

Alameda County Resource Conservation District
Making Conservation Happen

ACRCD BOARD SPECIAL MEETING ANNOUNCEMENT AND AGENDA

District Office, 3585 Greenville Rd., Livermore, CA
Via Conference Call

SUNDAY, MARCH 29th at 4:30 p.m.

**TELECONFERENCE LOCATION:
3585 Greenville Road, Suite 2
Livermore, CA 94550**

AGENDA

Call to Order

Roll Call of The Directors

Introduction of Guests & Staff

Public Comments

1. Temporary ACRCD Telework Policy due to Pandemic

Motion	The Board approves the Temporary ACRCD Telework Policy for Employees necessary to comply with the Shelter in Place requirement due to the Covid-19 Pandemic.
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2. Emergency Planning Phases

3. Employee Emergency Communications

4. Discussion of Emergency Family Medical Leave Act and Anticipated Extension of Shelter in Place Order until June, 2020

5. Revised ACRCD Budget projections for FY19-20 based on current emergency economic circumstances

New Business

CLOSED SESSION

Government Code Section 54957 'Public Employee Discipline/Dismissal/Release'

ADJOURNMENT

ALAMEDA COUNTY RESOURCE CONSERVATION DISTRICT
Temporary COVID-19 -- WORK AGREEMENT

In response to the COVID-19 virus, the District is temporarily changing our operational routine to slow the spread of this pandemic and to offer the best protection to our employees and our communities. Some positions may be temporarily restructured so individuals can carry out their jobs while working remotely.

This Agreement, effective March 17, 2020, is between _____ an employee (referred to as "Employee") and Alameda County Resource Conservation District (referred to as "District").

The parties, intending to be legally bound, agree as follows:

Scope of Agreement – As identified in the District Employee Handbook, Section III., the Employee has been authorized and agrees to work remotely at an approved worksite other than the District’s normal worksite. This agreement is temporary in response to COVID-19 precautions and may be terminated by the District at any time.

Term of Agreement – This Agreement shall become effective as of the date written above and shall remain in full force and effect unless the agreement is terminated. Employees will be notified when this Agreement is terminated, and when employees are expected to return to their normal District office/workspace.

Termination of Agreement – Working remotely is available only to eligible employees, at District’s sole discretion. Working remotely is not an employee benefit intended to be available to the entire organization. As such, no employee is entitled to or guaranteed the opportunity to work remotely. This temporary Agreement is not a contract or term of employment.

Salary, Job Responsibilities, Benefits – Salary, job responsibilities and benefits will not significantly change because of remote work, except as they might have changed had Employee worked in the office full-time. Employee agrees to comply with all existing job requirements as if they were working at the District’s worksite.

Work hours, Vacation, Sick – Work hours are identified in the approved work schedule noted below and must be adhered to. Any change in the regular work schedule must be pre-approved by the CEO or CFO.

Equipment and Materials - District may provide the necessary computer, software, and other equipment needed for working remotely. All items remain the property of the District and must be returned to the District upon request. The computer, software, and any other equipment or supplies provided by District are provided for use on District assignments and are expected to be treated/handled as they would at the District’s worksite. Other household members or anyone else shall not use the District equipment and software. District-owned software may not be duplicated except as formally authorized. District will be responsible for insurance and maintenance of all District-provided materials. Any District materials taken home should be kept in the designated work area at home and not be made accessible to others.

Employee may use personal equipment for remote work purposes. In such cases, Employee will be responsible for the maintenance required for the equipment.

Temporary COVID-19 - Remote Work Agreement

Workspace – Employee agrees to maintain his/her workspace in a safe condition, free from hazards and other dangers to Employee and equipment.

Office Supplies – Office supplies will be provided by District as needed. It is not anticipated that employees garner any out-of-pocket expenses for supplies. Expenses will not be reimbursed unless by prior approval of the Chief Executive Officer.

Worker’s Compensation – District is responsible for any work-related injuries under our state’s Workers Compensation laws. Liability is limited to injuries suffered in the designated work area during the normal course and scope of duty. Any claims will be handled according to the normal procedure for Worker’s Compensation claims.

