



STAFF REPORT

DATE: December 14, 2020

TO: Sacramento Regional Transit Board of Directors

FROM: Shelly Valenton, VP, Integrated Services and Strategic Initiatives

SUBJ: EXTENDING EMERGENCY PAID SICK LEAVE, AUTHORIZING PAID ADMINISTRATIVE LEAVE, AND REPEALING RESOLUTION 20-03-0020 & REPLACING WITH A RESOLUTION INCREASING THE LIMIT FOR ADVANCED SICK LEAVE FOR EMPLOYEES EXPOSED TO COVID-19
EXTENDING EMERGENCY PAID SICK

RECOMMENDATION

Adopt the Attached Resolutions.

RESULT OF RECOMMENDED ACTION

Effective April 2, 2020, the Federal Government implemented the Families First Coronavirus Relief Act (FFCRA) and required certain employers to provide up to 80 hours of Emergency Paid Sick Leave (EPSL) to employees who met one or more of the 5 criteria related to COVID-19. Additionally, on March 23, 2020, the Board adopted a Resolution authorizing advancing sick leave credits to employees who do not have adequate accrued sick leave to cover time off related to those criteria.

The provisions of the FFCRA are scheduled to expire December 31, 2020. At this writing, it is uncertain whether the Federal Government will act prior to that date to extend EPSL or other provisions of the Act. The Board is being asked to authorize continued availability of EPSL through March 31, 2021. This extension will end if the Federal Government takes action to extend EPSL or create new leave provisions related to COVID-19 caused absences prior to March 31, 2021.

As SacRT, in following guidelines from the Centers for Disease Control (CDC) and the California Division of Occupational Safety and Health (Cal/OSHA), is requiring employees who are exposed to COVID-19 to quarantine for 14 days from the date of exposure, SacRT is required to pay employees for the time off work during their quarantine. The applicable Cal/OSHA regulations authorize employers to require employees to take any sick leave accruals in their accrual banks to cover those days off. Employers may also allow employees to use EPSL leave that may be available to them to cover those days off. The Board is being asked to authorize employer paid administrative leave for employees who have used all 80 hours of EPSL and have exhausted accrued sick leave and are required to remain off work at the direction of SacRT after those leaves are exhausted.

Additionally, the Board is being asked to increase the number of hours that an employee who has exhausted sick leave accruals may have advanced from the current 56 hours to 80 hours for any COVID-19 related leaves not related to a mandated 14-day quarantine.

FISCAL IMPACT

The fiscal impact of extending EPSL for an additional three months will depend on the number of employees who are exposed to COVID-19 and/or will be required to quarantine for 14 days pursuant to current CDC and Cal/OSHA guidelines. To date, nearly 200 employees have used 72 to 80 hours of EPSL. Only those employees who have not used the 80 hours EPSL will be eligible to take the extended EPSL leave during the extended period and only up to 80 hours.

Similarly, the fiscal impact of providing employer paid administrative leave under the specified conditions will depend on the number of employees required to quarantine who have used all 80 hours of EPSL and have exhausted accrued sick leave.

The fiscal impact of increasing the number of hours of sick leave that an employee may seek to have advanced is anticipated to be negligible as the employees will be required to reimburse SacRT for the advance by surrendering sick leave accruals as they are earned.

DISCUSSION

As the spread of COVID-19 continues at an increasing rate, a greater number of SacRT employees have been exposed to and/or contracted the virus. With the anticipated expiration of the FFCRA and EPSL on December 31, 2020 and given the uncertainty of Federal action to extend EPSL beyond that date, staff recommends that the Board authorize a continuation of EPSL through March 31, 2021. This extension will end if the Federal Government takes action to extend EPSL or create new leave provisions related to COVID-19 caused absences prior to March 31, 2021. This will provide employees who are required to quarantine or who are off sick due to COVID-19 on or after January 1, 2021 the same initial paid leave that employees who were exposed prior to that date have received, assuming the employee did not already use their 80 hours of EPSL.

The new Cal/OSHA guidelines requires that employees exposed at work be quarantined for 14 days from the date of exposure. Some employees are taking time off due to a second or subsequent exposure to COVID-19 and have previously used the 80 hours of EPSL. A very small number of exposed employees have either exhausted accrued sick leave or have minimal accrued sick leave hours. The Emergency Regulations implemented by Cal/OSHA require employees to be paid for periods of quarantine as a result of exposure at work. The regulations require the initial use of EPSL and then accrued sick leave for purposes of continuing pay but do not provide a payment mechanism when employees have exhausted those leaves. Employer paid administrative leave will fill that void.

