

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 34

(SENATE AUTHORS: PAPPAS, Maye Quade, Kunesh, Pha and Fateh)		
DATE	D-PG	OFFICIAL STATUS
01/04/2023	77	Introduction and first reading Referred to Labor
01/05/2023	83	Chief author stricken, shown as co-author Maye Quade Chief author added Pappas
01/09/2023	117	Author added Fateh
01/19/2023	217a	Comm report: To pass as amended and re-refer to State and Local Government and Veterans
	230	Rule 12.10: report of votes in committee
01/30/2023	521a	Comm report: To pass as amended and re-refer to Judiciary and Public Safety
02/06/2023	646a	Comm report: To pass as amended and re-refer to Finance HF substituted in committee HF19 See SF3035

1.1

A bill for an act

1.2

relating to employment; providing for earned sick and safe time; requiring a report;

1.3

authorizing rulemaking; appropriating money; amending Minnesota Statutes 2022,

1.4

sections 177.27, subdivisions 4, 7; 181.942, subdivision 1; 181.9436; 181.944;

1.5

proposing coding for new law in Minnesota Statutes, chapters 177; 181; repealing

1.6

Minnesota Statutes 2022, section 181.9413.

1.7

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8

ARTICLE 1

1.9

EARNED SICK AND SAFE TIME

1.10

Section 1. Minnesota Statutes 2022, section 181.942, subdivision 1, is amended to read:

1.11

Subdivision 1. **Comparable position.** (a) An employee returning from a leave of absence

1.12

under section 181.941 is entitled to return to employment in the employee's former position

1.13

or in a position of comparable duties, number of hours, and pay. An employee returning

1.14

from a leave of absence longer than one month must notify a supervisor at least two weeks

1.15

prior to return from leave. An employee returning from a leave under section 181.9412 or

1.16

~~181.9413~~ sections 181.9445 to 181.9448 is entitled to return to employment in the employee's

1.17

former position.

1.18

(b) If, during a leave under sections 181.940 to 181.944, the employer experiences a

1.19

layoff and the employee would have lost a position had the employee not been on leave,

1.20

pursuant to the good faith operation of a bona fide layoff and recall system, including a

1.21

system under a collective bargaining agreement, the employee is not entitled to reinstatement

1.22

in the former or comparable position. In such circumstances, the employee retains all rights

1.23

under the layoff and recall system, including a system under a collective bargaining

1.24

agreement, as if the employee had not taken the leave.

Sec. 2. Minnesota Statutes 2022, section 181.9436, is amended to read:

181.9436 POSTING OF LAW.

The Division of Labor Standards and Apprenticeship shall develop, with the assistance of interested business and community organizations, an educational poster stating employees' rights under sections 181.940 to ~~181.9436~~ 181.9448. The department shall make the poster available, upon request, to employers for posting on the employer's premises.

Sec. 3. **181.9445 DEFINITIONS.**

Subdivision 1. Definitions. For the purposes of section 177.50 and sections 181.9445 to 181.9448, the terms defined in this section have the meanings given them.

Subd. 2. Commissioner. "Commissioner" means the commissioner of labor and industry or authorized designee or representative.

Subd. 3. Domestic abuse. "Domestic abuse" has the meaning given in section 518B.01.

Subd. 4. Earned sick and safe time. "Earned sick and safe time" means leave, including paid time off and other paid leave systems, that is paid at the same hourly rate as an employee earns from employment that may be used for the same purposes and under the same conditions as provided under section 181.9447, but in no case shall this hourly rate be less than that provided under section 177.24 or an applicable local minimum wage.

Subd. 5. Employee. "Employee" means any person who is employed by an employer, including temporary and part-time employees, who performs work for at least 80 hours in a year for that employer in Minnesota. Employee does not include an independent contractor.

