

**OPTING OUT OF THE ILLINOIS PAID LEAVE FOR ALL WORKERS ACT.**

**WHEREAS**, the City of DeKalb (the "City") is a home rule unit of local government and may exercise any power and perform any function pertaining to its government and affairs pursuant to Article VII, Section 6, of the Illinois Constitution of 1970; and

**WHEREAS**, the Illinois Paid Leave For All Workers Act, 820 ILCS 192/1, *et seq.* (the "Act"), becomes effective on January 1, 2024; and

**WHEREAS**, the Act provides that the City shall give all of its employees one hour of paid leave per 40 hours of work up to 40 hours of paid leave per year for any reason and further comply with other onerous requirements; and

**WHEREAS**, the City currently provides paid leave benefits for its full-time employees as provided by the City's personnel manual and the City's collective bargaining agreements; and

**WHEREAS**, the Act does not specifically deny or limit the City's home rule powers and functions pertaining to the City's provision of paid leave for the City's employees; and

**WHEREAS**, section 15(p) of the Act provides that the Act shall not apply to any employer that is covered by a municipal ordinance that is in effect on January 1, 2024 that requires employers to give any form of paid leave to their employees; and

**WHEREAS**, section 15(n) of the Act provides that nothing in the Act shall be deemed to affect the validity or change the terms of bona fide collective bargaining agreements in effect on January 1, 2024; and

**WHEREAS**, the State Mandates Act, 30 ILCS 805/1, *et seq.*, provides that the failure of the State legislature to make necessary appropriations for a personnel mandate concerning or affecting local government salaries, wages, or fringe benefits shall relieve the local government of the obligation to implement any personnel mandate, unless the State legislature explicitly exempts the personnel mandate from the State Mandates Act; and

**WHEREAS**, the Act is a personnel mandate under the State Mandates Act that the State legislature neither made necessary appropriations for nor explicitly exempted from the State Mandates Act; and

**WHEREAS**, the City's corporate authorities find that the Act imposes undue financial costs and operational burdens on the City which impairs the City's ability to provide uninterrupted and cost-efficient services to its residents; and

**WHEREAS**, the City's corporate authorities find that it is in the City's best interests for the protection of the public health, morals and welfare to provide paid leave for the City's employees pursuant to the provisions of this ordinance; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEKALB, ILLINOIS:**

**SECTION 1:** The recitals to this ordinance are true, correct, material, adopted and incorporated as Section 1 to this ordinance.

**SECTION 2:** Pursuant to the City's home rule authority, the City's corporate authorities adopt, approve, and ratify the City's paid leave benefits policies for the City's employees as provided by the City's personnel manual and the City's collective bargaining agreements that are in effect on

January 1, 2024, which are adopted and incorporated by reference, and as may be amended from time to time, as the City's paid leave ordinance pertaining to the City's provision of paid leave for the City's employees including, but not limited to, the City's provision of paid leave for its employees and all related employer responsibilities. The City's corporate authorities further declare that to the extent this ordinance contains provisions that are contrary to or inconsistent with the Act, the provisions of this ordinance shall supersede the Act, and the City shall not be subject to the Act's provisions.

**SECTION 3:** Pursuant to 820 ILCS 192/15(p), the City's corporate authorities adopt, approve, and ratify the City's paid leave benefits policies for the City's employees as provided by the City's personnel manual and the City's collective bargaining agreements that are in effect on January 1, 2024, which are adopted and incorporated by reference, as the City's paid leave ordinance covering the City's employees.

**SECTION 4:** Pursuant to 30 ILCS 805/8(a), the City's corporate authorities find and declare that the Act is an unfunded and nonexempt personnel mandate that the City shall not implement and which the City shall be relieved of the obligation to implement.

**SECTION 5:** This ordinance and each of its terms shall be the effective legislative act of a home rule municipality without regard to whether such ordinance should (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law, or (b) legislate in a manner or regarding a matter not delegated to municipalities by state law. It is the intent of the City's corporate authorities that to the extent that the terms of this ordinance should be inconsistent with any non-preemptive state law, this ordinance shall supersede state law in that regard in the City's jurisdiction.

