

1 [Police Code - Paid Parental Leave for Bonding with New Child]

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3 Ordinance amending the Police Code to require employers to provide supplemental
4 compensation to employees who are receiving State Paid Family Leave for purposes of
5 bonding with a new child.

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

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

12
13 Section 1. The Police Code is hereby amended by adding Article 33H, consisting of
14 Sections 3300H.1 through 3300H.14, to read as follows:

15 **ARTICLE 33H: PAID PARENTAL LEAVE**

16 **SEC. 3300H.1. TITLE.**

17 This Article 33H shall be known as the "Paid Parental Leave Ordinance."

18 **SEC. 3300H.2. FINDINGS.**

19 (a) In 2004, California became the first state in the United States to create a family leave
20 insurance program (referred to herein as "California Paid Family Leave") that provides partial wage
21 replacement to eligible employees on leave for family caregiving or bonding with a new child. Under
22 the program, codified at Unemployment Insurance Code Section 3300 et seq., employees who
23 contribute to the California State Disability Insurance (SDI) fund are entitled to six weeks of partial
24 pay each year while taking time off from work to bond with a newborn baby, newly adopted child, or
25 new foster child, or to care for a seriously ill family member.

1 (b) As of January 2016, workers eligible for California Paid Family Leave can take up to six
2 weeks of paid time off at 55% of their weekly wages up to a maximum weekly benefit amount to bond
3 with a new child or care for a seriously ill family member. The weekly benefit amount is determined by
4 using the employee's highest-earning calendar quarter during an approximately 12-month base period.
5 As of January 2016, the maximum weekly benefit amount is \$1,129. To qualify for this maximum
6 weekly benefit amount, an individual must earn at least \$26,070.92 in a calendar quarter during the
7 base period. The Legislature is considering legislation that would extend the number of weeks of paid
8 time off and increase the weekly benefit amount, but as of the enactment of this Article 33H, the state
9 legislation had not been passed.

10 (c) California Paid Family Leave is available to nearly all private sector workers who pay into
11 the SDI program, either through payroll deductions or voluntarily.

12 (d) Through 2014, approximately 1.8 million California Paid Family Leave claims were
13 approved by the State of California Employment Development Department ("EDD") for a total of \$4.6
14 billion in payments. According to EDD, approximately 90% of claims are for bonding with a new
15 child.

16 (e) Babies whose mothers work during the first three months of the baby's life are less likely to
17 be breastfed, taken to the doctor for well-baby visits, or be up to-date on immunizations. According to
18 a 2015 study, rates of breastfeeding through infancy in California increased by 10-20 percentage
19 points after development of the California Paid Family Leave program.

20 (f) Experts have found that it takes at least several months for a pattern of interaction to begin
21 to develop between parent and child where they recognize and learn to respond to each other's distinct
22 cues. Short-changing this time for parents to learn to be responsive caregivers may have impacts for
23 children's cognitive as well as social and emotional development.

24 (g) A 2012 survey by the U.S. Department of Labor found that the main reason employees in
25 the United States do not take unpaid leave under the federal Family Medical Leave Act is that they

1 cannot afford to take it. Further, studies show that low-wage workers in particular would benefit from
2 expanded paid family leave policies.

3 (h) According to a 2014 report by the California Senate Office of Research, the number of
4 California Paid Family Leave claims filed by individuals in the lowest income bracket consistently is
5 much smaller than the number filed by those in the highest income bracket, and claims in the two
6 lowest income brackets decreased gradually over the prior nine years. Numerous factors may
7 contribute to this declining participation rate, including the current California Paid Family Leave
8 wage-replacement rate of 55%, which may provide insufficient income, particularly for low-income
9 households.

10 (i) This Article 33H is intended to supplement the California Paid Family Leave partial wage
11 replacement by providing compensation that, in combination with the California Paid Family Leave
12 payment, will total 100% of an employee's weekly salary, subject to a weekly maximum benefit amount,
13 during the six-week leave period, to help ensure that concern over loss of income does not preclude
14 parents in San Francisco from bonding with their new child.

15 **SEC. 3300H.3. DEFINITIONS.**

16 For purposes of this Article 33H, the following definitions apply:

17 "Agency" means the Office of Labor Standards Enforcement or any successor department or
18 office.

19 "California Paid Family Leave" means the State of California's partial wage replacement
20 insurance plan for paid family leave codified at California Unemployment Insurance Code, Division 1,
21 Part 2, Chapter 7 (commencing with Section 3300), as that law may be amended from time to time with
22 respect to eligibility for, duration of, or amount of paid family leave compensation, or any other matter
23 pertaining to paid family leave under that law.

24 "City" means the City and County of San Francisco.

1 “Covered Employee” means any person, including but not limited to part-time and temporary
2 employees, who is employed by a Covered Employer (1) who commenced employment with the Covered
3 Employer at least ~~90~~ 180 days prior to the start of the leave period, (2) who performs at least eight
4 hours of work per week for the employer within the geographic boundaries of the City, (3) at least 40%
5 of whose total weekly hours worked for the employer are within the geographic boundaries of the City,
6 and (4) who is eligible to receive paid family leave compensation from the State of California under the
7 California Paid Family Leave law for the purpose of bonding with a new child. Where a person’s
8 weekly work hours fluctuate from week to week, the Agency shall determine whether the person
9 meets the eight-hour and/or 40% threshold requirements in the preceding sentence by using
10 an average of the person’s weekly hours worked for the Covered Employer during the three monthly
11 pay periods, six bi-weekly or semi-monthly pay periods, or 12 weekly pay periods immediately
12 preceding the start of the person’s California Paid Family Leave period. If the person was on
13 unpaid leave during any of the aforementioned pay periods, such pay period(s) shall not be
14 counted towards the average referenced in the preceding sentence; rather, the Agency shall
15 consider additional earlier corresponding pay periods for that person in order to satisfy the
16 above designated number of pay periods, but in no case shall the Agency, in calculating the
17 average, consider pay periods earlier than 26 weeks prior to the California Paid Family Leave
18 period.

19 “Covered Employer”, as of January 1, 2017, means any person, as defined in Section 18 of
20 the California Labor Code, including corporate officers or executives, who directly or indirectly or
21 through an agent or any other person, including through the services of a temporary services or
22 staffing agency or similar entity, employs or exercises control over the wages, hours, or working
23 conditions of an employee and who regularly employs ~~20-50~~ or more the following number of
24 employees, regardless of location:-: (1) commencing with January 1, 2017, 50 or more
25 employees; (2) commencing with July 1, 2017, 35 or more employees; and (3) commencing

1 with January 1, 2018, 20 or more employees. Covered Employer, as of July 1, 2017, means
2 any person, as defined in Section 18 of the California Labor Code, including corporate officers
3 or executives, who directly or indirectly or through an agent or any other person, including
4 through the services of a temporary services or staffing agency or similar entity, employs or
5 exercises control over the wages, hours, or working conditions of an employee and who
6 regularly employs 20 or more employees, regardless of location. Covered Employer shall not
7 include the City or any other governmental entity.

8 “New Child Bonding” means bonding with the Covered Employee’s minor child during the first
9 year after the birth of the child or after placement of the child with the Covered Employee through
10 foster care or adoption, per Section 3301 of the California Unemployment Insurance Code.

11 “State” means the State of California, including the State of California Employment
12 Development Department.

13 “Supplemental Compensation” means a Covered Employer’s obligation to pay a Covered
14 Employee’s partial weekly salary in accordance with Section 3300H.4.

15 **SEC. 3300H.4. SUPPLEMENTAL PAID PARENTAL LEAVE.**

16 (a) Applicability. This Article 33H applies to Covered Employees who are receiving California
17 Paid Family Leave benefits for the purpose of New Child Bonding.

18 **(b) Supplemental Compensation.**

19 **(1) General.**

20 (A) Except as stated in subsection (b)(2), when a Covered Employee receives
21 California Paid Family Leave compensation for the purpose of New Child Bonding, a Covered
22 Employer shall, during the leave period, supplement the California Paid Family Leave weekly benefit
23 amount that the employee is receiving by paying the employee Supplemental Compensation in an
24 amount such that the total of the California Paid Family Leave compensation the employee is receiving
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1 and the Supplemental Compensation provides, but does not exceed, 100% of the employee's current
2 normal gross weekly wage.

3 (B) If the Covered Employee's weekly wage fluctuates, the employee's normal
4 gross weekly wage shall be calculated based on an average of the employee's weekly earnings from the
5 Covered Employer during the three monthly pay periods, six bi-weekly or semi-monthly pay periods, or
6 12 weekly pay periods immediately preceding the start of the employee's California Paid Family
7 Leave period. If the employee was on unpaid leave during any of the aforementioned pay
8 periods, such pay period(s) shall not be counted towards the average referenced in the
9 preceding sentence; rather, the average shall be calculated using additional earlier
10 corresponding pay periods in order to satisfy the above designated number of pay periods,
11 but in no case shall pay periods earlier than 26 weeks prior to the California Paid Family
12 Leave period be considered. ; provided, however, that Notwithstanding the preceding
13 sentence, if the Covered Employee's weekly wage fluctuates and the employee has worked for the
14 Covered Employer for less than 26 weeks, the weekly wage shall be calculated based on an average of
15 the employee's weekly earnings for the entire period of employment to date.

16 (C) If the California Paid Family Leave weekly benefit amount that the Covered
17 Employee is receiving from the State is based on earnings from a calendar quarter during which the
18 employee did not work for the Covered Employer, or during which the employee earned a higher
19 weekly wage from the Covered Employer than the employee is receiving at the time of his or her leave,
20 the Supplemental Compensation amount shall be calculated to provide 100% of the employee's normal
21 gross weekly wage in his or her current position; provided, however, that reducing a Covered
22 Employee's wages during the leave period or within 90 days of the employee's having made a request
23 or application for California Paid Family Leave shall raise a rebuttable presumption that such wage
24 reduction was made to reduce the Covered Employer's Supplemental Compensation obligations under
25 this Section 3300H.4. Unless the Covered Employer rebuts the presumption with clear and convincing

1 evidence that the reduction was solely for a reason other than reducing its obligation to pay
2 Supplemental Compensation, the employer shall be obligated to pay Supplemental Compensation
3 during the leave period based on the employee's prior wage rate.

