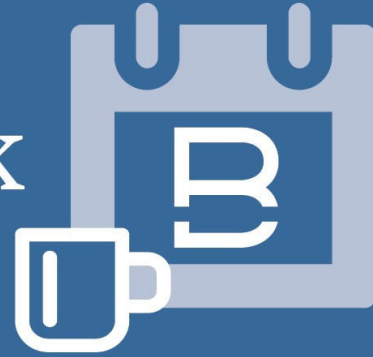


# The Work Week

Bassford Remele Employment Practice Group



**January 2, 2024**

Welcome to another edition of *The Work Week with Bassford Remele*. Each Monday morning, we will publish and send a new article to your inbox to hopefully assist you in jumpstarting your work week.

[Bassford Remele Employment Practice Group](#)

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## **January 2024 Is A Monumental Moment For Minnesota Employers**

[Beth L. LaCanne](#)

Happy New Year, everyone! As the clock struck midnight on January 1, two important employment laws became effective—mandatory earned sick and safe time (“ESST”) and the prohibition against obtaining and using an applicant’s pay history. These two laws reflect the current Minnesota legislature’s commitment to closing the pay gap and prioritizing employee well-being. Both carry risks if an employer is not compliant.

### **ESST**

We have discussed the Earned Sick and Safe Time Act in several prior Work Week articles. In short, the ESST Act requires every employer to give their employees who work more than 80 hours in a year paid time off for medical reasons, for reasons related to domestic violence and similar issues, and for closures of daycare and schools due to public emergencies. Employers are required to have written policies in place and to provide their employees with written notice of their rights under the Act. Bassford Remele’s Employment Law Group has prepared a sample written notice that is available on our website.

Also on the website are links to important [resources regarding ESST](#), including prior Work Weeks discussing ESST and the inaugural Bassford Brief podcast which discusses some of the practical realities of implementing ESST.

### **Prohibition on Pay History Inquiry**

During the 2023 legislative session, the Minnesota Human Rights Act was amended to add a new unfair-employment practice. Minnesota joins a growing number of states recognizing the importance of breaking the cycle of pay discrimination. Specifically, Minnesota employers are prohibited from obtaining an

applicant's pay history and using that information to determine wages, salary, earnings, benefits, or other compensation of the applicant. This prohibition applies even if the applicant's pay history is publicly available and the employer accesses the public records to determine wages, salary, earnings, benefits, or other compensation without the applicant's knowledge or consent. On the other hand, an employer can consider voluntarily disclosed pay history.

Although Minnesota has joined the ranks of other states trying to close the wage disparity experienced by females and people of color, the states surrounding Minnesota have not implemented similar statutes. So, for employers based outside of Minnesota but employing Minnesota residents, this new legislation will also require changes to how out-of-state employers handle Minnesota applicants.

As with other unfair-employment practices under the MHRA, the Department of Human Rights has been tasked with investigating violations. Additionally, an employee can forego the administrative process and commence litigation which provides that a prevailing employee's attorney's fees should be paid.

At Bassford Remele, we routinely keep our clients and contacts abreast of new changes in the law, starting from legislative debates to effective dates like the two occurring this week. If we can be of further assistance, we are here to help. And again, Happy New Year from the Bassford Remele [Employment Law Group!](#)

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