



California Set to Extend COVID-19 Supplemental Paid Sick Leave Until End of Year

Insights

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Just as thousands of California employers thought COVID-19 Supplemental Paid Sick Leave (SPSL) was about to come to an end, Governor Newsom is set to sign an extension into law – which will push the current expiration date of September 30 to December 31, 2022. However, there is a silver lining for employers as Assembly Bill 152 makes two employer-friendly changes to the SPSL requirements and enacts a relief grant for qualified small businesses to recover expenses related to providing SPSL. Although AB 152 has not officially gone into effect, once it passes the legislature and is signed by Governor Newsom — both of which seem inevitable at this point — it will take immediate effect as a budget trailer bill. **[Editor’s Note: Governor Newsom signed AB 152 into law on September 29, 2022].** What do employers need to know about this significant development?

Required SPSL Remains the Same

Although [AB 152](#) will require employers with more than 25 employees to provide SPSL for an additional three months, it will not entitle employees to a new bucket of leave provided under current SPSL requirements. Nor does it change the qualifying reasons for which employees may use SPSL.

Thus, employers should continue to implement and follow the leave requirements set forth in the original SPSL law. For a summary of California SPSL requirements, [we recommend you read our summary here](#). As a brief reminder, full-time employees are entitled to a maximum of 80 hours of SPSL, which is divided into two “buckets” comprised of up to 40 hours of leave each for different purposes with separate requirements.

Employer-Friendly Changes Related to Testing

Under the expected new law, if an employee tests positive and the employer requires the employee to submit to a diagnostic test five days which demonstrates a positive result, the employer may then require the employee to submit to a second diagnostic test within no less than 24 hours. Additionally, employers do not have to provide additional SPSL to an employee who tests positive and refuses to provide documentation or submit to the aforementioned testing.

Small Business and Nonprofit COVID-19 Relief Grant

AB 152 also establishes the California Small Business and Nonprofit COVID-19 SPSL Relief Grant Program to assist qualified small businesses or nonprofits that are incurring costs for SPSL up to \$50,000. It will be repealed on January 1, 2024, however.

To qualify for the SPSL Relief Grant, the business or nonprofit must meet all of the following criteria:

- Is a “C” or “S” corporation, cooperative, limited liability company, partnership, limited partnership, or a registered 501(c)(3), 501(c)(6), or 501(c)(19);
- Began operating before June 1, 2021;
- Is currently active and operating;
- Has 26 to 49 employees and provides payroll data and an affidavit attesting to that fact;
- Has provided SPSL pursuant to the requirements of Lab. Code §§ 248.6 and 248.7; and
- Provides organizing documents.

There are a number of exemptions that exclude certain businesses or nonprofits from being eligible for SPSL Relief Grant, however. You will want to coordinate with your legal counsel before seeking relief.

Local SPSL Ordinances

Employers must also keep in mind that there are a few local jurisdictions in California with their own SPSL ordinances that are tied to their respective COVID-19 emergency declaration period. If you are in any of these jurisdictions, you may count leave provided under one of these local ordinances toward your SPSL obligation under AB 152 so long as the leave was provided for the same reasons and compensates the employee in an amount equal to or greater than what is required under AB 152.

Conclusion

We will continue to monitor these developments, so make sure you are subscribed to [Fisher Phillips' Insight system](#) to keep up with the most up-to-date information. Please contact your Fisher Phillips attorney, the author of this Insight, or [any attorney in our California offices](#) should you have any questions.

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