



HUMAN RESOURCES COMMITTEE MEETING
Wednesday, December 6, 2023
6:30 p.m.

- I. Call to Order
- II. Approval of Minutes from the Regular Meeting of March 15, 2023
- III. New Business
 - A. Discussion and Possible Action: Amending the Village's Employee Handbook in Compliance with the Paid Leave for All Workers Act (P.A. 102-1143)
- IV. Public Participation
- V. Adjournment

Human Resources Committee
Meeting - Minutes
Wednesday, March 15, 2023– 6:30 p.m.

CALL TO ORDER: Chairman Chybowski called the meeting to order at 6:32 p.m.

PRESENT: Trustee Chybowski, Trustee Grace, Trustee Rosten, and Village Administrator Johnson.

APPROVAL OF MINUTES: Trustee Rosten made a motion to approve the minutes of the Human Resources Committee of March 15, 2022; motion seconded by Trustee Rosten. Motion carried with three ayes.

NEW BUSINESS:

A. Discussion and Possible Action: Review of Village of Lindenhurst Pay Plan

Mr. Johnson discussed the Village's process when conducting its annual compensation survey. Historically, the Village collected data from comparable communities and sought to stay within 5% below or above its maximums and minimum of the pay scale. Based upon the most recent survey, there were a number of positions and grades that were well below the 5% threshold the Village seeks to uphold. The overall average of all minimum grades was 5%. A summary sheet showing all positions was introduced and discussion ensued regarding the positioning of certain jobs. Mr. Johnson continued that the Village is experiencing some of the effects of our lagging pay scale with regard to new hires in Public Works and the Police Department. To recruit appropriate talent, the Village is having to offer higher starting pay than anticipated to incentivize potential employees. These employees who are being hired at higher starting wages will incur less headroom within their respective grades as the pay scales continue to lag. Mr. Johnson pointed out that the summary of positions also included an analysis of how a universal 6% increase would impact the pay scale.

Discussion ensued regarding the possible pay scale adjustments. Trustee Grace asked about other ways to address some of the pay scale deficiencies through enhancing other benefits. Mr. Johnson explained that the Village's fringe benefit package remains strong, citing a low employee contribution toward medical insurance of 0% for union Public Works employees and 5% for all others. A consensus formed that some adjustment needs to occur to the pay system.

Trustee Rosten asked if a universal adjustment to the entire pay system was the right approach, or should the adjustments be based upon each position. Mr. Johnson explained that adjusting each individual position would be difficult based upon how grades overlap, but separate adjustments could be considered for the "Operator" and "Management" scales based upon the condition of each. Nothing prohibits such a move, past practice has only suggested adjustments to the entire scale versus portions of it. Trustee Rosten indicated that he supported "right-sizing" the management scale.

Mr. Johnson utilized the computer within the conference room to demonstrate a 10% increase to the management scale and a 6% increase to the operator scale. Discussion ensued regarding these figures. Trustee Chybowski indicated that such a move would help recruit people while also providing current employees enough runway to advance within their position.

After discussion, Trustee Chybowski moved to increase the Operator scale by 6% and the Management scale by 10%. The motion was seconded by Trustee Grace. The motion carried 3-0, by voice vote.

B. Discussion: Employee Handbook Review

Mr. Johnson indicated that during our negotiations, our labor counsel noticed some areas of the Village's employee handbook that could use updating based upon Illinois law. It was stated that such a comprehensive review of our handbook has likely not occurred for many years, possibly ever. Clark, Baird, Smith provided a proposal of \$6,500 to review our handbook for needed revisions and train our staff on the updates. This training will be incorporated with the annual, required Village's sexual harassment training to occur in 2024. The Committee formed consensus that this review should occur and the costs should be incorporated into the FY 2023-2024 Budget.

PUBLIC PARTICIPATION: None.

ADJOURNMENT: Trustee Grace made a motion to adjourn at 7:18 p.m., seconded by Trustee Rosten. All stated "Aye," motion carried.

Date Approved _____

Patty Chybowski, Chair

Melissa Forsberg, Village Clerk



MEMORANDUM

DATE: December 4, 2023

TO: Chair and Members of the Human Resources Committee

FROM: Clay T. Johnson, Village Administrator

RE: **Human Resources Meeting Agenda Supplement for December 6, 2023**

New Business

A. Discussion and Possible Action: Amending the Village's Employee Handbook in Compliance with the Paid Leave for All Workers Act (P.A. 102-1143)

Back in March, the Governor signed the Paid Leave for All Workers Act (PLAWA) into law which goes into effect on January 1, 2024. The law sets minimum paid leave requirements for Illinois employers, including most municipalities. Non-home rule units of government, like ourselves, need to adopt standards which comply with the new law or reaffirm our on paid-time off policies before the end of the year. The law states that employers must provide one hour of leave per 40 hours worked for employees and allow them to carry over up to 40 hours of paid leave annually. The law states that leave can be taken for any reason and without documentation, but employers may set leave policies that require employees to provide notice for seven days for foreseeable leave.

The Village's employee handbook already provides the leave policies and requirements for all full-and regular, part-time employees which comply with PLAWA. As a reminder, regular (permanent), part-time employees who work at least 32 hours per week are eligible to receive annual vacation on a pro-rated percentage of total hours worked. For example, an employee who works 32 hours per week would receive 80% of vacation leave of a full-time employee with the same length of service. Full-time employees receive their annual allotment of vacation based upon years of service following the schedule below:

<u>Service</u>	<u>Non-Exempt Employees</u>	<u>Exempt Employees</u>
	<u>Annual</u>	<u>Annual</u>
1-4 full years of service	10 days	15 days
5-11 full years of service	15 days	20 days
12-19 full years of service	20 days	25 days
20 full years of service	25 days	30 days

Because the Village has a policy in place for the regular part-time and full-time employees, this would be considered a "qualified pre-existing paid leave policy" as defined by the law.



