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COUNTY OF LOS ANGELES

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Chief Executive Officer

Fesia A. Davenport

"To Enrich Lives Through Effective and Caring Service"

November 06, 2024

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**PAID FAMILY LEAVE PILOT PROGRAM
(ALL DISTRICTS)
(3-VOTES)**

SUBJECT

This letter and the accompanying ordinance will amend Title 6 of the Los Angeles County Code to implement a two-year Paid Family Leave Pilot Program for non-represented Flex and MegaFlex employees.

IT IS RECOMMENDED THAT THE BOARD:

1. Introduce, waive reading, and adopt the accompanying ordinance amending Title 6, Salaries, of the Los Angeles County Code to allow non-represented employees participating in the Flex and MegaFlex cafeteria benefit plans to participate in a two-year Paid Family Leave Pilot Program, beginning January 1, 2025, and terminating on December 31, 2026.
2. Instruct the Auditor-Controller to make the payroll system changes necessary to implement the changes recommended herein for pay warrants issued on and after January 15, 2025.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Background

On June 6, 2023, your Board directed the Chief Executive Office (CEO) to develop a framework for a pilot program that provides eight weeks of Paid Family Leave (PFL) annually for employees receiving Flex or MegaFlex benefits. On October 16, 2023, we reported back to your Board with two

basic models, each having three variations. One model described a voluntary program that employees may participate in by purchasing up to eight weeks of PFL. The other model described a mandatory program that would require all Flex and MegaFlex employees to contribute to a PFL program.

On January 23, 2024, your Board directed the CEO to work with the Director of Personnel and the Auditor-Controller to design and implement a two-year pilot program to provide eight weeks of PFL for non-represented Flex and MegaFlex employees, effective January 1, 2025. In your directive, a voluntary model was selected as the framework for the pilot program. Under the selected voluntary model, non-represented Flex and MegaFlex employees may choose to enroll in the PFL Pilot Program and pay for the benefits through after-tax payroll deductions over a two-year period, with the County subsidizing half the cost of PFL benefits.

Developing the PFL Pilot Program

Following the Board motion to establish a PFL Pilot Program, CEO met with key stakeholders from the Department of Human Resources (DHR), County Counsel, and Auditor-Controller, and created a task force to implement the PFL Pilot Program. The task force developed a comprehensive policy for the PFL Pilot Program, which is harmonized with the County's existing leave benefits. DHR amended the contracts with the County's third-party administrators to develop a new enrollment site for eligible employees and a platform for the administration of PFL claims.

A communication plan was developed for the PFL Pilot Program; and all departments and eligible employees have been informed of it. The information provided includes enrollment instructions, deadlines for enrollment and PFL usage, details on payroll deductions for PFL, eligibility requirements to use PFL, information regarding the taxation of paid benefits, and the timing of reimbursement for unused PFL.

Overview of the Program

Based on the model selected by your Board, the task force developed the following PFL Pilot Program.

Enrollment and Administrative Timelines

During the enrollment window from November 1 through November 15, 2024, eligible non-represented Flex and MegaFlex employees may elect to enroll in the PFL Pilot Program and purchase up to eight weeks of PFL with after-tax payroll deductions. Employees may purchase in one-week increments and half the cost of the PFL benefit is subsidized by the County. Once the enrollment window is closed, employees will no longer be allowed to make changes or cancel their enrollment. The deductions for PFL benefits will be taken over the span of the two-year pilot period.

Beginning January 1, 2025, enrolled employees will have until December 31, 2026, to utilize the PFL benefits they purchased. New hires to eligible positions or newly eligible non-represented MegaFlex employees may elect to enroll in the PFL Pilot Program within 60 days of becoming eligible. The last enrollment opportunity for new hires and newly eligible employees is September 30, 2026.

Employees will be refunded their deductions for any unused PFL benefits after the end of the pilot program. Additionally, refunds for any unused PFL benefits will also be returned to employees if they cease to be eligible (examples include when employees move to another cafeteria plan or to a

represented position).

Utilizing PFL Benefits

Employees may use PFL benefits to receive 70% income replacement if they need to take time off for the following reasons:

- To care for a qualifying family member with a serious health condition;
- For bonding following the birth of an employee's child, an adoptive placement, or a foster care placement; and
- For reasons related to military exigency.

