

GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
LINDA ULISS BURKE
VINCENT D. MOSCHELLA
Deputy City Attorneys



THOMAS O. GARTNER
SUSAN D. BICKERT
STUART S. MUKAMAL
THOMAS J. BEAMISH
MAURITA F. HOUREN
JOHN J. HEINEN
SUSAN E. LAPPEN
JAN A. SMOKOWICZ
PATRICIA A. FRICKER
HEIDI WICK SPOERL
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GREGG C. HAGOPIAN
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MELANIE R. SWANK
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KEVIN P. SULLIVAN
BETH CONRADSON CLEARY
THOMAS D. MILLER
JARELY M. RUIZ
ROBIN A. PEDERSON
DANIELLE M. BERGNER
CHRISTINE M. QUINN
Assistant City Attorneys

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May 20, 2011

Alderman Willie L. Hines, Jr.
President, Common Council
Room 205 – City Hall

Re: Status of Milwaukee Code of Ordinances Chapter 112/Paid Sick
Leave for Employees Provided by Employers Within
the City of Milwaukee

Dear President Hines:

As you know, Chapter 112 regarding paid sick leave was adopted as the result of direct legislation. On May 19, 2011 the state published 2011 Wisconsin Act 16, relating to the preemption of city, village, town, or county ordinances requiring employers to provide employees with leave from employment to deal with family, medical, or health issues. The Act has been signed into law by Governor Walker.

Section 3 of the Act (Wis. Stat. § 103.10 (1m)) states that a city ordinance that requires employers to provide employees with leave, paid or unpaid, for reasons specified in paragraph (c) of the new statute is inconsistent with the need for statewide uniformity. Section 3 is expressly deemed to be an enactment of statewide concern for the purpose of providing for uniform family and medical leave throughout Wisconsin. Wis. Stat. § 103.10(1m)(a).

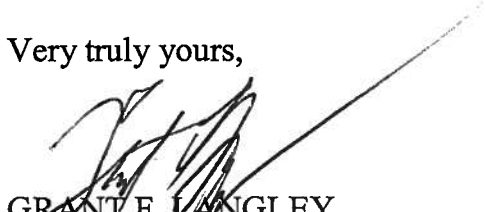
A city may not enact and administer an ordinance requiring an employer (except the City itself) to provide leave for the reasons contained in the City's current paid sick leave ordinance, Chapter 112, MCO. Wis. Stat. § 103.10(1m)(c) and (d).

Wisconsin Statute § 103.10(1m)(e) states that "any city . . . ordinance requiring an employer to provide an employee with leave from employment, paid or unpaid, for any of the reasons specified in par. (c) that is in effect on [the effective date of this paragraph] is void."

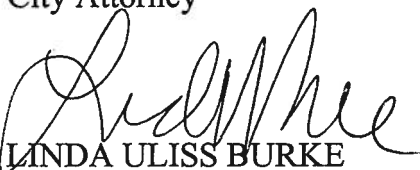
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For this reason, and because an ordinance cannot be adopted through direct legislation if it exceeds the City's legislative powers, (*Mount Horeb Community Alert v. Village Bd. of Mt. Horeb*, 2002 WI App. 80, 232 Wis. 2d 713, 643 N.W. 2d 186), Chapter 112 cannot be implemented and can be repealed.

Very truly yours,



GRANT F. LANGLEY
City Attorney



LINDA ULISS BURKE
Deputy City Attorney

LUB:bl

c: Mayor Tom Barrett
Mr. Ron Leonhardt ✓
Ms. Maria Monteagudo

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