

Action Required: San Francisco Amends Paid Parental Leave Law

With its Paid Parental Leave Ordinance (PPLO) passed in April, San Francisco became the first city in the country to require employers to offer six (6) weeks of fully paid leave for new parents. Under the ordinance, employers must pay 45% of the employee's weekly wages, supplementing the 55% wage replacement benefit currently paid under California's Paid Family Leave law.

The ordinance applies only to private employers, and takes effect based on an employer's size as follows:

- January 1, 2017, for 50 or more employees
- July 1, 2017, for 35 or more employees
- January 1, 2018, for 20 or more employees

On September 14, San Francisco made technical amendments to the ordinance, including the following:

Changes in employer compensation obligations

Under the current law, employers are required to pay 45% of an employee's regular weekly gross wages, for a six (6) week period, up to a cap defined by the California Paid Family Leave (PFL) program. Paid Family Leave is a state insurance program that currently pays employees the remaining 55% of their regular weekly gross wages for claims on or after January 1, 2016. For claims beginning on or after January 1, 2018, the state program will increase the benefit to either 60% or 70% of weekly wages depending on an employee's income. This, therefore, will decrease employer compensation obligations.

The amendments clarify that the period for which the employer's obligation to pay supplemental compensation coincides with the period when the employee receives Paid Family Leave benefits from the state may not coincide with the employee's 6-week leave period. The reality is that employees may apply for benefits after the leave has already started and/or the state may delay issuing benefits.

Eligibility changes for employees whose hours fluctuate

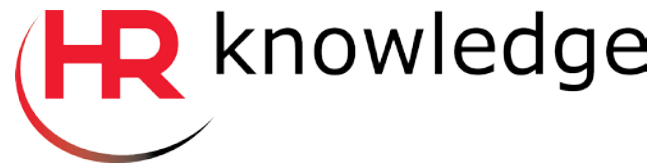
To be covered by the ordinance, an employee must perform at least eight hours of work per week for an employer in San Francisco, and at least 40% of the employee's total weekly hours for the employer must be worked in San Francisco.

To determine if an employee whose hours fluctuate meets these thresholds, the amendments change the look-back period and impact how the employee's weekly wages must be calculated. Currently, a 3-month look-back model is used for employees whose hours fluctuate when calculating weekly wages. The amendments impact this look-back since now if an employee is on a paid *or* unpaid leave during a pay period, that period is excluded when calculating the employee's coverage and gross weekly wages. Originally, only *unpaid* leave periods were excluded.

The amendments also removed a provision about employees whose weekly wages fluctuate and who have been working for less than 26 weeks (182 days) because an employee must work for at least 180 days to qualify as a covered employee.

Notice requirement changes

To receive the supplemental pay, covered employees must provide their employer with a copy of their Notice of Computation of California PFL Benefits or other legally authorized statement, or provide written



authorization for the state to disclose the weekly benefit. The amendments specify that to use the second option, employees must provide an authorization when applying for California PFL benefits so the employer can request and obtain the information from the state.

Next steps for employers

1. San Francisco employers will need to comply with this new law beginning January 1, 2017, per the schedule shown above.
2. If you have employees working in San Francisco or plan to in the future, you should review your current parental leave benefits.
3. Be attentive to the total employee headcount to determine when this law will take effect for your organization and be mindful if you are on the border of the 50-, 35-, or 20-employee threshold, respectively.
4. Be prepared to update your employee handbook with this new policy.
5. If you are one of our full-service clients, we will work with you to review your current parental leave policy to ensure it is compliant with this law.
6. If you already have a parental leave policy that provides at least six (6) consecutive weeks of fully paid parental leave in any 12-month period for new child bonding, regardless of whether it includes California PFL benefits, you are not required to provide this supplemental compensation.
7. As more guidance on this new law becomes available, we will notify our clients of any additional details.

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