



Linn County Circuit Court Strikes Down Paid Sick Leave For Oregon Counties

WHAT'S NEXT FOR OREGON'S PUBLIC EMPLOYERS?

Insights

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On Thursday, December 8, Judge Daniel Murphy of Linn County Circuit Court decided that Oregon's paid sick time law violated the Oregon Constitution as an unfunded "program," ruling in favor of nine Oregon counties (Linn, Douglas, Jefferson, Malheur, Morrow, Polk, Sherman, Wallowa and Yamhill) that challenged the law.

Public employers in Oregon should proceed cautiously, however, as the decision does not expressly extend to any public employers besides those nine counties, and could be overturned by an appeals court.

Summary Of Decision

Judge Murphy's ruling came in a case where nine Oregon counties sought declaratory relief to determine whether they must comply with the state paid sick leave mandate. The challengers pointed to Article XI, § 15 of the Oregon Constitution, which prohibits the state from imposing a fiscal program on local governments without also providing funding to support the program.

Article XI, § 15 of the Oregon Constitution specifically states, "[W]hen the Legislative Assembly or any state agency requires any local government to establish a new program or provide an increased level of service for an existing program, the State of Oregon shall appropriate and allocate to the local government moneys sufficient to pay the ongoing, usual and reasonable costs of performing the mandated service or activity."

The key question at issue in the case was whether the paid sick leave mandate is considered a "program" within the meaning of the state Constitution. While admitting that the answer was not "crystal clear," Judge Murphy found the Oregon paid sick leave mandate was a "program" within the meaning of the Constitution.

The judge reasoned that because the mandatory sick leave law effectively raised the price of labor without providing anything in return to employers, the mandate was a "program" meant to benefit employees. Accordingly, because the paid sick leave mandate is unfunded, he found the law ran afoul of the Oregon Constitution, and granted the plaintiff's motion for summary judgment.

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Although this decision only expressly applies to the nine Oregon counties, another court could decide that it impacts all Oregon local governments and state agencies based on the broad language of Article XI, § 15, which would provide a solid victory for Oregon public employers.

However, as noted above, this win for Oregon local governments is far from definitive. Judge Murphy's decision will likely be appealed to the Court of Appeals. Therefore, Oregon local governments are well-advised to continue to provide paid sick leave to their employees pending a final decision upon appeal. If your agency were to cease offering this benefit in the interim, you could face exposure should the appeals court reverse course and resurrect paid sick leave for your employees.

For advice or further information, please contact [Todd Lyon](#) or any attorney in the [Portland office](#) of Fisher Phillips.

This Legal Alert provides an overview of a specific new Oregon decision. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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Todd A. Lyon
Partner and Labor Relations Group Co-Chair
503.205.8095
[Email](#)

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