However, the Village must also provide leave benefits for those non-regular, part-time and seasonal employees pursuant to the law. The law does not require that an employer provide leave to part-time and seasonal employees at the same rate as full-time employees, just at a minimum rate set by PLAWA. Therefore, the Village could offer 1 hour of paid leave for every 40 hours worked to meet the minimum requirements of the law. The requesting and usage of the leave must comply with the minimum requirements of the law as well.

Our staff ran a report for those regular, part-time and seasonal employees for a 12-month period running from 11-9-22 to 11-24-23. All the affected employees would receive some paid time off based upon the number of hours worked and the terms of the new policy. The breakdown of paid time off allotted to part-time and seasonal employees based upon accruals over the last twelve months is depicted in the chart below. Estimated paid time off is calculated using the law's minimum accrual rate of 1 hour leave for every 40 hours worked.

Position	Total Hours Worked	Paid-Time Off Accrued under PLAWA (Hours)
<i>Regular Part-Time PW</i>	587	14.675
<i>Seasonal Summer Laborer</i>	313 – 454	7.825 – 11.35
<i>Snow Plow Drivers</i>	61 - 153	1.525 – 3.825
<i>Part-Time Police Officers</i>	81 – 868	2.025 – 21.7
<i>Community Service Officer</i>	1,080	27
<i>Estimated Total Paid Time Off Per Position</i>		53.05 – 78.55

Labor counsel has advised that offering at least the minimum prescribed by law will place the Village in compliance with the law and the Illinois Department of Labor regulations. Therefore, some revision will be necessary within our leave policies to address seasonal and part-time employees.

Staff is recommending this following amendment to the employee handbook to comply with PLAWA. This language is still under legal review:

3.04 PAID LEAVE FOR ALL WORKERS' ACT LEAVE – SEASONAL AND NON-REGULAR PART-TIME EMPLOYEES

In accordance with the Paid Leave for All Workers Act (PLAWA), effective January 1, 2024, employees whose positions are considered seasonal and/or non-regular, part-time are eligible for paid time off. Those employees who are classified as seasonal and/or non-regular part-time shall accrue paid-time off at the rate of one (1) hour of paid leave for every



forty (40) hours of regular time worked to a maximum of forty (40) hours per year. Employees covered by this provision, must make their requests for the use of paid time off a minimum of seven (7) days in advance to their supervisor for foreseeable leave and as soon as practicable for unforeseeable leave. Leave is subject to the operational needs of the department as determined by the employee's direct supervisor. Accrued leave may be used in no less than two (2) hour increments. Leave cannot be front-loaded or borrowed against. Employees shall not be compensated for the balance or unused accrued PLAWA Leave upon resignation, termination, or retirement. PLAWA Leave hours accrued, but not used, shall convert to vacation leave for the employee if appointed to a permanent position as otherwise addressed elsewhere within the Employee Handbook.

The minimum requirements of the law are recommended to the Committee because of the nature and structure of our organization. Because of our lean approach to staffing, we sometimes rely upon these seasonal and part-time employees to backfill roles that would otherwise require additional full-time positions. This is most evident within the Police Department. Often, part-time officers are scheduled to act in the stead of a full-time officer who has previously approved paid time off or calls in sick. While limiting the amount of paid time off that a part-time officer may accrue could put the Village at a competitive disadvantage, our command relies upon the availability of these part-time officers to ensure shifts are properly staffed. If a part-time officer utilizes paid time off when called upon, it is likely that we would need to backfill shifts with full-time officers on overtime. This means the Village would likely be paying paid-time off for the original officer who has approved time-off, the part-time officer utilizing his or her leave, and overtime for another officer to fill the shift. It is reasonable to assume that these adjustments to personnel policies as mandated by the State will lead to additional costs borne by the Village. Therefore, limiting the amount of paid-time off provided to part-time officers remains in the employer's interest.

There are a few provisions within the employee handbook regarding vacation leave for permanent part-time and full-time employees where the benefits differ than what is provided within PLAWA. It must be pointed out, that labor counsel is only suggesting that we make the required changes to our employment policies in order to meet the minimum requirements of the law as suggested above. If we adopt the amendments for seasonal and part-time employees and affirm that we offer leave to other employees in accordance with our established policies, the Village has met their requirement. If we want to go a step further and make our vacation leave policies equivalent to the law, the following changes would be necessary:

3.03 VACATION LEAVE

Vacation leave shall be awarded to employees at their original employment anniversary date of each year in an amount corresponding to the schedule above based upon the



*number of full years of employment completed. New employees are not entitled to vacation leave days until after ~~one full year~~ **ninety (90) days** of employment. ~~However, after 6 months~~ **Upon ninety (90) days** of employment, new employees shall receive an advancement of 5 days, which will be deducted from the total number of days awarded based upon the schedule above.*

Vacation days are not cumulative. Earned days must be taken during the anniversary year following the year earned. Exceptions to this rule will be considered on a case-by-case basis for special circumstances. In this situation, the Village Administrator, upon recommendation of the Operating Manager, may grant a deferral of vacation days from one anniversary year to the next. Any deferred days must be taken in the next anniversary year. Consideration for the deferral of vacation days shall be based on the employee's work load, departmental responsibilities, or other special circumstances.

