

About the Series

Laws are often necessary but rarely sufficient for effective policy change. Implementation, the nuts and bolts of moving a law from paper to practice, can make or break a law's intent.

This series of briefs provides overviews of approaches to implementation taken in jurisdictions where **earned sick days** laws have already passed. Both government officials facing the task of implementation and advocates working with those officials can learn from the best practices established in these areas.

In the Series:

[Seattle](#)

San Francisco

Connecticut (coming soon)

First Out of the Gate: San Francisco's Sick Days Law

By Andrea Lindemann Gilliam and Liz Ben-Ishai

Implementing a new law is always a complex process. But what happens when you are the first jurisdiction in the country to pass such a law? This was the unique challenge facing San Francisco when it passed the nation's first earned sick days law in 2006. The City and County government took on the challenge admirably, employing a variety of creative strategies to conduct outreach to the public, write meaningful rules, and ensure the law would be properly enforced.

In 2006, San Francisco became the first place in the United States to pass an earned sick days law, the San Francisco Paid Sick Leave Ordinance (PSLO). San Francisco's City and County government¹ promptly became a trailblazer – not only in terms of the passage of the law, but also through its implementation process.

The implementation of a new law typically involves a variety of participants, including government, employers, and advocacy and direct service organizations. This brief focuses on the role of government in the process.

When implementing laws like the PSLO that affect so many, government should conduct outreach to the public to raise awareness and educate employees and employers; prepare implementation guidance and materials; and enforce the law. In San Francisco, the City and County government also worked with community and advocacy groups. After playing a crucial role in organizing to pass the law, these groups continued their push after their victory to ensure that the PSLO was implemented well.

In San Francisco, the Office of Labor Standards Enforcement (OLSE) is the agency responsible for enforcing the PSLO. The OLSE enforces labor laws adopted by voters and the San Francisco Board of Supervisors.² The San Francisco Department of Public Health also played a role in implementation.

Momentum for earned sick days laws is building around the country, with active campaigns in several cities and states.³ As more such laws pass, other governments will face the challenging task of implementing these laws. For those facing this task, there is much to learn from San Francisco.

The San Francisco Paid Sick Leave Ordinance

The PSLO sets a minimum standard, requiring that employers provide all employees in San Francisco with one hour of paid sick time for every thirty hours worked. For businesses that employ ten or more people, employees accrue sick leave up to 72 hours and for employers with fewer than ten people, employees accrue up to 40 hours. These are not annual caps, but rather caps at any given point in time so that if an employee uses paid sick leave, s/he begins to accrue again until reaching the applicable cap.⁴ If an employer has an existing paid time off policy, it can use that time to fulfill the law's requirements, so long as employees accrue at least the same amount of time and can take leave for the same reasons as outlined in the law. Employees can file claims if they are not paid for their sick time. If an employee's claim is upheld, s/he can recover the amount of paid sick leave withheld plus three times that amount or \$250, whichever is greater.

Best Practice: Issue Clear Guidance with Public Input

One of the key aspects of implementation is providing information to help the community understand what the law means and how to comply with it. This is most urgently needed when a law first goes into effect. Employers, employees, and

advocates will have questions about the law, and will express preferences about how the law ought to be interpreted. They will want opportunities to gain clarification and voice their preferences to the agency responsible for administering the law.

To answer questions about the PSLO, the OLSE developed Rules and a "Frequently Asked Questions" document (FAQs) that took into account public input from a comment period.⁵ The OLSE updated these materials periodically, reflecting the input. The FAQs were first issued in January 2007 and were last updated in September 2007. When the law first passed in November of 2006, the OLSE received a barrage of calls, emails and letters, which were sorted by topic. For the most controversial issues, the OLSE formally proposed Rules and solicited testimony at public hearings and through written submissions. The public comment process gave the OLSE the opportunity to hear concerns and questions and tailor its guidance in response to them.

In June 2007, the OLSE issued the final Rules interpreting the PSLO. After that, the nature of the calls and emails the OLSE received changed; instead of primarily trying to influence how the OSLE would implement the law, inquiries

Resources for Successful Implementation

The OLSE has not hired any additional staff specifically to implement the sick leave ordinance. The OLSE was able to integrate PSLO enforcement into ongoing enforcement of San Francisco's Minimum Wage Ordinance, which also applies to all employees who work in the City. The OLSE currently has approximately 16 employees, including 6.5 full-time employees who work on minimum wage and paid sick leave. Some employers in San Francisco noted that a city or state should provide additional staffing and resources to the administering agency to help implement the law.⁶ In particular, they wanted more technical assistance for employers to help them get their systems up and running.

focused on specific questions about employees' rights and employers' responsibilities under the law. By the end of 2007, the questions the OLSE received decreased in frequency and number.

