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LEGISLATIVE FISCAL ESTIMATE: Yes

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GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Murphy signs Earned Sick and Safe Days Act," NJBIZ, 2-5-2018

"Equal pay effects and other lessons from day's panels," NJBIZ 2-5-2018

"Bill requiring employers to offer paid sick time now law," Associated Press State Wire: New Jersey, 5-2-2018

"New Jersey workers can now get sick and get paid," Associated Press State Wire: New Jersey, 5-2-2018

"Murphy signs paid sick leave bill - most workers will be eligible, experts say," The Record, 5-3-2018

"Murphy signs bill ensuring sick pay - 'Long-overdue' law grants private workers one hour of leave for every 30 worked," The Star-Ledger, 5-3-018

"Earned sick-days law changes workplaces for the better," Hunterdon County Democrat, 5-3-2018

"Sick leave legislation becomes law," Burlington County Times, 5-3-2018

"New law ensures New Jersey sick leave - N.J. sick leave now guaranteed under new law," The Press of Atlantic City, 5-4- 2018

RWH

Title 34.
Chapter 11D.
(New)
Sick Leave
§§1-11 –
C.34:11D-1
to 34:11D-11
§12 - Note

P.L. 2018, CHAPTER 10, *approved May 2, 2018*
Assembly Committee Substitute (*First Reprint*) for
Assembly, No. 1827

1 AN ACT concerning earned sick leave and supplementing P.L.1966,
2 c.113 (C.34:11-56a et seq.).
3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:
6

7 1. For the purposes of this act:

8 "Benefit year" means the period of 12 consecutive months
9 established by an employer in which an employee shall accrue and
10 use earned sick leave as provided pursuant to section 2 of this act,
11 provided that once the starting date of the benefit year is established
12 by the employer it shall not be changed unless the employer notifies
13 the commissioner of the change in accordance with regulations
14 promulgated pursuant to this act. The commissioner shall impose a
15 benefit year on any employer that the commissioner determines is
16 changing the benefit year at times or in ways that prevent the
17 accrual or use of earned sick leave by an employee.

18 "Certified Domestic Violence Specialist" means a person who
19 has fulfilled the requirements of certification as a Domestic
20 Violence Specialist established by the New Jersey Association of
21 Domestic Violence Professionals.

22 "Child" means a biological, adopted, or foster child, stepchild or
23 legal ward of an employee, child of a domestic partner or civil
24 union partner of the employee.

25 "Civil union" means a civil union as defined in section 2 of
26 P.L.2006, c.103 (C.37:1-29).

27 "Commissioner" means the Commissioner of Labor and
28 Workforce Development.

29 "Department" means the Department of Labor and Workforce
30 Development.

31 "Designated domestic violence agency" means a county-wide
32 organization with a primary purpose to provide services to victims

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted March 22, 2018.

1 of domestic violence, and which provides services that conform to
2 the core domestic violence services profile as defined by the
3 Division of Child Protection and Permanency in the Department of
4 Children and Families and is under contract with the division for
5 the express purpose of providing the services.

6 "Domestic or sexual violence" means stalking, any sexually
7 violent offense, as defined in section 3 of P.L.1998, c.71 (C.30:4-
8 27.26), or domestic violence as defined in section 3 of P.L.1991,
9 c.261 (C.2C:25-19) and section 1 of P.L.2003, c.41 (C.17:29B-16).

10 "Domestic partner" means a domestic partner as defined in
11 section 3 of P.L.2003, c.246 (C.26:8A-3).

12 "Employee" means an individual engaged in service to an
13 employer in the business of the employer for compensation.
14 "Employee" does not include an employee performing service in the
15 construction industry that is under contract pursuant to a collective
16 bargaining agreement, or a per diem ¹[hospital] health care
17 employee ¹, or a public employee who is provided with sick leave
18 with full pay pursuant to any other law, rule, or regulation of this
19 State¹.

20 "Employer" means any person, firm, business, educational
21 institution, nonprofit agency, corporation, limited liability company
22 or other entity that employs employees in the State, including a
23 temporary help service firm. In the case of a temporary help service
24 firm placing an employee with client firms, earned sick leave shall
25 accrue on the basis of the total time worked on assignment with the
26 temporary help service firm, not separately for each client firm to
27 which the employee is assigned. ¹"Employer" does not include a
28 public employer that is required to provide its employees with sick
29 leave with full pay pursuant to any other law, rule or regulation of
30 this State.¹

31 "Family member" means a child, grandchild, sibling, spouse,
32 domestic partner, civil union partner, parent, or grandparent of an
33 employee, or a spouse, domestic partner, or civil union partner of a
34 parent or grandparent of the employee, or a sibling of a spouse,
35 domestic partner, or civil union partner of the employee, or any
36 other individual related by blood to the employee or whose close
37 association with the employee is the equivalent of a family
38 relationship.

39 "Health care professional" means any person licensed under
40 federal, State, or local law, or the laws of a foreign nation, to
41 provide health care services, or any other person who has been
42 authorized to provide health care by a licensed health care
43 professional, including but not limited to doctors, nurses and
44 emergency room personnel.

45 "Parent" means a biological, adoptive, or foster parent,
46 stepparent, or legal guardian of an employee or of the employee's
47 spouse, domestic partner, or civil union partner, or a person who

1 stood in loco parentis of the employee or the employee’s spouse,
2 domestic partner, or civil union partner when the employee, spouse
3 or partner was a minor child.

4 “Per diem ¹~~hospital~~ health care¹ employee” means any
5 ¹~~individual performing work for a hospital system on an as needed~~
6 basis to replace or substitute for a temporarily absent hospital
7 employee, and who works on a flexible or non-fixed schedule ;

8 (1) health care professional licensed in the State of New Jersey
9 employed by a health care facility licensed by the New Jersey
10 Department of Health;

11 (2) any individual that is in the process of applying to the New
12 Jersey Division of Consumer Affairs for a license to provide health
13 care services who is employed by a health care facility licensed by
14 the New Jersey Department of Health; or

15 (3) any first aid, rescue or ambulance squad member employed
16 by a hospital system.

17 An employee listed in paragraphs (1), (2), and (3) of this
18 definition shall be considered a per diem health care employee if
19 that employee:

20 (1) works on an as-needed basis to supplement a health care
21 employee, or to replace or substitute for a temporarily absent health
22 care employee;

23 (2) works only when the employee indicates that the employee
24 is available to work, and has no obligation to work when the
25 employee does not indicate availability; and

26 (3) either:

27 (a) has the opportunity for full time or part time employment in
28 their scope of practice under that healthcare provider which offers
29 paid time off benefits greater in length than provided under this act
30 under the terms of employment; or

31 (b) has waived earned sick leave benefits as provided under this
32 act under terms of employment for alternative benefits or
33 consideration.

34 “Per diem health care employee” shall not include any individual
35 who is certified as a homemaker-home health aide¹.

36 “Retaliatory personnel action” means denial of any right
37 guaranteed under this act and any threat, discharge, including a
38 constructive discharge, suspension, demotion, unfavorable
39 reassignment, refusal to promote, disciplinary action, sanction,
40 reduction of work hours, reporting or threatening to report the
41 actual or suspected immigrant status of an employee or the
42 employee’s family, or any other adverse action against an
43 employee.

44 “Sibling” means a biological, foster, or adopted sibling of an
45 employee.

46 "Spouse" means a husband or wife.

1 2. a. Each employer shall provide earned sick leave to each
2 employee working for the employer in the State. For every 30 hours
3 worked, the employee shall accrue one hour of earned sick leave,
4 except that an employer may provide an employee with the full
5 complement of earned sick leave for a benefit year, as required
6 under this section, on the first day of each benefit year in
7 accordance with subsection c. or subsection d. of section 3 of this
8 act. The employer shall not be required to permit the employee to
9 accrue or use in any benefit year, or carry forward from one benefit
10 year to the next, more than 40 hours of earned sick leave. Unless
11 the employee has accrued earned sick leave prior to the effective
12 date of this act, the earned sick leave shall begin to accrue on the
13 effective date of this act for any employee who is hired and
14 commences employment before the effective date of this act and the
15 employee shall be eligible to use the earned sick leave beginning on
16 the 120th calendar day after the employee commences employment,
17 and if the employment commences after the effective date of this
18 act, the earned sick leave shall begin to accrue upon the date that
19 employment commences and the employee shall be eligible to use
20 the earned sick leave beginning on the 120th calendar day after the
21 employee commences employment, unless the employer agrees to
22 an earlier date. The employee may subsequently use earned sick
23 leave as soon as it is accrued.

24 b. An employer shall be in compliance with this section if the
25 employer offers paid time off, which is fully paid and shall include,
26 but is not limited to personal days, vacation days, and sick days,
27 and may be used for the purposes of section 3 of this act in the
28 manner provided by this act, and is accrued at a rate equal to or
29 greater than the rate described in this section.

30 c. The employer shall pay the employee for earned sick leave
31 at the same rate of pay with the same benefits as the employee
32 normally earns, except that the pay rate shall not be less than the
33 minimum wage required for the employee pursuant to section 5 of
34 P.L.1966, c.113 (C.34:11-56a4).

35 d. Upon the mutual consent of the employee and employer, an
36 employee may voluntarily choose to work additional hours or shifts
37 during the same or following pay period, in lieu of hours or shifts
38 missed, but shall not be required to work additional hours or shifts
39 or use accrued earned sick leave. An employer may not require, as
40 a condition of an employee's using earned sick leave, that the
41 employee search for or find a replacement worker to cover the
42 hours during which the employee is using earned sick leave.

43 e. If an employee is transferred to a separate division, entity, or
44 location, but remains employed by the same employer, then the
45 employee shall be entitled to all earned sick leave accrued at the
46 prior division, entity, or location, and shall be entitled to use the
47 accrued earned sick leave as provided in this act. If an employee is
48 terminated, laid off, furloughed, or otherwise separated from

1 employment with the employer, any unused accrued earned sick
2 leave shall be reinstated upon the re-hiring or reinstatement of the
3 employee to that employment, within six months of termination,
4 being laid off or furloughed, or separation, and prior employment
5 with the employer shall be counted towards meeting the eligibility
6 requirements set forth in this section. ¹When a different employer
7 succeeds or takes the place of an existing employer, all employees
8 of the original employer who remain employed by the successor
9 employer are entitled to all of the earned sick leave they accrued
10 when employed by the original employer, and are entitled to use the
11 earned sick leave previously accrued immediately.¹

12 f. An employer may choose the increments in which its
13 employees may use earned sick leave, provided that the largest
14 increment of earned sick leave that an employee may be required to
15 use for each shift for which earned sick leave is used shall be the
16 number of hours the employee was scheduled to work during that
17 shift.

18
19 3. a. An employer shall permit an employee to use the earned
20 sick leave accrued pursuant to this act for any of the following:

21 (1) time needed for diagnosis, care, or treatment of, or recovery
22 from, an employee's mental or physical illness, injury or other
23 adverse health condition, or for preventive medical care for the
24 employee;

25 (2) time needed for the employee to aid or care for a family
26 member of the employee during diagnosis, care, or treatment of, or
27 recovery from, the family member's mental or physical illness,
28 injury or other adverse health condition, or during preventive
29 medical care for the family member;

30 (3) absence necessary due to circumstances resulting from the
31 employee, or a family member of the employee, being a victim of
32 domestic or sexual violence, if the leave is to allow the employee to
33 obtain for the employee or the family member: medical attention
34 needed to recover from physical or psychological injury or
35 disability caused by domestic or sexual violence; services from a
36 designated domestic violence agency or other victim services
37 organization; psychological or other counseling; relocation; or legal
38 services, including obtaining a restraining order or preparing for, or
39 participating in, any civil or criminal legal proceeding related to the
40 domestic or sexual violence;

41 (4) time during which the employee is not able to work because
42 of a closure of the employee's workplace, or the school or place of
43 care of a child of the employee, by order of a public official due to
44 an epidemic or other public health emergency, or because of the
45 issuance by a public health authority of a determination that the
46 presence in the community of the employee, or a member of the
47 employee's family in need of care by the employee, would
48 jeopardize the health of others; or

1 (5) time needed by the employee in connection with a child of
2 the employee to attend a school-related conference, meeting,
3 function or other event requested or required by a school
4 administrator, teacher, or other professional staff member
5 responsible for the child's education, or to attend a meeting
6 regarding care provided to the child in connection with the child's
7 health conditions or disability.