4 (D) Multiple Employers.

5 (i) Where the Covered Employee works for more than one employer, the
6 Supplemental Compensation amount shall be apportioned between or among the Covered Employers
7 based on the percentage of the Employee's total gross weekly wages received from each employer. For
8 example, if the Employee earns \$800 per week from Covered Employer A, and \$200 per week from
9 Covered Employer B for a combined total of \$1,000, Employer A shall pay 80% of the Supplemental
10 Compensation amount and Employer B shall pay 20% of the Supplemental Compensation amount. If
11 the Employee's weekly wage for a given Employer fluctuates, the percentage referenced in this
12 subsection shall be calculated by averaging the employee's weekly wages earned from the Employer
13 during the three monthly pay periods, six bi-weekly or semi-monthly pay periods, or 12 weekly pay
14 periods immediately preceding the leave period. If the employee was on unpaid leave during any
15 of the aforementioned pay periods, such pay period(s) shall not be counted towards the
16 average referenced in the preceding sentence; rather, the average shall be calculated using
17 additional earlier corresponding pay periods in order to satisfy the above designated number
18 of pay periods, but in no case shall pay periods earlier than 26 weeks prior to the California
19 Paid Family Leave period be considered.

20 (ii) In cases where the Covered Employee works for a Covered Employer
21 and a non-Covered Employer, the Covered Employer shall be responsible only for its percentage of the
22 Employee's total gross weekly wages. For example, if the Employee earns \$800 per week from the
23 Covered Employer, and \$200 per week from the non-Covered Employer for a combined total of \$1,000,
24 the Covered Employer shall pay 80% of the Supplemental Compensation amount and the Non-Covered
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1 Employer shall pay nothing. Accordingly, in such cases, the Employee will not receive 100% of the
2 Supplemental Compensation amount.

3 (iii) In cases of multiple employers, the Covered Employee shall, as a
4 precondition of receiving Supplemental Compensation, provide the Covered Employer(s) with both (1)
5 a copy of the employee's Notice of Computation of California Paid Family Leave Benefits from the
6 State or other legally authorized statement, and (2) information pertaining to wages received from all
7 employers during the 90 days prior to the leave period on a form prepared by the Agency and signed by
8 the employee under penalty of perjury. A Covered Employee's failure to comply with this requirement
9 shall relieve the Covered Employer(s) of their obligation to provide the employee with Supplemental
10 Compensation.

11 (2) Maximum Weekly Benefit Amount. In the case of a Covered Employee who is
12 receiving the maximum weekly benefit amount under the California Paid Family Leave law, the
13 Supplemental Compensation shall not be calculated to reach 100% of the employee's total normal
14 gross weekly wage. Rather, the amount of Supplemental Compensation shall be calculated based on
15 the gross wage that is derived from dividing the State's maximum weekly benefit amount by the
16 percentage rate of wage replacement provided under the California Paid Family Leave law.

17 (3) Termination During Leave Period. A Covered Employer's obligation to provide
18 Supplemental Compensation under this Section 3300H.4 applies only during the period the Covered
19 Employee is eligible for and is receiving California Paid Family Leave benefits for New Child
20 Bonding; provided, however, that if a Covered Employer terminates a Covered Employee during the
21 leave period, the employer's obligation to pay Supplemental Compensation shall continue for the
22 remainder of the California Paid Family Leave period.

23 (4) Termination Prior to Leave Period. Terminating a Covered Employee prior to the
24 employee's leave period but within 90 days of the employee's having made a request or application for
25 California Paid Family Leave shall raise a rebuttable presumption that such termination was taken to

1 avoid the Covered Employer's Supplemental Compensation obligations under this Section 3300H.4.
2 Unless the Covered Employer rebuts the presumption with clear and convincing evidence that the
3 termination was solely for a reason other than avoidance of its obligation to pay Supplemental
4 Compensation, the employer shall be obligated to pay the terminated employee Supplemental
5 Compensation during the leave period.

6 (5) Unused Vacation Leave. To be eligible to receive Supplemental Compensation
7 under this Section 3300H.4, a Covered Employee must ~~consent~~ agree to allowing a Covered
8 Employer, in the employer's discretion, to apply up to two weeks of unused vacation leave that the
9 employee has accrued as of the start of the leave period to help meet the employer's obligation under
10 this Section to provide Supplemental Compensation during the leave period. If the Covered
11 Employee does not agree, the Covered Employer is not required to provide Supplemental
12 Compensation under this Section 3300H.4, but such lack of agreement shall have no effect on
13 the Employee's eligibility for California Paid Family Leave benefits or other benefits under the
14 law. The preceding sentence shall not prevent a Covered Employer, in the employer's discretion, from
15 requiring a Covered Employee to take up to two weeks of earned but unused vacation leave prior to the
16 employee's initial receipt of California Paid Family Leave compensation as allowed under subsection
17 (c) of Section 3303.1 of the California Unemployment Insurance Code, as amended, in addition to or in
18 lieu of exercising the option provided in the foregoing sentence.

19 (6) Voluntary Plans. A Covered Employer who has received State approval to pay
20 California Paid Family Leave compensation through a voluntary disability insurance plan in
21 accordance with California Unemployment Insurance Code, Division 1, Part 2, Chapter 6
22 (commencing with Section 3251) must comply with the Supplemental Compensation requirements of
23 this Section 3300H.4 either by providing the Supplemental Compensation through the approved
24 voluntary plan or by paying Supplemental Compensation directly to the Covered Employee.

1 (c) Integration/Coordination of Benefits. In accordance with California Unemployment
2 Insurance Code Section 2656, a Covered Employee who is receiving California Paid Family Leave
3 benefits may not receive Supplemental Compensation under this Article 33H which would result in the
4 employee's receiving total compensation while on paid parental leave that is greater than the
5 employee's normal gross weekly wages. As a precondition of receiving Supplemental Compensation, a
6 Covered Employee must either (1) provide the Covered Employer with a copy of the employee's Notice
7 of Computation of California Paid Family Leave Benefits from the State or other legally authorized
8 statement, or (2) provide the State with written authorization to disclose the weekly benefit amount to
9 the employer. A Covered Employee's failure to comply with this requirement shall relieve the Covered
10 Employer of its obligation to provide the employee with Supplemental Compensation.

11 (d) Existing Paid Parental Leave Policies. This Article 33H does not require a Covered
12 Employer to provide Supplemental Compensation under Section 3300H.4 to a Covered Employee if the
13 employer's existing policy provides the employee with at least six weeks fully paid parental leave within
14 any twelve-month period for purposes of New Child Bonding, whether or not such paid leave includes
15 California Paid Family Leave benefits. Unless the Employee elects otherwise, the six weeks fully paid
16 parental leave referenced in the prior sentence must be provided as six consecutive weeks.

17 (e) Reimbursement. As a precondition of receiving Supplemental Compensation, a Covered
18 Employee must agree, by signing a form prescribed by the Agency, to reimburse the full amount of
19 Supplemental Compensation received from any Covered Employer(s) if the employee voluntarily
20 separates from employment with the Covered Employer(s) within 90 days of the end of the Employee's
21 leave period and if the Employer requests such reimbursement in writing.

22 **SEC. 3300H.5. NOTICE AND POSTING.**

23 (a) The Agency shall, by the operative date of this Article 33H, publish and make available to
24 Covered Employers, in all languages spoken by more than 5% of the San Francisco workforce, a notice
25 suitable for posting by employers in the workplace informing employees of their rights under this

1 Article. The Agency shall update this notice on December 1 of any year in which there is a change in
2 the languages spoken by more than 5% of the San Francisco workforce. In its discretion, the Agency
3 may combine the notice required herein with one or more other notices it is required to publish and
4 make available to employers under other provisions of City law.

5 (b) Every Covered Employer shall post in a conspicuous place at any workplace or job site
6 where any Covered Employee works the notice required by subsection (a). Every Covered Employer
7 shall post this notice in English, Spanish, Chinese, and any language spoken by at least 5% of the
8 employees at the workplace or job site.

9 **SEC. 3300H.6. EMPLOYER RECORDS.**

10 (a) Covered Employers shall retain records documenting Supplemental Compensation paid to
11 employees as required by this Article 33H, for a period of three years, and shall allow the Agency
12 access to such records, with appropriate notice and at a mutually agreeable time, to monitor
13 compliance with the requirements of this Article 33H.

14 (b) When an issue arises as to an employee's entitlement to Supplemental Compensation under
15 this Article 33H, if the Covered Employer does not maintain or retain adequate records documenting
16 Supplemental Compensation paid to the employee, or does not allow the Agency reasonable access to
17 such records, it shall be presumed that the employer has violated this Article, absent clear and
18 convincing evidence otherwise.

19 **SEC. 3300H.7. EXERCISE OF RIGHTS PROTECTED; RETALIATION PROHIBITED.**

20 (a) It shall be unlawful for a Covered Employer or any other person to interfere with, restrain,
21 or deny the exercise of or the attempt to exercise, any right protected under this Article 33H.

22 (b) It shall be unlawful for a Covered Employer or any other person to discharge, threaten to
23 discharge, demote, suspend, or in any manner discriminate or take adverse action against any person
24 in retaliation for exercising rights to Supplemental Compensation protected under this Article 33H.
25 Such rights include but are not limited to the right to Supplemental Compensation pursuant to this

1 Article; the right to file a complaint or inform any person about any employer's alleged violation of this
2 Article; the right to cooperate with the Agency in its investigations of alleged violations of this Article;
3 and the right to inform any person of his or her possible rights under this Article.

4 (c) Protections of this Section 3300H.7 shall apply to any person who mistakenly but in good
5 faith alleges violations of this Article 33H.

