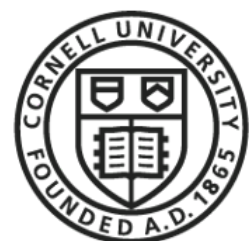


HIGHROAD FELLOWSHIP REPORTS

EARNED SICK TIME POLICY BRIEF

July 2015

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2015 High Road Fellow
With Coalition
for Economic Justice



ILR Buffalo Co-Lab

The ILR Buffalo Co-Lab advances an equitable economy and democratic community, collaboratively integrating scholarly and practical understanding to strengthen civic action.

Since 1946, Cornell ILR has played a vital role in Western New York, working in partnership with businesses, unions, government, education and community organizations to build an economy that works for all.

High Road Fellowships were launched in 2009, in collaboration with community-based think-tank Partnership for the Public Good. They connect Cornell undergraduates with practitioners and creative community leaders who are driving change in the local economy.

Fellows are in Buffalo, NY for eight weeks in the summer, working on projects through their host organization.



Earned Sick Time Can Increase Productivity, Decrease Health Risks

Kyle Friend, 2015 High Road Fellow

Introduction

Earned sick time, “paid sick time,” or “paid sick leave” policies allow workers to earn paid time off from work by working a certain number of hours – for example, a worker could gain one hour of “earned sick time” for every thirty hours they work. Many municipalities that have enacted earned sick leave policies cap the number of paid sick hours one can earn. Certain employers, although not mandated by local, state, or federal governments, offer earned sick time policies as a benefit to their employees.

**The City of Buffalo
should consider
adopting a paid sick
time policy for all
workers in Buffalo.**

At present time, a worker in the State of New York has no right to any number of paid days off from work when they – or their children – are temporarily ill. Often times, workers will have to choose between a paycheck and caring for themselves or their loved ones

The issue of paid sick time has grown large enough to be taken up even by Hillary Clinton¹ on the campaign trail, where she makes a federal earned sick time policy one of her primary policy goals as she pursues the presidency in 2016.

In 1993, seventeen days into his first term, President Bill Clinton signed the Family Medical Leave Act² into law, although the policy provisions enacted wouldn't go into effect until August 5th, 1993, six months later. The Act allows workers up to twelve weeks of unpaid time off for a personal or family illness, a pregnancy, adoptions, etc. This Act made it easier for workers to take care of themselves and their families – but it does not do enough to ensure that workers are not caught deciding between a paycheck and their own wellbeing.

Why is an earned sick time policy needed?

"If a sick employee is not careful, they could infect consumers, so in that regard, it's kind of a public health issue."

*- Former Councilman
Michael LoCurto to
WGRZ.com*

4/16/2015

According to a July 2015 Center for Disease Control report³, approximately 60% of workers nationwide have access to paid sick time at their main job, leaving 40% without – 43 million workers, according to President Barack Obama's January 20, 2015 State of the Union address⁴. In a 2012 op-ed to

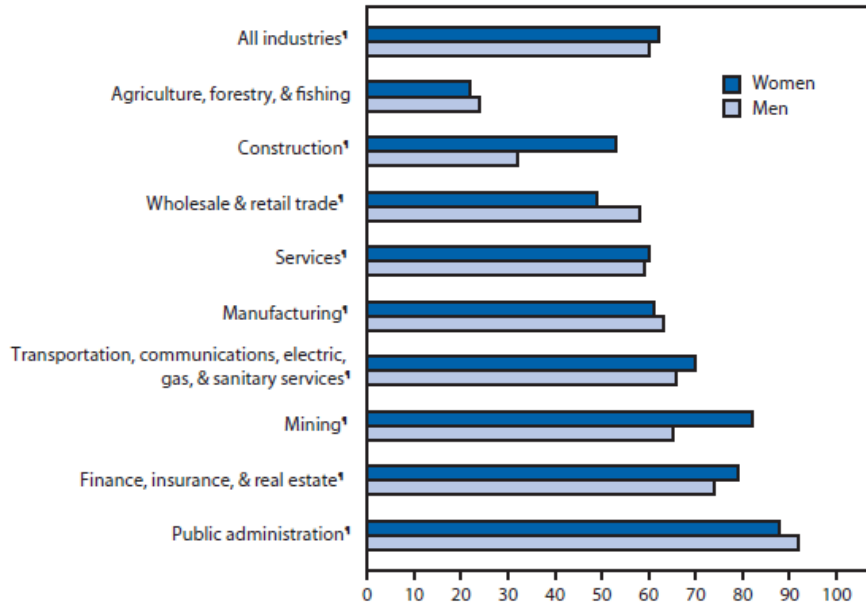
¹ "New Momentum on Paid Leave, in Business and in Politics." New York Times. June 22, 2015. <http://www.nytimes.com/2015/06/22/upshot/a-federal-policy-on-paid-leave-suddenly-seems-plausible.html?abt=0002&abg=1>

