this Chapter, the following definitions apply.

(a) "Agency" shall mean the Office of Labor Standards Enforcement or any department or office that by ordinance or resolution is designated the successor to the Office of Labor Standards Enforcement.

(b) "City" shall mean the City and County of San Francisco.

(c) "Employee" shall mean any person who is employed within the geographic boundaries of the City by an employer, including part-time and temporary employees. "Employee" includes a participant in a Welfare-to-Work Program when the participant is engaged in work activity that would be considered "employment" under the federal Fair Labor Standards Act, 29 U.S.C. §201 et seq., and any applicable U.S. Department of Labor Guidelines. "Welfare-to-Work Program" shall include any public assistance program administered by the Human Services Agency, including but not limited to CalWORKS and the County Adult Assistance Program (CAAP), and any successor programs that are substantially similar to them, that require a public assistance applicant or recipient to work in exchange for their grant.

(d) "Employer" shall mean any person, as defined in Section 18 of the California Labor Code, including corporate officers or executives, who directly or indirectly or through an agent or any other person, including through the services of a temporary services or staffing agency or similar entity, employs or exercises control over the wages, hours, or working conditions of an employee.

(e) "Paid sick leave" shall mean paid "sick leave" as defined in California Labor Code § 233(b)(4), except that the definition extends beyond the employee's own illness, injury, medical condition, need for medical diagnosis or treatment, or medical reason, to also encompass time taken off work by an employee for the purpose of providing care or assistance to other persons, as specified further in Section 12W.4(a), with an illness, injury, medical condition, need for medical diagnosis or treatment, or other medical reason.

(f) "Small business" shall mean an employer for which fewer than ten persons work for compensation during a given week. In determining the number of persons performing work for an employer during a given week, all persons performing work for compensation on a full-time, part-time, or temporary basis shall be counted, including persons made available to work through the services of a temporary services or staffing agency or similar entity.

(Added by Proposition F, 11/7/2006)

### SEC. 12W.3. ACCRUAL OF PAID SICK LEAVE.

(a) For employees working for an employer on or before the operative date of this Chapter, paid sick leave shall begin to accrue as of the operative date of this Chapter. For employees hired by an employer after the operative date of this Chapter, paid sick leave shall begin to accrue 90 days after the commencement of employment with the employer.

(b) For every 30 hours worked after paid sick leave begins to accrue for an employee, the employee shall accrue one hour of paid sick leave. Paid sick leave shall accrue only in hour-unit increments; there shall be no accrual of a fraction of an hour of paid sick leave.

(c) For employees of small businesses, there shall be a cap of 40 hours of accrued paid sick leave. For employees of other employers, there shall be a cap of 72 hours of accrued paid sick leave. Accrued paid sick leave for employees carries over from year to year (whether calendar year or fiscal year), but is limited to the aforementioned caps.

(d) If an employer has a paid leave policy, such as a paid time off policy, that makes available to employees an amount of paid leave that may be used for the same purposes as paid sick leave under this Chapter and that is sufficient to meet the requirements for accrued paid sick leave as stated in subsections (a)-(c), the employer is not required to provide additional paid sick leave.

(e) An employer is not required to provide financial or other reimbursement to an employee upon the employee's termination, resignation, retirement, or other separation from employment, for accrued paid sick leave that the employee has not used.

(Added by Proposition F, 11/7/2006)

### SEC. 12W.4. USE OF PAID SICK LEAVE.

(a) An employee may use paid sick leave not only when he or she is ill or injured or for the purpose of the employee's receiving medical care, treatment, or diagnosis, as specified more fully in California Labor Code § 233(b)(4), but also to aid or care for the following persons when they are ill or injured or receiving medical care, treatment, or diagnosis: Child; parent; legal guardian or ward; sibling; grandparent; grandchild; and spouse, registered domestic partner under any state or local law, or designated person. The employee may use all or any percentage of his or her paid sick leave to aid or care for the aforementioned persons. The aforementioned child, parent, sibling, grandparent, and grandchild relationships include not only biological relationships but also relationships resulting from adoption; step-relationships; and foster care relationships. "Child" includes a child of a domestic partner and a child of a person standing in loco parentis.

