

California Extends 2022 COVID-19 Paid Leave Program, Adds Grants

On September 29, 2022, California Governor Newsom signed Assembly Bill No. 152 (“AB 152”) into law. AB 152 extends the 2022 COVID-19 Supplemental Paid Sick Leave provisions through December 31, 2022. In addition, AB 152 makes up to \$50,000 of grant money available to reimburse a qualifying small business or nonprofit organization for COVID-19 Supplemental Paid Sick Leave provided to employees.

■ Background

Beginning January 1, 2022, public and private employers that employ more than 25 employees are generally required to provide 2022 COVID-19 Supplemental Paid Sick Leave to employees working in California who are unable to work or telework for the employer because of specified reasons relating to COVID-19. Covered employees can generally take up to 80 hours of 2022 COVID-19 Supplemental Paid Sick Leave.

■ New Expiration Date

The 2022 COVID-19 Supplemental Paid Sick Leave provisions, as originally enacted into law, expired on September 30, 2022. AB 152 extends the 2022 COVID-19 Supplemental Paid Sick Leave provisions for an additional three months. The new expiration date is December 31, 2022.

AB 152 does not provide employees with any new allotment of paid leave; it merely gives employees more time to use any unused hours of 2022 COVID-19 Supplemental Paid Sick Leave.

The California Labor Commissioner has published a model notice that contains the new expiration date (linked below), which employers must post in a conspicuous location in the workplace. If an employer’s covered employees do not frequent a workplace, the notice requirement may be satisfied by delivery through electronic means, such as by e-mail. The model notice can be found as follows:

- English – <https://www.dir.ca.gov/dlse/COVID19resources/2022-COVID-19-SPSL-Poster.pdf>
- Spanish – <https://www.dir.ca.gov/dlse/COVID19resources/Spanish/2022-COVID-19-SPSL-Poster.pdf>

■ Administrative Changes

In addition to the new expiration date, AB 152 makes several changes to the administrative requirements for 2022 COVID-19 Supplemental Paid Sick Leave.

According to the original provisions (which continue to apply under AB 152), a covered employee qualifies for 2022 COVID-19 Supplemental Paid Sick Leave when the employee is unable to work or telework because of a positive COVID-19 diagnostic test. When that happens, the employer can require the employee to submit to a follow-up COVID-19 diagnostic test (paid for by the employer) on or after the fifth day after the original positive test.

AB 152 adds that if the follow-up test is positive, the employer may require the employee to submit to another COVID-19 diagnostic test (paid for by the employer) within no less than 24 hours. The employer has no obligation to provide 2022 COVID-19 Supplemental Paid Sick Leave to an employee who refuses to submit to these tests.

■ Availability of Grant Money

Included within AB 152 is the California Small Business and Nonprofit COVID-19 Supplemental Paid Sick Leave Relief Grant Program, which can provide up to \$50,000 of grant money to a qualifying small business or nonprofit organization to reimburse it for COVID-19 Supplemental Paid Sick Leave provided to employees between January 1, 2022 and December 31, 2022.

To qualify for grant money under this program, a small business or nonprofit organization must meet several requirements, including the following:

- It has 26 to 49 employees.
- It began operating before June 1, 2021, is currently active and operating, and has a physical presence in California.
- For a small business, it is organized as a “C” corporation, an “S” corporation, a cooperative, a limited liability company, a partnership, or a limited partnership.
- For a nonprofit organization, it is a registered 501(c)(3) (i.e., a charitable organization), 501(c)(6) (i.e., a business league, chamber of commerce, or trade association), or 501(c)(19) (i.e., a veterans’ organization).

Certain businesses and organizations are ineligible to receive grant money under the program, including government entities (other than Native American tribes); businesses primarily engaged in political or lobbying activities; passive businesses and investment companies; financial institutions and businesses primarily engaged in the business of lending (such as banks, finance companies, and factoring companies); businesses engaged in any activity that is unlawful under federal, state, or local law; and businesses that restrict patronage for any reason other than capacity.

To apply for grant money under the program, small businesses and nonprofit organizations should contact the California Office of Small Business Advocate (known as “CalOSBA”), which is part of the California Governor’s Office of Business and Economic Development (known as “GO-BIZ”). The program remains in effect until January 1, 2024.