



CITY OF
PORTLAND, OREGON

Amanda Fritz, Commissioner
1221 SW Fourth Avenue, Suite 220
Portland, Oregon 97204
(503) 823-3008
amanda@portlandoregon.gov

MEMORANDUM:

FROM: Portland City Commissioner Amanda Fritz

SUBJECT: Paid Sick Leave – Information for Members of Venture Portland

Clarification of the process:

This issue has been discussed in the community for months, with 12 media articles published since October. I talked about it with stakeholders from many sides, both in private conversations and at public events, over the course of my re-election campaign last year. Still, I know that until a proposal is on the table, many employers and employees are unable to commit time to discussing a concept. In November, I delayed release of the proposal at the request of PBA to avoid the holiday retail season.

After refining some details based on input I heard at holiday socials, I released the proposed draft on January 17, two weeks before the hearing on January 31. Many items brought to Council are published five days before. I held a public forum on January 23 to answer questions about the proposal, which was attended by 65 people including both employers and employees. The Q and A from that session is posted on my City web site.

After the hearing this Thursday, Commissioner Saltzman and I will co-lead a Task Force of business owners and employee advocates to review the details of the proposal, and suggest amendments. We will also take public input via email. A second hearing will be held at the end of February to consider amendments, with the vote not until March. So there will be seven weeks between publication of the first draft, and the vote by Council. I believe seven weeks is not a “rushed” process, given the year of very public discussion of earned sick leave prior to posting of the proposed Code and Ordinance.

If adopted by Council, education and outreach to employers and employees would be done from September through December 2013, continuing thereafter. The new standards would go into effect January 1, 2014. Administrative Rules would be adopted by August 31, 2013. While this date was moved from the Code to the Ordinance in the proposal up for discussion on Thursday, the deadlines to define and then publicize the rules are still core components of the proposal.

In summary, the review period is seven weeks, with potential for further revisions this summer after the Legislature considers the issue, and in the fall with the Administrative Rules.

The proposal is posted here: <http://www.portlandonline.com/fritz/index.cfm?c=49205>. I will be glad to consider your input on the details of the proposal, at any time over the next month. I respectfully disagree that the process is too fast.

State Regulation

Many have commented that this issue should be regulated by the State. I agree that the standards should be statewide, rather than Portland-only. The City has put this issue high on our Legislative Agenda priorities, and I am hopeful a measure will be passed this year. I hope you will join me in lobbying for statewide legislation. The local proposal must be considered now, in order to be ready to act in Portland next year should the Legislature choose not to. After the State Legislature considers adopting statewide legislation during the session this year, further consideration at the local level will occur, with further amendments possible during the process of setting Administrative Rules this fall if the Portland-only version moves forward.

Concerns about Cost:

Some employers have expressed concern that all employees will take all eligible sick leave, increasing costs significantly. Experience in San Francisco has found this potential outcome did not happen. There, since 2007, all employees may earn five paid sick days for businesses with fewer than 10 employees, nine paid sick days for 10 and up. A study completed last year showed one quarter of all employees took no sick leave the previous year. And the median use was three days. See <http://www.msnbc.msn.com/id/43267782/ns/business-careers/t/can-paid-sick-leave-plan-go-national/> which begins:

“Jennifer Piallat, owner of Zazie Restaurant in San Francisco, initially opposed a bill proposed that would require businesses in the city to offer paid sick days to employees. ‘I thought it was going to become paid hangover days,’ she quipped, adding that she estimated it would also cost her \$30,000 a year, a big hit to her bottom line. But nearly four years since the law was first adopted Piallat is pleasantly surprised. ‘We’ve not had people taking advantage of it at all,’ she said, referring to her 32 employees. And the program has actually cost her less than \$2,000 a year.”

I recognize that \$2,000 a year is still a lot of money – about \$70 per employee in that company, which in these days of tight profit margins may be significant. Other studies have shown that when employees come to work sick, the productivity of the entire workplace suffers.

Specific Aspects of the Proposal:

- ❖ Portland’s proposal would require Paid Sick Leave for businesses with six or more employees, and Unpaid Protected Sick Leave for those with five or fewer employees. I saw Heather’s email stating 98% of neighborhood businesses are in the five or fewer category. The intent of the regulations applying even when Sick Leave is unpaid, is to clarify that workers can’t be fired for calling in sick, for legitimate purposes. I hope this is a core principle we all share, that workers who are ill should be able to stay home and recover without fear of losing their job.
- ❖ The proposal contains standards added at the request of small business owners, for example setting expectations for reasonable notice, making clear that shift trades are still allowed, and clarifying that all absences for the specified uses count against the cap an employee may accrue and use.
- ❖ All employees would earn one hour of Sick Leave per 30 hours worked, and be eligible to use up to 40 hours per year for sick leave. This may help small businesses define when unscheduled absences are excessive.
- ❖ The proposal also includes a provision specifying that employers who identify “patterns of abuse,” including but not limited to calling in sick on or adjacent to holidays, weekends, vacation or mandatory work shifts, may take action to address the suspected abuse.

- ❖ Businesses that already provide 40 hours of paid time off (PTO), which can be used for medical emergencies as well as vacation or personal days, would not be required to add sick leave as well as PTO.
- ❖ Enforcement would be complaint-driven, through employees contacting the Bureau of Labor and Industries (BOLI). The City would publicize the new regulations, perhaps through inserts in utility bills, business license renewals, etc. as well as making posters available, with language translation if needed.

Task Force Topics:

Some of the issues that are already on the list for discussion during the Task Force process include:

- Should there be a threshold for annual profit before a business would be required to provide paid sick leave?
- Should start-up businesses be exempt, and if so for how long?
- What about companies that provide health insurance instead of sick leave, should this count as equal or better?
- Some businesses like yoga studios are required to pay their instructors as employees, however the instructors work more like independent contractors – can/should an exemption be defined for this type of business?
- Similar issue, but different challenges, for some home health care agencies and their employees
- Amendments to the language on union hiring hall contractors
- What about other businesses that pay way above minimum wage, with or without benefits – is a one-size-fits-all standard the best option?

The proposed Task Force will be small (around 12 participants). Not all slots have been filled to date. If business owners are willing to participate (weekly meetings, two hours each for three weeks in the month of February) to discuss changes that might make the ordinance better, please contact my Chief of Staff, Tom Bizeau, at 503-823-3990. The meetings vary in times of days, to accommodate Commissioner Saltzman's schedule.

I hope to see you at the forum organized by Venture Portland next week. If you can't make it, and/or if you have specific questions or suggestions on details to be considered over the next five weeks, please feel welcome to email me – Amanda@portlandoregon.gov

Thank you for your engagement in reviewing this important issue that matters to both employers and employees in Portland.