If the employee has no spouse or registered domestic partner, the employee may designate one person as to whom the employee may use paid sick leave to aid or care for the person. The opportunity to make such a designation shall be extended to the employee no later than the date on which the employee has worked 30 hours after paid sick leave begins to accrue pursuant to Section 12W.3(a). There shall be a window of 10 work days for the employee to make this designation. Thereafter, the opportunity to make such a designation, including the opportunity to change such a designation previously made, shall be extended to the employee on an annual basis, with a window of 10 work days for the employee to make the designation.

(b) An employer may not require, as a condition of an employee's taking paid sick leave, that the employee search for or find a replacement worker to cover the hours during which the employee is on paid sick leave.

(c) An employer may require employees to give reasonable notification of an absence from

work for which paid sick leave is or will be used.

(d) An employer may only take reasonable measures to verify or document that an employee's use of paid sick leave is lawful.

(Added by Proposition F, 11/7/2006)

#### SEC. 12W.5. NOTICE AND POSTING.

(a) The Agency shall, by the operative date of this Chapter, publish and make available to employers, in all languages spoken by more than 5% of the San Francisco workforce, a notice suitable for posting by employers in the workplace informing employees of their rights under this Chapter. The Agency shall update this notice on December 1 of any year in which there is a change in the languages spoken by more than 5% of the San Francisco workforce. In its discretion, the Agency may combine the notice required herein with the notice required by Section 12R.5(a) of the Administrative Code.

(b) Every employer shall post in a conspicuous place at any workplace or job site where any employee works the notice required by subsection (a). Every employer shall post this notice in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the workplace or job site.

(Added by Proposition F, 11/7/2006)

#### SEC. 12W.6. EMPLOYER RECORDS.

Employers shall retain records documenting hours worked by employees and paid sick leave taken by employees, for a period of four years, and shall allow the Agency access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of this Chapter. When an issue arises as to an employee's entitlement to paid sick leave under this Chapter, if the employer does not maintain or retain adequate records documenting hours worked by the employee and paid sick leave taken by the employee, or does not allow the Agency reasonable access to such records, it shall be presumed that the employer has violated this Chapter, absent clear and convincing evidence otherwise.

(Added by Proposition F, 11/7/2006)

#### SEC. 12W.7. EXERCISE OF RIGHTS PROTECTED; RETALIATION PROHIBITED.

It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this Chapter.

It shall be unlawful for an employer or any other person to discharge, threaten to discharge, demote, suspend, or in any manner discriminate or take adverse action against any person in retaliation for exercising rights protected under this Chapter. Such rights include but are not limited to the right to use paid sick leave pursuant to this Chapter; the right to file a complaint or inform any person about any employer's alleged violation of this Chapter; the right to cooperate with the Agency in its investigations of alleged violations of this Chapter; and the right to inform any person of his or her potential rights under this Chapter.

It shall be unlawful for an employer absence control policy to count paid sick leave taken under this Chapter as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action.

Protections of this Chapter shall apply to any person who mistakenly but in good faith alleges

violations of this Chapter.

Taking adverse action against a person within 90 days of the person's filing a complaint with the Agency or a court alleging a violation of any provision of this Chapter; informing any person about an employer's alleged violation of this Chapter; cooperating with the Agency or other persons in the investigation or prosecution of any alleged violation of this Chapter; opposing any policy, practice, or act that is unlawful under this Chapter; or informing any person of his or her rights under this Chapter shall raise a rebuttable presumption that such adverse action was taken in retaliation for the exercise of one or more of the aforementioned rights.

(Added by Proposition F, 11/7/2006)

#### SEC. 12W.8. IMPLEMENTATION AND ENFORCEMENT.

(a) Implementation. The Agency shall be authorized to coordinate implementation and enforcement of this Chapter and may promulgate appropriate guidelines or rules for such purposes. Any guidelines or rules promulgated by the Agency shall have the force and effect of law and may be relied on by employers, employees, and other persons to determine their rights and responsibilities under this Chapter. Any guidelines or rules may establish procedures for ensuring fair, efficient, and cost-effective implementation of this Chapter, including supplementary procedures for helping to inform employees of their rights under this Chapter, for monitoring employer compliance with this Chapter, and for providing administrative hearings to determine whether an employer or other person has violated the requirements of this Chapter.