Liability for Injuries – During this temporary remote work agreement, Employee understands that the Employee remains liable for injuries to third persons and/or members of Employee’s family on Employee’s premises. Employee agrees to defend, indemnify and hold harmless District, its affiliates, employees, contractors and agents, from and against any and all claims, demands or liability (including any related losses, costs, expenses, and attorney fees) resulting from, or arising in connection with any injury to persons (including death) or damage to property caused directly or indirectly by the services provided herein by Employee or by Employee’s willful misconduct, negligent acts or omissions in the performance of the Employee’s duties and obligations under this Agreement, except where such claims, demands, or liability arise solely from the gross negligence or willful misconduct of the District.

Work Schedule – The daily work schedule for the days when working remotely must have prior approval by the Chief Executive Officer of Chief Financial Officer. It is expected the Employee work and be accessible remotely by telephone, email and other identified forms of communications during those hours.

The approved temporary remote work schedule for respective employees will typically be (unless otherwise approved by CEO or CFO):

- Monday: _____
- Tuesday: _____
- Wednesday: _____
- Thursday: _____
- Friday: _____

Employee remains obligated to comply with all of District’s rules, practices, instructions and this Agreement. Employee understands that violation of any of the above may result in discipline. Employee understands that in accordance with District Employee Handbook, Section III. B, the opportunity to work at home (remotely) may be revoked at any time if it is determined not to be in the District’s best interest.

I agree that I will provide a daily written summary of the work accomplished/completed including a daily timecard of the percentage of time spent per item listed with a total of hours worked at the end of the working day for each day worked at home.

If for any reason the circumstances change or are altered from those that are established in this agreement, and you are unable to assume duties or continue duties at any time you are responsible to immediately notify the Chief Executive Officer or Chief Financial Officer.

Temporary COVID-19 - Remote Work Agreement

In addition, the remote work agreement does not in any way preclude employees from following established District protocols for requesting time off, vacation days, normal sick days and EFMLA time, time off for medical appointments, use of or accumulation of comp. time or over-time for non-exempt employees, etc. Repercussions for lack of adherence to this procedure and other procedures in the Employee Handbook as applicable may be incurred by employees.

I have read and understand this Temporary Telecommuting/Remote Work Agreement and accept its conditions in their entirety.

**ALAMEDA COUNTY RESOURCE
CONSERVATION DISTRICT**

Employee Name

Employee Signature

Chief Executive Officer Signature

Date Signed

Date Signed

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ALAMEDA COUNTY RESOURCE CONSERVATION DISTRICT
Prepared by: Katherine Boxer, CEO, March 29, 2020

'Multi-Hazard Emergency Planning'

OVERVIEW: Phases of Emergency Management

PLANNING & PRE- EMERGENCY MITIGATION

Identify potential emergencies and assess risks in your respective area that could affect your offices/resources and region.

Dependent on types of emergency situations identified, list emergency specific issues and needs for each 'scenario'.

Identify if any regulations exist that establish minimum requirements for Resource Conservation District Emergency Planning

Identify critical business functions including communications with clients and grant agencies.

Develop general and conditions-specific plans.

Ensure communications systems are redundant and all employees have internal emergency contacts lists (landline, mobile, radio) and that plans identify critical agencies and key contacts/systems to be used during an emergency (city, county, state (region) and federal. Learn how the Incident Command System (ICS) is organized and how it functions in the field and in the Emergency Operations Center (EOC).

In the process of writing emergency plans, assign Incident Command System position responsibilities to primary and alternate staff.

Develop an EOC that is contingent on the critical functions of the agency and potential risks/scenarios that could occur in your local area/region.

Develop business continuity plans and consider business disruption/damage insurance.

Develop damage assessment protocols.

Ensure all IT data is backed up in at least one off-site location.

Wherever possible and economically feasible mitigate for known risks/hazards/emergency situations.

Obtain equipment and resources for on site storage that are emergency specific for multiple potential hazards.

Obtain and train with usage of appropriate IT based emergency management software app.

Train Board of Directors and employees in ICS and their roles before, during and after emergencies. Board functions as POLICY GROUP.

