IMPACT OF PAID SICK LEAVE ON NYC BUSINESS

A Survey of New York City Employers

September 2010

Partnership for New York City

Conducted by the Partnership for New York City
Data Analysis and Interpretation by Ernst & Young

The "swine flu" panic of 2009 sparked debate over how employment policies — specifically the failure of some employers to offer paid sick leave — might contribute to a public health crisis in New York City. Claiming that 1.75 million New York City workers or 48 percent of the city's workforce could not take time off when they were sick, various groups began to call for New York to enact a paid sick leave mandate mirroring a law passed in San Francisco.

The Paid Sick Time Act, Intro 97 was introduced in the New York City Council on March 25, 2010. This bill would require that all New York City private and nonprofit employers provide paid sick leave that employees can use when they or a family member are ill.[1] Advocates contend that the cost to employers and consequent losses to the city economy arising from passage of the bill would be negligible.

Reaction from employers, including many who currently offer paid sick leave, suggested that the hardships this bill would impose on employers were poorly understood. The Partnership for New York City's membership is primarily the city's largest businesses that collectively employ 775,000 people in the five boroughs and contribute $143 billion to the Gross City Product. While virtually all its members offer generous paid leave, the Partnership became concerned about unintended consequences of legislation that might slow the momentum of economic recovery in the city and result in further job losses at a time of high unemployment.

Concluding that hard data from employers regarding the impact of the bill was not available from existing sources, the Partnership set out to collect information that could inform the public policy debate. To this end, during July and August, the Partnership organized a survey that was open to all New York City employers and contracted with Ernst & Young LLP (EY) to analyze the results. This report summarizes the EY findings and draws some implications that are intended to provide constructive input to the City Council and other interested parties.

Summary of the Employer Survey

Working through professional and trade associations, chambers of commerce, business improvement districts, business publications and its own membership, the Partnership invited all NYC employers to answer an on-line survey about sick leave policies. EY helped design the survey and was solely responsible for tabulating and analyzing the confidential responses. A detailed overview of the survey methodology can be found in the addendum at the back of this report.

Survey responses were filed by 708 employers who collectively employ 414,000 workers in the city, representing 13 percent of the private sector workforce. Respondents represent every major industry, all five boroughs, nonprofit employers, and a mix of large and small businesses. Survey responses were sufficiently robust for EY to conclude that the results were a reasonable snapshot of NYC employers and that valid projections, with documented assumptions and limitations, could be made based on the responses. A further strength of the methodology is that

1 The proposed legislation (Intro 97) would require employers to permit their workers to accrue paid sick leave that may be used to care for their own or a family member's health concerns or to care for a child whose school or place of care has been closed due to a public health emergency. The law would apply to any employee working over 80 hours per year in the city regardless of full-time, part-time or temporary work status. Government employees would be exempt. For every 30 hours worked by an employee, their employer would be required to provide a minimum of one hour of paid sick time. Companies with 20 or more employees would have to allow their workers to accrue up to 9 days of paid sick leave per year; companies with fewer than 20 employees would have to provide up to 5 days per year. During sick leave, employees are to be paid their standard pay or hourly rate. The bill mandates that employers cannot punish or retaliate against their workers for using sick leave, nor can they require, as a condition of taking leave that an employee secure a replacement worker to cover their absence. If employers are found to be in violation of the law they can be fined up to $1,000 for each instance.

the stratified study breaks employees into four categories (salaried, full-time hourly, part-time hourly, and tipped) and discretely analyzes the corresponding data.

Overall, 58% of the survey responses came from employers with twenty or more employees and 42% from employers with fewer than twenty employees. Two-thirds of the employees represented in the survey responses work for businesses and 34% work in the non-profit sector.

Each survey respondent was asked to describe their leave policies for each category of employee (salaried, full-time hourly, part-time hourly, and tipped) for both personal and family illness. Employers also differentiated policies reached through collective bargaining.

The employer survey was designed to determine the following:

- Current employment policies and practices for paid leave among New York City employers in all key industry sectors;
- The extent to which NYC workers have access to paid sick time or paid leave to use for personal or family illness;
- The estimated direct cost to employers of the proposed Paid Sick Time Act; and,
- The industry sectors and types of businesses that would be most affected by the proposed legislation.

Current Paid Leave Policies and Practices among NYC Employers

There are over 216,000 private sector (business and nonprofit) employers in NYC, of which nearly 20,000 employ twenty or more workers representing a total of about 2.4 million jobs and roughly 80% of the private workforce. There are almost 200,000 business and nonprofit employers in the city with fewer than twenty workers employing about 650,000 or 21% of the city's private workforce.

Survey results show that 95% of the employees of large NYC employers are provided with paid time off that can be used in case of illness and 82% of these employees have paid sick leave benefits. Among small businesses in NYC, 70% of their employees receive paid time off and 62% have paid sick leave.

In sum, based on the survey results, 88% of all New York City private sector workers have access to paid leave that can be used when they are ill. A total of 77% have explicit paid sick leave benefits through their employers, compared to 62% of private sector workers nationally.

