

BOARD of SUPERVISORS



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MEMORANDUM

TO: Micki Callahan, Director, Department of Human Resources

FROM:  Alisa Somera, Legislative Deputy Director
Rules Committee

DATE: November 3, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee has received the following proposed legislation, introduced by Mayor Lee on October 24, 2017:

File No. 171137

Ordinance amending the Administrative Code to establish a program by which the City would provide up to 80 hours of paid release time from work to employees directly and significantly harmed by a regional disaster, where the Mayor declares a regional disaster affecting City employees, subject to eligibility criteria established by the Human Resources Director and program terms and conditions.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: alisa.somera@sfgov.org.

c: Susan Gard, Department of Human Resources
Suzanne Mason, Department of Human Resources
Isabelle Choy, Department of Human Resources

1 [Administrative Code - Employee Regional Disaster Support Program]

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3 **Ordinance amending the Administrative Code to establish a program by which the City**
4 **would provide up to 80 hours of paid release time from work to employees directly and**
5 **significantly harmed by a regional disaster, where the Mayor declares a regional**
6 **disaster affecting City employees, subject to eligibility criteria established by the**
7 **Human Resources Director and program terms and conditions.**

8 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
9 **Additions to Codes** are in *single-underline italics Times New Roman font*.
10 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
11 **Board amendment additions** are in double-underlined Arial font.
12 **Board amendment deletions** are in ~~strikethrough Arial font~~.
13 **Asterisks (* * * *)** indicate the omission of unchanged Code
14 subsections or parts of tables.

15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. The Administrative Code is hereby amended by adding Section 16.8, to
17 read as follows:

18 **SEC. 16.8. EMPLOYEE REGIONAL DISASTER SUPPORT PROGRAM.**

19 (a) **Findings.**

20 (1) Beginning Sunday, October 8, 2017, devastating and deadly fires swept through
21 Sonoma, Napa, Solano, and other counties in the North Bay (the "North Bay Fires"), burning for days
22 and sometimes weeks, forcing the evacuation of approximately 90,000 people, destroying over 7,200
23 homes and commercial buildings, including in some cases entire communities, and resulting in the
24 deaths of at least 42 people. The City and County of San Francisco ("City") dispatched firefighters and
25 other first responders to provide mutual aid and support for the communities and people affected by the
North Bay Fires.

1 (2) While the North Bay Fires did not directly affect the City, other than presenting
2 smoke and air quality concerns, many City employees live in the affected areas. Some City employees
3 were evacuated for days or lost their homes, cars, and most other possessions. While the City provides
4 high-quality benefits to its employees, including generous paid time off, health coverage, and an
5 Employee Assistance Program, additional support for these employees is needed in times of dire
6 emergency resulting in extraordinary loss and harm.

7 (3) While the region encompassing the City and Bay Area is a wonderful, thriving,
8 and diverse place to live, it is vulnerable to natural disasters such as earthquakes, flooding, and fires.
9 The Bay Area recently marked the 28th anniversary of the devastating Loma Prieta earthquake, with
10 over 50 deaths, the catastrophic failure of several of the region's major transportation structures,
11 including the Bay Bridge, and severe damage throughout the Bay Area. And there is the always the
12 potential for a disaster resulting from a terrorist attack. Tragedy can strike at any moment and render
13 unthinkable consequences.

14 (4) The Board of Supervisors finds and hereby declares that it is in the public
15 interest to provide a program to support City employees directly and significantly harmed by a regional
16 disaster, through paid time off from work not to exceed 80 hours. Just as the City provided mutual aid
17 and support to areas ravaged by the North Bay Fires, the City must support its employees suffering
18 trauma and tragedy because of the direct and significant adverse effects of those fires, and be prepared
19 to support employees in the event of future regional disasters. Such a program provides vital time and
20 support to City employees directly and significantly harmed by a disaster, allowing them needed
21 resources to focus on their recovery efforts, so they can return to work as soon as possible and function
22 at full capacity in the service of the City and its residents. In addition, such a program is an important
23 benefit for employees, and results in a more loyal, committed, and stable workforce.

24 (b) **Purpose.** The City hereby establishes an Employee Regional Disaster Support Program
25 ("Program"). The purpose of the Program is to provide City employees directly and significantly

1 harmed by a Regional Disaster with Paid Release Time from work so they may focus their time, energy,
2 and effort on recovering from the Regional Disaster, to facilitate their returning to work as soon as
3 possible and functioning at full capacity in the service of the City and its residents.

4 (c) **Definitions.** For purposes of this Section 16.8, the following definitions apply:

5 “Employee” shall mean a full or part-time employee of the City appointed to a position with a
6 regular work schedule.