6 (d) Taking adverse action against a person within 90 days of the person's filing a complaint
7 with the Agency or a court alleging a violation of any provision of this Article 33H; of informing any
8 person about an employer's alleged violation of this Article; of cooperating with the Agency or other
9 persons in the investigation or prosecution of any alleged violation of this Article; of opposing any
10 policy, practice, or act that is unlawful under this Article; or of informing any person of his or her
11 rights under this Article, shall raise a rebuttable presumption that such adverse action was taken in
12 retaliation for the exercise of one or more of the aforementioned rights. Unless the Covered Employer
13 rebutts the presumption with clear and convincing evidence that the adverse action was solely for a
14 reason other than retaliation, the employer shall be deemed to have violated this Section 3300H.7.

15 **SEC. 3300H.8. IMPLEMENTATION AND ENFORCEMENT.**

16 (a) Implementation. The Agency shall be authorized to coordinate implementation and
17 enforcement of this Article 33H and may promulgate appropriate guidelines or rules for such purposes.
18 Any guidelines or rules promulgated by the Agency shall have the force and effect of law and may be
19 relied on by employers, employees, and other persons to determine their rights and responsibilities
20 under this Article. Any guidelines or rules may establish procedures for ensuring fair, efficient, and
21 cost-effective implementation of this Article, including supplementary procedures for helping to inform
22 employees of their rights under this Article, for monitoring employer compliance with this Article, and
23 for providing administrative hearings to determine whether an employer or other person has violated
24 the requirements of this Article.

25 (b) Administrative Enforcement.

1 (1) The Agency is authorized to take appropriate steps to enforce this Article 33H. The
2 Agency may investigate any possible violations of this Article by an employer or other person. Where
3 the Agency has reason to believe that a violation has occurred, it may order any appropriate temporary
4 or interim relief to mitigate the violation or maintain the status quo pending completion of a full
5 investigation or hearing.

6 (2) Where the Agency, after a hearing that affords a suspected violator due process,
7 determines that a violation has occurred, it may order any appropriate relief including, but not limited
8 to, the payment of any Supplemental Compensation unlawfully withheld, and the payment of an
9 additional sum as an administrative penalty to each employee or person whose rights under this Article
10 33H were violated. If any Supplemental Compensation was unlawfully withheld, the dollar amount of
11 Supplemental Compensation withheld from the employee multiplied by three, or \$250.00, whichever
12 amount is greater, shall be included in the administrative penalty paid to the employee. In addition, if
13 a violation of this Article resulted in other harm to the employee or any other person, or otherwise
14 violated the rights of employees or other persons, such as a failure to post the notice required by
15 Section 3300H.5, or an act of retaliation prohibited by Section 3300H.7, this administrative penalty
16 shall also include \$50.00 to each employee or person whose rights under this Article were violated for
17 each day or portion thereof that the violation occurred or continued.

18 (3) Where prompt compliance is not forthcoming, the Agency may take any appropriate
19 enforcement action to secure compliance, including initiating a civil action, except where prohibited by
20 State or Federal law, requesting that City agencies or departments revoke or suspend any registration
21 certificates, permits, or licenses held or requested by the employer or person until such time as the
22 violation is remedied. In order to compensate the City for the costs of investigating and remedying the
23 violation, the Agency may also order the violating employer or person to pay to the City a sum of not
24 more than \$50.00 for each day or portion thereof and for each employee or person as to whom the
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1 violation occurred or continued. Such funds shall be allocated to the Agency and used to offset the
2 costs of implementing and enforcing this Article 33H.

3 (4) An employee or other person may report to the Agency any suspected violation of
4 this Article 33H. The Agency shall encourage reporting pursuant to this subsection (b)(4) by keeping
5 confidential, to the maximum extent permitted by applicable laws, the name and other identifying
6 information of the employee or person reporting the violation. Provided, however, that with the
7 authorization of such person, the Agency may disclose his or her name and identifying information as
8 necessary to enforce this Article or for other appropriate purposes.

9 (5) The Agency shall not proceed with administrative enforcement under this
10 subsection 3300H.8(b) during the pendency of a civil action brought under subsection
11 3300H.8(c).

12 (c) Civil Enforcement.

13 (1) The Agency, the City, Attorney, any person aggrieved by a violation of this
14 Article 33H, any entity a member of which is aggrieved by a violation of this Article, or any
15 other person or entity acting on behalf of the public as provided for under applicable State law, may
16 bring a civil action in a court of competent jurisdiction against the employer or other person violating
17 this Article and, at any time.

18 (2) No person aggrieved by a violation of this Article 33H, or any entity a
19 member of which is aggrieved by a violation of this Article, may bring a civil action in a court of
20 competent jurisdiction against a Covered Employer or other person violating this Article
21 without first serving a written notice to the Agency and the City Attorney of intent to bring an
22 action, including a statement of the grounds for believing one or more violations have
23 occurred. No aggrieved person or entity may bring a civil action under this subsection
24 3300H.8(c)(2) if, within 90 days after service of the notice, the City brings a civil action
25 alleging a violation or the Agency informs the person or entity in writing that (A) it has found

1 probable cause to believe a violation has occurred and it intends to initiate administrative
2 enforcement under subsection 3300H.8(b), or (B) it has determined that no violation occurred.
3 If the City fails to file suit and the Agency fails to provide written notice within the
4 forementioned 90-day period, the person or entity may bring a civil action for violation of this
5 Article. The statute of limitations for filing a civil action under this subsection 3300H.8(c)(2)
6 shall be tolled during the aforementioned 90-day period.

7 (3) ~~u~~Upon prevailing, any party that has brought a civil action under this
8 subsection 3300H.8(c) shall be entitled to such legal or equitable relief as may be appropriate to
9 remedy the violation including, but not limited to, reinstatement, back pay, the payment of any
10 Supplemental Compensation unlawfully withheld, the payment of an additional sum as liquidated
11 damages in the amount of \$50.00 to each employee or person whose rights under this Article were
12 violated for each day or portion thereof that the violation occurred or continued, plus, where the
13 Covered Employer has unlawfully withheld Supplemental Compensation to a Covered Employee, the
14 dollar amount of Supplemental Compensation withheld from the employee multiplied by three; or
15 \$250.00, whichever amount is greater; and/or injunctive relief; and, further, shall be awarded
16 reasonable attorneys' fees and costs. Provided, however, that any person or entity enforcing this
17 Article on behalf of the public as provided for under applicable State law shall, upon prevailing, be
18 entitled only to equitable, injunctive or restitutionary relief, and reasonable attorneys' fees and costs.

19 (d) Interest. In any administrative or civil action brought under this Article 33H, the Agency or
20 court, as the case may be, shall award interest on all amounts due and unpaid at the rate of interest
21 specified in subdivision (b) of Section 3289 of the California Civil Code.

22 (e) Remedies Cumulative. The remedies, penalties, and procedures provided under this Article
23 33H are cumulative.

24 **SEC. 3300H.9. WAIVER THROUGH COLLECTIVE BARGAINING.**

1 All or any portion of the applicable requirements of this Article 33H shall not apply to
2 employees covered by a bona fide collective bargaining agreement if (1) such requirements are
3 expressly waived in the collective bargaining agreement in clear and unambiguous terms, or (2) the
4 agreement was entered into before the effective date of the ordinance enacting this Article 33H, on file
5 with the Clerk of the Board of Supervisors in File No. _____ . The exception designated (2) in the
6 preceding sentence shall not apply to any such agreement once it has been amended or extended, or
7 has expired.

8 **SEC. 3300H.10. OTHER LEGAL REQUIREMENTS.**

9 (a) This Article 33H provides minimum requirements pertaining to paid parental leave as
10 provided herein. This Article shall not be construed to preempt, limit, or otherwise affect the
11 applicability of any other law, regulation, requirement, policy, or standard that provides for greater
12 parental leave, whether paid or unpaid, or that extends other protections to employees.

13 (b) This Article 33H provides minimum requirements pertaining to paid parental leave and
14 shall not be construed to prevent employers from adopting or retaining leave policies that are more
15 generous than policies that comply with this Article.

16 (c) This Article 33H is intended to supplement other available sources of income during
17 specified periods of leave to which the employee is otherwise eligible. Nothing in this Article shall be
18 construed to expand, reduce, or otherwise affect the total amount of parental or other leave time
19 available to employees under federal, state, or local law.

20 **SEC. 3300H.11. UNDERTAKING FOR THE GENERAL WELFARE.**

21 In enacting and implementing this Article 33H, the City is assuming an undertaking only to
22 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an
23 obligation for breach of which it is liable in money damages to any person who claims that such breach
24 proximately caused injury.

25 **SEC. 3300H.12. SEVERABILITY.**

1 If any section, subsection, sentence, clause, phrase, or word of this Article 33H, or any
2 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
3 decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining
4 portions or applications of the Article. The Board of Supervisors hereby declares that it would have
5 passed this Article and each and every section, subsection, sentence, clause, phrase, and word not
6 declared invalid or unconstitutional without regard to whether any other portion of this Article or
7 application thereof would be subsequently declared invalid or unconstitutional.

8 **SEC. 3300H.13. NO CONFLICT WITH FEDERAL OR STATE LAW.**

9 Nothing in this Article 33H shall be interpreted or applied so as to create any requirement,
10 power, or duty in conflict with any federal or state law.

11 **SEC. 3300H.14. EXPIRATION OF ARTICLE.**

12 This Article 33H shall expire by operation of law if the Legislature amends the California Paid
13 Family Leave program such that the benefits provided under that program amount to 100% of an
14 eligible employee's wages, as capped by any maximum benefit amount under the State law. Upon
15 certification from the City Attorney to the Clerk of the Board of Supervisors that such a change in State
16 law has occurred, the City Attorney shall cause the Article to be removed from the Police Code.

17 **SEC. 3300H.15. CHANGE IN FEDERAL LAW.**

18 Within 90 days of final enactment of any federal law requiring private employers to
19 provide paid parental leave to employees or providing governmentally funded paid parental
20 leave, the Controller shall provide a report to the Board of Supervisors analyzing the impact of
21 the newly adopted federal law on employers and employees subject to this Article 33H, as
22 well as any overlap between the federal benefits and benefits required under this Article 33H.
23 In the report, the Controller may, in his or her discretion, recommend changes to this Article
24 33H.