**SECTION 6:** If any section, paragraph, sentence, clause, or provision of this ordinance is held invalid, such invalidity shall be severable and not affect the remainder of this ordinance.

**SECTION 7:** This ordinance shall be in full force and effect from and after its passage and approval as provided by law.

**PASSED BY THE CITY COUNCIL** of the City of DeKalb, Illinois at a Regular meeting thereof held on the 11<sup>th</sup> day of December 2023 and approved by me as Mayor on the same day. Passed on First Reading by a 6-1-1 roll call vote. Aye: Zasada, Larson, Smith, Perkins, Walker, Barnes. Nay: McAdams. Absent: Verbic. Second Reading waived by a 6-0-1-1 roll call vote. Aye: Zasada, Larson, Smith, Perkins, Walker, Barnes. Nay: None. Absent: Verbic. Abstain: McAdams.



  
COHEN BARNES, Mayor

ATTEST:  
  
Ruth A. Scott, Executive Assistant

2022 Ill. Legis. Serv. P.A. 102-1143 (S.B. 208) (WEST)

ILLINOIS 2022 LEGISLATIVE SERVICE

One-Hundred-and-Second General Assembly, 2022

Additions are indicated by **Text**; deletions by  
~~Text~~.

Vetoed are indicated by ~~Text~~;  
stricken material by ~~Text~~.

PUBLIC ACT 102-1143  
S.B. 208

AN ACT concerning employment.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

<< IL ST CH 820 § 192/1 >>

§ 1. Short title. This Act may be cited as the Paid Leave for All Workers Act.

<< IL ST CH 820 § 192/5 >>

§ 5. Findings; legislative intent; construction.

(a) The General Assembly finds that it is in the public policy interests of the State for all working Illinoisans to have some paid leave from work to maintain their health and well-being, care for their families, or use for any other reason of their choosing.

(b) It is the intent of the General Assembly by enacting this Act:

- (1) To establish a minimum paid leave standard for all workers in Illinois.
- (2) To provide employment security and economic security for employees who need to use paid time off from work for any reason.
- (3) To safeguard the welfare, health, safety, and prosperity of the people of Illinois.
- (4) To ensure that an employee not be denied use of leave for noncompliance with leave notification policies if the employer has not provided a written copy of its notification policy to the employee.

In order to effectuate this intent, the provisions of this Act shall be liberally construed in favor of providing workers with the greatest amount of paid time off from work and employment security.

(c) Nothing in this Act shall be construed to discourage employers from adopting or retaining paid sick leave, paid vacation, paid holidays, or any other paid time off or paid leave policy more generous than policies that comply with the requirements

of this Act. Nothing in this Act shall be construed to discourage or prohibit an employer from allowing the use of paid leave at an earlier date than this Act requires.

Unless otherwise provided in a collective bargaining agreement, nothing in this Act shall be construed to waive or otherwise limit an employee's right to final compensation for any type of leave promised to be paid under a contract of employment or employment policy and earned by the employee pursuant to the Illinois Wage Payment and Collection Act.

<< IL ST CH 820 § 192/10 >>

§ 10. Definitions. As used in this Act:

"Construction industry" means any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving, wrecking, painting, decorating, demolishing, or adding to or subtracting from any building, structure, highway, roadway, street, bridge, alley, sewer, ditch, sewage disposal plant, waterworks, parking facility, railroad, excavation or other structure, project, development, real property, or improvement, or to do any part thereof, whether or not the performance of the work herein described involves the addition to or fabrication into, any structure, project, development, real property, or improvement herein described of any material or article of merchandise.

"Construction industry" also includes moving construction related materials on the job site or to or from the job site, snow plowing, snow removal, and refuse collection.

"Department" means the Illinois Department of Labor.

"Domestic work" and "domestic worker" have the same meanings as defined in Section 10 of the Domestic Workers' Bill of Rights Act, except that "domestic worker" also includes independent contractors, sole proprietors, and partnerships.

