



Robert L. Andrews
District 1

Richard R. Dutremble
District 2

Allen R. Sicard
District 3

Donna L. Ring
District 4

Richard Clark
District 5

**COUNTY COMMISSIONERS
COUNTY OF YORK**

45 Kennebunk Road
Alfred, Maine 04002

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Gregory T. Zinser
County Manager

Kathryn A. Dumont
Assistant to the Manager

Linda M. Corliss
Deputy County Manager
Human Resource Director

**AGENDA FOR THE REGULAR MEETING
OF WEDNESDAY, JANUARY 6, 2021
AT 4:30 P. M. IN THE YORK COUNTY GOVERNMENT BUILDING
(TO BE HELD IN THE COMMISSIONERS' MEETING ROOM)**

**PLEASE BE ADVISED THAT PER THE GOVERNOR'S DECLARATION, THERE
WILL BE NO MORE THAN 50 PERSONS ALLOWED IN THE MEETING.
HOWEVER, THE MEETING ROOM CANNOT HOLD THAT AMOUNT WITH
PROPER SOCIAL DISTANCING. THEREFORE, THE ROOM WILL HAVE SEATING
THAT ALLOWS FOR 6 FT. SOCIAL DISTANCING.
PUBLIC WISHING TO CALL IN CAN DO SO AT: 207-770-9263 CODE: 715414**

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**YOU ARE INVITED TO RISE AND SALUTE THE FLAG OF THE UNITED STATES**

- 01-06-21            ITEM
- 1                    TO SELECT A COUNTY COMMISSIONER CHAIRPERSON FOR 2021
- 2                    TO SELECT A COUNTY COMMISSIONER VICE CHAIRPERSON FOR 2021
- 3                    PUBLIC COMMENT(S) ON ANY ITEM(S)
- 4                    TO SELECT A WORKFORCE CENTER DIRECTOR FOR 2021
- 5                    TO SELECT A SOUTHERN MAINE REGIONAL PLANNING REPRESENTATIVE  
FOR 2021
- 6                    TO REVIEW AND APPROVE THE MINUTES OF THE COUNTY  
COMMISSIONERS MEETINGS-  
a. December 16, 2020  
b. December 21, 2020
- 7                    TO ADOPT ROBERT'S RULES OF GOVERNANCE FOR CONDUCTING 2021  
COMMISSIONER MEETINGS

8 **TO SELECT A DAY AND TIME FOR CONDUCTING REGULAR COUNTY COMMISSIONER MEETINGS FOR 2021**

Manager recommendations: 1<sup>st</sup> and 3<sup>rd</sup> Wednesdays beginning at 4:30 P.M.-following dates: January 6, January 20, February 3, February 17, March 3, March 17, April 7, April 21, May 5, May 19, June 2, (June 16th if needed), July 7, (July 21st if needed), August 4, (August 18th if needed), September 1, September 15, October 6, October 20, November 3, November 17, December 1, December 15.

9 **TO REVIEW AND ADOPT POLICIES FOR 2021 AS FOLLOWS:**

- a. **MILEAGE REIMBURSEMENT RATE** (manager recommends '21 IRS rate 56 cents)
- b. **MEALS ON COUNTY BUSINESS RATE** (manager recommends '20 rates of \$10.00- breakfast, \$15.00 lunch, \$20.00 dinner or \$45.00 per diem)  
*\*Special note:* When the event you are attending includes any of the meals you are required to take part in the meal. If you are staying at a hotel that provides breakfast, you must utilize the breakfast provided by the hotel. In these instances, the amounts stated above will be deducted from the per diem rate.
- c. **POLICE/ACCIDENT/INCIDENT REPORTS** (manager recommends '20 rate of \$15.00)
- d. **NOTARIZATION/ATTESTATION FEES** (manager recommends '20 rate of \$5.00/\$10.00)

10 **TO APPROVE TREASURERS' WARRANT(S)**

- a. Approve treasurer's warrant dated December 23, 2020 in the amount of \$493,822.06
- b. Approve treasurer's warrant dated December 30, 2020 in the amount of \$145,099.02

11 **HEAR ANY REPORTS OF THE COMMISSIONERS**

12 **HEAR ANY REPORTS OF THE COUNTY MANAGER**

13 **NEW BUSINESS**

- a. Deputy Manager/H.R. Director Linda Corliss to present an Earned Paid Leave Policy to the Board for review and potential approval.
- b. Deputy Manager/H.R. Director Linda Corliss to seek direction from Commissioners regarding the expiration of the Families First Coronavirus Response Act.

