



City Clerk

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411 West First Street
Duluth, Minnesota 55802

Earned Sick and Safe Time

Report to the Duluth City Council

March, 2021

This report is being provided to the Duluth City Council in accordance with Chapter 29E of the Duluth City Code concerning Earned Sick and Safe Time (“ESST”). Chapter 29E, Section 14, provides as follows, “Beginning in 2021, and each year thereafter, the city shall provide by March 31, a written report to the city council regarding this Chapter. The report shall include, but not be limited to, a discussion of the implementation and enforcement of this chapter, including the number and nature of violations and the penalties assessed in the prior year. The report may also include recommendations for possible improvements to this chapter.”

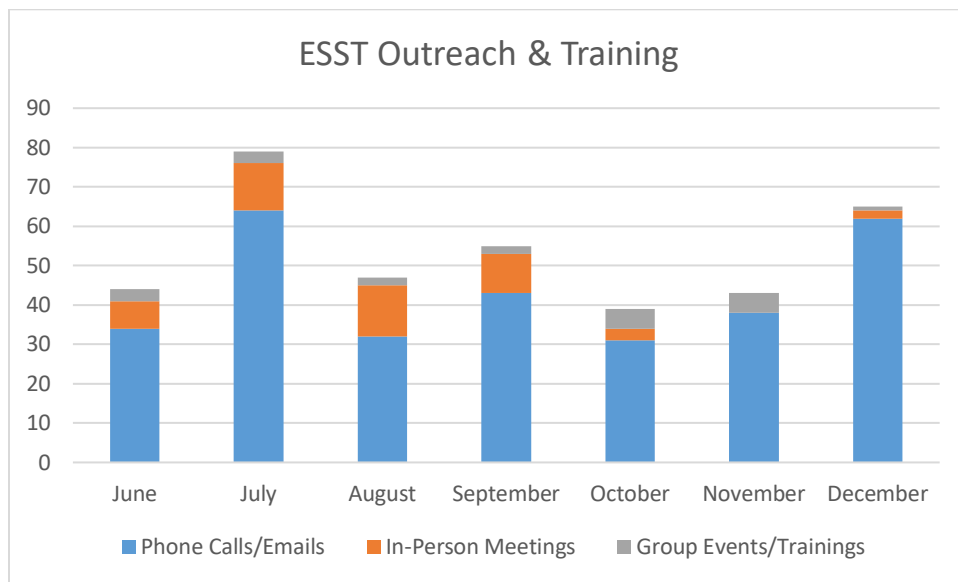
BACKGROUND

In Spring, 2018 the Duluth City Council enacted Ordinance #10571, codified in Duluth City Code Chapter 29E: Earned Sick and Safe Time. Enactment of the Ordinance followed substantial discussion, debate, and community input that began in 2016. The Ordinance required that employers with five or more employees provide those employees with a certain amount of paid time off that could be used for sick or safe time purposes. Sick time refers to paid time off that employees may use for medical reasons, such as physical or mental illness, injury, or other health conditions. Safe time refers to paid time off that employees may use due to absences resulting from sexual assault, domestic abuse, or stalking. The Ordinance gives employers discretion in how they choose to meet the requirements of the Ordinance, but they are obliged to either provide a minimum of forty hours of paid time off annually that can be used for sick/safe time purposes *or* allow for their employees to accrue ESST at a minimum rate of one hour earned for every fifty hours worked. The Ordinance also imposed a number of protections for employee use of ESST such as a prohibition against employers requiring employees to “replace

themselves” for shifts missed due to ESST or prohibiting employers from requiring documentation for absences shorter than three consecutive missed shifts. The Ordinance went into effect on January 1, 2020.

IMPLEMENTATION

In order to successfully implement ESST in Duluth, a nationwide survey of states and municipalities who had already implemented similar initiatives was conducted. Working closely with counterparts in St. Paul and Minneapolis, Minnesota and utilizing the lessons learned from cities such as Tacoma and Seattle, Washington, City staff aimed on establishing clear administrative rules, conducting targeted outreach, and importantly, focused on educating both employers and employees on the requirements of the Ordinance.

