

**OFFICIAL PROCEEDINGS OF THE LAMOURE COUNTY BOARD OF COUNTY COMMISSONER  
SPECIAL MEETING-April 1, 2020**

Chairman Keith Heidinger called the special meeting to order at approximately 9:00 a.m. with the Pledge to the Flag. In attendance were Commissioners Lee Miller, Bruce Klein, Bob Flath, and Marvin Schulz. Also attending were State's Attorney James Shockman, Auditor Jan Hamlin, Deputy Auditor Shanel Bohnenstingl, Highway Superintendent Josh Loegering, DES/911 Coordinator Kimberly Robbins, Director of Nursing for Public Health Jessica Duffy, Sheriff Bob Fernandes, HR Director Tanya Wieler with Dakota Dynamics, Patty Wood Bartle from the Edgeley Mail, Art Hagebock from the LaMoure Chronicle.

Comm Miller moved to approve the agenda, seconded by Comm Schulz. Motion carried.

Governor Doug Burgum declared a state of emergency during this COVID-19 pandemic crisis. In order to maintain social distancing, a resolution to adopt a county wide mail in ballot system for the primary election in June was discussed. Comm Schulz motioned to adopt the resolution, seconded by Comm Klein. Roll call vote Klein-yes, Miller-yes, Flath-yes, Schulz-yes, and Heidinger-yes. Motion carried. Drop boxes in the county are suggested, the commissioners decided to discuss how many and locations of these boxes at a later date. LaMoure County Resolution regarding June 9<sup>th</sup> 2020 Primary Election process is as follows;

**WHEREAS**, on March 13, 2020, President Donald Trump issued a declaration of national emergency due to the growing COVID-19 crisis in the United States; and,

**WHEREAS**, a state of emergency was declared by Governor Doug Burgum on March 13, 2020, in response to the public health crisis resulting from COVID-19; Executive Order 2020-03 activated the State Emergency Operations Plan (SEOP), implementing appropriate response and recovery actions and future mitigation measures; and,

**WHEREAS**, on March 26, 2020, Governor Doug Burgum issued an Executive Order 2020-13 to encourage specific county action, related to elections, to maintain mitigating measures recommended by federal and state health officer.

**NOW THEREFORE**, The LaMoure County Commission operating under their authority provided by NDCC § 16.1-04-02 & 16.1-11.1-01 and in consideration of the Governor's declared emergency in response to the COVID-19 pandemic hereby declares by resolution that all previous County polling locations shall be eliminated for the June 9<sup>th</sup> 2020 primary election as allowed by the Governor's executive order 2020-03.

The County Commission further declares under their authority provided by NDCC § 16.1-11.1-01 to conduct the June 9<sup>th</sup> 2020 primary election by way of mail in ballot. The Commission encourages all qualified citizens to take every opportunity to vote by mail ballot prior to the June 9<sup>th</sup> 2020 Election.

State's Attorney James Shockman explained that the document for the Mutual Aid Agreement with LaMoure County Soil Conservation District covers all areas that is needed. Based on the recommendation from the State's Attorney Comm Flath motioned to enter into agreement with LaMoure County Soil Conservation District, seconded by Comm Miller. Roll call vote Klein-yes, Miller-yes, Flath-yes, Schulz-yes, and Heidinger-yes. Motion carried.

Director of Nursing with LaMoure County Public Health reported that there are currently no positive tests reported in LaMoure County. There have been 14 COVID-19 tests performed, and so far, none have been reported as positive. In the event that a positive test is reported there are two nurses trained and prepared to conduct contact tracing with the positive case.

Our Human Resource Director, Tanya Wieler, from Dakota Dynamics discussed the Families First Coronavirus Response Act (FFCRA) that was passed today which is as follows;

The FFCRA's paid leave provisions are effective on April 1, 2020 and apply to leave taken between April 1, 2020 and December 31, 2020. The Act is not retroactive and does not apply to leave already taken due to school or daycare closures. The County is reimbursed from the federal government for leave taken under these provisions.

**Emergency Paid Sick Leave Act**

Qualifying Reasons

Under the Emergency Paid Sick Leave provisions, employees will be eligible for additional paid leave if the employee is unable to work or telework because the employee is one or more of the following:

1. Subject to a federal, state or local quarantine or isolation order related to COVID-19.
2. Has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
3. Experiencing symptoms of COVID-19 **and** is seeking a medical diagnosis.
4. Caring for an individual who is subject to a quarantine order or who has been advised by a health care provider to self-quarantine due to COVID-19.
5. Caring for a son or daughter whose school or place of care has been closed, or the child care provider is unavailable due to COVID-19 related reasons.
6. Experiencing any other substantially similar conditions specified by the Secretary of Health and Human Services.