14 **OLD BUSINESS**

15 **PUBLIC COMMENT(S) ON ANY ITEM(S)**

16 **TO CONDUCT AN EXECUTIVE SESSION ON PERSONNEL ISSUES PURSUANT TO 1 M.R.S.A. §405 (6) (A), ACQUISITION OF REAL PROPERTY OR ECONOMIC DEVELOPMENT PURSUANT TO 1 M.R.S.A. § 405 (6) (C), LABOR NEGOTIATIONS PURSUANT TO 1 M.R.S.A. § 405 (6) (D) AND CONSULTATION WITH LEGAL COUNSEL PURSUANT TO 1 M.R.S.A. § 405 (6) (E).**

- a. To conduct an executive session pursuant to 1 M.R. S.A. §405 (6) (A) personnel matter.

17 **ADJOURN**

**COMMISSIONERS MEETING**

**December 16, 2020**

*YORK,ss*

At a regular meeting of the County Commissioners of the County of York, begun and holden at the York County Government Building in Alfred, within and for the County of York, being held on Wednesday, December 16, 2020 A. D. at 4:30 P. M.

**COMMISSIONERS PRESENT:**

Richard R. Dutremble  
Michael J. Cote  
Richard Clark  
Robert Andrews  
Allen Sicard

County Manager Gregory Zinser and Deputy County Manager Linda Corliss were present at the meeting.

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- 12-16-20**      **ITEM**
- 1**      **PUBLIC COMMENT(S) ON ANY ITEM(S)**  
None
  - 2**      **TO APPROVE THE MINUTES OF THE FOLLOWING MEETINGS:**
    - a. Regular Meeting of December 2, 2020  
Commissioner Clark motioned to approve the minutes. Commissioner Sicard seconded the motion. Vote 5-0.
  - 3**      **TO APPROVE TREASURER’S WARRANTS**
    - a. Approve treasurer’s warrant dated December 2, 2020 in the amount of \$115,972.43  
Commissioner Clark motioned to approve the warrant. Commissioner Sicard seconded the motion. Vote 5-0.
    - b. Approve treasurer’s warrant dated December 9, 2020 in the amount of \$550,474.88  
Commissioner Clark motioned to approve the warrant. Commissioner Sicard seconded the motion. Vote 5-0.
  - 4**      **TO HEAR ANY REPORTS FROM THE COUNTY COMMISSIONERS**  
Commissioner Dutremble presented Commissioner Cote a plaque to thank him for his service to the County.

**5 TO HEAR ANY REPORTS FROM THE COUNTY MANAGER**

None

**6 NEW BUSINESS**

- a. To introduce Molly Louison, Director of the CAC of York County/Assistant Director of SARSSM and Gina Capra, Executive Director of SARSSM- Director Molly Louison read updates regarding the Child Advocacy Center and gave background information to the Commissioners. The Center opened in 2017 and is a program of SARSSM that exists largely because of the County. Ms. Louison gave thanks to Commissioner Cote and told him that he has been such an amazing supporter even before we opened our doors. She continued that they see children between the ages of 3-18 and occasionally outside of that if they are working with Police Depts. Last fiscal year- (packet enclosed as part of these minutes). (10-19-20 through 9-20-20) with one full time family advocate, three forensic interviewers, we had 187 recorded interviews, over 300 hours of one on one support, 104 law enforcement referrals, 9 indictments on 45 criminal counts as well as almost 60% connected to mental health services. Molly Louison gave a COVID update and stated that they utilized their forensic interviewer with Wells P.D. Ms. Louison added that they have re-arranged their space for social distancing. The County gave us access to a bigger room also this year. Molly asked if there were any questions. Commissioner Andrews stated that he applauds what they are doing and asked if they deal with any trafficking issues? Ms. Louison stated, yes, and they utilize an additional referral pathway in Preble Street; an organization that does anti trafficking interviews. Also, they have a separate service of trafficking team meetings. Sometimes the kids are on the run. There are also online risks for children right now due to COVID. Commissioner Cote commented that Molly and her employees do a great job. He added that we partnered with you folks and it is one of the good things the county does. It makes a lot of sense and he is glad we can help. Commissioner Cote stated that he appreciates it and he hopes it goes on for years and years. CAC of York County is the only in the State of Maine that works with the D.A.
- b. To recognize employees for their annual years of service- H.R. Director Corliss approached the Board and stated that we want to publicly recognize these employees. Director Corliss listed the names and years worked for York County Government (on record with these minutes). Sheriff King read the names of employees in his departments. York County Manager Greg Zinser recognized the following department leaders- Carol Lovejoy (40 years), William King (10 years) and Art Cleaves (5 years).
- c. To review and seek approval of ARAMARK Food Service Agreement Amendment (renewal #5)- County Manager Greg Zinser asked for the Commissioners' approval. Commissioner Clark moved to approve the amendment (renewal #5) and authorized the County Manager to sign. Commissioner Dutremble seconded the motion. Vote 5-0.
- d. To review and seek approval of year end allocations- County Manager Zinser