Subd. 6. Employer. "Employer" means a person who has one or more employees. Employer includes an individual, a corporation, a partnership, an association, a business trust, a nonprofit organization, a group of persons, the state of Minnesota, a county, town, city, school district, or other governmental subdivision. In the case of an employee leasing company or professional employer organization, the taxpaying employer, as described in section 268.046, remains the employer. In the case of an individual provider within the meaning of section 256B.0711, subdivision 1, paragraph (d), the employer includes any participant within the meaning of section 256B.0711, subdivision 1, paragraph (e), or participant's representative within the meaning of section 256B.0711, subdivision 1, paragraph (f). In the event that a temporary employee is supplied by a staffing agency, absent a contractual agreement stating otherwise, that individual shall be an employee of the staffing agency for all purposes of section 177.50 and sections 181.9445 to 181.9448. Employer does not include the United States government.

3.1 Subd. 7. **Family member.** "Family member" means:

3.2 (1) an employee's:

3.3 (i) child, foster child, adult child, legal ward, child for whom the employee is legal
3.4 guardian, or child to whom the employee stands or stood in loco parentis;

3.5 (ii) spouse or registered domestic partner;

3.6 (iii) sibling, stepsibling, or foster sibling;

3.7 (iv) biological, adoptive, or foster parent, stepparent, or a person who stood in loco
3.8 parentis when the employee was a minor child;

3.9 (v) grandchild, foster grandchild, or stepgrandchild;

3.10 (vi) grandparent or stepgrandparent;

3.11 (vii) a child of a sibling of the employee;

3.12 (viii) a sibling of the parents of the employee; or

3.13 (ix) a child-in-law or sibling-in-law;

3.14 (2) any of the family members listed in clause (1) of a spouse or registered domestic
3.15 partner;

3.16 (3) any other individual related by blood or whose close association with the employee
3.17 is the equivalent of a family relationship; and

3.18 (4) up to one individual annually designated by the employee.

3.19 Subd. 8. **Health care professional.** "Health care professional" means any person licensed,
3.20 certified, or otherwise authorized under federal or state law to provide medical or emergency
3.21 services, including doctors, physician assistants, nurses, advance practice registered nurses,
3.22 mental health professionals, and emergency room personnel.

3.23 Subd. 9. **Prevailing wage rate.** "Prevailing wage rate" has the meaning given in section
3.24 177.42 and as calculated by the Department of Labor and Industry.

3.25 Subd. 10. **Public emergency.** "Public emergency" shall include a declared emergency
3.26 as defined in section 12.03 or a declared local emergency under section 12.29.

3.27 Subd. 11. **Sexual assault.** "Sexual assault" means an act that constitutes a violation
3.28 under sections 609.342 to 609.3453 or 609.352.

3.29 Subd. 12. **Stalking.** "Stalking" has the meaning given in section 609.749.

4.1 Subd. 13. **Year.** "Year" means a regular and consecutive 12-month period, as determined
4.2 by an employer and clearly communicated to each employee of that employer.

4.3 **Sec. 4. [181.9446] ACCRUAL OF EARNED SICK AND SAFE TIME.**

4.4 (a) An employee accrues a minimum of one hour of earned sick and safe time for every
4.5 30 hours worked up to a maximum of 48 hours of earned sick and safe time in a year.
4.6 Employees may not accrue more than 48 hours of earned sick and safe time in a year unless
4.7 the employer agrees to a higher amount.

4.8 (b)(1) Except as provided in clause (2), employers must permit an employee to carry
4.9 over accrued but unused sick and safe time into the following year. The total amount of
4.10 accrued but unused earned sick and safe time for an employee must not exceed 80 hours at
4.11 any time, unless an employer agrees to a higher amount.

4.12 (2) In lieu of permitting the carryover of accrued but unused sick and safe time into the
4.13 following year as provided under clause (1), an employer may pay an employee for accrued
4.14 but unused sick and safe time at the end of a year at the same hourly rate as an employee
4.15 earns from employment, provided that the employer provides an employee with the maximum
4.16 annual accrual of earned sick and safe time for the year that meets or exceeds the
4.17 requirements of this section that is available for the employee's immediate use at the
4.18 beginning of the subsequent year. In no case shall this hourly rate be less than that provided
4.19 under section 177.24 or an applicable local minimum wage.

