

HB 600-FN - AS INTRODUCED

2015 SESSION

15-0358
06/01

HOUSE BILL **600-FN**

AN ACT relative to paid sick leave for employees.

SPONSORS: Rep. Gile, Merr 27; Rep. Myler, Merr 10; Sen. Feltes, Dist 15

COMMITTEE: Labor, Industrial and Rehabilitative Services

ANALYSIS

This bill requires employers to provide paid sick leave for employees.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

1 also includes any sanctions against a recipient of public benefits.

2 IX. "Small business" means any private individual, firm, partnership, institution,
3 corporation, or association for which fewer than 15 persons work for compensation during a given
4 week. In determining the number of persons performing work for compensation during a given
5 week, all persons performing work for compensation on a full-time or part-time basis shall be
6 counted.

7 275-G:2 Accrual of Paid Sick Leave.

8 I. All full or part-time employees who work in New Hampshire for more than 6 consecutive
9 months with the same employer in a year shall receive paid sick leave as provided in this chapter.

10 II. Employees shall accrue one hour for every 30 hours of work not to exceed 40 hours of paid
11 sick leave in a calendar year, unless the employer selects a higher limit.

12 III. Employees may use paid sick leave after 6 months of continuous employment or the
13 equivalent in the case of part-time employees, after the employee's date of hire.

14 IV. Employers may allow employees to carry over paid sick leave to the following calendar
15 year.

16 V. Any employer with a paid leave policy who makes available an amount of paid leave
17 sufficient to meet the requirements of this chapter and which may be used for the same purposes and
18 under the same conditions as paid sick leave under this chapter shall not be required to provide
19 additional paid sick leave.

20 VI. Nothing in this chapter shall be construed as requiring financial or other reimbursement
21 to an employee from an employer upon the employee's termination, resignation, retirement, or other
22 separation from employment for accrued paid sick leave that has not been used.

23 VII. Upon separation from employment, if the employee is rehired within 12 months of
24 separation by the same employer, previously accrued paid sick leave that had not been used may be
25 reinstated at the discretion of employer.

26 275-G:3 Use of Paid Sick Leave.

27 I. Paid sick leave shall be provided to an employee by an employer for:

28 (a) An employee's mental or physical illness, injury, or health condition, an employee's
29 need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health
30 condition.

31 (b) Care of a family member with a mental or physical illness, injury, or health
32 condition, care of a family member who needs medical diagnosis, care, or treatment of a mental or
33 physical illness, injury, or health condition.

34 II. Employers may adopt reasonable procedures requiring employees to notify them of need
35 to use sick leave prior to scheduled work hours.

36 III. An employer may establish in a written policy the minimum amount of sick leave
37 increments that an employee may use.

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1 IV.(a) For sick leave of more than 3 consecutive days, an employer may require reasonable
2 documentation that the sick leave is covered by paragraph I, including documentation signed by a
3 health care professional indicating that sick time is necessary.

4 (b) An employer may not require that the documentation explain the nature of the
5 illness.

6 V. An employer shall not require, as a condition of providing paid sick leave under this
7 chapter, that the employee search for or find a replacement worker to cover the hours during which
8 the employee is on paid sick leave.

9 275-G:4 Exercise of Rights Protected.

10 I. It shall be unlawful for an employer or any other person to interfere with, restrain, deny
11 the exercise of, or deny the attempt to exercise, any right protected under this chapter.

12 II. An employer shall not take retaliatory personnel action or discriminate against an
13 employee because the employee has exercised rights protected under this chapter.

14 III. It shall be unlawful for an employer to count paid sick leave taken under this chapter as
15 an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other
16 adverse action. Nothing in this chapter shall prohibit an employer from taking disciplinary action
17 against an employee who uses sick leave for purposes other than those defined in this chapter.

18 275-G:5 Notice and Posting.

19 I. Employers shall give notice that employees are entitled to paid sick leave, the amount of
20 paid sick leave, and the terms of its use guaranteed under this chapter, that retaliation against
21 employees who request or use paid sick leave is prohibited, and that each employee has the right to
22 file a complaint or bring a civil action if sick leave as required by this section is denied by the
23 employer or the employee is retaliated against for requesting or taking paid sick leave.

24 II. The department shall create and make available to employers posters that contain the
25 information required under paragraph I.

26 III. An employer who willfully violates the notice and posting requirements of this section
27 shall be subject to a civil fine in an amount not to exceed \$100 for each separate offense.

28 275-G:6 Employer Records. Employers shall retain records that document the hours worked by
29 employees and paid sick leave taken by employees, for a period of 4 years, and shall allow the
30 department access to such records, with appropriate notice and at a mutually agreeable time, to
31 monitor compliance with the requirements of this chapter.

32 275-G:7 Exemption. Employers with policies that allow paid time off or flexible leave time to be
33 used as sick leave are exempt from the requirements of this chapter.

34 275-G:8 Rules.

35 I. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the forms,
36 procedures, implementation, and enforcement of this chapter.

37 II. The commissioner shall coordinate implementation and enforcement of this chapter.

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1 275-G:9 Enforcement.