Additionally, on March 23, 2020, the Board authorized SacRT to advance employees who are out of sick leave accruals up to 56 hours of sick leave that the employee is required to pay back as they earn sick leave accruals. If an employee becomes ill with COVID-19 or has to quarantine due to exposure outside of the workplace and has exhausted EPSL

leave and all other accruals, SacRT staff would like to authorize increasing the amount of hours that the employee can borrow to up to 80 hours. Based on patterns we have observed in employees who have been infected with COVID-19 thus far, they tend to be off of work for approximately 2 weeks. Therefore, staff asks the Board to repeal Resolution No. 20-03-0020 and replace it with a new Resolution authorizing SacRT to increase the total number of hours that an employee who has exhausted all EPSL and sick leave accruals to 80 hours.

As was described in March, the situation is dynamic and regulations are subject to change at any time, especially with a new administration assuming the White House in January 2021. The recommendations presented at this time reflect the needs associated with SacRT's experience to date and current guidelines.

RESOLUTION NO. 20-12-0148

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

December 14, 2020

AUTHORIZING THE GENERAL MANAGER/CEO TO EXTEND THE EMERGENCY PAID SICK LEAVE PROGRAM IMPLEMENTED PURSUANT TO THE FAMILIES FIRST CORONAVIRUS RELIEF ACT (FFCRA) THROUGH MARCH 31, 2021

WHEREAS, under the Families First Coronavirus Relief Act implemented by the Federal Government on April 2, 2020, employers like SacRT are required to provide up to 80 hours of Emergency Paid Sick Leave (EPSL) to employees who qualify for COVID related leave due to one or more of 5 enumerated criteria; and

WHEREAS, a number of SacRT employees have availed themselves of the EPSL program and have already taken at least a portion of their 80-hour entitlement; and

WHEREAS, the EPSL program is set to expire on December 31, 2020; and

WHEREAS, the COVID-19 Pandemic continues to significantly affect the Sacramento region, including a significant number of SacRT employees and their families; and

WHEREAS, Congress has not taken action to extend the EPSL program despite the need for the program and it is unclear that Congress will take action before the EPSL expires; and

WHEREAS, as the number of employees affected by COVID-19 continues to climb, SacRT wants to ensure that employees can continue to avail themselves of the leave provided under the FFCRA.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, the Board hereby authorizes the General Manager/CEO to continue the benefits provided under the EPSL through March 31, 2021, on the terms and conditions set forth in the FFCRA.

THAT, SacRT employees who have exhausted all or a portion of their 80 hour leave entitlement will only be entitled to take any hours that remain untaken from their 80-hour entitlement.

THAT, if Congress and/or the State of California act to extend or replace the EPSL with another COVID-19 leave entitlement program before March 31, 2021, the extension of the EPSL program authorized hereunder will be repealed immediately and this Resolution will have no further effect or validity.

STEVE HANSEN, Chair

A T T E S T:

HENRY LI, Secretary

By: _____
Cindy Brooks, Assistant Secretary

RESOLUTION NO. 20-12-0153

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

December 14, 2020

**REPEALING RESOLUTION NO. 20-03-0020 AND AUTHORIZING
ADVANCING SICK LEAVE FOR EMPLOYEES AFFLICTED WITH COVID-19**

WHEREAS, the State of California and the Sacramento Region continue to be significantly affected by the COVID-19 Pandemic; and

WHEREAS, the number of employees at SacRT that have been required to take leave due for COVID related reasons continues to grow; and

WHEREAS, quarantining oneself at home when diagnosed with COVID-19 is recommended by both the Centers for Disease Control and the Department of Health Services for Sacramento County to help mitigate the spread of the virus; and

WHEREAS, Sacramento Regional Transit District wants to ensure that its employees stay home if they are diagnosed with COVID-19 and understands that if employees are not being compensated during that time, they may be reluctant to stay home; and

WHEREAS, under the Families First Coronavirus Relief Act (FFCRA) adopted by the Federal Government and implemented on April 2, 2020, SacRT employees are eligible to receive up to 80 hours of Emergency Paid Sick Leave (EPSL) to employees who meet one or more of 5 enumerated criteria related to COVID-19; and

WHEREAS, many SacRT employees have already availed themselves of their 80-hour EPSL entitlement; and