Develop and conduct Table-top and EOC exercises of plans.

RESPONSE & MITIGATION

Protect yourself and colleagues/family during actual emergency incident. If at work and conditions allow, check on safety of family.

Check on welfare of all employees, whether at home or office or in field.

Respond to facility if conditions allow.

Implement appropriate emergency protocols and prioritize response activities.

Assess conditions and injuries. Request EMS or self-transport.

Begin conducting damage assessment if safe to do so. Evacuate facility if damage is suspected. Contact pre-identified structural engineers in coordination with City/County.

Whenever safe and feasible, mitigate for employee and public safety including potential damages to relevant vulnerable/sensitive projects. (ponds, habitat restoration, streams/flooding, erosion, wildlife protection, etc.

Communicate all relevant emergency conditions information to Field Incident Command Post (Fire/Police/EMS/LLLab, etc.), and activate ACRCO Emergency Operations Center (EOC).

Update Board and all employees at appropriate intervals.

Stay in communications with government Emergency Operations Centers.

RECOVERY

Determine which employees are available to continue work and develop assignments and schedules.

Document in detail any damages and/or injuries, take multiple photographs of damage and track employee hours rigorously to enable District to apply for disaster recovery costs reimbursement. Ensure records of damages are kept in two separate locations.

Begin prioritization of repair of damages.

If needed, explore emergency loan options.

Depending on severity of emergency, inquire if Mutual Aid of employee and equipment resources are available from other RCD's.

Update Board and all employees at appropriate intervals.

As needed and appropriate, make employee financial assistance available.

Re-prioritize 'normal' work projects as necessary.

Begin compilation of 'lessons-learned' from District and other agencies/businesses interfaced with during all phases of emergency.

Hold 'lessons-learned' discussion forum to ensure common understanding of strengths and weaknesses of plans, training, pre-emergency mitigation activities, emergency response and mitigation efforts and recovery.

Revise emergency plans based on 'lessons-learned'. Budget for and acquire additional emergency equipment/PPE, etc. as identified.

Marilyn Harvey

From: Katherine Boxer
Sent: Friday, March 13, 2020 2:20 PM
To: Marilyn Harvey; Anandi Gandhi; Ian Howell; Hillary Sardinas; Andrew Engstrom; Allison Rodacker; Cynthia Cleanwater; Stephanie Lew
Cc: Laura Mercier; Marilyn Russell; Aquino, Alyson - NRCS, Livermore, CA
Subject: Interim Work Guidance in Response to Covid-19 Outbreak

ACRCD STAFF
Work Guidance beginning Monday, March 16th in response to limiting the spread of Covid-19

In an abundance of caution, I am encouraging staff to use their best judgment and flexibility as necessary, regarding public health and school closure effects on their respective home presence needs in the upcoming weeks. I would like all ACRCD staff to contact Marilyn Harvey by email on a daily basis with a cc. to me, to update ACRCD management regarding whether they will be reporting to the office, working in the field, or telecommuting. We are working on obtaining access to the server from remote locations but do not yet know when the ACRCD will have that capability.

Also until further notice, the ACRCD will be cancelling all events, workshops, outdoor education programs, etc.

Staff should closely coordinate with their respective project managers regarding their individual schedules and availability for field work.

I also encourage all staff to copy to a thumb drive documents that they may need, to work eight hours each day from home as necessary. Staff should follow CDC guidance and use common sense regarding cleaning hands, surfaces, tools, vehicle steering wheels, wearing gloves, etc.

All ACRCD staff that may need to telecommute intermittently, should email me a list of items worked on and accomplishments at the end of each work day. This list may be in a bullet point format. I will also be emailing staff regarding assignments as needed.

Again, please see the CDC and the Alameda County Public Health Dept.'s websites for expert health and safety guidance. I will be updating work guidance procedures as circumstances may indicate. Thank you for your cooperation!