1 Section 2. By June 1, 2016, the Controller and the Office of Labor Standards
2 Enforcement shall provide to the Board of Supervisors a report including (1) an estimate of the
3 cost of compliance with Article 33H of the Police Code for nonprofit organizations that
4 currently have contracts with the City, and (2) policy or budget options that would enable the
5 City to subsidize these costs through the annual budget.

6
7 Section 23. Effective and Operative Dates.

8 (a) Effective Date. This ordinance shall become effective 30 days after enactment.
9 Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance
10 unsigned or does not sign the ordinance within ten days of receiving it, or the Board of
11 Supervisors overrides the Mayor's veto of the ordinance.

12 (b) Operative Date. This ordinance shall become operative on January 1, 2017.

13
14 APPROVED AS TO FORM:
15 DENNIS J. HERRERA, City Attorney

16 By: 
17 for  FRANCESCA GESSNER
18 Deputy City Attorney

19
20
21
22
23
24
25
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LEGISLATIVE DIGEST
(Amended April 5, 2016)

[Police Code - Paid Parental Leave for Bonding with New Child]

Ordinance amending the Police Code to require employers to provide supplemental compensation to employees who are receiving State Paid Family Leave for purposes of bonding with a new child.

Existing Law

No City law requires employers to provide paid parental leave for bonding with a new child. Under the "California Paid Family Leave" program, employees who contribute to the California State Disability Insurance (SDI) fund are entitled to six weeks of partial (55%) pay each year while taking time off from work to bond with a newborn baby, newly adopted child, or new foster child. The 55% wage replacement is funded by employee payroll contributions.

Amendments to Current Law

General Requirement

The proposed ordinance would, as of January 1, 2017, require San Francisco employers with 50 or more employees to provide partial wage replacement to employees taking leave to bond with a new child under the California Paid Family Leave program. It would require such employers to provide the remaining portion (45%) of the employee's normal gross weekly wage ("Supplemental Compensation") during the six-week leave period. On July 1, 2017, the ordinance's partial wage replacement requirement would expand to employers with 35 or more employees, and on January 1, 2018, to employers with 20 or more employees.

Coverage

A "Covered Employee" entitled to Supplemental Compensation under this ordinance is an employee (1) who commenced employment with the Covered Employer at least 180 days prior to the start of the leave period, (2) who performs at least eight hours of work per week for the employer within the geographic boundaries of the City, (3) at least 40% of whose total weekly hours worked for the employer are within the geographic boundaries of the City, and (4) who is eligible to receive paid family leave compensation under the California Paid Family Leave law for the purpose of bonding with a new child.

Commencing with January 1, 2017, a "Covered Employer" under the ordinance is an employer with 50 or more employees, regardless of location. Starting on July 1, 2017, a "Covered Employer" would include employers with 35 or more employees, and on January 1, 2018, would include employers with 20 or more employees. All governmental entities, including the City and County of San Francisco, are exempt from the ordinance.

Supplemental Compensation Amount

During the leave period, Covered Employers would be required to provide Supplemental Compensation in an amount such that the California Paid Family Leave compensation plus the Supplemental Compensation equals but does not exceed 100% of the employee's gross weekly wage. Based on the current 55% wage replacement rate under State law, the ordinance would require employers to pay the remaining 45% of the employee's weekly wages during the leave period. If the State wage replacement rate were to change, the employer's Supplemental Compensation obligation would change accordingly. For example, if the State wage replacement rate increased to 75%, the employer's Supplemental Compensation rate would drop to 25%.

In cases where an employee has multiple Covered Employers, the Supplemental Compensation amount would be apportioned between or among the Employers based on the percentage of the employee's total gross weekly wages received from each employer. In cases where an employee works for a Covered Employer and a non-Covered Employer, the Covered Employer would be responsible only for its percentage of the employee's total gross weekly wages.

Maximum Weekly Benefit Limitation

The California Paid Family Leave program places a cap on the 55% weekly benefit amount for higher-earning workers. As of January 1, 2016, the State's "maximum weekly benefit amount" is \$1,129, which represents 55% of a person's weekly wages based on an annual salary of approximately \$106,740. Employees who earn more than \$106,740 per year therefore do not receive the full 55% of their salary under the State program.

An employer's Supplemental Contribution obligation under the ordinance would be proportionally capped by reference to the State maximum weekly benefit amount. Using the 2016 State rates, an employer's maximum weekly Supplemental Compensation amount under the ordinance would be \$924 per week. The State's maximum weekly benefit amount (\$1,129) is 55% of \$2,053; 45% of \$2,053 is \$924.

Use of Unused, Accrued Vacation Leave

To be eligible to receive Supplemental Compensation under the ordinance, an employee must agree to allow the employer (if the employer so chooses) to use up to two weeks of the employee's unused, accrued vacation leave to help satisfy the employer's obligation to pay Supplemental Compensation during the leave period.

Parenthetically, the California Paid Family Leave program allows an employer to require an employee to use up to two weeks of unused, accrued vacation as a precondition to the employee's initial receipt of Paid Family Leave. If the employer exercises that option under

State law, the employee must first take two weeks of vacation before starting the six-week family leave period, resulting in a total of eight weeks of leave. The ordinance would not prevent an employer from exercising that option, but would provide another option for the employer in addition to, or in lieu of, the State option, depending upon the amount of unused vacation leave that the employee in question has accrued.

Reimbursement

As a precondition of receiving Supplemental Compensation under the ordinance, an employee must sign a form agreeing to reimburse the full amount of Supplemental Compensation received from any Covered Employer(s) if the employee voluntarily separates from employment within 90 days of the end of the employee's leave period and if the Employer requests such reimbursement in writing.

Reducing Employee Wages or Termination of Employee

- Reducing an employee's wages during the leave period or within 90 days of the employee's requesting or applying for California Paid Family Leave would give rise to a rebuttable presumption that it was done for purposes of reducing the amount of Supplemental Compensation required under the ordinance. The presumption could be rebutted by clear and convincing evidence that the wage reduction was done solely for another reason.
- Terminating an employee within 90 days of the employee's requesting or applying for California Paid Family Leave would give rise to a rebuttable presumption that it was done for purposes of avoiding the employer's Supplemental Compensation obligation under this ordinance. The presumption could be rebutted by clear and convincing evidence that the termination was done solely for another reason.
- If an employer terminates an employee during the leave period, the employer would be required to pay Supplemental Compensation for the remainder of the leave period.

Collective Bargaining Agreements

The requirements of this ordinance shall not apply to employees covered by a bona fide collective bargaining agreement ("CBA") if such requirements are expressly waived in the CBA in clear and unambiguous terms. In addition, the ordinance shall not apply to CBAs entered into before the effective date of the ordinance, but only until the CBA is extended or expires.

Administrative Enforcement Provisions

The Office of Labor Standards Enforcement ("OLSE") would implement and enforce the ordinance, including the following:

- **Workplace Notice:** Employers would be required to post a notice in the workplace informing employees of their rights under the ordinance.
- **Employer Records:** Employers would be required to retain records pertaining to the payment of Supplemental Compensation for a period of three years and make records available to OLSE on request.
- **Anti-Retaliation:** Employers would be prohibited from retaliating against employees for exercising their rights under the ordinance.
- **Penalties:** After a due process hearing, OLSE may order any appropriate relief including payment of Supplemental Compensation and monetary penalties.

Civil Enforcement

The City, or any person or entity acting on behalf of the public as provided for under applicable State law, may bring a civil action in court against an employer for violating the ordinance at any time.

No person aggrieved by a violation of this ordinance, or any entity a member of which is aggrieved by a violation of this ordinance, may file a civil action for violation of this ordinance without first giving the City 90-days advance written notice. No such aggrieved person or entity may bring a civil action under this ordinance if, during the aforementioned 90-day period, the City brings a civil action alleging a violation, or OLSE informs the person or entity in writing that (1) it intends to initiate administrative enforcement for a violation of the ordinance or (2) it has determined that no violation occurred.

Operative Date: The ordinance would become operative on January 1, 2017.

Background Information

Many workers, particularly low-wage workers, cannot afford to take parental leave at only 55% wage replacement. This ordinance is intended to supplement California Paid Family Leave by providing compensation that, in combination with the California Paid Family Leave payment, will total 100% of an employee's weekly salary, subject to a weekly maximum benefit amount, during the six-week leave period, to help ensure that concern over loss of income does not preclude parents in San Francisco from bonding with their new child.

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**CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER**

B+F /
O: BOS-111
LOB

**Ben Rosenfield
Controller**

**Todd Rydstrom
Deputy Controller**

March 22, 2016

The Honorable Board of Supervisors
City and County of San Francisco
Room 244, City Hall

Angela Calvillo
Clerk of the Board of Supervisors
Room 244, City Hall

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2016 MAR 22 PM 2:31
BY [Signature]

Re: Office of Economic Analysis Impact Report for File Number 160065

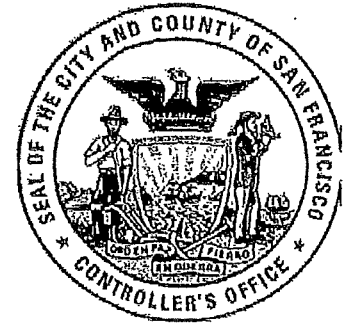
Dear Madam Clerk and Members of the Board:

The Office of Economic Analysis is pleased to present you with its economic impact report on file number 160065, "Paid Family Leave for Bonding with a New Child: Economic Impact Report." If you have any questions about this report, please contact me at (415) 554-5268.