"Employee" has the same application and meaning as that provided in Sections 1 and 2 of the Illinois Wage Payment and Collection Act. "Employee" also includes all domestic workers, and, for the purposes of this Act, domestic workers shall not be excluded as employees under the provisions of item (1), (2), or (3) of Section 2 of the Illinois Wage Payment and Collection Act. "Employee" does not include:

- (1) an employee as defined in the federal Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.) or the Railway Labor Act;
- (2) a student enrolled in and regularly attending classes in a college or university that is also the student's employer, and who is employed on a temporary basis at less than full time at the college or university, but this exclusion applies only to work performed for that college or university; or
- (3) a short-term employee who is employed by an institution of higher education for less than 2 consecutive calendar quarters during a calendar year and who does not have a reasonable expectation that they will be rehired by the same employer of the same service in a subsequent calendar year.

"Employer" has the same application and meaning as that provided in Sections 1 and 2 of the Illinois Wage Payment and Collection Act, except that for purposes of this Act, "employer" also means the State and units of local government, any political subdivision of the State or units of local government, or any State or local government agency.

"Employer" does not include school districts organized under the School Code or park districts organized under the Park District Code.

"Writing" or "written" means a printed or printable communication in physical or electronic format, including a communication that is transmitted through electronic mail, text message, or a computer system or is otherwise sent or stored electronically.

<< IL ST CH 820 § 192/15 >>

§ 15. Provision of paid leave.

(a) An employee who works in Illinois is entitled to earn and use up to a minimum of 40 hours of paid leave during a 12-month period or a pro rata number of hours of paid leave under the provisions of subsection (b). The paid leave may be used by the employee for any purpose as long as the paid leave is taken in accordance with the provisions of this Act.

(b) Paid leave under this Act shall accrue at the rate of one hour of paid leave for every 40 hours worked up to a minimum of 40 hours of paid leave or such greater amount if the employer provides more than 40 hours. Employees who are exempt from the overtime requirements of the federal Fair Labor Standards Act (29 U.S.C. 213(a)(1)) shall be deemed to work 40 hours in each workweek for purposes of paid leave accrual unless their regular workweek is less than 40 hours, in which case paid leave accrues based on that regular workweek. Employees shall determine how much paid leave they need to use, however employers may set a reasonable minimum increment for the use of paid leave not to exceed 2 hours per day. If an employee's scheduled workday is less than 2 hours day, the employee's scheduled workday shall be used to determine the amount of paid leave.

(c) An employer may make available the minimum number of hours of paid leave, subject to pro rata requirements provided in subsection (b), to an employee on the first day of employment or the first day of the 12-month period. Employers that provide the minimum number of hours of paid leave to an employee on the first day of employment or the first day of the 12-month period are not required to carryover paid leave from 12-month period to 12-month period and may require employees to use all paid leave prior to the end of the benefit period or forfeit the unused paid leave. However, under no circumstances shall an employee be credited with paid leave that is less than what the employee would have accrued under subsections (a) and (g) of this Section.

(d) The 12-month period may be any consecutive 12-month period designated by the employer in writing at the time of hire. Changes to the 12-month period may be made by the employer if notice is given to employees in writing prior to the change and the change does not reduce the eligible accrual rate and paid leave available to the employee. If the employer changes the designated 12-month period, the employer shall provide the employee with documentation of the balance of hours worked, paid leave accrued and taken, and the remaining paid leave balance.

(e) Paid leave under this Act may be taken by an employee for any reason of the employee's choosing. An employee is not required to provide an employer a reason for the leave and may not be required to provide documentation or certification as proof or in support of the leave. An employee may choose whether to use paid leave provided under this Act prior to using any other leave provided by the employer or State law.

(f) Employees shall be paid their hourly rate of pay for paid leave. However, employees engaged in an occupation in which gratuities or commissions have customarily and usually constituted and have been recognized as part of the remuneration for hire purposes shall be paid by their employer at least the full minimum wage in the jurisdiction in which they are employed when paid leave is taken. This wage shall be treated as the employee's regular rate of pay for purposes of this Act.