This leaves an estimated 375,000 workers, or 12% of the city's private workforce, without paid sick leave or other paid leave that they can use for personal or family illness. Employees with no paid leave are concentrated in small business and certain industries, including Construction (52% of industry employment has no paid leave), Hospitality and Restaurants (28%), Retail Trade (27%), and a category described as "Other Education", including museums, libraries, and nursery schools (32%).

Small employers in NYC that currently offer paid time off (vacation, sick leave, personal days) give their employees an average of 7.1 days and large employers offer an average of 8.7 paid days off. In every sector included in the survey, small businesses that offer paid leave provide an average of at least five days.

According to the survey, NYC private employers that provide paid leave to **part-time** employees offer, on average, 7.3 paid days off, with 55% of all part-time employees having access to paid leave. Regarding part-time workers, New York City employers are more generous than the national average.

According to the Bureau of Labor Statistics, only 35% of part-time workers nationwide have paid time off.

Eighty-six percent of **hourly** employees in New York City receive paid time off as part of their benefits package with an average of 8.8 paid days off — 9.1 days for employees of large businesses and 7.2 days for employees of small business.

Only 12% of **tipped** employees in New York City have access to paid time off, averaging 6 days of paid leave.

Although 30% of small employers provide no formal paid leave program, some of these indicate that they routinely pay or offer schedule options for sick employees on a case-specific basis. While the survey did not elicit reasons why many small businesses and nonprofits do not provide paid leave, it seems clear that this is a reflection of limited resources and slim margins that characterize certain sectors. Overall, the employment culture in NYC clearly supports provision of paid leave when it is feasible.

Figure 1 illustrates NYC paid leave practices by category of employment, with salaried employees having almost universal access to paid leave and tipped employees having very limited access to paid leave.

Figure 1: If an employee were incapable of coming to work on a scheduled work day due to personal illness or family member's illness, the employee would most likely take the day as:

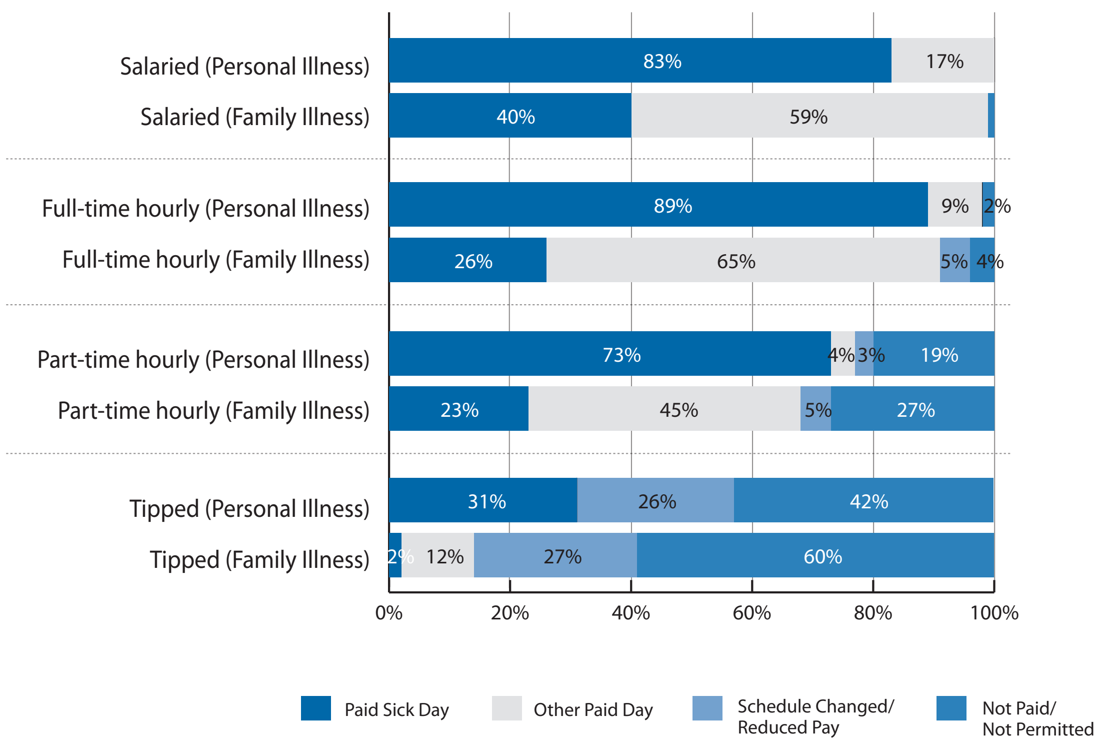
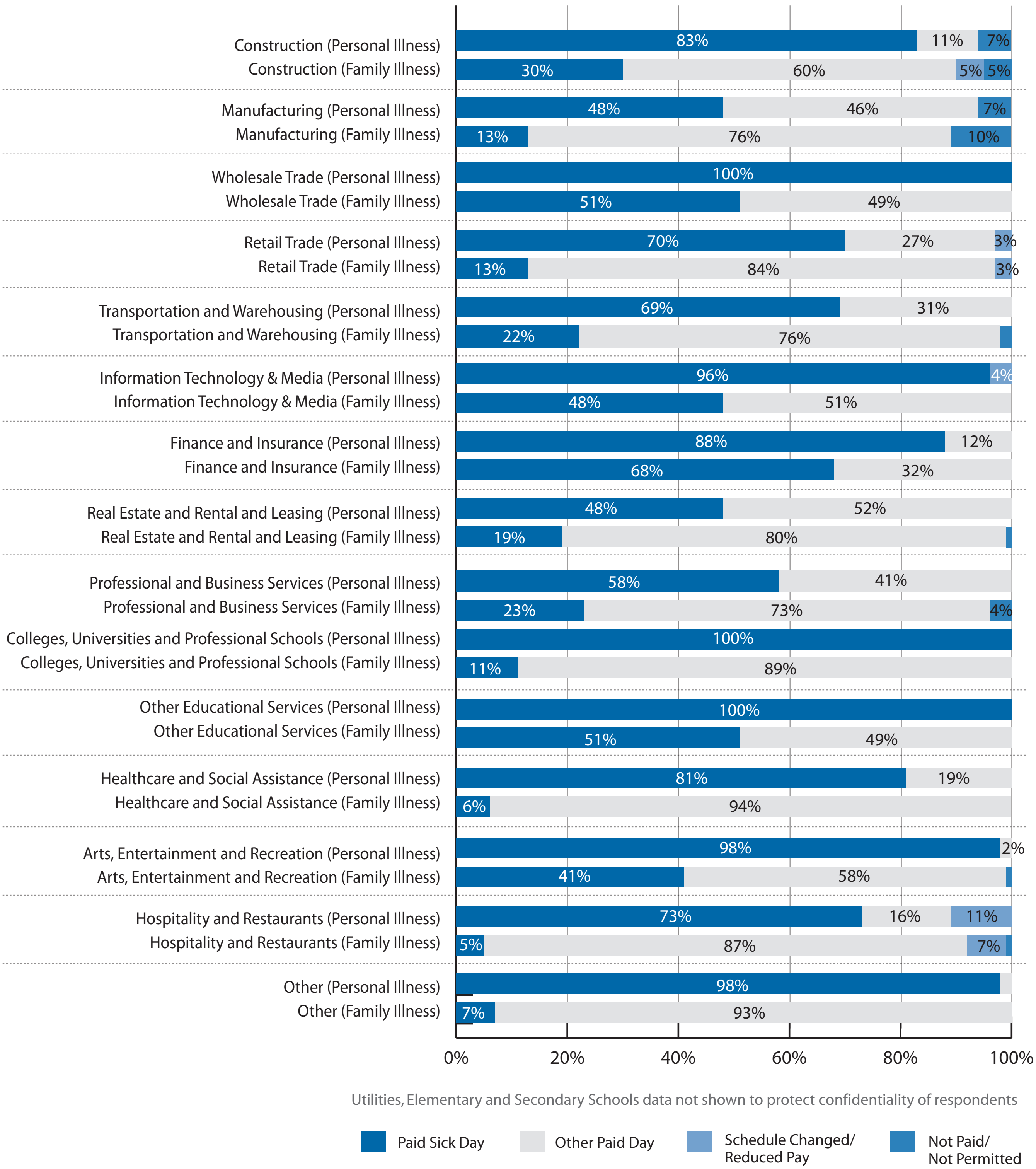