8 b. If an employee's need to use earned sick leave is foreseeable,
9 an employer may require advance notice, not to exceed seven
10 calendar days prior to the date the leave is to begin, of the intention
11 to use the leave and its expected duration, and shall make a
12 reasonable effort to schedule the use of earned sick leave in a
13 manner that does not unduly disrupt the operations of the employer.
14 If the reason for the leave is not foreseeable, an employer may
15 require an employee to give notice of the intention as soon as
16 practicable, if the employer has notified the employee of this
17 requirement. Employers may prohibit employees from using
18 foreseeable earned sick leave ¹【from being used】¹ on certain dates,
19 and require reasonable documentation if sick leave that is not
20 foreseeable is used during those dates. For earned sick leave of
21 three or more consecutive days, an employer may require
22 reasonable documentation that the leave is being taken for the
23 purpose permitted under subsection a. of this section. If the leave is
24 permitted under paragraph (1) or (2) of subsection a. of this section,
25 documentation signed by a health care professional who is treating
26 the employee or the family member of the employee indicating the
27 need for the leave and, if possible, number of days of leave, shall be
28 considered reasonable documentation. If the leave is permitted
29 under paragraph (3) of subsection a. of this section because of
30 domestic or sexual violence, any of the following shall be
31 considered reasonable documentation of the domestic or sexual
32 violence: medical documentation; a law enforcement agency record
33 or report; a court order; documentation that the perpetrator of the
34 domestic or sexual violence has been convicted of a domestic or
35 sexual violence offense; certification from a certified Domestic
36 Violence Specialist or a representative of a designated domestic
37 violence agency or other victim services organization; or other
38 documentation or certification provided by a social worker,
39 counselor, member of the clergy, shelter worker, health care
40 professional, attorney, or other professional who has assisted the
41 employee or family member in dealing with the domestic or sexual
42 violence. If the leave is permitted under paragraph (4) of
43 subsection a. of this section, a copy of the order of the public
44 official or the determination by the health authority shall be
45 considered reasonable documentation.

46 c. Nothing in this act shall be deemed to require an employer to
47 provide earned sick leave for an employee's leave for purposes
48 other than those identified in this section, or prohibit the employer

1 from taking disciplinary action against an employee who uses
2 earned sick leave for purposes other than those identified in this
3 section. An employer may provide an offer to an employee for a
4 payment of unused earned sick leave in the final month of the
5 employer's benefit year. The employee shall choose, no later than
6 10 calendar days from the date of the employer's offer, whether to
7 accept a payment or decline a payment. If the employee agrees to
8 receive a payment, the employee shall choose a payment for the full
9 amount of unused earned sick leave or for 50 percent of the amount
10 of unused earned sick leave. The payment amount shall be based on
11 the same rate of pay that the employee earns at the time of the
12 payment. If the employee declines a payment for unused earned
13 sick leave, or agrees to a payment for 50 percent of the amount of
14 unused sick leave, the employee shall be entitled to carry forward
15 any unused or unpaid earned sick leave to the proceeding benefit
16 year as provided pursuant to subsection a. of section 2 of this act. If
17 the employee agrees to a payment for the full amount of unused
18 earned sick leave, the employee shall not be entitled to carry
19 forward any earned sick leave to the proceeding benefit year
20 pursuant to subsection a. of section 2 of this act.

21 d. If an employer foregoes the accrual process for earned sick
22 leave hours pursuant to subsection a. of section 2 of this act and
23 provides an employee with the full complement of earned sick leave
24 for a benefit year on the first day of each benefit year, then the
25 employer shall either provide to the employee a payment for the full
26 amount of unused earned sick leave in the final month of the
27 employer's benefit year or carry forward any unused sick leave to
28 the next benefit year. The employer may pay the employee the full
29 amount of unused earned sick leave in the final month of a benefit
30 year pursuant to this subsection only if the employer forgoes, with
31 respect to that employee, the accrual process for earned sick leave
32 during the next benefit year. Unless an employer policy or
33 collective bargaining agreement provides for the payment of
34 accrued earned sick leave upon termination, resignation, retirement
35 or other separation from employment, an employee shall not be
36 entitled under this section to payment of unused earned sick leave
37 upon the separation from employment.

38 e. Any information an employer possesses regarding the health
39 of an employee or any family member of the employee or domestic
40 or sexual violence affecting an employee or employee's family
41 member shall be treated as confidential and not disclosed except to
42 the affected employee or with the written permission of the affected
43 employee.

44
45 4. a. No employer shall take retaliatory personnel action or
46 discriminate against an employee because the employee requests or
47 uses earned sick leave either in accordance with this act or the
48 employer's own earned sick leave policy, as the case may be, or

1 files a complaint with the commissioner alleging the employer's
2 violation of any provision of this act, or informs any other person of
3 their rights under this act. No employer shall count earned sick
4 leave taken under this act as an absence that may result in the
5 employee being subject to discipline, discharge, demotion,
6 suspension, a loss or reduction of pay, or any other adverse action.

7 b. There shall be a rebuttable presumption of an unlawful
8 retaliatory personnel action under this section whenever an
9 employer takes adverse action against an employee within 90 days
10 of when that employee: files a complaint with the department or a
11 court alleging a violation of any provision of this section; informs
12 any person about an employer's alleged violation of this section;
13 cooperates with the department or other persons in the investigation
14 or prosecution of any alleged violation of this section; opposes any
15 policy, practice, or act that is unlawful under this section; or
16 informs any person of his or her rights under this section.

17 c. Protections of this section shall apply to any person who
18 mistakenly but in good faith alleges violations of this act.

19 d. Any violator of the provisions of this section shall be subject
20 to relevant penalties and remedies provided by the "New Jersey
21 State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.),
22 including the penalties and remedies provided by section 25 of that
23 act (C.34:11-56a24), and relevant penalties and remedies provided
24 by section 10 of P.L.1999, c.90 (C.2C:40A-2), for discharge or
25 other discrimination.

26
27 5. Any failure of an employer to make available or pay earned
28 sick leave as required by this act, or any other violation of this act,
29 shall be regarded as a failure to meet the wage payment
30 requirements of the "New Jersey State Wage and Hour Law,"
31 P.L.1966, c.113 (C.34:11-56a et seq.), or other violation of that act,
32 as the case may be, and remedies, penalties, and other measures
33 provided by that act, R.S.34:11-58, and section 10 of P.L.1999, c.90
34 (C.2C:40A-2) for failure to pay wages or other violations of that act
35 shall be applicable, including, but not limited to, penalties provided
36 pursuant to sections 23 and 25 of that act (C.34:11-56a22 and
37 34:11-56a24), and civil actions by employees pursuant to section 26
38 of that act (C.34:11-56a25), except that an award to an employee in
39 a civil act shall include, in addition to the amount provided pursuant
40 to section 26 of that act (C.34:11-56a25), any actual damages
41 suffered by the employee as the result of the violation plus an equal
42 amount of liquidated damages.

43
44 6. Employers shall retain records documenting hours worked
45 by employees and earned sick leave taken by employees, for a
46 period of five years, and shall, upon demand, allow the department
47 access to those records to monitor compliance with the
48 requirements of this act. If an employee makes a claim that the

1 employer has failed to provide earned sick leave required by this act
2 and the employer has not maintained or retained adequate records
3 documenting hours worked by the employee and earned sick leave
4 taken by the employee or does not allow the department access to
5 the records, it shall be presumed that the employer has failed to
6 provide the earned sick leave, absent clear and convincing evidence
7 otherwise. In addition, the penalties provided by the “New Jersey
8 State Wage and Hour Law,” P.L.1966, c.113 (C.34:11-56a et seq.)
9 for violations of the requirements of that act regarding the
10 maintaining and disclosure of records shall apply to violations of
11 the requirements of this section.

12

13 7. a. Employers shall provide notification, in a form issued by
14 the commissioner, to employees of their rights under this act,
15 including the amount of earned sick leave to which they are entitled
16 and the terms of its use, and remedies provided by this act to
17 employees if an employer fails to provide the required benefits or
18 retaliates against employees exercising their rights under this act.
19 Each covered employer shall conspicuously post the notification in
20 a place or places accessible to all employees in each of the
21 employer's workplaces. The employer shall also provide each
22 employee employed by the employer with a written copy of the
23 notification: not later than 30 days after the form of the notification
24 is issued; at the time of the employee's hiring, if the employee is
25 hired after the issuance; and at any time, when first requested by the
26 employee. The commissioner shall make the notifications available
27 in English, in Spanish, and any other language that the
28 commissioner determines is the first language of a significant
29 number of workers in the State and the employer shall use the
30 notification in English, Spanish or any other language for which the
31 commissioner has provided notifications and which is the first
32 language of a majority of the employer's workforce.

33 b. The commissioner shall advise any employee who files a
34 complaint pursuant to this section and is covered by a collective
35 bargaining agreement, that if the agreement provides for earned sick
36 leave, the employee may have a right to pursue a grievance under
37 the terms of the agreement.

38

39 8. a. The governing body of a county or municipality shall not,
40 after the effective date of this act, adopt any ordinance, resolution,
41 law, rule, or regulation regarding earned sick leave. The provisions
42 of this act shall preempt any ordinance, resolution, law, rule, or
43 regulation regarding earned sick leave adopted by the governing
44 body of a county or municipality.

45 b. No provision of this act, or any regulations promulgated to
46 implement or enforce this act, shall be construed as:

47 (1) requiring an employer to reduce, or justifying an employer
48 in reducing, rights or benefits provided by the employer pursuant to

1 an employer policy or collective bargaining agreement which are
2 more favorable to employees than those required by this act or
3 which provide rights or benefits to employees not covered by this
4 act;

5 (2) preventing or prohibiting the employer from agreeing,
6 through a collective bargaining agreement or employer policy, to
7 provide rights or benefits which are more favorable to employees
8 than those required by this act or to provide rights or benefits to
9 employees not covered by this act;

10 (3) prohibiting an employer from establishing a policy whereby
11 an employee may donate unused accrued earned sick leave to
12 another employee or other employees; or

13 (4) superseding any law providing collective bargaining rights
14 for employees, or in any way reducing, diminishing, or adversely
15 affecting those collective bargaining rights, or in any way reducing,
16 diminishing, or affecting the obligations of employers under those
17 laws.

18 Employees ¹or employee representatives¹ may waive the rights
19 or benefits provided under this act during the negotiation of a
20 collective bargaining agreement.

21 c. With respect to employees covered by a collective
22 bargaining agreement in effect at the time of the effective date of
23 this act, no provision of this act shall apply until the stated
24 expiration of the collective bargaining agreement.

25 ¹[d. This act shall not be construed to preempt, limit, or
26 otherwise affect the applicability of any provision of any State law
27 or regulation regarding earned sick leave for employees of public
28 employers that provides rights or benefits to employees which
29 provide a greater length of earned sick leave to employees than
30 those required by this act, but shall supersede any provision of any
31 State law or regulation which provides a lesser length of earned sick
32 leave to the employees than what is required by this act,
33 notwithstanding the provisions of those other laws or regulations.]¹
34

35 9. The provisions of this act shall be deemed to be severable
36 and if any section, subsection, paragraph, sentence or other part of
37 this act is declared to be unconstitutional, or the applicability
38 thereof to any person is held invalid, the remainder of this act shall
39 not thereby be deemed to be unconstitutional or invalid.
40

41 10. The commissioner shall develop and implement a
42 multilingual outreach program to inform employees, parents, and
43 persons under the care of health care providers about the
44 availability of earned paid sick leave pursuant to this act. The
45 program shall include the distribution of written materials in
46 English, Spanish and any language that is the primary language of
47 10 percent or more of the registered voters in the State to all child
48 care and elder care providers, domestic violence shelters, schools,

1 hospitals, community health centers and other healthcare providers.
2 The commissioner shall, during each calendar year, allocate not less
3 than \$500,000 to the program, which shall be regarded as a cost of
4 administration of temporary disability and family temporary
5 disability benefits and be charged to the administration account of
6 State disability benefit fund, except that the allocation made
7 pursuant to this subsection shall not result in the total amount
8 credited to administrative costs exceeding the maximum amount
9 permitted pursuant to subsection (a) of section 22 of P.L.1948,
10 c.110 (C.43:21-46).

11

12 11. The commissioner shall adopt rules and regulations
13 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
14 (C.52:14B-1 et seq.) to effectuate the purposes of this act.

15

16 12. This act shall take effect on the 180th day next following
17 enactment.

18

19

20

21

22

Concerns earned sick leave to employees.

