



Could Paid Sick Leave Be Coming Statewide to New Jersey

Insights

10.13.14

Currently, identical paid sick leave bills are pending in the New Jersey Senate and Assembly Labor Committees. Recently, the Assembly Labor Committee held a hearing on its bill A2354. The bill covers all employers that have employees within New Jersey, but bases the amount of time required to be provided on the number of employees. A “small employer,” which is defined as an employer with an average of less than 10 employees during the past calendar year (or the current one if the employer had no employees the prior year), would be required to provide employees up to 40 hours of sick leave, while larger employers would have to provide up to 72 hours. When calculating the number of employees, employers would have to include full-time, part-time, and temporary employees (including those placed through a “temporary help services firm”) in their calculations.

The specific reasons why an employee may use paid sick time are listed in the bill. The bill would not require employers to provide paid sick time for reasons other than those provided in the bill, nor would it prevent employers disciplining employees who take the paid sick time for non-permissible reasons. If an employer already has a leave policy that would comply with the requirements of the bill, namely the amount of time and way it is accrued, allows use of leave for the reasons provided in the bill, and provides paid leave, the employer would not have to change its policy.

The bill provides that employers could require employees provide advance notice of the need to use sick time and its possible duration if use of the time is foreseeable. In the case where the use of sick time is not foreseeable, an employer would be able to require notice as soon as practicable. If the time used would exceed three consecutive days, an employer could request “reasonable documentation” that the leave is being taken for one of the reasons covered in the bill. What is acceptable documentation would depend on the reason for the leave.

The bill would prohibit employers from retaliating against employees for using sick time provided under the bill or under otherwise compliant leave policies, making complaints to the state about potential violations, or informing other employees about rights provided by the would-be law. The bill also provides that there is “a rebuttable presumption of an unlawful retaliatory personnel action ... [if] an employer takes adverse action against an employee within 90 days of”

- filing a complaint with the department or a court alleging a violation;
- informs any person about an employer’s alleged violation;

- cooperates in the investigation or prosecution of any alleged violation;
- opposes any policy, practice, or act that would be unlawful under the bill;
- or informs any person of his or her rights under the bill.

No vote was held after the hearing and it appears that the bill may be amended before it is released from the committee. The Senate's bill, S785, has been in the Senate Labor Committee since January of this year and no action has been taken. At this time, it is unclear if a paid sick leave bill will reach the Governor's desk before the end of the year and if the Governor would sign that bill if it did. Employers in New Jersey should be aware that certain municipalities require paid sick leave be provided to employees through local ordinances or are considering adopting such ordinances. In the meantime, employers should watch the status of the two bills and the local ordinances being considered or voted on in November.