7 “Paid Release Time” shall mean up to 80 hours of paid time off work. Not every Regional
8 Disaster will warrant 80 hours of Paid Release Time, and eligible employees will not all receive the
9 same amount of Paid Release Time. The criteria set by the Human Resources Director or designee
10 under subsection (e)(1) will determine which employees are eligible for Paid Release Time and the
11 amount of Paid Release Time they may receive under the Program, subject to approval by their
12 Appointing Officer or designee.

13 “Regional Disaster” is an event that meets all of the following criteria: it (1) occurs in one or
14 more of the nine Bay Area counties (Alameda, Contra Costa, Marin, Napa, San Francisco, San
15 Mateo, Santa Clara, Solano, and Sonoma); (2) involves a natural disaster such as an earthquake,
16 flood, or fire, or a man-made disaster such as a terrorist attack; and (3) temporarily or permanently
17 displaces City employees from their primary residences or otherwise directly and significantly affects
18 their ability to report to work or perform their duties as City employees.

19 (d) **Declaration of Regional Disaster.** The Mayor may trigger the Program by declaring a
20 Regional Disaster, which declaration may be retroactive to the start date of the Regional Disaster for
21 purposes of the Program and an employee’s eligibility for Paid Release Time. The declaration shall
22 establish an end date for the Program under the declared Regional Disaster, based on relevant factors
23 including, but not limited to, the nature and scale of the Regional Disaster, the anticipated recovery
24 period for City employees, the number of City employees affected by that Regional Disaster, and its
25

1 effect on those City employees. If additional time is needed to effectuate the purpose of the Program,
2 the Mayor may extend the declaration of Regional Disaster.

3 (e) **Criteria for Paid Release Time under the Program; Notice to Employees.**

4 (1) If the Mayor declares a Regional Disaster under subsection (d), the Human
5 Resources Director or designee shall promptly issue an order establishing criteria for eligibility under
6 the Program for the declared Regional Disaster. The criteria may include the conditions that warrant
7 Paid Release Time and the amount of Paid Release Time that may be provided for those conditions.

8 (2) The Human Resources Director or designee shall arrange for notice to City
9 employees about the declaration of the Regional Disaster, the criteria for eligibility for the Program,
10 and the end date for the Program for that declared Regional Disaster. The Human Resources Director
11 or designee shall seek to identify employees who may have been directly and significantly harmed by
12 the Regional Disaster using available information, and to provide targeted notice to those employees.
13 Both the general notice and the targeted notice shall include information about the procedures and
14 deadlines to apply for the Program, and such other information as the Human Resources Director
15 deems appropriate. In addition, the Human Resources Director shall make any forms that employees
16 must complete to apply for the Program readily available to employees.

17 (3) If the Mayor extends the declaration of a Regional Disaster, the Human
18 Resources Director or designee shall arrange for an additional general notice and an additional
19 targeted notice to City employees about the extended declaration of the Regional Disaster.

20 (f) **Paid Release Time.**

21 (1) Employees who are eligible for the Program for a declared Regional Disaster,
22 based on the criteria established by the Human Resources Director under subsection (e)(1), may
23 receive Paid Release Time in accordance with those criteria and as otherwise provided in
24 subsections (f) and (g).

1 (2) To receive Paid Release Time, the employee's Appointing Officer or designee
2 must approve the Paid Release Time. The Appointing Office shall have discretion to grant or deny the
3 Paid Release Time, and employees meeting the eligibility criteria are not automatically entitled to Paid
4 Release Time, as further provided in subsection (g)(4).

5 (3) Employees must use the Paid Release Time before the end date for the Program
6 for the declared Regional Disaster, as established by the Mayor in the declaration of Regional
7 Disaster. If the Mayor extends the declaration of Regional Disaster, then that will extend the end date
8 to use Paid Release Time under the Program for that declared Regional Disaster.

9 (4) Employees may not bank or accrue Paid Release Time under the Program. Paid
10 Release Time under the Program may not be cashed out, upon separation from employment or
11 otherwise.

12 (5) Paid Release Time shall not be considered hours worked for purposes of
13 calculating overtime.

14 (6) If an employee's Appointing Officer or designee has approved Paid Release
15 Time for a declared Regional Disaster, and the employee had already used his or her paid time off
16 balances to take approved time off work in response to the Regional Disaster, then, at the request of the
17 employee, the City shall substitute the approved Paid Release Time for an equivalent amount of the
18 previously taken paid time off and the City shall restore that amount of paid time off to the employee's
19 time off balances.

20 (7) If an employee's Appointing Officer or designee has approved Paid Release
21 Time for a declared Regional Disaster, and the employee took approved unpaid leave from work in
22 response to the Regional Disaster, then, at the request of the employee, the City shall redesignate a
23 portion of the unpaid time that is equivalent to the approved Paid Release Time as Paid Release Time
24 and shall provide the employee with back pay for that time.