(b) Administrative Enforcement. The Agency is authorized to take appropriate steps to enforce this Chapter. The Agency may investigate any possible violations of this Chapter by an employer or other person. Where the Agency has reason to believe that a violation has occurred, it may order any appropriate temporary or interim relief to mitigate the violation or maintain the status quo pending completion of a full investigation or hearing.

Where the Agency, after a hearing that affords a suspected violator due process, determines that a violation has occurred, it may order any appropriate relief including, but not limited to, reinstatement, back pay, the payment of any sick leave unlawfully withheld, and the payment of an additional sum as an administrative penalty to each employee or person whose rights under this Chapter were violated. If any paid sick leave was unlawfully withheld, the dollar amount of paid sick leave withheld from the employee multiplied by three, or \$250.00, whichever amount is greater, shall be included in the administrative penalty paid to the employee. In addition, if a violation of this Chapter resulted in other harm to the employee or any other person, such as discharge from employment, or otherwise violated the rights of employees or other persons, such as a failure to post the notice required by Section 12W.5(b), or an act of retaliation prohibited by Section 12W.7, this administrative penalty shall also include \$50.00 to each employee or person whose rights under this Chapter were violated for each day or portion thereof that the violation occurred or continued.

Where prompt compliance is not forthcoming, the Agency may take any appropriate enforcement action to secure compliance, including initiating a civil action pursuant to Section 12W.8(c) and/or, except where prohibited by State or Federal law, requesting that City agencies or departments revoke or suspend any registration certificates, permits or licenses held or requested by the employer or person until such time as the violation is remedied. In order to compensate the City for the costs of investigating and remedying the violation, the Agency may

also order the violating employer or person to pay to the City a sum of not more than \$50.00 for each day or portion thereof and for each employee or person as to whom the violation occurred or continued. Such funds shall be allocated to the agency and used to offset the costs of implementing and enforcing this Chapter.

An employee or other person may report to the agency any suspected violation of this Chapter. The Agency shall encourage reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the employee or person reporting the violation. Provided, however, that with the authorization of such person, the Agency may disclose his or her name and identifying information as necessary to enforce this Chapter or for other appropriate purposes.

(c) Civil Enforcement. The Agency, the City Attorney, any person aggrieved by a violation of this Chapter, any entity a member of which is aggrieved by a violation of this Chapter, or any other person or entity acting on behalf of the public as provided for under applicable State law, may bring a civil action in a court of competent jurisdiction against the employer or other person violating this Chapter and, upon prevailing, shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, but not limited to, reinstatement, back pay, the payment of any sick leave unlawfully withheld, the payment of an additional sum as liquidated damages in the amount of \$50.00 to each employee or person whose rights under this Chapter were violated for each hour or portion thereof that the violation occurred or continued, plus, where the employer has unlawfully withheld paid sick leave to an employee, the dollar amount of paid sick leave withheld from the employee multiplied by three; or \$250.00, whichever amount is greater; and reinstatement in employment and/or injunctive relief; and, further, shall be awarded reasonable attorneys' fees and costs. Provided, however, that any person or entity enforcing this Chapter on behalf of the public as provided for under applicable State law shall, upon prevailing, be entitled only to equitable, injunctive or restitutionary relief, and reasonable attorneys' fees and costs.

(d) Interest. In any administrative or civil action brought under this Chapter, the Agency or court, as the case may be, shall award interest on all amounts due and unpaid at the rate of interest specified in subdivision (b) of Section 3289 of the California Civil Code.

(e) Remedies Cumulative. The remedies, penalties, and procedures provided under this Chapter are cumulative.

(Added by Proposition F, 11/7/2006)

#### SEC. 12W.9. WAIVER THROUGH COLLECTIVE BARGAINING.

All or any portion of the applicable requirements of this Chapter shall not apply to employees covered by a bona fide collective bargaining agreement to the extent that such requirements are expressly waived in the collective bargaining agreement in clear and unambiguous terms.

(Added by Proposition F, 11/7/2006)

#### SEC. 12W.10. OTHER LEGAL REQUIREMENTS.

This Chapter provides minimum requirements pertaining to paid sick leave and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater accrual or use by employees of sick leave, whether paid or unpaid, or that extends other protections to employees.