ASSEMBLY, No. 1827

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblyman JERRY GREEN

District 22 (Middlesex, Somerset and Union)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Co-Sponsored by:

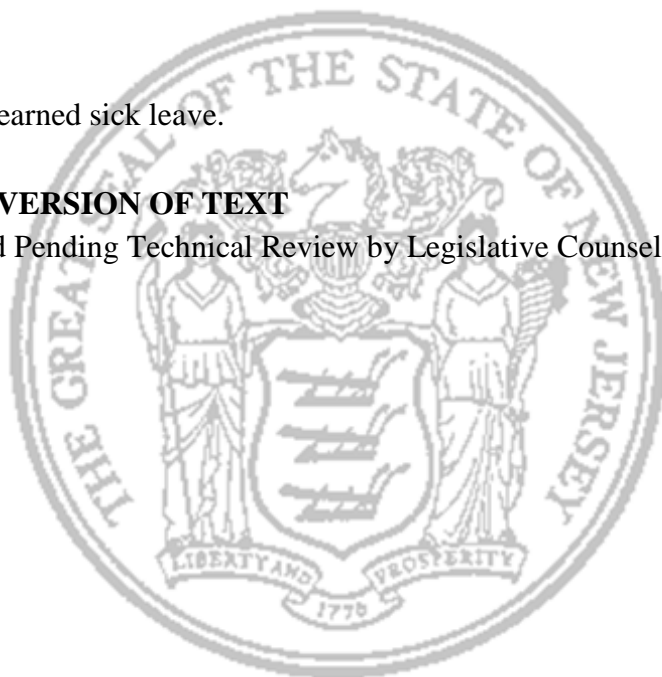
Assemblyman Benson, Assemblywoman Jasey, Assemblymen Giblin, Caputo, Holley, Assemblywomen Quijano, Muoio and Assemblyman Eustace

SYNOPSIS

Concerns earned sick leave.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 3/6/2018)

1 AN ACT mandating certain employers provide earned sick leave to
2 employees.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

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20 Violence Specialist established by the New Jersey Association of
21 Domestic Violence Professionals.

22 "Child" means a biological, adopted, or foster child, stepchild or
23 legal ward of an employee, child of a domestic partner or civil
24 union partner of the employee, if the child is less than 19 years of
25 age, or is 19 years of age or older but incapable of self-care because
26 of mental or physical impairment.

27 "Civil union" means a civil union as defined in section 2 of
28 P.L.2006, c.103 (C.37:1-29).

29 "Commissioner" means the Commissioner of Labor and
30 Workforce Development.

31 "Department" means the Department of Labor and Workforce
32 Development.

33 "Designated domestic violence agency" means a county-wide
34 organization with a primary purpose to provide services to victims
35 of domestic violence, and which provides services that conform to
36 the core domestic violence services profile as defined by the
37 Division of Child Protection and Permanency in the Department of
38 Children and Families and is under contract with the division for
39 the express purpose of providing the services.

40 "Domestic partner" means a domestic partner as defined in
41 section 3 of P.L.2003, c.246 (C.26:8A-3).

42 "Domestic or sexual violence" means stalking, any sexually
43 violent offense, as defined in section 3 of P.L.1998, c.71 (C.30:4-
44 27.26), or domestic violence as defined in section 3 of P.L.1991,
45 c.261 (C.2C:25-19) and section 1 of P.L.2003, c.41 (C.17:29B-6).

46 "Employee" means an individual engaged in service to an
47 employer in the business of the employer for compensation.

48 "Employee" does not include an employee performing service in the

1 construction industry that is under contract pursuant to a collective
2 bargaining agreement.

3 "Employer" means any person, firm, business, educational
4 institution, nonprofit agency, corporation, limited liability company
5 or other entity that employs employees in the State.

6 "Family member" means a child, grandchild, sibling, spouse,
7 domestic partner, civil union partner, parent, or grandparent of an
8 employee, or a spouse, domestic partner, or civil union partner of a
9 parent or grandparent of the employee, or a sibling of a spouse,
10 "domestic partner, or civil union partner of the employee. "Family
11 member" shall also mean, if an employee does not have a spouse,
12 domestic partner, or civil union partner, any one person designated
13 by the employee for whom the employee may use earned sick leave
14 to care for as provided in paragraphs (2) and (3) of subsection a. of
15 section 3 of this act, and this designation may be changed by the
16 employee once annually, prior to the start of the preceding benefit
17 year.

18 "Health care professional" means any person licensed under
19 federal, State, or local law, or the laws of a foreign nation, to
20 provide health care services, or any other person who has been
21 authorized to provide health care by a licensed health care
22 professional, including but not limited to doctors, nurses and
23 emergency room personnel.

24 "Parent" means a biological, adoptive, or foster parent,
25 stepparent, or legal guardian of an employee or of the employee's
26 spouse, domestic partner, or civil union partner, or a person who
27 stood in loco parentis of the employee or the employee's spouse,
28 domestic partner, or civil union partner when the employee, spouse
29 or partner was a minor child.

30 "Retaliatory personnel action" means denial of any right
31 guaranteed under this act and any threat, constructive discharge,
32 suspension, demotion, unfavorable reassignment, refusal to
33 promote, disciplinary action, sanction, or any other adverse action
34 against an employee.

35 "Sibling" means a biological, foster, or adopted sibling of an
36 employee.

37 "Small employer" means an employer who had, on average,
38 fewer than 10 employees during the preceding calendar year, or
39 during the current year if the employer had no employees during the
40 preceding calendar year. Periods of time in which the employer had
41 no employees shall not be considered in determining the average
42 number of employees. In determining whether an employer is a
43 small employer, the number of employees shall include all
44 individuals working for compensation on a full-time, part-time or
45 temporary basis, including individuals made available to work at a
46 workplace of the employer through a temporary help services firm.

47 "Spouse" means a husband or wife.

1 2. a. Each employer shall provide earned sick leave to each
2 employee working for the employer in the State. For every 30 hours
3 worked, the employee shall accrue one hour of earned sick leave.
4 The employer shall not be required to permit the employee to
5 accrue at any one time, or carry forward from one benefit year to
6 the next, more than 40 hours of earned sick leave if the employer is
7 a small employer, or more than 72 hours of earned sick leave if the
8 employer is not a small employer. Unless the employee has accrued
9 earned sick leave prior to the effective date of this act, the earned
10 sick leave shall begin to accrue on the effective date of this act for
11 any employee hired before the effective date of this act and the
12 employee shall be eligible to use the earned sick leave beginning on
13 the 90th day after the hiring of the employee, and if hired after the
14 effective date of this act, the earned sick leave shall begin to accrue
15 upon the date of hire and the employee shall be eligible to use the
16 earned sick leave beginning on the 90th day after the hiring of the
17 employee, unless the employer agrees to an earlier date. The
18 employee may use earned sick leave as it is accrued.

19 b. An employer shall be in compliance with this section if the
20 employer offers any other fully paid leave that may be used for the
21 purposes of section 3 of this act in the manner provided by this act,
22 and is accrued at a rate equal to or greater than the rate described in
23 this section.

24 c. The employer shall pay the employee for earned sick leave
25 at the same rate of pay with the same benefits as the employee
26 normally earns, except that the pay rate shall not be less than the
27 minimum wage required for the employee pursuant to section 5 of
28 P.L.1966, c.113 (C.34:11-56a4).

29 d. Upon the mutual consent of the employee and employer, an
30 employee may voluntarily choose to work additional hours or shifts
31 during the same or following pay period, in lieu of hours or shifts
32 missed, but shall not be required to use accrued earned sick leave.
33 An employer may not require, as a condition of an employee's using
34 earned sick leave, that the employee search for or find a
35 replacement worker to cover the hours during which the employee
36 is using earned sick leave.

37 e. If an employee is transferred to a separate division, entity, or
38 location, but remains employed by the same employer, then the
39 employee shall be entitled to all earned sick leave accrued at the
40 prior division, entity, or location, and shall be entitled to use the
41 accrued earned sick leave as provided in this act. If an employee is
42 terminated, laid off, furloughed, or otherwise separated from
43 employment with the employer, any unused accrued earned sick
44 leave shall be reinstated upon the re-hiring or reinstatement of the
45 employee to that employment, within six months of termination,
46 being laid off or furloughed, or separation, and prior employment
47 with the employer shall be counted towards meeting the eligibility
48 requirements set forth in this section.

- 1 3. a. An employer shall permit an employee to use the earned
2 sick leave accrued pursuant to this act for any of the following:
- 3 (1) Time needed for diagnosis, care, or treatment of, or recovery
4 from, an employee's mental or physical illness, injury or other
5 adverse health condition, or for preventive medical care for the
6 employee;
- 7 (2) Time needed for the employee to aid or care for a family
8 member of the employee during diagnosis, care, or treatment of, or
9 recovery from, the family member's mental or physical illness,
10 injury or other adverse health condition, or during preventive
11 medical care for the family member;
- 12 (3) Absence necessary due to circumstances resulting from the
13 employee, or a family member of the employee, being a victim of
14 domestic or sexual violence, if the leave is to allow the employee to
15 obtain for the employee or the family member: medical attention
16 needed to recover from physical or psychological injury or
17 disability caused by domestic or sexual violence; services from a
18 designated domestic violence agency or other victim services
19 organization; psychological or other counseling; relocation; or legal
20 services, including obtaining a restraining order or preparing for, or
21 participating in, any civil or criminal legal proceeding related to the
22 domestic or sexual violence; or
- 23 (4) Time during which the employee is not able to work because
24 of a closure of the employee's workplace, or the school or place of
25 care of a child of the employee, by order of a public official due to
26 an epidemic or other public health emergency, or because of the
27 issuance by a public health authority of a determination that the
28 presence in the community of the employee, or a member of the
29 employee's family in need of care by the employee, would
30 jeopardize the health of others.
- 31 b. If an employee's need to use earned sick leave is foreseeable,
32 an employer may require advance notice, not to exceed seven days
33 prior to the date the leave is to begin, of the intention to use the
34 leave and its expected duration, and shall make a reasonable effort
35 to schedule the use of earned sick leave in a manner that does not
36 unduly disrupt the operations of the employer. If the reason for the
37 leave is not foreseeable, an employer may require an employee to
38 give notice of the intention as soon as practicable. For earned sick
39 leave of three or more consecutive days, an employer may require
40 reasonable documentation that the leave is being taken for the
41 purpose permitted under subsection a. of this section. If the leave is
42 permitted under paragraph (1) or (2) of subsection a. of this section,
43 documentation signed by a health care professional who is treating
44 the employee or the family member of the employee indicating the
45 need for the leave and, if possible, number of days of leave, shall be
46 considered reasonable documentation. If the leave is permitted
47 under paragraph (3) of subsection a. of this section because of
48 domestic or sexual violence, any of the following shall be

1 considered reasonable documentation of the domestic or sexual
2 violence: medical documentation; a law enforcement agency record
3 or report; a court order; documentation that the perpetrator of the
4 domestic or sexual violence has been convicted of a domestic or
5 sexual violence offense; certification from a certified Domestic
6 Violence Specialist or a representative of a designated domestic
7 violence agency or other victim services organization; or other
8 documentation or certification provided by a social worker,
9 counselor, member of the clergy, shelter worker, health care
10 professional, attorney, or other professional who has assisted the
11 employee or family member in dealing with the domestic or sexual
12 violence. If the leave is permitted under paragraph (4) of
13 subsection a. of this section, a copy of the order of the public
14 official or the determination by the health authority shall be
15 considered reasonable documentation. An employer who chooses to
16 require documentation for earned sick leave shall pay all out-of-
17 pocket expenses the employee incurs to obtain the documentation.

18 c. Nothing in this act shall be deemed to require an employer to
19 provide earned sick leave for an employee's leave for purposes
20 other than those identified in this section, or prohibit the employer
21 from taking disciplinary action against an employee who uses
22 earned sick leave for purposes other than those identified in this
23 section. An employer may provide an offer to an employee for a
24 payment of unused earned sick leave in the final month of the
25 employer's benefit year. The employee shall choose, no later than
26 10 calendar days from the date of the employer's offer, whether to
27 accept a payment or decline a payment. If the employee agrees to
28 receive a payment, the employee shall choose a payment for the full
29 amount of unused earned sick leave or for 50 percent of the amount
30 of unused earned sick leave. The payment amount shall be based on
31 the same rate of pay that the employee earns at the time of the
32 payment. If the employee declines a payment for unused earned
33 sick leave, or agrees to a payment for 50 percent of the amount of
34 unused sick leave, the employee shall be entitled to carry forward
35 any unused or unpaid earned sick leave to the proceeding benefit
36 year as provided pursuant to subsection a. of section 2 of this act. If
37 the employee agrees to a payment for the full amount of unused
38 earned sick leave, the employee shall not be entitled to carry
39 forward any earned sick leave to the proceeding benefit year
40 pursuant to subsection a. of section 2 of this act. Unless an
41 employer policy or collective bargaining agreement provides for the
42 payment of accrued earned sick leave upon termination, resignation,
43 retirement or other separation from employment, an employee shall
44 not be entitled under this section to payment of unused earned sick
45 leave upon the separation from employment.

