

# A Report of the Economic Impact of the Proposed Albuquerque Healthy Workforce Ordinance

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Prepared for:

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# Executive Summary

This report, prepared by Impact DataSource, an Austin, Texas economic research, analysis and consulting firms, presents the estimated economic impact of the proposed City of Albuquerque's Albuquerque Healthy Workforce Ordinance.

## The Ordinance

The City of Albuquerque is proposing to enact the Albuquerque Healthy Workforce Ordinance, that, in addition to other provisions, will allow employees to accrue sick leave at the rate of one hour of leave per 30 hours worked. Employers with 40 or more employees must allow each employee to use up to 56 hours of accrued sick leave each year, and employers with fewer than 40 employees must allow each employee to use up to 40 hours of accrued sick leave each year.

## Study of Local Sick Leave Laws in the U.S.

The County's economic development staff conducted research and prepared an executive summary of local sick time leave laws in the U.S. Two conclusions of this study were the following:

1. Employer perspectives on implementing mandated paid sick leave in San Francisco provides useful insights for policymakers, advocates, and the business community to consider as these policies are debated. According to the study, most employers were able to implement this mandate with minimal impacts on their business in the first year. However, San Francisco's experience suggests that it is critical to consider the policy environment affecting employers, such as health insurance or other mandates, when debating the addition of new labor costs.
2. The study also finds that not all businesses respond the same way when addressing these increased labor costs, with some affected more than others. Considering the law's effects on employers of different sizes and across different industries is critical to understanding the larger business and employment effects of a paid sick leave mandate. Further, policymakers should consider specific implementation challenges and economic effects that result when mandated paid sick leave is established locally, rather than statewide or nationally. Finally, ensuring that the business community is engaged in the design of these policies at the outset would help ensure that a paid sick leave law is implemented smoothly and that unintended consequences are avoided or minimized.

## Summary of How the Ordinance Will Impact Albuquerque Businesses

As shown in the following table, the upper end of the estimated annual sick leave ordinance cost to be \$286.9 million:

<b>Total Annual Albuquerque Employers' Sick Leave Costs</b>			
	Employees	Per Worker Sick Leave Costs	Total Sick Leave Costs
Employers with fewer than 40 employees	97,034	\$854	\$82,867,036
Employers with 40 or more employees	170,610	\$1,196	\$204,049,560
<b>Total</b>	<b>267,644</b>		<b>\$286,916,596</b>

However, the actual cost of the sick leave ordinance would likely be less than the above provided that many employers in Albuquerque may already provide some level of sick leave benefits.

According to the U.S. Bureau of Labor Statistics, on average employees get 8 days of sick leave and 61% of private employers provide sick leave benefits. Is this the case in Albuquerque, the potential estimated additional annual paid sick leave cost will be \$111 million, as shown below.

<b>Estimated Additional Annual Employer Sick Leave Costs Assuming 39% 61% of Albuquerque Employers Do Not Already Provide Sick Leave Complying with the Proposed Ordinance</b>	
Employers with fewer than 40 employees	\$32,318,144
Employers with 40 or more employees	\$79,579,328
<b>Total</b>	<b>\$111,897,472</b>

Details of this analysis are shown in the full report that follows.

# The Report

## Introduction

This report, prepared by Impact DataSource, an Austin, Texas economic research, analysis and consulting firms, presents the estimated economic impact of the proposed City of Albuquerque's Albuquerque Healthy Workforce Ordinance.

This analysis used the following steps in conducting the study:

- Review of the proposed ordinance,
- Review of a study by the County's economic development staff of other U.S. sick leave laws and their impact, and
- Calculation of the estimated impact of Albuquerque's proposed sick leave ordinance on businesses, workers and additional sick leave costs.

## The Proposed Albuquerque Healthy Workforce Ordinance

The City of Albuquerque is proposing to enact the Albuquerque Healthy Workforce Ordinance such that, beginning 90 days after enactment: First, Albuquerque employers must allow employees to accrue sick leave at the rate of one hour of leave per 30 hours worked. Second, employees may use sick leave for their own or a family member's illness, injury, or medical care, or for absences related to domestic violence, sexual assault or stalking. Third, employers with 40 or more employees must allow each employee to use up to 56 hours of accrued sick leave each year, and employers with fewer than 40 employees must allow each employee to use up to 40 hours of accrued sick leave each year. Fourth, employers must notify employees of their rights and maintain records. The ordinance also provides for public enforcement, a private right of action, and liquidated damages and penalties for noncompliance or retaliation.

As stated in the proposed ordinance, the proposed measure is to be submitted to the voters at the next regular or special municipal election, or the November 8, 2016 general election, concerning an ordinance to allow employees to accrue and use sick leave and establishing procedures for notice, recordkeeping, and enforcement.