*Requests for vacation leave must be made a minimum ~~of three (3) days~~ **seven (7) days** prior to the requested vacation leave period **for foreseeable leave and as soon as practicable for unforeseeable leave** by the employee and approved by the Operating Manager or Village Administrator. **Requests for leave are subject to operational necessities as determined by the Operating Manager or Village Administrator.***

*Vacation time is charged against an employee in not less than ~~one half day~~ **units two (2) hour increments**. Every effort will be made to grant vacation periods requested by an employee, consistent with operational needs. Supervisors must schedule vacations in such a way as to not hamper the normal operating efficiency of the Village. Depending upon operational or personal circumstances, a period of vacation leave may be restricted to two weeks at any one period. Employee preference and length of service should be considered. However, work volumes and the capabilities of employees to perform each other's regular assignments must be taken into consideration when scheduling vacation.*

To reiterate, it is not necessary to make these changes to the Village's vacation leave policy. These are only suggested to the Committee as they meet the minimum requirements of the law which other public employers may adopt.

Staff is seeking feedback and direction on the language proposed to amend the employee handbook in accordance with PLAWA. The Committee should provide their thoughts on the minimum paid leave options provided to seasonal and part-time employees as well as the need for amending the vacation leave policies for full-time and regular part-time employees. The recommendation of the Committee will be brought to the full Village Board on December 11th in order to memorialize the Village's paid leave policies prior to January 1, 2024.

PAID LEAVE FOR ALL WORKERS ACT

Effective January 1, 2024



The Paid Leave for All Workers Act, Public Act (P.A.) 102-1143, will require employers, including municipalities, to provide 40 hours of paid leave to employees on an annual basis.

ESTABLISHING A MINIMUM PAID LEAVE STANDARD

Beginning January 1, 2024, employers must provide employees one hour of paid leave per 40 hours worked and allow them to carry over up to 40 hours of paid leave annually. Employers may set a minimum increment of no more than two hours per day for the use of paid leave. Paid leave accrued may be taken for any reason without documentation, but employers may set leave policies that require employees to provide notice of seven days for foreseeable leave and as soon as possible for unforeseeable leave.

MUNICIPAL PAID LEAVE ORDINANCES

The Act does not require municipalities to pass paid leave ordinances. The Act does not apply to employers, including municipalities, covered by a current ordinance that requires them to provide any form of paid leave to their employees.

NON-HOME RULE MUNICIPALITIES

Non-home rule municipalities currently have authority to adopt leave ordinances for their own municipal employees, but such ordinances do not apply to other employers within the community. Those other employers will be required to provide 40 hours of paid leave annually, as outlined in the Act. If a non-home rule municipality adopts a leave ordinance for their own employees after the Act's effective date, the ordinance must comply with the minimum paid leave standard outlined in the Act.

HOME RULE MUNICIPALITIES

Home rule municipalities currently have authority to adopt paid leave ordinances that apply to all employers within their community and may continue to adopt alternative ordinances after this Act's effective date. However, employers will be required to comply with both local and state standards if those ordinances do not meet the state's minimum required benefits. Nothing in this Act preempts a home rule municipality from adopting ordinances providing broader or more expansive paid leave requirements for employers within that specific community.



EMPLOYER RESPONSIBILITIES UNDER PAID LEAVE FOR ALL WORKERS ACT

Employers will be required to maintain records documenting hours worked, paid leave accrued and taken and the paid leave balance for each employee for at least three years. Employers will also have notification responsibilities including posting a physical notice summarizing the Act, information on filing a complaint and supplying employees with notice of their amount of accrued time. Additionally, employers will be barred from retaliating against employees for using paid leave.

Employers will be subject to penalties for violations of the Act including fines of up to \$1,000 per violation of the Act's posting and notice requirements, up to \$2,500 for all other violations and possible civil penalties and damages to the employee.

EXCEPTIONS TO PAID LEAVE POLICY

The Act does not preempt or alter leave benefits subject to current collective bargaining agreements. The Act does not apply to federal employees, or school district and park district employees. Other excluded workers include: independent contractors, railroad employees subject to railroad unemployment insurance or the Railway Labor Act, part-time student employees who are employed by a college or university and short-term employees at institutions of higher education.

ADDITIONAL RESOURCES

The Illinois Department of Labor (IDOL) will monitor employer compliance and enforce the Act ([more information available via this link](#)). IDOL has compiled a list of Frequently Asked Questions about the Act ([available via this link](#)) and those particularly applicable to municipal employers are listed below. Specific questions or comments related to the Act can be submitted by email to IDOL at DOL.PaidLeave@illinois.gov.

FREQUENTLY ASKED QUESTIONS COMPILED BY IDOL

DOES THE ACT APPLY TO PART-TIME EMPLOYEES OR JUST FULL-TIME EMPLOYEES?

The Act doesn't distinguish between part-time, full-time or seasonal employees. Both full-time and part-time employees are covered by this Act. However, employees who work fewer hours may accrue less leave time compared to full-time employees.

MY COMPANY (OR MUNICIPALITY) ALREADY OFFERS EMPLOYEES 40+ HOURS OF PAID LEAVE. DOES MY POLICY NEED TO COMPLY WITH THE OTHER REQUIREMENTS OF THE ACT?

If your company has an existing policy that meets or provides the minimum amount of leave required by the Act (40 hours) in a 12-month period and your employees can in fact take that amount of leave for any reason of their choosing, you do not need to modify the terms of your policy.

IDOL expects to further clarify how existing policies meet expectations of the law in rulemaking.

MUST PAID LEAVE PROVIDED UNDER THE ACT BE PAID OUT UPON AN EMPLOYEE'S TERMINATION, RESIGNATION OR RETIREMENT?