46 d. Any information an employer possesses regarding the health
47 of an employee or any family member of the employee or domestic
48 or sexual violence affecting an employee or employee's family

1 member shall be treated as confidential and not disclosed except to
2 the affected employee or with the written permission of the affected
3 employee.

4
5 4. a. No employer shall take retaliatory personnel action or
6 discriminate against an employee because the employee requests or
7 uses earned sick leave either in accordance with this act or the
8 employer's own earned sick leave policy, as the case may be, or
9 files a complaint with the commissioner alleging the employer's
10 violation of any provision of this act, or informs any other person of
11 their rights under this act. No employer shall count earned sick
12 leave taken under this act as an absence that may result in the
13 employee being subject to discipline, discharge, demotion,
14 suspension, a loss or reduction of pay, or any other adverse action.

15 b. There shall be a rebuttable presumption of an unlawful
16 retaliatory personnel action under this section whenever an
17 employer takes adverse action against an employee within 90 days
18 of when that employee: files a complaint with the department or a
19 court alleging a violation of any provision of this section; informs
20 any person about an employer's alleged violation of this section;
21 cooperates with the department or other persons in the investigation
22 or prosecution of any alleged violation of this section; opposes any
23 policy, practice, or act that is unlawful under this section; or
24 informs any person of his or her rights under this section.

25 c. Protections of this section shall apply to any person who
26 mistakenly but in good faith alleges violations of this act.

27 d. Any violator of the provisions of this section shall be subject
28 to relevant penalties and remedies provided by the "New Jersey
29 State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.),
30 including the penalties and remedies provided by section 25 of that
31 act (C.34:11-56a24) for discharge or other discrimination.

32
33 5. Any failure of an employer to make available or pay earned
34 sick leave as required by this act, or any other violation of this act,
35 shall be regarded as a failure to meet the wage payment
36 requirements of the "New Jersey State Wage and Hour Law,"
37 P.L.1966, c.113 (C.34:11-56a et seq.), or other violation of that act,
38 as the case may be, and all remedies, penalties or other measures
39 provided by that act for failure to pay wages or other violations of
40 that act shall be applicable, including, but not limited to, penalties
41 provided pursuant to sections 23 and 25 of that act (C.34:11-56a22
42 and 34:11-56a24), and civil actions by employees pursuant to
43 section 26 of that act (C.34:11-56a25), except that an award to an
44 employee in a civil act shall include, in addition to the amount
45 provided pursuant to section 26 of that act (C.34:11-56a25), any
46 actual damages suffered by the employee as the result of the
47 violation plus an equal amount of liquidated damages.

1 6. Employers shall retain records documenting hours worked
2 by employees and earned sick leave taken by employees, for a
3 period of five years, and shall, upon demand, allow the department
4 access to those records to monitor compliance with the
5 requirements of this act. If an employee makes a claim that the
6 employer has failed to provide earned sick leave required by this act
7 and the employer has not maintained or retained adequate records
8 documenting hours worked by the employee and earned sick leave
9 taken by the employee or does not allow the department access to
10 the records, it shall be presumed that the employer has failed to
11 provide the earned sick leave, absent clear and convincing evidence
12 otherwise. In addition, the penalties provided by the “New Jersey
13 State Wage and Hour Law,” P.L.1966, c.113 (C.34:11-56a et seq.)
14 for violations of the requirements of that act regarding the
15 maintaining and disclosure of records shall apply to violations of
16 the requirements of this section.

17
18 7. a. Employers shall provide notification, in a form issued by
19 the commissioner, to employees of their rights under this act,
20 including the amount of earned sick leave to which they are entitled
21 and the terms of its use, and remedies provided by this act to
22 employees if an employer fails to provide the required benefits or
23 retaliates against employees exercising their rights under this act.
24 Each covered employer shall conspicuously post the notification in
25 a place or places accessible to all employees in each of the
26 employer's workplaces. The employer shall also provide each
27 employee employed by the employer with a written copy of the
28 notification: not later than 30 days after the form of the notification
29 is issued; at the time of the employee's hiring, if the employee is
30 hired after the issuance; and at any time, when first requested by the
31 employee. The commissioner shall make the notifications available
32 in English, in Spanish, and any other language that the
33 commissioner determines is the first language of a significant
34 number of workers in the State and the employer shall use the
35 notification in English, Spanish or any other language for which the
36 commissioner has provided notifications and which is the first
37 language of a majority of the employer's workforce.

38 b. The commissioner shall advise any employee who files a
39 complaint pursuant to this section and is covered by a collective
40 bargaining agreement, that if the agreement provides for earned sick
41 leave, the employee may have a right to pursue a grievance under
42 the terms of the agreement.

43
44 8. a. This act provides minimum requirements pertaining to
45 earned sick leave and shall not be construed to preempt, limit, or
46 otherwise affect the applicability of any other federal, State or local
47 law, ordinance, regulation, requirement, policy, or standard that
48 provides rights or benefits to employees which are more favorable

1 to employees than those required by this act or which provide rights
2 or benefits to employees not covered by this act.

3 b. No provision of this act, or any regulations promulgated to
4 implement or enforce this act, shall be construed as:

5 (1) Requiring an employer to reduce, or justifying an employer
6 in reducing, rights or benefits provided by the employer pursuant to
7 an employer policy or collective bargaining agreement which are
8 more favorable to employees than those required by this act or
9 which provide rights or benefits to employees not covered by this
10 act;

11 (2) Preventing or prohibiting the employer from agreeing,
12 through a collective bargaining agreement or employer policy, to
13 provide rights or benefits which are more favorable to employees
14 than those required by this act or to provide rights or benefits to
15 employees not covered by this act;

16 (3) Prohibiting an employer from establishing a policy whereby
17 an employee may donate unused accrued earned sick leave to
18 another employee or other employees; or

19 (4) Superseding any law providing collective bargaining rights
20 for employees, or in any way reducing, diminishing, or adversely
21 affecting those collective bargaining rights, or in any way reducing,
22 diminishing, or affecting the obligations of employers under those
23 laws.

24 c. With respect to employees covered by a collective
25 bargaining agreement in effect at the time of the effective date of
26 this act, no provision of this act shall apply until the expiration of
27 the collective bargaining agreement.

28

29 9. The commissioner shall adopt rules and regulations pursuant
30 to the "Administrative Procedure Act," P.L.1968, c.410 (C. 52:14B-
31 1 et seq.) to effectuate the purposes of this act.

32

33 10. This act shall take effect on the 120th day following
34 enactment.

35

36

37

STATEMENT

38

39 This bill requires each employer to provide earned sick leave to
40 each employee it employs in the State, except for construction
41 employees that are under contract pursuant to a collective bargaining
42 agreement. The employee accrues one hour of earned sick leave for
43 every 30 hours worked. The employer is not required to permit the
44 employee to accrue at any one time, or carry forward from one year to
45 the next, more than 40 hours of earned sick leave if the employer has
46 less than 10 employees in the State, or more than 72 hours of earned
47 sick leave if the employer has 10 or more employees. Unless the
48 employee accrued earned sick leave with the employer before the

1 effective date of the bill, for an employee hired prior to the effective
2 date of the bill, the leave accrues beginning on that date and the
3 employee may use the leave beginning on the 90th day after the
4 employee is hired, and for an employee hired after the effective date of
5 the bill, the leave accrues beginning on the date of hire and the
6 employee may use the leave beginning on the 90th day after the
7 employee is hired, unless the employer agrees to an earlier date.

8 The bill provides that an employer is in compliance with the
9 requirements of the bill with respect to providing earned sick leave if
10 the employer offers any other fully paid leave that may be used for the
11 same purposes provided by the bill in the same manner provided by
12 the bill, and is accrued at a rate equal to or greater than the rate
13 required by the bill. The employer is required to pay the employee for
14 earned sick leave at the same rate of pay with the same benefits as the
15 employee normally earns, except that the pay rate may not be less than
16 the State minimum wage. If an employee is transferred to a separate
17 division, entity, or location, but remains employed by the same
18 employer, the employee is entitled to retain and use all earned sick
19 leave accrued at the prior division, entity, or location.

20 Earned sick leave may be used for:

21 1. Time needed for diagnosis, care, or treatment of, or recovery
22 from, an employee's mental or physical illness, injury or other adverse
23 health condition, or for preventive medical care for the employee;

24 2. Time needed for the employee to care for a family member
25 during diagnosis, care, or treatment of, or recovery from, the family
26 member's mental or physical illness, injury or other adverse health
27 condition, or preventive medical care for the family member; or

28 3. Absence needed due to circumstances resulting from the
29 employee or a family member being a victim of domestic or sexual
30 violence, if the leave is to obtain medical attention, counseling,
31 relocation, legal or other services.

32 The bill prohibits retaliatory personnel actions against an employee
33 for the use or requested use of earned sick leave or for filing of a
34 complaint for an employer violation. The bill sets requirements for
35 record keeping and for notifying workers of their rights under the bill.
36 It provides for penalties and other remedies for non-compliance with
37 the requirements of the bill, based on the penalties and remedies for
38 non-compliance with the "New Jersey State Wage and Hour Law,"
39 P.L.1966, c.113 (C.34:11-56a et seq.).

40 The bill specifies that it is intended to set minimum standards for
41 earned sick leave, but not to prevent any employer policies, collective
42 bargaining agreements or other laws or ordinances which set higher
43 standards. With respect to employees covered by a collective
44 bargaining agreement in effect at the time of the effective date of the
45 bill, no provision of the bill will apply until the expiration of the
46 collective bargaining agreement.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 1827

STATE OF NEW JERSEY

DATED: MARCH 12, 2018

The Assembly Labor Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 1827.

This bill, a committee substitute for Assembly Bill No. 1827, requires each employer to provide earned sick leave to each employee it employs in the State. The bill provides that an employee accrues one hour of earned sick leave for every 30 hours worked. The employer is not required to permit the employee to accrue or use in any benefit year, or carry forward from one year to the next, more than 40 hours of earned sick leave. Accrual begins on the effective date of the bill for any employee who commenced employment, but had not accrued leave, before the effective date, and the employee may use the earned sick leave beginning on the 120th day after employment commenced. If employment commences after the effective date, the accrual of earned sick leave will begin when employment commences and the employee may use the earned sick leave beginning on the 120th day after employment commences, unless the employer agrees to an earlier date. The employee may subsequently use earned sick leave as soon as it is accrued.

The bill provides that employers may choose the increments in which their employees may use earned sick leave, provided that the largest increment of earned sick leave that an employee may be required to use for each shift for which earned sick leave is used shall be the number of hours the employee was scheduled to work during that shift.

The employer is required to pay the employee for earned sick leave at the same rate of pay, and with the same benefits, as the employee normally earns. Earned sick leave may be used for:

1. time needed for diagnosis, care, or treatment of, or recovery from, an employee's mental or physical illness, injury or other adverse health condition, or for preventive medical care for the employee;
2. time needed for the employee to care for a family member during diagnosis, care, or treatment of, or recovery from, the family member's mental or physical illness, injury or other adverse health condition, or preventive medical care for the family member;
3. absence needed due to circumstances resulting from the employee or a family member being a victim of domestic or sexual

violence, if the leave is to obtain medical attention, counseling, relocation, legal or other services; or

4. time during which the employee is not able to work because of a closure of the employee's workplace, or the school or place of care of a child of the employee, in connection with an epidemic or other public health emergency, or because of an official determination that the presence in the community of the employee, or a member of the employee's family, would jeopardize the health of others; or

5. time needed by the employee in connection with a child of the employee to attend a school-related conference, meeting, or event requested or required by a school official or responsible professional staff member, or to attend a meeting regarding care for the child.

An employer is in compliance with the bill if the employer offers paid time off, which is fully paid and may include, but is not limited to personal days, vacation days, and sick days, and may be used for the purposes of the bill, and is accrued at a rate equal to or greater than the rate described in the bill.

The bill permits employers to require employees to provide advanced notice of up to seven days prior to leave when the need to take the leave is foreseeable, and to make a reasonable effort to schedule the leave in a non-disruptive manner. The bill permits an employer to require reasonable documentation of the need for the leave if it is for three or more consecutive days, and provides guidelines for what constitutes reasonable documentation for specified reasons for leave.

Under the bill, employers may prohibit employees from using foreseeable earned sick leave from being used on certain dates, and require reasonable documentation if sick leave that is not foreseeable is used during those dates.

The bill permits an employer to offer payment to an employee for unused earned sick leave in the final month of the benefit year, which the employee may accept or decline. If the employee declines a payment for unused earned sick leave, or agrees to a partial payment, the employee may have the unused leave carried forward to the following year. If the employee accepts the full payment, the entire accrual for the following year must be made available at the beginning of that year.