explained the requested allocations (attached as record to these minutes) and stated that the County did experience costs due to COVID and that the overall net revenue is \$941,104.00.

He listed the proposed allocations and added that the Jail ended with \$1.59 million.

Commissioner Dutremble moved to approve the year end allocations as proposed by County Manager Zinser. Commissioner Clark seconded the motion. Vote 5-0.

- e. Schedule tax abatement denial appeal Hearing for Eliot resident (suggested meeting date of January 20, 2021)  
The Commissioners are in agreement with hearing the Appeal at their January 20, 2021 meeting.
- f. H.R. Director Linda Corliss to seek hiring approval for Justin Greenlaw in the position of reserve Hazmat Operator in EMA with a start date of December 21, 2020-  
H.R. Director Linda Corliss addressed the Board to request the hiring of Justin Greenlaw in the position of reserve Hazmat Operator and stated that he is currently a part-time fire fighter for Old Orchard Beach Fire Department and the Hollis Fire Department. Mr. Greenlaw also holds an Associate Bachelor of Science degree from Springfield College.  
Commissioner Clark motioned to approve the hiring of Justin Greenlaw in the position of reserve Hazmat Operator in the EMA with an effective start date of December 21, 2020. Commissioner Sicard seconded the motion. Vote 5-0.

7

#### **OLD BUSINESS**

- a. Re-approve Mutual Aid Agreement due to language change-  
County Manager Greg Zinser explained that shortly after this Agreement was approved by the Commissioners he was informed that gender neutral language had been added as well as a change on line 52 on which a line was added “for personal injury...”. Our attorney agrees with changes, stated the County Manager.  
Commissioner Clark motioned to approve amendments to the Agreement and authorized Sheriff King and Chairman Cote to sign the document.  
Commissioner Dutremble seconded the motion. Vote 5-0.

8

#### **TO CONDUCT AN EXECUTIVE SESSION ON PERSONNEL ISSUES PURSUANT TO 1 M.R.S.A. §405 (6) (A), ACQUISITION OF REAL PROPERTY OR ECONOMIC DEVELOPMENT PURSUANT TO 1 M.R.S.A. § 405 (6) (C), LABOR NEGOTIATIONS PURSUANT TO 1 M.R.S.A. § 405 (6) (D) AND CONSULTATION WITH LEGAL COUNSEL PURSUANT TO 1 M.R.S.A. § 405 (6) (E), REVIEW OF CONFIDENTIAL RECORDS PURSUANT TO 1 M.R.S.A. § 405 (6) (F)**

- a. M.R.S.A. §405 6(D) labor negotiations  
County Manager Zinser informed all that he did believe there will be an action after this session.  
Commissioner Clark moved to enter into executive session. Commissioner Dutremble seconded the motion. Vote 5-0.

Commissioner Clark motioned to come out of executive session. Commissioner Dutremble seconded the motion. Vote 5-0.

Commissioner Clark motioned to schedule a special meeting on Monday, December 21, 2020 at 8:00 a.m. to consider two collective bargaining agreements. Commissioner Dutremble seconded the motion. Vote 5-0.

**\*\*\*HEARD PRIOR TO EXECUTIVE SESSION\*\*\***

**9 PUBLIC COMMENT(S) ON ANY ITEM(S) heard prior to exec. Session**  
Susan Wiswell (via phone) wished everyone happy holidays.

Commissioner Elect Donna Ring thanked Commissioner Cote for his service as a Commissioner and a deputy.

Commissioner Clark also thanked Commissioner Cote for his service and stated that the County is in better shape. He added that Commissioner Cote has done a huge amount of work (for the County) that we don't see such as in his rolls at MCCA and the risk pool.