Best Regards,

Ted Egan
Chief Economist

cc Linda Wong, Committee Clerk, Budget and Finance Subcommittee



Paid Family Leave for Bonding with a New Child: Economic Impact Report

Office of Economic Analysis
Item # 160065
March 22nd, 2016

Introduction

- The proposed legislation would require San Francisco employers with 20 or more employees to provide partial wage replacement to their employees who take leave under the California Paid Family Leave (PFL) program in order to bond with a new child.
- PFL is an extension of the State Disability Insurance (SDI) program. PFL provides for partial wage replacement of up to 55% their salary for up to six weeks of leave. Leave may be taken to care for a family member.
- SDI is entirely funded through a tax on employees. Virtually every private sector employee, and many government and non-profit employees, contribute to SDI. There is no employer contribution to the state program.
- This proposed legislation would require employers to compensate an employee for up to 45% of their remaining wages, when he or she files a PFL claim for bonding with a new child. Other legitimate PFL claims, such as caring for a parent, would qualify for the 55% draw from the state pool but not require any additional compensation from the employer.

Who Would Benefit from the Proposed Legislation?

- The proposed legislation would only apply to *covered employees*, defined as someone who meets all of the following conditions:
 1. eligible for a PFL claim for bonding with a new child.
 2. started work with a *covered employer* at least 90 days prior to the start of the leave period.
 3. performs at least eight hours of work per week for the employer within the city.
 4. works at least 40% of their total weekly hours for that covered employer within the city.
- A *covered employer* is any employer of a covered employee, except government entities or employers with fewer than 20 employees anywhere in the world.
- In other words, the vast majority of full- and part-time San Francisco employees of private businesses and non-profits with over 20 employees would be eligible for the enhanced compensation under the proposed legislation. Covered employees must work, but need not live, in San Francisco.

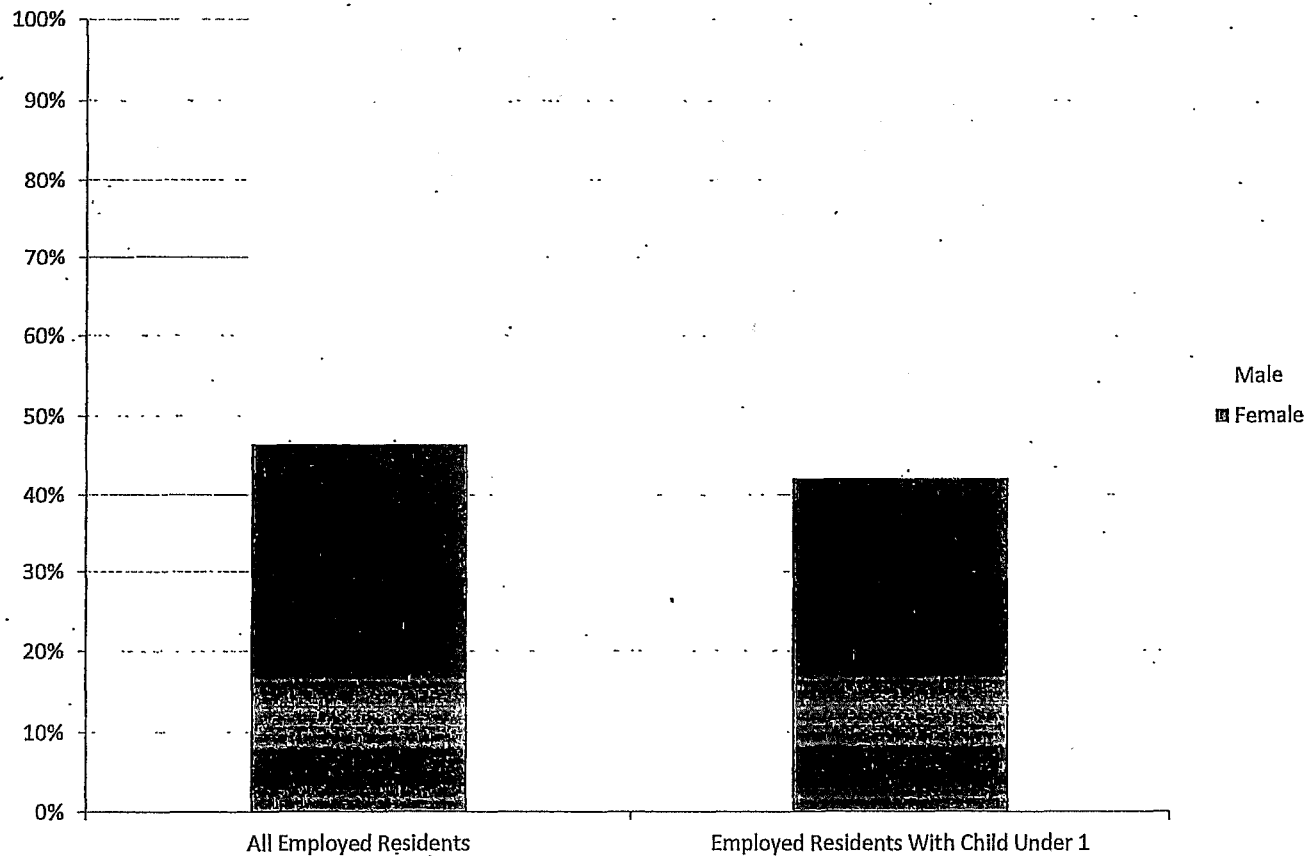
Paid Family Leave Claims for Bonding with a New Child in San Francisco

Year	Bonding Claims by SF Residents	Average Duration in Weeks (All Claims)	Average Weekly Benefits (All Claims)
2011	4,336	5.48	\$720.09
2012	4,560	5.49	\$739.66
2013	4,615	5.53	\$761.86
2014	5,044	5.43	\$765.69
Average	4,639	5.49	\$743.39

Source: Legislative and Intergovernmental Affairs Office, California Employment Development Department (EDD)

47% of Employed San Francisco Residents are Female, but Only 42% of Employed Residents With a New Child are Female

Employed Residents of San Francisco By Sex,
And Presence of a Child Under 1 in the Household (2011-14 Average)

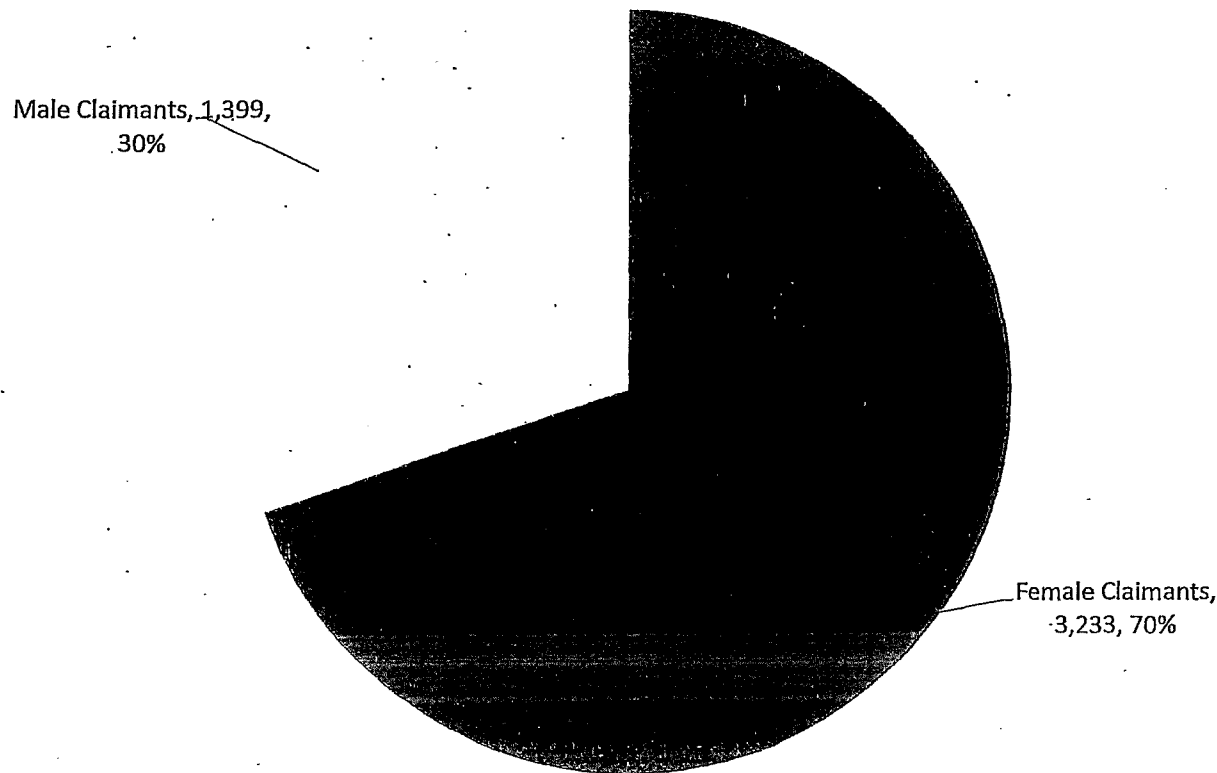


The Census Bureau's American Community Survey asks respondents their sex, employment status and the age of their youngest child, if any.

The data indicates that while women make up 47% of employed residents in San Francisco, they make up slightly less, 42%, of employed residents that have a child under 1 year of age. This may result from some women dropping out of the labor force after the arrival of a new child.