The bill prohibits retaliatory personnel actions against an employee for the use or requested use of earned sick leave or for filing of a complaint for an employer violation. The bill sets requirements for record keeping and for notifying workers of their rights under the bill. In cases of employer non-compliance with the requirements of the bill, including the requirements regarding retaliation, record keeping, and notification to employee of their rights, the bill provides certain penalties based on the penalties for non-compliance with State laws regarding the payment of wages, including the "New Jersey State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.).

The bill prohibits counties and municipalities, after the effective date of the bill, from setting new requirements regarding earned sick leave and preempts existing local requirements.

The bill directs the Commissioner of Labor and Workforce Development to implement a multilingual outreach program to inform employees, parents, and persons under the care of health care providers about the availability of earned paid sick leave, and allocate not less than \$500,000 to the program from the administration account of State disability benefit fund.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 1827

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 22, 2018

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1827 ACS, with committee amendments.

As amended, this substitute bill requires employers to provide earned sick leave to employees that they employ in the State. The bill provides that an employee accrues one hour of earned sick leave for every 30 hours worked. The bill requires an employer to pay its employees for earned sick leave at the same rate of pay, and with the same benefits, as the employee normally earns.

The employer is not required to permit the employee to accrue or use in any benefit year, or carry forward from one year to the next, more than 40 hours of earned sick leave. Accrual pursuant to this bill begins on the effective date of the bill for employees who commenced employment prior to the effective date. If employment commences after the effective date, the accrual of earned sick leave will begin when employment commences. An employee may use the earned sick leave beginning on the 120th day after employment commences, unless the employer agrees to an earlier date. The employee may subsequently use earned sick leave as soon as it is accrued.

Under the bill, an employee may use earned sick leave:

1. for diagnosis, care, treatment, or recovery related to the employee's illness;
2. to care for a family member during diagnosis, care, treatment, or recovery related to the family member's illness;
3. for certain absences resulting from the employee or a family member being a victim of domestic or sexual violence;
4. for time during which the employee is not able to work because of a closure of the employee's workplace, or the school or place of care of a child of the employee, in connection with a public health emergency or a determination that the presence of the employee or child in the community would jeopardize the health of others; or
5. to attend a school-related conferences, meetings, or events, or to attend other meetings regarding care for the employee's child.

The bill permits an employer to require reasonable documentation of the need for the use of sick leave if the leave is for three or more

consecutive days. Under the bill, employers may prohibit employees from using foreseeable earned sick leave on certain dates, and require reasonable documentation if employees use sick leave that is not foreseeable during those dates.

The bill permits an employer to offer payment to an employee for unused earned sick leave in the final month of the benefit year, which the employee may accept or decline. If the employee declines a payment for unused earned sick leave, or agrees to a partial payment, the employee may have the unused leave carried forward to the following year. If the employee accepts the full payment, the employer must make the entire accrual for the following year available to that employee at the beginning of that year.

The bill prohibits retaliatory personnel actions against an employee for the use or requested use of earned sick leave or for filing a complaint for an employer violation of the provisions of this substitute. The bill sets requirements for record keeping and for notifying workers of their rights under the substitute. The bill prohibits counties and municipalities, after the effective date of the bill, from adopting new requirements regarding earned sick leave and preempts existing local requirements.

Finally, the bill directs the Commissioner of Labor and Workforce Development to implement a multilingual outreach program to inform employees, parents, and persons under the care of health care providers about the availability of earned paid sick leave, and allocates not less than \$500,000 to the program from the administration account of the State disability benefit fund.

COMMITTEE AMENDMENTS:

The committee amendments:

(1) Exempt from the provisions of the bill public employers and employees that provide or receive sick leave with full pay pursuant to another law, rule, or regulation of this State.

(2) Permit employee representatives to waive the rights or benefits provided under the bill during the negotiation of a collective bargaining agreement.

(3) Replace the term per diem hospital employee with the term per diem health care employee, which the bill defines. Per diem health care employees are exempt from the requirements of the bill.

(4) Provide that when a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all of the earned sick leave they accrued when employed by the original employer, and are entitled to use the earned sick leave previously accrued immediately.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the substitute bill, as amended, will result in an indeterminate annual State revenue increase due to the collection of penalties resulting from violations of the provisions of the bill.

The bill will result in an indeterminate, likely insignificant, annual increase in State administrative expenditures tied to Department of Labor and Workforce Development's implementation of notifications to employees of their rights in English, Spanish, and any other language that the commissioner determines is the first language of a significant number of workers in the State.

The OLS also estimates that the bill will result in an annual increase in State administrative expenditures of not less than \$500,000 from the administration account of the State disability benefit fund to pay for the program. The increase in expenditures would be owed to the commissioner's requirement under the bill to develop and implement a multilingual outreach program to inform employees, parents, and persons under the care of health care providers about the availability of earned paid sick leave.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 1827

STATE OF NEW JERSEY

DATED: APRIL 5, 2018

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 1827 ACS (1R).

This bill requires employers to provide earned sick leave to employees that they employ in the State. The bill provides that an employee accrues one hour of earned sick leave for every 30 hours worked and requires an employer to pay its employees for earned sick leave at the same rate of pay, and with the same benefits, as the employee normally earns.

The employer is not required to permit the employee to accrue or use in any benefit year, or carry forward from one year to the next, more than 40 hours of earned sick leave. Accrual pursuant to this bill begins on the effective date of the bill for employees who commenced employment prior to the effective date. If employment commences after the effective date, the accrual of earned sick leave will begin when employment commences. An employee may use the earned sick leave beginning on the 120th day after employment commences, unless the employer agrees to an earlier date. The employee may subsequently use earned sick leave as soon as it is accrued.

Under the bill, an employee may use earned sick leave:

1. for diagnosis, care, treatment, or recovery related to the employee's illness;
2. to care for a family member during diagnosis, care, treatment, or recovery related to a family member's illness;
3. for certain absences resulting from the employee or a family member being a victim of domestic or sexual violence;
4. for time during which the employee is not able to work because of a closure of the employee's workplace, or the school or place of care of a child of the employee, in connection with a public health emergency or a determination that the presence of the employee or child in the community would jeopardize the health of others; or
5. to attend school-related conferences, meetings, or events, or to attend other meetings regarding care for the employee's child.

The bill permits an employer to require reasonable documentation if the leave is for three or more consecutive days. Employers may prohibit employees from using foreseeable earned sick leave on certain

dates and require reasonable documentation if employees use sick leave that is not foreseeable during those dates.

The bill permits an employer to offer payment to an employee for unused earned sick leave in the final month of the benefit year. If the employee declines a payment for unused earned sick leave, or agrees to a partial payment, the employee may have the unused leave carried forward to the following year. If the employee accepts the full payment, the employer must make the entire accrual for the following year available to that employee at the beginning of that year.

Public employers who provide sick leave pursuant to another law of the State are exempt from this bill. Likewise, employee representatives may waive benefits afforded per this bill during the negotiation of a collective bargaining agreement.

The bill prohibits retaliatory actions against an employee for the use or requested use of earned sick leave or for filing a complaint for an employer violation of the provisions of this bill. Commencing after the effective date of the bill, counties and municipalities are prohibited from adopting new requirements regarding earned sick leave, and the provisions of the bill preempt existing local requirements.

Finally, the bill directs the Commissioner of Labor and Workforce Development to implement a multilingual outreach program to inform employees, parents, and persons under the care of health care providers about the availability of earned paid sick leave, and requires the commissioner to allocate not less than \$500,000 to the program from the administration account of the State disability benefit fund.

As reported, this bill is identical to Senate Bill No. 2171 (SCS), as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the substitute bill, as amended, will result in an indeterminate annual State revenue increase due to the collection of penalties resulting from violations of the provisions of the bill.

The bill will result in an indeterminate, likely insignificant, annual increase in State administrative expenditures tied to Department of Labor and Workforce Development's implementation of notifications to employees of their rights in English, Spanish, and any other language that the commissioner determines is the first language of a significant number of workers in the State.

The OLS also estimates that the bill will result in an annual increase in State administrative expenditures of not less than \$500,000 from the administration account of the State disability benefit fund to pay for the program. The increase in expenditures would be owed to the commissioner's requirement under the bill to develop and implement a multilingual outreach program to inform employees, parents, and persons under the care of health care providers about the availability of earned paid sick leave.

LEGISLATIVE FISCAL ESTIMATE
[First Reprint]
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1827
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: APRIL 16, 2018

SUMMARY

- Synopsis:** Concerns earned sick leave to employees.
- Type of Impact:** State Revenue Increase and State Expenditure Increase, General Fund. State Expenditure Increase, State Disability Benefits Fund, Potential State and Local Cost Increase.
- Agencies Affected:** Department of Labor and Workforce Development (DOLWD)

Office of Legislative Services Estimate

Fiscal Impact	
State Revenue Increase	Indeterminate
State Expenditure Increase	Indeterminate
Potential State and Local Expenditures Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill will result in an indeterminate annual State revenue increase, due to the collection of penalties resulting from violations of the provisions of the bill.
- The bill will result in an indeterminate, likely insignificant, annual increase in State administrative expenditures tied to DOLWD's implementation of notifications to employees of their rights.
- The OLS also estimates that the bill will result in an annual increase in State administrative expenditures of not less than \$500,000 from the administration account of the State disability benefit fund to pay for the program.
- The OLS notes that the enactment of the bill may result in an increase in expenditures to:
 - local entities, to the extent that they do not provide or provide less favorable earned sick leave benefits to their employees; and

- the State and local entities who contract with contractors, to the extent that contractors who do not provide or provide less favorable earned sick leave benefits to their employees, and to the extent that the costs of these contracts may increase.

BILL DESCRIPTION

The bill requires each employer to provide earned sick leave to each employee it employs in the State. The bill prohibits retaliatory personnel actions against an employee for the use or requested use of earned sick leave or for filing of a complaint for an employer violation. The bill sets requirements for record keeping and for notifying workers of their rights. In cases of employer non-compliance with the requirements of the bill, including the requirements regarding retaliation, record keeping, and notification to employee of their rights, the bill provides certain penalties based on non-compliance with State laws regarding the payment of wages, including the “New Jersey State Wage and Hour Law,” P.L.1966, c.113 (C.34:11-56a et seq.).

The bill requires the employer to provide notification, in a form provided by the Commissioner of Labor and Workforce Development, to employees of their rights including, among others, the amount of earned sick leave to which they are entitled and the terms of its use. The commissioner is required to make these notifications available in English, Spanish, and any other language the commissioner determines is the first language of a significant number of workers in the State.

The provisions of the bill would preempt any county or municipal ordinance, resolution, law, rule, or regulation regarding earned sick leave. The bill sets a minimum standard for earned sick leave, but does not prevent any employer policy, collective bargaining agreement, or other law or ordinance which sets a higher standard. Under the bill, public employers are exempt from the provisions of the bill if they are required to provide their employees with sick leave with full pay pursuant to any other law, rule or regulation of this State.

The bill directs the commissioner to implement a multilingual outreach program to inform employees, parents, and persons under the care of health care providers about the availability of earned paid sick leave, and allocate not less than \$500,000 to the program from the administration account of State disability benefit fund.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill will result in an indeterminate annual State revenue increase, due to the collection of penalties resulting from violations of the provisions of the bill.

The bill will result in an indeterminate, likely insignificant, annual increase in State administrative expenditures tied to DOLWD’s implementation of notifications to employees of their rights in English, Spanish, and any other language that the commissioner determines is the first language of a significant number of workers in the State.

The OLS also estimates that the bill will result in an annual increase in State administrative expenditures of not less than \$500,000 from the administration account of the State disability benefit fund to pay for the program. The increase in expenditures would be due to the requirement under the bill that the commissioner develop and implement a multilingual outreach program to inform employees, parents, and persons under the care of health care providers about the availability of earned paid sick leave.

The OLS notes that public employers would not be subject to the provisions of the bill to the extent that the employer provides its employees sick leave with full pay pursuant to any other law, rule or regulation of this State. However, the enactment of the bill may result in an increase in expenditures to local entities, to the extent that they do not provide or provide less favorable earned sick leave benefits to their employees than those required pursuant to the bill.

The bill may also result in an increase in expenditures to the State and local entities who contract contractors, to the extent that contractors who do not provide or provide less favorable earned sick leave benefits to their employees will have an increased cost in their employee benefits, which in turn may increase costs of those contracts to the State or local entities.