4.20 (c) Employees who are exempt from overtime requirements under United States Code,
4.21 title 29, section 213(a)(1), as amended through the effective date of this section, are deemed
4.22 to work 40 hours in each workweek for purposes of accruing earned sick and safe time,
4.23 except that an employee whose normal workweek is less than 40 hours will accrue earned
4.24 sick and safe time based on the normal workweek.

4.25 (d) Earned sick and safe time under this section begins to accrue at the commencement
4.26 of employment of the employee.

4.27 (e) Employees may use earned sick and safe time as it is accrued.

4.28 **Sec. 5. [181.9447] USE OF EARNED SICK AND SAFE TIME.**

4.29 Subdivision 1. **Eligible use.** An employee may use accrued earned sick and safe time
4.30 for:

4.31 (1) an employee's:

- 5.1 (i) mental or physical illness, injury, or other health condition;
- 5.2 (ii) need for medical diagnosis, care, or treatment of a mental or physical illness, injury,
- 5.3 or health condition; or
- 5.4 (iii) need for preventive medical or health care;
- 5.5 (2) care of a family member:
- 5.6 (i) with a mental or physical illness, injury, or other health condition;
- 5.7 (ii) who needs medical diagnosis, care, or treatment of a mental or physical illness,
- 5.8 injury, or other health condition; or
- 5.9 (iii) who needs preventive medical or health care;
- 5.10 (3) absence due to domestic abuse, sexual assault, or stalking of the employee or
- 5.11 employee's family member, provided the absence is to:
- 5.12 (i) seek medical attention related to physical or psychological injury or disability caused
- 5.13 by domestic abuse, sexual assault, or stalking;
- 5.14 (ii) obtain services from a victim services organization;
- 5.15 (iii) obtain psychological or other counseling;
- 5.16 (iv) seek relocation or take steps to secure an existing home due to domestic abuse,
- 5.17 sexual assault, or stalking; or
- 5.18 (v) seek legal advice or take legal action, including preparing for or participating in any
- 5.19 civil or criminal legal proceeding related to or resulting from domestic abuse, sexual assault,
- 5.20 or stalking;
- 5.21 (4) closure of the employee's place of business due to weather or other public emergency
- 5.22 or an employee's need to care for a family member whose school or place of care has been
- 5.23 closed due to weather or other public emergency;
- 5.24 (5) the employee's inability to work or telework because the employee is: (i) prohibited
- 5.25 from working by the employer due to health concerns related to the potential transmission
- 5.26 of a communicable illness related to a public emergency; or (ii) seeking or awaiting the
- 5.27 results of a diagnostic test for, or a medical diagnosis of, a communicable disease related
- 5.28 to a public emergency and such employee has been exposed to a communicable disease or
- 5.29 the employee's employer has requested a test or diagnosis; and
- 5.30 (6) when it has been determined by the health authorities having jurisdiction or by a
- 5.31 health care professional that the presence of the employee or family member of the employee

6.1 in the community would jeopardize the health of others because of the exposure of the
6.2 employee or family member of the employee to a communicable disease, whether or not
6.3 the employee or family member has actually contracted the communicable disease.

6.4 Subd. 2. **Notice.** An employer may require notice of the need for use of earned sick and
6.5 safe time as provided in this subdivision. If the need for use is foreseeable, an employer
6.6 may require advance notice of the intention to use earned sick and safe time but must not
6.7 require more than seven days' advance notice. If the need is unforeseeable, an employer
6.8 may require an employee to give notice of the need for earned sick and safe time as soon
6.9 as practicable. An employer that requires notice of the need to use earned sick and safe time
6.10 in accordance with this subdivision shall have a written policy containing reasonable
6.11 procedures for employees to provide notice of the need to use earned sick and safe time,
6.12 and shall provide a written copy of such policy to employees. If a copy of the written policy
6.13 has not been provided to an employee, an employer shall not deny the use of earned sick
6.14 and safe time to the employee on that basis.