Commissioner Dutremble reiterated what Commissioner Clark said and added that he, too, realizes the time and effort that Commissioner Cote put in (on the MCCA Board) as he substituted for him once in awhile.

Commissioner Cote replied that it is a tough moment for him. He added that the eight years that he has served on the Board of Commissioners has been good. He continued that he learned a lot and that it was a very interesting job to have. Commissioner Cote stated that he always believed it did more for me than I did for it. County government is a very interesting form of government, said Commissioner Cote. He informed all that he still had not heard from the Commissioner of Corrections on what he is going to do about the jail standards.

**10 ADJOURN**

Commissioner Clark motioned to adjourn. Commissioner Dutremble seconded the motion. Vote 5-0. Meeting adjourned at 6:00 p.m.

**COMMISSIONERS SPECIAL MEETING**

**December 21, 2020**

*YORK,ss*

At a special meeting of the County Commissioners of the County of York, begun and holden at the York County Government Building in Alfred, within and for the County of York, being held on Wednesday, December 21, 2020 A. D. at 8:00 a.m.

**COMMISSIONERS PRESENT:**

Richard R. Dutremble  
Michael J. Cote  
Richard Clark  
Robert Andrews  
Allen Sicard

County Manager Gregory Zinser and Deputy County Manager Linda Corliss were present at the meeting.

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**12-21-20**      **ITEM**

**1**      **PUBLIC COMMENT(S) ON ANY ITEM(S)**

None

**2**      **TO APPROVE DECEMBER 21, 2020 WARRANT IN THE AMOUNT OF \$679,088.55**

Commissioner Clark motioned to approve the warrant. Commissioner Sicard seconded the motion. Vote 5-0.

**3**      **TO REVIEW AND SEEK COMMISSIONER APPROVAL ON NCEU CONTRACT**

County Manager Greg Zinser explained to the Commissioners that this is a one year contract that provides changes that should enhance recruitment and retention. There is a \$1.50 increase for all and \$18.30 an hour will now be the starting pay for a Corrections Officer in York County. Health insurance contributions will be increased to approximately \$40 per week for family health insurance, \$26 per week for two persons and about \$13 per week for a single plan. There will now be recognition based on a 1 to

1 lateral transfer in from another jail. A rotating schedule was agreed upon as well as changes to the modified duty plan.

Commissioner Clark motioned to approve the NCEU one- year contract. Commissioner Andrews seconded the contract. Vote 5-0.

Commissioner Cote signed the contract.

**4 TO REVIEW AND SEEK COMMISSIONER APPROVAL ON TEAMSTER'S (captains) CONTRACT**

County Manager Zinser explained the highlights of the Captain's (Teamsters) contract. This is a three- year contract that includes a 2% COLA increase per year and adds an additional step 3% longevity increase. Also, this contract incorporates an increase in the initial compensation to \$70,000 annually that is \$2,000 more than the highest paid Lt. The County Manager added that this contract mirrors a lot of the non-union manual.

Commissioner Clark motioned to approve the contract. Commissioner Dutremble seconded the motion. Vote 5-0.

Commissioner Cote signed the contract.

**5 PUBLIC COMMENT(S) ON ANY ITEM(S)**

None

**6 ADJOURN**

Commissioner Clark motioned to adjourn the meeting. Commissioner Andrews seconded the motion. Vote 5-0. Meeting adjourned at 8:11 a.m.



County of York

## **Earned Paid Leave Standard Operating Procedure and Policy**

### **Purpose**

The County of York shall provide Earned Paid Leave, effective January 1, 2021, in accordance applicable State of Maine law, 26 MRSA §637.

EPL does not entitle an employee to any additional hours than already allocated in sick accruals or PTO accruals. What it does is provide EPL hours for those eligible employees who are not currently entitled to use sick or PTO time and allows for more flexibility in the use of time for those employees, union and non-union, who currently have existing sick accruals or PTO.

### **Eligibility**

Accrual of Earned Paid Leave (EPL) begins on January 1, 2021, or at the start of employment if that occurs on or after January 1, 2021, as applicable. Existing employees who have been employed more than 120 days as of January 1, 2021 may begin using EPL as of January 1, 2021. All other employees, including employees hired on or after January 1, 2021 may not use EPL until after 120 days of employment. There are certain exceptions to accrual and use of EPL which are described more fully below.

