

## **ADDENDUM #1**

### **EARNED PAID LEAVE 26 MRS §637**

#### **Section 1: 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. The effective date is January 1, 2021.

#### **Section 2: Definitions**

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

- A. "120 days" means calendar days (not business days).
- B. "Base rate of pay." The base rate of pay is identical to the regular rate of pay. 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.
- 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 as 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 in 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 a calendar year.
- G. "Emergency" and "sudden necessity," which terms may be used interchangeably herein, mean a situation in 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 on 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 Town.

- 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:
- a. The anniversary date of the employee's start of employment; or
  - b. 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 a. above.

**Section 3: Accrual**

- A. An employee is entitled to earn one hour of earned paid leave for every 40 hours worked, up to 40 hours in one year of employment as defined in Section 2.L herein.
- B. Accrual of earned paid leave begins at the start of employment or anniversary date for current employees, but the Town does not permit use of the leave before the employee has been employed by the Town for 120 calendar days during a one-year period.
- C. No more than forty hours of earned paid leave will be available for use by a Covered Employee during any one-year period as established by Section 2.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 40 hours. Hours will only continue to accrue up to forty hours in the current year of employment.
- E. Employees will receive any unused, accrued earned paid leave up to 40 hours upon termination of employment.

**Section 4: Greater Benefits and Exception**

- A. Nothing in this chapter may be construed to affect the Town's obligation to comply with any collective bargaining agreement or employee benefit plan that provides greater earned paid 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 5: Notice and Use of Leave**

- A. Reasonable Notice. Absent an emergency, illness, or other sudden necessity for taking earned paid leave, earned paid leave shall be granted at such time or times as shall be mutually agreeable to the employee and the Department Head, except use shall not disrupt departmental operations.
- B. Requests for use of the leave shall be made in writing to the employee's Department Head for approval. Due consideration shall be given to an employee's seniority in regard to scheduling earned paid leave.
- C. In the case of an emergency, illness or other sudden necessity rendering a prior written request impractical, employee shall notify the Department Head by telephone, email, or text of the use of earned paid leave as soon as possible prior to use.
- D. All uses of Earned Paid Leave shall be noted on the employee's weekly timesheet.
- E. Employees may use earned paid leave in increments of no less than one hour.