



LEGISLATIVE ANALYST MEMORANDUM

From: Alexa Delwiche, Office of the Legislative Analyst
Date: August 24, 2009
Re: **Implementation Status of the Paid Sick Leave Ordinance** (BOS File No. 018-09).

SUMMARY OF REQUESTED ACTION

Prepare a report including the following information on the Paid Sick Leave Ordinance (PSLO). Since June 6, 2007:

- Estimated number of employees receiving benefit;
- Estimated number of complaints;
- Estimated number of complaints resolved;
- Estimated number of complaints unresolved;
- Estimated number of employers not in compliance with paid sick days; and
- Estimated monetary amount for fees and penalties paid to the City.

EXECUTIVE SUMMARY

San Francisco's Paid Sick Leave Ordinance (PSLO) requires employers to provide all employees (including temporary and part-time) working in San Francisco with a set amount of paid sick days. Subsequently, San Francisco's law has become a national model for expanding important benefits to all working families, while at the same time protecting public health. Overall, the Office of Labor Standards Enforcement (OLSE) reports implementation of the law has been relatively smooth, with generally positive feedback from the business community. Worker advocates however report issues with employer non-compliance.

A formal evaluation of the effectiveness of implementation has not yet been conducted, thus it is difficult to accurately determine how many employees have received the benefit and how many employers are not in compliance with the law. Prior to implementation of the PSLO, nearly 116,000 employees in San Francisco lacked access to paid sick days. Post implementation, all of these employees are now eligible to receive paid sick days; however it is unknown how many of these individuals are now aware of or allowed by employers to use the benefit. Since implementation in February 2007, OLSE has opened 156 PSLO investigations. Of those cases, 130 have been resolved. OLSE has recovered approximately \$53,000 in sick leave wages for 119 workers and approximately \$4,600 in penalties to the City.

Due to limited resources, the OLSE must rely on a complaint based process to enforce the PSLO. Such an enforcement process places the reporting burden on workers that are often in vulnerable employment situations with little incentive to file a complaint. OLSE has confronted some obstacles associated with complaint driven enforcement procedures through the following innovative mechanisms:

- Individual complaints are used as a trigger for investigating entire workplaces.
- Educational outreach was conducted through an advertising campaign and contracting with community based organizations to raise awareness of the law.

Despite these innovations, OLSE remains limited in its ability to enforce its mandate. With minimal investment in funding to increase capacity, OLSE could conduct more strategic and proactive investigations of employer compliance with the PSLO. Additional funding could also allow OLSE to expand educational outreach for employers and employees regarding the PSLO.

CURRENT LAW AND PRACTICE

Background

Proposition F, the San Francisco Paid Sick Leave Ordinance (PSLO), was approved by voters on November 7, 2006 with 61 percent support from voters.¹ As codified in Chapter 12W of the San Francisco Administrative Code, the PSLO requires that all employers must provide paid sick leave to each employee (including part-time and temporary employees) who performs work in San Francisco. Paid sick leave began to accrue on February 5, 2007 for employees working for an employer on or before that date. For those employed after February 5, 2007, paid sick leave begins to accrue 90 calendar days after the beginning of employment.

San Francisco was the first city and county in the nation to pass a law requiring employers to provide employees with paid sick leave. San Francisco's ordinance has subsequently become a national model for paid sick leave legislation on the local, state and federal levels. Both Washington D.C. and Milwaukee adopted similar sick leave initiatives in 2008, although Milwaukee's ordinance is currently in litigation. In August 2009, the New York City Council introduced paid sick leave legislation. Several states, including California, have introduced paid sick leave legislation. And on the federal level, Senator Kennedy (D-MA) and Representative DeLauro (D-CT) introduced legislation entitled the "Healthy Families Act" in 2007.

