

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2015

Legislative Fiscal Note

BILL NUMBER: House Bill 270 (First Edition)

SHORT TITLE: Healthy Families & Workplaces/Paid Sick Days.

SPONSOR(S): Representatives Fisher, Farmer-Butterfield, L. Hall, and Luebke

| FISCAL IMPACT | | | | | |
|---|---|------------|------------|------------|------------|
| (\$ in millions) | | | | | |
| <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No Estimate Available | | | | | |
| | FY 2015-16 | FY 2016-17 | FY 2017-18 | FY 2018-19 | FY 2019-20 |
| State Impact | | | | | |
| General Fund Revenues: | | | | | |
| General Fund Expenditures: | | | | | |
| State Positions: | | | | | |
| NET STATE IMPACT | Likely budget costs. See Assumptions & Methodology section for additional details. | | | | |
| Local Impact | | | | | |
| Revenues: | | | | | |
| Expenditures: | | | | | |
| NET LOCAL IMPACT | Likely budget costs. See Assumptions & Methodology section for additional details. | | | | |
| PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: | | | | | |
| EFFECTIVE DATE: Effective July 1, 2015, and applies only to covered employment on or after that date and does not apply to any collective bargaining agreement entered into before July 1, 2015, still in effect on that date. | | | | | |
| TECHNICAL CONSIDERATIONS: | | | | | |
| Yes - See Technical Considerations Section | | | | | |

BILL SUMMARY:

House Bill 270, Healthy Families & Workplaces/ Paid Sick Days, requires that all workers have earned, paid sick days by enacting a new article, Article 3A the Healthy Families and Healthy Workplaces Act (HFHW Act)., in Chapter 95 of the General Statutes. The HFHW Act does not apply to (1) bona fide volunteers in an organization where an employer-employee relationship does not exist or (2) any person who is exempt from the Wage and Hour Act and provides certain exceptions for domestic workers employed within their employer’s home.

HB 270 requires that all employees accrue paid sick time beginning at the start of employment. Paid sick time shall accrue at a rate of one hour of paid sick time for every 30 hours worked. The HFHW Act entitles any employee (other than the specified exemptions) who works in North Carolina and who must be absent from work for the reasons delineated in the proposed G.S. 95-

31.5(a) to paid sick time. HB 270 lays out guidelines regarding discretionary advancement of sick time by the employer, limits on the amount of paid sick time accrued, and the accrual of paid sick time when there is a separation of employment followed by a rehiring by the same employer.

HB 270 requires that paid sick time be provided for the reasons listed in G.S. 95-31.5, including:

- (1) To care for a member of the employee's immediate family suffering from health issues;
- (2) To care for the employee's own health, unless the care is covered under federal law; or
- (3) To allow an employee to address the psychological, physical, or legal effects on the employee or an immediate family member of domestic violence, sexual assault, or stalking.

According to HB 270, Employers may require certification of the qualifying health issue or event when a paid sick time period covers more than three consecutive work days. HB 270 set guidelines for determining what may be deemed acceptable certification and prohibits an employer from requiring the disclosure of details relating to domestic violence, sexual assault, stalking, or an employee's medical condition as a condition of providing paid sick time to an employee. Employers are directed to treat information provided as confidential.

Under HB 270, the employer may not require an employee to secure a replacement worker as a condition of providing sick time. Employees must make a good faith effort to provide the employer with notice when the use of sick time is foreseeable.

HB 270 sets the minimum requirements regarding paid sick time and should not be construed to limit, preempt, or otherwise affect other applicability of law, regulation, or policy that extends additional or greater protections to employees, nor should this proposed act be construed to discourage employers from adopting more generous paid sick time policies. Employers already offering a paid sick time policy do not have to modify that policy providing that the paid sick time policy currently in place offers an employee the option to take paid sick time that is equivalent to that proposed under the HFHW Act.

Employers must inform employees of their right to paid sick time in English and in Spanish either through supplying each employee a notice or by conspicuously displaying a poster in the workplace in both languages. Employers may not retaliate against employees who request or use paid sick time. Employees have a right to file a complaint with the Commissioner of Labor or in the General Court of Justice if an employer (1) denies an employee paid sick time or (2) retaliates against an employee for requesting or taking paid sick time. HB 270 outlines criteria regarding an employer's liability for a violation under the HFHW Act, including provisions for the potential awarding of liquidated damages for a violation of the act. Actions brought under the HFHW Act must be brought within two years.

The Commissioner of Labor is authorized to enforce and administer the provisions of the HFHW Act, and is directed to adopt rules to implement the Act.

The HFHW Act is effective July 1, 2015, and applies only to covered employment on or after that date and does not apply to any collective bargaining agreement entered into before July 1, 2015, still in effect on that date

ASSUMPTIONS AND METHODOLOGY:

HB 270 requires all employers to provide one hour of sick leave for every 30 hours worked. This requirement is for all employees except for the few exemptions detailed in HB 270. The State provides sick leave to employees who are “in pay status for one half or more of the regularly scheduled workdays and holidays in the pay period.”¹ Sick leave is granted at the rate of eight hours per month for “full-time permanent, probationary, trainee and time-limited employees.”² Sick leave for part-time permanent, probationary, trainee, and time-limited employees is pro-rated. For the most part, the State does not provide sick leave to temporary employees or part-time employees who work less than half of the month.

Assuming a full-time employee works 2,000 hours per year (40 hours per week for 52 weeks less 10 paid holidays), an employer would be required to grant this employee 66.67 hours of sick leave. The state provides 96 hours of paid sick leave for permanent employees, exceeding the requirements of HB 270 for full-time permanent, probationary, trainee, and time-limited employees, and because part-time employee sick leave accumulation is on a pro-rated basis, the State provides them leave in excess of that required in HB 270 as well.

However, the State does not currently provide sick leave to temporary employees. The State uses a significant number of temporary employees through both Temporary Solutions and outside temporary service providers. These employees would be granted paid sick leave under HB 270.

Providing paid sick leave to temporary employees could increase State expenditures in two ways. The first, and primary driver of any expected fiscal impact, is increased compensation expenditures. Most temporary employees are paid by the hour and are not compensated for hours they are not at work. Under HB 270, when a temporary employee utilizes sick leave, the State would compensate the employee for that time not at work. There is no way to estimate the cost of this potential increase in compensation since the amount of leave taken and each temporary employee’s rate of pay are unknown.

Second, sick leave accumulates indefinitely and can be used as service credit upon retirement. If an employee worked as a temporary before becoming a permanent employee, sick leave hours accumulated as a temporary could, presumably, be used upon retirement. However, as a temporary employee, the employee is not earning retirement service credit or paying into the retirement system. The potential cost to the retirement systems is unknown.

SOURCES OF DATA:

Summary adapted from Bill Digest
Office of State Human Resources, Personnel Policies, Sick Leave

¹ Office of State Human Resources. “Personnel Policies: Sick Leave.”
http://www.oshr.nc.gov/Guide/Policies/5_Leave/Sick%20Leave.pdf

² Ibid.

TECHNICAL CONSIDERATIONS:

1. This fiscal note addresses the additional costs to the State from HB 270 and does not address the fiscal impact on local governments or private businesses resulting from the requirement to provide paid sick leave.

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