1 (g) **Procedures to Apply for the Program.**

2 (1) Employees may apply for the Program using the procedures set and forms
3 provided by the Human Resources Director or designee under subsection (e)(2). Employees shall
4 submit their application to their Appointing Officer or designee. Along with the application forms, the
5 employee shall provide any supporting documentation required by the application form or the
6 Appointing Officer.

7 (2) To receive Paid Release Time, an employee must execute a certificate of
8 eligibility under penalty of perjury. The Department of Human Resources shall develop the certificate
9 form.

10 (3) The Appointing Officer or designee shall review the application and
11 documentation supporting the application, and may ask the employee to submit further documentation.

12 (4) The Appointing Officer or designee shall grant or deny the application and notify
13 the employee of the determination. If the Appointing Officer grants the application, the notice shall
14 specify the amount of Paid Release Time granted. The Appointing Officer or designee shall deny the
15 application if the employee does not meet the criteria for eligibility established by the Human
16 Resources Director or designee, does not provide the certificate required under subsection (g)(2), or
17 fails to provide requested documentation, absent exceptional circumstances. The Appointing Officer or
18 designee may deny the application based on the operational needs of the department. The decision of
19 the Appointing Officer or designee is final.

20 (h) **Administration and Rule-Making Authority.** The Human Resources Director or
21 designee has the authority to establish rules and guidelines not inconsistent with this Section 16.8 to
22 implement the Program. The Department of Human Resources has the authority to administer the
23 Program and enforce its requirements.

24 (i) **Ineligibility for Workers' Compensation.** Similar to vacation or other forms of paid
25 time off work, Paid Release Time under the Program is not considered City employment or service for

1 purposes of workers' compensation laws and benefits, and employees injured or becoming ill while on
2 Paid Release Time shall not be eligible for workers' compensation benefits simply by virtue of their
3 paid status.

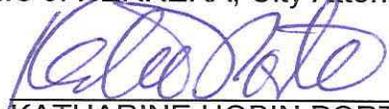
4 (i) **Promotion of General Welfare.** In undertaking the adoption and enforcement of this
5 Section 16.8, the City is assuming an undertaking only to promote the general welfare and the welfare
6 of its employees. It is not assuming, nor is it imposing on its officers and employees, an obligation for
7 breach of which it is liable in money damages to any person, including any employee, who claims that
8 such breach proximately caused injury.

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10 Section 2. North Bay Fires. City employees directly and significantly harmed by the
11 North Bay Fires, as defined in Administrative Code Section 16.8(a)(1), may be eligible for Paid
12 Release Time under the Program established in Administrative Code Section 16.8 if the
13 Mayor declares the North Bay Fires a Regional Disaster. If the Mayor makes such a
14 declaration, the Human Resources Director or designee shall take the steps required by
15 subsection (e) of that Section, and employees may apply for the Program as provided in that
16 Section, subject to the Program terms and conditions as set forth therein.

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18 Section 3. Effective Date. This ordinance shall become effective 30 days after
19 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
20 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
21 of Supervisors overrides the Mayor's veto of the ordinance.

1 APPROVED AS TO FORM:
2 DENNIS J. HERRERA, City Attorney

3 By:



4 KATHARINE HOBIN PORTER
5 Chief Labor Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Employee Regional Disaster Support Program]

Ordinance amending the Administrative Code to establish a program by which the City would provide up to 80 hours of paid release time from work to employees directly and significantly harmed by a regional disaster, where the Mayor declares a regional disaster affecting City employees, subject to eligibility criteria established by the Human Resources Director and program terms and conditions.

Existing Law

The City provides high-quality benefits to its employees, including generous paid time off, health coverage, and an Employee Assistance Program. Currently, the City has no program or benefit to provide additional support for employees directly and significantly harmed by a regional disaster. Such employees would use their existing paid time off balances or take unpaid time from work to recover from such a regional disaster.

Amendments to Current Law

The proposed ordinance establishes an Employee Regional Disaster Support Program ("Program"). In the event of a regional disaster affecting City employees, the Mayor could declare a regional disaster, thereby triggering the Program so eligible employees could receive up to 80 hours of paid release time from work. Upon the Mayor's declaration, the Human Resources Director or designee would establish criteria for the Program for the declared disaster, and provide notice to City employees and information about how to apply for the Program. Employees would apply directly to their Appointing Officer or designee, who would grant or deny the application based on the criteria established by the Human Resources Director and the operational needs of the employee's department.

Background Information

Providing a Program to support City employees directly and significantly harmed by a regional disaster, through paid time off from work not to exceed 80 hours, is in the public interest. Such a program provides vital time and support to City employees directly and significantly harmed by a disaster, allowing them needed resources to focus on their recovery efforts, so they can return to work as soon as possible and function at full capacity in the service of the City and its residents. In addition, such a program is an important benefit for employees, and results in a more loyal, committed, and stable workforce.

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