Current Law

An employee gains one hour of paid sick leave for every 30 hours worked. Employees working for an employer with less than 10 employees receive a maximum of five paid sick days (or 40 hours), while employees working for an employer with more than 10 employees accrue a maximum balance of nine paid sick days (or 72 hours) at any point in time. An employee's paid sick leave carries over from year to year and employees are not entitled to carry a balance in excess of the maximum allowance. Employees are entitled to paid sick days for their own medical care and also to take care of a family member or designated person. An employer is not required to provide additional sick days if there is already a paid leave policy with an adequate number of days in place.

Enforcement

The Office of Labor Standards Enforcement (OLSE) enforces the PSLO. Employers are required to post a multi-lingual notice provided by OLSE detailing the PSLO in every workplace. Employers must also retain records documenting the hours worked by employees and the hours

¹ Memo from Donna Levitt, Manager of Office of Labor Standards Enforcement, August 21, 2009. See Appendix A.

of sick leave taken for at least four years. Employees who are denied the right to paid sick leave may file a complaint with OLSE. If OLSE determines that wages were unlawfully withheld from an employee, OLSE may recover from the employer those unpaid wages to the employee plus an administrative penalty multiplied by 3 or \$250 (whichever is greater). Additionally, OLSE may levy a \$50 per day fine on employers if the violation imposed any other harm on the employee. Employees who assert their right to paid sick leave are protected from employer retaliation.

FINDINGS

Overall Implementation Status

Stakeholders interviewed voiced general support for the law; however reports on the implementation status of San Francisco's PSLO vary by stakeholder group. A formal evaluation of the effectiveness of implementation has not yet been conducted, thus it cannot be accurately determined how many employees have received the benefit and how many employers are not in compliance with the law.

The Institute for Women's Policy Research (IWPR), in collaboration with the California Budget Project (CBP), is currently conducting a three part evaluation of the implementation status of the PSLO and the effect of the PSLO on employers and employees in San Francisco.² The first part of the study will survey employers on their perceptions of implementation and impact on business, the second part of the study will survey workers, and the third part will analyze whether firms have relocated due to the PSLO. A full report from the first part of their evaluation should be released by the end of 2009. The results from this evaluation should provide a greater level of understanding regarding implementation.

Beneficiaries

In 2006, the Institute for Women's Policy Research calculated that prior to adoption of the PSLO, 115,791 San Francisco employees lacked paid sick leave. The study found that nearly 1 in 4 (or 23.3 percent) of all private-sector employees in San Francisco lacked paid sick days.³

Post implementation of the PSLO, 115,791 employees previously without access to paid sick days became eligible to receive paid sick days. However, Vicky Lovell, the primary author of the IWPR study, cautioned against assuming that nearly 116,000 additional employees now benefit from paid sick days.⁴ Employees may not be aware of or able to assert their rights to paid sick days and employers may not be in compliance with the law. Since the law's passage, there have been no further quantitative studies on the scale of impact.

Implementation, Enforcement, & Compliance

Implementation: According to OLSE, implementation of the PSLO has been relatively smooth.⁵ Initial employer confusion about the ordinance led the Board of Supervisors to delay employer payment of sick leave taken during the first four months of the law's implementation until June

² Vicky Lovell, Lead Researcher of IWPR/CBP evaluation, phone interview, August 18, 2009.

³ Vicky Lovell, Valuing Good Health in San Francisco: The Costs and Benefits of a Proposed Paid Sick Days Policy, Institute for Women's Policy Research, July 2006. Available online at: <http://www.iwpr.org/pdf/B252.pdf>

⁴ Vicky Lovell, Lead Researcher of IWPR/CBP evaluation, phone interview, August 18, 2009.

⁵ Memo from Donna Levitt, Manager of Office of Labor Standards Enforcement, August 21, 2009.

