



PAID SICK LEAVE ORDINANCES Issue Brief

Calling in Sick: Analyzing the Legal, Political and Social Feasibility of Paid Sick Leave Ordinances

Introduction

Many U.S. workers find it difficult to stay home when sick. Those who stay home often suffer lost wages and risk being fired. In a 2008 survey by the University of Chicago's National Opinion Research Center, 11 percent of respondents reported losing a job after taking time off from work for an illness, while 13 percent said they were told they would be fired or suspended if they missed work due to illness.

To avoid financial insecurity workers often choose to go to work sick. The above survey also found that of those who didn't receive paid sick leave, 68 percent went to work with a contagious illness. Paid sick leave allows employees to stay home without risking their income or the health of others, however, over 40 percent of all private-sector employees do not receive paid sick days. To help increase employee access to paid sick leave some local governments have enacted ordinances requiring employers to provide paid sick leave.

Background

To prevent the spread of flu the CDC recommends those who are sick limit their contact with others, which can mean staying home from work. Paid sick leave ordinances allow workers to follow these recommendations, thereby protecting their community's health without risking personal financial hardship. Also, health impact assessments of proposed federal and state paid sick leave laws conclude that the laws would have a significant impact on the spread of communicable disease.

Much of the challenge to paid sick leave ordinances has come from restaurant associations and business coalitions. Opponents often raise concerns about the cost of paid sick leave and employee abuse of sick leave. Businesses also express their willingness to relocate if paid sick leave is required. A recent study by the Institute for Women's Policy Research found that in San Francisco where a paid sick leave ordinance was enacted, 6 out of 7 employers did not suffer negative profit loss and that one quarter of employees did not access paid sick leave while those who did took less time than available.

Trends in paid sick leave ordinances include varying the rate of leave accrual and amount of leave by employer size, allowing leave for domestic violence, sexual assault and stalking, and temporarily exempting new businesses from the requirements.

Preemption has so far had a limited impact on local paid sick leave ordinances. Shortly after the Wisconsin court of appeals upheld Milwaukee's paid sick leave ordinance the state legislature preempted it. No other paid sick leave



ordinance has yet faced a preemption challenge. Several states, including California, Washington, Colorado and Florida, have considered paid sick leave laws and Connecticut enacted a statewide law in June 2011. The state legislative proposals vary on the issue of preemption. Some are silent on the issue while others explicitly state the intention to not supersede greater local paid sick leave guarantees.

At the federal level the Health Families Act (HFA) was reintroduced in the House of Representatives and U.S. Senate in May 2011. In its current form the HFA is not a threat to state or local paid sick leave legislation since the Act explicitly states it will not supersede state laws or local ordinances.

Discussion

Paid sick leave ordinances appear to be an effective way to prevent the spread of disease with little economic impact on businesses. While health impact assessments have found that paid sick leave should have a positive impact on community health, additional research on the actual health impact of enacted paid sick leave ordinances is needed. Existing economic studies like the one in San Francisco can be used to counter claims of the negative impact of these ordinances. Expanding employer exclusions and exemptions can undermine the public health rationale for the ordinances.

Preemption by state legislatures will be the biggest challenge to local paid sick leave ordinances. As with state preemption of local tobacco control laws and local attempts to prevent obesity (e.g., by restricting the use of trans-fats and limiting toy giveaways in fast food meals) state legislatures may seek to claim that paid sick leave is within the purview of state authority and not a local matter.

Sick Leave Ordinances by City

CITY	ORDINANCE
San Francisco	Sick Leave Ordinance, San Francisco Administrative Code, Chapter 12W
Washington, D.C.	Accrued Sick and Safe Leave Act of 2008, D.C. Official Code § 32-13 (click on Title 32, Chapter 1A)
Milwaukee*	Paid Sick Leave for Employees Provided by Employers Within the City Ordinance
SNew York City*	Paid Sick Time Act
Seattle	Paid Sick Time and Paid Safe Time, Seattle Municipal Code, Chapter 14.16
Philadelphia*	Promoting Healthy Families and Workplaces Ordinance
Denver*	Paid Sick and Safe Time Ordinance

* Proposed ordinances that have not been enacted into law.



SUPPORTERS



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