The Paid Leave for All Workers Act (PLAWA) does not require payout of unused leave unless the leave is credited to the employee's paid time off bank or employee vacation account; however, employers should additionally consider their vacation payout obligations under the Illinois Wage Payment and Collection Act.



COOK COUNTY HAS A PAID LEAVE ORDINANCE, BUT MUNICIPALITIES ARE ALLOWED TO OPT OUT OF THAT COUNTY ORDINANCE. ARE EMPLOYERS LOCATED IN MUNICIPALITIES WHICH OPTED OUT REQUIRED TO COMPLY WITH THE ACT?

Yes, if on the effective date of the Act (1/1/24) a municipality does not have an ordinance in place that requires payment of paid sick or paid leave, then employers in that municipality shall be covered by this Act.

MAY MUNICIPALITIES OPT OUT OF PLAWA USING THEIR HOME RULE POWERS?

No. Under the Act, the only circumstance in which a municipality may avoid PLAWA coverage is if they have a local ordinance in effect that provides paid sick or paid leave or, after the effective date, if their local ordinance provides benefits, rights and remedies that are greater than or equal to those provided under the Act.

THIS COULD NEGATIVELY IMPACT LOCAL GOVERNMENTS WITH POLICE AND FIRE PERSONNEL, WHAT ARE THEY SUPPOSED TO DO?

The Act does not prohibit an employer from adopting an evenly applied paid leave policy to allow it to address operational issues and meet safety objectives. Employers of unionized employees can also address these concerns through collective bargaining.

CAN I DENY AN EMPLOYEE USE OF PAID LEAVE UNDER THIS LAW? PUT DIFFERENTLY, IS AN EMPLOYEE ALLOWED TO TAKE LEAVE UNDER THIS ACT IN ANY CIRCUMSTANCE?

Nothing in the Act prohibits an employer from adopting a policy that establishes some parameters for taking leave and limited reasons the employer may deny leave for operational necessity. Any such policy must be communicated to employees, applied equally to all employees and conform with other applicable state and federal laws.

IDOL will seek to provide further clarity regarding this issue in rulemaking.

AT WHAT INCREMENT CAN EMPLOYEES TAKE THIS LEAVE UNDER THE LAW?

An employee may take PLAWA leave at a minimum of two-hour increments, although an employer could choose to allow an employee to take leave in smaller increments. An employer whose existing policy meets the minimum requirement of 40 hours of paid time off for any reason of the Act would not have to modify that existing policy in regards to leave increments.

CAN AN EMPLOYER FRONT LOAD PAID LEAVE TIME AT THE BEGINNING OF THE YEAR?

Yes, an employer may front load paid leave time by giving a full year's worth of leave that meets the minimum requirements of the Act to an employee at the beginning of the year.

An employer may make available the minimum number of hours of paid leave, subject to pro rata requirements, a proportional share of accrued hours, under the law, at the beginning of the year for its employees.

IF OUR BUSINESS WANTS TO FRONT LOAD PLAWA BENEFITS FOR PART-TIME STAFF, DOES THE BUSINESS HAVE TO FRONT LOAD 40 HOURS OR CAN I FRONT LOAD AN AMOUNT PROPORTIONATE TO THEIR WORK SCHEDULE?

Employers may front load PLAWA benefits for part-time employees at a pro rata amount consistent with the employee's work schedule. However, if the employee in fact works more



hours than the employer anticipates, the employee is entitled to accrue more hours at a rate of 1 hour of paid leave for every 40 hours worked, up to 40 hours for the 12-month period. If a part-time employee works fewer hours than anticipated by their employer, the employer may not diminish or recoup used or unused front-loaded paid leave benefits.

CAN AN EMPLOYER REQUIRE EMPLOYEES TO ACCRUE PAID LEAVE TIME OVER THE COURSE OF THE YEAR?

Yes, instead of front loading leave benefits, an employer may allow employees to accrue or earn paid leave time at a rate of one hour of paid leave for every 40 hours worked. Notably, a part-time employee might not accrue the full 40 hours of leave provided for in the law by the end of the year, based on the number hours the employee works.

Example: Employee A works 15 hours per week, 52 weeks per year. They will accrue 19.5 hours of paid leave annually. (15 times 52 = 780 hours worked per year. 780 divided by 40 = 19.5 hours of paid leave.)

WHEN DOES ACCRUAL BEGIN UNDER THE ACT? WHEN CAN EMPLOYEES START TAKING PAID TIME OFF?

The Act takes effect January 1, 2024. Accrual begins upon the start of employment or January 1, 2024, whichever is later. Employees are entitled to begin using the accrued paid leave after 90 days. If an employee begins accruing paid leave on January 1, 2024, the first day they could take that paid time off would be March 31, 2024.

Example: The Paid Leave for All Workers Act takes effect January 1, 2024. Six months later, Employee B starts a new job on July 1, 2024, and works 40 hours per week. They start accruing paid leave on their first day (July 1) but must wait 90 days (until September 29, 2024) before taking any of their accrued paid leave.

Example: Employee C has worked for their employer since 2019 but did not previously get paid time off. Employee C will begin accruing paid time off beginning January 1, 2024 (the effective date of the Act.)

HOW DOES ACCRUAL APPLY TO EMPLOYEES WHO WORK MORE THAN 40 HOURS IN A WEEK BUT ARE EXEMPT FROM THE OVERTIME REQUIREMENTS OF THE FEDERAL FAIR LABOR STANDARDS ACT?