(Added by Proposition F, 11/7/2006)

**SEC. 12W.11. MORE GENEROUS EMPLOYER LEAVE POLICIES.**

This Chapter provides minimum requirements pertaining to paid sick leave and shall not be construed to prevent employers from adopting or retaining leave policies that are more generous than policies that comply with this Chapter. Employers are encouraged to provide more generous leave policies than required by this Chapter.

(Added by Proposition F, 11/7/2006)

**SEC. 12W.12. OPERATIVE DATE.**

This Chapter shall become operative 90 days after its adoption by the voters at the November 7, 2006 election. This Chapter shall have prospective effect only.

(Added by Proposition F, 11/7/2006)

**SEC. 12W.13. PREEMPTION.**

Nothing in this Chapter shall be interpreted or applied so as to create any power or duty in conflict with federal or state law.

(Added by Proposition F, 11/7/2006)

**SEC. 12W.14. CITY UNDERTAKING LIMITED TO PROMOTION OF GENERAL WELFARE.**

In undertaking the adoption and enforcement of this Chapter, the City is undertaking only to promote the general welfare. The City is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. This Chapter does not create a legally enforceable right by any member of the public against the City.

(Added by Proposition F, 11/7/2006)

**SEC. 12W.15. SEVERABILITY.**

If any part or provision of this Chapter, or the application of this Chapter to any person or circumstance, is held invalid, the remainder of this Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the provisions of this Chapter are severable.

(Added by Proposition F, 11/7/2006)

**SEC. 12W.16. AMENDMENT BY THE BOARD OF SUPERVISORS.**

The Board of Supervisors may amend this Chapter with respect to matters relating to its implementation and enforcement (including but not limited to those matters addressed in Section 12W.8) and matters relating to employer requirements for verification or documentation of an employee's use of sick leave, but not with respect to this Chapter's substantive requirements or scope of coverage; provided, however, that, in the event any provision in this Chapter is held legally invalid, the Board retains the power to adopt legislation concerning the subject matter that was covered in the invalid provision.

(Added by Proposition F, 11/7/2006)

Attachment C

AB 1522

California Healthy Workplaces,  
Healthy Families Act of 2014



## Assembly Bill No. 1522

### CHAPTER 317

An act to amend Section 2810.5 of, and to add Article 1.5 (commencing with Section 245) to Chapter 1 of Part 1 of Division 2 of, the Labor Code, relating to employment.

[Approved by Governor September 10, 2014. Filed with Secretary of State September 10, 2014.]  
LEGISLATIVE COUNSEL'S DIGEST

AB 1522, Gonzalez. Employment: paid sick days.

Existing law authorizes employers to provide their employees paid sick leave.

This bill would enact the Healthy Workplaces, Healthy Families Act of 2014 to provide that an employee who, on or after July 1, 2015, works in California for 30 or more days within a year from the commencement of employment is entitled to paid sick days for prescribed purposes, to be accrued at a rate of no less than one hour for every 30 hours worked. An employee would be entitled to use accrued sick days beginning on the 90th day of employment. The bill would authorize an employer to limit an employee's use of paid sick days to 24 hours or 3 days in each year of employment. The bill would prohibit an employer from discriminating or retaliating against an employee who requests paid sick days. The bill would require employers to satisfy specified posting and notice and recordkeeping requirements. The bill would define terms for those purposes.

The bill would require the Labor Commissioner to enforce these requirements, including the investigation, mitigation, and relief of violations of these requirements. The bill would authorize the Labor Commissioner to impose specified administrative fines for violations and would authorize the commissioner or the Attorney General to recover specified civil penalties against an offender who violated these provisions on behalf of the aggrieved, as well as attorney's fees, costs, and interest.

The bill would not apply to certain categories of employees that meet specified requirements.

The people of the State of California do enact as follows:

#### SECTION 1.

The Legislature finds and declares the following:

- (a) Nearly every worker in the State of California will at some time during the year need some time off from work to take care of his or her own health or the health of family members.
- (b) Many workers in California do not have any paid sick days, or have an inadequate number of paid sick days, to care for their own health or the health of family members.