5, 2007. The moratorium provided city officials, employers, and worker advocates an opportunity to participate in a public rulemaking process and to address implementation concerns. Since the rulemaking process, the OLSE has received generally positive feedback on the ordinance.⁶

OLSE integrated enforcement of the PSLO into existing enforcement of the Minimum Wage Ordinance (MWO). Following the adoption of the PSLO, no new inspectors were hired. Currently, five OLSE staff and two supervisors enforce the PSLO and MWO.⁷

In order to increase employer and employee awareness of the new ordinance, the Board of Supervisors allocated \$150,000 in one-time funding through the Mayor's Office of Economic and Workforce Development (MOEWD) for educational outreach in FY 2008-2009.⁸ This funding enabled OLSE and MOEWD to produce and distribute multi-lingual employer brochures and employee fact sheets; to place advertisements in local and ethnic newspapers; and, to run bus shelter advertisements throughout San Francisco. In addition, OLSE collaborated with the Department of Public Health to mail the employer brochure to 3,400 San Francisco restaurants and to distribute 55,000 multilingual PSLO fliers throughout the San Francisco Unified School District for students to bring home to parents.⁹ The PSLO fliers reminded parents and guardians of their right to use paid sick leave to stay home from work to care for their sick children.

Additionally, OLSE maintains ongoing contracts for approximately \$200,000 with a few multi-lingual community based organizations, such as La Raza Centro Legal, to conduct community outreach regarding labor laws.¹⁰

The OLA also gathered a summary of business and labor perceptions of the PSLO implementation status, as follows:

The business community reports that implementation has been relatively smooth with employers experiencing only minor impacts on their bottom line. An analysis by the Institute for Women's Policy and Research concluded that job growth in San Francisco was unaffected in 2008; one year after implementation.¹¹ Both the Chamber of Commerce and the Golden Gate Restaurant Association reported receiving very few employer complaints or concerns regarding the ordinance and overall, implementation has been fine.¹² Initially, the ordinance created confusion for employers.¹³ However, the four month phase-in of the ordinance allowed employers the opportunity to resolve any misunderstandings and to update their company policies.

⁶ Greg Asay, Office of Labor Standards Enforcement, in-person interview, August 24, 2009.

⁷ Memo from Donna Levitt, Manager of Office of Labor Standards Enforcement, August 21, 2009.

⁸ Greg Asay, Office of Labor Standards Enforcement, in-person interview, August 24, 2009.

⁹ Greg Asay, Office of Labor Standards Enforcement, in-person interview, August 24, 2009.

¹⁰ Greg Asay, Office of Labor Standards Enforcement, in-person interview, August 24, 2009 and Ilana DeBare, "S.F. Sick Leave Law Celebrates 1 Year", *San Francisco Chronicle*, February 6, 2008. Available online at: <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2008/02/06/BUA1UO9OU.DTL>

¹¹ Vicky Lovell and Kevin Miller, "Job Growth Strong with Paid Sick Days", Institute for Women's Policy Research, October 2008. Available online at http://www.iwpr.org/pdf/B264_JobGrowth.pdf

¹² Jim Lazarus, Director of San Francisco Chamber of Commerce, phone interview, August 21, 2009 and Kevin Westlye, Director of Golden Gate Restaurant Association, phone interview, August 24, 2009.

¹³ Kevin Westlye, Director of Golden Gate Restaurant Association, phone interview, August 24, 2009

The Urban Institute conducted a qualitative study on employer perceptions of the Paid Sick Leave Ordinance. The study found that most of the 26 employers interviewed were able to implement the PSLO with only minor effects on their business's bottom line.¹⁴ The employers interviewed implemented the ordinance through one of several strategies. Employers either:

- Expanded paid sick leave policies to cover all employees;
- Established paid time off policies that combine paid sick leave with vacation time;
- Replaced other benefits such as vacation or pay raises with paid sick leave; or
- Changed accrual rates or probationary periods to meet the PSLO mandate.

Importantly, the study found that because the PSLO was implemented at the same time as the Health Care Security Ordinance and a minimum wage increase, it was difficult to determine the isolated effects that the PSLO has had on any changes in employer practices. However, the Chamber of Commerce, Golden Gate Restaurant Association and the Urban Institute study all reported that the PSLO seemed to be the least burdensome of the three mandates on employers.