However, 70% of PFL Bonding Claims in San Francisco Are Made By Women

Paid Family Leave Claims for Bonding by San Francisco Residents, By Sex
(2011-14 Average)

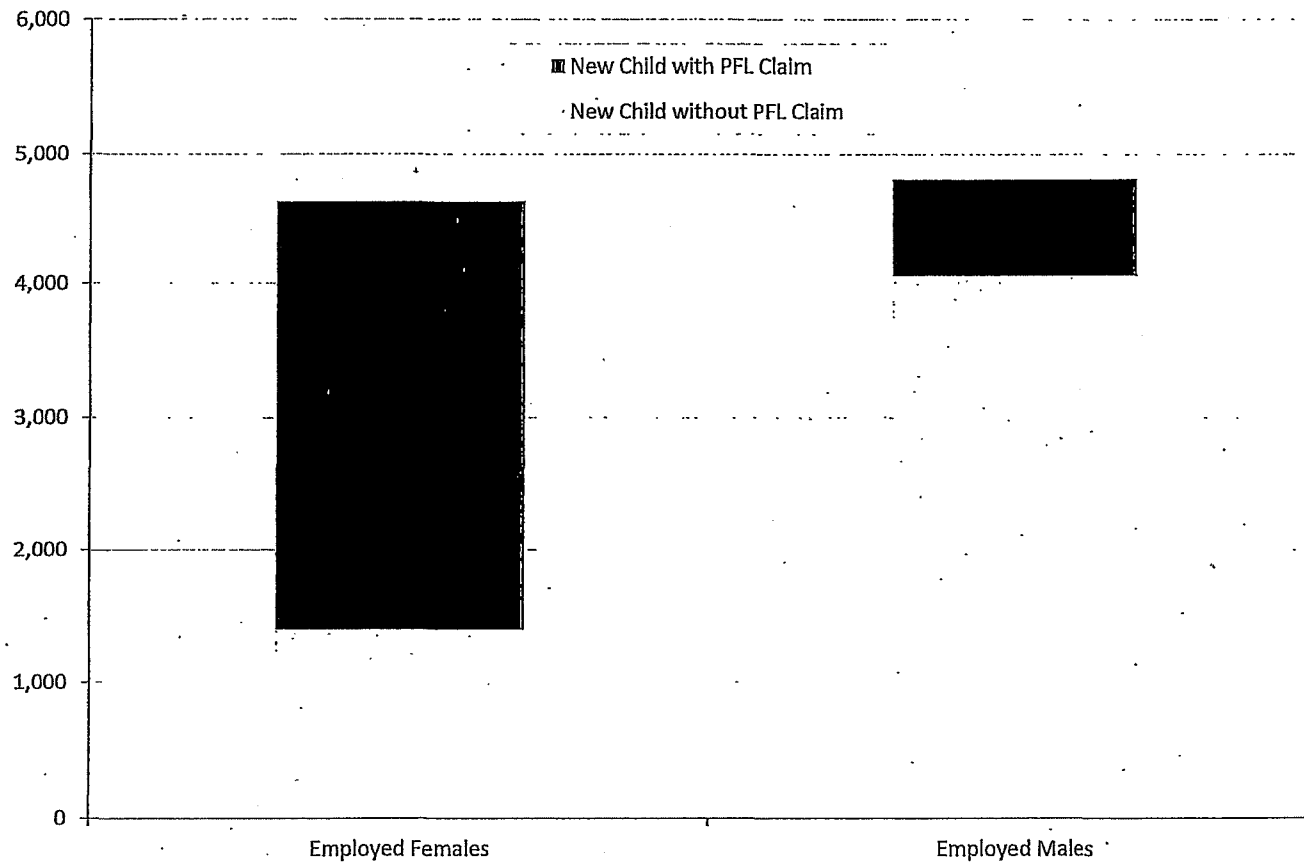


The State Employment Development Department, which manages the PFL program, has provided us with data on the number and size of PFL claims, specifically for bonding with a new child, for males and females who live in San Francisco.

This suggests that women in San Francisco, who are already more likely than men to drop out of the labor force after having a child, are also more likely to take a paid leave of absence.

Estimates of the Uptake of PFL Suggest Females with a New Child Are Far More Likely to Use PFL than Males with a New Child

PFL Usage by Employed Males and Females With New Children
in San Francisco (Average 2011-14)



By comparing the PFL claims for bonding with a new child, with the number of employed residents that have new children, we can estimate the utilization or "uptake" of PFL by both males and females in the city.

The data suggests that while approximately 80% of San Francisco females with a new child claim PFL for bonding with that child, only 26% of eligible males in the city do so.

Research has suggested that this gender difference in early child care contributes to both inequities in future earnings of men and women. It also establishes patterns of child attachment and domestic roles within the household.

Economic Impact Factors

- The proposed legislation is projected to affect the City's economy in three primary ways:
 1. By increasing the compensation associated with a PFL claim, it would increase the household spending of every covered employee who makes a claim. Additionally, by increasing the economic incentive to make a claim, it would likely increase the number of claims by covered employees. To the extent that covered employees live in San Francisco, most of their additional spending would be at local retailers and service providers, creating positive multiplier effects in the city's economy. Additionally, if the proposed legislation increases the number of PFL claims made by San Francisco residents, which seems likely given the greater financial incentive, it will increase the local economy's draw down from the State SDI pool.
 2. It would increase the compensation costs of covered employers, who currently pay nothing for PFL claims, but would pay 45% of the cost of each claim under the proposed legislation. This would effectively increase the cost of hiring, slow job creation and replacement, and create negative multiplier effects in the local economy.
 3. Research from Scandinavian countries which have had longer experience with PFL suggests that increased parental, and especially paternal, bonding leads to better educational outcomes for children, and higher long-term earnings for women, who are less likely to interrupt their careers to care for children. However, given California's shorter experience with PFL, we lack the data to quantify this benefit.
- The remainder of the report focuses on quantifying the net economic impact associated with the first two factors discussed.

Economic Impact Assessment: Projected Increase in Average Claim

- As stated on the previous page, the increased household income and spending that would be caused by the proposed legislation is partly a product of the higher compensation that would be paid for each claim (from 55% to 100% of employee wages), and partly a product of a higher number of claims. While the second issue cannot be estimated with any confidence, and is discussed in more detail on the next page, the first issue is relatively easy to estimate based on data provided by EDD.
- Over the 2011-15 period, the average PFL claim for new child bonding by a San Francisco resident involved 5.5 weeks of leave, and paid the employee \$743 per week. As this represents approximately 55% of wages, raising the compensation to 100% of wages would pay the employee \$1,351 per week. Employees would therefore gain \$608 per week as a result of the legislation, or \$3,344 additional for a claim of average length.

Economic Impact Assessment: Potential Increase in PFL Program Uptake

- California's PFL program, which went into effect in 2004, has always offered the same 55% of weekly wages to claimant as a benefit. No other local government in the State has done what San Francisco is proposing to do in raising the benefit to above 55% of wages.
- For these reasons, while we can estimate the program uptake given the current benefit, we lack the data to meaningfully estimate how many more new San Francisco parents would make a PFL claim if the benefit was increased. Instead, we illustrate the economic impacts of a range of potential changes in program utilization.
- For example, based on the average number of claims over the 2011-14 period, if the number of claims does not rise, household incomes will rise by \$9 million annually simply as a result of increasing the benefit from 55% to 100% of wages.
- If uptake increases to the point that the claims by men become half as frequent (40% of men with new children) as female claims are now (80% of women with new children), then household incomes in San Francisco would rise by \$12 million annually.
- Finally, if uptake increases to the point that claims by men become as frequent as claims by women, then household incomes would rise by \$21 million annually.
- As an absolute maximum, if claims by both men and women rose to 100%, household incomes would rise by \$26.5 million.

Economic Impact Assessment: Higher Compensation Costs for Covered Employers

- The proposed legislation requires covered employers to pay the additional 45% of wages to PFL claimants who work in the city. Additionally, because only 55% of covered employees live within San Francisco, local businesses will also be providing PFL compensation to non-resident employees, whose spending provides negligible economic benefit to the city.
- If there is no increase in program uptake, all of the additional household income flowing to resident and non-resident claimants would come from covered employers, at an estimated cost of \$16 million annually.
- On the other hand, if the higher PFL benefits lead to more people using the program, as can be expected, then both the State SDI pool and local employers will contribute to the higher household income, with the State paying 55% of the cost of the new claims.
- Following the illustrative examples on the previous page, if male program uptake rose to 40%, the cost to covered employers would be approximately \$19 million, with an additional \$3 million coming to claimants from the State.
- If male program uptake rose to 80%, the cost to covered employers would be \$26 million annually, with an additional \$13 million coming to claimants from the State.
- The maximum possible uptake, 100% for both males and females, would increase compensation costs by \$32.3 million annually, with an additional \$20M from the State.

Summary of Potential Scenarios: Benefits and Costs

Scenario	Increase in income to San Francisco residents	Increase in State payments to San Francisco residents	Increase in compensation costs to San Francisco employers, for residents & non-residents
100% wage replacement but no change in program uptake	\$8.8M	\$0	\$15.8M
100% replacement; male uptake rises to 40%; no change in female uptake	\$11.9M	\$3.3M	\$18.5M
100% replacement; male uptake rises to 80%; no change in female uptake	\$20.7M	\$12.5M	\$26.0M
100% replacement; both male and female uptake rise to 100%	\$26.5M	\$20.2M	\$32.3M

Potential Net Economic Impacts

- The Office of Economic Analysis uses the REMI model, an econometric model of the city's economy, to estimate the net economic impact of policy changes.
- In each scenario modeled, the net economic impacts were negative:
 - If there are no changes in program uptake, the proposed legislation would reduce the city's GDP by \$42 million and 250 jobs.
 - If uptake increases to the point that men are half as likely to claim PFL as women, the economy's GDP would be reduced by \$47 million and 290 jobs.
 - If uptake increases to the point that men are as likely to claim PFL as women, GDP would be \$65 million smaller, and the city would have 390 fewer jobs.
 - The maximum potential uptake of 100% for both men and women would reduce the city's GDP by \$79 million and employment by 480 jobs.
 - Each of these impact is small in the context of the city's \$140 billion economy, which has added an average of 17,000 new jobs a year since 2004.
- There appear to be two primary reasons for negative impact.
 1. The flow of funds out of the local economy, in the form of compensation to non-resident employees by local businesses is greater, in every scenario, than the flow of funds to into the local economy in the form of higher State payments to resident PFL claimants.
 2. Even on a dollar-per-dollar basis, the negative multiplier effects of raising compensation costs for local businesses outweighs the positive multiplier effects of raising household income and consumer spending.

