

COVID-19 Relief Bill: FFCRA Leave Mandate Not Extended; Tax Credits Available for Voluntary Leave

Labor & Employment Law Update

By Kelly Haab-Tallitsch on December 22, 2020

A \$900 billion COVID-19 relief bill passed by Congress late last night is expected to be signed into law by President Trump later today. In addition to an assortment of aid for individuals and businesses, the bill extends several provisions of the CARES Act passed in March, including the tax credit for employers providing paid leave under the Families First Coronavirus Response Act (FFCRA). However, the bill does not extend the mandate for employers to provide paid leave, set to expire December 31, 2020.

What Does This Mean?

Employers are not required to provide paid sick leave or paid family leave for coronavirus-related reasons under the FFCRA after December 31, 2020. But the COVID-relief bill allows employers with less than 500 employees to voluntarily provide this leave and take the tax credit associated with the leave through March 31, 2021. Tax credits are available for qualifying wages (up to a cap) paid while an employee is on leave if (1) the leave would have been required under the FFCRA had the FFCRA been extended through March 31, 2021, and (2) all requirements related to leave under the FFCRA are met.

The bill does not change the maximum amount of paid leave subject to the tax credit for an individual employee. This means that if an employee took 80 hours of paid sick leave to quarantine in 2020, and the employer claimed the tax credit on wages paid during that leave, the employer cannot claim an additional tax credit on wages paid to that same employee for additional paid sick leave in 2021.

Next Steps

Employers should decide as soon as possible if they will provide voluntary paid FFCRA leave during the first quarter of 2021 – and commit to that decision. Additionally, employers should administer the leave on a consistent basis and maintain all documentation required to substantiate the leave.

Of course, local and state leave mandates (paid and unpaid), as well as disability-related accommodation and traditional FMLA leave are all still in play. Employers need to continue to carefully navigate the waters of COVID-19 related leaves regardless of the FFCRA.

[Click here for a summary of the FFCRA Paid Leave Requirements.](#)

COVID-19
Relief Bill:
FFCRA
Leave
Mandate
Not
Extended;
Tax Credits
Available for
Voluntary L-
eave