Local Authority to Expand Paid Sick Leave in California

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ChangeLab Solutions’ work advances health equity

Equity is at the core of what we do & who we are.
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ChangeLab Solutions is a non-partisan, nonprofit organization that educates and informs the public through objective, non-partisan analysis, study, and/or research. The primary purpose of this discussion is to address legal and/or policy options to improve public health. There is no intent to reflect a view on specific legislation.

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Paid Sick Leave vs. Paid Family Leave

**Sick Leave:** Paid sick leave laws require employers to allow people to take paid time off for illness or injury for themselves or their family members.

**Family Leave:** A generic term referring to any of a variety of government- or employer-sponsored paid leave policies, including maternity, paternity, parental, adoptive, and family leave, which allow parents to take time off work to care for newborn and young children.
City and county governing bodies have broad authority to regulate for public health and safety. These policies must not conflict with state law. More stringent or protective local policies generally do not conflict with state law.

County laws generally apply within only the unincorporated areas.

Local health officers are critical but have more limited direct regulatory authority.
Additional Legal Authority During a Declared Emergency

- **Local health officers**
  "Any preventive measure that may be necessary to protect the public health from any public health hazard."

- **Local governing bodies**
  "Orders and regulations necessary to provide for the protection of life and property"

- **Geographic scope of county authority**
Local Paid Sick Leave Policies

• State law authorizes more comprehensive local paid sick leave policies\(^1\)

• LHOs *may* have sufficient authority to expand emergency paid sick leave, but unprecedented

• Clear authority for cities & counties to expand paid sick leave benefits

• *Potential* for a county emergency paid sick leave policy to apply within incorporated cities
  – Legally untested
  – Limited to duration of declared emergency

\(^1\) California Labor Code § 249(d)
Local Paid Sick Leave Policies

Considerations and Suggestions

Expanding Paid Sick Leave

- **Option 1:** Adopt separate policies in each jurisdiction through local governing bodies
- **Option 2:** Adopt emergency policies through county boards of supervisors that apply within unincorporated and incorporated areas
- **Option 3:** Local health officer unilaterally expands paid sick leave

Additional Considerations:

- Establish a robust record & explain the evidence
- Ensure the strongest available protections apply
- Proactively consult, partner, and coordinate
- Periodically reassess the policy
- Lay foundation for long-term policy change
Legal & Policy Analysis

✔ Overview of general and emergency powers of local health officers and local governments in California

✔ Suggestions and considerations related to:
  ✔ Paid sick leave
  ✔ Eviction moratoriums
  ✔ Essential workers
  ✔ Criminal justice settings
  ✔ Shifting from response to recovery

Additional Resources from ChangeLab Solutions

COVID-19 Response and Recovery Blog Series
changelabsolutions.org/covid-19-response-recovery

Coronavirus Law & Policy Resources
changelabsolutions.org/blog/covid-19-resources

Blueprint for Changemakers: Achieving Health Equity Through Law & Policy
changelabsolutions.org/product/blueprint-changemakers

Paid Family Leave Ensures Health Equity for All
changelabsolutions.org/product/paid-family-leave-ensures-health-equity-all

Public Health Law Academy
changelabsolutions.org/good-governance/phla

Preemption, Public Health, and Equity
changelabsolutions.org/good-governance/preemption
Thank you!

Questions?

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