

PAID LEAVE FOR ALL WORKERS ACT (PLAW)

I. Statutory Citations

Created by Public Act 102-1143; Effective 1/1/2024; Located at 820 ILCS 192/1

A. *Section 10 Definitions (820 ILCS 192/10)*

1. "Employee" has the same application and meaning as that provided in Sections 1 and 2 of the Illinois Wage Payment and Collection Act. ...
2. "Employer" has the same application and meaning as that provided in Sections 1 and 2 of the Illinois Wage Payment and Collection Act, except that for purposes of this Act, "employer" also means the State and units of local government, any political subdivision of the State or units of local government, or any State or local government agency.
"Employer" does not include school districts organized under the School Code or park districts organized under the Park District Code.

B. *Section 15 Provision of Paid Leave (820 ILCS 192/15)*

1. Default method of earning time is accrual basis. An employee may earn and use up to a minimum of 40 hours of paid leave during a 12-month period. Cannot use time for 90 days. Employees are allowed to rollover time up to 40 hours.
2. Accrual at a rate of one hour of paid leave for every 40 hours worked up to a minimum of 40 hours of paid leave or such greater amount if the employer provides more than 40 hours.
3. Employers may opt to provide 40 hours paid leave on first day. If so provided, use or lose policy permitted without rollover. *See "frontload" in regulations.*
4. Paid leave may be used by employees for any purpose if taken pursuant to PLAW Act.
5. 7 days' notice if foreseeable. As soon as practicable if not foreseeable.
6. Requirements do not apply to any employer covered by county ordinance that is in effect on or before 1/1/2024 that requires employers to give any form of paid leave to their employees, including paid sick leave or paid leave. Any ordinance or modification after 1/1/2024 would require that the ordinance or policy conform to the PLAW requirements.
7. Not supposed to affect CBA. Future CBA may expressly waive.

II. Administrative Regulations

A. *Notice of Proposed Rules*

1. Published 11/3/2023
2. Interested parties may submit comments on the proposed regulations
 - a. Deadline: December 18, 2023
 - b. Email: Anna.Koeppel@illinois.gov

c. Mail: Anna Koepfel
Illinois Dept. of Labor
Lincoln Tower Plaza
524 S. 2nd Street
Suite 400
Springfield IL 62701

B. Located at 56 Ill. Adm. Code 200

1. All new sections - approximately 29
2. Approximately 24 pages of substance

C. Definitions (§ 200.110)

1. “Employee” means an individual who works part-time, full-time, or performs seasonal work and is [working for an employer based in Illinois]. Does not include a bona fide independent contractor.
2. “Employer” includes State or local unit of government and any political subdivision of the state, or any State or local government agency.
3. “Frontloading” means to make available the minimum number of hours of paid leave time...to an employee on the first day of employment or the first day of the 12-month period.

D. SUBPART B – EARNING PAID LEAVE

1. §200.200 – *General Provisions*
 - a. 40 hours during a 12-month period
 - b. Accrual or frontloading
2. §200.210 – *Start of Paid Leave Benefits*. Paid leave is earned via accrual or frontloading starting January 1, 2024 or at the commencement of employment, whichever is later.
3. §200.220 – *Accrual* – explanation and calculation
4. §200.230 – *Frontloading* – explanation
 - a. May be (1) fixed date, *i.e.* January 1 of each year OR (2) employment start date.
 - b. 12-month period renews consecutively for duration of employment.
 - c. May frontload for part-time employees at pro rata amount consistent with employee’s anticipated work schedule for the 12-month period.
 - i. If actual time worked exceeds anticipated amount, the employee accrues additional paid time at 1 hour per 40 hours worked.
 - ii. If actual time worked is less than anticipated, time may NOT be diminished or recouped.
5. §200.240 – *Mixed Earning Policies*
 - a. Can have some employees earning on accrual and others frontloading.
 - b. Cannot discriminate in selecting employees for either type of earning.
6. §200.270 – *Local Paid Leave Ordinances* – consistent with Act

E. SUBPART C – USE OF PAID LEAVE

1. §200.300 – General Provisions

- a. An employees may begin using earned paid leave 90 calendar days after commencement of employment regardless of whether it is accrued or frontloaded.
- b. Several helpful examples
- c. Paid leave can be used for any reason of employee's choosing; Employer cannot require the employee to give a reason or provide any type of documentation.
- d. Policies and manuals must be consistent with PLAW Act.
- e. Employees allowed to use PLAW leave before using any other leave benefits or vice versa.
- f. If offering multiple forms of leave, Employers should confirm and document the types and amount of leave employees are electing to use on each occasion.
- g. May set the minimum amount of paid leave taken at a time to 2 hours or less.

2. §200.310 – Paid Leave Usage Policy & Notice Requirements

- a. Paid leave policy can be part of an existing employer manual and handbook.
- b. Cannot deny employee's request to use pad leave even if the employee's request does not meet the foreseeability requirement unless the employer's policy:
 - i. for considering leave requests under the Act, including any basis for denial based on foreseeability/notice, is disclosed to the employee in writing; **AND**
 - ii. establishes certain limited circumstances in which pad leave may be denied in order to meet the employer's core operational need for the requested time period. Relevant factors include whether:
 - a) the employer provides a need or service critical to the health, safety, or welfare of the people of Illinois;
 - b) similarly situated employees are treated the same for the purposes of reviewing, approving, and denying paid leave;
 - c) granting leave during a particular time period would significantly impact the business operations due to the employer's size; and
 - d) the employee has adequate opportunity to use all paid leave time they are entitled to in a 12-month period.
- c. Cannot require an employee to search for or locate a worker to cover leave.
- d. May restrict employee's use of paid leave to the employee's regular workweek.

3. §200.320 – Carry Over

- a. Employees who accrue paid leave time can carry over unused paid leave time from one period to the next. Employers may restrict carrying over more than 80 hours of unused paid leave.
- b. Employees who are frontloaded are not entitled to carry over paid leave.
- c. Employees cannot use more than 40 hours of PLAW paid leave in a 12-month period unless the employer allows them to do so.

F. SUBPART D: EMPLOYER RESPONSIBILITIES

1. *§200.440 – Recordkeeping Requirements*
 - a. Every employer shall create and maintain, for not less than 3 years, the following records for each employee:
 - i. Name and address;
 - ii. Hours worked each day in each workweek;
 - iii. Paid leave earned or accrued in each workweek;
 - iv. Paid leave taken or used in each workweek;
 - v. Requests by the employee to use paid leave that the employer denied; and
 - vi. Remaining paid leave balance in each workweek and upon employee's separation or termination from employment.
 - b. Doesn't necessarily require the creation of new records, if existing ones contain the required information.
 - c. Each employer shall make all records related to PLAW available to the employee and DOL upon request.
2. *§200.450 – Display of PLAW Notice* – Every employer must display the proper written notices in a conspicuous location on the premises as required by the Act and this Section.
3. *§200.460 – Determining Payment of Paid Leave Upon Separation*
 - a. Employee existing time-off allowance/account/bank must be kept separate from accounting of PLAW paid leave unless written policy combines the two. In other words, track PTO balances separately.
 - b. If combined, any unused paid leave time shall be paid to employees upon an employee's termination, resignation, retirement, etc. to the same extent that vacation time is paid under the Illinois Wage Payment and Collection Act.