

HB 74-FN - AS INTRODUCED

2023 SESSION

23-0162

05/10

HOUSE BILL            **74-FN**

AN ACT                relative to an employee's unused earned time.

SPONSORS:            Rep. M. Cahill, Rock. 10; Rep. Renzullo, Hills. 13; Rep. McLean, Hills. 15; Rep. S. Pearson, Rock. 13; Rep. M. Pearson, Rock. 34

COMMITTEE:          Executive Departments and Administration

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ANALYSIS

This bill requires an employer to pay an employee for unused earned time.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Three*

AN ACT relative to an employee's unused earned time.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 New Section; Day's Work; Days of Rest; Unused Earned Time. Amend RSA 275 by inserting  
2 after section 35 the following new section:

3 275:35-a Unused Earned Time.

4 I. An employer that employs 15 or more employees and offers paid earned time to such  
5 employees shall comply with the following:

6 (a) Inform employees in writing of any policy regarding accrual or use of unused earned  
7 time and any limits on accrual or use. In the absence of an accrual system, earned time shall be paid  
8 on a prorated basis.

9 (b) Provide a means through which earned time requests and approvals are processed.

10 (c) Provide employees with an accounting of earned time used and unused earned time  
11 remaining.

12 II. For the purpose of this section, the terms "earned time," "vacation" or "vacation time,"  
13 and "paid time off" shall be considered compensation and therefore constitute wages due. For the  
14 purposes of this section, "sick time" or "sick days" shall not be considered as wages due.

15 2 New Paragraph; Protective Legislation; Wages. Amend RSA 275:43 by inserting after  
16 paragraph V the following new paragraph:

17 V-a. An employee who leaves in good standing, or whose termination is the result of a layoff,  
18 shall be paid for unused earned time no later than the next regular pay period. If the termination is  
19 the result of a change of business ownership, the prior employer shall, upon completion of the  
20 transfer of ownership, pay the employee's unused earned time wages or transfer the employee's  
21 unused earned time to the new employer. For the purpose of this paragraph, the terms "earned  
22 time," "vacation" or "vacation time," and "paid time off" shall be considered compensation and  
23 therefore constitute wages due. For the purposes of this paragraph, "sick time" or "sick days" shall  
24 not be considered as wages due.

25 3 Effective Date. This act shall take effect 60 days after its passage.

**HB 74-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT relative to an employee's unused earned time.

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Up to \$4.5 million	Up to \$4.5 million	Up to \$4.5 million
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General State Funds	<input type="checkbox"/> Education	<input checked="" type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other - Various

**COUNTY:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

**LOCAL:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

**METHODOLOGY:**

This bill requires the State to recognize that all full-time employees are afforded paid time off, even in the absence of a system to allocate and track the use of that and/or allow for paid leave to be carried forward from one year to the next. The Department of Administrative Services states this bill has an indeterminable fiscal impact ranging from zero to \$4.5m in State expenditures. The Department is unable to estimate the proportion of paid leave that will be utilized versus paid out to applicable employees. However, the Department did identified 850 full-time employees that do not currently accrue paid leave in the State's NH FIRST system. The Department calculated if the maximum value of paid leave for these individuals, allocated at the same rate as proscribed by the Personnel Rules and was paid out at each employee's current hourly rate (as of 10/25/2022), the maximum fiscal impact would be \$4.5 million. If these same individual were paid out at anything less than the maximum the fiscal impact would be reduced. County and local expenditures would also experience an indeterminable

increase in expenditures to the extent that they have employees who would be impacted by this bill.

It is assumed any this fiscal impact would not occur until FY 2024.

**AGENCIES CONTACTED:**

Department of Administrative Service