2 I. Any employee who alleges a violation of rights under this chapter, and who has first made
3 a reasonable effort to maintain or restore such employee's rights through any grievance procedure or
4 similar process available at such employee's place or employment, may obtain a hearing with the
5 commissioner of labor or a designee appointed by the commissioner. Following such hearing, the
6 commissioner or his or her designee shall render a judgment on such matter, and shall order, as the
7 commissioner or his or her designee considers appropriate, reinstatement of the employee, the
8 payment of back pay, fringe benefits and seniority rights, any appropriate injunctive relief, or any
9 combination of these remedies.

10 II. Decisions rendered by the commissioner under paragraph I may be appealed pursuant to
11 RSA 541.

12 III. The department shall encourage reporting pursuant to this section by protecting the
13 confidentiality of, to the maximum extent permitted by applicable laws, the name and other
14 identifying information of the employee or person reporting the violation. However, with the
15 authorization of such person, the department may disclose his or her name and identifying
16 information as necessary to enforce this section or for other appropriate purposes.

17 275-G:10 Statutory Minimum for Sick Leave Policies.

18 I. Nothing in this chapter shall be construed to discourage or prohibit an employer from the
19 adoption or retention of a paid sick leave policy which exceeds the requirements of this chapter.

20 II. Nothing in this chapter shall be construed as altering or diminishing the obligation of an
21 employer to comply, with any contract, collective bargaining agreement, employment benefit plan, or
22 other agreement providing more generous paid sick leave to an employee than required in this
23 chapter.

24 III. Nothing in this chapter shall be construed as diminishing the rights of public employees
25 regarding paid sick leave or use of sick leave as provided in any laws of the state of New Hampshire.

26 275-G:11 Other Legal Requirements. This chapter provides minimum requirements pertaining
27 to paid sick leave and shall not be construed to preempt, limit, or otherwise affect the applicability of
28 any other law, regulation, requirement, policy, standard, or collective bargaining agreement that
29 provides for greater accrual or use by employees of sick leave, whether paid or unpaid, or that
30 extends other protections to employees.

31 275-G:12 Severability. If any provision of this chapter or application thereof to any person or
32 circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the
33 chapter which can be given effect without the invalid provision or application, and to this end the
34 provisions of this chapter are declared severable.

35 3 Contingency; Implementation. RSA 275-G as inserted by this act shall take effect on the date
36 that the commissioner of the department of labor determines that a version of the Healthy Families
37 Act or similar legislation has been enacted by the United States Congress and certifies such

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- 1 enactment to the secretary of state and the director of the office of legislative services.
- 2 4 Effective Date.
- 3 I. Sections 1 and 2 of this act shall take effect as provided in section 3 of this act.
- 4 II. The remainder of this act shall take effect upon its passage.

HB 600-FN FISCAL NOTE

AN ACT relative to paid sick leave for employees.

FISCAL IMPACT:

The Department of Administrative Services, Department of Labor, New Hampshire Municipal Association, and New Hampshire Association of Counties state this bill, **as introduced**, will increase state expenditures by an indeterminable amount in FY 2016 and each year thereafter, and have an indeterminable impact on county and local expenditures in FY 2016 and each year thereafter. There will be no impact on state, county, and local revenue.

The Office of Legislative Budget Assistant is awaiting information from the Judicial Branch relative to the potential fiscal impact of this bill. The Branch was contacted on 01/07/15 to provide the information.

METHODOLOGY:

The Department of Administrative Services states this bill requires employers to provide employees, including part-time employees, with up to 40 hours of paid sick leave per year. The Department states the State of New Hampshire already provides full-time employees with leave accruals greater than those identified in the bill, so there will be no additional cost related to full-time employees. The State does not, however, currently provide paid sick leave to part-time employees. The Department estimates this provision will increase state expenditures by \$8,914,788 per year, calculated as follows:

6,413 classified part-time employees
<u>\$14.20 average hourly rate for classified part-time employees</u>
6,413 employees * \$14.20 hourly rate * 40 hours of leave = \$3,642,584

3,635 non-classified part-time employees
<u>\$36.26 average hourly rate for non-classified part-time employees</u>
3,365 employees * \$36.26 * 40 hours of leave = \$5,272,204

Total: \$8,914,788

In addition to the costs identified above, the Department states there may be indeterminable costs associated with the proposed language in RSA 275-G:2, VII, which indicates that upon separation from employment, if an employee is rehired within 12 months of separation by the

same employer, previously accrued sick leave that had not been used may be reinstated at the discretion of the employer. The Department notes that the State of New Hampshire does not currently reinstate unused sick leave for current full-time employees, and if it chose to do so, an additional cost would be generated. In addition, the State provides health coverage for employees that are absent on paid sick time; this additional leave would extend the state's obligation to offer paid coverage beyond what is currently provided.

The Department of Labor states the bill will have an indeterminable impact on expenditures. The Department states that although it already has a process in place for hearing labor disputes, the number of hearings may increase as a result of the bill.

The New Hampshire Municipal Association states it is unable to determine the number of municipalities, if any, currently providing less paid sick leave than that contemplated by the bill. As such, the Association is unable to determine the impact on municipal expenditures.

The New Hampshire Association of Counties states that counties do currently provide paid sick leave for employees. The Association further states the bill may extend such coverage to a wider population, but the impact on county expenditures is indeterminable.