



## **New Paid Leave for All Workers**

During the 2023 lame duck session, the General Assembly passed legislation that guarantees all employees throughout the state are entitled to paid time off.

SB 208 (Sen. Lightford/Rep. Gordon-Booth) guarantees that all employees in Illinois are entitled to 5 days of paid time off annually, which may be granted all at once or accrued pro-rata, to be determined by each employer. Employees under collective bargaining agreements can be exempted from the requirements. The legislation takes effect January 1, 2024.

Summarization of the technical requirements under SB 208:

- On an annual basis, any employee in Illinois is entitled to at least 40 hours of paid leave per 12-month period. The 12-month period may be any consecutive 12-month period designated by the employer in writing (paper or electronic including email/text) at the time of hire.
- 40 hours of paid leave can be granted to each employee all at once or accrued pro rata at 1 hour per every 40 hours worked.
- Employers are required to allow employees to begin using time after 90 days of employment. If an employee is employed prior to January 1, 2024, the employer must allow employees to use paid leave starting 90 days after January 1, 2024.
- Paid leave time carryover procedures:
  - Paid leave time is not required to be carried over to the next year if it's granted all at once at the beginning of the designated 12-month period.
  - If time is accrued pro-rata or granted in full at some point within the 12-month period, unused accrued time is required to be carried over into the next 12-month period. However, it is credited towards the next year's/12-month period's 40 hour paid leave requirement, to the effect the employer is not required to grant more than 40 total hours of paid leave per 12 months of employment.



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- We anticipate that the Illinois Department of Labor will be providing further detail and interpretation in the coming months, but based on IFB's interpretation, an example of how this will work is as follows:
  - When hiring an employee to begin work **May 1<sup>st</sup>, 2024**, an employer in writing (paper or electronic including email/text) will indicate to the potential hire what the 12-month period will be. The employer may indicate that the period will be (these are just examples, employers can choose any 12-month period):
    - May 1<sup>st</sup> – April 30<sup>th</sup>
      - The employer either grants the 40 hours upfront or the accrual method starts. If paid leave is granted up front, on May 1, 2025 the paid leave time will renew back to 40 hours, regardless of the employee's use. If the employer opted to use the accrual formula, then any unused time will be carried over into the next 12-month period (May 1, 2025 – April 30, 2026) and will continue to accrue until the employee hits 40 hours earned. To be clear, the carry-over time will count as part of the 40-hour minimum, i.e., at no point during any 12-month period will an employer be required to grant more than 40 hours of paid leave, regardless of when the time was accrued.
    - January 1<sup>st</sup> – December 31<sup>st</sup>
      - The employer either grants the 40 hours upfront or the accrual method starts. However, in this case since the 12-month period is the calendar year and the employee is starting May 1<sup>st</sup>, any unused paid leave off will be carried over into 2025. But again, it will count as part of the 40 hour minimum, i.e. at no point during any 12-month period will an employer be required to grant more than 40 hours of paid leave, regardless of when the time was accrued. Paid leave time will renew back to 40 hours May 1<sup>st</sup>, or if the accrual method was used, time will continue to accrue until the employee hits 40 hours earned in 2025.

- If employment is interrupted and the employer rehires the same employee within the same 12-month period, the employee is still entitled to any unused paid leave time earned at the initial time of employment. However, no employer is required to grant the use of more than 40 hours of paid leave time per the 12-month period.
- An employer may not require a reason or proof for paid leave being taken, nor require that the employee find a replacement.
- An employer may have a paid leave policy for notification that an employee will be using paid leave.
- Any leftover paid leave time at the time of an employee's termination is not required to be paid out.
- The requirements under this legislation are not to be construed to be an additional benefit on top of an employer's current paid time off policy if the policy meets or exceeds the minimum thresholds and requirements.
- An employer shall make and preserve records documenting hours worked, paid leave accrued and taken, and remaining paid leave balance for each employee for a period of not less than 3 years and shall allow the Department access to such records, at reasonable times during business hours, to monitor compliance.
- An employer must post on the workplace premises in a conspicuous area, where employees frequent, the Department of Labor's notice/document that summarizes the requirements under the legislation.

Business-minded groups such as the Illinois Chamber of Commerce, Illinois Manufacturers Association, and Illinois Retail Merchants Association actively worked on the legislation until they were neutral. The National Federation of Independent Businesses (NFIB) continued to oppose the legislation.

SB 208 was approved by the House with 78 yes and 30 no votes and the Senate with 38 yes and 16 no votes. It will now be sent to the Governor for his review and action.