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Title: 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)
Sponsors: Klarissa J. Peña
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CITY of ALBUQUERQUE TWENTY FOURTH COUNCIL

COUNCIL BILL NO. R-20-60 ENACTMENT NO. _____

SPONSORED BY: Lan Sena and Klarissa Peña

RESOLUTION

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)

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.

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

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

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

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

WHEREAS, Professionals who provide direct care or assistance to patients infected with COVID-19 are exposed to the virus causing COVID-19 as a natural incident of their occupations and carry a far greater risk of contracting COVID-19 than the general public due to this significant and inevitable exposure in the workplace. Other essential workers who work in environments requiring direct interactions with the public may also be at greater risk for exposure as a natural incident of their occupations; and

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

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

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

Section 1. PRESUMPTION OF COMPENSABLE INJURY

A) In processing or responding to workers' compensation claims, the City shall employ a

presumption that the following essential City employees who contract COVID-19 during the duration of the COVID-19 public health emergency have suffered a compensable injury under the Workers Compensation Act: public safety employees in the field, code enforcers, animal welfare officers in the field, security officers in the field, motor coach operators/sun van chauffeurs, solid waste workers in the field or at any open solid waste drop off site, family community services workers, recreation services workers and any other city employee physically engaging the public or staffing any facility in a City sponsored COVID-19 related response initiative.

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

1. The employee notifies the City of his or her contraction of COVID-19 within 15 days of a positive test result;
2. The employee exhausts health coverages available through the city's benefits program prior to collecting Workers Compensation benefits;
3. The employee follows all COVID-19 CDC health guidelines both on and off duty.

Section 2. SERVICE CREDIT

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

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