

Electronic Alert

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Certain Employees Covered by CBAs No Longer Exempt from Oregon Sick Time Law

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In 2021, the Oregon legislature passed SB 588, removing the Oregon sick time exemption (located in ORS 653.646) for employees, other than longshore workers, covered under a collective bargaining agreement, who are employed through a third party (e.g., a hiring hall), and whose benefits are provided by a joint multiemployer-employee trust or benefit plan. Oregon sick leave requirements will now apply to these employees. This change becomes effective January 1, 2023.

Beginning January 1, 2023, employers utilizing hiring halls can still be in compliance with Oregon's Paid Sick Leave requirements if:

- 1) The terms of the agreement provide a sick leave policy or other paid time off program that is substantially equivalent to or more generous than the minimum requirements of ORS 653.601 to 653.661 for the benefit of employees:
 - a. Who are employed through a hiring hall or similar referral system operated by the labor organization or a third party;
 - b. Whose terms and conditions of employment are covered by the multiemployer collective bargaining agreement; and
 - c. Whose employment-related benefits are provided by the joint multiemployer-employee trust or benefit plan;
- 2) The trustees of the trust or benefit plan have agreed to the level of benefits provided under the sick leave policy or other paid time off program; and
- 3) The contributions to the trust or benefit plan are made solely by the employer signatories to the agreement.

Last Friday, Oregon's Bureau of Labor & Industries filed a notice of proposed rulemaking related to SB 588. The notice states that BOLI plans to repeal OAR 839-007-0060, the rule that contains the sick time exemption. Deadline for public comment is 5:00 p.m. on October 31, 2022. Employers can anticipate the rule will be repealed.

In advance of the January 1, 2023, effective date, employers with unionized workforces should review whether repeal of this Oregon sick time exemption affects their employees and determine whether bargaining over the change with the union is required.

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