



Legislation Text

File #: 23-0855, Version: 1

TO: Mayor and City Council

FROM: Finance Department
Human Resources Department
Law Department

DATE: October 23, 2023

SUBJECT:
Paid time-off policies for City employees.

PURPOSE:
To affirm the City's paid time-off policies as set forth in the respective pay plans and collective bargaining agreements, as may be amended from time-to-time.

BACKGROUND:
The City offers its permanent full and part-time employees a variety of benefits, including significant paid time-off. These benefits are established by the City Council from time-to-time through annual authorization of the executive and non-exempt pay plans as in its periodic approval of collective bargaining agreements with the various unions who represent City employees.

In the closing days of the previous General Assembly, lawmakers passed the Paid Leave for All Workers Act, which was signed into law as Public Act 102-1143 with a delayed effective date of January 1, 2024. Among other things, the Act provides for significant sanctions for employers who do not comply with its requirements, does not distinguish between classifications of personal time off (vacation, sick, etc.) and does not appear to take into consideration the possibility of multiple employees exercising their rights under the Act simultaneously.

DISCUSSION:
The administrative burdens created by this Act are significant for any employer but are particularly arduous for local governments that have an obligation to render services to the public in accordance with statutory requirements. Perhaps, it is for this reason that the General Assembly saw fit to exempt park districts and schools from the Act's requirement - though it does not explain the narrowness of the exception.

Notably, the Act does not expressly preempt the authority of home rule units to regulate matters within their own government or affairs or to jointly exercise any such power concurrently with the State, nor does it apply to an "employer that is covered by a municipal or county ordinance that is in effect on the effective date of this Act that requires employers to give any form of paid leave to their employees, including paid sick leave or paid leave."

Given the significant impact the Act could have on the ability of the City to render services to its residents, and the very generous paid leave policies it already extends to its employees, the Act offers little to no value to City residents or even to its employees -- many of whom would bear the burden of having to cover additional shifts or the assignments of co-workers who provided the statutorily-prescribed, but impractically short 7 calendar-day notice for "foreseeable" absences.

Because the City is a home rule unit under the Illinois Constitution and possesses significant authority to exercise any power within its government or affairs -- which necessarily includes the provision of benefits to its employees -- and the General Assembly does not appear to have preempted those powers, staff recommends that the City Council effectively "opt out" of the Act's provisions and affirm the terms and applicability of its pay plans and collective bargaining agreements as the ultimate authority governing paid leave policies for City employees.

IMPACT STATEMENT:

Approval of this Ordinance will maintain the status quo in the City with respect to the paid leave policies applicable to its employees and avoid the significant challenges associated with implementing a law the legislature obviously understood was not well suited for at least some forms of local government.

RECOMMENDATIONS:

That the City Council adopt this Ordinance.

cc: Finance Committee



CITY OF AURORA, ILLINOIS

ORDINANCE NO. _____
DATE OF PASSAGE _____

An Ordinance pertaining to the paid leave policies and practices applicable to employees of the City. WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals, and welfare; and

WHEREAS, the City Council recognizes the importance of paid leave to its employees and accordingly makes provisions for such paid leave through its annual adoption of pay plans for its employees who are not represented by collective bargaining units and in its approval of the collective bargaining agreements with those employees who are; and

WHEREAS, the City Council finds that the establishment of benefits for its employees is a power and duty entirely within the scope of the City's government and affairs and which the City Council may generally exercise in accordance with Article VII, Section 6 of the Illinois Constitution; and

WHEREAS, the Illinois Paid Leave for All Workers Act was signed into law by the Governor of this State on March 13, 2023 and became Public Act 102-1143; and

WHEREAS, Public Act 102-1143 becomes effective on January 1, 2024, and by its terms will apply to all Illinois employers, including municipalities, unless the employer is subject to an existing municipal or county ordinance that requires the employer to provide any form of paid leave to their employees or unless a specific statutory exemption applies; and

WHEREAS, the City's existing paid leave policies for its permanent employees are more generous than those required by Public Act 102-1143; and

WHEREAS, the City Council finds that the imposition of the requirements of Public Act 102-1143, in addition to the benefits the City already affords its employees upon the City would unnecessarily and improvidently burden the City's operations and finances, and further constitutes an unfunded mandate upon the City and its taxpayers; and

WHEREAS, Public Act 102-1143 does not purport to preempt the City's home rule authority in the manner set forth in the Illinois Constitution nor does it evidence an intent to declare the regulation of paid leave to be an exclusive power of the State nor limit the concurrent exercise of such power by the City as a home rule unit; and

WHEREAS, the City Council finds that the public health, morals, safety, and welfare of the City are best served through the paid leave policies previously adopted by the City Council in its approval of respective pay plans and collective bargaining agreements in the manner set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Aurora, Illinois, as follows:

Section 1. Incorporation of Recitals. The forgoing recitals are incorporated and made a part of this Ordinance as the findings of the City Council

Section 2. Confirmation and Adoption of Paid Leave Policies.

A. In the full exercise of its home rule authority under Article VII of the Constitution of the State of Illinois, the City confirms and adopts its current paid leave policies as set forth in the respective pay plans and collective bargaining agreements as adopted or approved by the City Council and are now in effect.

B. The provisions of this Ordinance shall supersede all conflicting provisions of Public Act 102-1143 which in any way impact the relationship between the City and its employees. No additional obligations with respect to paid leave, including without limitation, those set forth in Public Act 102-1143, shall apply to employees of the City, except that the City in the exercise of its home rule authority shall in all instances, provide each of its employees at least one (1) day of paid leave each

year.

C. This Ordinance shall, upon its adoption, apply to all employees of the City and shall not be construed as affecting the validity of or amending any collective bargaining agreement now in effect to which the City is a party.

D. This Ordinance and any subsequent legislation enacted by the City Council hereunder shall be the exclusive source of any obligation of the City as an employer to provide paid leave to its employees, except to the extent that their provisions are validly preempted by federal or state law or regulations adopted pursuant to such law.

Section 3. Amendment of Paid Leave and Employee Benefit Policies

The City Council may from time-to-time amend its paid leave policies, and those policies setting forth other benefits for its employees, by ordinance or resolution, provided that in all instances, the City shall provide each of its employees at least one (1) day of paid leave each year.

Section 4. Severability. If any section, paragraph, clause, or provision of this Ordinance is found to be invalid by a court of competent jurisdiction, the invalidity of such section, paragraph, clause, or provision shall not affect any other provisions herein.

Section 5. Publication. The Clerk shall be and hereby is directed to publish this Ordinance in pamphlet form upon its passage and approval.

Section 6. Effective Date. This Ordinance shall be in full force and effect upon its passage, approval, and publication in pamphlet form.