(g) Paid leave under this Act shall begin to accrue at the commencement of employment or on the effective date of this Act, whichever is later. Employees shall be entitled to begin using paid leave 90 days following commencement of their employment or 90 days following the effective date of this Act, whichever is later.

(h) Paid leave under this Act shall be provided upon the oral or written request of an employee in accordance with the employer's reasonable paid leave policy notification requirements which may include the following:

(1) If use of paid leave under this Act is foreseeable, the employer may require the employee to provide 7 calendar days' notice before the date the leave is to begin.

(2) If paid leave under this Act is not foreseeable, the employee shall provide such notice as soon as is practicable after the

employee is aware of the necessity of the leave. An employer that requires notice of paid leave under this Act when the leave is not foreseeable shall provide a written policy that contains procedures for the employee to provide notice.

(3) Employers shall provide employees with written notice of the paid leave policy notification requirements in this Section in the manner provided in Section 20 for notice and posting and within 5 calendar days of any change to the employer's reasonable paid leave policy notification requirements.

(4) An employer may not require, as a condition of providing paid leave under this Act, that the employee search for or find a replacement worker to cover the hours during which the employee takes paid leave.

(i) Except as provided in subsection (c), paid leave under this Act shall carry over annually to the extent not used by the employee, provided that nothing in this Act shall be construed to require an employer to provide more than 40 hours of paid leave for an employee in the 12-month period unless the employer agrees to do so.

(j) Nothing in this Section or any other Illinois law or rule shall be construed as requiring financial or other payment to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for paid leave accrued under this Act that has not been used. Nothing in this Section or any other Illinois law or rule shall be construed as requiring financial or other reimbursements to an employee from an employer for unused paid leave under this Act at the end of the benefit year or any other time.

(k) If an employee is transferred to a separate division, entity, or location, but remains employed by the same employer, the employee is entitled to all paid leave accrued at the prior division, entity, or location and is entitled to use all paid leave as provided in this Section. If there is a separation from employment and the employee is rehired within 12 months of separation by the same employer, previously accrued paid leave that had not been used by the employee shall be reinstated. The employee shall be entitled to use accrued paid leave at the commencement of employment following a separation from employment of 12 months or less.

(l) Paid leave under this Act shall not be charged or otherwise credited to an employee's paid time off bank or employee account unless the employer's policy permits such a credit. If the paid leave under this Act is credited to an employee's paid time off bank or employee vacation account then any unused paid leave shall be paid to the employee upon the employee's termination, resignation, retirement, or other separation to the same extent as vacation time under existing Illinois law or rule. Nothing in this Act shall be construed to waive or otherwise limit an employee's right to final compensation for promised and earned, but unpaid vacation time or paid time off, as provided under the Illinois Wage Payment and Collection Act and rules. Employers shall provide employees with written notice of changes to the employer's vacation time, paid time off, or other paid leave policies that affect an employee's right to final compensation for such leave.

(m) During any period an employee takes leave under this Act, the employer shall maintain coverage for the employee and any family member under any group health plan for the duration of such leave at no less than the level and conditions of coverage that would have been provided if the employee had not taken the leave. The employer shall notify the employee that the employee is still responsible for paying the employee's share of the cost of the health care coverage, if any.

(n) Nothing in this Act shall be deemed to interfere with, impede, or in any way diminish the right of employees to bargain collectively with their employers through representatives of their own choosing in order to establish wages or other conditions of work in excess of the applicable minimum standards established in this Act. The paid leave requirements of this Act may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms.

Nothing in this Act shall be deemed to affect the validity or change the terms of bona fide collective bargaining agreements in effect on January 1, 2024. After that date, requirements of this Act may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms.

In no event shall this Act apply to any employee working in the construction industry who is covered by a bona fide collective bargaining agreement, nor shall this Act apply to any employee who is covered by a bona fide collective bargaining agreement with an employer that provides services nationally and internationally of delivery, pickup, and transportation of parcels, documents, and freight.

