



**WHAT MUNICIPAL EMPLOYERS NEED TO KNOW ABOUT THE
FAMILIES FIRST CORONAVIRUS RESPONSE ACT**

March 23, 2020

On March 18, 2020, the President signed into law H.R. 6201, the [Families First Coronavirus Response Act](#), which provides various forms of emergency relief in response to the COVID-19 public health emergency, including the expansion of certain employment-related protections and benefits.¹ The Act requires paid leave for employees who need to take time off when the employee or a family member become sick or requires care as a result of COVID-19.

The first kind of leave arises under the Emergency Family and Medical Leave Expansion Act (“EFMLA”).

What: Up to twelve (12) weeks of job protected and paid leave for eligible employees who are unable to work (or telework) because they need to care for their child under the age of eighteen (18) whose:

- School or daycare has closed; or
- Child care provider is unavailable due to the public health emergency.

<p><i>Who:</i> The EFMLA covers:</p> <ul style="list-style-type: none">- Government employers and government employees who have been employed for at least thirty (30) days by the government.- It also covers:<ul style="list-style-type: none">• Private sector employers with up to five-hundred (500) employees; and• Private sector employees who have been employed for at least thirty (30) days by their employer.	<p>The EFMLA does not cover:</p> <ul style="list-style-type: none">- Health care providers and emergency responders, if the Secretary of Labor or their employer so chooses; and- Employers with fewer than fifty (50) employees, if paid leave requirement would jeopardize the viability of the business.
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When: Initially from April 2, 2020 to December 31, 2020.

¹ This overview briefly outlines the Act’s Division C—Emergency Family And Medical Leave Expansion Act and Division E—Emergency Paid Sick Leave Act. The Act also contains other extensive provisions, not outlined here, including Division A—Second Coronavirus Preparedness And Response Supplemental Appropriations Act; 2020 Division B—Nutrition Waivers; Division D—Emergency Unemployment Insurance Stabilization And Access Act Of 2020; Division F—Health Provisions; Division G—Tax Credits For Paid Sick And Paid Family And Medical Leave; and Division H—Budgetary Effects

- How:*
- Leave for the first ten (10) days (i.e. two (2) weeks) may be unpaid, although an employee may choose to substitute any accrued vacation or leave for this period.
 - Leave for subsequent days (i.e. up to ten (10) weeks) must be paid at a rate at least two-thirds (2/3) the standard pay, but no more than \$200/day and \$10,000 total.
 - If leave is foreseeable, employees must provide notice as is practicable.

 - Employers who participate in a multi-employer collective bargaining agreement can comply by making contributions to a multi-employer fund, plan, or program based on the paid leave its employees are entitled to under the agreement.

What Next: Employees who take paid leave under the EFMLA are entitled to return to their jobs, or an equivalent position.

The second kind of leave arises under the Emergency Paid Sick Leave Act (“EPSLA”).

- What:* Up to two (2) weeks paid sick leave for employees who are unable to work (or telework) because they are:
1. Subject to a COVID-19 related Federal, State, or local quarantine or isolation order;
 2. Advised by a health care provider to self-quarantine due to COVID-19 related concerns;
 3. Experiencing symptoms of COVID-19 and are seeking a medical diagnosis;
 4. Caring for an individual who is subject to a quarantine or isolation order or advised to self-quarantine by a health care provider;
 5. Caring for their child whose school or care provider is closed or unavailable due to COVID-19 precautions; or
 6. Experiencing other substantially similar conditions as specified by the Secretary of Health and Human Services.

- Who:* The EPSLA covers:
- Government employers and employees.
 - It also covers:
 - Private sector employers with up to five-hundred (500) employees; and
 - Private sector employees.

- The EPSLA does not cover:
- Health care providers and emergency responders, if the Secretary of Labor or their employer so chooses;
 - Independent contractors; and
 - Employers with fewer than fifty (50) employees, if paid leave requirement would jeopardize the viability of the business.

When: Initially from April 2, 2020 to December 31, 2020.

- How:*
- Full time employees are entitled to up to eighty (80) hours of paid sick time.
 - Part time employees are entitled to paid sick leave hours in an amount equivalent to the average number of hours they regularly work over a two (2) week period.
 - Employees can begin using paid sick time immediately.
 - Employees can first use paid sick time under the EPSLA (i.e. they are not required to use personal sick time first).
 - Paid sick time under the EPSLA will not carry over from year to year.
 - Paid sick time under the EPSLA will stop with the employee's next scheduled work shift after the need for paid sick time stops.

 - If an employee takes paid sick time because of reasons 1-3, the employee must be paid at the standard rate or the federal, state, or local minimum wage, whichever is greater, but no more than \$511/day and \$5,110 total.
 - If an employee takes paid sick time because of reasons 4-6, the employee must be paid at a rate two-thirds (2/3) the standard rate, but no more than \$200/day and \$2,000 total.

 - Employers who participate in a multi-employer collective bargaining agreement can comply by making contributions to a multi-employer fund, plan, or program based on the paid leave its employees are entitled to under the agreement.

 - Employers must:
 - Post in conspicuous places notices that describe the requirements of the EPSLA.
 - Employers can:
 - Require employees to follow reasonable notice procedures in order to continue receiving paid sick time.

- What Next:* Employers cannot:
- Condition paid sick time on searching for or finding a replacement employee to cover;
 - Require employees to use other paid leave first before using paid sick time under the EPSLA; or
 - Retaliate (i.e. discharge, discipline, or discriminate) against employees who take, attempt to take, or enforce paid sick leave.

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