

**Minutes of a Special Meeting of the Board of Directors of the
Sunshine Fire Protection District
December 26, 2022**

Call to Order

The meeting was held virtually.

The meeting was called to order at 7:02 PM and a quorum was established.

Attendance

Board Members Present: Jean Gatzka, Cathy Shoenfeld, Dan Fischer, Dick Smith, John Bauer

Others Present: Flint Cheney

This was a special meeting to consider resolution 2022-06 and whether to opt out of the Colorado Family Medical Leave Insurance. If we choose to opt out of the program, the Board needs to pass a resolution to that effect by December 32, 2022.

Context: Colorado voters approved Proposition 118 in November of 2020, paving the way for a state-run Paid Family and Medical Leave Insurance (FAMLI) program. The FAMLI program will ensure all Colorado workers have access to paid leave in order to take care of themselves or their family during life circumstances that pull them away from their jobs — like growing their family or taking care of a loved one with a serious health condition. See website for more info: <https://famli.colorado.gov/>

Here's what our attorney had to say about it:

"As for pros/cons, the primary issue is that the amounts the volunteers receive from the states would be reduced because if the District opts in then each individual must pay .45% of the wages to the State. In addition, the District also would pay .45% to the State, further reducing its revenues. The District may opt in at any time in the future with 180 days' notice. Most of our Districts are opting out and taking a "wait and see" approach as they recognize any new insurance program like this, run by the State, is likely to have a lot of issues in the first couple of years. Further, there is no clear guidance from the State at this juncture that the District volunteers who participate in wildland callouts are eligible for such benefits arising from this work. Thus, without further clarification, it seems to be a more cautious approach to opt out and await further insight and guidance."

Eric Bader's thoughts on this as our primary contract firefighter:

This new program is new to me as well. I have opted out with my business because I have less than 9 employees, giving me this option.

We are looking at up to 6 auxiliary firefighters going out on dispatch. If we send out one engine, we hit the magic number of 9 employees.

We have no choice on deducting from the employee the .45%. The only question is if Sunshine will opt out or join. It is not clear to me what would happen mid year if we happen to hit 10 employees or more. Will our reports show that we have to cover payroll back to the first of the year?

I would recommend that we opt in and pay the employer portion of this fee. It is the safe thing to do. We can add this employer cost to our billing documents, so this cost should be covered by our income.

I have no idea about our current firefighters being eligible for the benefits. The benefits could help someone who has a family emergency that prevents them from working. We may have some younger firefighters that could end up having kids where this program may help.

If we plan to pay the .45% employer portion, then we can add it to our billing. If we find ourselves mid-summer being required to pay this tax, we may have to cover this cost until we

can change our billing rate.

Good luck!

I am glad you guys are aware of this and working on it.

Board Discussion:

How the FAMLI program relates to Special Districts (SD) and volunteer firefighters is very unclear. Our attorney indicated that most SDs were opting out of the program and that their firm was recommending that to their clients. It was noted that we can always opt in later. Questions were raised about what the 180-day notice meant relative to a wildfire response time and whether the 9-person limit was only for businesses or also applied to SDs. This could impact SFPD if the limit applied to the simultaneous deployment of our contractors and an SFPD engine and crew. The Board's understanding is that if we opt in to the program, then everyone on our payroll would be required to participate. A text comment from the Chief indicated that he would prefer that SFPD keep involved in any program that would benefit our firefighters and he urged that SFPD provide assistance to help individuals who wanted to participate to opt in. The Board members were in agreement that given all of the uncertainty regarding how the FAMLI act relates to SDs, that the prudent approach would be to opt out of the program at this time, with the option of reconsidering whether to opt in at a later date once the uncertainties had been resolved.

Notes on items to investigate and share with SFPD firefighters

- How they might opt in individually if they so choose, and if so, if they pay the entire amount (both "halves" assuming SFPD would be paying half if we were opting in)
- If we opt in in the future, how the 180-day 'taking effect' period works

Auxiliary firefighter comments: Both Michael Rubenstein (via email) and Flint Cheney indicated that they would elect to opt out of this program. Both felt that this would not benefit contract employees who also had other employment.

MOTION: A motion was made to adopt draft resolution 2022-06 to opt out of the Family and Medical Leave Insurance Act (FAMLI) Program. The motion was seconded and unanimously passed.

The meeting was adjourned at 7:26 PM

Attest: Richard Smith

Richard Smith, Secretary

Attachment: Draft resolution 2022-06.

**RESOLUTION
BOARD OF DIRECTORS OF THE
SUNSHINE FIRE PROTECTION DISTRICT**

A RESOLUTION TO DECLINE PARTICIPATION IN THE FAMILY AND MEDICAL LEAVE INSURANCE ACT (“FAMLI”) PROGRAM

WHEREAS, the Sunshine Fire Protection District ("**District**") is a political subdivision of the State of Colorado, organized pursuant to the Colorado Special Districts Act, C.R.S. § 32-1-101, *et seq.* ("**Act**"), to provide fire suppression, fire prevention, rescue and extrication, hazardous materials, ambulance and emergency medical services (collectively, "**Emergency Services**") to the citizens and property within its jurisdiction;

WHEREAS, the Colorado Family and Medical Leave Insurance Act, C.R.S. § 8-13.5-501, *et seq.* and 7 CCR part 1107 (collectively, "**FAMLI**"), is a state-administered insurance program that provides paid family and medical leave to covered employees;

WHEREAS, the District is a “Local Government” employer as defined under FAMLI pursuant to C.R.S. §§ 8-13.3-503 and 29-1-304.5(3)(b);

WHEREAS, pursuant to 7 CCR 1107-2, the District, as a Local Government employer, may decline participation in the FAMLI program through an affirmative majority vote by the District’s Board of Directors ("**Board**");

WHEREAS, the Board duly posted notice of a public meeting to be held on December 26, 2022 to consider the District’s participation in the FAMLI program, and also published such notice in the Daily Camera on December 23, 2022, and invited public comment on the District’s participation in FAMLI program; and,

WHEREAS, prior to the public meeting, the District’s employees were provided written notice of the public meeting, and were invited to submit written comments to the Board prior to, and to speak during the public comments portion of, the public meeting regarding consideration of the District’s participation in the FAMLI program.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SUNSHINE FIRE PROTECTION DISTRICT THAT:

1. The District, through an affirmative majority vote, declines participation in the FAMLI program and will not contribute to the employer share of premiums or the employee share of premiums of any employee who does not voluntarily elect coverage under the FAMLI program.

2. The District further declines to withhold and remit the employee share of premiums for any District employees who voluntarily elect coverage under the FAMLI program. Employees who voluntarily elect coverage under the FAMLI program must submit their premiums directly to the Colorado Division of Family and Medical Leave Insurance.

3. District staff is directed to provide District employees with individual written notice of the Board's decision to decline participation in the FAML I program within 30 days from the date of the public meeting. Such written notice must include:

- a. Explanation of the differences between benefits offered by the FAML I program and any private plan offered by the District.
- b. Statement of which employees, if any, are eligible for job protection under the federal Family and Medical Leave Act (FMLA) benefits or other local provisions, where applicable.
- c. Information regarding the right of District employees to voluntarily opt into the FAML I program and the contact information for the Colorado Division of Family and Medical Leave Insurance.

ADOPTED this 26th day of December, 2022.

BOARD OF DIRECTORS OF THE
SUNSHINE FIRE PROTECTION DISTRICT

Director

Director

Director

Director

Director