- (c) Low-income workers are significantly less likely to have paid sick time than other workers.
- (d) Providing workers time off to attend to their own health care and the health care of family members will ensure a healthier and more productive workforce in California.
- (e) Paid sick days will have an enormously positive impact on the public health of Californians by allowing sick workers paid time off to care for themselves when ill, thus lessening their recovery time and reducing the likelihood of spreading illness to other members of the workforce.
- (f) Paid sick days will allow parents to provide personal care for their sick children. Parental care ensures children's speedy recovery, prevents more serious illnesses, and improves children's overall mental and physical health.
- (g) Providing paid sick days is affordable for employers and good for business.
- (h) Employers who provide paid sick days enjoy greater employee retention and reduce the likelihood of employees coming to work sick. Studies have shown that costs of decreased productivity caused by sick workers exceed the costs of employee absenteeism.
- (i) Many adults have significant elder care responsibilities requiring them to take time off from work or to work reduced hours.
- (j) Employees frequently lose their jobs or are disciplined for taking sick days to care for sick family members or to recover from their own illnesses.
- (k) Workers whose jobs involve significant contact with the public, such as service workers and restaurant workers, are very unlikely to have paid sick days. Often, these workers have no choice but to come to work when they are ill, thereby spreading illness to coworkers and customers.
- (l) Domestic violence and sexual assault affect many persons without regard to age, race, national origin, sexual orientation, or socioeconomic status.
- (m) Domestic violence is a crime that has a devastating effect on families, communities, and the workplace. It impacts productivity, effectiveness, absenteeism, and employee turnover in the workplace. The National Crime Survey estimates that 175,000 days of work each year are missed due to domestic violence.
- (n) Survivors of domestic violence and sexual assault may be vulnerable at work when trying to end an abusive relationship because the workplace may be the only place where the perpetrator knows to contact the victim. Studies show that up to one-half of domestic violence victims experience job loss. Forty percent reported on-the-job harassment. Nearly 50 percent of sexual assault survivors lose their jobs or are forced to quit in the aftermath of the assaults.
- (o) Affording survivors of domestic violence and sexual assault paid sick days is vital to their

independence and recovery.  
SEC. 2.

In enacting this act, it is the intent of the Legislature to do the following:

(a) Ensure that workers in California can address their own health needs and the health needs of their families by requiring employers to provide a minimum level of paid sick days including time for family care.

(b) Decrease public and private health care costs in California by enabling workers to seek early and routine medical care for themselves and their family members and to address domestic violence or sexual assault.

(c) Protect employees in California from losing their jobs while they use sick days to care for themselves or their families.

(d) Provide economic security to employees in California who take time off from work for reasons related to domestic violence or sexual assault.

(e) Safeguard the welfare, health, safety, and prosperity of the people of and visitors to California.  
SEC. 3.

Article 1.5 (commencing with Section 245) is added to Chapter 1 of Part 1 of Division 2 of the Labor Code, to read:

#### Article 1.5. Paid Sick Days

245.

(a) This article shall be known and may be cited as the Healthy Workplaces, Healthy Families Act of 2014.

(b) The provisions of this article are in addition to and independent of any other rights, remedies, or procedures available under any other law and do not diminish, alter, or negate any other legal rights, remedies, or procedures available to an aggrieved person.

245.5.

As used in this article:

(a) "Employee" does not include the following:

(1) An employee covered by a valid collective bargaining agreement if the agreement expressly

provides for the wages, hours of work, and working conditions of employees, and expressly provides for paid sick days or a paid leave or paid time off policy that permits the use of sick days for those employees, final and binding arbitration of disputes concerning the application of its paid sick days provisions, premium wage rates for all overtime hours worked, and regular hourly rate of pay of not less than 30 percent more than the state minimum wage rate.

(2) An employee in the construction industry covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of employees, premium wage rates for all overtime hours worked, and regular hourly pay of not less than 30 percent more than the state minimum wage rate, and the agreement either (A) was entered into before January 1, 2015, or (B) expressly waives the requirements of this article in clear and unambiguous terms. For purposes of this subparagraph, “employee in the construction industry” means an employee performing onsite work associated with construction, including work involving alteration, demolition, building, excavation, renovation, remodeling, maintenance, improvement, repair work, and any other work as described by Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and other similar or related occupations or trades.

(3) A provider of in-home supportive services under Section 14132.95, 14132.952, or 14132.956 of, or Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of, the Welfare and Institutions Code.

