



CITY OF MARSHALL AGENDA ITEM REPORT

Meeting Date:	Tuesday, April 14, 2020
Category:	CONSENT AGENDA
Type:	ACTION
Subject:	Consider approval of Temporary COVID-19 Employee Leave Policies
Background Information:	<p>In response to the COVID-19 outbreak, the federal government passed the Families First Coronavirus Response Act (FFCRA), which expands access to emergency paid sick leave, protects families' financial security, and mitigates the spread of the coronavirus. All public employers and employers with fewer than 500 employees are required to comply with this law.</p> <p>Attached are two Temporary COVID-19 Employee Leave Policies for your consideration. The FFCRA provides for two types of paid emergency leave for employees: 1) Emergency Paid Sick Leave; and 2) Emergency Public Health Leave (an expansion of the federal FMLA). These policies are retroactive to April 1, 2020 and will expire on December 31, 2020 in accordance with the FFCRA. These policies apply to all City employees (full-time, part-time, paid-on-call, temporary/seasonal personnel).</p> <p>Staff have carefully reviewed the guidance and directives provided by the Department of Labor (DOL). Both draft policies comply with the directives and guidance. The DOL directives and guidance specific to the Act includes 79 Q&A, which is linked here. https://www.dol.gov/agencies/whd/pandemic/ffcra-questions</p> <p>The policies describe who is eligible, qualifying reasons for leaves, lengths of leave, and pay/benefits, which are all prescribed by the DOL. There are 6 possible reasons an employee could qualify for Paid Sick Leave, and 1 possible reason an employee could qualify for Emergency Public Health Leave. The amount and duration of paid leave the employee is entitled to will vary based upon the qualifying reason for leave. A brief summary comparison chart from Gallagher is included in your background materials for a quick reference on the similarities and differences between the leaves.</p> <p>Per the League of MN Cities recommendation, these policies comply with the IRS language regarding supporting documentation to be required for each of the leave situations, in the event the City becomes eligible for tax credits. We will work with employees to ensure that supporting documentation requirements are reasonable and do not add to the burden being experienced by our health care facilities. We understand that where an employee is treating locally at Avera, in accordance with a CDC recommendation, Avera is not providing sick notes from providers. The City can still comply with the IRS requirements by requesting other supporting information from an employee, such as: name of the clinic, hospital, or tele-med service and the name of health care professional that advised the employee to self-quarantine. If an employee becomes ill with COVID-19 symptoms, he/she is allowed to utilize Emergency Paid Sick Leave to seek a medical diagnosis or if a health care provider advises him/her to self-quarantine. An employee may not utilize Emergency Paid Sick leave if he/she unilaterally decides to self-quarantine for an illness without medical advice, even if he/she has COVID-19 symptoms.</p> <p>These policies are drafted to be consistent with the City's existing personnel policies. Where permitted by law, the policies align with existing City policies related to the required use of existing leave accruals. For example: a full-time employee that qualifies for Public Health Emergency Leave due to a daycare closure will be required to utilize his/her existing leave accruals concurrently with the leave time approved (after the first two weeks); that is, the City is required to pay 2/3 of the employee's normal wages and the employee will be required to substitute the remaining 1/3 with the use of accruals. If the employee exhausts the available leave accruals (except sick and funeral leave), the City will, as required by law, continue to pay the employee 2/3 of his/her normal pay (up to \$200 per day) for the duration of the leave</p>

	<p>requested, up to 12 workweeks of total FMLA entitlement. Conversely, an employee who qualifies for Emergency Paid Sick Leave cannot be required by the City to utilize existing leave accruals. For example: if an employee is caring for a spouse or a child with confirmed COVID-19, or the spouse or child has been advised to quarantine by a health care provider, the employee is entitled to 2/3 of his/her normal pay (up to \$200 per day) for a maximum of two weeks. In this scenario, the employee can elect, but cannot be required, to utilize their leave accruals to supplement the 2/3 pay.</p> <p>Part-time and temporary employees are also eligible for both of the leave policies; however, their pay entitlement is calculated based on the average number of hours the employee is normally scheduled to work in a two-week period. Staff will utilize the directives provided by the DOL in properly calculating pay benefits for part-time and temporary employees who request the leave. The law also allows Employers to exempt health care providers and emergency responders. We will consider requests from emergency responders on a case-by-case basis, which is permitted under this law.</p> <p>Staff have developed employee leave request forms for each of the two leave benefits. The process by which an employee requests the leave is described in the policies and is consistent with our current HR practices relating to other types of leaves (FMLA, medical leaves, personal leaves, etc.).</p> <p>The City has posted the proper <i>Employee Rights</i> posters in all our facility locations and sent the poster via email to all City employees as well, since we have employees who are working from home at this time.</p>
Fiscal Impact:	
Alternative/ Variations:	None recommended.
Recommendations:	That the Council approves the Temporary COVID-19 Employee Leave Policies