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## New Sick Leave Law Changes Senate Bill 588 Frequently Asked Questions

### 1. What are the changes in the law?

In 2021, the Oregon Legislature passed [Senate Bill 588](#) which went into effect on January 1, 2023. The bill amended state law (ORS 653.646) to include sick leave for employees:

- Who are employed through a hiring hall or similar referral system operated by a labor organization or a third party; and
- Whose terms and conditions of employment are covered by the multiemployer collective bargaining agreement; and
- Whose employment-related benefits are provided by the joint multiemployer-employee trust or benefit plan.<sup>1</sup>

Previously, these employees were exempt from the sick time law, but SB 588 repealed that exemption. The new law means that employees in the building and construction trades, among others who fit the above description are now covered and employers must provide them with sick leave as required by law.

### 2. When should the sick time be *paid* sick time?

Employers who have 10 or more employees (6 or more if the employer is located in Portland) must provide paid sick leave for employees. Otherwise, sick time is protected but unpaid.

### 3. When will employees who were not previously eligible for sick leave be eligible to accrue and use their sick time?

Employees that are employed on January 1, 2023 and meet the criteria above will start to accrue sick leave on that date and will be eligible to use their paid sick time no later than the 91<sup>st</sup> day of employment. Employees hired after January 1, 2023 will begin accruing sick leave on the first day of work and will be eligible to use accrued sick leave after the 91<sup>st</sup> day of employment. Employees will accrue one hour of sick leave for every 30 hours worked. If employees have already been accruing sick leave prior to January 1 and have been employed for at least 90 days, they can use that leave immediately and employers must pay the employees at their regular rate of pay during the absence.

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<sup>1</sup> The trustees of the trust or benefit plan must have agreed to the level of benefits provided under the sick leave policy or other paid time off program; and the contributions to the trust or benefit plan are made solely by the employer signatories to the agreement.

**4. What should an employee be paid when they are out on paid sick leave? How does that relate to work on public works projects and non-public works projects?**

Employees should be paid their “regular rate of pay,” without reductions in benefits, that the employee would have earned for their work at the time the employee uses the paid sick time. When the employee would have been working on a public works project, the employee’s regular rate of pay is no less than the applicable prevailing wage rate, the base rate plus the fringe rate.

When the employee would have been working on a non-public works project, the “regular rate of pay” is the hourly rate the employer normally pays the employee for that work. A worker’s regular rate of pay for scheduled work on projects not subject to prevailing wage should not be reduced when the reduction of pay has the effect of the worker not receiving the prevailing rate of wage for scheduled work on the public works project.

**5. What if the union already has a paid-leave (PTO) plan, does sick time still need to be provided to employees?**

For an existing PTO plan to comply with Oregon’s Sick Time Law, the plan must be considered “substantially equivalent” to the requirements the law mandates. Below are the key points that need to be addressed to be considered a substantially equivalent plan:

- Employees accrue 1 hour of leave time for every 30 hours worked.
- Employees must be able to use accrued leave no later than the 91st day of employment.
- Employees are able to accrue up to at least 40 hours of leave in a year.
- Unused leave must be able to be carried over year-to-year, but employers are not required to provide more than 40 hours in any one year.
- Unused leave does not have to be paid out upon employment ending (revocable benefit).
- Employers must fully fund paid leave (i.e., no deductions from employee pay).
- No restrictions on use of leave can be stipulated, unless specifically stated in ORS 653.646 (i.e., no advanced notice required to use leave).

More information on required provisions can be found on our website linked below. If the union’s paid leave plan does not meet the statutory requirements of the sick time law, it is then up to the individual employers to provide their employees with paid sick leave as the law requires.

**6. Where can I find more information on paid sick time?**

Information on paid sick time can be found on our website at <https://www.oregon.gov/boli/workers/Pages/sick-time.aspx>. You can also reach out to BOLI’s Employer Assistance Program who can further assist and answer any questions on paid sick time at [employer.assistance@boli.oregon.gov](mailto:employer.assistance@boli.oregon.gov) or 971-361-8400.