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**Office of the  
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## Staff Report

ITEM NO. 2-13

**To:** Lemoore City Council  
**From:** Janie Venegas, City Clerk   
**Date:** July 2, 2015 **Meeting Date:** July 7, 2015  
**Subject:** Administrative Policy 2015-02 Establishing a Paid Sick Leave Policy Pursuant to the Healthy Workplace Healthy Family Act of 2014 for Unrepresented Part-Time Employees

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### Discussion:

Effective July 1, 2015, employers must provide paid sick leave for all employees, subject to the requirements of Assembly Bill No. 1522, the Healthy Workplaces, Healthy Families Act of 2014 ("Act"). Sick leave benefits for regular City employees already meet the minimum requirements of the Act, but the City's part-time employees do not currently receive paid sick leave. Under the provisions of the Act, the City is required to establish the accrual method, and the minimum usage increment for paid sick leave. Under the proposed policy for implementing this benefit, part-time employees will be credited with 24 hours, or three days, whichever is greater, of paid sick leave, on the employees first pay period following his or her date of hire. However, the employee may not use the leave until he or she is employed for 90 days. When the 24 hours are front loaded in this manner, no calculation of accrual or carry over is required. Thus, employees will not carry over the paid sick leave from year to year. Employees will be granted a new 24 hours of leave each 12 months as specified. An employee who leaves City employment for a period of greater than 12 months, shall be considered a new employee upon rehire, for the purposes of sick leave accrual and usage. If the time gap is less than 12 months, the unused sick leave bank will be restored for the employee's use.

Attached to the Resolution is a policy that outlines the method by which the City will implement the Act. The City's part-time employees (hourly) employees are not covered by Memorandums of Understanding, employment contracts, salary and benefit resolutions or any other policy. These are the employees to which the provision of the Act are directed. All other regular City employees are covered under agreements that exceed the minimum requirements of the Act's paid sick leave provision, and therefore, are not subject to the Act. For example, a full-time employee is eligible for eight hours of sick leave per month worked.

The Act provides the following:

1. Accrual begins on July 1, 2015 for qualifying employees hired before or after January 1, 2015.
2. Employees qualify by being employed by the City on or after January 1, 2015, at least 30 calendar days within a year; the person must also be employed for 90 calendar days before the employee can utilize paid sick leave.
3. Employers have two choices for paid sick leave accrual:
  - a. 1 hour for every 30 hours worked; or
  - b. 24 hours be credited.
4. Employers may set a maximum accrual limit or cap of 48 hours. However, if the City front loads the 24 hours of leave, no accrual or carry over is required.
5. Employers may set a maximum usage per year limit or cap of 24 hours.
6. Employers may set a standard usage increment of sick leave at one hour per occurrence.
7. The Policy must be enacted by Council prior to July 1, 2015.

Staff is recommending that 24 hours, or three days, whichever is greater, of paid sick leave be front loaded. There are limited personnel resources available for tracking and monitoring all of our part-time employees to ensure each one receives one hour for every 30 hours worked. While not all of these individuals may qualify for sick leave, staff in multiple departments would have to track part-time employees each pay period to comply with the Act.

The policy drafted to comply with the requirements of the Act states that the City is not allowing carryover of the 24 hours of paid sick leave. Additionally, it states that the maximum usage is limited to 24 hours per year based on a fiscal year period. Also, it sets the minimum usage at one hour for more flexibility in getting the employee back to work sooner if the usage is for an appointment.

**Budget Impact:**

The budget impact is expected to be minimal as the work will be divided between other full and part-time employees when an employee is absent; however, any additional costs would be limited to covering services performed by part-time staff during sick leave absences.

**Recommendation:**

That the City Council, by motion, adopt Administrative Policy 2015-02 regarding Paid Sick Leave pursuant to the Healthy Workplace, Healthy Families Act of 2014 for unrepresented part-time employees.

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## **Administrative Policy 2015-02:**

### **PAID SICK LEAVE FOR UNREPRESENTED PART-TIME EMPLOYEES**

#### **PURPOSE:**

The Healthy Workplaces, Healthy Families Act of 2014 (“Act”) was signed into law September 10, 2014, and became effective January 1, 2015. The law requires employers to provide paid sick leave to assist employees who miss work due to their own illness or medical appointments or an illness or medical appointment of a qualified family member during their employment.

The Policy is intended to satisfy the requirements set forth under the Act, codified in California Labor Code Sections 245-249 and Labor Code Section 2810.5.