Figure 2 illustrates the characteristics of paid sick leave and other paid leave policies among various industry sectors in NYC as applied to full time, salaried employees.

Figure 2: If a SALARIED employee were incapable of coming to work on a scheduled work day due to personal illness or family member's illness, the employee would most likely take the day as:



Direct Cost of the Bill

EY projects that the bill would result in an overall increase of 0.30% in citywide private payroll costs which amounts to $789 million a year. The cost estimate includes only direct payroll costs, assuming standard rates of utilization of paid leave in relevant industry sectors, as well as the cost of hiring replacement workers where required.

Implementation of the Paid Sick Time Act would raise costs, on average, to 48 cents per employee per hour. Large businesses would see an increase to 57 cents per employee per hour and small businesses 24 cents per employee per hour.

This does not include the costs of benefits such as health insurance, employment taxes or indirect costs that may be incurred as a result of providing paid sick leave to employees. Nor does the estimate include the administrative costs of compliance with the bill. These costs could not be captured in the scope of the survey, but anecdotal evidence suggests they are significant.

Although the payroll cost increase may seem small to advocates, it is roughly equivalent to the .34% payroll tax (the "Mobility Tax") that New York State imposed on all employers in 2009 to help fund the MTA capital program. Small business, government and nonprofit employers have widely described this tax as very burdensome and its rescission was one of the biggest issues in the last session of the State legislature and in the upcoming elections. Several Long Island legislators cite this tax as the trigger for challenges that threaten their re-election.

Impact on Employers That Already Offer Paid Leave

Surprisingly, survey results show that 60% of the direct costs of the bill fall on those employers, large and small, that **ALREADY OFFER PAID LEAVE** to their employees. This outcome is largely because the prescriptive terms of the bill would require employers with the highest payroll and benefit costs to substantially change their current policies to achieve compliance. The Urban Institute released a study in March 2009 that suggests this is what has happened in San Francisco in response to enactment of a similar Paid Sick Time mandate.

