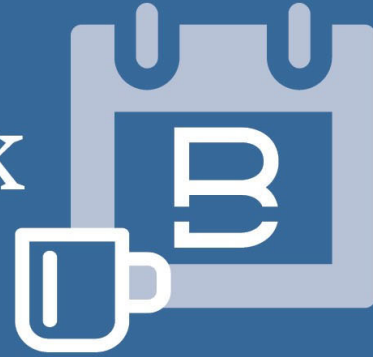


# The Work Week

Bassford Remele Employment Practice Group



**October 16, 2023**

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.

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## **It's the Final Countdown...To Mandatory Paid Sick and Safe Leave**

[Beth L. LaCanne](#)

When the clock strikes midnight on January 1, 2024, Minnesota's Earned Sick and Safe Leave law ("ESSLL") goes into effect. The ESSLL impacts nearly every employer who has employees working in Minnesota. Specifically, most employers are required to provide paid sick and safe time ("SST") to nearly all of their employees. Given the complexity of the ESSLL, employers will benefit from amending existing or creating policies and procedures to ensure compliance with the ESSLL and, if applicable, parallel city ordinances.

Every employee, even a temporary and exempt employee, who works at least eighty (80) hours in a year in Minnesota is eligible for SST. Independent contractors and most airline flight crews are not eligible.

Eligible employees must receive at least one (1) hour of SST for every thirty (30) hours worked with an annual maximum of forty-eight (48) hours per year. If an employer has an existing policy that provides paid time off, additional SST is not required so long as the policy meets or exceeds the minimum standards and requirements under the ESSLL and does not otherwise conflict with the ESSLL.

Employees must be allowed to carry over unused SST, but they cannot exceed 80 hours at any time unless their employer agrees to a higher amount. Alternatively, an employer may front-load SST. If the employer pays out unused SST at the end of the year, the employer must front-load at least 48 hours of SST at the beginning of the next year. If the employer does not pay out unused SST, then the employer must front-load 80 hours of SST. Exempt employees are deemed to work forty (40) hours per week. Accrual starts on the first day of employment and may be used as soon as it is earned.

Generally, SST usage falls into three buckets: (1) mental or physical health; (2) weather or other public emergencies; and (3) safety. The mental or physical health usage is self-explanatory. For the weather/public emergency category, SST may be used for closures due to weather or other public emergencies (*e.g.*, snowstorms or pandemics). For safety usage, SST may be used for absences due to

communicable diseases or due to domestic violence, sexual assault, or stalking. If the absence is due to the latter, SST may be used for not only medical and psychological care, but also to get services from victim services organizations, to relocate/move, or to seek legal advice or take legal action.

An employee may use SST if the absence relates to themselves or if it relates to a “family member.” The definition of “family member” is quite broad, extending beyond the immediate family, and even includes individuals who have no familial relationship to the employee, like a friend or a neighbor. Additionally, an employee may designate one individual each year to qualify as a “family member.”

The ESSLL provides for safeguards to mitigate employee misuse or disruption to an employer’s operations. Employers may require advance notification so long as there is a written policy. If an employee has used SST for more than three (3) consecutive days, an employer may require “reasonable documentation” to verify the absence is for a qualifying purpose. However, the employer cannot require information regarding the details of the medical condition or the domestic abuse, sexual assault, or stalking that necessitated the absences.

The ESSLL includes numerous miscellaneous provisions. One of the more significant provisions is the anti-retaliation provision. Equally significant is that employers do not have to pay out unused SST when an employee separates from employment. However, the employee’s accrued SST balance must be reinstated if the employee is rehired within 180 days. If a business is sold or ownership is otherwise transferred, employees who remain employed or are rehired within thirty (30) days must keep their SST balances.

Finally, employers must inform their employees, in writing, about their entitlement to SST, including the amount of SST they will earn, the accrual year, the terms of the ESSLL, the form the employees must use to provide notice of their intent to use SST, and the prohibition on retaliation.

The busy holiday season is almost upon us, but there is still time to bring existing policies and procedures into compliance with the ESSLL or to develop and implement policies and procedures.

Bassford Remele is your trusted partner for navigating new developments in employment law like the ESSLL. We regularly advise clients on policies and procedures to ensure they are compliant. If you’re seeking guidance or have questions or concerns, the experienced attorneys in Bassford Remele’s [Employment Law practice group](#) are here to assist you.

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