Finally, a few employers interviewed for the Urban Institute study reported feeling unfairly burdened by other employers' lack of compliance.¹⁵ One employer interviewed stated, "we keep passing more laws and there's no enforcement. For the bad employers, employees will keep working quietly and not complain if they want to keep their jobs, and there's not an effort to go find the sweatshops in the city—the city doesn't have enough people to enforce labor laws in those places—this law won't be enforced either."¹⁶ Furthermore, employers recognized that placing the reporting burden on employees did not go far enough to ensure employer compliance. This concern was also shared by worker advocates.

As primary sponsors of the PSLO, worker advocates remain supportive of the spirit of the ordinance, but question the effectiveness of implementation. While a comprehensive employee evaluation has not been conducted, anecdotal evidence suggests that some employees are not being offered paid sick day benefits. Employee awareness and employer intimidation are among the largest concerns raised regarding the law's implementation.

Based on preliminary findings from a survey of 86 workers in the restaurant industry, Young Workers United reported that 43 percent of employees surveyed actually received paid sick day benefits.¹⁷ Employees cited a few reasons for not being offered the benefit. They were either unaware that paid sick days were a legal right, they had never needed to use the benefit, or because employers did not allow employees to exercise their right to paid sick days.

¹⁴ Shelley Waters Boots, Karin Martinson, and Anna Danziger, "Employers' Perspectives on San Francisco's Paid Sick Leave Policy", Urban Institute, March 2009. Available online at http://www.google.com/search?rlz=1C1GGLS_enUS326US327&sourceid=chrome&ie=UTF-8&q=Perspectives+on+San+Francisco's+Paid+Sick+Leave+Policy

¹⁵ Shelley Waters Boots, Senior Researcher, Urban Institute, phone interview, August 25, 2009.

¹⁶ Shelley Waters Boots, Karin Martinson, and Anna Danziger, "Employers' Perspectives on San Francisco's Paid Sick Leave Policy", Urban Institute, March 2009, pp 11. Available online at http://www.google.com/search?rlz=1C1GGLS_enUS326US327&sourceid=chrome&ie=UTF-8&q=Perspectives+on+San+Francisco's+Paid+Sick+Leave+Policy

¹⁷ Sasha Hammad, Young Workers United, phone interview, August 18, 2009.

Two small focus groups led by the San Francisco Department of Public Health and Human Impact Partners reported similar implementation difficulties.¹⁸ In April and June of 2008, a total of thirteen participants employed in low-wage industries were asked about the PSLO as part of a larger study assessing the impact of paid sick day legislation in California. At the time of the focus groups, none of the thirteen participants reported receiving paid sick day benefits.¹⁹

While the participants did not receive **paid** sick days, most of them reported that they and their co-workers took **unpaid** sick days. Many of the participants reported that they were subsequently penalized for taking time off of work. Such penalties included the threat of being fired, loss of wages, being reprimanded or written up, and receiving bad shifts or reduced work hours.

Enforcement: With only seven staff dedicated to enforcement of the PSLO and MWO, OLSE only has the capacity to investigate employee complaints. However, a complaint based reporting system may lead to significant underreporting for several reasons, as follows:²⁰

- **Workers may not want to disclose their identities for fear of employer retaliation.**²¹ A complaint based enforcement system places the reporting burden on employees who are often in vulnerable employment situations with little incentive to risk possible employer retaliation such as illegal firing or threats from employers of calling immigration authorities.

Employees must provide their identity in order for OLSE to investigate a complaint because employee testimony is an important component of OLSE investigations.²² Currently, anonymous complaints are not pursued because sick leave investigations rely on worker testimony; rather an anonymous complaint results in a follow up letter to an employer and the addition of the employer's name to OLSE's tracking database. While OLSE has the legal authority to protect workers from illegal firings related to filing a PSLO complaint, OLSE cannot guarantee that employers will not retaliate against employees by reporting them to Immigration and Customs Enforcement, an agency over which OLSE has no jurisdiction. Subsequently, many workers choose not to complain.