The following are specific ways in which employers that provide paid leave report that the bill conflicts with current practices and result in significant cost increases that could not be quantified on the basis of the Partnership survey:

- **New collective bargaining agreements are not exempt.** Instead, as new agreements are negotiated unions will come to the table with up to nine paid sick days per employee to use for bargaining purposes, thereby putting employers at a significant disadvantage.
- **Conflicts with company-wide policies and benefits for employees in other places.** Mandating a certain paid sick leave policy for employees in New York would pose a conflict for those companies that have employees in other locations.
- **Short-term workers/independent contractors are covered.** Paid sick leave must be made available to anyone who works in the City for at least 80 hours per year. This could negatively impact companies that have employees come from out-of-state to work for them on a short-term basis (i.e., mutual aid workers during emergencies or independent contractors).
- **The bill excludes many common forms of leave that are used as paid sick leave.** Employers must set aside up to nine days of paid leave for each employee that may only be used for the purposes laid out in the bill. Businesses that provide their employees with a "general-use bucket" of paid time off — to be used at the employee's discretion for broad purposes, including attending

to their own health, or taking vacation or personal days - will have to reduce the number of days in the "general-use bucket" and program them solely as sick days (thereby limiting the number of days workers have to use for other purposes).

- **Relatives covered goes beyond federal standard (to include in-laws, grandchildren, & grandparents).** Provisions in the federal Family and Medical Leave Act mandate access to unpaid leave for employees needing to attend to their own health or that of a spouse, child or parent. The proposed legislation expands eligibility to other relatives and for the new purpose of caring for a child whose school or place of care has been closed due to an official public health emergency.
- **Terms and conditions for utilization of leave.** The ability of employers to manage the use of sick leave would be greatly restricted. Many companies have peak dates or critical events that require all employees to be available, but employers would not be allowed to limit the use of sick time during these periods. Further, the bill bans employers from monitoring the use of sick leave for potential abuse and it expressly allows employees to pursue private legal actions against their employers - opening companies to frivolous lawsuits from disgruntled employees.
- **Leave may be taken in one-hour increments.** The proposed legislation would require all employers — even those with current leave policies — to allow their workers to accrue paid sick leave in one-hour increments. Presumably (although the legislation is unclear) employers will also have to allow their workers to use this paid sick leave in one-hour increments. Currently many employers require leave to be used in half-day or day-long increments to ensure predictability and maximize efficiency.
- **The period of employment before an employee is eligible for paid leave is 90 days.** Many employers require an employment period of six months to one year before an employee is eligible for paid leave.
- **Unused paid leave can be carried forward year after year and must be reinstated if an employee leaves the company and comes back.** Employees that accrue the maximum amount of paid sick leave may carry that forward into the next year (thereby having the maximum amount of leave available to them at all times). In addition, if an employee returns to work after a separation of six months or less the employer must reinstate any accrued paid sick leave. This creates problems for some employers, as even student interns could potentially cycle in and out of work and still accrue up to nine days of sick time.

Hardship Impact of Bill on Small Business & Selected Industries

Employers that would have to provide paid leave benefits for the first time will experience the greatest hardship from the bill because they tend to be small employers, with relatively low wages and low margin businesses. Businesses with twenty employees or less (91% of all businesses in New York City) are responsible for 21% of the private sector jobs in NYC, or a total of about 650,000 workers. EY estimates that $149 million, or almost 20% of the incremental payroll cost of the bill, would fall on these small employers, business and nonprofit, who tend to create most new jobs. This cost is somewhat mitigated by the fact that the bill requires small employers to provide five paid sick days, rather than the nine days required of larger employers.

The actual cost of the increase in direct costs that will result from the bill is not evenly distributed and, for several industries, it is much higher than the MTA Mobility Tax. The direct cost for Construction Industry employers, for example, is 1.28%; for Utilities it is 0.91%; for Hospitality & Restaurants, 0.71%; and for Information Technology & Media, 0.48%. The following chart illustrates the disparate impact of the bill's cost.

Table 1 illustrates how incremental payroll costs triggered by the bill vary according to industry sector.

Table 1: All employers increase % of annual payroll

	Benefits / Payroll		
Industry	**Current**	**Proposed**	**Increase**
Utilities	1.37%	2.28%	0.91%
Construction	0.60%	1.88%	1.28%
Manufacturing	0.74%	1.19%	0.44%
Wholesale Trade	1.03%	1.37%	0.34%
Retail Trade	1.61%	2.01%	0.40%
Transportation and Warehousing	2.13%	2.48%	0.36%
Information Technology & Media	1.05%	1.53%	0.48%
Finance and Insurance	0.87%	1.12%	0.25%
Real Estate and Rental and Leasing	1.18%	1.30%	0.12%
Professional and Business Services	0.78%	0.85%	0.06%
Elementary and Secondary Schools, Colleges, Universities, and Other Educational Services	2.31%	2.31%	0.00%
Colleges, Universities, and Professional Schools	0.84%	1.10%	0.26%
Other Educational Services	1.21%	1.51%	0.30%
Healthcare and Social Assistance	1.95%	2.06%	0.11%
Arts, Entertainment, and Recreation	1.28%	1.42%	0.15%
Hospitality and Restaurants	1.69%	2.40%	0.71%
Other	0.97%	1.22%	0.25%
Total	**1.22%**	**1.52%**	**0.30%**

Construction (1.28%) and Hospitality/Restaurant (0.71%) industry cost increases reflect the fact that a majority of survey respondents in these sectors do not currently provide sick leave for tipped or part-time workers — and hourly for construction — and that they must hire an alternative worker if there is an unplanned absence.

