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### Court Decision Expands Paid Sick Time Requirements and Increases Minimum Wage

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In a major development for Michigan employers, a Michigan Court of Claims Ruling has invalidated the Michigan Paid Medical Leave Act, and reinstated the “Improved Workforce Opportunity Wage Act” and the “Earned Sick Time Act,” which were 2018 ballot proposals that were submitted to the Michigan Legislature. The Improved Workforce Opportunity Wage Act (“IWOWA”) proposal increased the state’s minimum wage to \$12/hour, including for tipped workers in the service industry. The Earned Sick Time Act (“ESTA”) proposal required employers of all sizes to provide up to 72 hours of paid sick leave to employees each year.

The Michigan legislature adopted both proposals “without change or amendment.” However, before they were signed into law, both Acts were amended. The IWOWA, as amended, called for the minimum wage increased to be phased in, with small annual increases. The ESTA was adopted as the Paid Medical Leave Act, and called for employers with 50 or more employees to provide 40 hours of paid medical leave annually. Employers have been operating their businesses in compliance with these laws, as amended, since March 2019.

On July 19, 2022, the Michigan Court of Claims ruled that the Legislature’s “adopt-and-amend” strategy violated the Michigan Constitution and ordered that the voter-initiated proposals remain in effect, **without amendment**. Unless the Court of Appeals or Supreme Court issues a stay, Michigan employers must pay a minimum wage of \$12 per hour and provide paid sick leave as required by ESTA. A **non-exhaustive** list of some differences between the current Paid Medical Leave Act and ESTA include:

	<b>Paid Medical Leave Act</b>	<b>Earned Sick Time Act</b>
<b>Coverage</b>	Employers with 50 or more employees	Employers with 1 or more employee
<b>Definition of Employee</b>	Numerous exclusions, such as independent contractors, employees covered by a labor contract, employees who worked 25 hours or fewer in preceding year	“An individual engaged in service to an employer in the business of the employer, except that employee does not include an individual employed by the United States government.”
<b>Accrual</b>	1 hour accrued for every 35 hours worked, up to 40 hours of paid time	1 hour accrued for every 30 hours worked, up to 72 hours of paid time
<b>Maximum Use/Rollover</b>	40 hours of paid time; rollover required unless 40 hours of leave is front-loaded on calendar/benefit year basis	72 hours of paid time (40 hours of paid time for employers with less than 10 workers); all sick time rolls over from year to year

This ruling will likely be appealed and a stay may be issued to delay implementation of the \$12/hour minimum wage and ESTA. However, unless and until such a stay is issued, **employers must comply with IWOWA and ESTA**. Employers are encouraged to contact counsel to discuss their compliance options.

Contact any member of **Bodman’s Workplace Law Group** for more information. Bodman cannot respond to your questions or receive information from you without first clearing potential conflicts with other clients. Thank you for your patience and understanding.

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