Employees who are exempt from the overtime requirements of the federal Fair Labor Standards Act (29 U.S.C. 213(a)(1)) shall be deemed to work 40 hours in each workweek for purposes of paid leave time accrual if they regularly work 40 or more hours in a workweek. If such employee's regular workweek is less than 40 hours, their paid leave time accrues based on the number of hours in their regular workweek.

IF AN EMPLOYER ALLOWS EMPLOYEES TO BORROW AGAINST FUTURE ACCRUAL, THEREBY MAKING THE EMPLOYEE'S PAID LEAVE BALANCE GO NEGATIVE, CAN THE EMPLOYER MAKE THE EMPLOYEE REPAY THE PAID LEAVE IF THE EMPLOYEE TERMINATES BEFORE THEY HAVE EARNED THAT LEAVE?

An employer may only make an employee repay borrowed accrued leave if that policy is disclosed in the employer's written paid leave policy and the employee agrees to that policy in writing prior to taking any leave. All payroll deductions must comply with the requirements of the Illinois Wage Payment and Collection Act.



IF AN EMPLOYER FRONTLOADS AN EMPLOYEE'S PAID LEAVE AT THE BEGINNING OF THE 12-MONTH PERIOD, AND THE EMPLOYEE USES ALL OF THEIR LEAVE AND THEN QUILTS BEFORE THE END OF THE 12-MONTH PERIOD, CAN THE EMPLOYER MAKE THE EMPLOYEE REPAY THE PAID LEAVE?

No, the law does not allow an employer to make an employee repay paid leave time that was frontloaded at the beginning of the 12-month period. Benefits that have already been provided may not be retroactively diminished.

HOW CAN AN EMPLOYER TRACK THE TIME REQUIRED UNDER THIS ACT VERSUS OTHER BENEFIT TIME GIVEN TO THE EMPLOYEE?

The Act requires employer tracking of paid time off for any reason. If the employer chooses to offer paid sick time or other forms of paid time off in addition to paid leave, they should track that too as a best practice, but it is not covered by this Act.

IS THERE A DIFFERENCE BETWEEN "VACATION" AND "PTO" (PAID TIME OFF)?

Generally speaking, PTO is leave that can be taken for any reason or no reason at all and may not have to be paid out to an employee upon separation. Leave specified as "vacation" leave is subject to pay out pursuant to Section 4 of the Wage Payment and Collection Act.

HOW WILL PLAWA INTERACT WITH FMLA?

The Family and Medical Leave Act (FMLA) is unpaid job protected leave that can only be used by covered employees in covered circumstances. Employees going on FMLA may use PLAWA time concurrently during their FMLA leave. [All FMLA questions should be directed to the [United States Department of Labor](https://www.dhs.gov/eis-viv/viv/viv-101)]

HOW DOES CARRY OVER, ALSO KNOWN AS "ROLL OVER," WORK UNDER THIS LAW?

Employees are allowed to carry over or roll over unused, accrued leave from one year to the next under this law. However, there is no obligation for the employer to offer more than 40 hours of paid leave off in a year. An employer may offer more than the 40 hours off if they choose.

HOW DOES THIS LAW INTERACT WITH OTHER UNPAID LEAVE PROTECTIONS?

An employee covered under the Act is entitled to use paid leave under the Act before using unpaid leave under any employer policy or other state law.

WHEN WILL IDOL HAVE RULES IN PLACE FOR THIS ACT?

The Department anticipates filing a draft of the rules before the effective date of this Act. Under the rulemaking process there will then be a public comment period on those rules and a time period for the Department to make any changes. Finalized rules should be in place before March 31, 2024.

WHEN WILL THE NOTICE THAT IS REQUIRED IN THE ACT BE AVAILABLE FROM THE DEPARTMENT?

The required notice will be on our website by the end of 2023.



EMPLOYMENT
(820 ILCS 192/) Paid Leave for All Workers Act.

(820 ILCS 192/1)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 1. Short title. This Act may be cited as the Paid Leave for All Workers Act.

(Source: P.A. 102-1143, eff. 1-1-24.)

(820 ILCS 192/5)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 5. Findings; legislative intent; construction.

(a) The General Assembly finds that it is in the public policy interests of the State for all working Illinoisans to have some paid leave from work to maintain their health and well-being, care for their families, or use for any other reason of their choosing.

(b) It is the intent of the General Assembly by enacting this Act:

(1) To establish a minimum paid leave standard for all workers in Illinois.

(2) To provide employment security and economic security for employees who need to use paid time off from work for any reason.

(3) To safeguard the welfare, health, safety, and prosperity of the people of Illinois.

(4) To ensure that an employee not be denied use of leave for noncompliance with leave notification policies if the employer has not provided a written copy of its notification policy to the employee.

In order to effectuate this intent, the provisions of this Act shall be liberally construed in favor of providing workers with the greatest amount of paid time off from work and employment security.

(c) Nothing in this Act shall be construed to discourage employers from adopting or retaining paid sick leave, paid vacation, paid holidays, or any other paid time off or paid leave policy more generous than policies that comply with the requirements of this Act. Nothing in this Act shall be construed to discourage or prohibit an employer from allowing the use of paid leave at an earlier date than this Act requires.

Unless otherwise provided in a collective bargaining agreement, nothing in this Act shall be construed to waive or otherwise limit an employee's right to final compensation for any type of leave promised to be paid under a contract of employment or employment policy and earned by the employee pursuant to the Illinois Wage Payment and Collection Act.

(Source: P.A. 102-1143, eff. 1-1-24.)