(4) An individual employed by an air carrier as a flight deck or cabin crew member that is subject to the provisions of Title II of the federal Railway Labor Act (45 U.S.C. 181 et seq.), provided that the individual is provided with compensated time off equal to or exceeding the amount established in paragraph (1) of subdivision (b) of Section 246.

(b) “Employer” means any person employing another under any appointment or contract of hire and includes the state, political subdivisions of the state, and municipalities.

(c) “Family member” means any of the following:

(1) A child, which for purposes of this article means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status.

(2) A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee’s spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.

(3) A spouse.

(4) A registered domestic partner.

(5) A grandparent.

(6) A grandchild.

(7) A sibling.

(d) "Health care provider" has the same meaning as defined in paragraph (6) of subdivision (c) of Section 12945.2 of the Government Code.

(e) "Paid sick days" means time that is compensated at the same wage as the employee normally earns during regular work hours and is provided by an employer to an employee for the purposes described in Section 246.5.

246.

(a) An employee who, on or after July 1, 2015, works in California for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.

(b) (1) An employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later.

(2) An employee who is exempt from overtime requirements as an administrative, executive, or professional employee under a wage order of the Industrial Welfare Commission is deemed to work 40 hours per workweek for the purposes of this section, unless the employee's normal workweek is less than 40 hours, in which case the employee shall accrue paid sick days based upon that normal workweek.

(c) An employee shall be entitled to use accrued paid sick days beginning on the 90th day of employment, after which day the employee may use paid sick days as they are accrued.

(d) Accrued paid sick days shall carry over to the following year of employment. However, an employer may limit an employee's use of paid sick days to 24 hours or three days in each year of employment. This section shall be satisfied and no accrual or carry over is required if the full amount of leave is received at the beginning of each year, in accordance with subdivision (e).

(e) An employer is not required to provide additional paid sick days pursuant to this section if the employer has a paid leave policy or paid time off policy, the employer makes available an amount of leave that may be used for the same purposes and under the same conditions as specified in this section, and the policy does either of the following:

(1) Satisfies the accrual, carry over, and use requirements of this section.

(2) Provides no less than 24 hours or three days of paid sick leave, or equivalent paid leave or paid time off, for employee use for each year of employment or calendar year or 12-month basis.

(f) (1) Except as specified in paragraph (2), an employer is not required to provide compensation to an employee for accrued, unused paid sick days upon termination, resignation, retirement, or other separation from employment.

(2) If an employee separates from an employer and is rehired by the employer within one year from the date of separation, previously accrued and unused paid sick days shall be reinstated. The employee shall be entitled to use those previously accrued and unused paid sick days and to accrue additional paid sick days upon rehiring.

(g) An employer may lend paid sick days to an employee in advance of accrual, at the employer's discretion and with proper documentation.

(h) An employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages. The penalties described in this article for a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226.

(i) An employer has no obligation under this section to allow an employee's total accrual of paid sick leave to exceed 48 hours or 6 days, provided that an employee's rights to accrue and use paid sick leave under this section are not otherwise limited.

(j) An employee may determine how much paid sick leave he or she needs to use, provided that an employer may set a reasonable minimum increment, not to exceed two hours, for the use of paid sick leave.

(k) The rate of pay shall be the employee's hourly wage. If the employee in the 90 days of employment before taking accrued sick leave had different hourly pay rates, was paid by commission or piece rate, or was a nonexempt salaried employee, then the rate of pay shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment.

(l) If the need for paid sick leave is foreseeable, the employee shall provide reasonable advance notification. If the need for paid sick leave is unforeseeable, the employee shall provide notice of the need for the leave as soon as practicable.

(m) An employer shall provide payment for sick leave taken by an employee no later than the payday for the next regular payroll period after the sick leave was taken.

246.5.

(a) Upon the oral or written request of an employee, an employer shall provide paid sick days for the following purposes:

(1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.

(2) For an employee who is a victim of domestic violence, sexual assault, or stalking, the purposes described in subdivision (c) of Section 230 and subdivision (a) of Section 230.1.

(b) An employer shall not require as a condition of using paid sick days that the employee search for or find a replacement worker to cover the days during which the employee uses paid sick days.

