



Important Notice Regarding Senate Bill 616

Effective January 1, 2024, [Senate Bill \(SB\) 616](#) expands the existing paid sick leave entitlements required under the California Healthy Workplaces, Healthy Families Act (HWHFA). The [City of San Diego Earned Sick Leave and Minimum Wage Ordinance](#) (ESLMWO) requires employers to provide paid sick leave to employees who work within the geographic boundaries of the City of San Diego. As amended, the HWHFA preempts certain provisions within local paid sick leave ordinances. The City's Office of Labor Standards & Enforcement (OLSE) is providing the following information for San Diego businesses and employers as a public service and general guidance, specifically addressing the pertinent differences in requirements between the California Labor Code and San Diego Municipal Code (SDMC).

LABOR CODE	SDMC	GUIDANCE
Section 246 (g)(1-2): Employers are required to reinstate paid sick leave hours if an employee is rehired within one year.	Section 39.0105(k): Employers are required to reinstate paid sick leave hours if an employee is rehired within six months.	Employers should follow state law, which is more generous to employees, and reinstate paid sick leave hours if an employee is rehired within one year.
Section 246 (h): Allows employers to lend employees paid sick leave hours in advance of accrual.	No similar provision.	Employers should follow state law in regard to lending paid sick leave hours.
Section 246 (i): Employers must provide an employee with written notice of the amount of paid sick leave available on an itemized wage statement or separate writing on the designated pay day with employee's payment of wages.	Section 39.0109: Requires employers to create contemporaneous written or electronic records documenting wages paid and accrual and use of paid sick leave and provide these records to employees on a regular basis. ESLMWO is silent regarding providing notice at the time of payment of wages.	Employers should follow state law in regard to the timing of notice to employees concerning the amount of paid sick leave available.
Section 246 (m): Employees must provide reasonable advance notification for the need to use paid sick leave if it is foreseeable and as soon as practicable if unforeseeable.	Section 39.0106(b): Employers may require advance notice of the need to use paid sick leave, not to exceed 7 days. When the need is unforeseeable, notice must be as soon as practicable.	Employers may follow state law regarding reasonable advance notice when use is foreseeable, but local law regarding not requiring employees to provide notice more than 7 days in advance.
Section 246 (n): Employer must provide payment for sick leave taken by an employee no later than the next regular payday.	No similar provision. ESLMWO is silent regarding when sick leave must be paid.	Employers should follow state law regarding the timing of payment for sick leave.

The information contained in this notice should not be construed or relied upon as legal advice or legal opinion. Please contact the City's OLSE Minimum Wage Program regarding specific questions or inquiries at (619) 615-1565 or SDMinWage@sandieg.gov. For more information on the HWHFA and changes to the Labor Code related to SB 616, please contact the California Labor Commissioner's Office or review the guidance posted on their [webpage](#).