## Summary of Sick Leave Laws in the U.S.

The County's economic development staff prepared an executive summary of local sick time leave laws in the U.S. That executive summary begins on the following page.

## Background

Congress enacted the Family and Medical Leave Act (FMLA) in 1993. The FMLA requires an employer with 50 or more employees to provide 12 work weeks of unpaid leave in a 12-month rolling period. An employee must have worked at least 1250 hours during the preceding 12-month period to be eligible for unpaid leave under the FMLA. One of the reasons an employee may take unpaid FMLA leave is for the employee's "serious health condition" or to take care of an immediate family member with a "serious health condition." An employee must be unable to perform any of the essential functions of the employee's position in order to use FMLA leave for a serious health condition.

The FMLA was designed to allow an employee to miss work due to the employee's illness or the illness of an immediate family member without risking the loss of employment. However, this law leaves several large holes in employee protection:

- The FMLA does not apply to an employer with fewer than 50 employees,
- Does not protect an employee who has not worked at least 1250 hours in the preceding 12 months, and
- Requires an employee to have a "serious health condition."

The FMLA does not require the employer to pay the employee for time missed under the FMLA.

## Overview of Current Paid Sick Time Laws in the United States

According to *A Better Balance* (the Work and Family Legal Center), as of July 18, 2016 only five states, 27 cities, and one county across the United States have paid sick time laws on the books. This organization provides an overview and comparison of these laws for the following related 14 questions:

1. Who is covered?
2. Can sick time be used to care for loved ones?
3. How is "child" defined?
4. Can sick time be used for specific "safe time" purposes (related to domestic violence, sexual assault, or stalking)?
5. Can sick time be used under the law to bond with a new child and/or deal with a family member's death?
6. Can sick time be used when a worker's place of work or child's school/place of care is closed by public health officials for a public health emergency?

7. Rate at which workers earn paid sick time?
8. Amount of paid sick time that can be earned under the law per year?
9. When do workers begin to earn paid sick time?
10. Does unused sick time carry forward to the subsequent year?
11. Private Right of Action to go to Court?
12. Are there waivers/ exemptions for workers covered by a valid Collective Bargaining Agreement (CBA)?
13. For the statewide paid sick time laws: can cities in the state pass paid sick time laws that are broader than the state law?
14. What Agency or Official Enforces the Bill?

#### **Local Paid Sick Leave Laws (two Municipal Comparisons)**

District of Columbia:

The District of Columbia (DC) enacted the Accrued Sick and Safe Leave Act of 2008, amended by the Earned Sick and Safe Leave Amendment Act of 2013. Under the DC law:

- An employer with 100 or more employees must provide 1 hour of leave per 37 hours worked;
- An employer with 25-99 employees must provide 1 hour of leave per 43 hours worked; and
- An employer with less than 25 employees must provide 1 hour per 87 hours worked.

The DC law is enforced by the District of Columbia Department of Employment Services, Office of Wage and Hour.

San Francisco:

In 2006, San Francisco enacted a Paid Sick Leave Ordinance (PSLO) pursuant to a voter referendum. The PSLO requires:

- an employer with fewer than 10 employees to provide 5 days or 40 hours of paid sick leave; and
- an employer with 10 or more employees must provide 9 days or 72 hours of paid sick leave.

Leave must be earned at the rate of 1 hour for every 30 hours worked after an initial probation period of 90 days. The PSLO covers full-time, part-time, and temporary workers.

### **Study of San Francisco's Paid Sick Leave Policy**

In 2009, *The Urban Institute* published a study reviewing the effect of the PSLO on employers in San Francisco, *Employers' Perspectives on San Francisco's Paid Sick Leave Policy*, Boots, Martinson, and Danziger. Following are some excerpts from that study:

1. “A growing body of research shows the benefits to employees of having access to paid sick leave. In particular, the public health benefits appear strong; paid sick leave helps reduce the spread of infectious diseases, such as influenza, and hospitalizations and health care costs for preventable chronic conditions (Bhatia 2007; Hartmann 2007). One analysis finds that workers with preventable chronic conditions have less access to paid sick leave, suggesting that workers with greater medical care needs face an additional barrier to addressing their illnesses (Bhatia et al. 2008).”
2. “Information on the business impacts of providing paid sick leave is more limited. To be sure, many employers already provide sick leave benefits to some of or all their employees, in part because of benefits to their business. For example, the availability of paid sick leave has been linked to reduced voluntary and involuntary job turnover for employers (Cooper and Monheit 1993; Dodson, Manuel, and Bravo 2002; Earle and Heymann 2002; Heymann 2000). In addition, the provision of paid sick leave appears to improve business productivity by limiting "presenteeism," or when employees work while ill, and ensuring that workers are healthier while on the job (CCH Incorporated 2003; Goetzl et al. 2004; Hemp 2004; Lovell 2004).”
3. “However, mandated employer benefits increase labor costs for businesses, which can lead to employer actions to minimize or offset these costs. A large body of research on employer mandates shows that businesses will generally pass on any increased costs to their employees, through reduced wages and benefits, or to their customers, through increased prices. To minimize costs, employers may also reduce workers' hours to avoid workers' benefits from accruing, or maintain lower staffing levels than they otherwise would, for example by reducing the number of employees. This is particularly likely for employers with a minimum-wage labor force, who face wage rigidity (Summers 1989).”
4. “Many businesses would prefer state or national employer mandates rather than a city mandate. For many employers, the fact that their competitors just over the city line were not subject to the city's minimum wage, health insurance, or paid sick leave requirements made the cost of staying competitive.”

5. "Few employers reported any early benefits from reduced absenteeism, lower turnover, or improved employee morale as a result of the paid sick leave ordinance. Employers noted that turnover and retention seem less relevant to a mandated benefit, since now the same sick leave benefits are available across companies. As one small business owner observed, "The policies I had in place before were there to reduce turnover and get better employees-and they did have an effect. But now, since the new ordinance, employees will have the same benefit no matter where they work. There's less of an incentive to stay and work for me."
6. "Some employers reported that the law limits their ability to reward full-time or longer-tenure workers with higher benefits than part-time or new workers. As one small business owner said "Now my part-time employees are getting to be equal to my full-timers, those full-timers are upset that they're getting the same benefits-they feel mistreated. There needs to be some distinction for those that work full time and have been working for me for a. while. But, I don't have the ability to add additional benefits to full-timers because all of my fixed costs are up."
7. "Employers also noted that a city or state should provide additional staffing and resources to the administering agency to help implement a PSLO, particularly technical assistance for employers to help them get their PSL systems up and running. Most employers, as well as city officials we spoke with, agreed that the administering agency lacked the staff and resources to meet the law's requirements and help employers implement the policy on time."
8. "In addition to implementation, ongoing education and enforcement efforts are needed. Regulatory laws are only as good as the enforcement efforts that back them up. Yet, city officials and employers both noted the challenge of educating employers and employees about the benefit and ensuring compliance for the estimated 106,000 registered businesses in the city."
9. "Enforcing PSLO is primarily driven by employer or employee complaints, which, employers and officials note, leaves the burden largely on employees to identify employers that refuse to comply with the law. In the words of one employer, "We keep passing more laws, and there's no enforcement. For the bad employers, employees will keep working quietly and nor 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."

Lastly, following are two pertinent summary paragraphs also extracted verbatim from the subject study. The first paragraph suggests that 'most businesses' were able to implement the

mandate with minimal impacts, but admonishes consideration of the policy environment in light of other mandates. The second paragraph describes how some businesses are affected more than others, the effect of local vs. state or national establishment of this law, and engagement of the business community at the outset – as follows:

1. “This study of employer perspectives on implementing mandated paid sick leave in San Francisco provides useful insights for policymakers, advocates, and the business community to consider as these policies are debated. According to our study, most employers were able to implement this mandate with minimal impacts on their business in the first year. However, San Francisco's experience suggests that it is critical to consider the policy environment affecting employers, such as health insurance or other mandates, when debating the addition of new labor costs.”
2. “This study also finds that not all businesses respond the same way when addressing these increased labor costs, with some affected more than others. Considering the law's effects on employers of different sizes and across different industries is critical to understanding the larger business and employment effects of a paid sick leave mandate. Further, policymakers should consider specific implementation challenges and economic effects that result when mandated paid sick leave is established locally, rather than statewide or nationally. Finally, ensuring that the business community is engaged in the design of these policies at the outset would help ensure that a paid sick leave law is implemented smoothly and that unintended consequences are avoided or minimized.”

## **How the Ordinance Will Impact Albuquerque Businesses**

As discussed before, the proposed Albuquerque paid sick leave ordinance states that:

- Albuquerque employers must allow employees to accrue sick leave at the rate of one hour of leave per 30 hours worked.
- Employers with 40 or more employees must allow each employee to use up to 56 hours of accrued sick leave each year.
- Employers with fewer than 40 employees must allow each employee to use up to 40 hours of accrued sick leave each year.

How many Albuquerque businesses and workers would potentially be impacted by the paid sick leave ordinance?