² Family and Medical Leave Act. February 5, 1993. <http://www.gpo.gov/fdsys/pkg/STATUTE-107/pdf/STATUTE-107-Pg6.pdf>

³ "QuickStats: Percentage of Currently Employed Adults Who Had Paid Sick Leave,* by Industry† — National Health Interview Survey, United States, 2009–2013." Center for Disease Control. July 2015. http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6425a8.htm?s_cid=mm6425a8_x

⁴ "Remarks of President Barack Obama – As Prepared for Delivery State of the Union Address." White House. January 20, 2015. <https://www.whitehouse.gov/the-press->

U.S. News and World Report, Senator Patty Murray (D-WA) wrote⁵ that “today, 43 million workers don’t have a way to earn paid sick leave at their job. More than two-thirds of those workers are in the bottom 25 percent of earners, who are the least likely to be able to afford to miss a day of work when they are ill.”



Based on responses to a question that asked, "Do you have paid sick leave on this MAIN job or business?"

Source: Center for Disease Control (see footnote 3)

“The costs associated with sick workers who continue to work can be substantial,” an American Journal of Public Health report⁶cited by Senator Murray

office/2015/01/20/remarks-president-barack-obama-prepared-delivery-state-union-address

⁵ “Patty Murray: Paid Sick Days are Good for Workers and Businesses.” U.S. News and World Report. April 14, 2015. <http://www.usnews.com/opinion/articles/2015/04/14/patty-murray-paid-sick-days-are-good-for-workers-and-businesses>

⁶ “Paid Leave and Nonfatal Occupational Injuries.” American Journal of Public Health. September 2012. http://njtimetocare.com/sites/default/files/14_American%20Journal%20of%20Public%20Health-%20Paid%20Sick%20Leave%20and%20Nonfatal%20Occupational%20Injuries.pdf

reads. The report goes on to note that, when workers work while sick, their productivity decreases, the likelihood of contagious illnesses spreading to other employees rises, and the probability of workers sustaining more serious injuries increases.

Who already has paid sick time?

Most Erie County government employees are offered paid sick days. According to the Erie County employee handbook⁷, “permanent-status employees” are given fifteen sick days per year or 1.25 days per month, so long as the employee is in compensable status for ten or more working days in a month. Erie County employees are able to accumulate an “unlimited number of sick days” that they can use in the future.

“Today, we’re the only advanced country on Earth that doesn’t guarantee paid sick leave or paid maternity leave to our workers.”

*–President Barack Obama
1/20/2015*

“Non-bargaining permanent-status employees” are eligible to use a maximum of twelve accumulated sick days per calendar year when a sickness in the immediate family – parents, spouse, or children – requires the employee’s absence from work. “Bargaining employees,” the handbook reads, “should refer to their labor agreement” when it comes to using paid sick time to tend to a sickness in the immediate family.

⁷ Erie County Employee Handbook. Revised January 25, 2013.
<http://eriecountygov.org/dept/hr/employeeforms/Employee%20Handbook%20FINAL%20chart1-1-09.pdf>

What other municipalities have enacted paid sick time policies?

While four states – Oregon, Massachusetts, California, and Connecticut – have enacted paid sick leave policies, most paid sick leave policies are implemented at the local level. Eighteen cities, according to an “Outline of Paid Sick Time Laws in the United States⁸” by a Better Balance, have enacted paid sick time policies.

They are:

- San Francisco, California
- Washington, District of Columbia
- New York City, New York
- Jersey City, New Jersey
- Newark; Passaic; East Orange; Paterson; Irvington; Trenton; Montclair; and Bloomfield, New Jersey (These municipalities fall under the same guidelines.)
- Oakland, California
- Tacoma, Washington
- Philadelphia, Pennsylvania
- Emeryville, California
- Montgomery County, Maryland

⁸ “Outline of Paid Sick Time Laws in the United States.” Better Balance. Updated June 24, 2015. <http://www.abetterbalance.org/web/images/stories/Documents/sickdays/factsheet/PSDchart.pdf>

What exactly do some of these policies entail?