(820 ILCS 192/10)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 10. Definitions. As used in this Act:

"Construction industry" means any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving, wrecking, painting, decorating, demolishing, or adding to or subtracting from any building, structure, highway, roadway, street, bridge, alley, sewer, ditch, sewage disposal plant, waterworks, parking

facility, railroad, excavation or other structure, project, development, real property, or improvement, or to do any part thereof, whether or not the performance of the work herein described involves the addition to or fabrication into, any structure, project, development, real property, or improvement herein described of any material or article of merchandise.

"Construction industry" also includes moving construction related materials on the job site or to or from the job site, snow plowing, snow removal, and refuse collection.

"Department" means the Illinois Department of Labor.

"Domestic work" and "domestic worker" have the same meanings as defined in Section 10 of the Domestic Workers' Bill of Rights Act, except that "domestic worker" also includes independent contractors, sole proprietors, and partnerships.

"Employee" has the same application and meaning as that provided in Sections 1 and 2 of the Illinois Wage Payment and Collection Act. "Employee" also includes all domestic workers, and, for the purposes of this Act, domestic workers shall not be excluded as employees under the provisions of item (1), (2), or (3) of Section 2 of the Illinois Wage Payment and Collection Act. "Employee" does not include:

(1) an employee as defined in the federal Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.) or the Railway Labor Act;

(2) a student enrolled in and regularly attending classes in a college or university that is also the student's employer, and who is employed on a temporary basis at less than full time at the college or university, but this exclusion applies only to work performed for that college or university; or

(3) a short-term employee who is employed by an institution of higher education for less than 2 consecutive calendar quarters during a calendar year and who does not have a reasonable expectation that they will be rehired by the same employer of the same service in a subsequent calendar year.

"Employer" has the same application and meaning as that provided in Sections 1 and 2 of the Illinois Wage Payment and Collection Act, except that for purposes of this Act, "employer" also means the State and units of local government, any political subdivision of the State or units of local government, or any State or local government agency.

"Employer" does not include school districts organized under the School Code or park districts organized under the Park District Code.

"Writing" or "written" means a printed or printable communication in physical or electronic format, including a communication that is transmitted through electronic mail, text message, or a computer system or is otherwise sent or stored electronically.

(Source: P.A. 102-1143, eff. 1-1-24.)

(820 ILCS 192/15)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 15. Provision of paid leave.

(a) An employee who works in Illinois is entitled to earn and use up to a minimum of 40 hours of paid leave during a 12-month period or a pro rata number of hours of paid leave under the provisions of subsection (b). The paid leave may be used by the employee for any purpose as long as the paid leave is taken in accordance with the provisions of this Act.

(b) Paid leave under this Act shall accrue at the rate of one hour of paid leave for every 40 hours worked up to a minimum

of 40 hours of paid leave or such greater amount if the employer provides more than 40 hours. Employees who are exempt from the overtime requirements of the federal Fair Labor Standards Act (29 U.S.C. 213(a)(1)) shall be deemed to work 40 hours in each workweek for purposes of paid leave accrual unless their regular workweek is less than 40 hours, in which case paid leave accrues based on that regular workweek. Employees shall determine how much paid leave they need to use, however employers may set a reasonable minimum increment for the use of paid leave not to exceed 2 hours per day. If an employee's scheduled workday is less than 2 hours day, the employee's scheduled workday shall be used to determine the amount of paid leave.

(c) An employer may make available the minimum number of hours of paid leave, subject to pro rata requirements provided in subsection (b), to an employee on the first day of employment or the first day of the 12-month period. Employers that provide the minimum number of hours of paid leave to an employee on the first day of employment or the first day of the 12-month period are not required to carryover paid leave from 12-month period to 12-month period and may require employees to use all paid leave prior to the end of the benefit period or forfeit the unused paid leave. However, under no circumstances shall an employee be credited with paid leave that is less than what the employee would have accrued under subsections (a) and (g) of this Section.

(d) The 12-month period may be any consecutive 12-month period designated by the employer in writing at the time of hire. Changes to the 12-month period may be made by the employer if notice is given to employees in writing prior to the change and the change does not reduce the eligible accrual rate and paid leave available to the employee. If the employer changes the designated 12-month period, the employer shall provide the employee with documentation of the balance of hours worked, paid leave accrued and taken, and the remaining paid leave balance.

(e) Paid leave under this Act may be taken by an employee for any reason of the employee's choosing. An employee is not required to provide an employer a reason for the leave and may not be required to provide documentation or certification as proof or in support of the leave. An employee may choose whether to use paid leave provided under this Act prior to using any other leave provided by the employer or State law.

(f) Employees shall be paid their hourly rate of pay for paid leave. However, employees engaged in an occupation in which gratuities or commissions have customarily and usually constituted and have been recognized as part of the remuneration for hire purposes shall be paid by their employer at least the full minimum wage in the jurisdiction in which they are employed when paid leave is taken. This wage shall be treated as the employee's regular rate of pay for purposes of this Act.

(g) Paid leave under this Act shall begin to accrue at the commencement of employment or on the effective date of this Act, whichever is later. Employees shall be entitled to begin using paid leave 90 days following commencement of their employment or 90 days following the effective date of this Act, whichever is later.

(h) Paid leave under this Act shall be provided upon the oral or written request of an employee in accordance with the employer's reasonable paid leave policy notification requirements which may include the following:

(1) If use of paid leave under this Act is foreseeable, the employer may require the employee to provide 7 calendar days' notice before the date the leave is to begin.

(2) If paid leave under this Act is not foreseeable,

the employee shall provide such notice as soon as is practicable after the employee is aware of the necessity of the leave. An employer that requires notice of paid leave under this Act when the leave is not foreseeable shall provide a written policy that contains procedures for the employee to provide notice.