6.15 Subd. 3. **Documentation.** (a) When an employee uses earned sick and safe time for
6.16 more than three consecutive days, an employer may require reasonable documentation that
6.17 the earned sick and safe time is covered by subdivision 1.

6.18 (b) For earned sick and safe time under subdivision 1, clauses (1), (2), (5), and (6),
6.19 reasonable documentation may include a signed statement by a health care professional
6.20 indicating the need for use of earned sick and safe time. However, if the employee or
6.21 employee's family member did not receive services from a health care professional, or if
6.22 documentation cannot be obtained from a health care professional in a reasonable time or
6.23 without added expense, then reasonable documentation for the purposes of this paragraph
6.24 may include a written statement from the employee indicating that the employee is using
6.25 or used earned sick and safe time for a qualifying purpose covered by subdivision 1, clause
6.26 (1), (2), (5), or (6).

6.27 (c) For earned sick and safe time under subdivision 1, clause (3), an employer must
6.28 accept a court record or documentation signed by a volunteer or employee of a victims
6.29 services organization, an attorney, a police officer, or an antiviolence counselor as reasonable
6.30 documentation.

6.31 (d) For earned sick and safe time to care for a family member under subdivision 1, clause
6.32 (4), an employer must accept a written statement from the employee indicating that the
6.33 employee is using or used earned sick and safe time for a qualifying purpose as reasonable
6.34 documentation.

7.1 (e) An employer must not require disclosure of details relating to domestic abuse, sexual
7.2 assault, or stalking or the details of an employee's or an employee's family member's medical
7.3 condition as related to an employee's request to use earned sick and safe time under this
7.4 section.

7.5 (f) Written statements by an employee may be written in the employee's first language
7.6 and need not be notarized or in any particular format.

7.7 Subd. 4. **Replacement worker.** An employer may not require, as a condition of an
7.8 employee using earned sick and safe time, that the employee seek or find a replacement
7.9 worker to cover the hours the employee uses as earned sick and safe time.

7.10 Subd. 5. **Increment of time used.** Earned sick and safe time may be used in the smallest
7.11 increment of time tracked by the employer's payroll system, provided such increment is not
7.12 more than four hours.

7.13 Subd. 6. **Retaliation prohibited.** (a) An employer shall not discharge, discipline, penalize,
7.14 interfere with, threaten, restrain, coerce, or otherwise retaliate or discriminate against a
7.15 person because the person has exercised or attempted to exercise rights protected under this
7.16 act, including but not limited to because the person requested earned sick and safe time,
7.17 used earned sick and safe time, requested a statement of accrued sick and safe time, informed
7.18 any person of his or her potential rights under sections 181.9445 to 181.9448, made a
7.19 complaint or filed an action to enforce a right to earned sick and safe time under this section,
7.20 or is or was participating in any manner in an investigation, proceeding, or hearing under
7.21 this chapter.

7.22 (b) It shall be unlawful for an employer's absence control policy or attendance point
7.23 system to count earned sick and safe time taken under this act as an absence that may lead
7.24 to or result in a retaliatory personnel action or any other adverse action.

7.25 (c) It shall be unlawful for an employer or any other person to report or threaten to report
7.26 the actual or suspected citizenship or immigration status of a person or family member to
7.27 a federal, state, or local agency for exercising, or attempting to exercise any right protected
7.28 under this act.

7.29 (d) A person need not explicitly refer to this act or the rights enumerated herein to be
7.30 protected from retaliatory personnel actions.

7.31 Subd. 7. **Pay and benefits.** (a) During any use of earned sick and safe time, the employer
7.32 must maintain coverage under any group insurance policy, group subscriber contract, or
7.33 health care plan for the employee and any dependents as if the employee was not using

8.1 earned sick and safe time, provided, however, that the employee must continue to pay any
8.2 employee share of the cost of such benefits.

8.3 (b) An employee returning from a leave under this section is entitled to return to
8.4 employment at the same rate of pay the employee had been receiving when the leave
8.5 commenced, plus any automatic adjustments in the employee's pay scale that occurred
8.6 during the leave period. The employee returning from a leave is entitled to retain all accrued
8.7 preleave benefits of employment and seniority as if there had been no interruption in service,
8.8 provided that nothing under this section prevents the accrual of benefits or seniority during
8.9 the leave pursuant to a collective bargaining or other agreement between the employer and
8.10 employees.