Conclusions and Recommendations

- Although this analysis does not consider the potential long-term benefits of expanding PFL, and does not reach a quantitative estimate of the likely economic impact, based on a range of likely scenarios we project the net impact on the city's economy will be negative.
- As was the case with other City labor legislation, such as the recent minimum wage increase, the projected negative impact would likely be small in the context of the overall city's economy and its long-term growth trend.
- The legislation enhances the notification requirements that covered employers must make to their employees regarding paid family leave. Some research has suggested that PFL claims are relatively low, across the state, because notification requirements are weak and many workers are unaware of their PFL benefits.
- The City may be able to minimize the negative economic impact by establishing a more gradual move up to 100% wage replacement, and monitoring the increase in program uptake as the size of the benefit increases.
- If PFL claims increase substantially with less than a 100% wage replacement, then the benefit of additional State dollars flowing into the city could outweigh the (reduced) cost to local businesses, and the net economic impact might be made positive.

Staff Contacts

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Asim Khan, Ph.D., Principal Economist

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Brief Health Impact Report: Paid Parental Leave Policy

Presented for: Budget and Finance Sub-Committee, Board of Supervisors, City and County of San Francisco
City Hall, Legislative Chamber, March 23, 2016

File # 160065
Received in
Committee
3/23/16
J.W.

Health Impact on San Francisco:

**Differences in Births, Work & Social Conditions, and Health Outcomes
by Health Insurance Status, in San Francisco**

	"Public" Insurance	"Private" Insurance	Total SF
# of Births to SF residents (Total includes "other")	2396	6431	9102
Pregnancy Work Conditions			
% worked during pregnancy	51%	86%	76%
% who worked during month of delivery	42%	62%	58%
Social Conditions			
Woman or partner lost job	29.5%	9.3%	15%
Had no practical or emotional support	9.2%	3.1%	5.6%
Missed postpartum medical visit	18.3%	3.8%	9.0%
Health Outcomes			
Prior Low Birth Weight or Preterm	11.5%	3.5%	6.2%
Postpartum Depressive Symptoms	24.9%	6.1%	11.7%

Data from: SFDPH & CDPH, Data from Birth Master Files, 2012. CDPH & UCSF, Data from MIHA Survey, 2010 – 2012

The majority of women, including those with public health insurance like Medi-Cal, are working through their pregnancy and many work up into the delivery month. SF women with public insurance have significantly less job control, social support, and opportunities to access health services. Consequently, pregnancy and maternal health outcomes are significantly worse for the large population of women with less job security.

Employment of Mothers in SF during Postpartum Period from American Census Survey 2010 – 2014.

- 63% of women report employment in the 12 months after their first child is born
- Few postpartum employed women report employment leave or reduced hours
 - Only 13% report leave from their job
 - Only 13% report less than 40hrs work per week
- Among first-time mothers (29-44yo), the proportion of unemployment within 12 months
 - increases significantly in both publicly (15% → 28%) and privately insured (4% → 13%)
- Among first-time mothers (29-44yo), the proportion who are "out-of-labor force" within 12 months
 - decreases (36% → 23%) among publicly insured
 - nearly doubles (12% → 19%) among private insurance

The majority of women in San Francisco are employed during the first year of motherhood, but only 13% report leave from their job and 13% report a reduced work schedule. Publicly insured pregnant women were more likely to become "unemployed" and privately-insured women more likely to become "out of the labor force." This local data suggests the importance of income security, job security safeguards, and the disparities in job control among mothers in San Francisco.

Health Impacts of Paid Parental Leave on Women and Children:

Based upon systematic review of research studies published in peer-reviewed health journals by San Francisco Department of Public Health, UC Berkeley School of Public Health, and San Jose State University, the following are the demonstrated health benefits from parental leave.

Pregnancies and Birth Outcomes	Maternal Health	Infant & Child Health
<i>From pregnancy leave</i> Preeclampsia ↓ Preterm birth ↓ Low-birth rate ↓	Physical health of women ↑ Mental health of women ↑ ↓ Depression rates ↓ Parenting stress ↓ Maternal anxiety	Breastfeeding ↑ Immunizations ↑ Infant mortality ↓ Maternal – Infant Interactions ↑ Child behavioral problems ↓ Child cognitive test scores ↑ Child reading and math scores ↑

Health Benefits Brief Summary:

- Expansive breadth of published research affirms many positive health benefits of paid parental leave.
- There was no evidence of health problems caused by policies that offered paid parental leave.
- Data from population-wide perspective may not apply to every individual case.
- “Expanded Health Impact Reports” and Individual research articles available, by request.

Excerpted from Professor Maya Rossin-Slater in the Journal of Health Economics (2011):

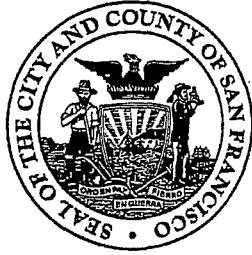
“Children of poor, single and low-educated working mothers are a key vulnerable population that was not reached by the FMLA. However, these children and their families may benefit the most from policies that enable their mothers to take time off work during their early life without substantial losses in income. These mothers are often forced to work immediately after childbirth, and their newborn children are then placed in low-quality childcare. Their children already stand at a disadvantage for their later-life opportunities as they are born into low socio-economic status families, and lack of maternal time during their first few months of life may exacerbate this disadvantage. Thus, if policymakers are concerned with decreasing disparities in child health and well-being between children of different backgrounds, they need to consider the fact that an unpaid maternity leave policy may actually increase disparities because it only benefits those mothers who can afford to take it. On the other hand, paid maternity leave policies (such as those in California and New Jersey) may allow poor, single and working mothers to care for their newborn children at home, to seek prompt medical care when needed, and to develop a closer bond with them, thereby saving their lives and improving their life chances from the start.”

- Rossin, M. *The effects of maternity leave on children's birth and infant health outcomes in the United States. Journal of Health Economics 30 (2011)*

Staff Contacts:

Curtis Chan, MD, MPH Medical Director of Maternal, Child & Adolescent Health Deputy Health Officer San Francisco Department of Public Health (415)575-5672, Curtis.Chan@sfdph.org	Jodi Stookey, PhD Sr Epidemiologist Maternal, Child & Adolescent Health San Francisco Department of Public Health (415) 575-5651, Jodi.stookey@sfdph.org
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BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

FROM: Linda Wong, Assistant Clerk
Board of Supervisors

DATE: March 2, 2016

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Budget and Finance Committee

The Board of Supervisors' Budget and Finance Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 160065

Ordinance amending the Police Code to require employers to provide supplemental compensation to employees who are receiving State Paid Family Leave for purposes of bonding with a new child.

Please return this cover sheet with the Commission's response to Linda Wong, Assistant Clerk, Budget and Finance Committee, at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102:

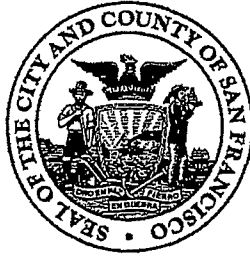
RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

No Comment

Recommendation Attached

Chairperson, Small Business Commission

President, District 5
BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7630
Fax No. 554-7634
TDD/TTY No. 544-5227

BDS-11, PSNS, B+F
COB, Leg Dep., Dep City
Atty
Mayor.

London Breed

PRESIDENTIAL ACTION

Date: February 9th, 2016
To: Angela Calvillo, Clerk of the Board of Supervisors

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2016 FEB -9 PM 12:30

Madam Clerk,
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. _____
(Primary Sponsor)

Title.

Transferring (Board Rule No 3.3)

File No. 160065 Wiener
(Primary Sponsor)

Title. Police Code - Paid Parental Leave for Bonding with New Child

From: Public Safety & Neighborhood Services Committee

To: Budget & Finance Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

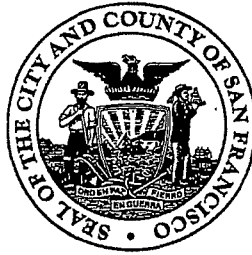
Supervisor _____

Replacing Supervisor _____

For: _____ Meeting
(Date) (Committee)

London Breed, President
307 Board of Supervisors

BOARD of SUPERVISORS



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San Francisco 94102-4689
Tel. No. 554-5184
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MEMORANDUM

TO: Adele Carpenter, Director
Youth Commission

FROM: Angela Calvillo, Clerk of the Board

Vista Young for

DATE: February 12, 2016

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS

The Board of Supervisors has received the following proposed legislation which is being referred to the Youth Commission as per Charter Section 4.124 for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 160065

Ordinance amending the Police Code to require employers to provide supplemental compensation to employees who are receiving State Paid Family Leave for purposes of bonding with a new child.

Please return this cover sheet with the Commission's response to Linda Wong, Assistant Clerk, Budget and Finance Committee.

RESPONSE FROM YOUTH COMMISSION Date: _____

No Comment

Recommendation Attached

Chairperson, Youth Commission

Lew, Lisa (BOS)

o: Guzman, Monica (BOS)
Cc: Young, Victor; Wong, Linda (BOS)
Subject: RE: BOS Referral: File No. 160065 - Police Code - Paid Parental Leave for Bonding with New Child

Hello,

The following request for proposed legislation is being referred to the Youth Commission as per Charter Section 4.124 for comment and recommendation.

File No. 160065 Police Code - Paid Parental Leave for Bonding with New Child


Ordinance amending the Police Code to require employers to provide supplemental compensation to employees who are receiving State Paid Family Leave for purposes of bonding with a new child.

The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

If you have any questions or concerns please call Linda Wong at (415) 554-7719 or email linda.wong@sfgov.org.

Sincerely,

Lisa Lew
Board of Supervisors Clerk's Office
San Francisco City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
P 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org

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Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.

From: Young, Victor
Sent: Friday, February 12, 2016 2:58 PM
To: Lew, Lisa (BOS) <lisa.lew@sfgov.org>
Subject: FW: Request for Referral - BOS File No. 160065

Victor Young 415-554-7724

Administrator, Sunshine Ordinance Task Force

From: Guzman, Monica (BOS)
Sent: Friday, February 12, 2016 2:08 PM
To: Young, Victor <victor.young@sfgov.org>
Subject: FW: Request for Referral - BOS File No. 160065

Hi Victor,

I am writing to request referral of BOS File No. 160065, Administrative Code- Ordinance amending the Police Code to require employers to provide supplemental compensation to employees who are receiving State Paid Family Leave for purposes of bonding with a new child. This item will be heard at the Youth Commission meeting on Tuesday February 16th and a referral response will be sent to Linda Wong by end of day Thursday February 18th.