Katherine

Katherine Boxer
Chief Executive Officer
Alameda County Resource Conservation District
3585 Greenville Road, Suite 2
Livermore, CA 94550
www.acrcd.org

Marilyn Harvey

From: Ian Howell
Sent: Monday, March 16, 2020 4:28 PM
To: Katherine Boxer; Susan Ellsworth; Andrew Engstrom; Allison Rodacker; Anandi Gandhi; Ian Howell; Marilyn Harvey; Stephanie Lew; Cynthia Cleanwater; Kyle Marsh; Hillary Sardinias
Cc: Nancy Ceridwyn; Aya Jeffers-Fabro; Aquino, Alyson - NRCS, Livermore, CA; katie.bergmann@usda.gov; Charbonneau, Jackie - NRCS, Livermore, CA; He, Ling - NRCS, Livermore, CA; Barteveian, Veronica (CTR) - NRCS, Livermore, CA
Subject: Coronavirus - ACRCO office update
Importance: High

On behalf of Katherine and Marilyn who are both out of the office sick today...

ACRCO Staff:

As most of you are likely aware a shelter in place order has been issued for residents of Contra Costa, Alameda, Santa Clara, San Mateo, San Francisco, and Marin Counties through April 7, 2020. Non-essential businesses are closed, unless employees can work remotely. The shelter in place order could be shortened or extended depending on circumstances. The order for Alameda County is available here: <http://www.acgov.org/documents/Final-Order-to-Shelter-In-Place.pdf>.

The shelter at home order necessitates that we close the Alameda County RCD office. Staff are expected to telework to the degree possible. We have posted a sign on the front door indicating that the office is closed. Please do not come to the office unless you have clearance from Marilyn or Katherine.

NRCS staff have been instructed to telework while the county order is in place.

If you need files from the server, please contact Marilyn or Ian. Marilyn will be collecting files from the office tomorrow (Tuesday). Ian has many project files backed up and can share these via OneDrive or email. Staff who regularly work in the office have access to OneDrive (part of Office 365, just like Word or Excel), which can be used to share and update files in real time. We have requested that Shamrock Technology Group, our IT support vendor, assist with setting up remote access directly to the server, but this capability remains under review.

Please consider updating your close business partners, setting an auto-reply in your Outlook settings, and updating your office voice mail greeting.

Stay tuned for additional guidance.

Be safe and stay healthy!

Ian Howell – Resource Conservationist
[Alameda County Resource Conservation District](#)
3585 Greenville Road, Suite 2
Livermore, CA 94550
(925) 371-0154 Ext 3858
ian.howell@acrcd.org

ACRCD Staff Meeting via Conference Call

Katherine Boxer <katherine.boxer@acrcd.org>

Thu 3/19/2020 1:51 PM

To: Marilyn Harvey <marilyn.harvey@acrcd.org>; Ian Howell <ian.howell@acrcd.org>; Cynthia Butler <cynthia.cleanwater@gmail.com>; Andrew Engstrom <andrew.engstrom@acrcd.org>; Anandi Gandhi <anandi.gandhi@acrcd.org>; Stephanie Lew <stephanie.lew@acrcd.org>; Hillary Sardinias <hillary.sardinias@acrcd.org>; Allison Rodacker <allison.rodacker@acrcd.org>

Cc: Laura Mercier <lmercier@trivalleyconservancy.org>

Hello! I hope that all of you are doing very well despite these difficult times. I am still quite ill and will be getting tested later today. In the interim, please email or call Marilyn Harvey with any questions you may have. Please cc me on all matters. Please ensure that you are all available at 11:00 am tomorrow morning (Friday) for up to a one hour conference call. The conference call number is 844 944 9200 and the code is 798346.

Marilyn will send out an agenda prior to the meeting. Please note that participation in this meeting is mandatory. Thanks again!