(3) Employers shall provide employees with written notice of the paid leave policy notification requirements in this Section in the manner provided in Section 20 for notice and posting and within 5 calendar days of any change to the employer's reasonable paid leave policy notification requirements.

(4) An employer may not require, as a condition of providing paid leave under this Act, that the employee search for or find a replacement worker to cover the hours during which the employee takes paid leave.

(i) Except as provided in subsection (c), paid leave under this Act shall carry over annually to the extent not used by the employee, provided that nothing in this Act shall be construed to require an employer to provide more than 40 hours of paid leave for an employee in the 12-month period unless the employer agrees to do so.

(j) Nothing in this Section or any other Illinois law or rule shall be construed as requiring financial or other payment to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for paid leave accrued under this Act that has not been used. Nothing in this Section or any other Illinois law or rule shall be construed as requiring financial or other reimbursements to an employee from an employer for unused paid leave under this Act at the end of the benefit year or any other time.

(k) If an employee is transferred to a separate division, entity, or location, but remains employed by the same employer, the employee is entitled to all paid leave accrued at the prior division, entity, or location and is entitled to use all paid leave as provided in this Section. If there is a separation from employment and the employee is rehired within 12 months of separation by the same employer, previously accrued paid leave that had not been used by the employee shall be reinstated. The employee shall be entitled to use accrued paid leave at the commencement of employment following a separation from employment of 12 months or less.

(l) Paid leave under this Act shall not be charged or otherwise credited to an employee's paid time off bank or employee account unless the employer's policy permits such a credit. If the paid leave under this Act is credited to an employee's paid time off bank or employee vacation account then any unused paid leave shall be paid to the employee upon the employee's termination, resignation, retirement, or other separation to the same extent as vacation time under existing Illinois law or rule. Nothing in this Act shall be construed to waive or otherwise limit an employee's right to final compensation for promised and earned, but unpaid vacation time or paid time off, as provided under the Illinois Wage Payment and Collection Act and rules. Employers shall provide employees with written notice of changes to the employer's vacation time, paid time off, or other paid leave policies that affect an employee's right to final compensation for such leave.

(m) During any period an employee takes leave under this Act, the employer shall maintain coverage for the employee and any family member under any group health plan for the duration of such leave at no less than the level and conditions of coverage that would have been provided if the employee had not taken the leave. The employer shall notify the employee that the

employee is still responsible for paying the employee's share of the cost of the health care coverage, if any.

(n) Nothing in this Act shall be deemed to interfere with, impede, or in any way diminish the right of employees to bargain collectively with their employers through representatives of their own choosing in order to establish wages or other conditions of work in excess of the applicable minimum standards established in this Act. The paid leave requirements of this Act may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms.

Nothing in this Act shall be deemed to affect the validity or change the terms of bona fide collective bargaining agreements in effect on January 1, 2024. After that date, requirements of this Act may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms.

In no event shall this Act apply to any employee working in the construction industry who is covered by a bona fide collective bargaining agreement, nor shall this Act apply to any employee who is covered by a bona fide collective bargaining agreement with an employer that provides services nationally and internationally of delivery, pickup, and transportation of parcels, documents, and freight.

Notwithstanding the provisions of this subsection, nothing in this Act shall be deemed to affect the validity or change the terms of a bona fide collective bargaining agreement applying to an employee who is employed by a State agency that is in effect on July 1, 2024. After that date, requirements of this Act may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms. As used in this subsection, "State agency" has the same meaning as set forth in Section 4 of the Forms Notice Act.

(o) An agreement by an employee to waive his or her rights under this Act is void as against public policy.

(p) The provisions of this Act shall not apply to any employer that is covered by a municipal or county ordinance that is in effect on the effective date of this Act that requires employers to give any form of paid leave to their employees, including paid sick leave or paid leave. Notwithstanding the provisions of this subsection, any employer that is not required to provide paid leave to its employees, including paid sick leave or paid leave, under a municipal or county ordinance that is in effect on the effective date of this Act shall be subject to the provisions of this Act if the employer would be required to provide paid leave under this Act to its employees.

Any local ordinance that provides paid leave, including paid sick leave or paid leave, enacted or amended after the effective date of this Act must comply with the requirements of this Act or provide benefits, rights, and remedies that are greater than or equal to the benefits, rights, and remedies afforded under this Act.

An employer in a municipality or county that enacts or amends a local ordinance that provides paid leave, including paid sick leave or paid leave, after the effective date of this Act shall only comply with the local ordinance or ordinances so long as the benefits, rights, and remedies are greater than or equal to the benefits, rights, and remedies afforded under this Act.

(Source: P.A. 102-1143, eff. 1-1-24.)

(820 ILCS 192/20)

(This Section may contain text from a Public Act with a

delayed effective date)

Sec. 20. Related employer responsibilities.

(a) An employer subject to this Act shall make and preserve records documenting hours worked, paid leave accrued and taken, and remaining paid leave balance for each employee for a period of not less than 3 years and shall allow the Department access to such records, at reasonable times during business hours, to monitor compliance with the requirements of this Act. In addition, the records shall be preserved for the duration of any claim pending pursuant to Section 35. An employer that provides paid leave on an accrual basis pursuant to subsection (b) of Section 15 shall provide notice of the amount of paid leave accrued or used by an employee upon request by the employee in accordance with the employer's reasonable paid leave policy notification provisions. An employer that fails to comply with this subsection is in violation of the Act and subject to the civil penalties established in Section 35.