Additionally, even though OLSE has the authority to penalize illegal employer retaliation, retaliation still occurs. A recently released study investigating labor law violations in Chicago, Los Angeles, and New York City conducted by the Center for Urban Economic Development, the National Employment Law Project, and the U.C.L.A. Institute for Research on Labor and Employment, found that 43 percent of workers who complained about any violation to their employers experienced at least one form of illegal

¹⁸ Lili Farhang, San Francisco Department of Public Health, phone interview, August 19, 2009.

¹⁹ Bhatia R, Farhang L, Heller J, Capozza K, Melendez J, Gilhuly K, Firestein N. A Health Impact, Assessment of the California Healthy Families, Healthy Workplaces Act of 2008. Oakland, California: Human Impact Partners and San Francisco Department of Public Health. July 2008. Available online at: http://www.humanimpact.org/PSD/PaidSickDaysHIA_report.pdf

²⁰ Greg Asay, Office of Labor Standards Enforcement, in-person interview, August 24, 2009.

²¹ Greg Asay, Office of Labor Standards Enforcement, in-person interview, August 24, 2009.

²² Greg Asay, Office of Labor Standards Enforcement, in-person interview, August 24, 2009.

retaliation.²³ This finding was substantiated by several stakeholders interviewed for this report.

- **Low penalties against violators provide little incentive for employees to risk their jobs to complain.** The potential back pay workers may receive after filing a complaint is generally too low to risk penalties such as job loss or the threat of deportation.²⁴ Whereas an employee reporting a minimum wage violation may receive several years in back pay totaling thousands of dollars, employees filing a PSLO complaint typically receive only several hundred dollars in back pay.²⁵
- **Finally, many workers remain unaware of their rights to paid sick days.**²⁶ Because the law is relatively new, employers and employees may still not fully understand the PSLO.

Underreporting of PSLO violations was an issue raised by OLSE and worker advocates. Both Young Workers United and Unite Here Local 2 reported that while many workers have reported employer non-compliance to their organizations, of those workers, very few ultimately file PSLO related complaints with OLSE.²⁷ Additionally, the recently released UCLA study investigating labor law violations found that of the 4,387 workers surveyed in Chicago, Los Angeles, and New York City, only a small fraction of workers who experienced labor violations ultimately filed complaints.²⁸

OLSE is limited in their ability enforce their mandate due to their small staff and insufficient resources. Even by limiting enforcement to a complaint based process, the staff cannot keep pace with the level of complaints they currently receive. Yet despite their limited capacity to proactively investigate employer compliance, OLSE has instituted some innovative enforcement strategies to maximize the agency's effectiveness. These strategies include:²⁹

- **Workplace Investigations based on individual complaints:** In contrast to other enforcement agencies, if OLSE receives an individual employee complaint regarding a PSLO violation affecting an entire workplace, OLSE will audit the entire workplace for non-compliance.

²³ Annette Bernhardt, Ruth Milkman, Nik Theodore, Douglas Heckathorn, Mirabai Auer, James DeFilippis, Ana Luz González, Victor Narro, Jason Perelshteyn, Diana Polson, and Michael Spiller, "Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities", Center for Urban Economic Development, the National Employment Law Project, and the U.C.L.A. Institute for Research on Labor and Employment, September 2008. Available online at: http://nelp.3cdn.net/1797b93dd1ccdf9e7d_sdm6bc50n.pdf

²⁴ Shelley Waters Boots, Senior Researcher, Urban Institute, phone interview, August 25, 2009.

²⁵ Greg Asay, Office of Labor Standards Enforcement, in-person interview, August 24, 2009.

²⁶ Sara Flocks, California Federation of Labor and former executive director of Young Workers United, phone interview, August 19, 2009.

²⁷ Ian Lewis, Unite Here Local 2, e-mail correspondence, August 5, 2009 and Sasha Hammad, Young Workers United, phone interview, August 18, 2009.