#### Entitlements

1. Employees are eligible for this leave immediately regardless of how long the employee has been employed.
2. For full-time employees, the amount of additional paid sick leave is 80 hours. For part-time employees, the amount of additional paid sick leave is the number of hours the employee is normally scheduled to work over that period.
3. Required compensation during the additional paid leave period is at the employee's regular rate of pay for reasons (1), (2), or (3) as outlined above, but is capped at \$511 per day and \$5,110 in the aggregate. Leave for reasons (4), (5), or (6) as outlined above is at 2/3 of the employee's regular rate of pay and is capped at \$200 per day and \$2,000 in the aggregate.
4. Wages paid for required additional sick leave are not subject to the 6.2% social security tax normally paid by employers on employees' wages. Importantly, an employer may not require an employee to utilize other paid leave benefits before using the additional paid leave provided by the Act.
5. Nothing in the Emergency Paid Sick Leave provisions diminishes existing rights or benefits, so employees whose pay would be capped under the Act can be proportionately supplemented with existing leave available under court policy to meet the employee's regular salary.
6. Paid leave under the Emergency Paid Sick Leave Act cannot be carried over year to year and ends with the employee's next scheduled work shift following termination of the need for leave qualifying under the Act.
7. Temporary employees receive leave in the amount the employee works on average over a two-week period. Employees with varying schedules making it impossible to determine with certainty how many hours would have been worked over the two week period are to receive the average daily number of hours worked over the prior six-month period, including leave of any type, or the number of hours reasonably expected at the time of hire if the employee with a varying schedule has not worked such a period.
8. The Family and Medical Leave Act (FMLA) may also apply to the Emergency Paid Sick Leave Act in relation to the employee's own illness or the illness of a qualifying family member.
- 9.

#### **Emergency Family and Medical Leave Expansion Act**

Under the Emergency Family and Medical Leave Expansion Act provisions, employees will be eligible for twelve weeks of leave if they are unable to work **or telework** due to a need for leave to care for a son or daughter as a result of a school or child care provider closing due to a federal, state, or locally declared COVID-19 public health emergency. **Employees and supervisors are encouraged to first explore telework options; employees do not qualify unless it is proven they are unable to telework or can only telework reduced hours from their normal schedule.** This expanded basis for family medical leave, however, differs from other forms of family medical leave in a number of respects. Some key differences are as follows:

1. Employees are eligible for this leave if they have worked for the employer for 30 or more calendar days.
2. Leave is required to be paid after the first ten days at a rate of 2/3 of the employee's regular rate of pay but is capped at \$200 per day or \$10,000 in the aggregate.
3. Required wages under the Act would not be subject to the 6.2% social security tax normally paid by employers on employees' wages.
4. An employee whose pay would be capped can be proportionately supplemented with existing applicable leave to meet the employee's regular salary.

5. Although the first 10 days of leave may consist of unpaid leave, in most cases, the additional paid leave available under the Emergency Paid Sick Leave Act will apply to this otherwise unpaid period.
6. If paid leave under the Emergency Paid Sick Leave Act is not available, an employee may elect to substitute annual or other applicable paid leave, pursuant to the FMLA paid leave substitution provisions for a serious health condition under which the substitution of sick leave benefits may be limited to situations for which sick leave benefits would normally apply.

It was further discussed how this act will affect employees who are considered emergency responders, for which the following was decided;

**Whereas**, the Families First Coronavirus Response Act and Emergency Family and Medical Leave Expansion Act ("Act") was enacted April 1, 2020 in response to the National Covid-19 crisis.

**Whereas**, the Act allows the employer to exempt certain emergency responders from specific paid leave under the Act.

**Therefore**, the LaMoure County Commission amends its employee policy to exempt the following emergency responders from paid leave under the newly enacted Act. Emergency responders shall include, law enforcement officers, correction institution personnel, public health personnel, nurses, emergency management personnel, 911 operators, public works personnel.

Specifically, the emergency responders are exempt from the following: 1, 5, 6 and qualify for the following benefits and paid leave for the following: 2, 3, 4

Comm Flath motioned to adopt the resolution, seconded by Comm Miller. Roll call vote Klein-yes, Miller-yes, Flath-yes, Schulz-yes, and Heidinger-yes. Motion carried.

There being no further business, Chairman Heidinger adjourned the meeting at 10:15 a.m.

APPROVED THIS 7<sup>th</sup> DAY OF APRIL, 2020

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KEITH HEIDINGER, Chairman

ATTEST:

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JANICE HAMLIN, County Auditor