

**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number: \*IIIA6

Title:

Ordinance Excluding the City of St. Charles as a Municipal Employer from Coverage Under the Paid Leave for All Workers Act and Amending the City Code to Require a Form of Paid Leave for City Employees

Presenter:

Jennifer McMahon, Director of Human Resources

Meeting: City Council

Date: December 4, 2023

Proposed Cost: \$0

Budgeted Amount: N/A

Not Budgeted: ☐**Executive Summary** *(if not budgeted please explain):*

Passed in March 2023 and effective January 1, 2024, the Paid Leave for All Worker Act will require most Illinois employers to provide up to 40 hours of paid leave for any purpose in a 12-month period to all employees. The Act does not articulate an approval mechanism for employers to deny leave, although recent Illinois Department of Labor rulemaking states that, “nothing in the Act prohibits an employer from adopting a policy that establishes *some* parameters for taking leave, and *limited* reasons the employer may deny leave for operational necessity.” There are strict recordkeeping requirements for denial of leave. Further, paid time off must be provided to all employees, including for those who are in positions that are part-time (e.g. crossing guards) or temporary (e.g. summer laborers in Public Works).

A legal analysis by the Illinois Municipal League, as well as legal reviews by the City’s legal team, has determined that a municipality can opt out of the Act under its home rule authority. Further, the Act’s provisions do not apply to any employer that is covered by a municipal ordinance in effect on January 1, 2024, that requires them to give any form of paid leave to their employees. The City provides competitive paid leave benefits to its full-time and some of its part-time employees in the form of vacation, personal leave, sick leave, and bereavement leave in excess of 40 hours per year. Vacation and personal leave can be used for any purpose.

Because of the erosion of City authority to deny leave, the administrative recordkeeping burden required under this Act, and the additional cost and operational impacts of implementing the requirements of this Act, staff is proposing opting out via ordinance. The attached ordinance allows the City to use its home rule authority to opt out of the Act and also codifies its existing paid time off provisions, thereby exempting the City from having to comply with the Act.

Staff recommends approval of this ordinance by the City Council.

**Attachments** *(please list):*

Ordinance opting out of the Paid Leave for All Workers Act

**Recommendation/Suggested Action** *(briefly explain):*

Approve an Ordinance Excluding the City of St. Charles as a Municipal Employer from Coverage Under the Paid Leave for All Workers Act and Amending the City Code to Require a Form of Paid Leave for City Employees.

**City of St. Charles, Illinois**  
**Ordinance No. \_\_\_\_\_**

**AN ORDINANCE EXCLUDING THE CITY OF ST. CHARLES  
AS A MUNICIPAL EMPLOYER FROM COVERAGE UNDER THE  
PAID LEAVE FOR ALL WORKERS ACT AND AMENDING THE CITY CODE  
TO REQUIRE A FORM OF PAID LEAVE FOR CITY EMPLOYEES**

---

**WHEREAS**, on March 13, 2023, the Paid Leave for All Workers Act, 820 ILCS 192/1 *et seq.* (the “PLAW Act”) was signed into law, effective January 1, 2024, mandating that nearly all Illinois employers provide covered employees up to 40 hours of paid leave per 12-month period; and

**WHEREAS**, the PLAW Act excludes certain governmental employers from the mandates of the Act, including school districts and park districts, as well as certain private employers, but failed to exclude municipalities from the mandates of the PLAW Act; and

**WHEREAS**, in addition to the amount of paid leave required under the PLAW Act, paid leave under this law may be taken by an employee for any reason of the employee’s choosing, or for no reason at all, and must be provided by the employer upon the employee’s request, which request may be provided to the employer without advance notice if the leave is not foreseeable, as determined by the employee; and

**WHEREAS**, the workforce of the City of St. Charles provides essential and continuing governmental services, including police, fire, and public works services, the operations of which could be severely disrupted by the application of the above-referenced impromptu leave mandated under the PLAW Act; and

**WHEREAS**, currently, full-time employees of the City of St. Charles are provided paid leave benefits, including vacation, sick, and personal leave, that meet or exceed the amount of paid leave provided under the PLAW Act, either through the application of benefits afforded under the City’s personnel policies or pursuant to coverage under a *bona fide* collective bargaining or other agreement; and

**WHEREAS**, Section 15(p) of the PLAW Act also provides that the provisions of the PLAW Act shall not apply to any employer that is covered by a municipal ordinance that is in effect on January 1, 2024, that requires an employer to give any form of paid leave to their employees; and

**WHEREAS**, the City is a home rule unit of government under Section 6 of Article VII of the Illinois Constitution of 1970 and, subject to said Section 6, may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals, and welfare; and

**WHEREAS**, the corporate authorities of the City find that it is necessary to exercise its home rule powers to exempt the City and its employees from coverage under the PLAW Act in order to ensure continuous government operations for protection of the health, safety, and welfare of the residents of the City; and

**WHEREAS**, the corporate authorities of the City further find that it is necessary to require that the City, as an employer, provide a form of paid leave to its employees by amending the City Code to set forth this requirement.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and City Council of the City of St. Charles, Kane County, Illinois, as follows:

**SECTION 1:** The facts and statements contained in the preambles to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

**SECTION 2:** Pursuant to the City's home rule authority, the City of St. Charles, as a municipal employer, shall be excluded from coverage under the provisions of the Paid Leave for All Workers Act (820 ILCS 192/1 *et seq.*), and the City and all of its employees are hereby exempted and excluded from application of the Act.

**SECTION 3:** Chapter 2.12, entitled "Officers and Employees," of Title 2, entitled "Administration and Personnel," of the Municipal Code, City of St. Charles, Illinois, is hereby amended by adding a new Section 2.12.360 to read as follows:

**2.12.360 – Paid Leave Required for Full-Time City Employees.**

The City of St. Charles shall provide all full-time employees of the City with no less than five (5) workdays of paid leave per year, to be administered pursuant to the applicable personnel policies of the City or a *bona fide* collective bargaining or other agreement.

**SECTION 4:** Pursuant to Section 2.12.360 of the Municipal Code, City of St. Charles, Illinois and Section 15(p) of the Paid Leave for All Workers Act (820 ILCS 192/15(p)), the provisions of the PLAW Act shall not apply to the City of St. Charles, as a municipal employer.

**SECTION 5:** If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is, for any reason, held to be unconstitutional or invalid or ineffective

by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof.

**SECTION 6:** All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of the conflict.

**SECTION 7:** This Ordinance shall be in full force and effect upon its passage and approval in accordance with law.

PRESENTED to the City Council of the City of St. Charles, Illinois, this \_\_\_\_ day of December, 2023.

PASSED by the City Council of the City of St. Charles, Illinois this \_\_\_\_ day of December, 2023.

APPROVED by the Mayor of the City of St. Charles, Illinois, this \_\_\_\_ day of December, 2023.

\_\_\_\_\_  
Lora Vitek, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

COUNCIL VOTE:

Ayes : \_\_\_\_\_

Nays : \_\_\_\_\_

Absent : \_\_\_\_\_