The Utilities industry also shows a significant increase (0.91%) in payroll cost. This increase was primarily driven by current policies that provide 6 or fewer paid sick days, relatively high compensation, plus the need to hire replacement workers and staff up for emergency conditions.

The survey results (presented below in Table 2) show that industries with a large number of hourly or tipped employees would be most affected by the increased costs of the bill. About half the Hospitality and Restaurant employers offer paid leave, but they tend to be larger firms and benefits go mostly to salaried and hourly employees.

Table 2: By industry and employee type increase % of annual payroll

	Benefits / Payroll				
Industry	**Salaried**	**Hourly**	**Part-time**	**Tipped**	**Total**
Utilities	0.72%	1.07%	0.34%	0.00%	0.91%
Construction	0.29%	1.93%	1.97%	0.00%	1.28%
Manufacturing	0.25%	0.85%	1.26%	0.00%	0.44%
Wholesale Trade	0.13%	0.76%	1.16%	0.00%	0.34%
Retail Trade	0.13%	0.41%	1.02%	1.67%	0.40%
Transportation and Warehousing	0.03%	0.41%	0.28%	0.00%	0.36%
Information Technology & Media	0.26%	0.81%	0.79%	0.00%	0.48%
Finance and Insurance	0.24%	0.28%	0.96%	0.00%	0.25%
Real Estate and Rental and Leasing	0.08%	0.10%	0.95%	0.00%	0.12%
Professional and Business Services	0.03%	0.25%	0.62%	1.63%	0.06%
Elementary and Secondary Schools, Colleges, Universities, and Other Educational Services	0.00%	0.00%	0.00%	0.00%	0.00%
Colleges, Universities, and Professional Schools	0.35%	0.00%	0.02%	0.00%	0.26%
Other Educational Services	0.08%	0.00%	1.21%	0.00%	0.30%
Healthcare and Social Assistance	0.07%	0.16%	0.12%	0.00%	0.11%
Arts, Entertainment, and Recreation	0.02%	0.21%	0.77%	0.46%	0.15%
Hospitality and Restaurants	0.23%	0.72%	1.54%	1.06%	0.71%
Other	0.06%	0.61%	0.32%	0.52%	0.25%
Total	**0.15%**	**0.54%**	**0.60%**	**1.24%**	**0.30%**

Industries reporting the lowest increase in payroll cost to comply with the Act include Professional and Business Services (0.06%), Healthcare and Social Assistance (0.11%), Real Estate and Rental and Leasing (0.12%), and Arts, Entertainment, and Recreation (0.15%). Most of the respondents for these industries reported relatively generous sick leave programs and no need to adjust work schedules in the event of an unplanned absence.

Note, however, in Table 5, those **small** employers (many of them nonprofits) in the Healthcare and Social Assistance sector that do not currently offer a paid leave program would have some of the highest cost increases as a result of the bill.

Table 3 presents the cost impact of the bill on small employers (0.31%) by industry sector.

Table 3: Small employer increase % of annual payroll

	Benefits / Payroll		
Industry	**Current**	**Proposed**	**Increase**
Utilities	0.39%	0.39%	0.00%
Construction	0.64%	1.19%	0.55%
Manufacturing	1.11%	1.29%	0.18%
Wholesale Trade	0.77%	0.79%	0.02%
Retail Trade	1.03%	1.55%	0.51%
Transportation and Warehousing	1.58%	1.82%	0.23%
Information Technology & Media	0.70%	0.87%	0.17%
Finance and Insurance	0.66%	0.73%	0.07%
Real Estate and Rental and Leasing	1.18%	1.30%	0.13%
Professional and Business Services	0.50%	0.65%	0.16%
Elementary and Secondary Schools, Colleges, Universities, and Other Educational Services	0.00%	0.00%	0.00%
Colleges, Universities, and Professional Schools	1.11%	1.19%	0.08%
Other Educational Services	0.43%	0.51%	0.07%
Healthcare and Social Assistance	0.81%	1.21%	0.40%
Arts, Entertainment, and Recreation	0.70%	1.00%	0.31%
Hospitality and Restaurants	0.74%	1.63%	0.89%
Other	0.94%	1.33%	0.39%
Total	**0.82%**	**1.13%**	**0.31%**

Table 4 presents the cost impact of the bill on large employers (0.29%) by industry sector.