The San Francisco law was scheduled to go into effect in February 2007 (three months after it passed). In late February, however, the San Francisco Board of Supervisors and the Mayor approved a proposal to delay the date employers were required to provide sick time by 120 days, until June 6, 2007.⁷ Employees still accrued sick leave as of February, but employers had until June to set up accrual and recording systems and make the sick time available to employees. Employers were still required to post notice of the law by the original effective date.

This delay raises a question about whether the three months originally envisioned was sufficient time for setting the stage for implementation. It is important to give businesses enough time to implement the law correctly – a factor which can prevent further complications down the road, for both employees and the agency charged with enforcing the law. However, implementing the law quickly is vital to ensuring that workers gain the protections the law provides.

Timing of Earned Sick Days Implementation

In addition to San Francisco, there are earned sick days laws in Washington, D.C., Connecticut, and Seattle. In Washington, D.C., the law was legislated to go into effect six months after it was passed in 2008. However, the regulations were not issued until the summer of 2010. In Connecticut, the law went into effect 6 months after it was passed in July, 2011. There was a year between when Seattle's law was enacted and the effective date. See [CLASP's report on Seattle's implementation process](#).

Best Practice: Early Outreach to All Sectors

Education and outreach activities are vital to ensuring that a law has a real impact. These activities are crucial both when a law first goes into effect, since it is new and unfamiliar to all parties, and on an ongoing basis (see next section), to reach those who may not have learned about the law in the initial outreach push.

To educate employers and the general public about the PSLO when it was first being implemented, the City used varied strategies:

- The Mayor's Office of Economic and Workforce Development and the OLSE organized an initial outreach campaign. The Board of Supervisors allocated \$150,000 for advertising to inform employers about the PSLO, the local Minimum Wage Ordinance, and a law requiring employers to provide health care, which passed around the same time as the PSLO.
- The OLSE organized a "merchant walk," during which it talked to workers and managers about the new law in merchant corridors located in each San Francisco Supervisor's district. The OLSE developed brochures targeted to employers and posted ads in bus shelters, community newspapers, and other public places.
- In 2007 and 2008, the OLSE made approximately forty presentations about the PSLO to business, labor, and HR organizations.
- The Office of Treasurer and Tax Collector mailed out explanations of the law with annual business license renewal forms.⁸
- The Department of Public Health sent a letter to restaurants about the PSLO that requested they reinforce awareness among their employees. Rajiv Bhatia, Director of Occupational and Environmental Health in the city's Department of Public Health described this effort: "The PSLO is a critical, practical, and evidence-based public

health policy to prevent the spread of foodborne illnesses and other communicable diseases. Because the PSLO has the potential to reduce health disparities and control health care costs, the Department of Public Health sent a letter to all restaurants in San Francisco encouraging them to educate their staff about the PSLO. We want to see all restaurants following the law and allowing workers to utilize the PSLO. The law helps us keep San Francisco healthy.”

- The Department of Public Health also incorporated a workers’ rights section – including information about the PSLO – into food safety classes required by the California Retail Food Code. In addition, the Department asked all permitted businesses to sign a declaration stating that they are aware of and will comply with all applicable labor laws when they receive a permit. Finally, the Department has the authority to move to suspend permits for businesses found out of compliance with labor laws. This authority has been used in cases related to minimum wage and workers’ compensation violations, but it has not yet been used in any cases of a PSLO violations.⁹

To educate workers about the law, the City partnered with community groups and did its own outreach.

- San Francisco officials launched a \$195,000 outreach campaign to workers that targeted multilingual community groups. The city had a contract with a collaborative of community-based organizations to reach out to low-wage and immigrant workers regarding labor standards in San Francisco, including sick leave, minimum wage, and health care.
- As part of the initial outreach campaign, the City worked with the school district to send informational leaflets about the law home to parents and guardians, reminding them of their rights. The school district sends home public interest announcements in weekly packets to elementary school students. The Department of Public Health paid for the printing.

