

Revised

Consolidated Fiscal Note

2019-2020 Legislative Session

HF11 - 1A - Earned Safe and Sick Time

Chief Author: **John Lesch**
 Committee: **Jobs & Economic Development Finance Division**
 Date Completed: **2/19/2020 2:12:35 PM**
 Lead Agency: **Labor and Industry Dept**
 Other Agencies:
 Administrative Hearings Minn Management and Budget

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium			
	Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023	
Administrative Hearings	-	-	-	-	-	-	
Administrative Hearings	-	-	-	-	-	-	
Labor and Industry Dept							
General Fund	-	-	2,240	3,914	3,612		
Minn Management and Budget							
General Fund	-	-	59	96	96		
All Other Funds	-	-	101	203	203		
State Total							
Administrative Hearings	-	-	-	-	-	-	
General Fund	-	-	2,299	4,010	3,708		
All Other Funds	-	-	101	203	203		
		Total	-	-	2,400	4,213	3,911
		Biennial Total			2,400	8,124	

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
	FY2019	FY2020	FY2021	FY2022	FY2023	
Administrative Hearings	-	-	-	-	-	
Administrative Hearings	-	-	-	-	-	
Labor and Industry Dept						
General Fund	-	-	18	30	30	
Minn Management and Budget						
General Fund	-	-	-	-	-	
All Other Funds	-	-	-	-	-	
		Total	-	-	18	30
		Biennial Total			18	30

Lead LBO Analyst's Comment

Revised

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

This fiscal note has been revised. The revisions made were to account for alignment of assumptions and information across agencies or were technical in nature. The net fiscal impact was not adjusted from the original estimate.

LBO Signature: Christian Larson **Date:** 2/19/2020 2:12:35 PM
Phone: 651-284-6436 **Email:** christian.larson@lbo.leg.mn

Revised

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2	Biennium			Biennium	
Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	-	-	-
Labor and Industry Dept					
General Fund	-	-	2,240	3,914	3,612
Minn Management and Budget					
General Fund	-	-	59	96	96
All Other Funds	-	-	101	203	203
Total	-	-	2,400	4,213	3,911
Biennial Total			2,400		8,124
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	54	132	109
Labor and Industry Dept					
General Fund	-	-	2,469	4,143	3,841
Minn Management and Budget					
General Fund	-	-	59	96	96
All Other Funds	-	-	101	203	203
Total	-	-	2,683	4,574	4,249
Biennial Total			2,683		8,823
2 - Revenues, Transfers In*					
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	54	132	109
Labor and Industry Dept					
General Fund	-	-	229	229	229
Minn Management and Budget					
General Fund	-	-	-	-	-
All Other Funds	-	-	-	-	-
Total	-	-	283	361	338
Biennial Total			283		699

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 Agency: **Labor and Industry Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023
General Fund	-	-	2,240	3,914	3,612	
Total	-	-	2,240	3,914	3,612	
Biennial Total			2,240		7,526	

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2019	FY2020	FY2021	FY2022	FY2023
General Fund	-	-	18	30	30
Total	-	-	18	30	30

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

This fiscal note has been revised. The revision was technical in nature and did not impact the original estimate.

LBO Signature: Christian Larson **Date:** 2/18/2020 3:34:55 PM
Phone: 651-284-6436 **Email:** christian.larson@lbo.leg.mn

Revised

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023	
General Fund	-	-	2,240	3,914	3,612	
Total	-	-	2,240	3,914	3,612	
Biennial Total			2,240		7,526	
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	-	2,469	4,143	3,841	
Total	-	-	2,469	4,143	3,841	
Biennial Total			2,469		7,984	
2 - Revenues, Transfers In*						
General Fund	-	-	229	229	229	
Total	-	-	229	229	229	
Biennial Total			229		458	

Bill Description

This bill requires all employers in Minnesota to accrue Earned Sick and Safe Leave (ESSL) for qualifying employees and allows employees to use the accrued benefit for themselves, certain eligible family members, and one designee. ESSL is to be used specifically to cover absences due to certain medical events; domestic abuse, sexual assault, or stalking; certain weather or public emergencies; or certain exposure to communicable disease. This bill gives both rulemaking and enforcement authority to the Department of Labor & Industry (DLI). The bill would be effective 180 days following final enactment.

Article 1, section 1, of this bill creates Minn. Stat. § 181.9445, which contains the new ESSL requirements. Important definitions include:

- Defines “employer” as a person with one or more employees and that an employee supplied by a staffing agency, absent a contractual agreement stating otherwise, is an employee of the staffing agency;
- Defines “employee” as a person who works at least 80 hours in a year for the employer, including a temporary employee but excluding independent contractors;
- Defines “family member” as including:
 - an employee’s children; spouse or registered domestic partner; siblings; parents; or grandparents; including these relatives of an employee’s spouse or registered domestic partner;
 - any individual related to the employee by blood or affinity whose close association is equivalent to a family relationship; and
 - up to one individual annually, designated by the employee.

Article 1, section 1, includes provisions on the accrual and use of ESSL:

- Covered employees accrue a minimum of one hour of ESSL for every 30 hours worked.
- ESSL begins to accrue at the beginning of employment.
- New employees may use ESSL after their 90th calendar day of employment; certain other transferred or returning employees or employees retained by a successor employer may be entitled to previously accrued ESSL.
- The benefit accrued is capped at 48 hours per year, unless the employer agrees to a higher amount.
- Employers must roll over up to 80 hours of accrued ESSL, unless the employer agrees to a higher amount.
- Employees may use ESSL due to:
 - o certain health conditions of the employee or the employee’s family member(s),

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- o certain absences due to domestic abuse, sexual assault, or stalking of the employee or employee's family member;
 - o certain weather or public emergencies; or
 - o certain exposure to communicable disease.
- Employers may require reasonable notice of the need for use of ESSL and employers may, in certain circumstances, require documentation that leave taken under ESSL is qualifying leave. Employers are required to keep information regarding the use of ESSL confidential and may only disclose this information to certain specified entities. At the request of the employee, it must destroy or return records required that are older than 3 years.
 - Employers must notify employees of their rights and remedies under this section by including a section in any employee handbook and by posting a poster in the workplace. An example of the latter is to be drafted by DLI.
 - Employers are not prohibited from granting more generous leave benefits.
 - Employers are prohibited from retaliating against an employee who requests or takes ESSL.

Article 1, section 3 repeals current Minn. Stat. § 181.9413. That section allows employees to use any accrued sick time due to the illness or injury of certain family members and for safety leave due to domestic abuse, sexual assault, or stalking of the employee or an employee's family member.

Article 2 Sec 1 amends 177.27 to increase failure to submit or deliver records penalty and repeated or willfully civil penalty from \$1,000 to \$10,000 and adds the newly created statute in list of statutes in which DLI has authority to issue compliance orders.

Article 2 Sec. 4 creates new Minn. Stat. § 177.50, which provides the commissioner of DLI with limited enforcement authority over Minn. Stat. § 181.9445. Specifically, DLI's commissioner may:

- adopt rules to carry out Minn. Stat. §§ 177.50 and 181.9445;
- creates a private right of action with a 3-year statute of limitation for persons injured by a violation of Minn. Stat. § 177.50 that includes individual remedies through civil action to recover general and special damages along with costs and attorney fees;
- gives DLI's commissioner the ability to make grants to community organizations for the purposes of outreach and education;
- requires DLI's commissioner to submit an annual report to the legislature, reporting violations of Minn. Stat. § Minn. Stat. § 181.9445 and an analysis of noncompliance including patterns by employer, industry, or county; and
- states that an employer is responsible for not entering into contracts with entities when it has knowledge that the entity has violated the section within the past two years.

Assumptions

Earned Sick and Safe Leave is a new requirement for Minnesota employers. In the state of Minnesota there are approximately 180,000 establishments and 2.9 million employees.

Education and Outreach

The bill instructs DLI to create a poster and model notice for employers to use and display to satisfy the requirement of employee notification and remedies. Employers will translate into appropriate languages.

DLI will award grants to community organizations to aid in outreach and education efforts. DLI assumes the agency will create education and training materials. DLI will train the community organizations and monitor their outreach efforts.

Education and training materials include:

- Develop training and presentations for employees

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- Develop training and presentations for employers
- Develop training and presentations for community organizations
- Translation of all materials into multiple languages
- Update the agency website to help both employers and employees understand the new requirements
- Monitor community organizations and grant contracts
- Update above materials as legal determinations are made and/or statutes change

DLI will work with HR software companies to communicate new requirements as they adjust their programs to better serve Minnesota employers.

DLI will need 2.0 FTE (Labor Investigator Senior) to develop and implement the training and outreach materials before the 180 day start date of ESSL. The amounts for grants are not reflected in the expenditures chart of this note, DLI assumes the legislature would determine the amounts made available for grants.

Rulemaking

The City of Minneapolis needed a significant amount of rulemaking when they implemented Earned Sick and Safe Leave. DLI assumes needing to start rulemaking in FY2022. DLI assumes one large rulemaking at \$302,087 in FY2022.

Enforcement

To estimate the number of inquiries and complaints to DLI related to ESSL, we have used statistical outcomes from the City of Minneapolis' initial enforcement of sick and safe leave ordinance as part of the basis of our assumptions. The state of Minnesota has approximately 2,883,000 workers in Minnesota. The City of Minneapolis had an estimated 326,000 workers when it implemented ESSL. The City of Minneapolis received approximately 1,000 inquiries and performed 204 investigations in the first year. The number of inquiries represented 0.33% and investigations represented 0.07% of the total estimated workers in Minneapolis' jurisdiction. The City of Minneapolis and the City of St. Paul both have ordinances containing similar sick and safe leave worker protections that would run concurrent with the state ESSL. Therefore, DLI assumes that not all workers in these local jurisdictions would contact DLI for violations, but rather their local regulator. In light of this assumption, we account for this by adjusting the number of total workers statewide by reducing the number of workers in Minneapolis and St. Paul to account for those that may opt to contact their local jurisdiction versus DLI.

Estimated number of workers/jobs in Minneapolis: 326,000

Estimated number of workers/jobs in St. Paul: 184,000

Estimated remainder number of workers/jobs in Minnesota: 2,373,000

Estimated total number of workers/jobs in Minnesota: 2,883,000

Number of workers/jobs in Minneapolis reduced by two-thirds: 108,667

Number of workers/jobs in St. Paul reduced by two-thirds: 61,333

Estimated remainder number of workers/jobs in Minnesota: 2,373,000

Estimated total number of workers/jobs in Minnesota: 2,543,000

Determining Number of Inquiries to DLI: $2,543,000 \times 0.33\%$ (rate of inquiries) = approximately 8,392 annually

Determining Number of Complaints to DLI: $2,543,000 \times 0.07\%$ (rate of complaints) = approximately 1,780 annually

Based upon the Department's experience, it estimates that 75% of the 1,780 investigations would require 24 hours of investigator time to resolve. For these complaints, the department anticipates providing information and educating employers and workers about their responsibilities and rights to resolve the issue or claim.

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The Department believes that 20% of the 1,780 investigations would require an average of 40 hours of investigator time to resolve. For these complaints the department anticipates it would require intake; complainant interviews; worker and witness interviews of those identified by the complainant; collection and review of documents provided by the complainant or workers and other witnesses identified by the complainant; preparation for onsite workplace investigation; interviews of employers and management employees and other workers at the workplace; review of payroll records and other relative documents; determination of violations; calculation of back wages owed; preparation of appropriate documentation and communications; and engagement in efforts to informally resolve the violations found.

The Department believes that 3.5% of the 1,780 investigations would require 80 investigator hours per investigation. These complaints may involve larger numbers of workers; multiple workplaces; failure of the employer to maintain required records; reconstruction of records; and actions by the employer to obstruct the investigation.

The Department estimates that 1.5% of the 1,780 investigations would require 120 hours of investigator time due to the need for litigation to resolve.

Formula Assumptions:

75% Cases at 24 hours of investigative time.	(1,335 x 24 = 32,040 hours)
20% Cases at 40 hours of investigative time	(356 x 40 = 14,240 hours)
3.5% Cases at 80 hours of investigative time	(62 x 80 = 4,960 hours)
1.5% Cases at 120 hours of investigative time	(27 x 120 = 3,240 hours)

Total investigative hours = 54,480 divided by 2,088 = 26 FTE annually

DLI will structure the 26 FTE with 1 FTE working supervisor (State Program Admin Director), 1 FTE team lead (State Program Admin Coordinator) and 24 FTE investigative staff (Labor Investigator Senior). DLI anticipates the 24 FTE labor investigator senior positions to be hired by 1/1/2021.

The Department will also need 2 FTE administrative staff annually to provide investigative support, perform data collection analysis, education and awareness raising, processing of penalties, legal paperwork, and grants management. The administrative staff will assist with responding to the inquires that will not need investigations.

Case Management System

DLI will need to expand their labor standards case management system to track ESSL complaints, investigations, penalties, and court actions. It is assumed the current IT system can be used for this purpose, however DLI would need to build out a separate process for ESSL. The initial investment is anticipated to be \$180,000. The on-going maintenance/license costs are \$26,000 per year.

Legislative Report

DLI's case management system will track violations associated with 181.9445. It will take one employee less than 100 hours to pull the data, analyze trends, and prepare the legislative report. DLI can absorb the costs associated with this one-time legislative report. That equals <0.05 FTE.

Penalties

The bill also increases the penalty for failure to submit or deliver records from \$1,000 to \$10,000. This penalty change impacts all of DLI's Labor Standards enforcement authority, not just ESSL. Each year the Department assesses approximately \$44,000 in record penalties and collects approximately \$26,000 from employers on closed cases. Based upon the size of the proposed increase, penalty collections will increase. However, it is assumed that increasing the size of a penalty will result in a decrease in number of penalties assessed because of greater employer compliance with

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employment record demands, proper maintenance of records, and greater employer cooperation with investigations. DLI estimates records penalty revenues will increase to \$150,000, a net change in \$124,000 annually.

In CY2018, the Department assessed and collected a penalty in 1.2% of all investigations. For new penalties specific to ESSL, DLI estimates the average collected penalty amount will be \$5,000. This would result in new revenues in the amount of \$105,000 (1,775 investigations X 1.2% = 21 penalties collected X \$5,000 = \$105,000)

Office of Administrative Hearings

On average, DLI estimates it would refer 40 claims annually to the Office of Administrative Hearings (OAH). Of the 40 cases, OAH estimates that 10 may require a hearing. Averaging the number of administrative law judge (ALJ) hours in similar matters referred from DLI that ultimately go to hearing, it is assumed that each of the 10 hearings will require an estimated 55 hours of ALJ time at the currently approved billable rate of \$170 per hour. The remaining 30 cases appealed to OAH are resolved before hearing and average 3 hours of ALJ time. Total estimated costs for OAH is \$108,800.

Expenditure and/or Revenue Formula

Revenues	2020	2021	2022	2023
Records Penalties - Existing Programs	-	124,000	124,000	124,000
Records Penalties - ESSL	-	105,000	105,000	105,000
Total Revenues	-	229,000	229,000	229,000

Labor Investigator Sr - MAPE 12L	2020	2021	2022	2023
FTE	0	14	26	26
Salary per FTE (midpoint)	-	66,190	66,190	66,190
Fringe Benefits (35% of Salary)	-	23,167	23,167	23,167
Indirect (24.97% of Salary/Fringe)	-	22,312	22,312	22,312
Salary / Fringe / Indirect	-	1,563,363	2,903,389	2,903,389
Non-Personnel Services	-	183,150	340,136	340,136
Cumulative Cost	-	1,746,514	3,243,525	3,243,525

State Prog Admin Dir - MMA 21k	2020	2021	2022	2023
FTE	0	1	1	1
Salary per FTE (midpoint)	-	81,536	81,536	81,536
Fringe Benefits (35% of Salary)	-	28,538	28,538	28,538
Indirect (24.97% of Salary/Fringe)	-	27,485	27,485	27,485
Salary / Fringe / Indirect	-	137,559	137,559	137,559

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Non-Personnel Services	-	7,832	7,832	7,832
Cumulative Cost	-	145,391	145,391	145,391

State Prog Admin Coord - MAPE 18L	2020	2021	2022	2023
FTE	0	1	1	1
Salary per FTE (midpoint)	-	81,954	81,954	81,954
Fringe Benefits (35% of Salary)	-	28,684	28,684	28,684
Indirect (24.97% of Salary/Fringe)	-	27,626	27,626	27,626
Salary / Fringe / Indirect	-	138,264	138,264	138,264
Non-Personnel Services	-	7,832	7,832	7,832
Cumulative Cost	-	146,096	146,096	146,096

Office & Admin Spec Sr - AFSCME 64L	2020	2021	2022	2023
FTE	0	2	2	2
Salary per FTE (midpoint)	-	46,437	46,437	46,437
Fringe Benefits (35% of Salary)	-	16,253	16,253	16,253
Indirect (24.97% of Salary/Fringe)	-	15,654	15,654	15,654
Salary / Fringe / Indirect	-	156,687	156,687	156,687
Non-Personnel Services	-	14,224	14,224	14,224
Cumulative Cost	-	170,912	170,912	170,912

Cumulative Expenditures	2020	2021	2022	2023
Labor Investigator Sr	-	1,746,514	3,243,525	3,243,525
State Prog Admin Director	-	145,391	145,391	145,391
State Prog Admin Coordinator	-	146,096	146,096	146,096
Office & Admin Spec Sr	-	170,912	170,912	170,912
OAH Legal Fees	-	54,400	108,800	108,800
IT Case Mgmt Build	-	180,000	-	-
IT Case Mgmt User Licenses/Maintenance	-	26,000	26,000	26,000

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Rulemaking	-	-	302,087	-
Cumulative Expenditures	-	2,469,313	4,142,811	3,840,724

Long-Term Fiscal Considerations

The initial outreach and education costs will be in the first fiscal year, however continued outreach is needed as legal cases are settled, statute changes, or rule making is performed.

It is assumed that complaints and investigations will increase the first few years as both employers and employees are learning about the new requirements. Over time the complaints and investigations will even out.

Local Fiscal Impact

Local government's may see costs if the language in this bill expands their current definition of allowable leave and/or requires modifications to their HR system to track the change in leave requirements.

References/Sources

Minnesota Rulemaking Manual, September 2018

Agency Contact: Nicole Blissenbach (651-284-5334)

Agency Fiscal Note Coordinator Signature: Jacob Gaub

Phone: 651-284-5812

Date: 2/18/2020 9:55:00 AM

Email: jacob.gaub@state.mn.us

Revised

Fiscal Note

2019-2020 Legislative Session

HF11 - 1A - Earned Safe and Sick Time

Chief Author: **John Lesch**
 Committee: **Jobs & Economic Development Finance Division**
 Date Completed: **2/19/2020 2:12:35 PM**
 Agency: **Administrative Hearings**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		
		X

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State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023
Administrative Hearings	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2019	FY2020	FY2021	FY2022	FY2023
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Joe Harney **Date:** 2/19/2020 1:59:05 PM
Phone: 651-284-6438 **Email:** joe.harney@lbo.leg.mn

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State Cost (Savings) Calculation Details

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State Cost (Savings) = 1-2 Dollars in Thousands	Biennium			Biennium	
	FY2019	FY2020	FY2021	FY2022	FY2023
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Administrative Hearings	-	-	54	132	109
Total	-	-	54	132	109
Biennial Total			54		241
2 - Revenues, Transfers In*					
Administrative Hearings	-	-	54	132	109
Total	-	-	54	132	109
Biennial Total			54		241

Bill Description

HF11-1A provides for an employee to earn sick and safe time to be used for reasons of medical conditions, for care of a family member, domestic abuse, sexual abuse, stalking, weather-related events, or exposure to a communicable disease.

The legislation also authorizes the Department of Labor and Industry (DLI) to conduct rulemaking to implement the provisions of 181.9445, Earned Sick and Safe Time, and Sec. 4, Enforcement.

Assumptions

The Office of Administrative Hearings (OAH) has used DLI's estimate to project that 20 matters will be appealed to OAH in the first year and 40 cases in every year after. Of the 20 appeals, OAH estimates that 5 appeals will result in hearings the first year, and in subsequent years 10 appeals will result in hearings.

OAH assumes that each hearing will require an estimated 55 hours of administrative law judge (ALJ) time at the currently approved billable rate of \$170 per hour (see Minn. Stat. § 16A.126, subd. 1 (2018)). The remaining matters appealed to OAH, but that are resolved before hearing average 3 hours of ALJ time.

Based on past practices, OAH assumes that rulemaking under chapter 14 will require an estimated 135 hours of ALJ time for activity related to rulemaking procedures.

Expenditure and/or Revenue Formula

Estimated 55 hours of ALJ time at \$170/hr = \$9,350

FY21 - Estimated 5 appeals referred to OAH go to hearing x \$9,350 = \$46,750

Subsequent years - Estimated 10 appeals per year referred to OAH go to hearing x \$9,350 = \$93,500

Appeals resolved without hearing Estimated 3 hours of ALJ time at \$170/hr = \$510

FY21 Estimated 15 appeals referred to OAH and resolved without hearing x \$510 = \$7,650

Subsequent years Estimated 30 appeals referred to OAH and resolved without hearing per year x \$510 = \$15,300

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Estimated 135 hours of ALJ time for rulemaking activities related to implementing the requirements of Sec. 181.9445, Earned Sick and Safe Time, Sec. 4, Enforcement. In FY2022, \$22,950 charged to DLI pursuant to the requirements of Minn. Stat. § 14.53.

FY21 Total Expenditures - \$46,750 + \$7,650 = \$54,400

FY22 one-time rulemaking - \$22,950 + \$108,800 = \$131,750

Subsequent years - Total Expenditures - \$93,500 + \$15,300/yr = \$108,800

Long-Term Fiscal Considerations

The estimated costs would continue in future years.

Local Fiscal Impact

References/Sources

Agency Contact: Denise Collins

Agency Fiscal Note Coordinator Signature: Denise Collins

Phone: 651-3617875

Date: 2/19/2020 1:57:37 PM

Email: denise.collins@state.mn.us

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Fiscal Note

2019-2020 Legislative Session

HF11 - 1A - Earned Safe and Sick Time

Chief Author: **John Lesch**
 Committee: **Jobs & Economic Development Finance Division**
 Date Completed: **2/19/2020 2:12:35 PM**
 Agency: **Minn Management and Budget**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		
	X	

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State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023
General Fund	-	-	59	96	96	
All Other Funds	-	-	101	203	203	
Total	-	-	160	299	299	
Biennial Total			160		598	

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2019	FY2020	FY2021	FY2022	FY2023
General Fund	-	-	-	-	-
All Other Funds	-	-	-	-	-
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Joe Harney **Date:** 2/15/2020 10:10:49 AM
Phone: 651-284-6438 **Email:** joe.harney@bo.leg.mn

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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

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State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2019	FY2020	FY2021	FY2022	FY2023
General Fund	-	-	-	59	96	96
All Other Funds	-	-	-	101	203	203
Total	-	-	-	160	299	299
	Biennial Total			160		598
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	-	-	59	96	96
All Other Funds	-	-	-	101	203	203
Total	-	-	-	160	299	299
	Biennial Total			160		598
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
All Other Funds	-	-	-	-	-	-
Total	-	-	-	-	-	-
	Biennial Total			-		-

Bill Description

This bill relates to the provision of employee paid time off for reasons including medical conditions, care of a family member, domestic abuse or stalking, weather-related events and exposure to a communicable disease.

Assumptions

Estimates and projected growth estimates of headcount and wages, as well as the split of payroll costs between the general fund and all other state funds, are based on an analysis of data from the SEMA4 human resources system.

- This fiscal note represents costing for state agencies that used the SEMA4 system in FY 2019. These include the state Executive Branch (including Minnesota State), Judicial Branch, retirement agencies and portions of the Legislative Branch (Legislative Coordinating Commission, Legislative Auditor & Senate).
- As of FY 2019, there were 54,253 employees in the state agencies listed above.
- Total state employment (headcount) will grow at 0.4% annually reflecting the average annual growth since FY 2009. No growth is assumed after FY 2021 per fiscal note policy.
- For most state agencies, this fiscal note assumes that no additional staffing costs for the employees who take the leave provided in this bill. Some agencies may hire additional staff in certain circumstances, while others may redistribute duties across existing employees. However, it is assumed that staffing changes will be necessary at 24 hour/7 day operations within certain agencies, as noted below. The Departments of Human Services, Corrections, and Veterans Affairs account for 91 percent of these employees.
- The Family and Medical Leave Act ("FMLA") entitles eligible employees to up to a total of 12 weeks of unpaid leave per year, with continued employer contribution to insurance, for pregnancy leave, bonding leave, leave for the employee's own serious health condition, or leave to care for a child, spouse or parent with a serious health condition. Employees are eligible for FMLA if they are employed by the employer for 12 months and for 1,250 hours in the 12 months immediately preceding the leave.
- More state employees will use the proposed benefit than currently use unpaid leave under the FMLA, and will use the benefit before electing to use FMLA, because the proposed benefit is a paid benefit.
- State employees will use the proposed benefit in circumstances not covered by the FMLA, for example to care for the serious health condition of a sibling (which is subject to the proposed benefit, but not subject to the FMLA).
- The staffing costs below are based on the assumption that more state employees will use the proposed benefit than

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currently use unpaid FMLA leave, as described above.

- Paid time off due to domestic abuse, sexual assault and stalking will not increase above current levels since it is already an allowed use under M.S 181.9413.
- Costs due to leave because of communicable disease exposure or weather-related closure cannot be estimated due to a lack of data. This fiscal note assumes no additional costs beyond those identified below for 24/7 operating facilities.
- The bill extends the benefit to part-time and intermittent employees who are not normally eligible for leave benefits. It is assumed that these employees taking leave will be covered by existing staff except at 24/7 operating facilities as noted below.

Expenditure and/or Revenue Formula

1.) Costs due to Notice/Translation Requirements: The bill contains notice requirements to employees. Employers must post or provide notice informing employees of the benefits and requirements provided in the bill. Notice must be provided to each employee by the enactment date or the date of employment, whichever is later. Notice must be provided in alternative languages. Note that the costs below do not include the potential costs of producing online materials that would be accessible to the blind or visually impaired whose primary language is not English. While MMB believes this accessibility work would result in a cost, MMB has been unable to find vendors who provide this service to estimate the fiscal impact.

Translation costs: Due to the alternative language requirements in the bill, the fiscal note assumes the translation of notices into 10 additional languages in FY 2021. MMB also assumes needing to translate notices into one additional language each year. MMB's survey of vendors indicates that the translation costs will total approximately \$500 per language. The fiscal note assumes costs will be incurred by MMB on behalf of the executive branch.

- MMB translation costs for 10 languages and notification design/printing (FY 2021) General Fund: \$5,000
- MMB translation cost for 1 additional language each year thereafter (FY 2022-23) General Fund: \$500

Printing costs: While employers can satisfy notice requirements by electronic means (which MMB does not assume would carry a significant cost), MMB assumes the need to produce paper postings to provide in State of Minnesota workplaces, particularly for employees who do not have regular access to a computer. Based on MMB's recent experience providing Fraud Awareness Week notices to the executive branch, MMB estimates the need to distribute 300 posters per language across executive branch agencies at a cost of \$600 per language. The fiscal note assumes costs will be incurred by MMB on behalf of the executive branch.

- MMB printing costs: \$600 x 10 languages (FY 2021) General Fund: \$6,000
- MMB printing cost for 1 additional language (FY 2022-23) General Fund: \$600

Year	Activity	Cost
FY 2021	Translation and Printing	\$11,000
FY 2022	Ongoing Translation & Printing	\$1,100
FY 2023	Ongoing Translation & Printing	\$1,100

2.) Costs due to staffing changes: There are no reliable data upon which to base an estimate of the number of employees who will use the benefit. Starting FY 2014, there was an expansion of sick leave benefits allowing for the care of extended family members. This coincided with an increase in employees using sick leave benefits of 2.3% though there is no evidence that the new benefit was directly linked to the increase. Paid Parenting and Paid Family Leave represents a new benefit offered by the state starting in FY 2017. In Fiscal years 2018 and 2019, 2.2% and 2.1% of all state employees had used this benefit in each year. Based on the experiences noted above, MMB assumes that 2.2% of all state employees will also use the new benefit.

The following assumptions are used to calculate the staffing costs for 24/7 operations in state agencies:

- There were 6,304 employees in 24/7 operations in February 2020. The Departments of Human Services, Corrections, and Veterans Affairs account for 91 percent of these employees.
- Assuming growth of state employment of 0.4%, these 6,304 employees in 24/7 operations will grow to a base of 6,329 employees by FY 2021 with no subsequent growth per fiscal note policy.
- The average wage (FY 2019) for these full time employees was \$33.79/hour including FICA and retirement. The average overtime is estimated as \$50.69/hour. This fiscal note assumes 2.5% annual wage growth to a base of \$35.50 regular and \$53.26 overtime in FY 2021 with no subsequent growth per fiscal note policy.

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- The fiscal note assumes the bill is enacted by June 1, 2020, making the effective date 180 days later, or approximately December 1, 2020, and that use (in hours) of the benefit is limited by 50% in the first year of implementation (FY 2021) to provide time for accrual.
- The fiscal note assumes greater use with accrued benefit time and knowledge of benefit starting FY 2022.
- Approximately 2.2% of the projected 6,329 multi-shift employees will take the benefit annually (approximately 140 employees for FY 2021 through 2023).
- The fiscal note assumes 140 employees use the benefit every fiscal year that the benefit is offered (FY 2021-23) and that 50% of these employees would be replaced at overtime wage rates and 50% would be replaced at regular wage rates.
- These employees are assumed to accrue and use 48 hours of the proposed benefit in a year starting FY 2022.
- Figures are rounded to thousands.

Fiscal Year	Total Leave-eligible employees taking benefit	Hourly Wage Rate	Total Hours	Wage Subtotal	Total Wages
FY 2020	0	\$34.63 Reg	0	\$0	\$0
	0	\$51.95 OT	0	\$0	
FY 202	70	\$35.50 Reg	24	\$60,000	\$149,000
	70	\$53.26 OT	24	\$89,000	
FY 202	70	\$35.50 Reg	48	\$119,000	\$298,000
	70	\$53.26 OT	48	\$179,000	
FY 2023	70	\$35.50 Reg	48	\$119,000	\$298,000
	70	\$53.26 OT	48	\$179,000	

(% of Staff Using Benefit at 24/7 Facilities X Staff at 24/7 Facilities) X Wage Rate X 48 hours leave = Total wages paid to offset increased leave use.

Total wages paid at regular wage rates= (number of employees *48 hours)* Regular Wage Rate

Total wages paid at overtime wage rates= (number of employees*48 hours) * Overtime Wage Rate

Leave eligible employees taking benefit (FY 2021)= \$60,000+\$89,000=\$149,000

Leave eligible employees taking benefit (FY 2022-23)= \$119,000+\$179,000=\$298,000 annually

This fiscal note assumes that 32% of the costs noted below will be paid from the general fund and 68% from all other state funds.

Fiscal Year	Staffing Change Costs	Percent Fund Allotment	Costs by Fund
FY 2021	\$149,000	32% General Fund	\$48,000
	\$149,000	68% All Other Funds	\$101,000
FY 2022	\$298,000	32% General Fund	\$95,000
	\$298,000	68% All Other Funds	\$203,000
FY 2023	\$298,000	32% General Fund	\$95,000
	\$298,000	68% All Other Funds	\$203,000

Staffing Change Costs X % Fund Allotment = Costs by Fund (General and All Other)

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Total Costs:

Total Costs FY 2020 through FY 2023:

	2020	2021	2022	2023
Notice Requirements (MMB costs)	\$0	\$11,000	\$1,100	\$1,100
Staffing Changes (state agency costs)	\$0	\$149,000	\$298,000	\$298,000
Total Costs	\$0	\$160,000	\$299,100	\$299,100

Total Costs FY 2020 through FY 2023 by Fund:

Fiscal Year	Total Annual Costs	Fund	Costs by Fund
FY 2020	\$0	General Fund	\$0
		All Other Fund	\$0
FY 2021	\$160,000	General Fund	\$59,000
		All Other Fund	\$101,000
FY 2022	\$299,100	General Fund	\$96,100
		All Other Fund	\$203,000
FY 2023	\$299,100	General Fund	\$96,100
		All Other Fund	\$203,000

This fiscal note assumes that the staffing costs for 24/7 operations will be incurred 32% from the general fund and 68% from all other state funds across multiple state agencies. Notification costs will be incurred from the general fund by MMB.

Long-Term Fiscal Considerations

The provision of paid time off benefits in this bill may result in additional costs to state agencies' operating budgets. While this fiscal note estimates the impact for 24/7 operations within state agencies, there may be other instances where state agencies need to increase staffing capacity to offset workload increase resulting from employee leave of absences provided in this bill. Additionally, the leave provided in this bill is similar to other leave types, such as FMLA. FMLA provides unpaid time off, and in certain circumstances, the employer is no longer required to pay the employer-share of health insurance costs. To the extent an employee would have otherwise taken FMLA but is eligible for the paid time off leave provided in this bill, there may be additional salary and insurance costs incurred by state agencies.

Local Fiscal Impact

Local units of government may also incur costs related to the provision of the earned sick and safe time benefits provided in this bill, particularly related to backfilling staff in 24/7 operations. Local governments may also incur similar notification costs identified in this fiscal note.

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Ruth McGlynn

Date: 2/14/2020 7:36:25 PM

Phone: 651-259-3787

Email: ruth.mcglynn@state.mn.us