

# LEGAL UPDATE

## **San Diego's Paid Sick Leave Ordinance is Amended**

On July 26, 2016, the city council voted to amend the sick pay provisions of the ordinance. The ordinance will be amended effective September 2, 2016.

As originally drafted, the ordinance required employers to accrue sick pay at the rate of 1 hour for every 30 hours worked, with an available 40 hour per year use limit. The ordinance did not consider a front load option, nor did it include an accrual cap.

The amended ordinance now provides a front load option and an accrual cap. Specifically, the amended ordinance will:

- ***Allow employers to front load no less than 40 hours of sick leave to an employee at the beginning of each benefit year;***
- ***Allow employers to cap an employee's total accrual of sick leave at 80 hours.***

The ordinance requires employers to display a poster in the workplace and also provide employees with notice of their rights. You can view these postings at <https://www.sandiego.gov/treasurer/minimum-wage-program>

## **San Diego & Los Angeles Recent Minimum Wage and Paid Sick Leave Ordinances - Highlights**

As you may already know, the City of San Diego along with other jurisdictions, such as Los Angeles have recently added local ordinances that may affect your business. In a nutshell, if a company is performing work in the boundary defined as the City of San Diego or Los Angeles for two or more hours per week, the Ordinance may apply to your company. We have highlighted the new laws below.

### **Minimum Wage:**

<b>City</b>	<b>Minimum Wage Rate</b>
Los Angeles	\$10.50/hour (Effective July 1 for 26 or more employees); Requirement for smaller employers delayed until 2017
San Diego	\$10.50/hour (effective July 18 <sup>th</sup> — when the election results are certified)

### **Sick Leave Ordinance:**

Employers must comply with both the CA and San Diego ordinances.

Below are some of the major differences between the two ordinances and some of the San Diego ordinance's highlights:

<b>San Diego Ordinance</b>	<b>California Ordinance</b>
Employees entitled to use 40 hours (5 days) of paid sick leave annually.	Employees entitled to use 24 hours (3 days) of paid sick leave annually.
Accrual method “ <b>only</b> ” (1 hour for every 30 hours worked). No lump sums allowed.	Lump Sum or Accrual method (1 for 30).
No cap on accrual.	Accrual may be capped at 48 hours (6 days).
Can require physician’s note after 3 days of absence.	CA is silent on this, but has stated employers could be in violation if days are withheld due to not presenting a note.
Unlimited PTO must be tracked (labor department is leaning towards CA language)	Unlimited PTO plans can state “unlimited” on wage statement.
If rehired within 6 month of separation, balances must be reinstated.	If rehired within 1 year of separation, balances must be reinstated.
Eligible employees: work in one or more calendar weeks of the year, perform at least two hours of work within the geographic boundaries of the City of San Diego. Employers can limit usage until the 90 <sup>th</sup> day of employment.	Eligible employees: are those who work for the same employer, on or after January 1, 2015, for at least 30 days within a year in California, and satisfy a 120-day employment period before taking any sick leave
Expanded use and notification requirements.	Must meet both CA and SD use and notification requirements.
New San Diego Enforcement Office formed to oversee violations.	Violations reviewed by the Labor Commissioner.
Penalty: up to \$120 per employee per day each violation. If an employer retaliates against an employee, the damages are tripled.	