Table 4: Large employer increase % of annual payroll			
	Benefits / Payroll		
Industry	**Current**	**Proposed**	**Increase**
Utilities	1.38%	2.29%	0.91%
Construction	0.58%	2.32%	1.74%
Manufacturing	0.64%	1.16%	0.52%
Wholesale Trade	1.24%	1.84%	0.59%
Retail Trade	2.00%	2.32%	0.32%
Transportation and Warehousing	2.19%	2.56%	0.37%
Information Technology & Media	1.08%	1.60%	0.52%
Finance and Insurance	0.89%	1.14%	0.26%
Real Estate and Rental and Leasing	1.19%	1.31%	0.12%
Professional and Business Services	0.86%	0.90%	0.04%
Elementary and Secondary Schools, Colleges, Universities, and Other Educational Services	2.31%	2.31%	0.00%
Colleges, Universities, and Professional Schools	0.83%	1.10%	0.27%
Other Educational Services	1.29%	1.61%	0.32%
Healthcare and Social Assistance	2.10%	2.17%	0.07%
Arts, Entertainment, and Recreation	1.37%	1.49%	0.12%
Hospitality and Restaurants	1.94%	2.60%	0.66%
Other	1.00%	1.12%	0.12%
Total	**1.31%**	**1.60%**	**0.29%**

The Construction industry represents one exception to the rule that small businesses have higher percentage cost increases than large businesses. The increased payroll cost for larger Construction employers (1.74%) is much greater than for small employers (0.55%). This difference is driven by an unusual situation. Large employers in the construction industry responded that their current sick leave program provided less sick time than would be required by the bill, while many small construction firms reported that their current sick leave program met the bill requirement.

Based on 2009 NYC payroll from NYS Department of Labor of $9.9 billion for Retail Trade and $6.7 billion for Hospitality and Restaurants, the dollar increases for these industries due to the legislation is approximately $39.5 million for Retail Trade and $47.3 million for Hospitality and Restaurants. Generally the lower dollar increases for these industries reflect lower overall compensation in these industries.

EY found little difference between the cost of the bill to those Construction employers with a collective bargaining agreement and nonunion employers. Those with an agreement would see a 1.74% increase in costs and those without would have a 1.85% increase (92% of large employer construction industry respondents reported collective bargaining agreements). For small employers, both those with and without collective bargaining agreements have a 0.55% increase from the proposed legislation.

EY calculated payroll cost increases at an average per hour rate of $0.09 per hour, based on an average hourly rate of $36. The industries that suffer the highest cost impact by this measure are, once again, Construction ($0.48 per hour) and Utilities ($0.35 per hour). Hospitality and Restaurants show a comparatively modest increase due to lower absolute wage costs ($0.13 per hour), but the impact on the employer's profitability is probably equally significant.

For employers not currently providing any sick leave benefits to their employees and needing to hire a replacement worker in the event of an unplanned absence, the cost increase due to the legislation is approximately 2.5% of annual payroll for large employers and 1.5% of payroll for small employers. The cost increase varies based on the employee mix (salaried, full-time hourly, part-time hourly, and tipped) with those employers using a greater percentage of part-time workers having higher costs and those employers using a higher percentage of salaried workers having lower costs. For example, for a small employer whose payroll consisted of 20% salaried, 40% hourly, and 40% part-time (working 20 hours per week) and always needing to hire a replacement worker for unplanned absences, the projected impact of the legislation under the baseline assumptions would be an increase of 2.25% of annual payroll. A similarly situated large employer is projected to have an increase of 2.77%.

Table 5 shows the additional cost by industry and size for employers reporting no sick leave or paid time off policy. This shows an aggregate for employers offering no current sick leave or time off policy of 1.78% of annual payroll.

Table 5: Additional cost (%) for employers reporting no sick leave or paid time off policy			
Industry	**Large**	**Small**	**Total**
Utilities	1.44%	0.00%	1.44%
Construction	2.57%	1.44%	2.24%
Manufacturing	1.85%	1.52%	1.75%
Wholesale Trade	1.30%	1.44%	1.41%
Retail Trade	1.99%	1.59%	1.70%
Transportation and Warehousing	1.60%	1.67%	1.67%
Information Technology & Media	1.35%	1.18%	1.20%
Finance and Insurance	1.05%	0.96%	1.00%
Real Estate and Rental and Leasing	0.64%	1.41%	1.39%
Professional and Business Services	1.01%	0.84%	0.88%
Elementary and Secondary Schools, Colleges, Universities, and Other Educational Services	0.00%	0.00%	0.00%
Colleges, Universities, and Professional Schools	1.67%	0.00%	1.67%
Other Educational Services	1.46%	0.28%	1.31%
Healthcare and Social Assistance	2.23%	1.54%	1.77%
Arts, Entertainment, and Recreation	1.84%	1.39%	1.65%
Hospitality and Restaurants	2.12%	1.59%	1.71%
Other	2.32%	1.66%	1.67%

Implications of the Survey Findings

After review of the EY data and analysis, the Partnership comes to the following conclusions about the possible implications of the pending legislation:

- The number of NYC employees who currently have no paid sick leave is much smaller than claimed by the proponents of Paid Sick Time legislation, suggesting that the original public health rationale for its enactment is not compelling.
- The proposed legislation punishes the vast majority of responsible employers who are already providing paid leave benefits by forcing costly changes in current policies and disadvantaging them in future collective bargaining, among other things.
- Nonprofit organizations, currently suffering from significant budget cuts due to the government fiscal crisis, are among those employers that will experience the greatest hardship in meeting the requirements of this legislation.
- Small businesses in industry sectors with low margins are particularly vulnerable to the cost increases triggered by this bill. These same businesses are a primary source of jobs for entry level workers who are most at risk in the current economic climate. Many do not have the

elasticity to absorb even a small payroll cost increase without cutting positions or even going out of business. Few have the human resources capacity to deal with complex benefit programs.