Section: *Commerce, Labor and Industry*

Analyst: *Juan C. Rodriguez*
 Associate Fiscal Analyst

Approved: *Frank W. Haines III*
 Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 2171

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED MARCH 5, 2018

Sponsored by:

Senator LORETTA WEINBERG
District 37 (Bergen)

Co-Sponsored by:

Senator Greenstein

SYNOPSIS

Requires certain employers provide earned sick leave to employees.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/27/2018)

S2171 WEINBERG

2

1 AN ACT concerning earned sick leave and supplementing P.L.1966,
2 c.113 (C.34:11-56a et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. For the purposes of this act:

8 "Benefit year" means the period of 12 consecutive months
9 established by an employer in which an employee shall accrue and use
10 earned sick leave as provided pursuant to section 2 of this act,
11 provided that once the starting date of the benefit year is established by
12 the employer it shall not be changed unless the employer notifies the
13 commissioner of the change in accordance with regulations
14 promulgated pursuant to this act. The commissioner shall impose a
15 benefit year on any employer that the commissioner determines is
16 changing the benefit year at times or in ways that prevent the accrual
17 or use of earned sick leave by an employee.

18 "Certified Domestic Violence Specialist" means a person who has
19 fulfilled the requirements of certification as a Domestic Violence
20 Specialist established by the New Jersey Association of Domestic
21 Violence Professionals.

22 "Child" means a biological, adopted, or foster child, stepchild or
23 legal ward of an employee, child of a domestic partner or civil union
24 partner of the employee.

25 "Civil union" means a civil union as defined in section 2 of
26 P.L.2006, c.103 (C.37:1-29).

27 "Commissioner" means the Commissioner of Labor and
28 Workforce Development.

29 "Department" means the Department of Labor and Workforce
30 Development.

31 "Designated domestic violence agency" means a county-wide
32 organization with a primary purpose to provide services to victims of
33 domestic violence, and which provides services that conform to the
34 core domestic violence services profile as defined by the Division of
35 Child Protection and Permanency in the Department of Children and
36 Families and is under contract with the division for the express
37 purpose of providing the services.

38 "Domestic or sexual violence" means stalking, any sexually violent
39 offense, as defined in section 3 of P.L.1998, c.71 (C.30:4-27.26), or
40 domestic violence as defined in section 3 of P.L.1991, c.261 (C.2C:25-
41 19) and section 1 of P.L.2003, c.41 (C.17:29B-16).

42 "Domestic partner" means a domestic partner as defined in section
43 3 of P.L.2003, c.246 (C.26:8A-3).

44 "Employee" means an individual engaged in service to an
45 employer in the business of the employer for compensation.
46 "Employee" does not include an employee performing service in the
47 construction industry that is under contract pursuant to a collective
48 bargaining agreement.

S2171 WEINBERG

1 "Employer" means any person, firm, business, educational
2 institution, nonprofit agency, corporation, limited liability company or
3 other entity that employs employees in the State, including a
4 temporary help service firm. In the case of a temporary help service
5 firm placing an employee with client firms, earned sick leave shall
6 accrue on the basis of the total time worked on assignment with the
7 temporary help service firm, not separately for each client firm to
8 which the employee is assigned.

9 "Family member" means a child, grandchild, sibling, spouse,
10 domestic partner, civil union partner, parent, or grandparent of an
11 employee, or a spouse, domestic partner, or civil union partner of a
12 parent or grandparent of the employee, or a sibling of a spouse,
13 domestic partner, or civil union partner of the employee, or any other
14 individual related by blood to the employee or whose close
15 association with the employee is the equivalent of a family
16 relationship.

17 "Health care professional" means any person licensed under
18 federal, State, or local law, or the laws of a foreign nation, to provide
19 health care services, or any other person who has been authorized to
20 provide health care by a licensed health care professional, including
21 but not limited to doctors, nurses and emergency room personnel.

22 "Parent" means a biological, adoptive, or foster parent, stepparent,
23 or legal guardian of an employee or of the employee's spouse,
24 domestic partner, or civil union partner, or a person who stood in loco
25 parentis of the employee or the employee's spouse, domestic partner,
26 or civil union partner when the employee, spouse or partner was a
27 minor child.

28 "Retaliatory personnel action" means denial of any right
29 guaranteed under this act and any threat, discharge, including a
30 constructive discharge, suspension, demotion, unfavorable
31 reassignment, refusal to promote, disciplinary action, sanction,
32 reduction of work hours, reporting or threatening to report the actual or
33 suspected immigrant status of an employee or the employee's family,
34 or any other adverse action against an employee.

35 "Sibling" means a biological, foster, or adopted sibling of an
36 employee.

37 "Spouse" means a husband or wife.

38

39 2. a. Each employer shall provide earned sick leave to each
40 employee working for the employer in the State. For every 30 hours
41 worked, the employee shall accrue one hour of earned sick leave,
42 except that an employer may provide an employee with the full
43 complement of earned sick leave for a benefit year, as required under
44 this section, on the first day of each benefit year in accordance with
45 subsection c. or subsection d. of section 3 of this act. The employer
46 shall not be required to permit the employee to accrue at any one time,
47 or carry forward from one benefit year to the next, more than 72 hours
48 of earned sick leave. Unless the employee has accrued earned sick

S2171 WEINBERG

1 leave prior to the effective date of this act, the earned sick leave shall
2 begin to accrue on the effective date of this act for any employee who
3 is hired and commences employment before the effective date of this
4 act and the employee shall be eligible to use the earned sick leave
5 beginning on the 100th calendar day after the employee commences
6 employment, and if the employment commences after the effective
7 date of this act, the earned sick leave shall begin to accrue upon the
8 date that employment commences and the employee shall be eligible
9 to use the earned sick leave beginning on the 100th calendar day after
10 the employee commences employment, unless the employer agrees to
11 an earlier date. The employee may subsequently use earned sick leave
12 as soon as it is accrued.

13 b. An employer shall be in compliance with this section if the
14 employer offers paid time off which is fully paid and may be used for
15 the purposes of section 3 of this act in the manner provided by this act,
16 and is accrued at a rate equal to or greater than the rate described in
17 this section.

18 c. The employer shall pay the employee for earned sick leave at
19 the same rate of pay with the same benefits as the employee normally
20 earns, except that the pay rate shall not be less than the minimum wage
21 required for the employee pursuant to section 5 of P.L.1966, c.113
22 (C.34:11-56a4).

23 d. Upon the mutual consent of the employee and employer, an
24 employee may voluntarily choose to work additional hours or shifts
25 during the same or following pay period, in lieu of hours or shifts
26 missed, but shall not be required to work additional hours or shifts or
27 use accrued earned sick leave. An employer may not require, as a
28 condition of an employee's using earned sick leave, that the employee
29 search for or find a replacement worker to cover the hours during
30 which the employee is using earned sick leave.

31 e. If an employee is transferred to a separate division, entity, or
32 location, but remains employed by the same employer, then the
33 employee shall be entitled to all earned sick leave accrued at the prior
34 division, entity, or location, and shall be entitled to use the accrued
35 earned sick leave as provided in this act. If an employee is terminated,
36 laid off, furloughed, or otherwise separated from employment with the
37 employer, any unused accrued earned sick leave shall be reinstated
38 upon the re-hiring or reinstatement of the employee to that
39 employment, within six months of termination, being laid off or
40 furloughed, or separation, and prior employment with the employer
41 shall be counted towards meeting the eligibility requirements set forth
42 in this section.

43

44 3. a. An employer shall permit an employee to use the earned
45 sick leave accrued pursuant to this act for any of the following:

46 (1) time needed for diagnosis, care, or treatment of, or recovery
47 from, an employee's mental or physical illness, injury or other

1 adverse health condition, or for preventive medical care for the
2 employee;

3 (2) time needed for the employee to aid or care for a family
4 member of the employee during diagnosis, care, or treatment of, or
5 recovery from, the family member's mental or physical illness,
6 injury or other adverse health condition, or during preventive
7 medical care for the family member;

8 (3) absence necessary due to circumstances resulting from the
9 employee, or a family member of the employee, being a victim of
10 domestic or sexual violence, if the leave is to allow the employee to
11 obtain for the employee or the family member: medical attention
12 needed to recover from physical or psychological injury or
13 disability caused by domestic or sexual violence; services from a
14 designated domestic violence agency or other victim services
15 organization; psychological or other counseling; relocation; or legal
16 services, including obtaining a restraining order or preparing for, or
17 participating in, any civil or criminal legal proceeding related to the
18 domestic or sexual violence;

19 (4) time during which the employee is not able to work because
20 of a closure of the employee's workplace, or the school or place of
21 care of a child of the employee, by order of a public official due to
22 an epidemic or other public health emergency, or because of the
23 issuance by a public health authority of a determination that the
24 presence in the community of the employee, or a member of the
25 employee's family in need of care by the employee, would
26 jeopardize the health of others; or

27 (5) time needed by the employee in connection with a child of
28 the employee to attend a school-related conference, meeting,
29 function or other event requested or required by a school
30 administrator, teacher, or other professional staff member
31 responsible for the child's education, or to attend a meeting
32 regarding care provided to the child in connection with the child's
33 health conditions or disability.

34 b. If an employee's need to use earned sick leave is foreseeable,
35 an employer may require advance notice, not to exceed seven
36 calendar days prior to the date the leave is to begin, of the intention
37 to use the leave and its expected duration, and shall make a
38 reasonable effort to schedule the use of earned sick leave in a
39 manner that does not unduly disrupt the operations of the employer.
40 If the reason for the leave is not foreseeable, an employer may
41 require an employee to give notice of the intention as soon as
42 practicable, if the employer has notified the employee of this
43 requirement. For earned sick leave of three or more consecutive
44 days, an employer may require reasonable documentation that the
45 leave is being taken for the purpose permitted under subsection a. of
46 this section. If the leave is permitted under paragraph (1) or (2) of
47 subsection a. of this section, documentation signed by a health care
48 professional who is treating the employee or the family member of

1 the employee indicating the need for the leave and, if possible,
2 number of days of leave, shall be considered reasonable
3 documentation. If the leave is permitted under paragraph (3) of
4 subsection a. of this section because of domestic or sexual violence,
5 any of the following shall be considered reasonable documentation
6 of the domestic or sexual violence: medical documentation; a law
7 enforcement agency record or report; a court order; documentation
8 that the perpetrator of the domestic or sexual violence has been
9 convicted of a domestic or sexual violence offense; certification
10 from a certified Domestic Violence Specialist or a representative of
11 a designated domestic violence agency or other victim services
12 organization; or other documentation or certification provided by a
13 social worker, counselor, member of the clergy, shelter worker,
14 health care professional, attorney, or other professional who has
15 assisted the employee or family member in dealing with the
16 domestic or sexual violence. If the leave is permitted under
17 paragraph (4) of subsection a. of this section, a copy of the order of
18 the public official or the determination by the health authority shall
19 be considered reasonable documentation. An employer who chooses
20 to require documentation for earned sick leave shall pay all out-of-
21 pocket expenses the employee incurs to obtain the documentation.

22 c. Nothing in this act shall be deemed to require an employer to
23 provide earned sick leave for an employee's leave for purposes
24 other than those identified in this section, or prohibit the employer
25 from taking disciplinary action against an employee who uses
26 earned sick leave for purposes other than those identified in this
27 section. An employer may provide an offer to an employee for a
28 payment of unused earned sick leave in the final month of the
29 employer's benefit year. The employee shall choose, no later than
30 10 calendar days from the date of the employer's offer, whether to
31 accept a payment or decline a payment. If the employee agrees to
32 receive a payment, the employee shall choose a payment for the full
33 amount of unused earned sick leave or for 50 percent of the amount
34 of unused earned sick leave. The payment amount shall be based on
35 the same rate of pay that the employee earns at the time of the
36 payment. If the employee declines a payment for unused earned
37 sick leave, or agrees to a payment for 50 percent of the amount of
38 unused sick leave, the employee shall be entitled to carry forward
39 any unused or unpaid earned sick leave to the proceeding benefit
40 year as provided pursuant to subsection a. of section 2 of this act. If
41 the employee agrees to a payment for the full amount of unused
42 earned sick leave, the employee shall not be entitled to carry
43 forward any earned sick leave to the proceeding benefit year
44 pursuant to subsection a. of section 2 of this act.

45 d. If an employer foregoes the accrual process for earned sick
46 leave hours pursuant to subsection a. of section 2 of this act and
47 provides an employee with the full complement of earned sick leave
48 for a benefit year on the first day of each benefit year, then the

1 employer shall either provide to the employee a payment for the full
2 amount of unused earned sick leave in the final month of the
3 employer's benefit year or carry forward any unused sick leave to
4 the next benefit year. The employer may pay the employee the full
5 amount of unused earned sick leave in the final month of a benefit
6 year pursuant to this subsection only if the employer forgoes, with
7 respect to that employee, the accrual process for earned sick leave
8 during the next benefit year. Unless an employer policy or
9 collective bargaining agreement provides for the payment of
10 accrued earned sick leave upon termination, resignation, retirement
11 or other separation from employment, an employee shall not be
12 entitled under this section to payment of unused earned sick leave
13 upon the separation from employment.