Outreach Strategy: “One Stop Shop” Website

Websites on earned sick days laws can be comprehensive tools for employers and workers to access information. The OLSE developed a website containing a variety of resources to help employees and employers understand their rights and responsibilities.¹⁰ In addition to a hotline number and email contact for more information, the one stop resource includes:

- [Frequently Asked Questions](#)
- [Rules Implementing the PSLO](#)
- [Key Components of the Paid Sick Leave Ordinance](#)
- [PLSO Fact Sheet](#) (in English and other languages)
- [Official 2011 Paid Sick Leave Poster](#) (in English and other languages)
- [Sample Employee “Designated Person” Form](#) (in English and other languages)¹¹
- [OLSE Complaint Form](#) (in English and other languages)

In other jurisdictions, websites have also been useful tools for agencies implementing earned sick days laws. Seattle’s Office for Civil Rights established a [website](#) for the city’s Paid Sick and Safe Time Ordinance. The Connecticut Department of Labor also developed a [website](#) for its Paid Sick Leave Law.

Best Practice: Ongoing Outreach and Enforcement

After the initial onslaught of questions in 2007 when the law first went into effect, the number of inquiries decreased. Currently, the OLSE receives about fifty calls and twenty-five email inquiries a month regarding the PSLO. These numbers have remained

fairly steady after the spike in questions in 2007. In 2012, the OLSE did one presentation locally and one in New York City about implementation in San Francisco. The OLSE includes information about paid sick leave in other general presentations about San Francisco labor laws.

For several years, the OLSE was able to include copies of the multilingual PSLO notice in the annual business tax registration mailing that was sent out by the Office of the Treasurer and Tax Collector. Due to a change in the timing of the mailing, since 2012 the OLSE has sent out its own annual mailing regarding the City's labor laws, which is more specifically targeted to businesses that have employees.

Enforcement of the PSLO is complaint driven. The goal of PSLO audits is to recover the back wages and penalties owed and to correct the employer's practice going forward. The OLSE has received approximately 315 complaints since the law went into effect – an average of four to five claims a month. There are approximately 585,000 workers in San Francisco. About 40% of the complaints result in the recovery of back wages and penalties.

The OLSE believes that workers are sometimes hesitant to file complaints because the amount of sick leave pay that they were denied may not be worth jeopardizing their relationship with their employer. For minimum wage claims, the OLSE keeps the identity of a complainant confidential, but this is harder to do in a paid sick leave case because it involves the facts of a particular worker's complaint. Some employees want to raise the issue with their employer by issuing a formal complaint, while others prefer for the OLSE to send a generic letter reminding the employer about its obligations under the law. The latter allows the worker to remain anonymous.

To date, the OLSE has found PSLO cases to be fairly easy to resolve. They typically involve a relatively small amount of money, and the OLSE has been successful in recovering it. Thus far, they have not had a case proceed to hearing.

San Francisco's Office of Labor Standards Enforcement takes these steps in its investigative process:

1. Interview the worker about the alleged violation, complete a claim form, and gather any supporting documentation.
2. Contact the employer; in situations that may include multiple workers whose rights to earned sick days have been violated, the OLSE does a site visit to interview workers. (Although the PSLO provides for the confidentiality of the claimant, in practice it is often impossible for the OLSE to prove a PSLO violation without discussing the details of an individual complaint.)
3. Request documents from the employer including a copy of company policies regarding sick leave and payroll documents and time sheets for all employees for the period within the statute of limitations. (The documents may be useful to identify the dates that employees missed work but they usually lack any notations that indicate whether the time off was due to illness or caring for a family member.)
4. Conduct an audit to determine, if possible, the dates of the violations and calculate back wages and penalties owed. In cases where the employer provided no paid sick leave and did not track absences that would be covered by the ordinance, the OLSE has required the employer to pay full time workers for three days of PSL per year (a remedy that the OLSE implemented based on a study by the Center for Disease Control that found the average adult employee misses three days of work per year due to illness).

5. Settlements with employers may also include a penalty to be paid to the City that compensates the City for its costs of investigation.

Post-Implementation Studies

An important part of implementation is assessing how the law is working in practice. In Washington, D.C., the Accrued Sick and Safe Leave Act of 2008 required the local government to conduct an audit annually, but the audit has yet to be done. Seattle's law requires the Seattle Office of Civil Rights to conduct a post-implementation assessment eighteen months after the effective date of the law.¹² The Office of the City Auditor has contracted with the University of Washington to conduct the evaluation, which will include a survey of Seattle employers.¹³ In San Francisco, the City did not conduct an audit, but the Institute for Women's Policy Research conducted a study of San Francisco employees and employers, San Francisco's Paid Sick Leave Ordinance: Outcomes for Employers and Employees.¹⁴ Generally, the surveys of workers and employers suggested that the law is working well and that most employers support the law.

