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Seattle and Washington Continue to Expand Financial Support for Workers in Response to the COVID-19 Pandemic

COVID-19 Resource

Both the City of Seattle and the State of Washington have taken action to provide workers with greater financial resources amidst the COVID-19 public health emergency. First, on March 16, the Seattle City Council made sweeping changes to its Paid Sick and Safe Time ordinance to cover additional absences. These amendments took effect two days later and appear to remain in effect even when there is no public-health emergency. Second, the State of Washington has issued emergency rules expanding unemployment benefits available to employees whose hours were reduced, or have temporarily been laid off for COVID-19 related reasons.

Seattle Expands Paid Sick and Safe Time

Effective March 18, the Seattle amendments to the Paid Sick and Safe Time (PSST) ordinance allow employees working within the Seattle city limits to use PSST for the following additional reasons:

- When an employee's family member's school or place of care closes;

- When an employee’s place of business has been closed by order of public official for health-related reasons;
- For employees employed by a business of 250 or more full-time equivalent employees worldwide, when their place of business reduces operations or closes for any health or safety reason. The closure need not be ordered or recommended by a public official; and
- Potentially* when public-health officials recommend employees self-quarantine.*

*It is unclear what circumstances would qualify as a “recommendation to self-quarantine.” Further, the amended Seattle ordinance does not specifically include this as a new reason, but the Seattle Office of Labor Standards (OLS) published a Q&A that includes it as a covered reason for leave. This is a rapidly evolving area and hopefully OLS will provide further guidance.

Previously, Seattle PSST was available to employees whose *child’s* school or place of care was closed due to an order of a public health official. The Seattle amendment makes PSST available when a family member’s place of care or school is closed; it does not require the closure to be in response to a public health official’s order *or for a health-related reason*. As a reminder, the PSST defines “family member” to include spouse, registered domestic partner, child, parent of employee or registered domestic partner, grandparent, grandchild or sibling. Additionally, under the amendment, a closure can be for any reason. For example, employees may be able to use PSST if their family member’s school or place of care is closed for in-service teacher training, inclement weather, or other reasons. As noted above, this change will continue beyond the COVID-19 public health emergency.

PSST already allowed employees to use PSST to care for themselves or a family member when experiencing an illness, injury or health condition.

Seattle has issued an [updated Q&A](#) which reminds employers that they cannot require employees to use PSST, and they cannot require employees to share their reason for using PSST. Employers may ask for verification that PSST was used for a qualifying reason (but not the nature

of the use) after an employee has been absent for *more than* three consecutive workdays.

Notably, while the Seattle amendments were apparently passed in response to COVID-19, the law does not include a sunset provision. Additionally, these new rules also seem to apply when schools and places of care are closed **for any reason**. For example, employees may be able to use sick and safe time if their family member's school or place of care is closed for in-service teacher training day, inclement weather or other reasons.

Washington state's law mandates paid sick leave for non-exempt employees. The State of Washington has not yet amended its paid sick time law to include additional reasons related to COVID-19, nor has the Department of Labor and Industries adopted any new regulations. The state has, however, provided helpful guidance related to using Washington paid sick leave for COVID-19 related reasons.

Washington Expands Standby Unemployment Benefits

Since early March, Washington's Employment Security Department (ESD) has been expanding unemployment benefits, including those available through its standby program. The standby unemployment program is a valuable resource for employers who need to temporarily shut down or reduce operations. The program provides employees whose hours are *temporarily* reduced with access to unemployment benefits, without having to seek other work while they are waiting to be recalled by their current employer.

On March 20, the ESD extended the number of weeks that employees can be eligible for the standby program from 8 to 12 weeks. In addition, the recently enacted emergency rules grant the ESD the authority to extend access to standby program for additional weeks, if an employer can show extraordinary circumstances. The new emergency rules recognize temporary shutdowns or reductions in operations related to a COVID-19 infection at the place of business as an extraordinary circumstance, to be assessed by ESD on a case-by-case basis.

Typically, the standby program is only available to full-time employees; however, the recently enacted emergency rules also extended this

program to part-time employees. Additionally, the new rules have waived the one-week waiting period for all unemployment benefits.

ESD has published [a series of FAQs](#) for businesses effected by the COVID-19 virus, which provides access to more information on the standby program and other resources.

Key Takeaways

- **No sunset for Seattle paid sick and safe leave ordinance amendments.** Absent further amendment, the new covered reasons will continue even if there is no public health emergency.
- **Revise policies and educate managers and supervisors.** Employers doing business in the Seattle city limits should review their paid sick and safe time policies and revise them to track the amended law. Managers, supervisors and human resource professionals should be trained about the new covered reasons for Seattle PSST use.
- **Frontloading employers take stock.** Given the expansive reasons for taking paid sick and safe time, employers doing business in Seattle city limits who frontload sick leave should carefully review their policy and practices. Employers who frontload PSST for Seattle-based employees should consider if that practice is still viable in light of this expanded potential for simultaneous use.
- **Consider whether standby unemployment benefits can prevent permanent layoffs.** Employers who were considering permanent layoffs should consider if Washington's standby model, particularly with expanded parameters, is an option to keep your employees on the payroll.
- **Consider impact of standby unemployment benefits on health insurance benefits.** Employers should consider layoffs or reduced work hours, even when temporary, may impact their obligations under benefit plans, and whether this triggers an employer's obligation to issue a COBRA notice.
- **Coordinating with the new paid federal leave.** Employers should keep in mind that employees may choose to use federal paid leave under the

Family First Coronavirus Response Act before using their PSST. See Lane Powell's [alert](#) for more information on the new federal laws.

Determining how best to navigate these uncertain times can be challenging. Lane Powell's team of attorneys are here to help you develop and implement the strategy that supports your business and your employees.

For more information, consult Lane Powell's [COVID-19 Resource Center](#) or contact [Katheryn Bradley](#), [Shirley Lou-Magnuson](#), [Mike Kitson](#), [Priya Vivian](#) or [Christine Thelen](#).