Katherine

Katherine Boxer
Chief Executive Officer
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3585 Greenville Road, Suite 2
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www.acrcd.org
925-453-3861 Office
541-944-8822 Cell

EMPLOYEE RIGHTS 4

PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The **Families First Coronavirus Response Act (FFCRA or Act)** requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

► PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- ⅔ for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at ⅔ for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

► ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). *Employees who have been employed for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.*

► QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to telework, because the employee:

- | | |
|---|---|
| <ol style="list-style-type: none">1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;2. has been advised by a health care provider to self-quarantine related to COVID-19;3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2); | <ol style="list-style-type: none">5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services. |
|---|---|

► ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

For additional information
or to file a complaint:

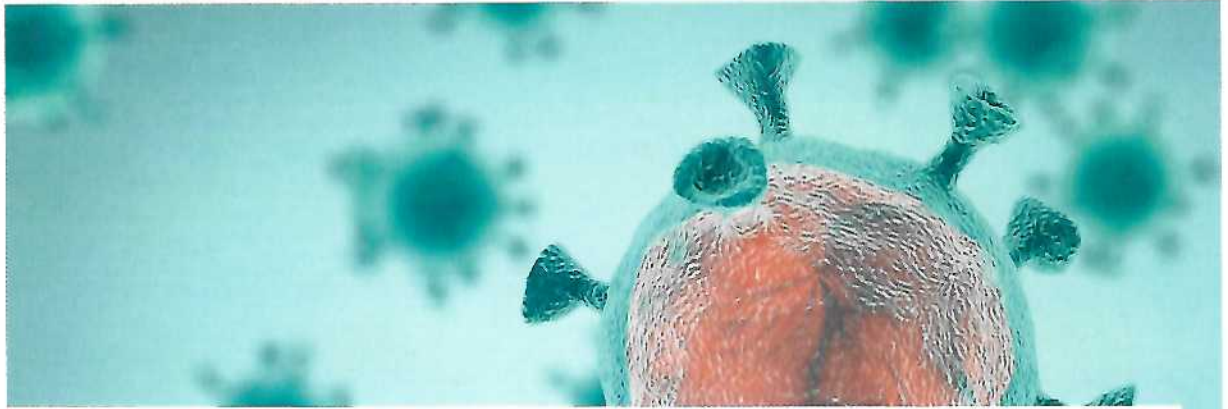
1-866-487-9243

TTY: 1-877-889-5627

dol.gov/agencies/whd



WH1422 REV 03/20



COVID-19 Employment Law Update: What Employers Need to Know About New Federal Legislation Providing for Emergency Paid Leaves

ALERTS

March 19, 2020

On March 18, 2020, President Trump signed the Families First Coronavirus Response Act (the Act). The Act is one of several federal government efforts to stimulate the economy and mitigate the economic harm to individuals and families being caused by the COVID-19 virus outbreak in the United States.¹ In addition to a \$1 billion stimulus for unemployment insurance benefit payments and other COVID-19 related provisions, the Act includes the Emergency Family Medical Leave and Expansion Act (EFMLA)² and the Emergency Paid Sick Leave Act (PSLA), both of which provide employees with additional time off to help for reasons related to the COVID-19 pandemic. The Act, along with employer's obligations to provide the foregoing leave, will become effective not later than April 2, 2020. The Act and its requirements expire on December 31, 2020.

Emergency Family Medical Leave and Expansion Act

U.S. employers with *fewer than 500 employees*³ must provide eligible employees with up to 12 weeks of job-protected leave under the Family and Medical Leave Act of 1993 (FMLA) to care for the employee's "son or daughter under 18 years of age ... if the[ir] school or place of care has been closed, or the[ir] child care provider ... is unavailable, due to a public health emergency," and the employee is unable to work (or telework) due to a need for such leave. "Public health emergency" is defined as "an emergency with respect to COVID-19 declared by a Federal, State, or local authority." President Trump has already issued a proclamation that "the COVID-19 outbreak in the United States constitutes a national emergency, beginning

March 1, 2020," and numerous states and local governments have made similar declarations or issued "shelter in place" orders.

Employees are eligible for such leave so long as they have worked at least 30 days for their employer.⁴ The first 10 days of EFMLA leave may be unpaid, and employees may elect to substitute any of their accrued vacation, personal, medical, or sick leave for the length of such unpaid leave. Any additional EFMLA leave days shall be paid by the employer (who may be entitled to receive corresponding tax credits). The payment employers make will be calculated based on an amount that is not less than two-thirds of an employee's regular rate of pay and the number of hours the employee would otherwise be normally scheduled to work. Special rules apply when calculating the amount to be paid to employees working variable schedules. In no event, however, shall the required leave payment exceed \$200 per day or an amount greater than \$10,000 in the aggregate.