New York City, N.Y. – Workers that work in New York City for at least 80 hours in a calendar year are covered under the paid sick time policy. Certain employees – work-study students, certain hourly therapists, independent contractors, and government workers – are exempted from the policy.

Table 2: Amount of Sick Leave

Number of Employees	Amount of Sick Leave per Calendar Year	Paid or Unpaid Sick Leave	Rate of Pay
5 or more	Up to 40 hours	Paid	Regular hourly rate but no less than \$8.75 per hour (2015 New York State minimum wage)
1–4	Up to 40 hours	Unpaid	Not Applicable
1 or more domestic workers <i>Must work 80+ hours per calendar year and have been employed by the same employer at least 1 year</i>	Up to 2 days	Paid	Regular hourly rate but no less than \$8.75 per hour (2015 New York State minimum wage)

Note: "Calendar Year" means any regular and consecutive 12-month period of time determined by an employer.

SOURCE: NYC Dept. of Consumer Affairs (see footnote 8)

Workers that receive the benefits of a paid sick time policy in New York City are able to use that time to care for children, spouses, domestic partners, parents, grandchildren, grandparents, siblings, and the parents of one’s significant other. Workers’ ability to use paid sick time to care for a plethora of family members – not just ones that they live with – is not uncommon among the paid sick time policies of various municipalities.

For every thirty hours that an eligible worker in New York City works, they accumulate one hour of paid sick time. Employers with five or more workers have to offer up to forty hours a year in paid sick time; employers with fewer than five employees have to offer forty hours of **unpaid** sick time.

Enforcement and Results

The New York City Department of Consumer Affairs enforces the paid sick time policy⁹, and released a report that reflects upon the first year that the policy was in effect. 1.2 million workers gained sick leave as a result of this policy. “[P]aid sick leave policies have the power to fundamentally improve workplace dynamics,” the report states. “Participants unanimously said the ability to take paid sick leave without fear of retaliation would make them respect their employers more, stay in their jobs longer, and work even harder.”

Out of the 165 closed complaints, 70% (116) of them were mediated by the DCA, without issuing a single fine, which secured \$10,750 in restitution for 33 employees, according to the report. “When an employer violates the law,” the report states, “it is not always possible to mediate. When mediation is not viable, the Agency works through settlements to maximize restitution. As of March 30, 2015, DCA has issued six consent orders for violations of the law, securing \$23,194 in restitution for employees and issuing \$39,350 in fines to employers. If investigations produce evidence of a violation and a negotiated settlement is not reached, the Agency will go to hearing.”

Economic indicators of New York City’s economy, between January 2014 and January 2015, show that the implementation of the paid sick leave law had a positive effect on the local economy, contrary to talking points circulated by those

⁹ “NYC’s Paid Sick Leave Law. First Year Milestones and the Employer Experience.” NYS Dept. of Consumer Affairs. <http://www1.nyc.gov/assets/dca/downloads/pdf/about/PaidSickLeaveLaw-FirstYearMilestones.pdf>

that oppose mandatory paid sick leave. The report (footnote 8) notes statistics about the economic impact of the policy:

- Unemployment in NYC was 6.5% – the lowest in six years
- Labor force participation rate was at 60.7% – the highest on record
- 112,300 jobs were added, which resulted in a 3.3% increase in private sector employment
- Prices fell by 0.5%

Jersey City, N.J. – In Jersey City, much like New York City, workers that have worked at least 80 hours within the city are eligible for paid sick time.¹⁰ Workers employed by any government agency, the New Jersey School District or Board of Education, or Rutgers University are exempted from this paid sick leave mandate.

“Paid sick leave policies have the power to fundamentally improve workplace dynamics.”

*- New York City
Department of
Consumer Affairs*

Paid sick leave in Jersey City can be taken to take care of children, parents, grandparents, grandchildren, domestic partners, spouses, the parents of a spouse or domestic partner, the partner of a grandparent, and siblings.

For every thirty hours worked in Jersey City, workers are able to accumulate one hour of paid sick time. For employers with ten or more workers, workers are eligible for up to forty hours of paid sick time in a year. For workers that work in

¹⁰ Id.

businesses with less than ten employees, workers are eligible for up to forty hours of **unpaid** sick time per year.