14 e. Any information an employer possesses regarding the health
15 of an employee or any family member of the employee or domestic
16 or sexual violence affecting an employee or employee's family
17 member shall be treated as confidential and not disclosed except to
18 the affected employee or with the written permission of the affected
19 employee.

20

21 4. a. No employer shall take retaliatory personnel action or
22 discriminate against an employee because the employee requests or
23 uses earned sick leave either in accordance with this act or the
24 employer's own earned sick leave policy, as the case may be, or
25 files a complaint with the commissioner alleging the employer's
26 violation of any provision of this act, or informs any other person of
27 their rights under this act. No employer shall count earned sick
28 leave taken under this act as an absence that may result in the
29 employee being subject to discipline, discharge, demotion,
30 suspension, a loss or reduction of pay, or any other adverse action.

31 b. There shall be a rebuttable presumption of an unlawful
32 retaliatory personnel action under this section whenever an
33 employer takes adverse action against an employee within 90 days
34 of when that employee: files a complaint with the department or a
35 court alleging a violation of any provision of this section; informs
36 any person about an employer's alleged violation of this section;
37 cooperates with the department or other persons in the investigation
38 or prosecution of any alleged violation of this section; opposes any
39 policy, practice, or act that is unlawful under this section; or
40 informs any person of his or her rights under this section.

41 c. Protections of this section shall apply to any person who
42 mistakenly but in good faith alleges violations of this act.

43 d. Any violator of the provisions of this section shall be subject
44 to relevant penalties and remedies provided by the "New Jersey
45 State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.),
46 including the penalties and remedies provided by section 25 of that
47 act (C.34:11-56a24), and relevant penalties and remedies provided

1 by section 10 of P.L.1999, c.90 (C.2C:40A-2), for discharge or
2 other discrimination.

3
4 5. Any failure of an employer to make available or pay earned
5 sick leave as required by this act, or any other violation of this act,
6 shall be regarded as a failure to meet the wage payment
7 requirements of the “New Jersey State Wage and Hour Law,”
8 P.L.1966, c.113 (C.34:11-56a et seq.), or other violation of that act,
9 as the case may be, and remedies, penalties, and other measures
10 provided by that act, R.S.34:11-58, and section 10 of P.L.1999, c.90
11 (C.2C:40A-2) for failure to pay wages or other violations of that act
12 shall be applicable, including, but not limited to, penalties provided
13 pursuant to sections 23 and 25 of that act (C.34:11-56a22 and
14 34:11-56a24), and civil actions by employees pursuant to section 26
15 of that act (C.34:11-56a25), except that an award to an employee in
16 a civil act shall include, in addition to the amount provided pursuant
17 to section 26 of that act (C.34:11-56a25), any actual damages
18 suffered by the employee as the result of the violation plus an equal
19 amount of liquidated damages.

20
21 6. Employers shall retain records documenting hours worked
22 by employees and earned sick leave taken by employees, for a
23 period of five years, and shall, upon demand, allow the department
24 access to those records to monitor compliance with the
25 requirements of this act. If an employee makes a claim that the
26 employer has failed to provide earned sick leave required by this act
27 and the employer has not maintained or retained adequate records
28 documenting hours worked by the employee and earned sick leave
29 taken by the employee or does not allow the department access to
30 the records, it shall be presumed that the employer has failed to
31 provide the earned sick leave, absent clear and convincing evidence
32 otherwise. In addition, the penalties provided by the “New Jersey
33 State Wage and Hour Law,” P.L.1966, c.113 (C.34:11-56a et seq.)
34 for violations of the requirements of that act regarding the
35 maintaining and disclosure of records shall apply to violations of
36 the requirements of this section.

37
38 7. a. Employers shall provide notification, in a form issued by
39 the commissioner, to employees of their rights under this act,
40 including the amount of earned sick leave to which they are entitled
41 and the terms of its use, and remedies provided by this act to
42 employees if an employer fails to provide the required benefits or
43 retaliates against employees exercising their rights under this act.
44 Each covered employer shall conspicuously post the notification in
45 a place or places accessible to all employees in each of the
46 employer's workplaces. The employer shall also provide each
47 employee employed by the employer with a written copy of the
48 notification: not later than 30 days after the form of the notification

1 is issued; at the time of the employee's hiring, if the employee is
2 hired after the issuance; and at any time, when first requested by the
3 employee. The commissioner shall make the notifications available
4 in English, in Spanish, and any other language that the
5 commissioner determines is the first language of a significant
6 number of workers in the State and the employer shall use the
7 notification in English, Spanish or any other language for which the
8 commissioner has provided notifications and which is the first
9 language of a majority of the employer's workforce.

10 b. The commissioner shall advise any employee who files a
11 complaint pursuant to this section and is covered by a collective
12 bargaining agreement, that if the agreement provides for earned sick
13 leave, the employee may have a right to pursue a grievance under
14 the terms of the agreement.

15

16 8. a. The governing body of a county or municipality shall not,
17 after the effective date of this act, adopt any ordinance, resolution,
18 law, rule, or regulation regarding earned sick leave. The provisions
19 of this act shall preempt any ordinance, resolution, law, rule, or
20 regulation regarding earned sick leave unless adopted by the
21 governing body of a county or municipality prior to the effective
22 date of this act. This act shall not be construed to preempt, limit, or
23 otherwise affect the applicability of any provision of an ordinance,
24 resolution, law, rule, or regulation regarding earned sick leave
25 adopted by a county or municipality prior to the effective date of
26 this act that provides rights or benefits to employees which are
27 more favorable to employees than those required by this act or that
28 provides rights or benefits to employees not covered by this act, but
29 shall preempt any provision which is less favorable to employees
30 than is required by this act.

31 b. No provision of this act, or any regulations promulgated to
32 implement or enforce this act, shall be construed as:

33 (1) requiring an employer to reduce, or justifying an employer
34 in reducing, rights or benefits provided by the employer pursuant to
35 an employer policy or collective bargaining agreement which are
36 more favorable to employees than those required by this act or
37 which provide rights or benefits to employees not covered by this
38 act;

39 (2) preventing or prohibiting the employer from agreeing,
40 through a collective bargaining agreement or employer policy, to
41 provide rights or benefits which are more favorable to employees
42 than those required by this act or to provide rights or benefits to
43 employees not covered by this act;

44 (3) prohibiting an employer from establishing a policy whereby
45 an employee may donate unused accrued earned sick leave to
46 another employee or other employees; or

47 (4) superseding any law providing collective bargaining rights
48 for employees, or in any way reducing, diminishing, or adversely

1 affecting those collective bargaining rights, or in any way reducing,
2 diminishing, or affecting the obligations of employers under those
3 laws.

4 c. With respect to employees covered by a collective
5 bargaining agreement in effect at the time of the effective date of
6 this act, no provision of this act shall apply until the stated
7 expiration of the collective bargaining agreement.

8 d. This act shall not be construed to preempt, limit, or
9 otherwise affect the applicability of any provision of any State law
10 or regulation regarding earned sick leave for employees of public
11 employers that provides rights or benefits to employees which are
12 more favorable to employees than those required by this act or that
13 provides rights or benefits not covered by this act, but shall
14 supersede any provision of any State law or regulation which is less
15 favorable to the employees than what is required by this act,
16 notwithstanding the provisions of those other laws or regulations.

17

18 9. The provisions of this act shall be deemed to be severable
19 and if any section, subsection, paragraph, sentence or other part of
20 this act is declared to be unconstitutional, or the applicability
21 thereof to any person is held invalid, the remainder of this act shall
22 not thereby be deemed to be unconstitutional or invalid.

23

24 10. The commissioner shall develop and implement a
25 multilingual outreach program to inform employees, parents, and
26 persons under the care of health care providers about the
27 availability of earned paid sick leave pursuant to this act. The
28 program shall include the distribution of written materials in
29 English, Spanish and any language that is the primary language of
30 10 percent or more of the registered voters in the State to all child
31 care and elder care providers, domestic violence shelters, schools,
32 hospitals, community health centers and other healthcare providers.
33 The commissioner shall, during each calendar year, allocate not less
34 than \$500,000 to the program, which shall be regarded as a cost of
35 administration of temporary disability and family temporary
36 disability benefits and be charged to the administration account of
37 State disability benefit fund, except that the allocation made
38 pursuant to this subsection shall not result in the total amount
39 credited to administrative costs exceeding the maximum amount
40 permitted pursuant to subsection (a) of section 22 of P.L.1948,
41 c.110 (C.43:21-46).

42

43 11. The commissioner shall adopt rules and regulations pursuant
44 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
45 1 et seq.) to effectuate the purposes of this act.

46

47 12. This act shall take effect on the 120th day following
48 enactment.

STATEMENT

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This bill requires each employer to provide earned sick leave to each employee it employs in the State. The bill provides that an employee accrues one hour of earned sick leave for every 30 hours worked. The employer is not required to permit the employee to accrue at any one time, or carry forward from one year to the next, more than 72 hours of earned sick leave. Accrual begins on the effective date of the bill for any employee who commenced employment, but had not accrued leave, before the effective date, and the employee may use the earned sick leave beginning on the 100th day after employment commenced. If employment commences after the effective date, the accrual of earned sick leave will begin when employment commences and the employee may use the earned sick leave beginning on the 100th day after employment commences, unless the employer agrees to an earlier date. The employee may subsequently use earned sick leave as soon as it is accrued.

The employer is required to pay the employee for earned sick leave at the same rate of pay, and with the same benefits, as the employee normally earns. Earned sick leave may be used for:

1. time needed for diagnosis, care, or treatment of, or recovery from, an employee's mental or physical illness, injury or other adverse health condition, or for preventive medical care for the employee;

2. time needed for the employee to care for a family member during diagnosis, care, or treatment of, or recovery from, the family member's mental or physical illness, injury or other adverse health condition, or preventive medical care for the family member;

3. absence needed due to circumstances resulting from the employee or a family member being a victim of domestic or sexual violence, if the leave is to obtain medical attention, counseling, relocation, legal or other services; or

4. time during which the employee is not able to work because of a closure of the employee's workplace, or the school or place of care of a child of the employee, in connection with an epidemic or other public health emergency, or because of an official determination that the presence in the community of the employee, or a member of the employee's family, would jeopardize the health of others; or

5. time needed by the employee in connection with a child of the employee to attend a school-related conference, meeting, or event requested or required by a school official or responsible professional staff member, or to attend a meeting regarding care for the child.

The bill permits employers to require employees to provide advanced notice of up to seven days prior to leave when the need to take the leave is foreseeable, and to make a reasonable effort to schedule the leave in a non-disruptive manner. The bill permits an

1 employer to require reasonable documentation of the need for the
2 leave if it is for three or more consecutive days, and provides
3 guidelines for what constitutes reasonable documentation for
4 specified reasons for leave.

5 The bill permits an employer to offer payment to an employee
6 for unused earned sick leave in the final month of the benefit year,
7 which the employee may accept or decline. If the employee
8 declines a payment for unused earned sick leave, or agrees to a
9 partial payment, the employee may have the unused leave carried
10 forward to the following year. If the employee accepts the full
11 payment, the entire accrual for the following year must be made
12 available at the beginning of that year.

13 The bill prohibits retaliatory personnel actions against an
14 employee for the use or requested use of earned sick leave or for
15 filing of a complaint for an employer violation. The bill sets
16 requirements for record keeping and for notifying workers of their
17 rights under the bill. In cases of employer non-compliance with the
18 requirements of the bill, including the requirements regarding
19 retaliation, record keeping, and notification to employee of their
20 rights, the bill provides certain penalties based on the penalties for
21 non-compliance with State laws regarding the payment of wages,
22 including the "New Jersey State Wage and Hour Law," P.L.1966,
23 c.113 (C.34:11-56a et seq.).

24 The bill prohibits counties and municipalities, after the effective
25 date of the bill, from setting new requirements regarding earned
26 sick leave. In the case of local requirements adopted before the
27 effective date, the bill does not preempt provisions which are more
28 favorable to employees, but does preempt less favorable provisions.
29 Also, the bill does not preempt provisions of any employer policies
30 or collective bargaining agreements which are more favorable to
31 employees, including policies or agreements permitting employees
32 to donate unused accrued earned sick leave to other employees.
33 Finally, in cases where the provisions of other State laws
34 concerning earned sick leave for public employees are more or less
35 favorable to the employees than the provisions of the bill, the bill
36 provides that the more favorable provisions shall apply.

