



Moraga-Orinda Fire District
BOARD OF DIRECTORS
SPECIAL BOARD MEETING MINUTES
February 19, 2022
(APPROVED MARCH 16, 2022)

1. OPENING CEREMONIES

The Board of Directors convened a teleconference Open Session at **5:00 p.m.** on **February 19, 2022**, via the Zoom application <https://us02web.zoom.us/j/81549485075>, webinar id: 81549485075 and by phone 669-900-6833. This meeting was conducted by webinar and teleconference only in accordance with AB 361. The meeting was not available for in-person attendance.

President Donner called the meeting to order and requested an attendance roll call. Present were the following Directors and Staff. President Donner led the pledge of allegiance.

President Donner
Director Baitx

Director Danziger
Director Jex

Director Jorgens
Dave Winnacker, Fire Chief

2. PUBLIC COMMENT – ITEMS NOT ON THE AGENDA

President Donner opened Public Comment. There were no requests to address the Board. President Donner closed Public Comment.

3. SPECIAL AGENDA

3.1 Authorize Emergency Paid Sick Leave in Accordance with SB114 and Consider Supplemental Sick Leave Pay Exceeding SB114 \$511 per day and \$5,110 Total Minimum Requirement

Fire Chief Winnacker provided the report. On February 9, 2022 Governor Newsome signed SB114. The law reauthorizes COVID-19 Supplemental Paid Sick Leave (SPSL) effective February 19, 2022 through September 30, 2022. The law is retroactive to January 1, 2022. The law requires public and private employers that employ 26 or more workers to provide additional SPSL equivalent to the hours worked in the prior week to be used for specified reasons defined by SB114 and outlined in the staff report.

Under SB114, the compensation for SPSL for employees is determined by the employees' exemption status and their pay rate. For nonexempt employees, compensation is based on the employee's regular rate of pay or the employee's total wages less any overtime premium pay. For exempt employees, the law requires employers to calculate employee compensation for SPSL as they would for other forms of paid leave time. Employers are not required to pay employees more than \$511/day when using SPSL and not more than \$5,110 in total. If an employee's regular compensation exceeds \$511/day, the employee may elect to supplement the SPSL maximum pay amount with other accrued paid leaves to make up the difference in pay. The law does not preclude an employer from paying more than \$511/day and \$5,110 in total. Pay scales for unrepresented employees, L1230, and Chief Officers are provided in the staff report. The maximum cost of mandated SB114 at \$511/day for the district's 72 budgeted positions is estimated to be \$188,512.20. The maximum additional cost of compensating employees at their regular rate beyond SB114 requirements is estimated to be: \$194,152.24.

Staff recommended granting additional paid sick leave as follows:

- 1) Determine an expiration date for SB114 required COVID-19 supplemental sick leave. Options include a date after September 30, 2022 or no date.
- 2) Determine at what rate SB114 supplemental sick leave will be paid. Options include the mandated minimum rate of \$511/day and \$5110/total or employee's regular rate, which may exceed SB114 requirements.
- 3) Authorize all existing and new benefitted 56-hour work week employees to receive up to 112 hours of COVID-19 Supplemental Paid Sick Leave to be taken in the manner specified in SB114. This leave can be used for any COVID-19 related reason specified in SB114.
- 4) Authorize all existing and new benefitted 40-hour work week employees to receive up to 80 hours of COVID-19 Supplemental Paid Sick Leave to be taken in the manner specified in SB114. This leave can be used for any COVID-19 related reason specified in SB114.
- 5) Authorize all existing and new part-time employees to receive COVID-19 Supplemental Paid Sick Leave hours to be taken in accordance in the manner specified in SB114. This leave can be used for any COVID-19 related reason specified in SB114.
- 6) Upon request, authorize retroactive use of COVID-19 Supplemental Paid Sick Leave by employees during the period January 1, 2022 through February 18, 2022 and a restoration of non-SB114 sick leave to the employee's sick leave accrual bank.

On February 18, 2022, the MOFD board discussed granting additional sick leave and requested a second meeting with additional clarity regarding supplemental sick leave pay rates included in the associated staff report.

Director Jex inquired about the small difference in the mandated \$511/day and maximum additional cost of compensating employees at their regular rate beyond SB114 requirements. Fire Chief Winnacker explained the calculations included employees' actual pay. Director Jex asked if a budget adjustment would be required. Fire Chief Winnacker answered the mid-year budget review did not anticipate SB114. The additional overtime costs associated with COVID sick leave (sick leave is covered by overtime) and necessary budget adjustment would come back to the Board at the end of the year.

Director Jorgens reviewed the reasons behind the 2021 COVID sick leave policy, which was to encourage employees not to come to work sick. Fire Chief Winnacker confirmed and stated SB114 has new elements concerning care for a family member.

President Donner expressed support for granting SB114 at the employees' regular pay rate. The effects of the virus can last weeks and months for recuperating. Director Jorgens agreed.

Director Danziger asked if SB114 would be separate from what has already been provided with SB95. Fire Chief Winnacker confirmed and explained the Telestaff coding process. Director Danziger asked if covid-19 is a presumptive illness for firefighters. Fire Chief Winnacker explained that a presumptive illness requires that some conditions are met are adjudicated by our third-party worker's comp administrator. Director Danziger asked if there are any requirements that the Firefighter also fill out the appropriate worker's compensation documentation. Fire Chief Winnacker answered employees are never required to submit for worker's compensation. It is a member's choice and personal decision. President Donner commented that a member has to have at least worked a shift in the past ten days for it to be considered a work-related illness. Fire Chief Winnacker stated a third-party Claim examiner makes the decision. Director Danziger stated it would be to the employee's benefit to submit a claim because of unforeseen complications.

Director Jorgens commended the financial data provided in the staff report.

President Donner opened the Public Hearing. There were no requests to address the Board. President Donner closed Public Comment.

Director Baitx asked if the Board needed to determine the sunset of the policy. Fire Chief Winnacker confirmed. Director Baitx supported compensating employees at their regular rate beyond SB114 requirements and no sunset.

Director Jorgens commented that many other countries are saying COVID is changing from a pandemic to an endemic. Does this change influence the determination of the sunset? Director Danziger responded that the members who are sick have to provide COVID documentation. President Donner opposed setting a sunset date due to the uncertainty of the virus. President Donner asked if the Board could change the sunset at a later date. Fire Chief Winnacker confirmed.

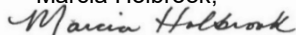
Motion by Director Jex and seconded by Director Jorgens to Authorize Emergency Paid Sick Leave in Accordance with SB114; Compensate employees at their regular rate beyond SB114 requirements, which may exceed SB114 requirements; and establish no sunset date for SB114 required COVID-19 supplemental sick leave, with the right to establish the sunset at a future date, after September 30, 2022. Said motion carried 5-0 roll call vote (Ayes: Baitx, Danziger, Jex, Jorgens, and Donner; Noes: None; Absent: None; Abstain: None).

Director Jorgens requested SB114 be placed on the March regular agenda as an informational-only item. No further discussion by the Board

4. ADJOURNMENT

At 5:25 p.m., Director Baitx motion and seconded by Director Jorgens to adjourn the meeting. Said motion carried 5-0 roll call vote (Ayes: Baitx, Danziger, Jex, Jorgens, and Donner; Noes: None; Absent: None; Abstain: None).

Marcia Holbrook,



District Secretary/District Clerk

For an audio recording of this and other Board meetings, please visit the MOFD District Board Meeting at www.mofd.org/agendas.