To ensure the County continues to provide a family-friendly workplace that promotes gender and racial equity, and to be inclusive of the growing variations of family dynamics, the County provides a broad definition of family member under the PFL Pilot Program, which includes spouse, registered or non-registered domestic partner, parent or parent-in-law, grandparents, children or grandchildren, siblings, and a designated person. A designated person is someone who is related by blood or whose association with the employee is equivalent to that of a family member.

When employees need to use PFL benefits, they will apply for the benefits through the County's third-party administrator, Sedgwick, who currently administers our Short-Term and Long-Term Disability Program. Sedgwick will evaluate employees' forms and supporting documentation and notify employees and their departments of PFL qualification status. If approved, the payroll system will provide employees with 70% PFL income replacement for the approved period of leave.

Following the Pilot Period

As indicated in the May 3, 2024, report back, during and after the pilot period, CEO will work with DHR to analyze data on the PFL Pilot Program to gain insight into the enrollment population, cost and PFL usage. A comprehensive review and analysis of the pilot program will be provided to your Board for consideration should your Board choose to move forward with a permanent Countywide PFL Program.

Implementation of Strategic Plan Goals

The recommended actions in this Board letter promote at least two of the principles of the County of Los Angeles' Strategic Plan: 1) North Star 1 – Make Investments that Transform Lives – Focus Area Goals: Health Individuals and Families and Employment and Sustainable Wages; and 2) North Star 3 – Realize Tomorrow's Government Today – Focus Area Goal: Diverse and Inclusive Workforce.

FISCAL IMPACT/FINANCING

The employees and County's contribution towards the PFL will be deposited into a new County trust fund each pay period over the term of the pilot. The estimated cost of the County's contributions by department will not be known until after the enrollment period ends. Once the enrollment period ends, we will know how many employees have enrolled in the program and can develop a cost estimate for the County's contributions for each department during the pilot period. The fiscal impact of the County's contribution by department will also vary based upon each department's subvention revenue from outside agencies. The CEO will work with the impacted departments to adjust their budgets based upon enrollment data and, as necessary, in the CEO's mid-year budget adjustment to

ensure sufficient funding in Fiscal Year (FY) 2024-25. The CEO will also ensure that sufficient funding is included in the 2025-26 and 2026-27 budgets.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The accompanying ordinance outlines the details of PFL Pilot Program and has been approved as to form by County Counsel.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

No impact on current services.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Fesia A. Davenport', with a stylized flourish at the end.

FESIA A. DAVENPORT

Chief Executive Officer

FAD:JMN:JDS

SRM:DC:TTP:mlj

Enclosures

c: Executive Office, Board of Supervisors
County Counsel
Human Resources
Auditor-Controller

ANALYSIS

This ordinance amends Title 6 – Salaries of the Los Angeles County Code by establishing a two-year Paid Family Leave Pilot Program that provides up to eight (8) weeks of paid leave benefits to specified permanent, non-represented employees for the purpose of caring for a family member with a serious health condition, baby bonding, or a qualifying exigency related to military duty.

DAWYN R. HARRISON
County Counsel

By: *Pouya Bavafa*

POUYA BAVAFA
Senior Deputy County Counsel
Labor & Employment Division

PB:gr

Requested: 9/18/24
Revised: 9/25/24

ORDINANCE NO. _____

An ordinance amending Title 6 – Salaries of the Los Angeles County Code relating to the establishment of a two-year Paid Family Leave Pilot Program that provides up to eight (8) weeks of paid leave benefits to specified permanent, non-represented employees for the purpose of caring for a family member with a serious health condition, baby bonding, or a qualifying exigency related to military duty.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 6.20.085 is hereby added to read as follows:

6.20.085 Paid Family Leave Pilot Program

A. Purpose. A two-year Paid Family Leave Pilot Program is hereby established whereby eligible employees may elect to purchase family leave benefits providing income replacement equal to seventy percent (70%) of compensation for leave needed due to the birth or placement of a child, to care for a qualifying family member with a serious health condition, or due to a qualifying exigency related to active military duty.

B. Definitions. As used in this section:

1. "Child" means a biological, adopted, or foster child; a stepchild; a legal ward; a child of a domestic partner; or a person to whom the employee stands in loco parentis.

