



By Christina Harris Schwinn

Mandatory Paid Leave Benefits May Be On The Horizon For Private Sector Employers in Florida

Currently, private sector employers in the State of Florida have no obligation to offer paid leave benefits. The obligation to provide paid sick or vacation leave benefits to employees in the State of Florida arises either under a collective bargaining agreement, pursuant to an employee handbook or an employment contract. Absent a collective bargaining agreement, provisions in an employee handbook¹ or an employment contract, an employer is not obligated to provide paid leave benefits, even if the employer is obligated to provide leave under the federal Family and Medical Leave Act or Florida's Domestic Violence Leave Act, for example.

Two pieces of legislation pending in Congress would change the status quo and impose an obligation on private sector employers in the State of Florida (as well as in other states) to provide paid sick pay and vacation leave benefits to employees.

Vacation Pay

The Paid Vacation Act of 2009 was introduced by Florida Congressman Alan

Grayson, who is a representative from Florida's Eighth District which includes Orlando. If passed, the law would initially apply to employers employing more than 100 employees in the State of Florida and then within three years of passage of the act, the coverage threshold would be reduced to 50 or more employees from 100. If passed, the law would require that covered employers² provide 1 week of paid vacation after 1 year of service. Then after 3 years of service, an employer would be required to provide 2 weeks of paid vacation per year.

Sick Leave Pay

The Healthy American Families Act was first introduced by Senator Edward Kennedy in 2007. The legislation has been reintroduced. If passed, the legislation would apply to employers employing more than 15 employees. Further, it would require covered employers to provide 7 paid days of sick leave per year and employees would be eligible to first take sick leave after completing 60 days of employment. Sick leave would accrue at the rate of 1 hour for every respective thirty-hour period worked. Employees would be eligible to take sick leave to care for themselves, a child, a parent, a spouse or "any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship."

Many business groups and leaders have come out against the legislation citing concerns that it would increase labor costs, would adversely affect employment by stifling businesses and would result in the loss of jobs. Just as there are opponents, there are proponents of the respective paid leave bills who contend that paid leave laws promote a better balance between work and home life and encourage employees to stay home and not report to work when they are ill.

Whether either of these pieces of legislation, in their current form, will pass in 2009 remains to be seen. Stay tuned.

A note to the reader: This article is intended to provide general information and is not intended to be a substitute for

competent legal advice.

Questions regarding the content of this column or past columns may be e-mailed to Christina Harris Schwinn at christinaschwinn@paveselaw.com. To view past columns written by Ms. Schwinn please visit the firm's website at www.paveselaw.com. Ms. Schwinn is an experienced employment law attorney and a partner with the Paveselaw Law Firm, 1833 Hendry Street, Fort Myers, FL 33901; Telephone: (239) 336-6228; Telecopier: (239) 332-2243.

¹For purposes of this article, the reference to employee handbook is being used generically and includes policies and procedures on this subject even if they are not actually contained in a bound employee handbook or in writing.

²A covered employer is an employer that employs the requisite number of employees provided for in the law.

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BUILDING REVIEW

Lee Building Industry Association www.bia.net July 2009

PUBLISHED BY

Lee Building Industry Association
Michael Reitmann, Executive Vice President
4210 Metro Parkway, Suite 100, Fort Myers, FL 33916
239.936.5525 ph • 239.936.5839 fax • www.bia.net
Editor & Advertising Sales: Maria Johnson

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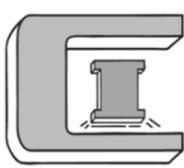
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