²⁸ Annette Bernhardt, Ruth Milkman, Nik Theodore, Douglas Heckathorn, Mirabai Auer, James DeFilippis, Ana Luz González, Victor Narro, Jason Perelshteyn, Diana Polson, and Michael Spiller, "Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities", Center for Urban Economic Development, the National Employment Law Project, and the U.C.L.A. Institute for Research on Labor and Employment, September 2008. Available online at: http://nelp.3cdn.net/1797b93dd1ccdf9e7d_sdm6bc50n.pdf

²⁹ Greg Asay, Office of Labor Standards Enforcement, in-person interview, August 24, 2009.

- **Educational Outreach:** Effective implementation and enforcement of the ordinance relies on robust employer and employee awareness of the law. As discussed earlier in this report, OLSE spent over \$300,000 in advertising, coordination with community based organizations, and educational outreach in FY 2008-2009. The \$150,000 in funding for advertising and general public outreach was not included in the FY 2009-2010 budget.

Compliance: Because OLSE investigates employer non-compliance based on the complaints of workers, they are unable to estimate the total number of employers not in compliance with the ordinance.

Since implementation of the ordinance, OLSE has opened 156 PSLO investigations. Of the 156 cases, 130 cases have been resolved while 26 cases are still open. Since implementation, OLSE has recovered approximately \$53,000 in sick leave wages for 119 workers and approximately \$4,600 in penalties to the City.³⁰

CONCLUSION

General support for the PSLO was voiced by all stakeholders interviewed; however perceptions of implementation status vary by stakeholder group. A formal evaluation of the law is necessary to determine the scale of impact and employer compliance. Increasing enforcement capacity and strengthening employer and employee education of the PSLO were identified as two areas where improvements could be made.

Recommendations:

1. Increase funding for OLSE to increase staff capacity to investigate non-compliance.
2. Increase strategic and proactive investigations. Increased capacity would allow inspectors to proactively investigate high violation industries. OLSE already maintains a database that could be used to target non-compliant industries.

Such industries could also be identified through increased coordination with DPH workplace health and safety inspections, as experts report a close correlation between health and safety violations and labor law violations. Identifying workplaces and industries marked by high health and safety violations could be a strategic and relatively cost-effective way to pursue proactive investigations.

Also, industries and workplaces suffering from high rates of non-compliance could be identified through increased coordination with community based organizations, labor unions, and worker advocacy organizations.

3. Increase funding for educational outreach to employers and employees regarding the PSLO, as implementation depends on employer and employee awareness of the law.
4. Consider adjusting penalty and fee structure. Increased penalties may deter currently non-compliant employers. At the same time, the potential to receive a greater monetary reward

³⁰ Memo from Donna Levitt, Manager of Office of Labor Standards Enforcement, August 21, 2009.

may encourage employees to report violations. Additional fees collected by the City could be used to increase OLSE staffing levels.

5. Establish a more effective strategy for using anonymous complaints to investigate cases of non-compliance. Anonymous complaints could be used to pursue proactive workplace investigations.
6. Consider posting an informational form on OLSE's website and requiring employers to sign and return the form acknowledging their compliance with the law. Alternatively, employers could acknowledge their compliance with the PSLO on the same form they are required to submit to OLSE for the Health Care Security Ordinance. Failure to submit the form would result in the addition of the employer's name into the tracking database and potential targeting for a proactive investigation.

OFFICE OF LABOR STANDARDS ENFORCEMENT
DONNA LEVITT, MANAGER

GENERAL SERVICES AGENCY



APPENDIX A: MEMO FROM DONNA LEVITT, MANAGER OF OLSE

August 21, 2009

Ms. Alexa Delwiche
Office of the Legislative Analyst
City Hall Room 270
San Francisco, CA 94102

Dear Ms. Delwiche:

This letter is in response to your request for information on the implementation of the Paid Sick Leave Ordinance (PSLO).

The PSLO was adopted by San Francisco voters on November 7, 2006, with support from 61% of the voters. The PSLO findings note that a large number of workers in San Francisco, particularly part-time employees and workers toward the lower end of the economic spectrum, do not have paid sick leave – or have an inadequate level of paid sick leave – available to them. The absence or inadequacy of paid sick leave among workers in San Francisco poses serious problems not only for affected workers but also their families, their employers, the health care system, and the community as a whole.