#### **Scenario:**

All employees that have an original date of hire effective prior to September 1, 2020 are eligible for and permitted to use earned paid leave as of January 1, 2021. Any employee that has an original date of hire of September 2, 2020 or later must complete the 120 calendar days of employment prior to being permitted to use of earned paid leave. For example, Employee Z date of hire is December 27, 2020, the employee will become eligible on April 27, 2021 after completion of 120 days.

**Employees covered by a Collective Bargaining Agreement: In accordance with the provisions of Maine law, any employee currently covered by a collective bargaining agreement during the period between January 1, 2021 and the expiration of the agreement will not be eligible for or able to use EP. Until the collective bargaining agreement term ends, the language of the CBA controls. New contracts negotiated after January 1, 2021 must include Earned Paid Leave as a benefit going forward.**

Exceptions to eligibility: The following categories are not eligible for EPL.

Call Fire Fighters: If the amounts paid to the firefighters qualify under the exemptions available, then they would not be reported as wages and the Call Firefighters and

Volunteers would not be entitled to Earned Paid Leave. The exemptions can be found under 26 M.R.S. 1043 (11)(F)(17)(i)(iv):

(iv) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency.

This exemption does not include every fire, storm, snow, earthquake, or flood. This applies to specific unforeseen emergencies. Snowstorms in Maine are not considered unforeseen emergencies. Likewise, controlled fires or training events are not considered emergencies.

Certain volunteers are also exempt under 26 M.R.S. 1043 (11)(F)(35):

“Service performed by an individual who volunteers for an employer or governmental entity if the volunteer:

Performs hours of service for the employer or governmental entity for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered. Although a volunteer may receive no compensation, a volunteer may be paid expenses, reasonable benefits, or a nominal fee to perform such services.

Offers services freely and without pressure or coercion, direct or implied, from an employer; and is not otherwise employed by the same employer or governmental entity to perform the same type of services as those for which the individual proposes to volunteer.

Elected Officers: If the Elected Officers are elected, they would be exempt from the Earned Paid Leave law.

Board/Commission Members: If a board member meets the exemption in 26 M.R.S. 1043 (11)(F)(17)(i)(v) then Earned Paid Leave will not apply.

(v) In a position that, under or pursuant to the laws of this State, is designated as a major nontenured policymaking or advisory position or a policy-making or advisory position the performance of the duties of which ordinarily does not require more than 8 hours per week.

### **Accrual of Earned Paid Leave**

Employees are entitled to earn one hour of paid leave for every 40 hours worked, up to 40 hours in one year of employment. Accrual of leave begins on start of employment. Earned Paid Leave will be paid at the employee’s rate of pay as established in the week immediately prior to taking Earned Paid Leave, in accordance with Department of Labor.

The annual maximum of 40 hours of Earned Paid Leave shall be accrued at one hour earned to every 40 hours worked (1:40).

An employee would not continue to accrue Earned Paid Leave while out on paid or unpaid leave. However, the days the employee is out on leave do count toward the threshold of 120 days of employment.

EPL does not entitle an employee to any additional hours than already allocated in existing sick accruals or PTO accruals.

### **Use of Accruals**

EPL can be used in increments of one hour. The County may require that leave be used if the employee takes a planned absence, or if the employee is out due to an emergency, illness, or sudden necessity.

As an employee uses, the use of that time will be simultaneously charged against the employee's sick accrual or PTO balance.

Once eligible employees have been employed for 120 calendar days, they may use earned paid leave for any reason and can use in increments of 1 hour. Earned Paid Leave (EPL) shall be provided to any employee that meets the eligibility criteria and will be monitored through use of accruals, MUNIS or excel.

An employee taking EPL, absent an emergency, illness, or the sudden necessity for taking earned leave, shall give reasonable notice to his/her supervisor of the employee's intent to use EPL. Use of EPL must be scheduled to prevent undue hardship on the employee as reasonable determined by the Department Leader. The County may request a medical note or other documentation if the leave is for more than 3 consecutive days.

Employees must provide at least 4 weeks' prior notice to their supervisor of their intent to use this leave, unless leave is for an emergency, illness, or other sudden necessity where advance notice may not be feasible, and then notice must be given as soon as practicable. The Department Leader can deny a requested date of use if it significantly impacts departmental operations, but such denial must first be coordinated with the Human Resource Director.

An emergency or sudden necessity under the EPL is anything within reason that is unforeseen and requires the employee to interrupt their work schedule. This includes the care for a person not related to the employee. By nature, emergency, illness, or sudden necessity are unscheduled. An employee who uses Earned Paid Leave for one of these reasons must report it to their employer as soon as practicable. Written documentation may not be required unless the resulting absence is over three days, but does require a general description, i.e. illness of a child; illness of a day-care provider; transportation issue.