Where the need for a leave related to COVID-19 is foreseeable, an employee must provide the employer with as much notice of the need for a leave as is practicable.

When providing EFMLA leave, employers must continue to comply with the FMLA's provisions that forbid employers from denying restoring eligible employees to the position they previously held (or its equivalent) following their return from leave. However, the EFMLA Act does provide that an employer with fewer than 25 employees is exempt from the foregoing provisions with respect to employees on EFMLA leave so long as the employer i) made reasonable efforts during the "contact period" to restore or reinstate the employee to the employee's position (or an equivalent position) and ii) the position held by the employee at the start of the leave does not exist due to economic conditions or other changes in operating conditions of the employer (a) that affect employment; and (b) are caused by a public health emergency during the period of leave. The contact period is defined as the earlier of: i) one year following the end of the declaration of COVID-19 related emergency made by a federal, state, or local authority or ii) one year following the date that is 12 weeks after the date on which an employee's EFMLA leave begins.

Emergency Paid Sick Leave Act

Private employers with fewer than 500 employees and public employers with at least one employee will be required to provide employees with ten days of paid sick leave for qualifying reasons. While employers will be responsible for funding the paid PSLA leave, they may be able to receive tax credits for the paid leave provided to employees.

The PSLA sets forth six qualifying reasons for which employers must provide paid sick time to employees affected by COVID-19:

1. The employee is subject to federal, state, or local quarantine or isolation order related to COVID-19;
2. The employee has been advised by a health care provider to self-quarantine due to COVID-19 concerns;
3. The employee is experiencing symptoms of COVID-19 and seeking medical diagnosis;
4. The employee is caring for an individual who is subject to a federal, state, or local quarantine order, or the individual has been advised to self-quarantine due to COVID-19 concerns;

5. The employee is caring for a child, if the child's school or child care facility has been closed or the child's care provider is unavailable because of COVID-19 precautions; or
6. The employee is experiencing any other substantially similar condition specified by Health and Human Services in consultation with the Department of the Treasury and the Department of Labor.

The PSLA imposes caps on the amount of pay an employee may receive. Pay for employees taking leave due to their own medical condition is calculated based on the employee's regular rate or applicable minimum wage, whichever is greater, but capped at \$511 per day and \$5,110 total. Pay for employees acting as a caregiver for a family member is calculated based on two-thirds of the employee's regular rate or applicable minimum wage, whichever is greater, but capped at \$200 per day and \$2,000 total. Employees' PSLA entitlements expire on Dec. 31, 2020.

The PSLA also imposes certain restrictions on employers. Employers may not require employees to use other employer-provided paid leave before using the new paid sick time. Nor can employers require their employees to search for a replacement to cover their hours for the length of their PSLA leave.

No Retaliation

The Act also prohibits employers from discharging, disciplining, or otherwise discriminating against any employee who 1) takes sick leave provided for under the Act, or 2) has filed any complaint relating to the Act (including one seeking enforcement of the Act), or participates in any such proceeding.

Notice Requirement

Finally, employers must post and keep posted, where notices to employees are customarily posted, a notice of the Act's requirements. The Labor Secretary will prepare or approve such a notice approximately seven days after enactment.

Takeaway

The EFMLA and PSLA impose new, and potentially significant, obligations on covered employers, and they should therefore familiarize themselves immediately with their responsibilities (as well as those the Act imposes on employees). Covered employers should prepare to provide employees with time off under these acts immediately. Such preparation should include i) ensuring that those responsible for HR and payroll matters are familiar with the new leave laws, including how the laws interact with the company's current leave policies (including any policies adopted in order to help employees cope with the COVID-19 pandemic), ii) drafting EFMLA and PSLA policies and/or employee communications addressing these new developments, iii) posting the Act's required notices; and iv) contacting employment counsel to answer questions or assist with any of the foregoing.