8.11 Subd. 8. **Part-time return from leave.** An employee, by agreement with the employer,
8.12 may return to work part time during the leave period without forfeiting the right to return
8.13 to employment at the end of the leave, as provided under this section.

8.14 Subd. 9. **Notice and posting by employer.** (a) Employers must give notice to all
8.15 employees that they are entitled to earned sick and safe time, including the amount of earned
8.16 sick and safe time, the accrual year for the employee, the terms of its use under this section,
8.17 and a copy of the written policy for providing notice as provided under subdivision 2; that
8.18 retaliatory personnel actions against employees who request or use earned sick and safe
8.19 time are prohibited; and that each employee has the right to file a complaint or bring a civil
8.20 action if earned sick and safe time is denied by the employer or the employee is retaliated
8.21 against for requesting or using earned sick and safe time.

8.22 (b) Employers must supply employees with a notice in English and the primary language
8.23 of the employee, as identified by the employee that contains the information required in
8.24 paragraph (a) at commencement of employment or the effective date of this section,
8.25 whichever is later.

8.26 (c) The means used by the employer must be at least as effective as the following options
8.27 for providing notice:

8.28 (1) posting a copy of the notice at each location where employees perform work and
8.29 where the notice must be readily observed and easily reviewed by all employees performing
8.30 work;

8.31 (2) providing a paper or electronic copy of the notice to employees; or

8.32 (3) a conspicuous posting in a web-based or app-based platform through which an
8.33 employee performs work.

9.1 The notice must contain all information required under paragraph (a).

9.2 (d) An employer that provides an employee handbook to its employees must include in
9.3 the handbook notice of employee rights and remedies under this section.

9.4 Subd. 10. **Required statement to employee.** (a) Upon request of the employee, the
9.5 employer must provide, in writing or electronically, current information stating the
9.6 employee's amount of:

9.7 (1) earned sick and safe time available to the employee; and

9.8 (2) used earned sick and safe time.

9.9 (b) Employers may choose a reasonable system for providing the information in paragraph
9.10 (a), including but not limited to listing information on each pay stub or developing an online
9.11 system where employees can access their own information.

9.12 Subd. 11. **Employer records.** (a) Employers shall retain accurate records documenting
9.13 hours worked by employees and earned sick and safe time taken and comply with all
9.14 requirements under section 177.30.

9.15 (b) An employer must allow an employee to inspect records required by this section and
9.16 relating to that employee at a reasonable time and place.

9.17 Subd. 12. **Confidentiality and nondisclosure.** (a) If, in conjunction with this section,
9.18 an employer possesses:

9.19 (1) health or medical information regarding an employee or an employee's family
9.20 member;

9.21 (2) information pertaining to domestic abuse, sexual assault, or stalking;

9.22 (3) information that the employee has requested or obtained leave under this section; or

9.23 (4) any written or oral statement, documentation, record, or corroborating evidence
9.24 provided by the employee or an employee's family member, the employer must treat such
9.25 information as confidential.

9.26 Information given by an employee may only be disclosed by an employer if the disclosure
9.27 is requested or consented to by the employee, when ordered by a court or administrative
9.28 agency, or when otherwise required by federal or state law.

9.29 (b) Records and documents relating to medical certifications, recertifications, or medical
9.30 histories of employees or family members of employees created for purposes of section
9.31 177.50 or sections 181.9445 to 181.9448 must be maintained as confidential medical records

10.1 separate from the usual personnel files. At the request of the employee, the employer must
10.2 destroy or return the records required by sections 181.9445 to 181.9448 that are older than
10.3 three years prior to the current calendar year.

10.4 (c) Employers may not discriminate against any employee based on records created for
10.5 the purposes of section 177.50 or sections 181.9445 to 181.9448.