The County may require up to 4 weeks' notice for use of leave other than for an emergency, illness, or other sudden necessity and can restrict dates that such time off may be granted. Department hardship may be dependent upon department staffing, events, disaster, or weather emergencies (not an all-inclusive list). An undue hardship is a significant impact on the operation of the county

or significant expenses, considering the financial resources of the county, the size of the workforce, and the nature of the department.

An employee shall not be disciplined for unscheduled absences involving the use of earned accrued EPL, unless the employee fails to meet the following minimum notification requirements:

4 weeks advanced notice for the planned use of leave; and  
Notification as soon as practicable if the use of leave is for an emergency, illness, or sudden necessity.

If disciplinary action is taken, it will follow the County Human Resources policy and/or the relevant Collective Bargaining Agreement as applicable.

### **Carry over balance on Calendar Year**

Unused EPL balance from the previous year may carry over to the next year, but the maximum benefit remains at 40 hours and in no event may an employee have more than 40 hours available in any calendar year.

Example: An employee rolls over 8 hours of unused accrued Earned Paid leave from the previous year. In the present year, the employee is only entitled to accrue up to 32 additional hours of Earned Paid Leave, regardless of how much leave the employee uses in the current year.

### **Separation of employment**

EPL does not have an independent cash value and will not be paid out separately at termination of employment. Any employee who returns to work for the County within a one-year period of the last day of previous employment will have any unused balance reinstated.

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

S.P. 110 - L.D. 369

An Act Authorizing Earned Employee Leave

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 26 MRSA §42-B, sub-§1, ¶¶E and F, as enacted by PL 2017, c. 219, §2, are amended to read:

- E. Video display terminal safety as described in section 252, subsection 1; and
- F. Minimum wage and overtime provisions as described in section 664; and

Sec. 2. 26 MRSA §42-B, sub-§1, ¶G is enacted to read:

- G. Earned paid leave.

Sec. 3. 26 MRSA §637 is enacted to read:

**§637. Earned paid leave**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Employment" has the same meaning as in section 1043, subsection 11, but does not include employment in a seasonal industry as defined in section 1251.
- B. "Employer" has the same meaning as in section 1043, subsection 9.
- C. "Employee" means a person engaged in employment.

**2. Earned paid leave.** An employer that employs more than 10 employees in the usual and regular course of business for more than 120 days in any calendar year shall permit each employee to earn paid leave based on the employee's base pay as provided in this section.

**3. Accrual.** An employee is entitled to earn one hour of paid leave from a single employer for every 40 hours worked, up to 40 hours in one year of employment. Accrual of leave begins at the start of employment, but the employer is not required to permit use

of the leave before the employee has been employed by that employer for 120 days during a one-year period.

**4. Rate.** An employee while taking earned leave must be paid at least the same base rate of pay that the employee received immediately prior to taking earned leave and must receive the same benefits as those provided under established policies of the employer pertaining to other types of paid leave.

**5. Notice.** Absent an emergency, illness or other sudden necessity for taking earned leave, an employee shall give reasonable notice to the employee's supervisor of the employee's intent to use earned leave. Use of leave must be scheduled to prevent undue hardship on the employer as reasonably determined by the employer.

**6. Benefits.** The taking of earned leave under this section may not result in the loss of any employee benefits accrued before the date on which the leave commenced and may not affect the employee's right to health insurance benefits on the same terms and conditions as applicable to similarly situated employees. Nothing in this section prevents an employer from providing a benefit greater than that provided by this section.

**7. Enforcement.** The bureau has the exclusive authority pursuant to section 42 to enforce this section.

**8. Penalties.** Penalties for violations of this section are the same as those provided in section 53.

**9. Preemption.** A municipality or other political subdivision may not enact an ordinance or other rule purporting to have the force of law under its home rule or other authority regulating earned paid leave.

**10. Rules.** The Department of Labor shall adopt rules to implement and enforce the provisions of this section, including rules regarding the receipt, investigation and prosecution of complaints brought under this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**11. Exception.** This section does not apply to an employee covered by a collective bargaining agreement during the period between January 1, 2021 and the expiration of the agreement.

**12. Reporting.** Beginning January 1, 2022, and annually thereafter, the Department of Labor shall submit a report to the joint standing committee of the Legislature having jurisdiction over labor matters on progress made in the State to comply with this section.

