

---

**Sponsor:** Human Resources

**Meeting Date:** 12/17/2024

**Title:** Benefits Policies Compliance Update

**File Number:** 2024-638

---

**Background and Rationale:**

In May 2024, the Minnesota Legislature passed updates to the ESST law, Minnesota Statute 181.9445-181.9448. The Employee Benefits Policies must be updated to comply with adopted changes effective through January 1, 2025.

**Effective May 25, 2024: Bereavement Leave**

ESST hours can now be used to make funeral arrangements, attend a funeral service or memorial or address financial or legal matters that arise out of the death of a family member.

**Effective May 25, 2024: Documentation**

The updated ESST law clarifies that “three consecutive days” refers to scheduled workdays. Therefore, an employer may only require reasonable documentation upon the fourth consecutive scheduled workday missed. It also adds that acceptable documentation for employees using ESST for safety leave includes an employee’s written statement if documentation cannot be obtained in a reasonable time or without added expense.

**Effective January 1, 2025: Effect on more generous sick and safe time policies**

If an employer provides employees with paid sick leave that is more than the amount required under the ESST law for absences due to personal illness or injury, the additional paid time must meet the same requirements as ESST hours, other than the ESST accrual requirements, when it is used for an ESST-qualifying purpose. The ESST requirements about notice, documentation, anti-retaliation, replacement workers and more apply to the additional paid sick time.

**Recommendation:**

The Ramsey County Board of Commissioners resolved to:

Approve updates to Employee Benefits Policies to comply with legislative changes to Earned Sick and Safe Time Minnesota Statute 181.9445-181.9448, including clarification on previously approved policies:

1. Section 8.6 Use of Sick Leave
  - a. Modify "sick leave is authorized" to "sick leave may be authorized," as the Earned Sick and Safe Time (ESST) law provides guidelines for proper notice and documentation requirements that authorize the use of paid sick time.
  - b. Modify paragraphs (a), (b), (c), (d), (e), and (f) to clarify that sick leave must be used for qualifying reasons when an employee has available paid sick time. This change is in alignment with ESST provisions in preparation for MN Paid Family Medical Leave.
  - c. Remove the limit of 160 hours from paragraph (c) such that an employee has access to all paid sick hours for the purpose of providing care to a qualified family member. This change is in alignment with ESST provisions in preparation for MN Paid Family Medical Leave.
  - d. Clarify 'immediate household' member in paragraph (e) to be someone who is not a family member as defined by Minn. Stat. 181.9445. Sick leave for this purpose may not be compounded with other sick leave in the same instance.
  - e. Update paragraph (g) to read that employees may use sick leave for the purpose of bonding with a newborn or adopted child within twelve (12) months of birth or adoption, rather than six months. This change aligns with FMLA, ESST, and MN PFML.
  - f. Revise paragraph (i) to allow up to eighty (80) hours of paid sick time for bereavement purposes. Clarify that bereavement includes funeral or memorial services, as well as time needed to address financial or legal matters that arise out of the death of a loved one.
2. Move up Sections 8.12 Notice for the Use of Sick Leave and 8.13 Documentation for the Use of Sick Leave to 8.8 and 8.9, respectively, for greater clarity.
3. Section 8.9 Documentation for the Use of Sick Time
  - a. Add (a) "reasonable documentation may be requested at the discretion of the appointing officer or Director."
  - b. Add (b) "reasonable documentation may only be required if the absence is more than three (3) consecutive workdays," per Minn. Stat. 181.9447, subd. 3.
  - c. Modify paragraph (e) to clarify that paid sick leave may be denied if an employee fails or refuses to supply sufficient reasonable documentation when required by the appointing officer or Director.
  - d. Strike final paragraph that says the documentation requirements of ESST only apply to seasonal, temporary or intermittent workers. As of May 25, 2024, the documentation rules of the law apply to paid sick time of full- and part-time employees. As of January 1, 2025, these rules apply to all paid sick time.
4. Section 8.10 Requirement to Use Paid Sick Time
  - a. Add a new section that clarifies a common practice whereby employees are required to use paid sick time when the reason for absence qualifies for paid sick time, as defined by Section 8.6 and Minn. Stat. 181.9447, subd. 1.
  - b. Add paragraph (a) that allows an employee the option to retain a bank of eighty (80) hours, rather than exhaust all paid sick time. The option to reserve a bank of sick hours is listed in the collective bargaining agreements and has been common practice for unrepresented employees even though it has not been written in the Benefits

- Policies.
- c. Add paragraph (b) to mirror language in the collective bargaining agreements, which clarifies that time retained in the employee's sick bank cannot be used until they return from leave. This matches the longstanding practice.
  - d. Add paragraph (c) to mirror language in the collective bargaining agreements, which clarifies that unused sick leave will be forfeit if the employee does not return from leave, such that the employee will receive no compensation for those banked hours. This is also mentioned in Section 12.9 Separation Pay
5. Section 8.11 Advance of Sick Leave
- a. Update to comply with ESST requirement that all sick hours advanced to an employee may be used for any qualifying reason, as defined in Minn. Stat. 181.9447, subd. 1. Qualified uses for sick time are outlined in Section 8.6.
  - b. Replace "proof of illness" with "reasonable documentation" as outlined in Minn. Stat. 181.9447, subd. 3.
  - c. Modify Section 8.6 paragraph (a) to clarify that, if an employee transitions to a status that is not eligible for sick advance, the employee must repay any outstanding advanced hours before the transition to the new status is complete.
6. Section 8.12 Use of Other Paid Leave for Sick Leave Purposes
- a. Create new section to commit to writing the longstanding countywide practice whereby an employee may request to use vacation and other accruals upon the exhaustion of paid sick leave.
  - b. Clarify that an employee can also request to use other accruals even if they opt to bank hours.
7. Section 9.1 Eligibility for Sick Leave Without Pay
- a. Update language to explain that unpaid sick leave is to be used only for the health condition of the employee. Unpaid sick leave is not protected under ESST law.
  - b. Change "shall" to "may" in paragraph (a) to clarify that a continuous unpaid medical leave of absence may granted if the employee supplies substantiating medical documentation.
  - c. Strike the mention of workers' compensation from paragraph (a).
  - d. Add "seasonal" employee status to paragraph (c).
  - e. Clarify in paragraph (c) that seasonal, intermittent and temporary employees are ineligible for sick leave without pay, unless otherwise protected by an approved FMLA status. This has been the longstanding practice but has not been clearly documented.
8. Section 10 Workers Compensation
- a. Modify that employees are required to use paid sick time to supplement wage replacement benefits to make the employee whole, which is the current practice for represented employees, and mirrors the updates in Section 8.6.

A motion to approve was made by Commissioner Ortega, seconded by Commissioner Xiong.  
Motion passed.

Aye: - 6: Frethem, McGuire, Moran, Ortega, Reinhardt, and Xiong

By:   
\_\_\_\_\_  
Jason Yang, Interim Chief Clerk - County  
Board