WHEREAS, while SacRT provides a generous sick leave on an annual basis, it understands that some employees may not have sufficient accrued sick leave to cover an extended leave that may be needed to fully recover from COVID-19; and

WHEREAS, SacRT also has a group of contract employees who work in SacRT's Security Operations Center (SOC) who only accrue 24 hours of sick leave on an annual basis.; and

WHEREAS, in an effort to ensure that employees would be able to cover an extended leave from work related to COVID-19, on March 24, 2020, the Board adopted Resolution No. 20-03-0020 authorizing advancing 56 hours of sick leave to any employee out on COVID-19 related leave that had exhausted their sick leave and EPSL; and

WHEREAS, with the continued prevalence of COVID-19 in the Sacramento Region and the current requirements to quarantine if exposed to COVID-19 at work, the need to increase the amount of sick leave hours available to be advanced to employees who have exhausted their EPSL entitlement and their sick leave accruals has become more pronounced.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, Resolution No. 20-03-0020 is hereby repealed.

THAT, the Board hereby authorizes and directs the General Manager/CEO to extend the policy established under Resolution No. 20-03-0020, that allows employees, including Security Operations Center contract employees, afflicted with or otherwise affected by COVID-19 to be provided an advance of up to 80 hours of sick leave, if the employee has insufficient Emergency Paid Sick Leave, or sick leave accruals to cover any time taken off due to being afflicted with COVID-19, conditioned upon the employee repaying the advance with future sick leave accruals, and if the employee leaves SacRT's employ before repaying the accruals they repay SacRT at termination.

THAT, notwithstanding the provisions of the Collective Bargaining Agreements between SacRT and the Amalgamated Transit Union, Local 256, the International Brotherhood of Electrical Workers, Local 1245, and the American Federation of State, County, and Municipal Employees, AFL-CIO, or the Personnel Policy Manual, that employees who need to take time off work because they are afflicted or otherwise affected by COVID-19, even if they or an eligible dependent are not ill, may use sick leave accruals to cover that time off.

THAT, subject to approval of the Families First Coronavirus Response Act (the Act) by the United States Senate and execution by the President of the United States, the Board hereby authorizes the General Manager/CEO to implement the provisions of the Act and require that employees take any available sick leave, vacation leave or floating holiday accruals during the 14 day waiting period before the provisions of the Act take effect.

STEVE HANSEN, Chair

A T T E S T:

HENRY LI, Secretary

By: _____
Cindy Brooks, Assistant Secretary

RESOLUTION NO. 20-12-0154

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

December 14, 2020

**AUTHORIZING THE USE OF PAID ADMINISTRATIVE LEAVE FOR EMPLOYEE
REQUIRED TO QUARANTINE PURSUANT TO CALIFORNIA DIVISION OF
OCCUPATIONAL SAFETY AND HEALTH (CALOSHA) REGULATIONS**

WHEREAS, on November 1, 2020, the California Office of Administrative Law adopted Cal/OSHA Emergency Regulations to Protect Workers from COVID-19 (Cal/OSHA Regulations); and

WHEREAS, pursuant to the Cal/OSHA Regulations, employees exposed to COVID-19 must quarantine at home for 14-days; and

WHEREAS, pursuant to the Cal/OSHA Regulations, employers like SacRT are required to ensure that employees required to quarantine due to exposure to COVID-19 at work continue to receive pay; and

WHEREAS, pursuant to the Cal/OSHA Regulations, employers can require quarantined employees to use their Emergency Paid Sick Leave (EPSL) provided under the Families First Coronavirus Relief Act (FFCRA) as well as sick leave accruals to cover the 14-day absence from work; and

WHEREAS, if employees do not have any EPSL or sick leave accruals available to them, employers must ensure the quarantined employee continues to receive pay.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, the Board hereby authorizes the General Manager/CEO to provide up to 80 hours of Paid Administrative Leave to cover any days of work missed by an employee who has exhausted their EPSL entitlement and their sick leave accruals, if the employee is required by SacRT to quarantine due to a verified exposure to COVID-19 in the workplace in compliance with the Cal/OSHA Regulations adopted on or about November 30, 2020 by the California Office of Administrative Law.

THAT, authority granted herein will expire upon the expiration or repeal of the Cal/OSHA Regulations.

STEVE HANSEN, Chair

A T T E S T:

HENRY LI, Secretary

By: _____
Cindy Brooks, Assistant Secretary