**Sec. 4. Effective date.** This Act takes effect January 1, 2021.

12 DEPARTMENT OF LABOR

170 BUREAU OF LABOR STANDARDS

**Chapter X: RULES GOVERNING EARNED PAID LEAVE**

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**Summary:** The purpose of this chapter is to provide definitions and procedures for implementing earned paid leave for certain employees pursuant to 26 MRS §637.

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**Section I: Application**

These rules apply to employers that employ more than 10 employees in the usual and regular course of business for more than 120 days in any calendar year, with certain exceptions. Covered employers shall permit each employee to accrue earned paid leave based on the employee's base rate of pay as defined in Section II.

**Section II: Definitions**

As set forth in 26 MRS §637 or in this chapter, the following terms have the following meanings.

- A. "120 days" for purposes of 26 MRS §637(2) and (3) means 120 *calendar* days (not business days).
- B. "Base rate of pay." The base rate of pay for purposes of earned paid leave required by this statute is identical to the regular rate of pay defined in section 26 MRS §664(3). The base rate will be calculated by reference to the week immediately prior to the leave taken.
- C. "Bureau" means the Bureau of Labor Standards, within the Department of Labor.
- D. "Calendar year" means January 1 through December 31 of any year.
- E. "Covered Employee." A covered employee is a person engaged in employment as defined in the Employment Security Act, 26 MRS §1043(11) for an employer as defined by 26 MRS §1043(9), except as otherwise set forth herein or in the Act Authorizing Earned Employee Leave. A covered employee may include a person who is employed full-time, part-time or per diem.
- F. "Covered Employer." A covered employer is an employer as defined by 26 MRS §1043(9) who employs more than 10 covered employees in the usual and regular course of business for more than 120 days in any calendar year.
- G. "Emergency" and "sudden necessity," which terms may be used interchangeably herein, mean a situation in which the need for leave is not reasonably foreseeable.

- H. "Employer" has the same meaning as in 26 MRS § 1043(9).
- I. "Employment" has the same meaning as in 26 MRS § 1043(11), but does not include employment in a seasonal industry as defined in 26 MRS § 1251.
- J. "Employment in a seasonal industry" means employment in an industry determined by the Unemployment Insurance Commission to be seasonal pursuant to 26 MRS §1251 and employment for an employer who has submitted the required report to the Bureau of Unemployment Compensation setting forth the seasonal period for the applicable year.
- K. "Hours Worked." For purposes of 26 MRS §637(3), for covered employees defined as exempt by federal regulations (29 CFR §541), in the absence of any other record, the presumption is that hours worked by such employees are 40 hours per week.
- L. "One-year period" means any period of 365 (366 in a leap year) consecutive days.
- M. "Start of Employment" means the first day the employee performed work for the employer.
- N. "Year of employment" means a period of 365 (366 in a leap year) consecutive days beginning with the employee's *start of employment*, or any subsequent period of 365 (366 in a leap year) consecutive days beginning on one of the following:
  - i. the anniversary date of the employee's start of employment; or
  - ii. such date as the employer may assign, provided that no loss of earned paid leave results for any employee not using the date identified in i. above.

**Section III: Accrual**

- A. An employee is entitled to earn one hour of earned paid leave from a single employer for every 40 hours worked, up to 40 hours in one year of employment.
- B. Accrual of earned paid leave begins at the start of employment, but the employer is not required to permit use of the leave before the employee has been employed by that employer for 120 days during a one-year period.
- C. No more than forty hours of earned paid leave is required to be available for use by a covered employee during any one year period as established by section II. L. herein.
- D. Covered Employees with accrued and unused hours of earned paid leave from the previous year of employment will have those hours available for use by the employee in the current year of employment, up to a maximum of forty hours. Hours are only required to continue to accrue up to forty hours in the current year of employment.
- E. Whenever the terms of employment or the employer's established practice includes provisions to pay the balance of unused earned paid leave at the time of separation, earned paid leave on cessation of employment has the same status as wages earned in accordance with 26 MRS §626.



- F. An employee who returns to work within a one-year period of the last date of previous employment with the same employer is entitled to any unused balance of earned paid leave that was not paid out at the time of separation of employment.
- G. For the sole purpose of determining the accrual of earned paid leave for construction workers, the term “employer” includes all covered employers bound by a collective bargaining agreement negotiated by a multiemployer bargaining unit.