Notwithstanding the provisions of this subsection, nothing in this Act shall be deemed to affect the validity or change the terms of a bona fide collective bargaining agreement applying to an employee who is employed by a State agency that is in effect on July 1, 2024. After that date, requirements of this Act may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms. As used in this subsection, "State agency" has the same meaning as set forth in Section 4 of the Forms Notice Act.

(o) An agreement by an employee to waive his or her rights under this Act is void as against public policy.

(p) The provisions of this Act shall not apply to any employer that is covered by a municipal or county ordinance that is in effect on the effective date of this Act that requires employers to give any form of paid leave to their employees, including paid sick leave or paid leave. Notwithstanding the provisions of this subsection, any employer that is not required to provide paid leave to its employees, including paid sick leave or paid leave, under a municipal or county ordinance that is in effect on the effective date of this Act shall be subject to the provisions of this Act if the employer would be required to provide paid leave under this Act to its employees.

Any local ordinance that provides paid leave, including paid sick leave or paid leave, enacted or amended after the effective date of this Act must comply with the requirements of this Act or provide benefits, rights, and remedies that are greater than or equal to the benefits, rights, and remedies afforded under this Act.

An employer in a municipality or county that enacts or amends a local ordinance that provides paid leave, including paid sick leave or paid leave, after the effective date of this Act shall only comply with the local ordinance or ordinances so long as the benefits, rights, and remedies are greater than or equal to the benefits, rights, and remedies afforded under this Act.

<< IL ST CH 820 § 192/20 >>

§ 20. Related employer responsibilities.

(a) An employer subject to this Act shall make and preserve records documenting hours worked, paid leave accrued and taken, and remaining paid leave balance for each employee for a period of not less than 3 years and shall allow the Department access to such records, at reasonable times during business hours, to monitor compliance with the requirements of this Act. In addition, the records shall be preserved for the duration of any claim pending pursuant to Section 35. An employer that provides paid leave on an accrual basis pursuant to subsection (b) of Section 15 shall provide notice of the amount of paid leave accrued or used by an employee upon request by the employee in accordance with the employer's reasonable paid leave policy notification provisions. An employer that fails to comply with this subsection is in violation of the Act and subject to the civil penalties established in Section 35.

(b) An employer who provides any type of paid leave policy that satisfies the minimum amount of leave required by subsection (a) of Section 15 is not required to modify the policy if the policy offers an employee the option, at the employee's discretion, to take paid leave for any reason. Nothing in this Act shall be construed as requiring financial or other reimbursements to an employee from an employer for unused paid leave under this Act. Nothing in this Act shall be construed to discourage an employer from adopting a paid leave policy more generous than the requirements of this Act.

(c) For domestic workers, if an employer requires evidence of hours worked for other employers to confirm that the domestic worker has worked or is scheduled to work 8 or more hours in the aggregate for any relevant workweek, a signed statement by the domestic worker stating that he or she has performed or is scheduled to perform domestic work for 8 or more hours in the aggregate for any relevant workweek shall satisfy any documentation requirements of hours worked under the Domestic Workers' Bill of Rights Act and this Act. Such employer shall not require more than one signed statement in a calendar quarter if the hours the domestic worker has performed or is scheduled to perform domestic work have not decreased to less than 8 hours in the aggregate in any relevant workweek in that calendar quarter. An employer that requires evidence of hours worked must give the domestic worker written notice of such request and allow no fewer than 7 days or until the next scheduled workday, whichever is greater, for the domestic worker to comply with the request. The employer may not deny paid leave pending submission of the signed statement.