The enforcement of the law is the responsibility of the Jersey City Department of Health & Human Services. Details regarding the economic impact of the policy and specific details regarding the enforcement of the policy Jersey City are not provided by the city.

Seattle, WA – In the City of Seattle, workers employed by an employer with more

“43 million workers don’t have a way to earn paid sick leave at their job. More than two-thirds of those workers are in the bottom 25 percent of earners, who are the least likely to be able to afford to miss a day of work when they are ill.”

- Senator Patty Murray (D-WA), in a 2012 op-ed to U.S. News & World Report

than four employees (if they work for more than 240 hours in a calendar year) are covered by Seattle’s paid sick time policy. Work-study students, however, are exempted from the policy.

Paid sick hours can be used to care for oneself, children, parents, a spouse’s parents, grandparents, and registered domestic partners. For an employer with 250 or more employees, a worker can accrue one hour of paid sick time for every thirty

hours worked; for employers with less than 250 employees, one hour of paid sick time is accrued for every forty hours of work.

In Seattle, workers in businesses that have between four and fifty full-time workers or full-time equivalent (FTE) workers can gain up to forty hours per year in paid sick time. Workers in businesses with between fifty and 250 full-time or FTE workers are eligible to receive up to fifty-six paid sick hours a year. For

workers in businesses with more than 250 full-time or FTE employees, workers can receive up to seventy-two hours per year in paid sick hours (or up to 108 hours per year, if the employer has a “universal paid time off policy”).

Enforcement

The Seattle Office for Civil Rights has the responsibility to enforce the paid sick time law in the City of Seattle¹¹.

For a settlement to be completed, an employer has to meet certain provisions:	In the future, the Office of Civil Rights plans on:
Paying of back wages for unpaid absences during the period of noncompliance	Assessing whether individual complaints against employers by workers reflect company-wide violations
Providing a notice and explanation of employees’ rights to paid sick time	Imposing civil penalties for all willful violations of the law
Notifying employees to their paid sick time “balance” each time wages are paid	Requiring employers to pay for paid sick time absences that workers “would have used” had the employer been in compliance
Monitoring compliance for a specified time period	
Paying of civil penalties for violations regarding notice and posting requirements	

In 2014, employees in Seattle received over \$37,000 in settlements as a result of employers failing to meet the requirements of the paid sick time law. In 2013, employees received just over \$5,800.

¹¹ “Summary of 2012-13 PSST Enforcement and 2014 PSST Enforcement Strategies.” Seattle Office for Civil Rights. http://www.seattle.gov/Documents/Departments/CivilRights/psst-enforcement_strategies.pdf

What should the City of Buffalo do?

Paid sick time policies have showed time-and-time again that they are beneficial to workers, local economies, and the public health. If the City of Buffalo chooses to implement a paid sick leave policy that impacts the private- and public-sectors, many different factors need to be taken into account to ensure that the legislation is comprehensive, equitable, and succinct:

1. Most paid sick leave policies at the municipal level discriminate who is eligible for paid sick leave based on how many workers the employer has – smaller employers are less likely to be able to afford the cost of paid sick time policies, so the Council should consider what the “cut-off” point will be.
2. Possible legislation will have to state how many hours a worker needs to work to accumulate one hour of paid sick time. In certain cities, thirty hours equals one hour of paid sick time; in others, forty hours equals one hour of paid sick time. The size of the employer can also play a role in deciding how many hours of work translates into an hour of paid sick time.
3. The enforcement of the policy will have to be delegated to a government entity, and a process must be developed to help workers reclaim the wages from noncompliant employers.
4. The amount of paid sick hours is typically “capped” in other municipalities. Many prohibit more than forty sick hours – or five days – per year. However, in the City of Seattle, for example, some workers are eligible for up to 108 hours per year.

5. The council should consider undertaking an economic analysis report before and after a paid sick time policy is implemented. A comprehensive analysis would prove to be very beneficial to other municipalities, counties, or states that are seeking to implement a paid sick time policy, in addition to the City of Buffalo itself.

Conclusion

A paid sick time policy would be of great benefit to the working people of Buffalo – and to any and all consumers that purchase goods or services within the city. By implementing a policy that ensures all workers don't have to choose between a paycheck and taking care of themselves or their loved ones, workers will be more satisfied; the public will have less health risks to deal with; and business owners will see increased productivity from their workers.