



The ERISA Industry Committee

Driven By and For Large Employers

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The City of Austin's Proposed Earned Sick Time Ordinance: The Large Employer Perspective

1. The proposed Earned Sick Time Ordinance (“Ordinance”) will increase the compliance burden on large employers that already provide paid leave and operate in multiple states and localities.
2. Large employers have been providing generous paid leave policies to thousands of workers in Austin and across the country for years. The Ordinance as currently drafted, would place unnecessary burdens on large employers who already satisfy the underlying purpose of the Ordinance
3. **The Ordinance is an outlier in comparison to other jurisdictions’ paid sick time laws.**
 - a. Most of the laws and ordinances in effect across the country have provided large employers that already provide paid leave the flexibility to maintain a uniform policy across the country.
4. The Ordinance does not provide such flexibility, largely with respect to the:
 - a. **Definition of “Family Member”**
 - The Ordinance’s definition of “family member” is unusually broad in comparison to the other states and localities that have passed paid sick time laws.
 - The consensus or common theme among most laws is to define family member as a child, spouse, parent, legal guardian, grandparents, and grandchildren.
 - Austin should follow suit and maintain uniformity with laws that have already been passed and in place for years; thereby lessening the patchwork of laws that large, multistate employers must navigate when complying with countless different laws in multiple jurisdictions
 - b. **Lack of a Waiting Period Before Using Accrued Time**
 - There is no waiting period during which employees may not use the earned sick time they have accrued to date.
 - This makes Austin an outlier from the eight other states, the District of Columbia, and dozens of cities that have passed paid sick time laws (most have a waiting period of at least 90 days).
 - In accordance with most other paid sick time jurisdictions, employees should be able to accrue earned sick time at the commencement of employment, but accrued hours may not be used until 90 days after the commencement of employment.
 - c. **Maximum Accrual**
 - i. Under the draft Ordinance, the minimum amount of earned sick time an employer must provide employees is 64 hours in a calendar year. Since almost all of the other

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laws and ordinances across the country provide for accrual of 40 to 56 hours in a calendar year (the average is 40 hours), this requirement also makes Austin an outlier from most of the other jurisdictions.

- ii. The minimum amount of earned sick time provided should be lowered to mirror the number of hours that other jurisdictions mandate. This would also bring Austin in line with the rest of the country, ensure the greatest level of uniformity for employers that operate across the country, and lessen any administrative burdens on employers.

d. Mandated Carryover

- If large, multistate employers are forced to carryover employees' unused time, it will impact the total leave package the employer currently provides. Paid sick time is traditionally contemplated alongside, and is meant to dovetail with short and long-term disability plans; thus, a change in one is a change in all three.
- Employers should be allowed to frontload all available time that employees would accrue over the course of the year and not mandating carryover if they do. This type of policy allows employees to use time on an as-needed basis, rather than waiting for it to accrue over the course of the year. This system creates a great benefit to the employee, without imposing any unnecessary burdens on the employer.
- Most states and major cities have recognized this benefit and have adopted paid sick leave rules that permit employers to utilize this "use-it-or-lose-it" policy.

e. Written Notice of an Employee's Earned Sick Time Balance

- For informing employees of the amount of earned sick time they have accrued, used, and available, employers should be permitted to fulfill this by methods other than in writing.
- Many employers, both large and small, have moved away from physical pay stubs and the like, and instead have transitioned to electronic outlets for providing employees important information.
- Employers are providing information related to pay, paid leave, retirement, and more through online portals that can be accessed at any time. Thus, the act of printing physical documents is outdated and would create an unnecessary administrative burden on large employers' human resources personnel (not to mention an added cost).

5. Our goal is to ensure that large employers, especially those that already meet or exceed the underlying objective of the Ordinance, do not experience an increase in compliance and administrative burdens upon implementation of the Ordinance.