(d) An employer shall post and keep posted in a conspicuous place on the premises of the employer where notices to employees are customarily posted, and include it in a written document, or written employee manual or policy if the employer has one, a notice, to be prepared by the Department, summarizing the requirements of this Act and information pertaining to the filing of a charge upon commencement of an employee's employment or 90 days following the effective date of this Act, whichever is later. If an employer's workforce is comprised of a significant portion of workers who are not literate in English, the employer shall notify the Department and a notice in the appropriate language shall be prepared by the Department. Employees may also request that the Department provide a notice in languages other than English, which the employer must post in accordance with this subsection. An employer who violates this subsection shall be fined a civil penalty of \$500 for the first audit violation and \$1,000 for any subsequent audit violation.

(e) No employer shall interfere with, deny, or change an employee's work days or hours to avoid providing eligible paid leave time to an employee.

<< IL ST CH 820 § 192/25 >>

§ 25. Retaliation. It is unlawful for any employer to threaten to take or to take any adverse action against an employee because the employee (1) exercises rights or attempts to exercise rights under this Act, (2) opposes practices which the employee believes to be in violation of this Act, or (3) supports the exercise of rights of another under this Act. It is unlawful for any employer to consider the use of paid leave by an employee as a negative factor in any employment action that involves evaluating, promoting, disciplining, or counting paid leave under a no-fault attendance policy. Such retaliation shall subject an employer to civil penalties pursuant to this Act.

An employee who has been unlawfully retaliated against shall also be entitled to recover through a claim filed with the Department, all legal and equitable relief as may be appropriate.

<< IL ST CH 820 § 192/30 >>

§ 30. Department responsibilities.

(a) The Department shall administer and enforce this Act. The Department has the powers and the parties have the rights provided in the Illinois Administrative Procedure Act for contested cases.

(b) An employee may file a complaint with the Department alleging violations of the Act within 3 years after the alleged violation. An employer that violates this Act is liable to any affected employee for damages in the form of the actual underpayment, compensatory damages, and a penalty of not less than \$500 and no more than \$1,000. Employees shall also be entitled to such equitable relief as may be appropriate, in addition to reasonable attorney's fees; reasonable expert witness fees, and other costs of the action, which shall be paid by the employer to the employee.

(c) The Department has the power to conduct investigations in connection with the administration and enforcement of this Act, including the power to conduct depositions and discovery and to issue subpoenas. If the Department finds cause to believe that this Act has been violated, the Department shall notify the parties in writing, and the matter shall be referred to an Administrative Law Judge to schedule a formal hearing in accordance with hearing procedures established by rule. Administrative decisions shall be reviewed under the Administrative Review Law.

(d) The Department is authorized to impose civil penalties prescribed in Section 35 for any violation of this Act.

(e) The Department is authorized to collect and supervise the payment of any damages awarded pursuant to Section 25 and subsection (b) of this Section to an employee or employees under this Act. Any sums recovered by the Department on behalf of an employee or employees under this Act shall be paid to the employee or employees affected. The Department is not authorized to collect and supervise the payment of any awarded attorney's fees. Those fees shall be subject to collection by



the attorney awarded such fees.

(f) The Attorney General may bring an action to enforce the collection of any awards made under this Act.

(g) The Department shall adopt rules necessary to administer and enforce this Act.

<< IL ST CH 820 § 192/35 >>

§ 35. Penalties and enforcement. An employer that violates this Act or any rule adopted under this Act shall be subject to a civil penalty of \$2,500 for each separate offense. An offense means any violation of this Act with the exception of a violation of the notice requirement in subsection (c) of Section 20. Any penalties collected from an employer under this Section or under subsection (d) of Section 20 for violations of this Act shall be deposited into the Paid Leave for All Workers Fund, a special fund created in the State treasury that is dedicated to enforcing this Act.

Section 95. The State Finance Act is amended by adding Section 5.990 as follows:

<< IL ST CH 30 § 105/5.990 >>

**[S.H.A. 30 ILCS 105/5.990]** (30 ILCS 105/5.990 new)

**§ 5.990. The Paid Leave for All Workers Fund.**

<< IL ST CH 820 § 192/97 >>

§ 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

<< IL ST CH 820 § 192/99 >>

§ 99. Effective date. This Act takes effect January 1, 2024.

Approved: March 13, 2023

Effective: January 1, 2024

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