2. "Compensation" means the base rate, as established in Title 6 of this Code, as amended, plus any monthly bonus established as a designated percentage of the base rate in the Level Percentage Conversion Table contained in

Title 6 or established as a percentage of the base rate pursuant to Part 3 of Chapter 6.08 of Title 6. "Compensation" shall not include any of the following:

- a. Overtime compensation;
 - b. Any lump-sum payoff or reimbursement for unused accumulated overtime, vacation, holiday time, or sick leave benefits;
 - c. Compensation pursuant to Section 6.16.010 of this Code; or
 - d. Any hourly bonus.
3. "County" means the County of Los Angeles.
4. "Designated person" means an individual related by blood or whose association with the employee is the equivalent of a family relationship. An eligible employee may select only one designated person per rolling 12-month period during the Program Period.
5. "Director" means the Director of Personnel or their designee.
6. "Domestic partner" means any of the following:
- a. A domestic partner as defined in section 297 of the Family Code;
 - b. A domestic partner identified in a domestic partnership statement filed in accordance with Chapter 2.210 of this Code; or
 - c. A person identified as the eligible employee's domestic partner in the Declaration of Domestic Partnership form filed by the employee with the County.

7. "Effective Pay Period" means the first pay period of the second month after the month in which an eligible employee elects family leave benefits under this section.

8. "Elected family leave" means the family leave benefits that an eligible employee elects to purchase in accordance with Subsection C of this section.

9. "Eligible employee" means an employee who:

a. Is appointed to an "A," "N," or "Z" item pursuant to Title 6 of this Code;

b. Is a non-represented employee, as defined in Section 6.04.055 of this Code; and

c. Participates in the County's Flexible Benefit Plan (Subdivision 1 of Chapter 5.27 or 5.28 of this Code) or MegaFlex Benefit Plan (Subdivision 2 of Chapter 5.27 or 5.28 of this Code).

"Eligible employee" does not include an employee of the Los Angeles County Superior Court or a member of the Grand Jury.

10. "Family leave" or "family leave benefits" means the paid leave benefits made available under this section.

11. "Grandchild" means a child of the eligible employee's child.

12. "Grandparent" means a parent of the eligible employee's parent.

13. "Parent" means a biological, foster, or adoptive parent; a parent-in-law; a stepparent; a legal guardian; or other person who stood in loco parentis to the eligible employee when the employee was a child.

14. "Program" means the Paid Family Leave Pilot Program established pursuant to this section.

15. "Program Period" means January 1, 2025, through December 31, 2026.

16. "Program Administrator" means the person or entity, if any, to whom the County delegates the administration of claims for family leave benefits under this section.

17. "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves either of the following:

a. Inpatient care in a hospital, hospice, or residential health care facility; or

b. Continuing treatment or continuing supervision by a health care provider.

18. "Sibling" means a person related to another person by blood, adoption, or affinity through a common legal or biological parent.

C. Election to Purchase Family Leave Benefits.

1. Election Period. An eligible employee may elect to purchase family leave benefits during the following periods:

a. An employee who is eligible as of October 31, 2024, will be able to elect family leave benefits from November 1, 2024, through November 15, 2024; and

b. An employee who becomes eligible after October 31, 2024, will have sixty (60) calendar days following their appointment to the eligible position to

make an election. However, under no circumstances may any election be made after September 30, 2026.

2. Election Amount. During the election period specified in this subsection, an eligible employee may elect to purchase family leave benefits in one of the following amounts: one workweek (40 hours), two workweeks (80 hours), three workweeks (120 hours), four workweeks (160 hours), five workweeks (200 hours), six workweeks (240 hours), seven workweeks (280 hours), or eight workweeks (320 hours).

3. Partial Income Replacement. The family leave benefits elected and used by an eligible employee pursuant to this section will be paid to the employee in an amount equal to the employee's compensation multiplied by seventy percent (70%).

4. Employee Contribution. An eligible employee shall be responsible for contributing fifty percent (50%) of the cost of the family leave benefits they elect pursuant to this subsection. Such contribution shall be deducted from the employee's pay, on an after-tax basis, during the Program Period. Beginning with the Effective Pay Period, the amount deducted from the employee's pay each pay period shall be equal to the employee's fifty percent (50%) share of the cost of the elected family leave benefits divided by the total number of pay periods from the Effective Pay Period through the last pay period of the Program Period.

5. County Contribution. The County shall contribute fifty percent (50%) of the cost of the family leave benefits elected by an eligible employee pursuant to this section. The County contribution paid to an employee pursuant to this section will be included in the employee's taxable income and subject to applicable federal and State tax withholding.