## Determining the Possible Impact of the Ordinance

While there are no government sources of data that show how many employers employ fewer than 40 workers or 40 workers or more or how many individuals work for these businesses, Impact DataSource used several federal sources of data to estimate the number of establishments (employers) and the number of workers at those establishments that may be affected by the ordinance. Establishment and employment counts for Bernalillo County were obtained from the Quarter Census of Employment and Wages (QCEW) which is produced by the U.S. Bureau of Labor Statistics. It is important to note that the QCEW data excludes self-employed individuals who would likely not be affected by Albuquerque's proposed ordinance. Next, using data from the U.S. Census Bureau's OnTheMap program for Bernalillo County and the City of Albuquerque, the county-level data were adjusted to approximate the estimates for the City of Albuquerque. Finally, using data of establishment counts by employer size, Impact DataSource estimated the number of establishments and employees in the two employer size categories of interest.

### Hours, Average Wages and Annual Costs

Under the ordinance, the estimated annual sick leave hours and costs of these employee's hours are shown below.

Average Number of Sick Leave Hours that May be Taken by an Employee Each Year and Corresponding Employer Cost			
	Hours	Average Hourly Wages	Per Worker Sick Leave Costs <sup>1</sup>
Employers with fewer than 40 employees	40	\$44,429	\$854
Employers with 40 or more employees	56	\$44,429	\$1,196

Approximately 91% of all establishments in Albuquerque have fewer than 40 workers. This 91% of city employers accounts for approximately 36% of all jobs in the city. That is to say that approximately 64% of workers in Albuquerque are employed by businesses with more than 40 workers even though these large employers only account for 9% of all establishments in the city.

<sup>1</sup> Occupational Employment and Wages in the Albuquerque MSA, May 2015, US Bureau of Labor Statistics, [http://www.bls.gov/regions/southwest/news-release/occupationalemploymentandwages\\_albuquerque.htm](http://www.bls.gov/regions/southwest/news-release/occupationalemploymentandwages_albuquerque.htm)

<b>Estimated Establishments and Employees Affected by Proposed Sick Leave Ordinance</b>				
	Establishments	Percent of Establishments	Employees	Percent of Employees
Employers with fewer than 40 employees	14,030	90.8%	97,034	36.3%
Employers with 40 or more employees	1,428	9.2%	170,610	63.7%
<b>Total</b>	<b>15,458</b>		<b>267,644</b>	

The next table pairs the above employment estimates with the average sick leave cost to estimate the upper end of the estimated sick leave ordinance cost to be \$286.9 million. The actual cost of the sick leave ordinance would likely be less than this provided that many employers in Albuquerque may already provide some level of sick leave benefits.

<b>Total Annual Albuquerque Employers' Sick Leave Costs</b>			
	Employees	Per Worker Sick Leave Costs	Total Sick Leave Costs
Employers with fewer than 40 employees	97,034	\$854	\$82,867,036
Employers with 40 or more employees	170,610	\$1,196	\$204,049,560
<b>Total</b>	<b>267,644</b>		<b>\$286,916,596</b>

What would be the costs for Albuquerque businesses that do not currently have paid sick leave?

According to the U.S. Bureau of Labor Statistics, on average employees get 8 days of sick leave and 61% of private employers provide sick leave benefits.<sup>2</sup> Is this the case in Albuquerque, the potential estimated additional paid sick leave cost will be \$111 million, as shown on the following page:

<sup>2</sup> U.S. Bureau of Labor Statistics, Program Perspectives, March 2010, [http://.bls.gov/opub/perspectives/program\\_perspectives\\_vol2\\_issue2.pdf](http://.bls.gov/opub/perspectives/program_perspectives_vol2_issue2.pdf)

<b>Estimated Additional Annual Employer Sick Leave Costs Assuming that            61% of Albuquerque Employers Already Project Sick Leave            Complying with the Proposed Ordinance</b>	
Employers with fewer than 40 employees	\$32,318,144
Employers with 40 or more employees	\$79,579,328
<b>Total</b>	<b>\$111,897,472</b>

## Conduct of this Analysis

This analysis was conducted by Impact DataSource using the results research by Bernalillo County's economic development staff and the results of Impact DataSource's research.

Impact DataSource, LLC is a 22-year old Austin economic consulting, research and analysis firm. The firm has conducted economic impact analyses of numerous projects in New Mexico and 39 other states. In addition, the firm has developed economic impact analysis computer programs for several clients, including the New Mexico Economic Development Department.

The firm's principal, Jerry Walker, performed this economic impact analysis. He is an economist and has Bachelor of Science and Master of Business Administration degrees in accounting and economics from Nicholls State University, Thibodaux, Louisiana.