COVID-19 – Employer Resources

Coronavirus Aid, Relief, and Economic Security (CARES) Act

Last week largest economic aid package (The CARES Act) in our nation’s history was passed. Below you will find a brief overview and links to further resources on programs your company or employees may take advantage of:

- Loan programs that will help many construction businesses pay employees and overhead costs, while continuing operations, if possible;
  - Apply for Disaster Loan Assistance here: [https://covid19relief.sba.gov/#/] (link)
  - Additionally Payroll Loans issued as a SBA 7(a) loan under the “Paycheck Protection Program” may qualify for partial or complete forgiveness. Some of the important features of the new programs are:
    - The only criteria that a small business must meet to qualify for the loan are that the small business must have been: (a) operational as of February 15, 2020; (2) had employees for whom it paid salaries and payroll taxes, or paid an independent contractor, and (3) the business must have fewer than 500 employees, or otherwise meet the current SBA size standards for employees.
      - Visit the following site to check that your company matches the standards [https://www.sba.gov/document/support--table-size-standards] (link)
    - The maximum loan amount is 2.5 times an employer’s average monthly payroll or $10 million (whichever is less). Covered payroll costs include salary, wages, and payment of cash tips (up to an annual rate of pay of $100,000); employee group health care benefits, including insurance premiums; retirement contributions; and covered leave.
    - Allowable uses of the loan include payroll support, such as employee salaries, paid sick or medical leave, insurance premiums, and mortgage, rent, utility payments, or interest on debt incurred prior to February 15, 2020. Borrowers will have to self-certify that funds borrowed under the program are used for a certified purpose (i.e. payroll, rent, utility payments, etc.).
    - The maximum interest rate is set at four percent, but all payments on the loan can be deferred for at least six months.
o All fees for the borrower and lender for participation in the program are waived.

o All requirements that the borrower post collateral for the loan are waived.

o The legislation also provides that, to encourage employers to rehire any employees who have already been laid off due to the COVID-19 crisis, borrowers who re-hire previously laid off workers will not be penalized for having a reduced payroll at the beginning of the period.


➢ Delaying the payment of some employer payroll taxes through January 1, 2021, which will provide relief for businesses’ cash flow during this crisis. Employers generally are responsible for paying a 6.2 percent Social Security tax on employee wages. The provision requires that the deferred employment tax be paid over the following two years, with half of the amount required to be paid by December 31, 2021 and the other half by December 31, 2022 with no penalties applying for the delayed payments.

➢ Allowing companies to “carry back” their net operating losses for up to 5 years, which would inject much needed cash into struggling businesses;

➢ Suspending the limitation on pass-through business losses, which will allow owners of passthrough businesses to fully deduct any losses they incur this year;

➢ Suspending the application of the limitation on interest expense deductions, which will avoid penalizing businesses for borrowing during this crisis; and

➢ Fixing the so-called “retail glitch” from the 2017 tax reform law entitled the Tax Cuts and Jobs Act, which unintentionally increased the cost of many construction projects, such as improvements for restaurants, retail establishments, or commercial office property.

You can read AGC’s initial analysis of the CARES act here: https://www.agc.org/sites/default/files/Files/Safety%20%26%20Health/3.27.20%20AGC%20CARES%20Act%20Analysis%20for%20Construction%20FINAL.pdf
Families First Coronavirus Response Act

Congress also passed the Families First Coronavirus Response Act (FFCRA), which takes effect starting April 1, 2020 and runs through December 31st, 2020. Many employers have concerns with how this can impact their business. Below you will find a brief overview and some links to more detailed resources:

- FFCRA Q&A: https://www.dol.gov/agencies/whd/pandemic/ffcra-questions
- Employer Requirements: https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave

Applies to companies with fewer than 500 employees. Companies with less than 50 employees may be eligible for a small business exemption if it would jeopardize the viability of your business (further detail and regulations regarding this exemption have not yet been published.

- This Act provides that covered employers must provide all employees:
  - Two weeks (up to 80 hours) of paid sick leave at the employee’s regular rate of pay where the employee is unable to work because the employee is quarantined (pursuant to Federal, State, or local government order or advice of a health care provider), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; or
  - Two weeks (up to 80 hours) of paid sick leave at two-thirds the employee’s regular rate of pay because the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to Federal, State, or local government order or advice of a health care provider), or care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19, and/or the employee is experiencing a substantially similar condition as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of the Treasury and Labor.
  - Up to an additional 10 weeks of paid expanded family and medical leave at two-thirds the employee’s regular rate of pay where an employee is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19 for employees that have been employed for at least 30 days.

Under the FFCRA, an employee qualifies for paid sick time if the employee is unable to work (or unable to telework) due to a need for leave because the employee:

- is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
- has been advised by a health care provider to self-quarantine related to COVID-19;
- is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
• is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);

• is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19; or

• is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

Under the FFCRA, an employee qualifies for expanded family leave if the employee is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19.

**Unemployment:**

If you choose to terminate the employment of your workers due to the shutdown of your worksites here are some resources and brief overviews of Unemployment benefits:


To view all of the programs available to employees and the employer you can visit ESD’s Layoff Assistance Page: [https://esd.wa.gov/newsroom/layoff-assistance](https://esd.wa.gov/newsroom/layoff-assistance).
If you are planning on laying off and then hiring back your employee consider the Temporary Layoffs Program which has been adopted because of the COVID-19 response. You can apply for this program classification here: [https://esd.wa.gov/unemployment/temporary-layoffs](https://esd.wa.gov/unemployment/temporary-layoffs). This program allows you to place your employees on standby, allowing them to collect unemployment without having to search for a new job. Employers can request standby for employees with a probable return to work date within Twelve Weeks (84 days) of the request.

1. Employers should request standby using the “Request for Separation information” form
2. Employers will need to have the names and Social Security numbers of those who they want to put on standby
3. UI Claims Center Employer line 877-504-5607

If you are only able to cover part of your permanent employee’s normal work hours consider the Shared Work Program: [https://esd.wa.gov/SharedWork](https://esd.wa.gov/SharedWork). Under this program you can reduce your employee’s hours by as much as 50% and allows the worker to collect partial unemployment benefits to help replace lost wages. A minimum of 2 employees must be enrolled in this program to qualify.