6. Limitation. Notwithstanding any other provision of this section, an employee may not elect or use more than eight workweeks (320 hours) of family leave.

7. Irrevocability of Election. Once an eligible employee has made an election pursuant to this subsection, such election shall be irrevocable during the Program Period so long as the employee continues to hold an eligible position.

D. Use of Family Leave Benefits.

1. Qualifying Reasons. During the Program Period, commencing with the Effective Pay Period, an eligible employee may utilize elected family leave when the employee is unable to work because of any of the following:

a. The birth of a child of the employee or the placement of a child with the employee in connection with the adoption or foster care of the child by the employee;

b. The employee is caring for a child, parent, grandparent, grandchild, sibling, spouse, domestic partner, or designated person who has a serious health condition; or

c. A qualifying exigency related to the covered active duty or call to covered active duty of the employee's spouse, domestic partner, child, or parent in the Armed Forces of the United States, as specified in section 3302.2 of the Unemployment Insurance Code.

2. Procedure.

a. To qualify for family leave under this subsection, the eligible employee must:

i. Submit a claim to the Program Administrator in accordance with timeframes and procedures established by the Director; and

ii. Submit to the Program Administrator documentation supporting the need for family leave in accordance with requirements established by the Director.

b. The Program Administrator will review the eligible employee's claim and supporting documentation and render a decision in accordance with this section and any requirements or guidelines established by the Director.

3. Incremental Usage. Family leave under this subsection may be taken on a continuous, intermittent, or reduced schedule basis, except as follows:

a. An eligible employee taking family leave due to the birth, adoption, or foster care placement of a child may take such leave in increments of less than two workweeks (80 hours) on no more than two occasions.

b. A salaried employee, as defined in Section 6.09.020 of this Code, shall use family leave in increments of one full workday.

E. Cessation of Eligible Status. Upon the cessation of an employee's status as an eligible employee, the County shall reimburse the employee in an amount equal to the employee's contribution towards the cost of the family leave benefits that the employee purchased but did not use.

F. Termination of Program. The Program will be in effect through December 31, 2026, and family leave benefits may not be used or carried over beyond such date. Upon termination of the Program, the County shall reimburse an employee

in an amount equal to the employee's contribution towards the cost of the family leave benefits that the employee purchased but did not use.

G. Where an employee separates from County employment before having paid fifty percent (50%) of the cost of the family leave benefits they have used, the outstanding balance shall be collected from the employee's final pay.

H. The Director may promulgate additional requirements and/or guidelines to implement this section.

I. Exclusive Obligations and Rights. The County and the Program Administrator do not have any obligation or duty other than as stated in this section and, except as specified in this section, no one has a right to benefits or a legal or equitable right against the County, the Board of Supervisors, the Director, or the Program Administrator.

J. No Employment Rights. Nothing contained in this section shall be construed as a contract of employment between the County and any employee, or as the right of any employee to continue in the employment of the County, or to be employed by the County for any specific period of time.

K. Misrepresentation or Fraud. An employee who receives a benefit as a result of false or incomplete information or a misleading or fraudulent representation shall repay all benefit amounts paid due to such information or representation and shall be liable for all collection costs including attorneys' fees and court costs.

L. Legal Action.

1. Exhaustion of Administrative Procedures. Before pursuing legal action, a person claiming benefits or seeking redress related to the Program shall first

exhaust all claim and review procedures provided by the Program. No action at law or in equity may be brought to recover Program benefits or seek redress related to the Program until the procedures contained in this section have been exhausted.

2. Necessary Parties. Unless otherwise required by law, the County and the Program Administrator are the only necessary parties to any action or proceeding that involves the Program or its administration. No employee, employer or other person or entity is entitled to notice of any legal action, unless a court with appropriate jurisdiction orders otherwise.

M. Governing Law. This section and the Program established pursuant thereto, including the actions of the parties involved, shall be construed and enforced according to applicable California laws unless preempted by federal law.

N. Severability. Nothing in this section shall be interpreted or applied so as to create any power or duty in conflict with any applicable federal or California law. If any provision of this section or the application thereof to any person or circumstance is held invalid, the remainder of this section or the application of such provision to other persons or circumstances shall not be affected thereby.

[620080PBCC]