

New COVID-19 Paid Sick Leave Expected

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As anticipated through a [recent announcement](#) by Governor Gavin Newsom, Senate President pro Tempore Toni Atkins, and Assembly Speaker Anthony Rendon, COVID-19 supplemental paid sick leave is poised to be resurrected in 2022. On February 2, 2022, details of the new supplemental paid sick leave were released in [Assembly Bill \(AB\) 84](#).

When enacted, AB 84 will reinstate COVID-19 leave as a provision of state law and is applicable to all public and private employers with 26 or more employees, including local educational agencies (LEAs). AB 84 is retroactive to January 1, 2022, and would expire September 30, 2022.

Unlike previous mandated COVID-19 leave, AB 84 initially provides only 40 hours of supplemental paid sick leave. An employee who is considered full-time or who worked, or was scheduled to work, an average of at least 40 hours per week in the two weeks before the leave is taken is entitled to 40 hours of COVID-19 supplemental paid sick leave. Employees who don't meet this criteria are entitled to a prorated amount of leave according to the number of hours the employee works as defined by AB 84.

The qualifying reasons for the new leave are similar, but not identical, to prior iterations (see "[Legislation Expands COVID-19 Supplemental Paid Sick Leave](#)" in the March 2021 *Fiscal Report*). To qualify for the leave, an employee must be unable to work due to one of the following reasons:

- The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19
- The employee is advised by a health care provider to quarantine or isolate due to COVID-19
- The employee is attending an appointment for themselves or a family member to receive a COVID-19 vaccine

- The employee is experiencing symptoms, or caring for a family member experiencing symptoms, related to a COVID-19 vaccine that prevents the employee from being able to work
- The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis
- The employee is caring for a family member who is subject to a COVID-19 quarantine or isolation order, or has been advised by a health care provider to quarantine or isolate
- The employee is caring for a child whose school or place of care is closed or otherwise unavailable for reasons related to COVID-19 on the premises

In addition, for leave taken due to symptoms related to a COVID-19 vaccine, an employer may limit the total supplemental paid sick leave to three days or 24 hours unless the employee provides verification from a health care provider that the employee or family member is continuing to experience symptoms from the vaccine.

In the biggest change from previous COVID-19 leaves, employees are entitled to an additional 40 hours of supplemental paid sick leave (or lesser amount if the employee receives a prorated amount of supplemental paid sick leave) only if the employee tests positive for COVID-19. This additional leave also is provided for employees who must care for a family member that tests positive for COVID-19. The total maximum amount of COVID-19 supplemental paid sick leave mandated by AB 84 shall not exceed 80 hours, and this leave shall be in addition to any paid sick leave that may be available to employees.

If your LEA extended leave entitlements for COVID-related reasons beyond the expiration of previous mandated leaves, we recommend that you work closely with legal counsel to ensure the application of leave is legally compliant (see [“FAQs: Expansion of COVID-19 Supplemental Paid Sick Leave”](#) in the April 2021 *Fiscal Report*).

AB 84 must still be passed by the Legislature and signed into law by Governor Newsom. These steps are expected to occur in the next week or so and will be shared in a future article