



NEWS RELEASE

**GOVERNMENT & PUBLIC AFFAIRS
DEPARTMENT**

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**Judge approves order to move implementation
of City of San Antonio Paid Sick Leave Ordinance**

Ordinance requiring employers to provide paid leave for ill or injured employees and their families will not be implemented until December 1st

SAN ANTONIO (July 24, 2019) — Today, Judge Sol Casseb accepted an agreement to implement the City’s Paid Sick Leave (PSL) Ordinance on December 1, 2019. Specifically, the order notes, “the City seeks time – free of the burden of litigation – to allow the City of San Antonio Paid Sick Leave Commission to confer with stakeholders, study the PSL Ordinance, and recommend to the Mayor and Council revisions to the PSL Ordinance.” (*See attached.*)

“The City will continue to defend the ordinance,” said City Attorney Andy Segovia. “This extension allows the Council-appointed Paid Sick Leave Commission time to complete their review and provide recommendations to City Council. Moreover, today’s decision avoids an indefinite injunction, such as what happened to the City of Austin’s nearly identical ordinance. With more time, stakeholders can proceed with recommendations that best position the ordinance against potential legal challenges.”

As a result of the court order, the ordinance will not be implemented on August 1st, 2019, and no further legal activity by the group of businesses challenging the PSL Ordinance will occur until either the City Council enacts changes to the existing PSL Ordinance or November 7, 2019, at which time, any of the parties of the lawsuit may resume gathering evidence, filing motions and scheduling hearings. In the meantime, the Paid Sick Leave Commission will consider and present recommendations to the City Council for potential revisions to the ordinance that was brought to the Council by more than 144,000 petitioners.

Had the judge not accepted the agreed order today, the court would have proceeded with a hearing on a temporary injunction, which would have potentially put a halt to the entire process.

Background:

- The San Antonio paid sick leave (PSL) ordinance was presented to City Council via a petition in July 2018.
- The City Council adopted the ordinance “as is” with no revisions in August 2018.
- The San Antonio PSL ordinance is nearly identical to the Austin PSL ordinance.
- The Austin ordinance was challenged in 2018 by local businesses and the Texas Attorney General’s Office.
- The 3rd Court of Appeals in Austin ruled that the Austin PSL ordinance is unconstitutional and preempted by state law (the Texas Minimum Wage Act). This means that the Austin ordinance was not allowed to go into effect.



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- The City of San Antonio was sued by local businesses/business associations on July 15, 2019 in an effort to stop the City from implementing the Paid Sick Leave (PSL) ordinance on August 1, 2019.
- The Plaintiffs seek to permanently enjoin the PSL Ordinance from taking effect by alleging the PSL Ordinance is preempted by State law.
- San Antonio's PSL ordinance is nearly identical to Austin's PSL ordinance. The 3rd Court of Appeals in Austin held that Austin's PSL ordinance was preempted and unconstitutional. The City of Austin appealed that decision to the Texas Supreme Court. The Texas Supreme Court has not determined whether it will hear the case.
- Although the 3rd Court of Appeals decision does not legally control a decision made by a San Antonio court, we fully expect a local court to use the 3rd Court of Appeals decision for guidance. Consequently, it is very likely a San Antonio court will enjoin implementation at least until the Texas Supreme Court takes some action regarding Austin's ordinance.
- An agreed order with the Plaintiffs to delay implementation accomplishes the following:
 - Delays implementation to a date certain instead of potentially risking an indefinite injunction; and
 - Allows the work of the PSL Commission to continue; and
 - Provides the Commission and Council the opportunity to recommend changes to and amend the PSL Ordinance to address stakeholders concerns, clarify points, and fill in gaps in the PSL Ordinance and strengthen the ability to withstand legal challenge.
- The City Attorney's Office is working with the Commission to consider revisions that address the challenges presented against the ordinance in the Austin lawsuit so that the ordinance can better withstand legal challenge.
- The Commission's members represent stakeholder groups across the spectrum of interested parties, which include: Texas Organizing Project, MOVE Texas Action Fund, the Hispanic Chamber of Commerce, South SA Chamber of Commerce, small business owners, and community members with backgrounds in labor and employment law and union/worker's rights experience. The Commission is working toward providing recommendations by September.
- City Council must review all recommendations presented by the PSL Commission. City Council can choose to accept all, some, or none of the Commission's recommendations.
- It is expected that recommendations by the PSL Commission will be submitted to City Council in September.