10.6 **Sec. 6. [181.9448] EFFECT ON OTHER LAW OR POLICY.**

10.7 Subdivision 1. No effect on more generous sick and safe time policies. (a) Nothing
10.8 in sections 181.9445 to 181.9448 shall be construed to discourage employers from adopting
10.9 or retaining earned sick and safe time policies that meet or exceed, and do not otherwise
10.10 conflict with, the minimum standards and requirements provided in sections 181.9445 to
10.11 181.9448.

10.12 (b) Nothing in sections 181.9445 to 181.9448 shall be construed to limit the right of
10.13 parties to a collective bargaining agreement to bargain and agree with respect to earned sick
10.14 and safe time policies or to diminish the obligation of an employer to comply with any
10.15 contract, collective bargaining agreement, or any employment benefit program or plan that
10.16 meets or exceeds, and does not otherwise conflict with, the minimum standards and
10.17 requirements provided in this section.

10.18 (c) Nothing in sections 181.9445 to 181.9448 shall be construed to preempt, limit, or
10.19 otherwise affect the applicability of any other law, regulation, requirement, policy, or
10.20 standard that provides for a greater amount, accrual, or use by employees of paid sick and
10.21 safe time or that extends other protections to employees.

10.22 (d) Employers who provide earned sick and safe time to their employees under a paid
10.23 time off policy or other paid leave policy that may be used for the same purposes and under
10.24 the same conditions as earned sick and safe time, and that meets or exceeds, and does not
10.25 otherwise conflict with, the minimum standards and requirements provided in sections
10.26 181.9445 to 181.9448 are not required to provide additional earned sick and safe time.

10.27 (e) An employer may opt to satisfy the requirements of sections 181.9445 to 181.9448
10.28 for construction industry employees by:

10.29 (1) paying at least the prevailing wage rate as defined by section 177.42 and as calculated
10.30 by the Department of Labor and Industry; or

10.31 (2) paying at least the required rate established in a registered apprenticeship agreement
10.32 for apprentices registered with the Department of Labor and Industry.

An employer electing this option is deemed to be in compliance with sections 181.9445 to 181.9448 for construction industry employees who receive either at least the prevailing wage rate or the rate required in the applicable apprenticeship agreement regardless of whether the employees are working on private or public projects.

(f) Sections 181.9445 to 181.9448 do not prohibit an employer from establishing a policy whereby employees may donate unused accrued sick and safe time to another employee.

(g) Sections 181.9445 to 181.9448 do not prohibit an employer from advancing sick and safe time to an employee before accrual by the employee.

Subd. 2. **Termination; separation; transfer.** Sections 181.9445 to 181.9448 do not require financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for accrued earned sick and safe time that has not been used. If an employee is transferred to a separate division, entity, or location, but remains employed by the same employer, the employee is entitled to all earned sick and safe time accrued at the prior division, entity, or location and is entitled to use all earned sick and safe time as provided in sections 181.9445 to 181.9448. When there is a separation from employment and the employee is rehired within 180 days of separation by the same employer, previously accrued earned sick and safe time that had not been used must be reinstated. An employee is entitled to use accrued earned sick and safe time and accrue additional earned sick and safe time at the commencement of reemployment.

Subd. 3. **Employer succession.** (a) 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 earned sick and safe time accrued but not used when employed by the original employer, and are entitled to use all earned sick and safe time previously accrued but not used.

(b) If, at the time of transfer of the business, employees are terminated by the original employer and hired within 30 days by the successor employer following the transfer, those employees are entitled to all earned sick and safe time accrued but not used when employed by the original employer, and are entitled to use all earned sick and safe time previously accrued but not used.

Sec. 7. SEVERABILITY.

If any provision of this act or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the act which can

12.1 be given effect without the invalid provision or application, and to this end the provisions
12.2 of this act are declared severable.