(c) (1) An employer shall not deny an employee the right to use accrued sick days, discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using accrued sick days, attempting to exercise the right to use accrued sick days, filing a complaint with the department or alleging a violation of this article, cooperating in an investigation or prosecution of an alleged violation of this article, or opposing any policy or practice or act that is prohibited by this article.

(2) There shall be a rebuttable presumption of unlawful retaliation if an employer denies an employee the right to use accrued sick days, discharges, threatens to discharge, demotes, suspends, or in any manner discriminates against an employee within 30 days of any of the following:

(A) The filing of a complaint by the employee with the Labor Commissioner or alleging a violation of this article.

(B) The cooperation of an employee with an investigation or prosecution of an alleged violation of this article.

(C) Opposition by the employee to a policy, practice, or act that is prohibited by this article.  
247.

(a) In each workplace of the employer, the employer shall display a poster in a conspicuous place containing all the information specified in subdivision (b). The Labor Commissioner shall create a poster containing this information and make it available to employers.

(b) The poster shall state all of the following:

(1) An employee is entitled to accrue, request, and use paid sick days.

(2) The amount of sick days provided for by this article.

(3) The terms of use of paid sick days.

(4) That retaliation or discrimination against an employee who requests paid sick days or uses paid sick days, or both, is prohibited and that an employee has the right under this article to file a complaint with the Labor Commissioner against an employer who retaliates or discriminates against the employee.

(c) An employer who willfully violates the posting requirements of this section is subject to a civil penalty of not more than one hundred dollars (\$100) per each offense.  
247.5.

An employer shall keep for at least three years records documenting the hours worked and paid sick days accrued and used by an employee, and shall allow the Labor Commissioner to access these records pursuant to the requirements set forth in Section 1174. An employer shall make these records available to an employee in the same manner as described in Section 226. If an employer does not maintain adequate records pursuant to this section, it shall be presumed that the employee is entitled to the maximum number of hours accruable under this article, unless the employer can show otherwise by clear and convincing evidence.  
248.5.

(a) The Labor Commissioner shall enforce this article, including investigating an alleged violation, and ordering appropriate temporary relief to mitigate the violation or to maintain the status quo pending the completion of a full investigation or hearing.

(b) (1) If the Labor Commissioner, after a hearing that contains adequate safeguards to ensure that the parties are afforded due process, determines that a violation of this article has occurred, he or she may order any appropriate relief, including reinstatement, backpay, the payment of sick days unlawfully withheld, and the payment of an additional sum in the form of an administrative penalty to an employee or other person whose rights under this article were violated.

(2) If paid sick days were unlawfully withheld, the dollar amount of paid sick days withheld from the employee multiplied by three, or two hundred fifty dollars (\$250), whichever amount is greater, but not to exceed an aggregate penalty of four thousand dollars (\$4,000), shall be included in the administrative penalty.

(3) If a violation of this article results in other harm to the employee or person, such as discharge from employment, or otherwise results in a violation of the rights of the employee or person, the administrative penalty shall include a sum of fifty dollars (\$50) for each day or portion thereof that the violation occurred or continued, not to exceed an aggregate penalty of four thousand dollars (\$4,000).

(c) Where prompt compliance by an employer is not forthcoming, the Labor Commissioner may take any appropriate enforcement action to secure compliance, including the filing of a civil action. In compensation to the state for the costs of investigating and remedying the violation, the commissioner may order the violating employer to pay to the state a sum of not more than fifty dollars (\$50) for each day or portion of a day a violation occurs or continues for each employee or



other person whose rights under this article were violated.

(d) An employee or other person may report to the Labor Commissioner a suspected violation of this article. The commissioner shall encourage reporting pursuant to this subdivision by keeping confidential, to the maximum extent permitted by applicable law, the name and other identifying information of the employee or person reporting the violation. However, the commissioner may disclose that person's name and identifying information as necessary to enforce this article or for other appropriate purposes, upon the authorization of that person.