Wilson Sonsini continues to monitor the global impact of COVID-19 on various industries. Wilson Sonsini's COVID-19 Client Advisory Resource is a collection of alerts, advisories, and programs—all of which are intended to help the management, boards of directors, and in-house counsel of our clients maintain key operational and business functions, despite pressing challenges related to the COVID-19 outbreak. Wilson Sonsini is monitoring federal, state, and local legislative responses to the coronavirus affecting employers,

including shelter-in-place orders and leave laws. For more information, or to address specific questions relating to the employer obligations arising from these coronavirus-related developments, please contact Rico Rosales, Marina Tsatalis, Jason Storck, Rebecca Stuart, or any member of Wilson Sonsini's employment litigation or trade secret litigation group.

[1] For Wilson Sonsini's recent discussion of employment issues arising from the spread of the COVID-19 virus, see *Wilson Sonsini Alert: Coronavirus Update: Summary of Bay Area Six-County Orders Regarding Sheltering in Place*, March 16, 2020, *Wilson Sonsini Alert: Coronavirus Update: Frequent Questions We Are Receiving*, March 18, 2020, and *Wilson Sonsini Alert: New York Expands Paid Sick Leave in Light of COVID-19*, March 18, 2020.

[2] The EFMLA amends the Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.).

[3] Under the EFMLA, the Secretary of Labor has the authority to issue regulations exempting small businesses with fewer than 50 employees from providing EFMLA leave when doing so would jeopardize the viability of the business as a going concern.

[4] Absent amendment by the Act, to be eligible for leave under the FMLA an employee must have been employed with the employer for at least 12 months, and worked at least 1,250 hours during the 12 months prior to the start of the FMLA leave.

**WILSON
SONSINI**

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Families First Coronavirus Response Act: Employee Paid Leave Rights

The **Families First Coronavirus Response Act (FFCRA or Act)** requires certain employers to provide employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19. The Department of Labor's (Department) Wage and Hour Division (WHD) administers and enforces the new law's paid leave requirements. These provisions will apply from the effective date through December 31, 2020.

Generally, the Act provides that employees of covered employers are eligible for:

- *Two weeks (up to 80 hours) of **paid sick leave** at the employee's regular rate of pay* where the employee is unable to work because the employee is quarantined (pursuant to Federal, State, or local government order or advice of a health care provider), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; or
- *Two weeks (up to 80 hours) of **paid sick leave** at two-thirds the employee's regular rate of pay* because the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to Federal, State, or local government order or advice of a health care provider), or to care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19, and/or the employee is experiencing a substantially similar condition as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of the Treasury and Labor; and
- *Up to an additional 10 weeks of **paid expanded family and medical leave** at two-thirds the employee's regular rate of pay* where an employee, who has been employed for at least 30 calendar days, is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.

Covered Employers: The paid sick leave and expanded family and medical leave provisions of the FFCRA apply to certain public employers, and private employers with fewer than 500 employees.^[1] Most employees of the federal government are covered by Title II of the Family and Medical Leave Act, which was not amended by this Act, and are therefore not covered by the expanded family and medical leave provisions of the FFCRA. However, federal employees covered by Title II of the Family and Medical Leave Act are covered by the paid sick leave provision.

Small businesses with fewer than 50 employees may qualify for exemption from the requirement to provide leave due to school closings or child care unavailability if the leave requirements would jeopardize the viability of the business as a going concern.

Eligible Employees: *All employees* of covered employers are eligible for two weeks of paid sick time for specified reasons related to COVID-19. *Employees employed for at least 30 days* are eligible for up to an additional 10 weeks of paid family leave to care for a child under certain circumstances related to COVID-19.^[2]

Notice: Where leave is foreseeable, an employee should provide notice of leave to the employer as is practicable. After the first workday of paid sick time, an employer may require employees to follow reasonable notice procedures in order to continue receiving paid sick time.

Qualifying Reasons for Leave:

Under the FFCRA, an employee qualifies for paid sick time if the employee is unable to work (**or unable to telework**) due to a need for leave because the employee:

1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. has been advised by a health care provider to self-quarantine related to COVID-19;
3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
5. is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19; or
6. is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

Under the FFCRA, an employee qualifies for expanded family leave if the employee is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19.