12.3 Sec. 8. **REPEALER.**

12.4 Minnesota Statutes 2022, section 181.9413, is repealed.

12.5 Sec. 9. **EFFECTIVE DATE.**

12.6 This article is effective January 1, 2024.

12.7 **ARTICLE 2**

12.8 **EARNED SICK AND SAFE TIME ENFORCEMENT**

12.9 Section 1. Minnesota Statutes 2022, section 177.27, subdivision 4, is amended to read:

12.10 Subd. 4. **Compliance orders.** The commissioner may issue an order requiring an
12.11 employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032,
12.12 181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.172, paragraph (a) or (d), 181.275,
12.13 subdivision 2a, 181.722, 181.79, ~~and~~ 181.939 to 181.943, and 181.9445 to 181.9448, or
12.14 with any rule promulgated under section 177.28. The commissioner shall issue an order
12.15 requiring an employer to comply with sections 177.41 to 177.435 if the violation is repeated.
12.16 For purposes of this subdivision only, a violation is repeated if at any time during the two
12.17 years that preceded the date of violation, the commissioner issued an order to the employer
12.18 for violation of sections 177.41 to 177.435 and the order is final or the commissioner and
12.19 the employer have entered into a settlement agreement that required the employer to pay
12.20 back wages that were required by sections 177.41 to 177.435. The department shall serve
12.21 the order upon the employer or the employer's authorized representative in person or by
12.22 certified mail at the employer's place of business. An employer who wishes to contest the
12.23 order must file written notice of objection to the order with the commissioner within 15
12.24 calendar days after being served with the order. A contested case proceeding must then be
12.25 held in accordance with sections 14.57 to 14.69. If, within 15 calendar days after being
12.26 served with the order, the employer fails to file a written notice of objection with the
12.27 commissioner, the order becomes a final order of the commissioner.

12.28 **EFFECTIVE DATE.** This section is effective January 1, 2024.

12.29 Sec. 2. Minnesota Statutes 2022, section 177.27, subdivision 7, is amended to read:

12.30 Subd. 7. **Employer liability.** If an employer is found by the commissioner to have
12.31 violated a section identified in subdivision 4, or any rule adopted under section 177.28, and

the commissioner issues an order to comply, the commissioner shall order the employer to cease and desist from engaging in the violative practice and to take such affirmative steps that in the judgment of the commissioner will effectuate the purposes of the section or rule violated. The commissioner shall order the employer to pay to the aggrieved parties back pay, gratuities, and compensatory damages, less any amount actually paid to the employee by the employer, and for an additional equal amount as liquidated damages. Any employer who is found by the commissioner to have repeatedly or willfully violated a section or sections identified in subdivision 4 shall be subject to a civil penalty of up to ~~\$1,000~~ \$10,000 for each violation for each employee. In determining the amount of a civil penalty under this subdivision, the appropriateness of such penalty to the size of the employer's business and the gravity of the violation shall be considered. In addition, the commissioner may order the employer to reimburse the department and the attorney general for all appropriate litigation and hearing costs expended in preparation for and in conducting the contested case proceeding, unless payment of costs would impose extreme financial hardship on the employer. If the employer is able to establish extreme financial hardship, then the commissioner may order the employer to pay a percentage of the total costs that will not cause extreme financial hardship. Costs include but are not limited to the costs of services rendered by the attorney general, private attorneys if engaged by the department, administrative law judges, court reporters, and expert witnesses as well as the cost of transcripts. Interest shall accrue on, and be added to, the unpaid balance of a commissioner's order from the date the order is signed by the commissioner until it is paid, at an annual rate provided in section 549.09, subdivision 1, paragraph (c). The commissioner may establish escrow accounts for purposes of distributing damages.

Sec. 3. **[177.50] EARNED SICK AND SAFE TIME ENFORCEMENT.**

Subdivision 1. Definitions. The definitions in section 181.9445 apply to this section.

Subd. 2. Rulemaking authority. The commissioner may adopt rules to carry out the purposes of this section and sections 181.9445 to 181.9448.

Subd. 3. Individual remedies. An action to recover damages under section 181.944 for violation of sections 181.9445 to 181.9448 must be commenced within three years of the violation that caused the injury to the employee.