While paid sick leave may have been a new concept to some employers and employees in San Francisco, the implementation of the law has been relatively smooth. The Office of Labor Standards Enforcement (OLSE) conducted an extensive rulemaking process to provide guidelines on implementation of the PSLO, produced multilingual resources to explain the law to employers and employees, and conducted a robust public outreach campaign. These materials are available for your review at www.sfgov.org/olse/pslo.

It should also be noted that the PSLO – and OLSE's implementation of the law – has been a national model. Following San Francisco's passage of the PSLO, both Washington, D.C. and Milwaukee adopted sick days legislation (Milwaukee's law is currently in litigation) based in large part on the PSLO and OLSE's rules implementing the law. In addition, OLSE staff presented at a Congressional briefing on paid sick days and helped draft model sick days legislation. This model legislation is being used by sick days advocates and legislators across the country, including by proponents of state legislation in California.

In terms of the PSLO's impacts, an October 2008 study by the Institute for Women's Policy Research found that the law did not adversely affect job growth³¹. On the other hand, because of the PSLO, San Francisco is uniquely positioned to address public health crises such as the H1N1 flu pandemic. To that end, in partnership with the City's Department of Public Health, OLSE provided 55,000 multilingual PSLO fliers to the San Francisco Unified School District to send home with students. The fliers reminded parents and guardians that San Francisco workers have the legal right to stay home with sick children.

In response to your specific questions:

1. *How many employees are benefitting from the PSLO?*

Prior to the adoption of the PSLO, a report published by the Institute for Women's Policy Research estimated that 115,000 San Francisco workers would benefit from passage of the law, or approximately 1 in 4 private-sector San Francisco workers.³² Since the law's passage, there have been no further studies of the number of workers benefitting from the ordinance.

2. *How many PSLO complaints have been resolved? How many remain unresolved?*

³¹ Lovell, Vicky, and Kevin Miller, *Job Growth Strong with Paid Sick Days*, October 2008.

³² Lovell, Vicky, *Valuing Good Health in San Francisco: The Costs and Benefits of a Proposed Paid Sick Days Policy*, July 2006.

To date, OLSE has opened 156 PSLO cases in response to complaints. Of those, 130 have been resolved while 26 cases are open.

3. *How many employers are not in compliance?*

The office's PSLO compliance activities are based on the complaints of workers. As such, we cannot ascertain the number of employers out of compliance. We follow up on all complaints received.

4. *What is the amount of fees/penalties paid to the City?*

To date, OLSE has recovered approximately \$53,000 in sick leave wages for 119 workers, and approximately \$4,600 in penalties to the City.

5. *Is there any indication that employers shifted vacation time to paid sick leave?*

There have been no academic studies to date on changes to employee benefits in response to the PSLO. Based upon the thousands of phone calls and emails received since the PSLO effective date, OLSE believes that there are employers shifting to a Paid Time Off (PTO) benefit in which the paid leave may be used either for vacation or sick leave.

Also, please note that Section 12W.3 of the PSLO and FAQ #28 in our *Frequently Asked Questions* allow for employers to meet their sick days requirements through the provision of other paid leave benefits, including vacation, as long as (1) the number of hours provided is at least equal to what the law requires and (2) the hours can be used consistent with how sick leave can be used under the PSLO. As such, many San Francisco workers did not realize additional paid days off after the law's passage – although they did gain legal protections for those hours because of the law's passage.

6. *What has been the impact on OLSE?*

OLSE integrated enforcement of the PSLO into ongoing enforcement of the City's Minimum Wage Ordinance (MWO). No new OLSE staff were added with passage of the PSLO. Currently five OLSE investigators, including bilingual Cantonese, Mandarin, and Spanish-speaking investigators, and two supervisors enforce both the City's MWO and the PSLO.

I hope this information is helpful. Should you have any further questions, please let me know.

Sincerely,

Donna Levitt
Manager