#### **SCOPE:**

##### **A. Eligibility**

- i. A part-time/hourly/seasonal unrepresented employee qualifies for paid sick leave by being employed by the City of Lemoore (“City”), on or after January 1, 2015, for at least 30 calendar days within a year.
- ii. Qualifying employees must be employed for 90 calendar days before any sick leave may be taken. For purposes of calculating this 90 days of employment only, the length of employment shall be measured using the month of each employee’s hire date such that an employee hired after the first day of month is given credit for that entire month. (For example, an employee hired on July 15, 2015, would be eligible for paid sick leave on October 1, 2015.)
- iii. This policy applies only to unrepresented part-time/hourly/seasonal employees not covered by Memorandums of Understanding, employment contracts, salary and benefit resolutions or any other policy.
- iv. Employees categorized as regular employees are not eligible for additional sick leave, as described in this policy. Regular employees are eligible for paid sick leave under applicable Memorandums of Understanding, employment contracts, salary and benefit resolutions.

##### **B. Crediting of Paid Sick Leave**

- i. Employees will be credited with 24 hours of paid sick leave, on their first day of employment or July 1, 2015, whichever is later.
- ii. Employees will be credited with 24 hours of sick leave at the beginning of each fiscal year.

### C. Use of Paid Sick Leave

- i. Employees may use available sick leave hours, beginning with their 90<sup>th</sup> day of employment with the City, subject to Section A (ii) above.
- ii. An employee may not use paid sick leave hours before they are available.
- iii. Employees may only use up to 24 hours of sick leave in any one year.
- iv. The minimum charge to paid sick leave is set at one hour up to the maximum number of hours the employee is scheduled to work for the day requested. (For example, an employee scheduled for five hours will only be charged with five hours of sick leave.)
- v. An employee may submit an oral or written request to use paid sick leave for any purpose allowed by the Act, such as:
  - a) An illness affecting the employee or a qualifying family member;
  - b) The diagnosis, care, or treatment of an existing health condition of the employee or qualifying family member;
  - c) Preventative care, such as annual physicians or flu shots for the employee or qualifying family members
  - d) For an employee who is the victim of domestic violence, sexual assault, or stalking, to take time off to:
    - 1) To obtain or attempt to obtain any relief to help ensure the health, safety, or welfare of the employee or the employee's child, such as a temporary restraining order, restraining order, or other injunctive relief;
    - 2) To seek medical attention, obtain services from a shelter, program, or rape crisis center;
    - 3) To obtain psychological counseling;
    - 4) To participate in safety planning;
    - 5) To take other actions to increase safety from future incidents.
- vi. For purposes of this policy, the term "family member" is defined as:
  - a) A child, which includes a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis;
  - b) 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;
  - c) A spouse;
  - d) A registered domestic partner;
  - e) A grandparent;
  - f) A grandchild; or
  - g) A sibling.

### D. Employee Notification Obligations

- i. If the need for paid sick leave is foreseeable, the employee must provide reasonable advance written notice. For example, the employee's supervisor should be notified of a scheduled appointment during the employee's ensuing shift, not less than three days prior to the scheduled appointment, if possible.
- ii. An employee may request to use sick leave on an unscheduled basis by calling his/her supervisor as soon as practicable.

- iii. The employee shall not be required to search for, or find, a replacement worker to cover the hours during which the employee uses paid sick leave, as a condition of using paid sick leave.
- iv. The City may require the employee to submit medical verification.

E. Payment of Paid Sick Leave

- i. Paid sick leave hours will be compensated at the employee's current hourly wage.
- ii. Paid sick leave will be paid no later than the payday for the next regular pay period after the sick leave was taken. The employee is responsible for ensuring accurate reflection of sick leave taken on the appropriate timecards.
- iii. Payment will be based on the employee's available accrual balance.

F. Separation from Employment

- i. No compensation will be provided to an employee for any accrued, and unused, sick leave hours at the time of the employee's resignation, termination, retirement, layoff, or other separation from employment.
- ii. If an employee is rehired within one (1) year of the date of separation, any unused sick leave hours will be reinstated, and available for the rehired employee to use. If the employee has already satisfied the 90 days of employment as specified in section A. (ii) above, the employee shall not be required to wait 90 days from his/her rehire date before paid sick leave hours can be used.

G. Employer Notification and Recordkeeping Obligations

- i. The City shall provide employees with written notice, setting forth the amount of paid sick leave available for use. The notice will be provided either on the employee's itemized wage statement or in a separate writing, provided on the designated pay date with the employee's paycheck.
- ii. The City shall display a poster at each workplace that contains information specified in the Labor Code.
- iii. The City shall retain all paid sick leave and usage records for a period of at least three (3) years. Such records will document the hours worked and paid sick leave hours accrued and used by each employee. An employee may request access to his/her records in the same manner, regarding itemized wage statements and pay stubs.