



Board of County Commissioners Agenda Request

2V
Agenda Item #

Requested Meeting Date: October 28, 2025

Title of Item: Updated ESST Policy – Effective 1/1/2026

☐ REGULAR AGENDA ☒ CONSENT AGENDA	Action Requested: ☒ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Hold Public Hearing <i>*provide copy of hearing notice that was published</i>	☐ Direction Requested ☐ Discussion Item ☐ Information Only
Submitted by: Bobbie Danielson, HR Director		Department: Human Resources Dept.
Presenter (Name and Title): n/a		Estimated Time Needed: n/a
Summary of Issue: Please find the updated ESST policy attached. This revision clarifies that ESST applies to the employer's more generous time banks, as required by statute. It also reflects the statutory change allowing documentation to be requested after 2 days of leave (previously 3), and specifies that ESST will run concurrently with FMLA, PFML, Parental Leave, and any other applicable leaves. This updated policy replaces all prior ESST policies and will take effect on January 1, 2026. The ESST policy update has been discussed with department heads and the personnel committee.		
Alternatives, Options, Effects on Others/Comments:		
Recommended Action/Motion: Motion to approve the updated ESST policy with an effective date of 1/1/2026.		
Financial Impact: <i>Is there a cost associated with this request?</i> ☐ Yes ☒ No <i>What is the total cost, with tax and shipping? \$</i> <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>		

Earned Sick and Safe Time (ESST) Policy

1. Purpose and Scope

This policy ensures compliance with Minnesota Statutes §§ 181.9445–181.9448 regarding earned sick and safe time (ESST). The employer already provides leave banks (PTO, Personal Leave, and Extended Sick Leave) that meet or exceed the minimum ESST standards. Accordingly, employees may use these existing leave banks for any purpose permitted under the ESST law.

This policy applies to all eligible employees who work at least 80 hours in a year in Minnesota, including part-time and temporary employees.

This policy does not apply to volunteers, independent contractors, or elected officials.

For purposes of this ESST policy, a “year” is defined as a calendar year.

2. Accrual of Earned Sick and Safe Time

- Employees accrue a minimum of **one hour of ESST for every 30 hours worked**, up to at least **48 hours per year**, unless the employer provides a more generous amount.
 - Employees may **carry over** accrued but unused ESST into the following year, up to **80 hours**.
 - Accrual begins on the employee’s first day of employment. ESST may be used as it is accrued.
 - Exempt employees are assumed to work 40 hours per week unless their normal workweek is less.
 - ESST is paid at the employee’s **base rate of pay**, as defined by law.
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3. Permitted Uses of ESST

Employees may use ESST for the following purposes:

Eligible use.

An employee may use accrued earned sick and safe time for:

(1) an employee's:

- (i) mental or physical illness, injury, or other health condition;
- (ii) need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition;

(iii) need for preventive medical or health care; or

(iv) need to make arrangements for or attend funeral services or a memorial, or address financial or legal matters that arise after the death of a family member;

(2) care of a family member:

(i) with a mental or physical illness, injury, or other health condition;

(ii) who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or other health condition; or

(iii) who needs preventive medical or health care;

(3) absence due to domestic abuse, sexual assault, or stalking of the employee or employee's family member, provided the absence is to:

(i) seek medical attention related to physical or psychological injury or disability caused by domestic abuse, sexual assault, or stalking;

(ii) obtain services from a victim services organization;

(iii) obtain psychological or other counseling;

(iv) seek relocation or take steps to secure an existing home due to domestic abuse, sexual assault, or stalking; or

(v) seek legal advice or take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from domestic abuse, sexual assault, or stalking;

(4) closure of the employee's place of business due to weather or other public emergency or an employee's need to care for a family member whose school or place of care has been closed due to weather or other public emergency;

(5) the employee's inability to work or telework because the employee is: (i) prohibited from working by the employer due to health concerns related to the potential transmission of a communicable illness related to a public emergency; or (ii) seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, a communicable disease related to a public emergency and such employee has been exposed to a communicable disease or the employee's employer has requested a test or diagnosis; and

(6) when it has been determined by the health authorities having jurisdiction or by a health care professional that the presence of the employee or family member of the employee in the community would jeopardize the health of others because of the exposure of the employee or family member of the employee to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease.

“Family member” includes a wide range of relationships defined in Minn. Stat. § 181.9445, including spouses, children, parents, grandparents, siblings, in-laws, designated individuals, and those with close associations equivalent to family.

4. Notice and Documentation

- If the need for leave is **foreseeable**, employees must provide up to **seven days’ advance notice** when possible.
 - If the need is **unforeseeable**, employees must provide notice **as soon as practicable**.
 - If leave lasts more than two consecutive scheduled workdays (effective 1/1/2026), the employer may require **reasonable documentation** as permitted under the law.
 - Employees may provide written statements; notarization is not required.
 - Employees may, but are **not required to find a replacement** to cover their shift in order to use ESST.
 - ESST may not be used on an employee’s scheduled day off.
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5. Increments of Use and Pay

- ESST may be used in increments consistent with the employer’s payroll system.
 - ESST is paid at the employee’s base rate and does not include shift differential, overtime, FTO pay, or other pay premiums.
 - The employer will maintain the employee’s group insurance coverage during ESST usage as if the employee were working, provided the employee continues their share of premium contributions.
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6. Protections and Retaliation Prohibited

- Employees are protected from discharge, discipline, or retaliation for exercising rights under ESST law.
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7. Notice and Recordkeeping

- The employer will provide employees with a **written notice** of their ESST rights upon hire and through postings in the workplace or electronic systems.
- Each pay period, employees will receive a pay stub showing:

- Total leave bank hours accrued and available
 - Total leave bank hours used during the pay period
 - To ensure compliance in the event of an audit, the employer will document through internal payroll and leave records that at least 48 hours of qualifying ESST have been provided and protected annually through the employer's PTO, Personal Leave, and/or Extended Sick Leave banks. If fewer than 48 hours are used in a calendar year, unused hours will be carried over to the next year, up to a maximum of 80 hours, consistent with statutory requirements.
 - The employer will retain ESST records in accordance with payroll retention requirements.
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8. Confidentiality

All information related to an employee's use of ESST, including health or safety information, is **confidential** and may not be disclosed except as required by law or authorized by the employee.

9. Separation, Rehire, and Successorship

- Unused ESST is **not paid out** upon separation from employment, including layoff, voluntary resignation, retirement, or termination.
 - If an employee is **rehired within 180 days**, previously accrued and unused ESST will be reinstated.
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10. Interaction with Existing Leave Banks

Because the employer provides **PTO, Personal Leave, and Extended Sick Leave** that meet or exceed statutory requirements, these banks satisfy the minimum ESST obligations. No separate ESST bank is maintained. Employees may use these existing leave types for ESST-eligible reasons.

11. Additional Provisions

- ESST runs concurrent with FMLA, Minnesota Parental Leave Act, Paid Family and Medical Leave (PFML), and any other applicable leaves.
- Employees may not donate unused sick and safe time to other employees.
- Weather event exceptions apply as negotiated with licensed peace officers, dispatchers, correctional officers, and public employees holding a commercial

driver's license in the interest of public safety. Refer to the applicable collective bargaining agreement.

- Probationary periods will be extended by the length of any ESST taken, unless prohibited by contract or law.
- Employees are entitled to job reinstatement and continued accrual of seniority.

Effective Date: January 1, 2026

Authority: Minn. Stat. §§ 181.9445–181.9448

Attach: MN Dept of Labor and Industry ESST Employee [Notice](#)