

RESOLUTION NO. 762

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF BIRCH BAY WATER AND SEWER DISTRICT, WHATCOM COUNTY, WASHINGTON, REGARDING ADVANCEMENT OF SICK LEAVE

WHEREAS, on January 31, 2020, the United States Department of Public Health and Human Services declared a public emergency for the novel coronavirus ("COVID-19") beginning on January 27, 2020; and

WHEREAS, on February 29, 2020, the Governor of the State of Washington proclaimed that a State of Emergency exists in all counties in the State of Washington due to the outbreak of COVID-19; and

WHEREAS, on March 10, 2020, the Whatcom County Executive, in coordination with the Whatcom County Health Board, declared a Whatcom County public health emergency to reduce the spread of COVID-19 in our community; and

WHEREAS, on March 13, 2020, the President of the United States of America proclaimed that a National Emergency exists due to the outbreak of COVID-19; and

WHEREAS, on March 23, 2020, the Governor of the State of Washington issued a stay-at-home order applicable to the general public except employees deemed essential; and

WHEREAS, on April 2, 2020, the Governor of the State of Washington extended the aforementioned stay-at-home order through May 4, 2020; and

WHEREAS, the Birch Bay Water and Sewer District ("District") is a special purpose district authorized under Title 57 Revised Code of Washington; and

WHEREAS, in Resolution 760, adopted March 26, 2020, District Board of Commissioners declared that the COVID-19 pandemic constitutes an emergency within the District; and

WHEREAS, as recognized in a recent memorandum issued by the Washington State Attorney General's Office, local governments have broad authority to alleviate the public health emergency resulting from the present COVID-19 pandemic; and

WHEREAS, the District recognizes that during the COVID-19 pandemic, employees may, for a variety of reasons, run out of District allocated sick leave; and

WHEREAS, the District seeks to encourage all employees who are sick or who are caring for sick family members to remain home and away from the workplace, as a means of limiting exposures and slowing the present pandemic; and

WHEREAS, the District Board approved a motion at its March 26, 2020 meeting that employees shall be allowed to take advancement of sick leave, resulting in a negative balance of District sick leave, and directed preparation of a resolution also so authorizing; and

WHEREAS, the Families First Coronavirus Response Act ("FFCRA"), which includes the Emergency Paid Sick Leave Act ("EPSLA") and the Emergency Family and Medical Leave Expansion Act ("EFMLA"), effective April 1, 2020, provides qualifying full-time employees with an additional right to paid sick time up to 80 hours and expanded family and medical leave; and

WHEREAS, the term "sick leave" under this Resolution refers to sick leave granted by the District, unless otherwise stated; and

WHEREAS, the foregoing recitals are a material part of this Resolution;

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners of Birch Bay Water and Sewer District, Whatcom County, Washington as follows:

Section 1: Negative Sick Leave Allowed. Regular full-time and part-time employees who have no accrued sick leave may on request be granted an advancement of sick leave to compensate for work hours missed that could normally be covered by sick leave. A negative sick leave balance shall be allowed.

Section 2: Repayment of Sick Leave and EPSLA. The sick leave advancement shall be applied hour for hour of work hours missed and shall be deducted from the employee's regular sick leave accrual until the hours advanced are repaid. If at separation from employment sick leave hours advanced have not been repaid, the value will be deducted from the employee's final paycheck. Sick leave granted pursuant to EPSLA shall not count toward reduction of an employee's sick leave balance at the District, nor shall it be used to replenish an employee's District sick leave balance.

Section 3: Approval Process. An employee seeking sick leave advancement as authorized by this Resolution shall make such request in writing to the General Manager. The General Manager will review and approve such requests at his discretion. Any approvals for sick leave advancement made by the General Manager following the District Board's approval of this policy by motion at its March 26, 2020 Board meeting, but before adoption of this Resolution, shall be in effect and are deemed properly approved.

Section 4: Timing and Effect. This resolution shall be effective immediately and remain in full force and effect until terminated by a subsequent resolution of the Board or until termination of the emergency declaration approved in Resolution No. 760, whichever occurs first. All other District agreements and policies on sick leave which are consistent with this Resolution shall remain in full force and effect.

Section 5: BE IT FURTHER RESOLVED that any resolutions or parts of resolutions in conflict herewith are hereby repealed insofar as they conflict with the provisions of this resolution.

Section 6: If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution. The Board hereby declares that it would have passed this code and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, and if, for any reason, this Resolution should be declared invalid, or unconstitutional, then the original Resolution shall be in full force and effect.

Section 7: This Resolution shall be effective immediately upon adoption.

PASSED by the Board of Commissioners of Birch Bay Water & Sewer District, Whatcom County, Washington, at a regular meeting held the 9 day of April, 2020.

Don Montfort
DON MONTFORT, COMMISSIONER
(Approved Telephonically)

Jeff Benner
JEFF BENNER, COMMISSIONER
(Approved Telephonically)

Fred Reid
FRED REID, COMMISSIONER
(Approved Telephonically)

THIS IS TO CERTIFY that the above is a true and correct copy of Resolution No. 762 of Birch Bay Water & Sewer District, Whatcom County, Washington, adopted at the regular meeting of the Board of Commissioners on April 9, 2020.

Fred Reid
SECRETARY

I, Sandi McMillan, as authorized by District resolution and in my capacity as Finance Director of the Birch Bay Water & Sewer District, do hereby attest that the foregoing resolution was approved by the Board of Commissioners telephonically on this 9 date of April, 2020.

Sandi McMillan
Sandi McMillan, Finance Director