

S.F. No. 34 – EARNED SICK AND SAFE TIME – the 2nd Engrossment

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Article 1 Earned Sick and Safe Time

Section 1. **Comparable position.** [§181.942, subd. 1] Specifies that an employee returning from earned sick and safe time leave is entitled to return to the employee’s former position.

Section 2. **Posting of law.** [§181.9436] Adds earned sick and safe time notices to those educational posters the department of labor and industry’s Division of Labor Standards and Apprenticeship must develop.

Section 3. **Definitions.** [§181.9445] Provides definitions for the article. Defines “employee” as anyone who has worked at least 80 hours in a year for an employer but does not include an independent contractor.

Section 4. **Accrual of earned sick and safe time (ESS).** [§ 181.9446] Requires employers to allow employees to earn, at a minimum, one hour of paid ESS time for every 30 hours worked, up to 48 hours per year. Allows employees to carry over accrued but unused hours of ESS time from year to year. Total accrued but unused ESS cannot exceed 80 hours at any time unless agreed to by the employer. Accrual of ESS begins when a qualified employee begins employment and may be used as it is accrued. Salaried employees, who are exempt from the provisions of federal overtime laws, are considered to work 40 hours per week for purposes of ESS accrual.

Section 5. **Use of earned sick and safe time.** [§ 181.9447] Subdivision 1. **Eligible use.** Provides the eligible uses for ESS time. These include: (1) an employee’s mental or physical illness, treatment, or preventative care; (2) care of a sick family member or a family member in need of preventative care or treatment; (3) absence related to domestic abuse, sexual assault, or stalking of an employee or family member; (4) closure of an employee’s workplace due to weather or public emergency or closure of a family member’s school or care facility due to weather or public emergency; and (5) a determination by a health care provider that an employee or family member is

at risk of infecting others with a communicable disease. Defines “public emergency” for the purpose of the subdivision.

Subdivision. 2. **Notice.** Allows an employer to require reasonable notice of up to seven days when the need for ESS time is foreseeable, or as soon as practicable when the need is unforeseeable.

Subdivision 3. **Documentation.** Allows an employer to require an employee to provide reasonable documentation justifying use of three or more consecutive days of ESS time. Provides examples of reasonable documentation.

Subdivision 4. **Replacement worker.** Prohibits employers from making employees find replacement workers as a condition of using ESS time.

Subdivision 5. **Increment of time used.** Allows employees to use ESS time in smaller increments of up to four hours, as tracked by the employer’s payroll.

Subdivision 6. **Retaliation prohibited.** Prohibits an employer from retaliating against an employee for requesting or taking ESS time or for exercising another right under the ESS provisions.

Subdivision 7. **Pay and benefits.** Requires an employer to maintain any insurance coverage while an employee is taking ESS leave, provided that the employee continues to pay any required employee share of the cost. Requires an employer to provide the same pay and benefits to an employee returning from ESS leave, including retaining seniority and accrued pre-leave benefits, and any automatic pay adjustments.

Subdivision 8. **Part-time return from leave.** Allows an employee to return to work on a part-time basis during a period of ESS leave with agreement from their employer, without forfeiting their right to reinstatement at the end of the ESS leave.

Subdivision 9. **Notice and posting by employer.** Requires employers to provide notice of employee rights under the ESS provisions at the start of employment or the effective date of this bill, whichever is later. Effective notice includes posting the notice at workplace locations, providing a paper or electronic copy, or conspicuously posting in a web platform.

Subdivision 10. **Required statement to employee.** Requires an employer, upon employee request, to provide a statement including the amount of ESS time available to the employee and the amount of ESS time used by the employee.

Subdivision 11. **Employer records.** Requires an employer to keep records about hours worked and ESS accrual and use by employees and allows an employee to view their own employee records.

Subdivision 12. **Confidentiality and nondisclosure.** Sets requirements for confidential treatment of employee’s health, medical, and other private records collected in relation to ESS time.

Section 6. **Effect on other law or policy.** [§ 181.9448] Subdivision. 1. **No effect on more generous sick and safe time policies.** Clarifies that nothing prohibits an employer or collective bargaining agreement from adopting more generous leave policies than the minimum ESS required by this bill. Permits collective bargaining agreements or paid time off policies that provide the same or better leave. Does not require employers to provide additional ESS if they are already providing

the same or better leave. Allows an employer to opt out of these requirements for construction workers by paying prevailing wage or the rate established in a registered apprenticeship agreement.

Subdivision 2. **Termination; separation; transfer.** Provides that employers are not required to pay out any accrued ESS time upon separation from employment. An employee transferred within a single employer retains accrued ESS time and an employee hired back by the same employer within 180 days of termination is entitled to reinstatement of accrued ESS time.

Subdivision 3. **Employer succession.** Allows employees to retain earned but unused ESS time when ownership transfers to a different employer.

Section 7. **Severability.** Clarifies that if a provision of this act is found to be invalid, any remaining provisions that can be given effect without the invalid provisions are severable and may remain in effect.

Section 8. **Repealer.** Repeals § 181.9413 that allows employees to use employer provided sick days to care for a sick relative or to provide or receive assistance for domestic abuse, sexual assault, or stalking.

Section 9. **Effective date.** Makes Article 1 effective January 1, 2024.

Article 2

Earned Sick and Safe Time Enforcement

Section 1. **Submission of records; penalty.** [§ 177.27, subd. 2] Increases the maximum penalty for employers who fail to submit required records to the Department of Labor and Industry (DLI) from \$1,000 to \$10,000 per violation. Removes penalty for repeated failure. This section is effective July 1, 2023.

Section 2. **Compliance orders.** [§ 177.27, subd. 4] Adds earned sick and safe time provisions to the list of laws that the DLI may enforce through compliance orders. This section is effective January 1, 2024.

Section 3. **Employer liability.** [§ 177.27, subd. 7] Increases the maximum civil penalty from \$1,000 to \$10,000 for employers who violate any of the sections over which DLI has enforcement authority. This section is effective July 1, 2023.

Section 4. **Earned sick and safe time enforcement.** [§ 177.50] Subdivision 1. **Definitions.** Provides the same definitions from article 1 apply to this article.

Subdivision. 2. **Rulemaking authority.** Allows the commissioner of labor and industry to adopt rules under this section as well as under the sections created by article 1.

Subdivision 3. **Individual remedies.** Allows an employee injured by a violation of the ESS provisions to bring a civil lawsuit in court within three years of the violation.

Subdivision 4. **Grants to community organizations.** Allows the DLI commissioner to make grants to community organizations for outreach and education about the ESS provisions.

Subdivision 5. **Report to legislature.** Requires DLI to submit an annual report to the legislature providing a list of all ESS violations and trends in violations by employer, industry, or county.

Subdivision 6. **Contract for labor or services.** Prohibits an employer knowingly contracting with an entity that has violated this section within the last two years and not cured their noncompliance. This section is effective January 1, 2024. Rulemaking and community grants provision are effective the day after enactment.

Section 5. **Individual remedies.** [§ 181.944] Allows a person injured by a violation of the ESS provisions to bring a civil action to recover damages. This section is effective January 1, 2024.

Article 3 Earned Sick and Safe Time Appropriations

Section 1. **Earned sick and safe time appropriations.** Makes the following general fund appropriations related to implementation of this act:

1. \$1.445 million in FY 2024 and \$2.209 million in FY 2025 to the commissioner of labor and industry for enforcement and other duties related to earned sick and safe time. Sets the base funding amounts for FY 2025 and beyond.
2. \$3,000 in FY 2024 to the commissioner of management and budgets for printing costs.
3. \$17,000 in FY 2024 and \$3,000 in FY 2025 to the commissioner of management and budget for system programming cost.
4. \$127,000 in FY 2024 and \$261,000 in FY 2025 to offset the cost of earned sick and safe time leave for executive branch agencies, boards, and commissions to be allocated as determined by the commissioner of management and budget. Sets the ongoing based appropriation.
5. \$300,000 in FY 2024 and 2025 to the commissioner of labor and industry for grants to community organizations.
6. \$18,000 in FY 2024 to the House of Representatives to modify timecard and Human Resources systems.
7. \$1,000 in FY 2024 to the Supreme Court. Sets the base for the out years, including at \$459,000 in FY 2026.