Conclusion

As the first jurisdiction in the country to pass an earned sick days law, San Francisco faced unique challenges in the implementation process. However, with a combination of a comprehensive outreach strategy, designed to reach a broad and diverse swath of the City's workers and employers and a rigorous enforcement strategy, the City has set the bar high. Though the City's implementation process faced some delays at the outset, its experience offers lessons for other jurisdictions as they consider an appropriate timeline for implementation. The City also benefitted from the involvement of not only the OLSE, but also another government agency – the Department of Public Health. This collaborative approach may be useful for other cities or states implementing similar laws. Finally, though San Francisco did not have a large amount of funds available for its implementation process, the

resources it did have available were crucial to getting the word out and effectively implementing the law. Access to at least some resources appears to be critical to successful implementation.

Acknowledgments

CLASP is grateful to Donna Levitt, Division Manager, San Francisco Office of Labor Standards Enforcement; Dr. Rajiv Bhatia, Director of Occupational and Environmental Health, San Francisco Department of Public Health; and Megan Gaydos, Epidemiologist/Planning and Policy Analyst, Environmental Section, Department of Public Health for generously contributing much of the information in this paper. Of course, any errors are CLASP's responsibility.

Notes

¹ San Francisco's government is a city and county government. It is worth noting that this combination makes coordination easier in some ways. Other jurisdictions that do not have a combined city and county government may face different challenges.

² See Office of Labor Standards and Enforcement website, <http://sfgsa.org/index.aspx?page=391>.

³ National Partnership for Women & Families, "State and Local action on Paid Sick Days," October 2012, http://www.nationalpartnership.org/site/DocServer/NP_PSD_Tracking_Doc.pdf?docID=1922

⁴ All earned sick days laws that have been adopted since San Francisco's law passed have adopted annual caps instead of "rolling caps," like those in San Francisco. This was a lesson learned from the San Francisco experience: tracking rolling caps for individual employees was difficult for employers.

⁵ City and County of San Francisco Office of Labor Standards Enforcement, *Rules Implementing the San Francisco Paid Sick Leave Ordinance (PSLO)*, May 31, 2007.

<http://sfgsa.org/Modules/ShowDocument.aspx?documentid=1611>.

⁶ Shelley Waters Boots, Karin Martinson, and Anna Danziger. *Employers' Perspectives on San Francisco's Paid Sick Leave Policy*. The Urban Institute. March 2009, http://www.urban.org/UploadedPDF/411868_sanfrancisco_sick_leave.pdf.

⁷ Morgan Lewis, "San Francisco Delays Full Implementation of Paid Sick Leave Ordinance," March 2, 2007, http://www.morganlewis.com/pubs/CCEC_SFDelaysSickLeaveOrdinanceImplementation-2mar071.pdf.

⁸ California Healthline, "S.F. Works to Build Awareness of Employee Paid Sick Leave Law", February 7, 2008, <http://www.californiahealthline.org/articles/2008/2/7/sf-works-to-build-awareness-of-employee-paid-sick-leave-law.aspx?topic=business#ixzz1rZSneDEx>

⁹ Rajiv Bhatia, Megan Gaydos, Karen Yu, and June Weintraub, “Protecting Labor Rights: Roles for Public Health,” Forthcoming Publication in *Public Health Reports* 128, S2 (Spring 2012); See also San Francisco Department of Public Health, Program on Health, Equity and Sustainability.

“Improving Capacity to Monitor Workers’ Rights & Health.” <http://www.sfphes.org/elements/work/22-elements/work/81-sfdphs-capacity-to-monitor-worker-rights-and-workers-health>.

¹⁰ City and County of San Francisco Office of Labor Standards Enforcement website, <http://sfgsa.org/index.aspx?page=419>.

¹¹ In San Francisco, employees who do not have a spouse or registered domestic partner may designate one person for whom they may use paid sick leave to care for.

¹² City of Seattle Legislature. *Seattle Paid Sick and Safe Time Ordinance*. Council Bill Number 117216. Ordinance Number 123698. <http://clerk.seattle.gov/~scripts/nph-brs.exe?d=ORDF&s1=117216.cbn.&Sect6=HITOFF&l=20&p=1&u=/~public/cbory.htm&r=1&f=G>

¹³ Seattle Office for Civil Rights. *Paid Sick and Safe Time*. <http://www.cityofseattle.net/civilrights/SickLeave.htm>

¹⁴ Robert Drago and Vicky Lovell, *San Francisco’s Paid Sick Leave Ordinance: Outcomes for Employers and Employees*, Institute for Women’s Policy Research, February 2011, <http://www.iwpr.org/publications/pubs/San-Fran-PSD>.