- The uncertain state of the economy and the other pending impositions on employers (health care reform costs, possible tax increases), make the timing of this legislation particularly unfortunate. Costs of compliance will likely force small employers in low margin industries to reduce their payroll or eliminate other benefits in order to cover the cost of the new mandate.
- This legislation depends for enforcement on self-reporting. Given the industries and types of jobs that the survey identified as not having paid sick leave benefits, it is likely that many of the 375,000 employees that do not have sick leave benefits are undocumented immigrants who are not in a position to report non-compliance.
- Although the **average** direct cost of the bill is just 0.30% of payroll, this is only slightly less than the 0.34% MTA payroll tax that was enacted in 2009 and has contributed to anti-tax outrage among employers across the metropolitan region. For several industries (Construction, Hospitality & Restaurants, Retail) the actual costs of this bill will be significantly larger than the projected average cost.
- New York City is in a global competition for business investment and job creation. The city already has the nation's highest commercial rents, taxes and energy costs. Note that the impact on a major source of entrepreneurial activity in NYC, the Information Technology & Media sector, is one of the industries where costs of the legislation are relatively high. There is a growing sentiment among employers that Paid Sick Leave is the "straw" that will break their will to continue to grow or even to operate here.

Conclusion

In summary, the results of the employer survey show that the direct and potential indirect costs of the Paid Sick Time Act are more significant than they at first seemed.

Amending the current bill to eliminate employers that currently offer paid leave would reduce the overall costs of the bill and avoid penalizing employers that are meeting the public health objectives of the legislation. This would not, however, deal with the hardship this bill would impose on small business and several sectors that are already stretched by economic conditions: construction (30+% unemployment), restaurants (just beginning to recover from the recession and coping with restricted credit availability); and nonprofit organizations (facing funding cuts from government and philanthropic sources).

During the past two years, NYC lost more than 100,000 jobs and experienced its highest unemployment rate in well over a decade. The financial services industry on which it depends heavily is restructuring and will likely be shrinking in terms of profitability and employment.

Based on the findings in the survey and the EY analysis, the Partnership concludes that this is not the moment for New York City to proceed with a Paid Sick Leave mandate on private employers.

Addendum: Overview of Survey Methodology

To carry out this first-of-its-kind survey, the Partnership commissioned the services of Ernst & Young, LLP (EY), and EY concluded that the survey responses received were sufficiently robust to provide a reasonable snapshot of New York City employers and to be used to make valid estimates. What follows is an outline of the methodology used to collect and analyze this unprecedented resource of data.

Survey Instrument & Outreach

EY worked with the Partnership to develop a survey questionnaire, introduction, and instructions that were unbiased. EY analyzed the survey for clarity, specificity, length, structure, wording, purpose, usefulness, need and duplication. The survey instrument was shared with staff members of the City Council prior to its use. Survey questions did not ask respondents about their opinions of the proposed legislation; nor did they ask employers to provide their own cost estimates for implementing the legislation. Instead, employers were simply asked to provide information about their current paid sick leave policies. Using this data, EY was able to determine the potential costs of implementing the legislation.

The goal of the study was to elicit responses from as many employers within the five boroughs of NYC as possible. The Partnership engaged in an extensive outreach process to maximize the number of businesses that received the survey. Any employer with access to the internet in New York City could respond to the survey.

The Partnership invited participation from over 80 community development corporations; business improvement districts (BIDs); local chambers of commerce; as well as various industry and trade associations representing the city's bodegas, restaurants, hospitals, nonprofit organizations, hotels, universities and others. These organizations were asked to distribute the survey among their respective memberships. This was done to reach as broad a group of companies as possible and to increase the likelihood of response. Survey literature indicates that this type of direct member organization sponsorship increases response rates. The trade associations with whom the Partnership worked most closely sent the survey to over 20,000 of their member companies and nonprofit organizations.[2] Several of these associations also posted links to the survey on their websites and sent out mailings to encourage businesses outside of their memberships to participate. In a further attempt to reach small businesses, a link to the survey was posted on *Crain's Small Business* newsletters for several weeks. Finally, the Partnership sent the survey to all its member companies, which employ a combined 775,000 people in New York City.

Survey Responses & Data Analysis

When the goal is to reach a broad audience, the larger the number of participants, the better they reflect or represent the target audience. In this case, the goal of the study was to reach a large percentage of New York City employers. Over 700 companies responded, representing more than 414,000 employees. These companies represent about 13% of the New York City private workforce. They represent every major industry, all five boroughs, both for-profit and non-profit employers, and a mix of large and small businesses. Most of the city's private workforce (roughly 80%) is employed

2 These trade associations included the New York State Restaurant Association, General Contractors Association of New York, Commission on Independent Colleges and Universities, Real Estate Board of New York, National Federation of Independent Business, New York Council of Nonprofits, Broadway League, New York State Association of Realtors, Rent Stabilization Association, 5 Boro Alliance, Cultural Institutions Group and Greater New York Hospital Association, among others.

by companies or organizations with twenty or more employees, with the balance (about 21%) employed by entities with fewer than twenty employees. Forty-two percent of the responding companies had fewer than 20 employees. Seventy-six percent were for-profit companies.