(e) The Labor Commissioner or the Attorney General may bring a civil action in a court of competent jurisdiction against the employer or other person violating this article and, upon prevailing, shall be entitled to collect legal or equitable relief on behalf of the aggrieved as may be appropriate to remedy the violation, including reinstatement, backpay, the payment of sick days unlawfully withheld, the payment of an additional sum, not to exceed an aggregate penalty of four thousand dollars (\$4,000), as liquidated damages in the amount of fifty dollars (\$50) to each employee or person whose rights under this article were violated for each day or portion thereof that the violation occurred or continued, plus, if the employer has unlawfully withheld paid sick days to an employee, the dollar amount of paid sick days withheld from the employee multiplied by three; or two hundred fifty dollars (\$250), whichever amount is greater; and reinstatement in employment or injunctive relief; and further shall be awarded reasonable attorney's fees and costs, provided, however, that any person or entity enforcing this article on behalf of the public as provided for under applicable state law shall, upon prevailing, be entitled only to equitable, injunctive, or restitutionary relief, and reasonable attorney's fees and costs.

(f) In an administrative or civil action brought under this article, the Labor Commissioner or court, as the case may be, shall award interest on all amounts due and unpaid at the rate of interest specified in subdivision (b) of Section 3289 of the Civil Code.

(g) The remedies, penalties, and procedures provided under this article are cumulative.

(h) An employer shall not be assessed any penalty or liquidated damages under this article due to an isolated and unintentional payroll error or written notice error that is a clerical or an inadvertent mistake regarding the accrual or available use of paid sick leave. In reviewing for compliance with this section, the factfinder may consider as a relevant factor whether the employer, prior to an alleged violation, has adopted and is in compliance with a set of policies, procedures, and practices that fully comply with this section.

249.

(a) This article does not limit or affect any laws guaranteeing the privacy of health information, or information related to domestic violence or sexual assault, regarding an employee or employee's family member. That information shall be treated as confidential and shall not be disclosed to any person except to the affected employee, or as required by law.

(b) This article shall not be construed to discourage or prohibit an employer from the adoption or

retention of a paid sick days policy more generous than the one required herein.

(c) This article does not lessen the obligation of an employer to comply with a contract, collective bargaining agreement, employment benefit plan, or other agreement providing more generous sick days to an employee than required herein.

(d) This article establishes minimum requirements pertaining to paid sick days and does not preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater accrual or use by employees of sick days, whether paid or unpaid, or that extends other protections to an employee.

SEC. 4.

Section 2810.5 of the Labor Code is amended to read:  
2810.5.

(a) (1) At the time of hiring, an employer shall provide to each employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing the following information:

(A) The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, as applicable.

(B) Allowances, if any, claimed as part of the minimum wage, including meal or lodging allowances.

(C) The regular payday designated by the employer in accordance with the requirements of this code.

(D) The name of the employer, including any “doing business as” names used by the employer.

(E) The physical address of the employer’s main office or principal place of business, and a mailing address, if different.

(F) The telephone number of the employer.

(G) The name, address, and telephone number of the employer’s workers’ compensation insurance carrier.

(H) That an employee: may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

(I) Any other information the Labor Commissioner deems material and necessary.

(2) The Labor Commissioner shall prepare a template that complies with the requirements of paragraph (1). The template shall be made available to employers in such manner as determined by the Labor Commissioner.

(3) If the employer is a temporary services employer, as defined in Section 201.3, the notice described in paragraph (1) must also include the name, the physical address of the main office, the mailing address if different from the physical address of the main office, and the telephone number of the legal entity for whom the employee will perform work, and any other information the Labor Commissioner deems material and necessary. The requirements of this paragraph do not apply to a security services company that is licensed by the Department of Consumer Affairs and that solely provides security services.

(b) An employer shall notify his or her employees in writing of any changes to the information set forth in the notice within seven calendar days after the time of the changes, unless one of the following applies:

(1) All changes are reflected on a timely wage statement furnished in accordance with Section 226.

(2) Notice of all changes is provided in another writing required by law within seven days of the changes.

(c) For purposes of this section, "employee" does not include any of the following:

(1) An employee directly employed by the state or any political subdivision thereof, including any city, county, city and county, or special district.

(2) An employee who is exempt from the payment of overtime wages by statute or the wage orders of the Industrial Welfare Commission.

(3) An employee who is covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of the employee, and if the agreement provides premium wage rates for all overtime hours worked and a regular hourly rate of pay for those employees of not less than 30 percent more than the state minimum wage.