Duration of Leave:

For reasons (1)-(4) and (6): A full-time employee is eligible for 80 hours of leave, and a part-time employee is eligible for the number of hours of leave that the employee works on average over a two-week period.

For reason (5): A full-time employee is eligible for up to 12 weeks of leave (two weeks of paid sick leave followed by up to 10 weeks of paid expanded family & medical leave) at 40 hours a week, and a part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

Calculation of Pay:[3]

For leave reasons (1), (2), or (3): employees taking leave are entitled to pay at either their regular rate or the applicable minimum wage, whichever is higher, up to \$511 per day and \$5,110 in the aggregate (over a 2-week period).

For leave reasons (4) or (6): employees taking leave are entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$2,000 in the aggregate (over a 2-week period).

For leave reason (5): employees taking leave are entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$12,000 in the aggregate (over a 12-week period). [4]

[1] Certain provisions may not apply to certain employers with fewer than 50 employees. See Department FFCRA regulations (expected April 2020).

[2] Under the Act, special rules apply for Health Care Providers and Emergency Responders.

[3] Paid sick time provided under this Act does not carryover from one year to the next. Employees are not entitled to reimbursement for unused leave upon termination, resignation, retirement, or other separation from employment.

[4] An employee may elect to substitute any accrued vacation leave, personal leave, or medical or sick leave for the first two weeks of partial paid leave under this section.

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Budget Projections based on Pandemic Circumstances and New Emergency Sick Leave Requirements

5

Updated Projections March 2020
FYE 6.30.20

Revised Projections
approved at Feb
2020 Board Meeting
FYE 6.30.20

Income		
Current billable (based on Rev. Sources)	821,130	920,040
Unallocated billable		
Billable Project Cost		
Supplies	103,562	105,592
Travel	2,965	2,965
Subcontractors-NRCS	16,490	25,889
Subcontractors	739,837	923,270
Total Projected Project Income	1,683,984	1,977,756
County Tax	220,000	220,000
Interest on project funds	0	0
Other Income	0	0
TOTAL INCOME	1,903,984	2,197,756
Direct Project Costs		
Labor	369,509	414,018
Direct Labor Burden (taxes & benefits)	66,512	74,523
(AgPark employee wages/taxes/benefits \$124,544)		
Reimbursed Costs		
Project Supplies	103,562	105,592
Travel	2,965	2,965
Subcontractors-NRCS	16,490	25,889
Subcontractors	739,837	923,270
Other	0	0
Total Direct Project Costs	1,298,874	1,546,257
Overhead		
Office Supplies	3,000	3,000
Postage & Delivery	2,800	2,800
Rent Utilities-PG&E Janitorial	65,500	65,500
Repairs & Maintenance	1,500	1,500
Total Overhead	72,800	72,800
Wages & Related - G&A		
Wages & Salaries (G&A, not direct. labor)	330,492	335,982
Labor Burden (taxes & benefits)	69,488	60,477
Point Blue	15,000	15,000
Total Wages & Related - G&A	414,980	411,459
General & Administrative Expense		
Bank Service Charges	500	500
Computer Maintenance Contract	8,000	8,000
Computer Software Monthly Charge / Copy charge	5,000	5,000
Donations/Special Projects	2,000	2,000
Dues, Memberships, Subscription	5,500	5,500
Insurance - Liability	8,500	8,500
Miscellaneous	1,500	1,500
Office Equipment	5,500	5,500
Office Furniture	1,500	1,500
Printing & Duplicating	3,000	3,000
Professional Services	14,000	14,000
Legal Services	11,000	11,000
Public Relations	7,000	7,000
Travel, Training, Workshops, Conferences, Meetings		
Training & Workshops & Travel	11,000	15,000
Meetings & travel (mileage)	2,500	3,800
Total G&A Expense	86,500	91,800
Total Expenses	1,873,154	2,122,316
NET INCOME	30,830	75,440
Less reserve	-15,000	-15,000
NET INCOME AFTER RESERVES	15,830	60,440