Thank you,

Monica Guzman
Coordinator of Youth Development and Administration
San Francisco Youth Commission
Office: (415) 554-6464 | Fax: (415) 554-6140

Visit the official [Youth Commission site](#) and [YC facebook page](#).


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From: Major, Erica (BOS)
Sent: Friday, February 12, 2016 2:05 PM
To: Guzman, Monica (BOS) <Monica.Guzman@sfgov.org>; Wong, Linda (BOS) <linda.wong@sfgov.org>
Subject: RE: Request for Referral - BOS File No. 160065

Hi Monica,

This item was transferred to Budget and Finance, looping Linda in.

Erica Major
Assistant Committee Clerk
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244
San Francisco, CA 94102
Phone: (415) 554-4441 | Fax: (415) 554-5163
Erica.Major@sfgov.org | www.sfbos.org

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From: Guzman, Monica (BOS)
Sent: Friday, February 12, 2016 1:54 PM
To: Major, Erica (BOS) <erica.major@sfgov.org>
Subject: Request for Referral - BOS File No. 160065

Good Afternoon Erica,

I am writing to request referral of BOS File No. 160065, Administrative Code- Ordinance amending the Police Code to require employers to provide supplemental compensation to employees who are receiving State Paid Family Leave for purposes of bonding with a new child. This item will be heard at the Youth Commission meeting on Tuesday February 16th and a referral response will be sent to you by end of day Thursday February 18th.

Thank you,

Monica Guzman
Coordinator of Youth Development and Administration
San Francisco Youth Commission
Office: (415) 554-6464 | Fax: (415) 554-6140

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STATE OFFICE

3095 Beacon Boulevard
West Sacramento, CA 95691
(916) 371-2422 / Fax (916) 371-2352
E-mail: agcsac@agc-ca.org

REGIONAL OFFICES

Northern California
1390 Willow Pass Road, Suite 1030
Concord, CA 94520
(925) 827-2422 / Fax (925) 827-4042
E-mail: agcnorth@agc-ca.org

Southern California
1906 W. Garvey Avenue South, Suite 100
West Covina, CA 91790
(626) 608-5800 / Fax (626) 608-5810
E-mail: agcsouth@agc-ca.org

DISTRICTS

Eureka and Shasta
(916) 371-2422 / Fax (916) 371-2352
E-mail: agcsac@agc-ca.org

Delta-Sierra
(916) 371-2422 / Fax (916) 371-2352
E-mail: agcsac@agc-ca.org

North Bay
(925) 827-2422 / Fax (925) 827-4042
E-mail: agcnorth@agc-ca.org

San Francisco Bay Area
(925) 827-2422 / Fax (925) 827-4042
E-mail: agcnorth@agc-ca.org

Santa Clara
(925) 827-2422 / Fax (925) 827-4042
E-mail: agcnorth@agc-ca.org

Monterey Bay
(925) 827-2422 / Fax (925) 827-4042
E-mail: agcnorth@agc-ca.org

San Joaquin
(559) 252-6262 / Fax (559) 252-6294
E-mail: agcfresno@agc-ca.org

Tri-Counties
(805) 388-7330 / Fax (805) 388-7329
E-mail: agctrico@agc-ca.org

Los Angeles
(626) 608-5800 / Fax (626) 608-5810
E-mail: agcsouth@agc-ca.org

Orange County
(949) 453-1480 / Fax (949) 453-1580
E-mail: agcsbo@agc-ca.org

Riverside/San Bernardino
(909) 885-7519 / Fax (909) 381-4047
E-mail: agcsbo@agc-ca.org



VIA EMAIL

March 15, 2016

Mr. Scott Wiener, Supervisor
City of San Francisco
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

RE: PROPOSED FAMILY LEAVE POLICY ORDINANCE

Dear Mr. Wiener:

On March 16, you are scheduled to consider an Ordinance amending the Police Code to require employers to provide supplemental compensation to employees who are receiving State Paid Family Leave for purposes of bonding with a new child.

AGC represents the largest multi-employer bargaining unit in the United States; representing over 500 contractors statewide which produce in excess of 35 million union man-hours per year in the State. Please note that our organization negotiates collective bargaining agreements with the Carpenters, Cement Masons, Iron Workers, Laborers, Pile Drivers, Operating Engineers, and Teamsters for numerous contractors working in the City and County of San Francisco on behalf of our employer membership. Each labor agreement is negotiated and developed in an attempt to accurately reflect the local market conditions of the construction industry.

The above referenced collective bargaining agreements are negotiated with terms and conditions reflecting the unique nature and needs of the construction industry; changing the terms of these agreements will have a direct cost impact not only on the employers but also on the cost of City funded projects. It will disrupt the ability of contractors to staff projects according to the terms of their agreements.

AGC of California requests that the Board of Supervisors specifically exempt employees covered under a collective bargaining agreement. This would be similar to the application of the Sick Leave policy and would be consistent with and pursuant to provisions of Labor Code Section 514.

Thank you for your consideration of this request.

Sincerely,

Claire Koenig

Claire Koenig
Regional Manager
North Bay, San Francisco Bay Area and Santa Clara Districts
ASSOCIATED GENERAL CONTRACTORS OF CALIFORNIA, INC.

cc: Board of Supervisors, City and County of San Francisco
Clerk of the Board
Tom Holsman, CEO, AGC of California
Mark Reynosa, Director, Industrial Relations, AGC of California
Al Aragon, Manager, Industrial Relations - North, AGC of California

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San Francisco 94102-4689
Tel. No. 554-5184
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TDD/TTY No. 554-5227

MEMORANDUM

TO: Greg Suhr, Chief, Police Department
Micki Callahan, Director, Department of Human Resources
Laurel Kloomok, Executive Director, Children and Families Commission
Maria Su, Director, Department of Children, Youth and Their Families
Catherine Dodd, Director, Health Service System
Trent Rhorer, Executive Director, Human Services Agency
Donna Levitt, Division Manager, Office of Labor Standards Enforcement

FROM: Erica Major, Assistant Committee Clerk, Public Safety and
Neighborhood Services Committee, Board of Supervisors

DATE: February 1, 2016

SUBJECT: LEGISLATION INTRODUCED.

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following proposed legislation, introduced by Supervisor Wiener on January 26, 2016:

File No. 160065

Ordinance amending the Police Code to require employers to provide supplemental compensation to employees who are receiving State Paid Family Leave for purposes of bonding with a new child.

If you have any 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.

c:
Christine Fountain, Police Department
Sergeant Rachael Kilshaw
Susan Gard, Department of Human Resources

Major, Erica (BOS)

From: Major, Erica (BOS)
Sent: Monday, February 01, 2016 4:13 PM
To: Suhr, Greg (POL); Callahan, Micki (HRD); Kloomok, Laurel (CFC) (CHF) (CFC); Su, Maria (CHF); Dodd, Catherine (HSS); Rhorer, Trent (HSA) (DSS); Levitt, Donna (ADM)
Cc: Fountain, Christine (POL); Kilshaw, Rachael (POL); Gard, Susan (HRD)
Subject: REFERRAL FYI (160065) Police Code - Paid Parental Leave for Bonding with New Child
Attachments: 160065 FYI.pdf


Greetings:

This matter is being forwarded to your department for informational purposes. If you have any 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.

Thank you for your attention.

Best,

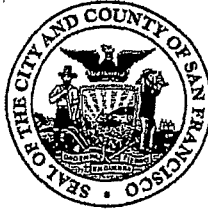
Erica Major
Assistant Committee Clerk
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244
San Francisco, CA 94102
Phone: (415) 554-4441 | Fax: (415) 554-5163
Erica.Major@sfgov.org | www.sfbos.org

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Youth Commission
City Hall ~ Room 345
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4532



1516-RBM-20

(415) 554-6446
(415) 554-6140 FAX
www.sfgov.org/youth_commission

YOUTH COMMISSION
MEMORANDUM

TO: Linda Wong, Committee Clerk, Budget & Finance Committee
FROM: Youth Commission
DATE: Thursday, February 18, 2016
RE: Referral response to BOS Files No. 160065

At our **Tuesday, February 16, 2016** meeting, the Youth Commission voted to unanimously support the following motion:

To support BOS File No. 160065—Ordinance amending the Police Code to require employers to provide supplemental compensation to employees who are receiving State Paid Family Leave for purposes of bonding with a new child.

Youth Commissioners thank the Board of Supervisors for their attention to issue. If you have any questions, please contact our office at (415) 554-6446, or your Youth Commissioner.

A handwritten signature in cursive script that reads "Luis Avalos-Nunez".

Chair, Luis Avalos-Nunez
Adopted on February 16, 2016
2015-2016 San Francisco Youth Commission

Wong, Linda (BOS)

From: Carpenter, Adele
Sent: Thursday, February 18, 2016 1:49 PM
To: Wong, Linda (BOS)
Cc: Somera, Alisa (BOS)
Subject: YC Referral Responses 151184; 160065; 160075; 160076
Attachments: 1516-RBM-15.pdf; 1516-RBM-16.pdf; 1516-RBM-17.pdf; 1516-RBM-20.pdf

Hi, Linda,

I hope this finds you well. I wanted to send along the YC's referral responses from their Feb. 16th meeting to the following items up in Budget and Finance committee:

151184
160065
160075
160076

Thanks very much,

Adele Failes-Carpenter
Director
San Francisco Youth Commission
Office: (415) 554-7112 | Fax: (415) 554-6140

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Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. 160065 []
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):

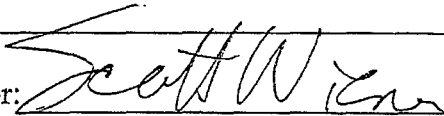
Supervisor Wiener

Subject:

Police Code - Paid Parental Leave for Bonding With New Child

The text is listed below or attached:

Ordinance amending the Police Code to require employers to provide supplemental compensation to employees who are receiving State Paid Family Leave for purposes of bonding with a new child.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only: