HF41 - 4A - Earned Safe and Sick Time

Chief Author:	**Liz Olson**
Commitee:	**Ways And Means**
Date Completed:	**3/11/2022 12:05:16 PM**
Lead Agency:	Labor and Industry Dept
Other Agencies:	
Administrative Hearings	Legislature
Minn Management and Budget	Supreme Court

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	**FY2021**	**FY2022**	**FY2023**	**FY2024**	**FY2025**
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	-	-	-
Labor and Industry Dept					
General Fund	-	-	1,263	1,810	1,500
Legislature					
General Fund	-	-	18	-	-
Minn Management and Budget					
General Fund	-	-	54	102	102
All Other Funds	-	-	103	207	207
Supreme Court					
General Fund	-	-	1	418	378
State Total					
Administrative Hearings	-	-	-	-	-
General Fund	-	-	1,336	2,330	1,980
All Other Funds	-	-	103	207	207
Total	**-**	**-**	**1,439**	**2,537**	**2,187**
Biennial Total			**1,439**		**4,724**

Full Time Equivalent Positions (FTE)		Biennium		Biennium	
	FY2021	**FY2022**	**FY2023**	**FY2024**	**FY2025**
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	-	-	-
Labor and Industry Dept					
General Fund	-	-	10.8	13.6	13.6
Legislature					
General Fund	-	-	-	-	-

Full Time Equivalent Positions (FTE)		Biennium		Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Minn Management and Budget					
General Fund	-	-	-	-	-
All Other Funds	-	-	-	-	-
Supreme Court					
General Fund	-	-	-	3	3
Total	**-**	**-**	**10.8**	**16.6**	**16.6**

Lead 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: Darren Sheets **Date:** 3/11/2022 12:05:16 PM
Phone: 651-297-1423 **Email:** darren.sheets@lbo.mn.gov

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	FY2021	FY2022	FY2023	FY2024	FY2025
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	-	-	-
Labor and Industry Dept					
General Fund	-	-	1,263	1,810	1,500
Legislature					
General Fund	-	-	18	-	-
Minn Management and Budget					
General Fund	-	-	54	102	102
All Other Funds	-	-	103	207	207
Supreme Court					
General Fund	-	-	1	418	378
Total	**-**	**-**	**1,439**	**2,537**	**2,187**
Biennial Total			**1,439**		**4,724**
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	12	41	12
Labor and Industry Dept					
General Fund	-	-	1,367	2,018	1,708
Legislature					
General Fund					
Expenditures	-	-	19	-	-
Absorbed Costs	-	-	(1)	-	-
Minn Management and Budget					
General Fund	-	-	54	102	102
All Other Funds	-	-	103	207	207
Supreme Court					
General Fund	-	-	1	492	459
Total	**-**	**-**	**1,555**	**2,860**	**2,488**
Biennial Total			**1,555**		**5,348**
2 - Revenues, Transfers In*					
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	12	41	12
Labor and Industry Dept					
General Fund	-	-	104	208	208
Legislature					
General Fund	-	-	-	-	-
Minn Management and Budget					
General Fund	-	-	-	-	-
All Other Funds	-	-	-	-	-
Supreme Court					
General Fund	-	-	-	74	81
Total	**-**	**-**	**116**	**323**	**301**

State Cost (Savings) = 1-2		Biennium		Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Biennial Total			116		624

HF41 - 4A - Earned Safe and Sick Time

Chief Author:	**Liz Olson**
Commitee:	**Ways And Means**
Date Completed:	**3/11/2022 12:05:16 PM**
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	**FY2021**	**FY2022**	**FY2023**	**FY2024**	**FY2025**
General Fund	-	-	1,263	1,810	1,500
Total	**-**	**-**	**1,263**	**1,810**	**1,500**
Biennial Total			**1,263**		**3,310**

Full Time Equivalent Positions (FTE)			Biennium		Biennium
	FY2021	**FY2022**	**FY2023**	**FY2024**	**FY2025**
General Fund	-	-	10.8	13.6	13.6
Total	**-**	**-**	**10.8**	**13.6**	**13.6**

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: Darren Sheets **Date:** 3/10/2022 6:41:51 PM
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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.
*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2			Biennium		Biennium
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	1,263	1,810	1,500
Total	**-**	**-**	**1,263**	**1,810**	**1,500**
Biennial Total			**1,263**		**3,310**
1 - Expenditures, Absorbed Costs*, Transfers Out*					
General Fund	-	-	1,367	2,018	1,708
Total	**-**	**-**	**1,367**	**2,018**	**1,708**
Biennial Total			**1,367**		**3,726**
2 - Revenues, Transfers In*					
General Fund	-	-	104	208	208
Total	**-**	**-**	**104**	**208**	**208**
Biennial Total			**104**		**416**

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 adds to Minn. Stat. § 181.942 for providing an employee the right to return to their former position after taking leave provided for in this bill.

Article 1, section 2, 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, and air carrier employees covered by federal law and provided equivalent paid leave.

· Defines “family member” as including:

o an employee’s children; spouse or registered domestic partner; siblings; parents; grandchildren; or grandparents; including these relatives of an employee’s spouse or registered domestic partner.

o any individual related to the employee by blood or affinity whose close association is equivalent to a family relationship; and

o up to one individual annually, designated by the employee.

Article 1, section 3, of this bill creates Minn. Stat. §§ 181.9446, which includes provisions on the **accrual** 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

· 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.

Article 1, section 4 of this bill creates Minn. Stat. §§ 181.9447, which includes provisions on the **use** of ESSL as well as notice and posting requirements.

· Employees may use ESSL due to:

  o certain health conditions of the employee or the employee’s family member(s),

  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 can require reasonable documentation of coverage for ESSL if an employee uses leave for more than 3 consecutive days

· Employers cannot require employees to find replacement workers as a condition of an employee being able to use ESSL.

· ESSL can be used in the smallest increment of time tracked by an employer’s payroll system, presuming it is not more than four hours.

· Employers are prohibited from retaliating against an employee who requests or takes ESSL.

· Employees are entitled to return to the same or comparable position, at the same rate of pay with the same benefits after taking ESSL.

· Employees may return part-time upon agreement with the employer without giving up the right to return to employment at the end of taking ESSL.

· 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 must provide employees with the following information upon request:

  o Employee’s amount of:

    § Earned sick and safe time available to the employee

    § Used earned sick and safe time

· Employers are required to keep accurate records of earned sick and safe time accruals and uses

· Employer confidentiality and nondisclosure requirements regarding health information of employees.

Article 1, section 5 of this bill creates Minn. Stat. §§ 181.9448, which includes provisions regarding the effect on other laws or policy.

· Employers are not prohibited from granting more generous leave benefits.

· Employers are not required to pay employees for unused paid sick and safe leave after the employee leaves employment.

· A successor employer is required to allow employees who stay employed by the business to keep their accrued sick and safe leave.

Article 1, section 6 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 1, section 7 sets an effective date of 180 days following final enactment.

Article 2 Sections 1-3 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, this section:

· provides that the 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

· Develop training and presentations for employers

· Develop training and presentations for community organizations

· Translation of 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) in FY23 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 FY2024. DLI assumes one large rulemaking at $310,248 in FY2024.

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. Considering 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 x 0.33% (rate of inquiries) = approximately 8,392 annually

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

Based upon the Department's experience, as well as the experience of the City of Minneapolis, DLI has formed the following estimates of time it will take to complete various investigations under this bill. We took estimates provided by Minneapolis into consideration, but also considered difference between our work and the City's work, as well as differences between this bill and their ordinance. For example, the City of Minneapolis ordinance does not require paid leave to employers with five or fewer employees. This bill does. In addition, we have a statewide enforcement plan that spans a greater variety of industries, which in turn, has an impact on our internal processes for investigations. Finally, we have jurisdiction over other Labor Standards which we must enforce when those issues arise during one of these investigations, which would impact how much time an investigation takes to complete.

DLI estimates that 50% of the 1,780 investigations would require 10 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.

The Department believes that 40% of the 1,780 investigations would require an average of 15 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 9.94% of the 1,780 investigations would require 25 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 0.06% of the 1,780 investigations would require 120 hours of investigator time due to the need for litigation to resolve.

Formula Assumptions:

50% Cases at 10 hours of investigative time.	(890 x 10 = 8,900 hours)
40% Cases at 15 hours of investigative time	(712 x 15 = 10,680 hours)
9.94% Cases at 25 hours of investigative time	(178 x 25 = 4,423 hours)
0.06% Cases at 120 hours of investigative time	(1 x 120 = 120 hours)
Total investigative hours =	24,123 divided by 2,080 = 11.6 FTE annually

DLI will structure the 11.6 FTE with 1 FTE working supervisor (State Program Admin Director), 1 FTE team lead (State Program Admin Coordinator) and 9.6 FTE investigative staff (Labor Investigator Senior). DLI anticipates the 9.6 FTE labor investigator senior positions to be hired by 1/1/2023.

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 modify the existing platform to provide functionality to ESSL. The estimated one-time cost to implement ESSL into the IT system is $13,000.

User license costs related to the case management system are billed at $600 per user, per year. DLI can expect to add 14 additional user licenses related to ESSL for a total cost of $8,400 annually.

Legislative Report

DLI's case management system will track violations associated with Minn. Stat. 181.9445 181.9448. 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 annual 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 DLI's Labor Standards enforcement authority, not just ESSL. Each year the Department assesses approximately $17,500 in record penalties and collects approximately $15,000 from employers on closed cases (average from CY 2017 CY 2020). 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 deterrence by some employers from violating these law and thus, decrease in number of penalties assessed because of greater employer compliance with employment record demands, proper maintenance of records, and greater employer cooperation with investigations. DLI estimates records penalty revenues will increase to $100,000, a net change in $85,000 annually.

On average, the Department assessed and collected a penalty in 1.9% of all investigations. For new penalties specific to ESSL, DLI estimates the average collected penalty amount will be $3,600. This would result in new revenues in the amount of $122,400 (1,780 investigations X 1.9% = 34 penalties collected X $3,600 = $122,400)

Office of Administrative Hearings

On average, DLI estimates it would refer 1 claim annually to the Office of Administrative Hearings (OAH). 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 hearing will require an estimated 55 hours of ALJ time at the currently approved billable rate of $215 per hour. Total estimated costs for OAH are $11,825.

Expenditure and/or Revenue Formula

Labor Investigator Sr - MAPE 12L	**2022**	**2023**	**2024**	**2025**
FTE	0	6.8	9.6	9.6
Salary per FTE (midpoint)	0	69,541	69,541	69,541
Fringe Benefits (35% of Salary)	0	24,339	24,339	24,339
Indirect (22.5% of Salary/Fringe)	0	21,123	21,123	21,123
Salary/Fring/Indirect	0	782,023	1,104,033	1,104,033
Non-Personnel Services	0	76,047	107,361	107,361
Cumulative Cost	0	858,071	1,211,394	1,211,394

State Prog Admin Dir - MMA 21K	**2022**	**2023**	**2024**	**2025**
FTE	0	1	1	1
Salary per FTE (midpoint)	0	85,664	85,664	85,664
Fringe Benefits (35% of Salary)	0	30,136	30,136	30,136
Indirect (22.5% of Salary/Fringe)	0	26,020	26,020	26,020
Salary/Fringe/Indirect	0	141,667	141,667	141,667
Non-Personnel Services	0	7,933	7,933	7,933
Cumulative Cost	0	149,600	149,600	149,600

State Prog Admin Cord - MAPE18L	**2022**	**2023**	**2024**	**2025**
FTE	0	1	1	1
Salary per FTE (midpoint)	0	86,103	86,103	86,103
Fringe Benefits (35% of Salary)	0	30,136	30,136	30,136
Indirect (22.5% of Salary/Fringe)	0	26,154	26,154	26,154
Salary/Fringe/Indirect	0	142,393	142,393	142,393
Non-Personnel Services	0	7,933	7,933	7,933
Cumulative Cost	0	150,236	150,236	150,236

Office & Admin Spec Sr - AFSCME 64L	**2022**	**2023**	**2024**	**2025**
FTE	0	2	2	2
Salary per FTE (midpoint)	0	48,788	48,788	48,788
Fringe Benefits (35% of Salary)	0	17,076	17,076	17,076

Indirect (22.5% of Salary/Fringe)	0	14,819	14,819	14,819
Salary/Fringe/Indirect	0	161,366	161,366	161,366
Non-Personnel Services	0	14,427	14,427	14,427
Cumulative Cost	0	175,793	175,793	175,793

Cumulative Expenditures	**2022**	**2023**	**2024**	**2025**
Labor Investigator Sr	0	858,071	1,211,394	1,211,394
State Program Admin Dir	0	149,600	149,600	149,600
State Program Admin Cord	0	150,326	150,326	150,326
Office & Admin Spec Sr	0	175,793	175,793	175,793
OAH Legal Fees	0	11,825	11,825	11,825
IT Case Mgmt Build	0	13,000	0	0
IT Case Mgmt User License/Maint	0	8,400	8,400	8,400
Rulemaking	0	0	310,248	0
Cumulative Expenditures	0	1,367,015	2,017,587	1,707,339

Revenues	**2022**	**2023**	**2024**	**2025**
Records Penalties - Existing Programs	0	42,500	85,000	85,000
Records Penalties - ESSL	0	61,200	122,400	122,400
Total Revenues	0	103,700	207,400	207,400

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 governments 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

Agency Contact: Nicole Blissenbach (651) 284-5005

Agency Fiscal Note Coordinator Signature: Jacob Gaub **Date:** 3/10/2022 4:18:04 PM

Phone: 651-284-5812 **Email:** jacob.gaub@state.mn.us

HF41 - 4A - Earned Safe and Sick Time

Chief Author:	**Liz Olson**
Commitee:	**Ways And Means**
Date Completed:	**3/11/2022 12:05:16 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

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	FY2021	FY2022	FY2023	FY2024	FY2025
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-

Full Time Equivalent Positions (FTE)		Biennium		Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
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:	Joel Enders	**Date:**	3/10/2022 9:43:21 PM
Phone:	651-284-6542	**Email:**	joel.enders@lbo.mn.gov

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	FY2021	FY2022	FY2023	FY2024	FY2025
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Administrative Hearings	-	-	12	41	12
Total	-	-	12	41	12
Biennial Total			12		53
2 - Revenues, Transfers In*					
Administrative Hearings	-	-	12	41	12
Total	-	-	12	41	12
Biennial Total			12		53

Bill Description

HF41-4A 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 Sec. 4 Earned Sick and Safe Time Enforcement.

Assumptions

The Office of Administrative Hearings (OAH) has used DLI's estimate to project that one matter will be appealed to OAH.

OAH assumes that each hearing will require an estimated 55 hours of administrative law judge (ALJ) time at the currently approved billable rate of $215 per hour (*see* Minn. Stat. § 16A.126, subd. 1 (2020)).

DLI assumes a program of this size will require one large rulemaking at $310,248 in FY2024. Based on past practices, OAH assumes that a large rulemaking under chapter 14 will require an estimated 135 hours of ALJ time for activity related to rulemaking procedures. Of the estimated rulemaking amount of $310,248, $29,025 is for the estimated 135 hours of ALJ time for a large rulemaking.

OAH currently bills ALJ time for rulemaking at the MMB-approved billable rate of $215 per hour (*see* Minn. Stat. § 16A.126, subd. 1 (2020)).

Expenditure and/or Revenue Formula

Estimated 55 hours of ALJ time at $215/hr = $11,825

Estimated one appeal referred to OAH per fiscal year = $11,825/year

Estimated 135 hours of ALJ time for rulemaking activities in FY24 related to implementing the requirements of Sec. 4 Earned Sick and Safe Time Enforcement = 135 hours x $215/hr = $29,025 charged to DLI in FY2024 pursuant to the requirements of Minn. Stat. § 14.53.

FY24 Total Expenditures - $11,825 + $29,025 = $40,850

FY23, FY25 and subsequent years - $11,825

Long-Term Fiscal Considerations

Hearing costs would continue into future years. Costs associated with the rulemaking activities are a one-time occurrence.

Local Fiscal Impact

References/Sources

Agency Contact: Denise Collins

Agency Fiscal Note Coordinator Signature: Denise Collins **Date:** 3/10/2022 9:27:13 PM

Phone: 651-3617875 **Email:** denise.collins@state.mn.us

HF41 - 4A - Earned Safe and Sick Time

Chief Author: **Liz Olson**
Commitee: **Ways And Means**
Date Completed: **3/11/2022 12:05:16 PM**
Agency: Legislature

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	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	18	-	-
Total	**-**	**-**	**18**	**-**	**-**
Biennial Total			**18**		**-**

Full Time Equivalent Positions (FTE)		Biennium		Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	-	-	-
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: Joel Enders **Date:** 3/10/2022 7:30:49 PM
Phone: 651-284-6542 **Email:** joel.enders@lbo.mn.gov

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	**FY2021**	**FY2022**	**FY2023**	**FY2024**	**FY2025**
General Fund	-	-	18	-	-
Total	**-**	**-**	**18**	**-**	**-**
Biennial Total			**18**		**-**
1 - Expenditures, Absorbed Costs*, Transfers Out*					
General Fund					
Expenditures	-	-	19	-	-
Absorbed Costs	-	-	(1)	-	-
Total	**-**	**-**	**18**	**-**	**-**
Biennial Total			**18**		**-**
2 - Revenues, Transfers In*					
General Fund	-	-	-	-	-
Total	**-**	**-**	**-**	**-**	**-**
Biennial Total			**-**		**-**

Bill Description

The bill requires employers, as defined in the bill, to make sick and safety paid accrual leave available to employees. The bill defines employee as any person who is employed, including temporary and part-time, and works for at least 80 hours in a year. Employees at the start of their hire accrue a minimum of one hour of earned sick and safe time for every 30 hours worked up to a maximum of 48 hours accrued a year unless an employer agrees to a higher amount. Employees can carry over any unused accrued sick and safe leave into the following year up to a maximum of 80 hours any time unless the employer agrees to a higher amount. Employees may use accrued time after 90 days from hire date.

Employees who are exempt from overtime under US Code title 29, section 213(a)(1) need to work 40 hours / work week for accruing sick and safe time except that an employee whose normal work week is less than 40 hours will accrue based on their normal schedule.

Employers must supply employees with a notice in English and other appropriate languages regarding sick and safe leave. Employers must post a notice and must include terms in the employee handbook if distributed by an employer. Employers must retain records of hours taken. Employers can adopt or retain more generous sick and safe time policies. Employers that provide earned sick and safe time under a paid time off/paid leave are not required to provide additional sick and safe time. Employers may have a donation leave policy or advance sick and safe time for new hires.

Employers are not required to payout sick and safe accruals upon separation of employment. Transferring employees within the same employer are entitled to all their prior unused accrued sick and safety leave. Unused accrued sick and safety leave is reinstated to employees that are rehired by the same employer within 180 days.

Fines up to $10,000 may be assessed to employers that fail to provide documents. Department of Labor and Industry must submit an annual report to the legislature listing noncompliance.

Assumptions

1. The Minnesota House of Representatives, Minnesota Senate, Office of the Legislative Auditor (OLA) and Legislative Coordinating Commission (LCC) are included in the bill definition for employer.
2. Elected legislative members of the House and Senate are not considered employees and do not accrual leave.
3. The Legislative Plan for Employee Benefits applies to the employees of the House, Senate, LCC and employees of

the OLA that serve in unclassified civil service. The accrual benefits for OLA employees that serve in classified positions are governed by either the Commissioner's Plan or Managerial Plan.

4. The paid leave accrual of the Commissioner's Plan, Managerial Plan and Legislative Plan for Employee Benefit meet or exceeds the paid leave provided in the bill. The bill does provide some eligible use of accrued leave that are not currently in the three plans (care for stepsiblings, etc.). Our assumption is that the accrued plan provisions for each of the three plans would be amended to include the additional eligible uses. Any cost associated with the amendment of the Commissioner's Plan and the Managerial Plan will be addressed in the fiscal note for Minnesota Management and Budget (MMB). The nominal cost associated with the amendment of the Legislative Plan for Employee Benefits will be absorbed. Any use of the expanded eligibility leave use by legislative staff that is already eligible for accruals will be nominal and absorbed.
5. Temporary employees are not eligible for paid leave accrual under the Commissioner's Plan and Managerial Plan. Under the Legislative Plan for Employee Benefits, temporary employees are not eligible for accrual leave until after they have worked a full-time schedule for six months. Temporary legislative staff would be eligible for the sick and safety leave accrual and allowable use under the bill.
6. The bill has an effective date of 180 days following final enactment. We assume that this date is December 28, 2022.
7. The House generally hires 52 temporary full-time staff for a duration of 12 weeks beginning mid-January. The Senate generally hires 35 temporary full-time staff for a duration of 12 weeks beginning mid-January. The OLA generally hires three full-time staff to service in classified positions annually. The LCC generally hires four part-time employees and six full-time employees for a duration of 26 weeks beginning in December. The weighted average hourly wage for all temporary staff of the legislature is $19.73.
8. For this note we are using an assumption of 2.2% of the newly eligible legislative temporary employees will take sick and safety leave. The 2.2% is the same assumption rate that MMB used for executive branch and the courts. This rate is the approximate annual percentage of total state employees that used the newly provided paid parental leave in 2018.
9. With 92% of the temporary hires having shorter employment durations, we are assuming that the temporary legislative employees will only be eligible to take 24 hours of sick and safety leave.
10. The House, Senate, OLA and LCC would not hire additional temporary staff to cover the duties of the temporary staff that take the leave.
11. The projected cost of total legislative temporary employees taking the sick and safety leave is nominal and is absorbed. See table in Expenditure and/or Revenue Formula for calculation of projected cost.
12. Cost associated with the posting notices requirements of the bill will be nominal and absorbed.
13. The bill requires employers to record sick and safety leave use. The Senate, OLA and LCC use the state timecard system and state HR system for its employees. Any modifications to the state systems for the recording requirements will be addressed by MMB. The House uses an independent system for timecards and HR records. The House would incur a one-time cost of $18,000 in FY23 to modify both systems to comply with the bill's recording requirements.

Expenditure and/or Revenue Formula

The following table shows the projected annual cost of all temporary legislative employees taking sick and safety leave detailed in assumptions 7-11. The nominal cost is absorbed.

		2.20%			
	Number of EEs	# of Assumed EEs taking SL	Hourly Wage	Assumed SL Hours Taken	Total Cost of Temp EEs Taking SL
OLA	3	0.066	18.50		
Senate	35	0.77	19.40		
House	52	1.144	22.50		

LCC	10	0.22	18.50		
Total	**100**	**2.2**	**$19.73**	**24**	**$1,041**

The following table shows the total cost.

Cost Category	FY23	FY24	FY25
Temp Staff Leave Cost	1,000	0	0
House Timecard & HR System Cost	18,000	0	0
Total Cost	**19,000**	**0**	**0**
Total Absorbed cost	**(1,000)**	**0**	**0**
Net Total Cost	**18,000**	**0**	**0**

Long-Term Fiscal Considerations

N/A

Local Fiscal Impact

N/A

References/Sources

Betty Myer, Minnesota Senate

Barb Juelich, Minnesota House of Representatives

Eric Jacobson, Office of the Legislative Auditor

Michelle Weber, Legislative Coordinating Commission

Agency Contact:

Agency Fiscal Note Coordinator Signature: Diane Henry-Wangensteen

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HF41 - 4A - Earned Safe and Sick Time

Chief Author:	**Liz Olson**
Commitee:	**Ways And Means**
Date Completed:	**3/11/2022 12:05:16 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	

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	**FY2021**	**FY2022**	**FY2023**	**FY2024**	**FY2025**
General Fund	-	-	54	102	102
All Other Funds	-	-	103	207	207
Total	**-**	**-**	**157**	**309**	**309**
Biennial Total			**157**		**618**

Full Time Equivalent Positions (FTE)			**Biennium**		**Biennium**
	FY2021	**FY2022**	**FY2023**	**FY2024**	**FY2025**
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:	Joel Enders	**Date:**	3/8/2022 9:06:04 PM
Phone:	651-284-6542	**Email:**	joel.enders@lbo.mn.gov

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		FY2021	FY2022	FY2023	FY2024	FY2025
General Fund		-	-	54	102	102
All Other Funds		-	-	103	207	207
	Total	**-**	**-**	**157**	**309**	**309**
	Biennial Total			**157**		**618**
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund		-	-	54	102	102
All Other Funds		-	-	103	207	207
	Total	**-**	**-**	**157**	**309**	**309**
	Biennial Total			**157**		**618**
2 - Revenues, Transfers In*						
General Fund		-	-	-	-	-
All Other Funds		-	-	-	-	-
	Total	**-**	**-**	**-**	**-**	**-**
	Biennial Total			**-**		**-**

Bill Description

This bill relates to the provision of employee earned paid leave that can be used for reasons including the employee's health conditions, care of a family member, absence due to domestic abuse or stalking, weather-related events, and exposure to a communicable disease. Earned paid leave is available to employees who are employed by the employer for at least 80 hours in the year, and accrues at one hour for every 30 hours worked, up to 48 hours of accrued leave per year. Employers are not required to provide additional paid leave under the bill to the extent the leave provided under their paid time off policy or collective bargaining agreement meets or exceeds the amount of paid leave under the bill.

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 executive branch state agency payroll data from the SEMA4 system, the state's human resources and payroll system.

This fiscal note provides fiscal impact estimates for executive branch state agencies, boards, and commissions.

Total executive branch employment (headcount) is not assumed to grow (average annual growth from FY 2011 through FY 2021 was negative 0.09 percent).

Executive branch per employee wages, inclusive of benefits, will grow by 2.47 percent annually, reflecting the average annual growth from FY 2011 through FY 2021. No growth is assumed after FY 2023.

In FY 2021, 33.0 percent of executive branch employee compensation costs were paid from the general fund, and 67.0 percent were paid from all other state funds.

For most state agency employees covered under the collective bargaining agreements (CBAs) negotiated by Minnesota Management and Budget (MMB) and the compensation plans established by MMB, the amount of and accrual rate of paid sick leave provided in these CBAs and compensation plans meets or exceeds the amount of paid leave provided under the bill, so they would not be entitled to additional leave accruals under the bill. Certain state agency appointments (e.g., intermittent; emergency; temporary; part-time below a certain threshold number of hours) are not currently eligible for paid sick leave under CBAs or compensation plans but would be eligible for paid leave accruals under the bill. The bill provides for some eligible uses that are not currently eligible uses under the sick leave provisions of CBAs or compensation plans (e.g., weather and public emergencies and school closures; care for stepsiblings, foster siblings, or any individual related by blood or affinity; care for family members exposed to but who have not contracted a communicable disease).

The bill requires reinstatement of previously accrued but unused leave time if the employee is rehired. It is assumed that accruals that were paid out to employees upon separation pursuant to a CBA or compensation plan would be considered to be used under the bill and therefore would not be reinstated.

For most executive branch state agencies, this fiscal note does not quantify what, if any, potential staffing costs would result for employees who take paid leave as provided in this bill. Some agencies may hire additional staff in certain circumstances, while others may redistribute duties across existing employees. Thus, the expanded leave provided in this bill may or may not result in additional costs to executive branch state agencies. These potential costs are not reflected in this fiscal note, as hiring, staffing levels, and work demands are assumed to vary significantly agency-by-agency, and MMB is unable to make state government enterprise-level assumptions.

It is assumed that staffing changes will be necessary at 24-hour/7-day operations in certain executive branch state agencies, as noted below. These operations require minimum staffing levels, and it assumed they must replace all workers who take the leave provided in this bill. The Departments of Human Services, Corrections, and Veterans Affairs account for approximately 91 percent of these employees.

Use of accrued leave due to an employee's health conditions, care of most family members, and absences due to domestic abuse or stalking will not increase above current levels since these already are allowed uses of sick leave under CBAs, compensation plans, and/or Minnesota Statutes Section 181.9413.

As noted above, the bill extends the benefit to certain executive branch part-time employees and intermittent, emergency, and temporary employees who are not normally eligible for sick leave benefits under CBAs and compensation plans. This fiscal note does not quantify any potential costs associated with these employees taking leave except at 24-hour/7-day operations as noted below. It is also assumed that the direct cost of any executive branch employee who is: 1. Not currently eligible for paid leave under the state's CBAs and compensation plans; 2. Newly eligible for paid leave under this bill; and 3. Choosing to replace unpaid leave they may have otherwise taken with paid leave under bill; is negligible across the executive branch state government enterprise and is not quantified in this fiscal note. This is a small subset of state agency employees who are generally employed for short-term and/or part-time appointments, and it is assumed that the accrual of leave provided under this bill will occur at a slow pace for these employees. Moreover, MMB assumes that these employees' full projected compensation costs (not accounting for potential unpaid leaves) are budgeted for by many state agencies.

Expenditure and/or Revenue Formula

1.) MMB costs due to Notice 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 bill's effective date (180 days following final enactment) 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 individuals who are 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. State agencies may need to provide notice to employees needing accessibility accommodations through other means. The potential costs of which are not accounted for this fiscal note.

Translation costs: The bill requires employers to supply employees with a notice in English and other appropriate languages. While the Department of Labor and Industry's (DLI) fiscal note for HF7-0 (2021-2022) assumed that translation costs are the responsibility of the employer, DLI also assumed in its fiscal note that DLI will provide some translations as part of DLI's model notice responsibilities under Section 4, Subdivision 10, Paragraph C, Clause 2. Accordingly, MMB's fiscal note does not assume any additional translation costs for state agencies.

Printing costs: While employers can satisfy notice requirements by electronic means (which MMB does not assume would carry a significant cost beyond the unknown cost of accessible documents in alternative languages, noted above), MMB assumes the need to produce paper postings to provide in executive branch state agency 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 executive branch state agencies, MMB estimates the need to distribute 300 posters per language translated by DLI (assumed to total five) across executive branch agencies at a cost of $600 per language. The fiscal note assumes costs will be incurred by MMB on behalf of executive branch state agencies.

MMB printing costs: $600 x 5 languages (FY 2023): $3,000 (general fund)

Year	Cost
FY 2023	$3,000
FY 2024	$0
FY 2025	$0

2.) Executive branch state agency costs due to staffing changes: The bill expands sick leave benefits for eligible uses and for employees not covered under the sick leave provisions of current CBAs and compensation plans. There are no reliable data upon which to base an estimate of the number of employees who will use this expanded benefit. Paid Parental Leave represents a relatively new benefit first offered by the state starting in FY 2017. In FY 2018 and FY 2019, 2.2 percent and 2.1 percent of all state agency employees had used Paid Parental Leave in each year.

Based on the experiences noted above, MMB uses an assumption of 2.2 percent for the percentage of executive branch state agency employees projected to also use the expanded sick leave benefits under this bill (both due to new eligible uses and newly eligible employees). As noted in the Assumptions section, MMB assumes increased staffing costs attributable to backfilling employees in 24-hour/7-day operations will be necessary in certain agencies to maintain minimum staffing levels.

The following assumptions are used to calculate the staffing costs for 24-hour/7-day operations in executive branch state agencies:

-There are 6,193 multi-shift employees in 24-hour/7-day operations, which is the figure as of January 2021. This figure has dropped somewhat as of February 2022 due to historically high vacancy rates. MMB assumes 6,193 is a more reasonable assumption for the reminder of the budget horizon. The Departments of Human Services, Corrections, and Veterans Affairs account for approximately 91 percent of these employees.

-As of February 2022, the average hourly wage for these employees is $28.41. Fringe benefits are assumed to be approximately 30 percent of wages, which increases this figure to $36.93. The average overtime hourly wage, including the 30 percent-of-salary fringe estimate, is $55.40. This fiscal note assumes 2.47 percent annual wage growth for a new base of $37.84 per hour regular and $56.77 per hour overtime in FY 2023.

-Approximately 2.2 percent of the projected 6,193 multi-shift employees will annually use the expanded sick leave benefits provided in the bill (approximately 136 employees).

-These employees are assumed to accrue and use 48 hours of the expanded sick leave benefits provided in the bill in a year.

-It is assumed that 50 percent of leave hours taken by these employees will be replaced at overtime wage rates and 50 percent would be replaced at regular wage rates.

-The fiscal note assumes the bill is enacted by June 1, 2021, making the effective date 180 days later, or approximately December 1, 2021, and that use (in hours) of the expanded sick leave benefits provided in the bill is limited by 50 percent in the first year of implementation (FY 2023) to provide time for accrual.

A	B	C	D	E	F	G	H
Fiscal year	Total leave-eligible employees taking benefit	Total leave taken per employee	Total leave taken (B*C)	Hourly wage replacement rate	Hours per hourly wage replacement rate (D*50%)	Cost by replacement wage type (E*F)	Total cost by fiscal year (sum of G in each fiscal year)
FY 2023	136	24	3,264	$37.84 REG	1,632	$61,755	$154,404

				$56.77 OT	1,632	$92,649	
FY 2024	136	48	6,528	$37.84 REG	3,264	$123,510	$308,807
				$56.77 OT	3,264	$185,297	
FY 2025	136	48	6,528	$37.84 REG	3,264	$123,510	$308,807
				$56.77 OT	3,264	$185,297	

It is assumed that 33.0 percent of the costs calculated above will be paid from the general fund and 67.0 percent from all other state funds based on the overall allocation for all executive branch state agency employee compensation costs in FY 2021. The cost by fund may vary significantly by impacted state agency.

Fiscal Year	Total cost	Percentage allocation by state fund	Annual cost, by fund
FY 2023	$154,404	33.0% general fund	$50,953
		67.0% all other funds	$103,450
FY 2024	$308,807	33.0% general fund	$101,906
		67.0% all other funds	$206,901
FY 2025	$308,807	33.0% general fund	$101,906
		67.0% all other funds	$206,901

TOTAL COSTS

Total costs				
In thousands				
MMB	FY 2022	FY 2023	FY 2024	FY 2025
General fund	$0	$3	$0	$0
24/7 State Agencies	FY 2022	FY 2023	FY 2024	FY 2025
General fund	$0	$51	$102	$102
All other funds	$0	$103	$207	$207
General fund grand total	**$0**	**$54**	**$102**	**$102**
All other funds grand total	**$0**	**$103**	**$207**	**$207**

Long-Term Fiscal Considerations

Local Fiscal Impact

Units of local 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-hour/7-day operations. Local governments may also incur similar notification costs identified in this fiscal note.

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Paul Moore

Date: 3/8/2022 9:40:42 AM

Phone: 651-201-8004

Email: paul.b.moore@state.mn.us

HF41 - 4A - Earned Safe and Sick Time

Chief Author: **Liz Olson**
Commitee: **Ways And Means**
Date Completed: **3/11/2022 12:05:16 PM**
Agency: Supreme Court

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	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	1	418	378
Total	**-**	**-**	**1**	**418**	**378**
Biennial Total			**1**		**796**

Full Time Equivalent Positions (FTE)		Biennium		Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	-	3	3
Total	**-**	**-**	**-**	**3**	**3**

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: Alyssa Holterman Rosas **Date:** 3/11/2022 12:04:24 PM
Phone: 651-284-6439 **Email:** alyssa.holterman.rosas@lbo.mn.gov

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	**FY2021**	**FY2022**	**FY2023**	**FY2024**	**FY2025**
General Fund	-	-	1	418	378
Total	**-**	**-**	**1**	**418**	**378**
Biennial Total			**1**		**796**
1 - Expenditures, Absorbed Costs*, Transfers Out*					
General Fund	-	-	1	492	459
Total	**-**	**-**	**1**	**492**	**459**
Biennial Total			**1**		**951**
2 - Revenues, Transfers In*					
General Fund	-	-	-	74	81
Total	**-**	**-**	**-**	**74**	**81**
Biennial Total			**-**		**155**

Bill Description

HF41-4A requires all employers to provide Earned Sick and Safe Leave (ESSL) for qualifying employees who work more than 80 hours a year for an employer. At a minimum, employees must earn one hour of paid ESSL time for every 30 hours worked, up to at least 48 hours per year. Employees must be able to carry over at least 80 accrued hours of ESSL time from year to year. Accrual begins when a qualified employee begins employment, but an employee may not begin using ESSL time until they have worked for the employer for a period of 90 calendar days. Salaried employees, who are exempt from the provisions of federal overtime laws, are deemed to work 40 hours per week for purposes of ESSL accrual. Employees do not include independent contractors who have worked for the employer.

Eligible uses of ESSL, include: 1) the 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 the employee or family member; (4) closure of the 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 the employee or family member is at risk of infecting others with a communicable disease. Employees receive their regular hourly rate of employment for ESSL.

The bill requires that employees returning from ESSL must be able to return to their former positions, with the same pay and benefits, including seniority and accrued pre-leave benefits and any automatic pay adjustments.

Employers are not required to pay out any accrued ESSL time upon separation. Employees hired back by the same employer within 180 days of termination are entitled to reinstatement of accrued ESSL time.

Employers are required to post notice of employee rights to current and future employees.

Employers are prohibited from retaliating against an employee for taking ESSL. Employers who violate any sections over which the Department of Labor and Industry has enforcement authority may be subject to civil penalties.

HF41-4A creates a private cause of action with a three-year statute of limitation for persons under Minn. Stat. § 177.50, subd. 3, to recover general and special damages, along with costs, fees, reasonable attorney fees, and may receive injunctive and other equitable relief as determined by the court.

This bill is effective 180 days following final enactment.

Assumptions

For most judicial branch employees covered under the collective bargaining agreements (CBAs) and human resource rules (Judicial Branch HR Rules) applicable to unrepresented employees, the amount of and accrual rate of paid sick leave provided in these CBAs and Judicial Branch HR Rules meets or exceeds the amount of paid leave provided under the bill, so they would not be entitled to additional leave accruals under the bill. Certain judicial branch employees (e.g., temporary and part-time below a certain threshold number of hours) are not currently eligible for paid sick leave under CBAs or Judicial Branch HR Rules but would be eligible for paid leave accruals under the bill. The bill provides for some eligible uses that are not currently eligible uses under the sick leave provisions of CBAs or compensation plans (e.g., weather and public emergencies for school closures; care for stepsiblings, foster siblings, or any individual related by blood or affinity; care for family members exposed to but who have not contracted a communicable disease).

The bill extends the benefit to certain judicial branch part-time employees and temporary employees who are not normally eligible for sick leave benefits or who accrue at a rate under 1 hour of ESSL for 30 hours worked under CBAs and Judicial Branch HR Rules. This fiscal note does not quantify any potential costs associated with these employees taking leave. It is assumed that the direct cost of any judicial branch employee who is: 1. Not currently eligible for paid leave under the CBAs and Judicial Branch HR Rules; 2. Newly eligible for paid leave under this bill; and 3. Choosing to replace unpaid leave they may have otherwise taken with paid leave under bill; is negligible and is not quantified in this fiscal note. This is a small subset of judicial branch employees.

It is assumed use of accrued leave due to an employee’s health conditions, care of most family members, and absences due to domestic abuse or stalking, and emergency closure leave will not increase above current levels since these already are allowed uses of sick leave under CBAs, Judicial Branch HR Rules, and/or Minnesota Statutes Section 181.9413. There are no reliable data upon which to base an estimate of the number of employees who will use any of the expanded benefits. The expanded leave provided in this bill may or may not result in additional costs to judicial branch. These potential costs are not reflected in this fiscal note.

The bill requires reinstatement of previously accrued but unused leave time if the employee is rehired. It is assumed that accruals that were paid out to employees upon separation pursuant to a CBA or Judicial Branch HR Rules would be used under the bill and therefore would not be reinstated.

Unlike with the executive branch, the judicial branch does not have 24-hour/7-day operations that require backfilling of employees on ESSL to maintain minimum staffing levels.

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 bill’s effective date (180 days following final enactment) or the date of employment, whichever is later. Notice must be provided in alternative languages. The judicial branch will provide the required notifications to all employees, current and future, in electronic format in English and other translated languages. These electronic notifications will meet digital accessibility requirements. In addition, the judicial branch will post notices in all workplaces.

An employee who is injured as a result of a violation of the bill may bring a cause of action in district court to recover damages and for injunctive and other equitable relief. The number of civil actions that may be filed is unknown.

For purpose of this fiscal note, the number of employment cases will be used to calculate impact. The average number of employment cases filed in district court in 2019, 2020 and 2021 was 324 cases. It is assumed that the increase in the number of district court cases filed as a result of this bill would not be more than one half of all the other employment cases filed or approximately 162 cases. It is assumed the weighted caseload value for employment cases of 503 minutes per case will apply. Assessed Judge Need = Filings x Case Weight / Judge Year Value. For purpose of this fiscal note, the Judge Year Value used is a statewide average of 78,000 minutes. An increase in case filings of 162 cases would require an increase of 1 judge Unit. (503 minutes x 162 cases divided by 78,000 minutes per year = 1.04 judge FTE). One additional judge unit includes a judge, court reporter and law clerk. It is assumed that this increase in cases will not require any additional court administration staff.

Based on the effective date of this bill no cause of action will be filed with the district court before 1/1/2023 and most likely not until 7/1/2023. It is assumed the civil filing fee in FY25 will be $285. The amount of the law library fee will depend on the county in which the case is filed.

It is assumed that there will be an increase in appellate court cases but the increase will not result in an increase of a three-judge panel.

Expenditure and/or Revenue Formula

Notice Requirements:

Translation costs: The bill requires employers to supply employees with a notice in English and other appropriate languages. While the Department of Labor and Industry's (DLI) fiscal note for HF7-0 (2021-2022) assumed that translation costs are the responsibility of the employer, DLI also assumed in its fiscal note that DLI will provide some translations as part of DLI's model notice responsibilities. Accordingly, this fiscal note does not assume any additional translation costs for state agencies.

Electronic notifications: The cost of providing the required notices by electronic means is not known but is assumed would not carry a significant cost beyond the unknown cost of translation to alternate languages as noted above. It is assumed that there will be no digital accessibility costs incurred for translated notices.

Printing costs: As with other employment rights notice requirements, it is assumed that notices will need to be posted in judicial branch workplaces. The cost of these notices is unknown. Comparable to the executive branch estimate, assuming a total of five language at approximately 100 court locations at a cost of $2 per poster, it is estimated that the cost to the judicial branch is $1,000.

Private Cause of Actions:

The private cause of action will result in an increase in the number of cases filled in district court and increase of 1 judge unit. The estimated FY23 cost for a district court judge unit comprised of a judge, court reporter and law clerk is $492,000 in the first year, including $33,000 for chambers startup costs, and $459,000 in subsequent year.

In FY24 the cost of one additional district court judge unit is $492,000.

In FY25 and after the cost of one additional district court judge unit is $459,000.

Revenue:

The fees in Minn. Stat. § 357.021 will apply to cases filed in the District Court unless a party is granted an order to proceed in forma pauperis or another exemption applies. Filing fees include the civil filing fee plus the county law library fee. Assuming district court civil filing fees will be paid in approximately 162 cases (estimated number of private causes of action filed), the increase to the state general fund is estimated to be $80,798 ($285 x 162 cases x 1.75 parties) per fiscal year beginning FY24.

The total increase in filing fee revenue for FY24 is estimated at $74,063 after discounting by 1 month to account for cash flow. ($80,798 /12 mos. = $6733 per month x 11 mos.) For FY25 and after filing fee revenue is estimated at $80,798.

Long-Term Fiscal Considerations

Local Fiscal Impact

The increased law library fee income is unknown as each county law library has a unique fee.

References/Sources

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