

April 7, 2020 (Special)

**MINUTES
BURKE COUNTY BOARD OF COMMISSIONERS
SPECIAL MEETING**

Both Burke County and the State of North Carolina had previously declared a state of emergency which was ongoing as of April 7, 2020 due to the global COVID-19 pandemic. To follow the N.C. Governor's Executive Orders limiting mass gatherings and to ensure public safety, the Burke County Board of Commissioners' special meeting on April 7, 2020 at 4:00 p.m. was held remotely using CISCO Webex, a virtual meeting / teleconferencing platform with simultaneous communication, to facilitate the meeting. The Commissioners, the County Manager, the County Attorney, the Clerk and County staff as well as any citizens that joined the virtual meeting, could hear and see one another for the duration of the meeting. Citizens that joined by telephone, could only hear the meeting. The special meeting notice was executed by Chairman Carswell and published on April 2, 2020. Also, citizens were also invited on April 2, 2020 to watch a live stream of the meeting on the County's YouTube channel, BurkeCountyNC or view the meeting later on the local cable systems. The Clerk shared each agenda item on her computer screen so that meeting participants could see the item being discussed and the agenda, in its entirety, was posted to the County's website, www.burkenc.org, several days prior to the meeting as customary. A verbal roll call was conducted and those present were:

COMMISSIONERS PRESENT: Johnnie Carswell, Chairman
Scott Mulwee, Vice Chairman
Wayne F. Abele, Sr.
Jeffrey C. Brittain
Maynard M. Taylor

STAFF PRESENT: Bryan Steen, County Manager
Margaret Pierce, Deputy County Manager/Finance Director
J.R. Simpson, II, County Attorney
Kay Honeycutt Draughn, Clerk to the Board

CALL TO ORDER

Chairman Carswell called the meeting to order at 4:00 p.m.

APPROVAL OF THE AGENDA

Motion: To approve the agenda.

RESULT:	APPROVED [UNANIMOUS] BY A ROLL CALL VOTE
MOVER:	Scott Mulwee, Vice Chairman
AYES:	Johnnie W. Carswell, Scott Mulwee, Wayne F. Abele, Sr., Jeffrey C. Brittain and Maynard M. Taylor

ITEMS FOR DECISION

HR – FAMILIES FIRST CORONAVIRUS RESPONSE ACT – EMERGENCY FAMILY MEDICAL LEAVE EXCLUSIONS

Margaret Pierce, Deputy County Manager/Finance Director, presented information regarding the Families First Coronavirus Response Act – Emergency Family Medical Leave exclusions as

April 7, 2020 (Special)

follows:

The President signed the Families First Coronavirus Response Act (FFCRA) on March 18th. This Act requires certain employers to provide their employees with paid sick leave and expanded family medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

Employers covered under the Act (Burke County is a covered employer) must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, of the applicable State or Federal minimum wage, at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- 2/3 for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 10 weeks more of paid sick leave and expanded family and medical leave paid at 2/3 for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

In general, employees of Burke County are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). Employees who have been employed for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to telework because the employee:

1. Is 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 related to COVID-19;
3. Is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
4. Is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
5. Is caring for his or her child whose school or place of care is closed (or childcare provider is unavailable) due to COVID-19 related reasons; or
6. Is experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services

The FFCRA allows for covered employers to exclude healthcare providers and emergency responders from the Emergency FMLA provisions and/or the Emergency Sick Leave provisions of the Act. The US Department of Labor

April 7, 2020 (Special)

defines an emergency responder as follows: "For the purposes of employees who may be excluded from paid sick leave or expanded family and medical leave by their employer under the FFCRA, an emergency responder is an employee who is necessary for the provision of transport, care, health care, comfort, and nutrition of such patients, or whose services are otherwise needed to limit the spread of COVID-19. This includes but is not limited to military or national guard, law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility. This also includes any individual that the highest official of a state or territory, including the District of Columbia, determines is an emergency responder necessary for that state's or territory's or the District of Columbia's response to COVID-19."

The County Manager, Human Resources Director and Deputy County Manager/Finance Director conferred with each Department Head who supervise employees classified as Emergency Responders. The Department Heads, unanimously, recommended an exclusion for Emergency Responders from the Emergency FMLA provisions of the FFCRA only. This recommendation will exclude Emergency Responders from up to 10 weeks more of paid sick leave and expanded family medical leave paid at 2/3 if the employee is unable to work because the employee is caring for his or her child whose school or place of care is closed. This recommendation is based solely on the importance of maintaining critical staffing levels and emergency services to our citizens during the pandemic.

The State and other community partners have established childcare options for essential emergency responders to consider in order to assist them during this time.

Ms. Pierce said there are two (2) pieces to this act that allow for certain employee groups (emergency response) to be excluded from the Families First Coronavirus Response Act (FFCRA). Ms. Pierce said she and Rhonda Lee, HR Director, met with the relevant department heads to get their recommendations regarding their departments. She said the first part of the act is the paid sick leave portion which is up to 80 hours at the employees' regular rate of pay. Ms. Pierce said the second part of the act is the Emergency Family Medical Leave Act which is only for childcare. She said upon review with the relevant departments, the recommendation that they are requesting the County to support is that employees who are defined by the Department of Labor as emergency responders be excluded from the Emergency Family Medical Leave Act portion. She said this gives them an additional 10 weeks to be at home for school or daycare closures and they would still be a part of the original sick leave act up to 80 hours.

Chairman Carswell opened the floor for questions or comments from the Board and there were none.

April 7, 2020 (Special)

Motion: To authorize the exclusion of Emergency Responders, as defined by the U.S. Department of Labor, from the emergency FMLA provisions of the Families First Coronavirus Act effective April 1, 2020 through December 31, 2020.

RESULT:	APPROVED [UNANIMOUS] BY A VERBAL ROLL CALL VOTE
MOVER:	Jeffrey C. Brittain, Commissioner
AYES:	Johnnie W. Carswell, Scott Mulwee, Wayne F. Abele, Sr., Jeffrey C. Brittain and Maynard M. Taylor

ADJOURN

Motion: To adjourn at 4:05 p.m.

RESULT:	APPROVED [UNANIMOUS] BY A VERBAL ROLL CALL VOTE
MOVER:	Maynard M. Taylor, Commissioner
AYES:	Johnnie W. Carswell, Scott Mulwee, Wayne F. Abele, Sr., Jeffrey C. Brittain and Maynard M. Taylor

Approved the 18th day of August 2020.

Attest: