

H.R. 6201

Families First Coronavirus Response Act

BILL FACT SHEET – NECA PDJ CONTRACTOR MEMBERS

On March 18, this Bill was made law. NECA’s biggest issues with the House version were fixed in the Senate. Provisions relevant to NECA are the Emergency Paid Sick Leave and Emergency Family and Medical Leave requirements.

This document explains how these provisions apply to YOU.

SUMMARY BRIEF

WHEN: Starting April 2, 2020,
WHO: companies with fewer than 500 employees must offer
WHAT: Emergency Paid Sick Leave and Emergency Family and Medical Leave (with varying requirements)
WHOM: to employees who have a qualifying reason
WHY: as a result of H.R. 6201’s signing into Federal law.
HOW: Employers will receive a 100% payroll tax credit to cover all leave wage expenses they actually incur.

See the complete leave provisions summary on the next three pages for detailed information on the new emergency paid leave law.

If you have additional questions that are not addressed in this document, please email your question to Aaron Kelley at akelley@neca-pdj.org.

NECA has released additional guidance on this law. This is available on our Chapter Resource Center. That said, the Chapter suggests sharing these documents and the text of the new law with your legal counsel to aid in compliance.

(Complete leave provisions summary begins on the next page.)

COMPLETE LEAVE PROVISIONS SUMMARY:

WHEN:

1. Leave may be taken beginning on April 2, 2020.
2. This law expires on December 31, 2020.
3. Emergency Paid Sick Leave is up to 2 weeks (80 hours) fully or partly paid.
4. Emergency Family and Medical Leave is up to 12 weeks long, with the first two weeks (10 days) unpaid and the last 10 weeks partly paid.

WHO:

1. Contractors with fewer than 500 employees need to offer Emergency Paid Sick Leave and Emergency Family and Medical Leave.
2. The Secretary of Labor MAY offer exemptions to businesses with fewer than 50 employees for financial hardship. The details and process for applying for exemption are yet to be determined.
3. Contractors with 500 or more employees need not offer either type of leave.

WHAT:

1. A “regular rate of pay” is an employee’s standard pay for the number of hours they would be normally scheduled to work. For employees with varying hours each week, this can be calculated by averaging the number of hours the employee was scheduled per day over the past 6-month period.
2. Whether other employee benefits must be included in these payments has not yet been determined. NECA is awaiting clarification on this matter.
3. Emergency Paid Sick Leave, if the employee is quarantined by the government, self-quarantined on the advice of a health care provider, or experiencing COVID-19 symptoms and seeking diagnosis, must be paid at the employee’s **regular rate of pay UP TO A MAXIMUM CAP** of \$511 per day (\$5,110 total over two weeks).

4. Emergency Paid Sick Leave, if the employee is caring for an individual who is quarantined, caring for a child whose school or care provider is unavailable due to COVID-19, or experiencing a similar condition as specified by HHS, DOL, or Treasury, must be paid at **two-thirds the employee's regular rate of pay UP TO A MAXIMUM CAP** of \$200 per day (\$2,000 total over two weeks).
5. Emergency Family and Medical Leave (to care for children whose school or care provider is unavailable due to COVID-19), after the first two weeks unpaid, must be paid at **two-thirds the employee's regular rate of pay UP TO A MAXIMUM CAP** of \$200 per day (\$10,000) over the last 10 weeks.
6. Employers with more than 25 employees must restore employees who take Emergency Family and Medical Leave to their positions upon return from leave. Employers with fewer than 25 employees must attempt to do so, or to return the employee to a similar position. If none are available, they must attempt to contact the employee if a similar position becomes available.

TO WHOM:

1. Employees who are laid off are not covered by these leave provisions.
2. Employers may not lawfully discharge or discipline an employee who takes leave in accordance with this Act.
3. Employees must be granted requested Emergency Paid Sick Leave if they:
 - a. Are subject to ANY government COVID-19 quarantine.
 - b. Have been advised by a health care provider to self-quarantine.
 - c. Have COVID-19 symptoms and are seeking diagnosis.
 - d. Are caring for an individual in quarantine pursuant to a & b.
 - e. Are caring for a child or children whose school or care provider is unavailable due to COVID-19.
 - f. Have a similar condition as specified by HHS, DOL, or Treasury.

4. Employees must be granted requested Emergency Family and Medical Leave if they have been employed for at least 30 days, and:
 - a. Are unable to work in order to care for a child or children whose school or care provider is unavailable due to COVID-19.

WHY:

1. H.R. 6201 was recently signed into Federal law.
2. This law mandates these requirements to employers.

HOW:

1. Your Company will need to make leave payments from its own pockets.
2. Employers will receive a 100% payroll tax credit (refundable as needed) for required Emergency Paid Sick Leave and Emergency Family and Medical Leave wages, plus certain health care expenses of the employer. These credits will be granted up to the capped maximum leave payments required.
3. You will essentially be giving the Federal government a zero-interest loan until you are paid back via tax credits.
4. An additional stimulus package is in the works, which may provide additional small business relief.