All survey responses were transmitted directly to EY (the Partnership did not handle raw data), and EY was solely responsible for tabulating and analyzing these confidential responses. Overall summary findings are weighted to adjust for over- or under-representation by company size and industry group using US Census Bureau and New York State Department of Labor data for the five boroughs. This adjusts for any mismatch between the respondents and the universe introduced by non-response or differences between the surveyed population and the target universe.

EY also stratified the results by four employee types: salaried, full-time hourly, part-time hourly, tipped. They are not treated the same and there may be profit/non-profit differences and industry effects. Therefore EY did not group all employees into one model and then work up estimates. EY made a reasonable attempt to work separately with each employee type, within each industry, by company size; and then summed the individual contributions to the total issue. The stratified nature of EY's analysis prevented disproportionate responses from skewing the data or the conclusions drawn from it.

Assumptions

The financial analysis of the survey data focused on the estimated direct costs of the legislation. The calculation of net financial impact is primarily driven from survey response data and represents an estimate of the financial effect on the basis of compensation cost that would be incurred by the employer to provide an appropriate level of staffing due to the sick days utilized by its employees, therefore estimating the additional cost for an employer to provide paid sick leave as is required in the current bill. EY did not attempt to quantify indirect effects, such as the impact of changes in employee attendance habits resulting from the legislation, overall employee morale, or any administrative costs of complying with the legislation. EY made certain assumptions to perform its estimate, but the assumptions were selected only after EY had reviewed various other surveys on paid leave.

Findings

The survey's findings on the current cost of providing paid sick leave and the percentage of the private workforce without access to paid sick leave are supported by the Bureau of Labor Statistics' (BLS) most recent paid leave benefits data for the New York metropolitan region (unpublished data from March 2010). The Partnership survey found that the total grossed up cost of providing paid sick leave under the proposed bill would average $0.48 per employee per hour. Removing the $0.09 incremental increase in costs under the proposed bill from this figure demonstrates that the current cost of providing paid sick leave for an employee in New York City is $0.39 per hour, directly in line with BLS' estimate of $0.39 per hour worked in private industry in the greater metropolitan area. The Partnership survey and BLS data also agree on the extent to which employees currently have paid sick leave. The Partnership survey revealed that 77% of employees in New York City currently have paid sick leave; the BLS data shows that 73% of employees in the metropolitan region have access to explicit paid sick leave.

Summary of Other Studies

There are three other studies that looked at the availability and cost of paid sick leave benefits in New York City and the greater New York metropolitan area. However, none of them fully capture the extent to which the New York City private sector workforce does not have access to paid leave that can be used in the case of illness, current practices surrounding paid leave among New York employers and what the cost would be to employers to implement the current Paid Sick Time Act. Below are brief descriptions of three of these studies.

In October 2009, the Institute for Women's Policy Research (IWPR) issued a cost estimate of implementing an earlier version of the City Council's Paid Sick Time Act (Intro. 1059-2009). However, the findings rely overwhelmingly on Mid-Atlantic regional and national statistics rather than NYC data collected directly from employers.

In its annual survey "The Unheard Third," the Community Service Society of New York (CSS) tracks, among other data, the availability of paid sick leave to low-income New Yorkers. In 2009, their survey had a sample size of only 1,212 people, of which 809 were defined as low-income. They "over-sampled" and then had to weight, as is common research practice, their data to be more reflective of the actual population.

The non-partisan BLS' National Compensation Survey (NCS) provides a comprehensive measure of, among other data, the current cost to employers of providing paid sick leave.[3] However, their data encompasses the entire metropolitan region — including parts of New York, New Jersey, Pennsylvania, and Connecticut. Nonetheless, it is worth noting that the Partnership study's results more closely align with the BLS' 2010 regional data than do findings from the other reports mentioned above (see Table 6 below).

3 The 2010 NCS data is currently unpublished.

Table 6: Comparison of studies on paid sick leave in NYC and metropolitan area

Finding	Partnership for New York City Employer Survey	BLS National Compensation Survey	Community Service Society "Unheard Third" Survey	Institute for Women's Policy Research Cost Analysis
Private sector employees who lack access to any form of paid time off that could be used as sick leave, if needed	12%	N/A	N/A	30% (1)
Private sector employees who lack access to paid sick leave	23%	27% (2)	48%	42%
Current cost per hour worked to private employers of providing paid sick leave	$0.39 per employee per hour	$0.39 per employee per hour (3)	N/A	N/A
Projected cost per hour worked to private employers of providing paid sick leave as specified by City Council legislation	$0.48 (which represents an increase of $0.09 to current cost per employee per hour)	N/A	N/A	$0.21 (based on the previous version of the bill, Intro. 1059-2009)

(1) Author's Note: "Based on data from 2008. Estimates based on other sources of data — such as analyses drawing on the 'Unheard Third' survey conducted by the Community Service Society — differ from the estimate as a result of varying methodologies and samples, but nonetheless are similar in magnitude to the findings presented here."
(2) Paid Sick Leave: Access, private industry workers, New York-Newark-Bridgeport, NY-NJ-CT-PA metropolitan area, National Compensation Survey, 2008. (Unpublished data)
(3) Employer Costs per hour work for paid sick leave, private industry, New York-Newark-Bridgeport, NY-NJ-CT-PA metropolitan area, National Compensation Survey, March 2010. (Unpublished data)