(b) An employer who provides any type of paid leave policy that satisfies the minimum amount of leave required by subsection (a) of Section 15 is not required to modify the policy if the policy offers an employee the option, at the employee's discretion, to take paid leave for any reason. Nothing in this Act shall be construed as requiring financial or other reimbursements to an employee from an employer for unused paid leave under this Act. Nothing in this Act shall be construed to discourage an employer from adopting a paid leave policy more generous than the requirements of this Act.

(c) For domestic workers, if an employer requires evidence of hours worked for other employers to confirm that the domestic worker has worked or is scheduled to work 8 or more hours in the aggregate for any relevant workweek, a signed statement by the domestic worker stating that he or she has performed or is scheduled to perform domestic work for 8 or more hours in the aggregate for any relevant workweek shall satisfy any documentation requirements of hours worked under the Domestic Workers' Bill of Rights Act and this Act. Such employer shall not require more than one signed statement in a calendar quarter if the hours the domestic worker has performed or is scheduled to perform domestic work have not decreased to less than 8 hours in the aggregate in any relevant workweek in that calendar quarter. An employer that requires evidence of hours worked must give the domestic worker written notice of such request and allow no fewer than 7 days or until the next scheduled workday, whichever is greater, for the domestic worker to comply with the request. The employer may not deny paid leave pending submission of the signed statement.

(d) An employer shall post and keep posted in a conspicuous place on the premises of the employer where notices to employees are customarily posted, and include it in a written document, or written employee manual or policy if the employer has one, a notice, to be prepared by the Department, summarizing the requirements of this Act and information pertaining to the filing of a charge upon commencement of an employee's employment or 90 days following the effective date of this Act, whichever is later. If an employer's workforce is comprised of a significant portion of workers who are not literate in English, the employer shall notify the Department and a notice in the appropriate language shall be prepared by the Department. Employees may also request that the Department provide a notice in languages other than English, which the employer must post in accordance with this subsection. An employer who violates this subsection shall be fined a civil penalty of \$500 for the first audit violation and \$1,000 for any subsequent audit violation.

(e) No employer shall interfere with, deny, or change an employee's work days or hours to avoid providing eligible paid

leave time to an employee.
(Source: P.A. 102-1143, eff. 1-1-24.)

(820 ILCS 192/25)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 25. Retaliation. It is unlawful for any employer to threaten to take or to take any adverse action against an employee because the employee (1) exercises rights or attempts to exercise rights under this Act, (2) opposes practices which the employee believes to be in violation of this Act, or (3) supports the exercise of rights of another under this Act. It is unlawful for any employer to consider the use of paid leave by an employee as a negative factor in any employment action that involves evaluating, promoting, disciplining, or counting paid leave under a no-fault attendance policy. Such retaliation shall subject an employer to civil penalties pursuant to this Act.

An employee who has been unlawfully retaliated against shall also be entitled to recover through a claim filed with the Department, all legal and equitable relief as may be appropriate.

(Source: P.A. 102-1143, eff. 1-1-24.)

(820 ILCS 192/30)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 30. Department responsibilities.

(a) The Department shall administer and enforce this Act. The Department has the powers and the parties have the rights provided in the Illinois Administrative Procedure Act for contested cases.

(b) An employee may file a complaint with the Department alleging violations of the Act within 3 years after the alleged violation. An employer that violates this Act is liable to any affected employee for damages in the form of the actual underpayment, compensatory damages, and a penalty of not less than \$500 and no more than \$1,000. Employees shall also be entitled to such equitable relief as may be appropriate, in addition to reasonable attorney's fees; reasonable expert witness fees, and other costs of the action, which shall be paid by the employer to the employee.

(c) The Department has the power to conduct investigations in connection with the administration and enforcement of this Act, including the power to conduct depositions and discovery and to issue subpoenas. If the Department finds cause to believe that this Act has been violated, the Department shall notify the parties in writing, and the matter shall be referred to an Administrative Law Judge to schedule a formal hearing in accordance with hearing procedures established by rule. Administrative decisions shall be reviewed under the Administrative Review Law.

(d) The Department is authorized to impose civil penalties prescribed in Section 35 for any violation of this Act.

(e) The Department is authorized to collect and supervise the payment of any damages awarded pursuant to Section 25 and subsection (b) of this Section to an employee or employees under this Act. Any sums recovered by the Department on behalf of an employee or employees under this Act shall be paid to the employee or employees affected. The Department is not authorized to collect and supervise the payment of any awarded attorney's fees. Those fees shall be subject to collection by the attorney awarded such fees.

(f) The Attorney General may bring an action to enforce the collection of any awards made under this Act.

(g) The Department shall adopt rules necessary to administer and enforce this Act.

(Source: P.A. 102-1143, eff. 1-1-24.)

(820 ILCS 192/35)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 35. Penalties and enforcement. An employer that violates this Act or any rule adopted under this Act shall be subject to a civil penalty of \$2,500 for each separate offense. An offense means any violation of this Act with the exception of a violation of the notice requirement in subsection (c) of Section 20. Any penalties collected from an employer under this Section or under subsection (d) of Section 20 for violations of this Act shall be deposited into the Paid Leave for All Workers Fund, a special fund created in the State treasury that is dedicated to enforcing this Act.

(Source: P.A. 102-1143, eff. 1-1-24.)

(820 ILCS 192/95)

Sec. 95. (Amendatory provisions; text omitted).

(Source: P.A. 102-1143, eff. 1-1-24; text omitted.)

(820 ILCS 192/97)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

(Source: P.A. 102-1143, eff. 1-1-24.)

(820 ILCS 192/99)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 99. Effective date. This Act takes effect January 1, 2024.

(Source: P.A. 102-1143, eff. 1-1-24.)