



June 1, 2016

Mayor Chris Coleman
Saint Paul City Councilmembers
City of Saint Paul
15 Kellogg Boulevard West
Saint Paul, MN 55102

RE: Proposed Earned Sick and Safe Time (ESST) Ordinance

Dear Mayor Coleman and Members of the Saint Paul City Council:

We appreciate being selected as a member of the ESST Task Force and have fully participated in the process. While recognizing that we offered input on all aspects of the proposed recommendations, please understand that we remain very concerned over the impact of the proposed ordinance on employers of all sizes located in the City of Saint Paul.

This letter outlines our main concerns, and suggests a workable approach to encourage paid sick and safe leave.

First, all of us agree that our employees are our most valuable asset and we believe in treating them well. But good public policy starts with good data. This is particularly important when the consequences of this proposed ordinance have direct and immediate financial impact to every employer in the City, whether they presently offer sick and safe time (also known as Paid Time Off – PTO) or not. From recordkeeping requirements to enforcement, from exceptions analysis to the new risk of litigation, the proposed ordinance is filled with requirements that have an immediate and compelling financial impact to employers. But, to date, we are not convinced that data supports this drastic change that employers are being asked to cover in its entirety.

For example, the most basic assumption as to the number of individuals (full-time or part-time) without sick or safe time is based on an estimate from the Institute for Women's Policy Research, an advocacy organization in favor of mandatory sick and safe time. Moreover their estimate is based on a methodology that the National Health Interview Survey (NHIS), operated by the Centers for Disease Control and Prevention (CDC), explicitly says will result in inaccurate data. Specifically, the CDC sample design for the NHIS says:

“As with the previous sample design [*referring to prior years*], the NHIS Sample is drawn from each State and the District of Columbia. Although the NHIS sample is too small to provide State level data with acceptable precision for each State, selected estimates for most states may be obtained by combining data years.”

In their analysis there is no estimate for any city. If the CDC acknowledges that, at best, estimates may be made at the state level without “acceptable precision,” on what basis is the city estimating the number of individuals not covered within the City of Saint Paul?

We do not dispute that public health is important in creating a vibrant economy. However, a prior analysis of Minnesota Department of Health regarding reported incidents reveals that the proverbial potato salad left in the sun is a far more potent vector for employee and guest illness, not the sickness of any employee reporting to work. Indeed, as you are well aware, food establishment employers are required by Minnesota state law to send sick employees home and to document that action. We have been unable to find any data at the national level that reveals that employees in jurisdictions implementing safe and sick time are now healthier and that the transmission of illnesses between employees or from employees to other individuals has lessened. To suggest that this is a public health issue, with no data to substantiate either the positive or negative impacts of a proposed ordinance, again flies in the face of good public policy.

Employers face challenges each and every day. The competitive landscape has increased and the speed of change, coupled with national demographic workforce trends, have put employers squarely on edge when it comes to competing for quality talent at all levels of an organization. The employee/employer relationship is driven by simple economics, and employers who value their staff, as the overwhelming majority do, will find new ways to reward employees, including offering equitable compensation which includes PTO.

Any attempt to dictate formulaic approaches, as with a one-size-fits-all mandate, will have unintended consequences. From restaurants eliminating wait staff, replacing them with a mobile phone or an iPad (already in use in multiple locations) to students covered by a work/study program who won't have sick and safe time (due to Federal law requirements) while the student working next to them, not covered by such a program, will; the outcome of this ordinance will be to further fragment the workforce, to encourage businesses to reduce their capital and workforce costs to absorb this expense, and potentially, to discourage new employers from locating within the City boundaries. For the employees who are covered, and for whom this is a new benefit, they will undoubtedly experience the positive impact of a new benefit. For those laid off as a result of an employer downsizing, or who are replaced by a smart mobile device, the outcomes will be exceedingly negative.

Suggested Approach

To mitigate the possible negative outcomes, we strongly encourage the City to adopt the following approach:

- 1) That the proposed ordinance continues to emphasize that sick and safe time is a benefit that the City desires for every employee, whether full- or part-time.
- 2) That the City encourages and rewards employers located in the City of Saint Paul who implement programs that provide sick and safe time to their employees in a manner consistent with the overall suggested guidelines of the ESST Task Force.
- 3) That those employers be recognized with:

- a. Registration on a City provided web site as an employer of record complying with the city's desired sick and safe time objectives.
 - b. Ability to use a City designated sick and safe time logo recognizing their compliance with sick and safe time objectives in their hiring practices, on their web site, and in any other manner they desire necessary to recruit new employees and promote their organization throughout Saint Paul.
- 4) That employers participating in this program work with HREEO to document best practices as to their implementation of sick and safe time. HREEO will utilize this information and promote best practices to all employers within the city.
- 5) That at the end of the first calendar year following adoption of this policy the City contemplate additional action based on the more complete knowledge of how many employers are participating in the program. Future policies can then target the employers who are not providing sick and safe time versus making employers who already provide this benefit pay for the implementation and enforcement of an ordinance for which they already comply.

The above approach will recognize the many distinctions in the employer community and provide the opportunity to emulate best practices within the community.

As employers we understand, accept, and are challenged each day to recruit, retain, develop, and enjoy the benefits of an engaged and enthusiastic workforce. We do not shirk from this challenge, but rather embrace it, seeking new ways to stay competitive but also attract and retain top talent. We believe strongly that sick and safe time is an employee benefit that employers and their employees should explore, consider, and ultimately implement as best they see fit, recognizing that employers have unique considerations that no overarching mandate can accommodate.

We hope that our participation in this process demonstrates the importance we believe the employer community brings to our community. The jobs we provide, the capital we spend, and the taxes we pay all further our shared objective of a vibrant and successful City of Saint Paul. Please allow us to continue making those investments, with your help, as we further our mutual goal of making Saint Paul the most livable City.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Matt Kramer', with a long, sweeping horizontal line extending to the right.

Matt Kramer
President