Subd. 4. Grants to community organizations. The commissioner may make grants to community organizations for the purpose of outreach to and education for employees regarding their rights under sections 181.9445 to 181.9448. The community-based organizations must be selected based on their experience, capacity, and relationships in

high-violation industries. The work under such a grant may include the creation and administration of a statewide worker hotline.

Subd. 5. Report to legislature. (a) The commissioner must submit an annual report to the legislature, including to the chairs and ranking minority members of any relevant legislative committee. The report must include but is not limited to:

(1) a list of all violations of sections 181.9445 to 181.9448, including the employer involved, and the nature of any violations; and

(2) an analysis of noncompliance with sections 181.9445 to 181.9448, including any patterns by employer, industry, or county.

(b) A report under this section must not include an employee's name or other identifying information, any health or medical information regarding an employee or an employee's family member, or any information pertaining to domestic abuse, sexual assault, or stalking of an employee or an employee's family member.

Subd. 6. Contract for labor or services. It is the responsibility of all employers to not enter into any contract or agreement for labor or services where the employer has any actual knowledge or knowledge arising from familiarity with the normal facts and circumstances of the business activity engaged in, or has any additional facts or information that, taken together, would make a reasonably prudent person undertake to inquire whether, taken together, the contractor is not complying or has failed to comply with this section. For purposes of this subdivision, "actual knowledge" means information obtained by the employer that the contractor has violated this section within the past two years and has failed to present the employer with credible evidence that such noncompliance has been cured going forward.

EFFECTIVE DATE. This section is effective January 1, 2024, except that the commissioner is authorized to begin rulemaking the day after enactment and the commissioner is authorized to begin the grant-making process in subdivision 4 the day after enactment.

Sec. 4. Minnesota Statutes 2022, section 181.944, is amended to read:

181.944 INDIVIDUAL REMEDIES.

In addition to any other remedies provided by law, a person injured by a violation of sections 181.172, paragraph (a) or (d), ~~and~~ 181.939 to 181.943, and 181.9445 to 181.9448 may bring a civil action to recover any and all damages recoverable at law, together with costs and disbursements, including reasonable attorney's fees, and may receive injunctive and other equitable relief as determined by a court.

EFFECTIVE DATE. This section is effective January 1, 2024, and applies to causes of action accruing on or after that date.

ARTICLE 3

EARNED SICK AND SAFE TIME APPROPRIATIONS

Section 1. EARNED SICK AND SAFE TIME APPROPRIATIONS.

(a) \$1,445,000 in fiscal year 2024 and \$2,209,000 in fiscal year 2025 are appropriated from the general fund to the commissioner of labor and industry for enforcement and other duties regarding earned sick and safe time under Minnesota Statutes, sections 181.9445 to 181.9448, and chapter 177. In fiscal year 2026, the base is \$1,899,000.

(b) \$3,000 in fiscal year 2024 is appropriated from the general fund to the commissioner of management and budget for printing costs associated with earned sick and safe time under Minnesota Statutes, sections 181.9445 to 181.9448.

(c) \$17,000 in fiscal year 2024 and \$3,000 in fiscal year 2025 are appropriated from the general fund to the commissioner of management and budget for system programming costs associated with this act.

(d) \$127,000 in fiscal year 2024 and \$261,000 in fiscal year 2025 are appropriated from the general fund to the entities specified in paragraph (e) to offset the cost of earned sick and safe time leave required under this act of executive branch agencies, boards, and commissions.

(e) The commissioner of management and budget must determine an allocation of the amount appropriated in paragraph (d) for each executive branch state agency, board, and commission. Each allocation is directly appropriated to each of these entities as specified by the commissioner.

(f) \$300,000 in fiscal year 2024 and \$300,000 in fiscal year 2025 are appropriated from the general fund to the commissioner of labor and industry for grants to community organizations under Minnesota Statutes, section 177.50, subdivision 4. This is a onetime appropriation.

(g) \$18,000 in fiscal year 2024 is appropriated from the general fund to the house of representatives to modify timecard and human resources systems as necessary to comply with this act.

APPENDIX
Repealed Minnesota Statutes: S0034-3

No active language found for: 181.9413