**Section IV: Greater Benefits and Exception**

- A. Nothing in this chapter may be construed to affect an employer’s obligation to comply with any collective bargaining agreement or employee benefit plan that provides greater earned paid leave rights to employees than the rights provided by 26 MRS §637.
- B. 26 MRS §637 does not apply to an employee covered by a collective bargaining agreement during the period between January 1, 2021 and the expiration of the agreement.

**Section V: Notice and Use of Leave**

- A. Reasonable Notice. Absent an emergency, illness or other sudden necessity for taking earned paid leave, the employer may have a written policy requiring up to 4 weeks’ notice to the employer of the employee’s intent to use earned leave.
- B. Notice required for an emergency, illness or other sudden necessity must be reasonable under the circumstances, recognizing that advance notice may not be feasible. In such circumstances, a covered employee shall make a good faith effort to provide as much notice as is feasible under the circumstances to the employer of the employee’s intent to use earned paid leave.
- C. Scheduling of Leave. The Employer may place reasonable limits on the scheduling of earned paid leave for reasons other than emergency, illness or other sudden necessity, to prevent undue hardship on the employer as reasonably determined by the employer. Undue hardship means a significant impact on the operation of the business or significant expenses, considering the financial resources of the employer, the size of the workforce, and the nature of the industry.
- D. Employees may use earned paid leave in increments of at least one hour, unless the employer chooses to allow smaller increments.
- E. The employer cannot require the employee to use accrued earned paid leave when the employer causes the employee to be unable to perform their job, such as by closing the business or cancelling a shift.
- F. An employer shall not deny an employee the right to use paid leave available for use by that employee in accordance with the conditions of this section.

**Section VI: Penalties**

- A. Penalties for violations of this section are the same as those provided in section 26 MRS §53. Each denial of paid leave for each affected covered employee in violation of 26 MRS §637 and this Rule is a separate violation.

STATUTORY AUTHORITY: 26 MRS §42 and §637

EFFECTIVE DATE: January 1, 2021

AMENDED:

## Employee Request for **Emergency Paid Sick Leave** – FORM A

Employees requesting Emergency Paid Sick Leave pursuant to the FFCRA (Families First Coronavirus Response Act) must complete this form. **Eligible employees are entitled to up to eighty (80) hours of paid sick leave pursuant to this policy.**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| <b>Employee Name:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                |
| <b>Employee Home Address:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                |
| <b>Employee Telephone Number:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>E-mail:</b>                 |
| Request for leave                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Request for Extension of Leave |
| Date of Leave:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Anticipated return to work:    |
| <p><b>Reason for Leave</b> (check or circle applicable number). I hereby certify that I am unable to work (or telework) for the following COVID-19 reasons:</p> <ul style="list-style-type: none"> <li>(1) is subject to a federal, state, or local quarantine or isolation due to concerns related to COVID-19;</li> <li>(2) has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19;</li> <li>(3) is experiencing symptoms consistent with COVID-19 and is seeking a medical diagnosis;</li> <li>(4) is caring for an individual who is either under a federal, state, or local quarantine order due to concerns related to COVID-19 or has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19 (at two-thirds the regular rate of pay);</li> <li>(5) is caring for his/her child due to the closure of a school or childcare provider due to COVID-19 precautions (at two-thirds the regular rate of pay); or</li> <li>(6) is experiencing any substantially similar condition as specified by the Secretary of the Department of Health and Human Services (at two-thirds the regular rate of pay).</li> </ul> |                                |
| Continuous Leave                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | or Intermittent Leave          |
| If intermittent leave, please describe the nature of your intermittent leave:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                |
| <p><b>Supplement Accrued Time:</b> For employees whose leave request is based on numbers 4-6 above, the leave is at 2/3 of your regular rate of pay. In this case, you may supplement your paid leave with accrued time to cover the remaining 1/3 pay. You are not required to supplement. If you would like to utilize existing accrued time to cover the remaining 1/3 of your pay, please indicate accordingly below.</p> <p>Vacation/PTO (____ Hrs.)    Sick leave (____ Hrs.)    Personal (____ Hrs.)    Other (____ Hrs.)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                |

I certify that the above information is accurate. I understand that if I fail to report for work on or before the scheduled return date indicated above or fail to contact Human Resources regarding my absence from work beyond such scheduled date of return, my employer may take corrective action.

Employee signature: \_\_\_\_\_

Date: \_\_\_\_\_

Human Resources signature: \_\_\_\_\_

Date: \_\_\_\_\_