

Staffing Decisions: Common Challenges

The COVID-19 pandemic has provided a host of challenges for cities. Many of these decisions are purely policy decisions that need to be made in light of the city's needs and the city's expected revenue in the coming weeks and months. The following are issues we are seeing many cities grapple with and tips for weighing the best option for your city.

Challenges in Continuing Health Insurance for Laid-Off Employees

Insurance carriers have given a green light to keeping laid-off employees on city-provided plans so long as the premiums are paid. However, their analysis does not address other issues impacting the continued insurance coverage.

First, the city will want to consider whether this impacts the employee's ability to receive unemployment benefits. Under KRS 341.030, insurance premium payments are not generally considered "wages" so long as those payments are (1) provided for all the employer's workers or for all of a class of workers (such as salaried employees), and (2) the employee cannot elect to receive any part of the payment made by the employer instead of having it paid into the plan. If the insurance premium payments fail to meet one of these two categories, then the payments are considered wages and would impact unemployment benefits.

Second, the city should have a definition in their personnel policy of which employees are eligible for benefits. In most cities, this would be full-time employees working at least a certain number of hours each week. If the city desires to provide health insurance or other benefits to employees that are working under that threshold, the definition of full-time would need to be changed. Keep in mind that by lowering the threshold, you could be opening it up to part-time employees who would not otherwise be eligible for coverage. This change will need to be discussed with your city attorney as well as your insurance carrier.

Third, the city will want to be able to articulate the public purpose of spending money to continue insurance coverage for employees who are not currently working. The city can likely point to the city's cost savings in not paying wages as well as the city's interest in keeping quality employees ready to return to work as soon as conditions allow. The city will want to be mindful of this and include this reasoning with their documentation related to layoff decisions.

Optional Administrative Leave

Many cities are requiring employees to remain home or work alternate schedules that reduce the number of hours an employee can work. Cities that have enough funding may elect to continue to pay their employees their normal wages even if there are reduced hours. The best approach is to adopt an administrative leave policy tailored to your city's practice during the COVID-19 pandemic. This puts the city's temporary practice in writing and makes it clear it is temporary. [A sample order can be found here.](#)

Layoffs and Unemployment

For cities that are unable to provide continued wages due to lack of work or lack of funds, a layoff may be necessary. Employees that are laid off as a result of exposure to COVID-19 or its spread are most likely eligible for unemployment benefits under the Governor's Executive Order 2020-235. Partial

unemployment benefits may also be available for those who have a reduction in hours but are continuing to work.

Prior to laying off any employees, the city will need to discuss the layoff decisions with their city attorney. We recommend reviewing the resources in our [Layoff Resources blog](#). Additional issues to be aware of and discuss with your city include any restrictions under KRS 95 for second and third class cities; civil service ordinances; local collective bargaining agreements; and employment contracts, if any. We also recommend including the Kentucky unemployment website in the layoff letter to direct employees to assistance. The website is: <https://kcc.ky.gov/Pages/default.aspx>.

Finally, the city will also need to weigh the cost savings versus the potential increased cost in unemployment insurance rates. Cities will generally save money overall by reducing their workforce. Additionally, the federal funding recently funneled into the unemployment system is intended to stabilize and minimize the impact on rates. However, it is currently unclear how the COVID-19 pandemic may eventually impact unemployment insurance rates. For KLC Unemployment Compensation Reimbursement Trust customers with specific questions about their accounts, please contact Rhonda Black at 859-977-4184 or 800-876-4552.

Staffing Shortages

As essential employees are required to isolate or quarantine, cities may face difficulties in maintaining staffing levels. One option is to consider temporarily hiring retirees. For the latest information on requirements for reemployment of retirees, see our article [Reemployment of Retired Members of the Kentucky Retirement System](#).

For additional questions, please contact Personnel Services Attorney Courtney Risk Straw or Personnel Services Manager Andrea Shindlebower Main.