37 The bill directs the Commissioner of Labor and Workforce
38 Development to implement a multilingual outreach program to
39 inform employees, parents, and persons under the care of health
40 care providers about the availability of earned paid sick leave, and
41 allocate not less than \$500,000 to the program from the
42 administration account of State disability benefit fund.

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR SENATE, No. 2171

STATE OF NEW JERSEY

DATED: MARCH 26, 2018

The Senate Labor Committee reports favorably this committee substitute for Senate Bill No. 2171.

This substitute requires employers to provide earned sick leave to employees that they employ in the State. The substitute provides that an employee accrues one hour of earned sick leave for every 30 hours worked. The substitute requires an employer to pay its employees for earned sick leave at the same rate of pay, and with the same benefits, as the employee normally earns.

The employer is not required to permit the employee to accrue or use in any benefit year, or carry forward from one year to the next, more than 40 hours of earned sick leave. Accrual pursuant to this substitute begins on the effective date of the bill for employees who commenced employment prior to the effective date. If employment commences after the effective date, the accrual of earned sick leave will begin when employment commences. An employee may use the earned sick leave beginning on the 120th day after employment commences, unless the employer agrees to an earlier date. The employee may subsequently use earned sick leave as soon as it is accrued. If an employee is separated from employment and reinstated within six months, any accrued leave is retained. A successor employer who retains employees is required to permit those employees to retain previously accrued leave.

Under the substitute, an employee may use earned sick leave:

1. for diagnosis, care, treatment, or recovery related to the employee's illness;
2. to care for a family member during diagnosis, care, treatment, or recovery related to the family member's illness;
3. for certain absences resulting from the employee or a family member being a victim of domestic or sexual violence;
4. for time during which the employee is not able to work because of a closure of the employee's workplace, or the school or place of care of a child of the employee, in connection with a public health emergency or a determination that the presence of the employee or child in the community would jeopardize the health of others; or
5. to attend a school-related conferences, meetings, or events, or to attend other meetings regarding care for the employee's child.

The substitute permits an employer to require reasonable documentation of the need for the use of sick leave if the leave is for three or more consecutive days. Under the substitute, employers may prohibit employees from using foreseeable earned sick leave on certain dates, and require reasonable documentation if employees use sick leave that is not foreseeable during those dates.

The substitute permits an employer to offer payment to an employee for unused earned sick leave in the final month of the benefit year, which the employee may accept or decline. If the employee declines a payment for unused earned sick leave, or agrees to a partial payment, the employee may have the unused leave carried forward to the following year. If the employee accepts the full payment, the employer must make the entire accrual for the following year available to that employee at the beginning of that year.

The substitute prohibits retaliatory personnel actions against an employee for the use or requested use of earned sick leave or for filing a complaint for an employer violation of the provisions of this substitute. The substitute sets requirements for record keeping and for notifying workers of their rights under the substitute.

The substitute exempts from its provisions any public employer or public employee that provides or receives sick leave with full pay pursuant to another law, rule, or regulation of the State. The bill also exempts from its requirements construction workers under a collective bargaining agreement, and per diem health care employees.

Finally, the substitute directs the Commissioner of Labor and Workforce Development to implement a multilingual outreach program to inform employees, parents, and persons under the care of health care providers about the availability of earned paid sick leave, and allocates not less than \$500,000 to the program from the administration account of the State disability benefit fund.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2171**

STATE OF NEW JERSEY

DATED: APRIL 5, 2018

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2171 SCS.

This bill requires employers to provide earned sick leave to employees that they employ in the State. The bill provides that an employee accrues one hour of earned sick leave for every 30 hours worked and requires an employer to pay its employees for earned sick leave at the same rate of pay, and with the same benefits, as the employee normally earns.

The employer is not required to permit the employee to accrue or use in any benefit year, or carry forward from one year to the next, more than 40 hours of earned sick leave. Accrual pursuant to this bill begins on the effective date of the bill for employees who commenced employment prior to the effective date. If employment commences after the effective date, the accrual of earned sick leave will begin when employment commences. An employee may use the earned sick leave beginning on the 120th day after employment commences, unless the employer agrees to an earlier date. The employee may subsequently use earned sick leave as soon as it is accrued.

Under the bill, an employee may use earned sick leave:

1. for diagnosis, care, treatment, or recovery related to the employee's illness;
2. to care for a family member during diagnosis, care, treatment, or recovery related to a family member's illness;
3. for certain absences resulting from the employee or a family member being a victim of domestic or sexual violence;
4. for time during which the employee is not able to work because of a closure of the employee's workplace, or the school or place of care of a child of the employee, in connection with a public health emergency or a determination that the presence of the employee or child in the community would jeopardize the health of others; or
5. to attend school-related conferences, meetings, or events, or to attend other meetings regarding care for the employee's child.

The bill permits an employer to require reasonable documentation if the leave is for three or more consecutive days. Employers may prohibit employees from using foreseeable earned sick leave on certain dates and require reasonable documentation if employees use sick leave that is not foreseeable during those dates.

The bill permits an employer to offer payment to an employee for unused earned sick leave in the final month of the benefit year. If the employee declines a payment for unused earned sick leave, or agrees to a partial payment, the employee may have the unused leave carried forward to the following year. If the employee accepts the full payment, the employer must make the entire accrual for the following year available to that employee at the beginning of that year.

Public employers who provide sick leave pursuant to another law of the State are exempt from this bill. Likewise, employee representatives may waive benefits afforded per this bill during the negotiation of a collective bargaining agreement.

The bill prohibits retaliatory actions against an employee for the use or requested use of earned sick leave or for filing a complaint for an employer violation of the provisions of this bill. Commencing after the effective date of the bill, counties and municipalities are prohibited from adopting new requirements regarding earned sick leave, and the provisions of the bill preempt existing local requirements.

Finally, the bill directs the Commissioner of Labor and Workforce Development to implement a multilingual outreach program to inform employees, parents, and persons under the care of health care providers about the availability of earned paid sick leave, and requires the commissioner to allocate not less than \$500,000 to the program from the administration account of the State disability benefit fund.

As reported, this bill is identical to Assembly Bill No. 1827 (ACS/1R), as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the substitute bill will result in an indeterminate annual State revenue increase due to the collection of penalties resulting from violations of the provisions of the bill.

The bill will result in an indeterminate, likely insignificant, annual increase in State administrative expenditures tied to Department of Labor and Workforce Development's implementation of notifications to employees of their rights in English, Spanish, and any other language that the commissioner determines is the first language of a significant number of workers in the State.

The OLS also estimates that the bill will result in an annual increase in State administrative expenditures of not less than \$500,000 from the administration account of the State disability benefit fund to pay for the program. The increase in expenditures would be owed to the commissioner's requirement under the bill to develop and implement a multilingual outreach program to inform employees, parents, and persons under the care of health care providers about the availability of earned paid sick leave.

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2171
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: APRIL 16, 2018

SUMMARY

- Synopsis:** Concerns earned sick leave to employees.
- Type of Impact:** State Revenue Increase and State Expenditure Increase, General Fund. State Expenditure Increase, State Disability Benefits Fund, Potential State and Local Cost Increase.
- Agencies Affected:** Department of Labor and Workforce Development (DOLWD)

Office of Legislative Services Estimate

Fiscal Impact	
State Revenue Increase	Indeterminate
State Expenditure Increase	Indeterminate
Potential State and Local Expenditures Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill will result in an indeterminate annual State revenue increase, due to the collection of penalties resulting from violations of the provisions of the bill.
- The bill will result in an indeterminate, likely insignificant, annual increase in State administrative expenditures tied to DOLWD’s implementation of notifications to employees of their rights.
- The OLS also estimates that the bill will result in an annual increase in State administrative expenditures of not less than \$500,000 from the administration account of the State disability benefit fund to pay for the program.
- The OLS notes that the enactment of the bill may result in an increase in expenditures to:
 - local entities, to the extent that they do not provide or provide less favorable earned sick leave benefits to their employees; and

- the State and local entities who contract with contractors, to the extent that contractors who do not provide or provide less favorable earned sick leave benefits to their employees, and to the extent that the costs of these contracts may increase.

BILL DESCRIPTION

The bill requires each employer to provide earned sick leave to each employee it employs in the State. The bill prohibits retaliatory personnel actions against an employee for the use or requested use of earned sick leave or for filing of a complaint for an employer violation. The bill sets requirements for record keeping and for notifying workers of their rights. In cases of employer non-compliance with the requirements of the bill, including the requirements regarding retaliation, record keeping, and notification to employee of their rights, the bill provides certain penalties based on non-compliance with State laws regarding the payment of wages, including the “New Jersey State Wage and Hour Law,” P.L.1966, c.113 (C.34:11-56a et seq.).

The bill requires the employer to provide notification, in a form provided by the Commissioner of Labor and Workforce Development, to employees of their rights including, among others, the amount of earned sick leave to which they are entitled and the terms of its use. The commissioner is required to make these notifications available in English, Spanish, and any other language the commissioner determines is the first language of a significant number of workers in the State.

The provisions of the bill would preempt any county or municipal ordinance, resolution, law, rule, or regulation regarding earned sick leave. The bill sets a minimum standard for earned sick leave, but does not prevent any employer policy, collective bargaining agreement, or other law or ordinance which sets a higher standard. Under the bill, public employers are exempt from the provisions of the bill if they are required to provide their employees with sick leave with full pay pursuant to any other law, rule or regulation of this State.

The bill directs the commissioner to implement a multilingual outreach program to inform employees, parents, and persons under the care of health care providers about the availability of earned paid sick leave, and allocate not less than \$500,000 to the program from the administration account of State disability benefit fund.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill will result in an indeterminate annual State revenue increase, due to the collection of penalties resulting from violations of the provisions of the bill.

The bill will result in an indeterminate, likely insignificant, annual increase in State administrative expenditures tied to DOLWD’s implementation of notifications to employees of their rights in English, Spanish, and any other language that the commissioner determines is the first language of a significant number of workers in the State.

The OLS also estimates that the bill will result in an annual increase in State administrative expenditures of not less than \$500,000 from the administration account of the State disability benefit fund to pay for the program. The increase in expenditures would be due to the requirement under the bill that the commissioner develop and implement a multilingual outreach program to inform employees, parents, and persons under the care of health care providers about the availability of earned paid sick leave.

The OLS notes that public employers would not be subject to the provisions of the bill to the extent that the employer provides its employees sick leave with full pay pursuant to any other law, rule or regulation of this State. However, the enactment of the bill may result in an increase in expenditures to local entities, to the extent that they do not provide or provide less favorable earned sick leave benefits to their employees than those required pursuant to the bill.

The bill may also result in an increase in expenditures to the State and local entities who contract contractors, to the extent that contractors who do not provide or provide less favorable earned sick leave benefits to their employees will have an increased cost in their employee benefits, which in turn may increase costs of those contracts to the State or local entities.

Section: Commerce, Labor and Industry

*Analyst: Juan C. Rodriguez
Associate Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

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Newark, N.J.

Governor Murphy Signs Expansive Paid Sick Leave Legislation

05/2/2018

Trenton — Governor Phil Murphy today signed into law one of the most expansive paid sick leave programs in the nation, fulfilling his commitment to support working families and strengthen New Jersey’s economy. New Jersey now joins a select group of states – nine plus the District of Columbia – that have enacted paid sick leave to provide earned compensation for workers who miss work due to illness or needing to take care of a sick loved one.

“There is no reason anyone should have to choose between economic security and their health,” **said Governor Phil Murphy**. “After today, New Jerseyans will no longer have to face such a choice. I am proud to sign into law one of the strongest earned leave protections in the country for every hardworking employee who deserves the basic right of a paid sick day.”

Currently, 13 municipalities in New Jersey have enacted earned sick leave for private sector employees. Outside of these municipalities, private sector employees do not have any right to receive earned sick leave. Overall, an estimated 1.2 million workers in New Jersey do not have any access to paid sick leave.

The legislation, A1827, allows workers to accrue one hour of earned sick leave for every 30 hours worked, up to 40 hours each year. The bill further permits employers to create more generous policies that provide additional leave time.

Employees may use paid sick leave for the following:

- Diagnosis, treatment, or recovery from a mental or physical illness or injury, or preventive care, for the employee or a family member
- Obtaining services if the employee or a family member is a victim of domestic or sexual violence
- Circumstances arising from a public health emergency
- A school-related meeting or event with regard to the employee’s child

Sponsors of the legislation include Senators Loretta Weinberg and Linda R. Greenstein and Assemblymembers Pamela R. Lampitt, Raj Mukherji, Shavonda E. Sumter, Paul D. Moriarty, Benjie E. Wimberly, and the late Jerry Green.

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