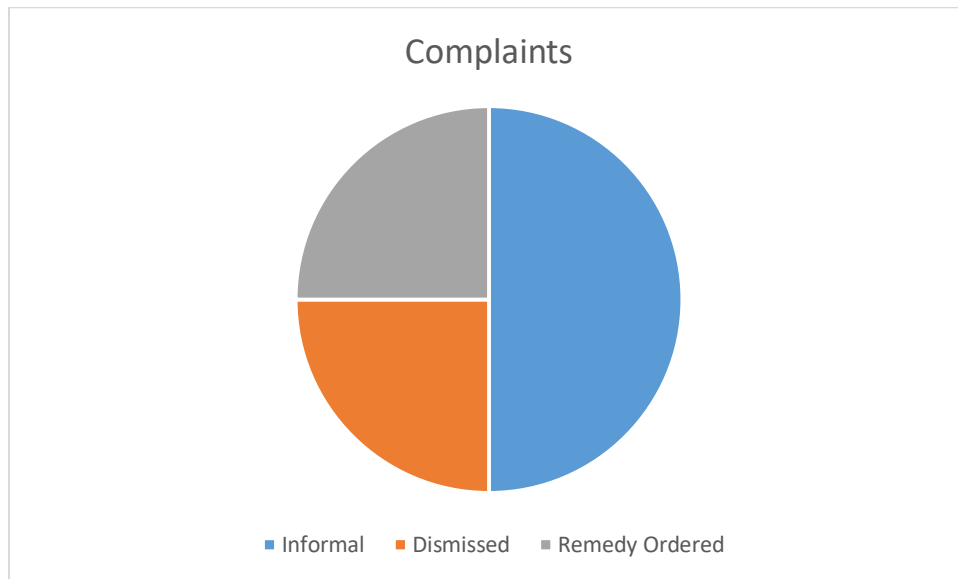


From June through the end of December 2019, the City held twenty-one public educational events related to ESST. These events included panel discussions, group trainings, Q&A sessions, and community gatherings – attendance at these events ranged from small gatherings of about ten people to larger gatherings of as many as 150 people. Several events were held at the invitation of outside groups such as business associations and civic organizations, while others were independently co-sponsored by the City with organizations such as the Duluth Workforce Development Center and the Duluth Chamber of Commerce.

In addition to group outreach, City staff received and responded to nearly 200 separate email or phone inquiries regarding ESST in the second half of 2019. Some of these inquiries were satisfactorily resolved over the phone or by email, but many also led to subsequent in-person meetings with local business owners, business associations, Human Resource departments, and labor organizations. These follow-up meetings were a manifestation of the City’s commitment to educating and working with the local community to ensure that the implementation of ESST would be as smooth as possible. The City continues to encourage local businesses, organizations, or individuals to reach out with any questions or concerns they may have with ESST and remains committed to educating and increasing the public’s understanding of this initiative.

COMPLAINTS & APPEALS

Since implementation City staff have responded proactively to all reports of non-compliance whether they have resulted in the filing of a formal complaint or not. To date, there have been twelve instances of reported alleged violations of the Ordinance, including both informal, anonymous reports and formal complaints. The subject of these complaints have ranged from large to small employers, locally-owned to regional and nation-wide chains, and have led to determinations of violations, ordering of remedies, dismissals for lack of evidence, or findings of no determination.



Of those complaints received, six were informal complaints which warranted follow-up with affected parties to ensure that the Ordinance had been properly implemented and a compliant policy was in place. In situations where a potential violation had occurred, the parties were both willing and able to work out their differences in

an amicable manner. Of the six complaints which led to formal investigations, three were dismissed for lack of sufficient evidence. Of the three complaints which led to either a determination of violation or no violation, one was settled upon the employer's admission of guilt and prompt offer of compensation to the aggrieved employee. Another determination of violation was found to have been partially remedied by the employer, but the circumstances and evidence did not support the imposition of financial penalties. One determination concluded that the violations warranted the imposition of additional penalties including administrative fines.

RECOMMENDATIONS

Based on community feedback received and observations from the first year since implementation and the provisions of Chapter 29E, Section 14, the following are recommendations for amendments to the Ordinance:

- The current, minimum accrual rate of one hour of ESST for fifty hours worked, found in §29E-3(b), is recommended to be changed to a minimum accrual rate of one hour of ESST for forty hours worked. While the benefit to employees of a more generous 40/1 accrual rate may be obvious, the response of many employers to the 50/1 accrual rate was that it imposed an administrative burden as payroll is often based on a forty hour week. The commonness of this sentiment suggests that such a change might be more widely popular.
- "Closure of an employee's place of business for public health reasons" should be added to the list of allowable uses of ESST. In light of mandated business closures due to COVID-19, the potential need for ESST in such circumstances is clear.

Please feel free to reach out if you have any questions, concerns, or would like to further discuss any of this information.

Thank you,

ss/ Ian B. Johnson

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City Clerk's Office