

R-2020-063

**CITY OF ALBUQUERQUE
CITY COUNCIL**

INTEROFFICE MEMORANDUM

TO: Timothy M. Keller, Mayor

FROM: Stephanie M. Yara, Director of Council Services *SMY 6/19/20*

SUBJECT: Transmittal of Legislation

Transmitted herewith is Bill No. R-20-60 Directing That The City Administration Afford A Presumption Of Compensable Workers Compensation Injury, And To Award Service Credit To Certain City Employees Who Contract COVID-19 (Sena, Peña), which was passed at the Council meeting of June 15, 2020 by a vote of 8 FOR AND 0 AGAINST.

Excused: Harris

In accordance with the provisions of the City Charter, your action is respectfully requested.

SMY:mh
Attachment

CITY of ALBUQUERQUE

TWENTY FOURTH COUNCIL

COUNCIL BILL NO. R-20-60 ENACTMENT NO. R-2020-0163

SPONSORED BY: Lan Sena and Klarissa Peña

1 RESOLUTION

2 DIRECTING THAT THE CITY ADMINISTRATION AFFORD A PRESUMPTION OF
3 COMPENSABLE WORKERS COMPENSATION INJURY, AND TO AWARD
4 SERVICE CREDIT TO CERTAIN CITY EMPLOYEES WHO CONTRACT COVID-
5 19.

6 WHEREAS, on March 11, 2020 Governor Michelle Lujan Grisham issued
7 Executive Order 2020-004, Declaring a Public Health Emergency in New
8 Mexico relating to the spread of COVID-19; and

9 WHEREAS, pursuant to the Public Health Emergency, on March 23, 2020,
10 the New Mexico Department of Health issued an order directing the closure of
11 non-essential business and offices, and the City of Albuquerque has
12 correspondingly carried out closures and subsequent occupancy limits for
13 city buildings and facilities and implemented flexible working arrangements
14 for City staff; and

15 WHEREAS, the virus that causes COVID-19 is highly contagious and can
16 easily be transferred through person-to-person contact for a period of
17 approximately two weeks after a person is infected. The virus has also shown
18 the ability to remain viable for significant periods of time in the air and on
19 surfaces; and

20 WHEREAS, notwithstanding significant and early safety measures by the
21 City to allow telecommuting and other flexible work arrangements, the
22 physical presence of certain City staff has remained essential to City's health
23 and safety functions; and

24 WHEREAS, Professionals who provide direct care or assistance to patients
25 infected with COVID-19 are exposed to the virus causing COVID-19 as a
26 natural incident of their occupations and carry a far greater risk of contracting

1 COVID-19 than the general public due to this significant and inevitable
2 exposure in the workplace. Other essential workers who work in
3 environments requiring direct interactions with the public may also be at
4 greater risk for exposure as a natural incident of their occupations; and

5 WHEREAS, the New Mexico Workers Compensation Act permits workers to
6 obtain compensation, medical care, and other benefits that are necessitated
7 by injuries suffered through their occupation. The Law applies to the City and
8 its employees per NMSA 1978 § 52-1-2; and

9 WHEREAS, on April 23, 2020, Governor Lujan Grisham issued an order
10 directing that certain State employees who contract COVID-19 be presumed to
11 have suffered a compensable occupational disease under the Law, and that
12 they be granted PERA service credit for related absences, which order
13 encouraged local governments to follow suit.

14 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
15 ALBUQUERQUE:

16 Section 1. PRESUMPTION OF COMPENSABLE INJURY

17 A) In processing or responding to workers' compensation claims, the
18 City shall employ a presumption that the following essential City employees
19 who contract COVID-19 during the duration of the COVID-19 public health
20 emergency have suffered a compensable injury under the Workers
21 Compensation Act: public safety employees in the field, code enforcers,
22 animal welfare officers in the field, security officers in the field, motor coach
23 operators/sun van chauffeurs, solid waste workers in the field or at any open
24 solid waste drop off site, family community services workers, recreation
25 services workers and any other city employee physically engaging the public
26 or staffing any facility in a City sponsored COVID-19 related response
27 initiative.

28 B) The presumption set forth in subparagraph 'A', above, will be applied
29 where the following criteria are met:

30 1. The employee notifies the City of his or her contraction of
31 COVID-19 within 15 days of a positive test result;

32 2. The employee exhausts health coverages available through
33 the city's benefits program prior to collecting Workers Compensation benefits;

1 3. The employee follows all COVID-19 CDC health guidelines
2 both on and off duty.

3 Section 2. SERVICE CREDIT

4 A) The City shall treat the provision of direct services and assistance to
5 the general public during the present public health emergency stay-at-home
6 orders as “inherently dangerous circumstances” for all employees described
7 in subsection ‘1’, above, for purposes of awarding service credit under NMSA
8 1978 § 10-11-6.1.

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1 PASSED AND ADOPTED THIS 15th DAY OF June, 2020
2 BY A VOTE OF: 8 FOR 0 AGAINST.

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4 Excused: Harris

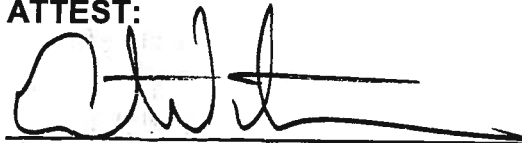
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10 Patrick Davis, President
11 City Council

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14 APPROVED THIS 26 DAY OF June, 2020

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17 Bill No. R-20-60

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23 Timothy M. Keller, Mayor
24 City of Albuquerque

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28 ATTEST:

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30 _____

31 Ethan Watson, City Clerk

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