

**Fahey Schultz
Burzych Rhodes**

EXPERT COUNSEL



REAL SOLUTIONS

How an Expanded Paid Sick Time Law May Impact Your Township

ATTORNEY CHAD KARSTEN

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DISCLAIMER

- This presentation, and the materials associated with it, are comprised of general information and not intended as legal advice related to specific questions of attorney-client privilege.
- Please contact an attorney if you need assistance related to a specific legal issue.



2018 Election Ballot Initiative

Improved Workforce Opportunity Wage Act “IWOWA”

Earned Sick Time Act “ESTA”

Aimed to Raise Minimum Wage

Aimed to provide paid sick time to all MI employees



MI Legislature Adopted
Ballot Initiatives before they
could be voted on

2018

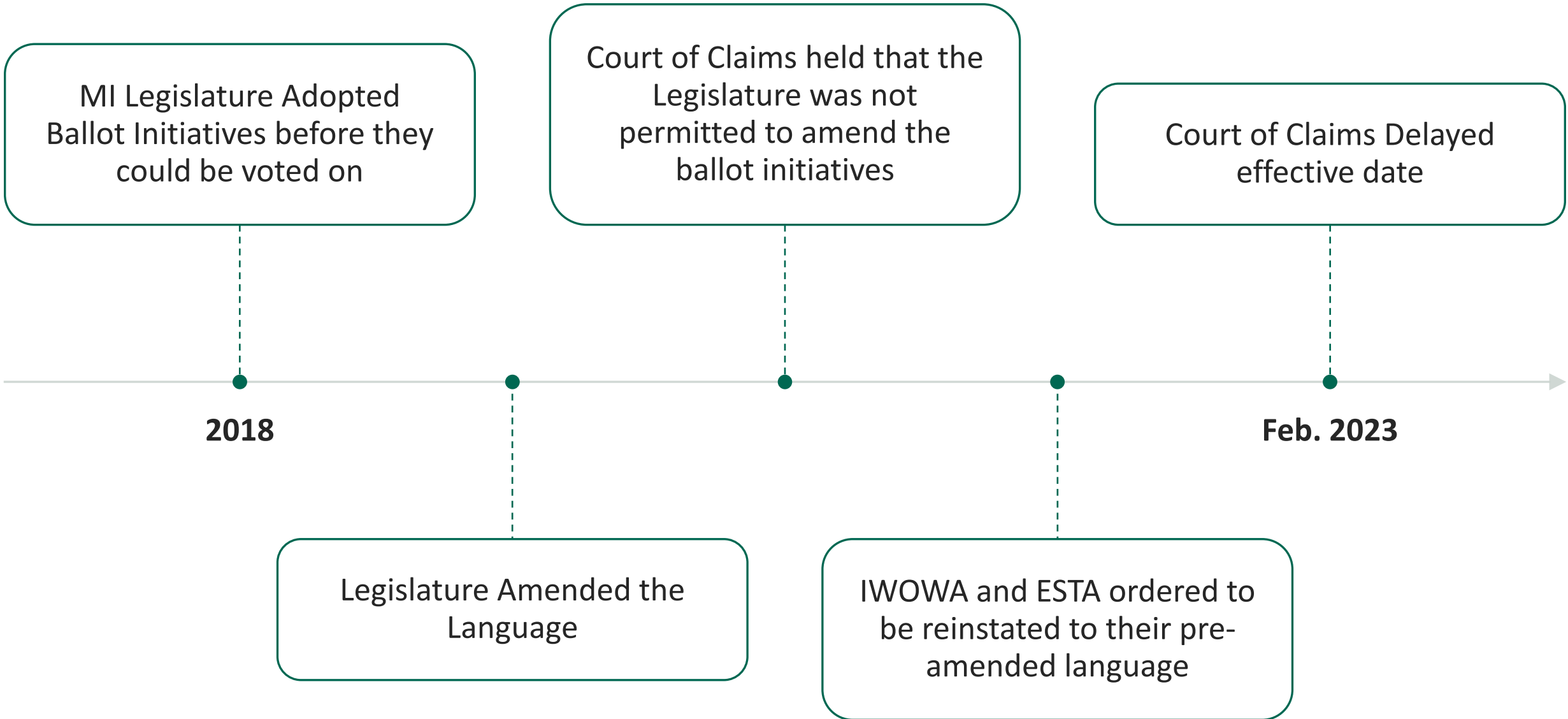
Court of Claims held that the
Legislature was not
permitted to amend the
ballot initiatives

Court of Claims Delayed
effective date

Feb. 2023

Legislature Amended the
Language

IWOWA and ESTA ordered to
be reinstated to their pre-
amended language



I W O W A

Relevant to Townships

1. An *immediate* increase in the minimum hourly wage rate to \$12 on Feb. 19, 2023.
2. Annual adjustment to the minimum wage rate every year
 - Increases by the rate of inflation January 1 of each year.
 - No cap on rate increases



PMLA V ESTA: WHAT'S DIFFERENT?

Paid Medical Leave Act

Employers with fewer than 50 employees exempt

- Narrowed definition of “employees” entitled to leave
- Caps accrual at 40 hours
- Did not require unpaid leave to be available
- Employers follow normal documentation procedures

Earned Sick Time Act

- Applies to all employers
- Allows all employees to accrue and use paid sick time
- Higher caps on paid leave availability
- Requires smaller employers to make unpaid leave available in addition to paid leave
- Employer rights to request documentation limited





EARNED SICK TIME ACT

- Employer Obligations
- Notice Requirements
- When Employees May Use Leave
- What's Changed: PMLA v ESTA



MINIMUM EMPLOYER OBLIGATIONS

- **Must** grant 1 hour of paid sick time for every 30 hours worked
 - Small employers (<10 employees) **may** cap hours at 40 but **must** permit accrual up to 32 hours of unpaid sick leave, too.
 - Large employers ($10 \leq$ employees) **may** cap hours at 72
- **Must** allow annual carryover
- **Must** pay that time at regular rate of pay
- **May** count other paid leave (sick, vacation, personal, general PTO) toward these minimums



A spiral-bound calendar is shown on the left side of the image, with pages for March, July, and November visible. The calendar is slightly out of focus, showing dates and days of the week. The right side of the image is a solid dark green background with white text.

WRITTEN NOTICE TO EMPLOYEES

- How much sick time employees may receive How you intend to calculate a “year” (calendar year or other 12-month period)
- Appropriate reasons for employee to use paid sick time
- Protections for retaliation
- Information about the right to bring civil lawsuits or file complaints with the State.

EMPLOYEE NOTICE REQUIREMENTS

- **OK** to require advanced notice of the need for foreseeable paid sick time (e.g., for a pre-scheduled doctor's appointment).
 - **Not OK** to require more than 7 days' notice.
- **OK** to require notice "as soon as practicable" for unforeseeable need for leave (e.g., the employee wakes up not feeling well)





WHEN EMPLOYEES USE PAID LEAVE

- Personal or family member mental or physical illness, injury, or health condition. (Incl. time off for the illness/injury as well as time for diagnosis, treatment, or preventative care).
- Time off for medical or psychological care, to obtain victim services, to relocate, to obtain legal services, or to participate in legal proceedings if the employee or a family member is the victim of sexual assault or domestic violence including.
- School meetings needed as the result of the employee's child's disability or effects of domestic violence or sexual assault.
- Closure of the employee's place of business or their child's school or place of care, due to a public health emergency.

WHAT YOU SHOULD DO NOW

- Count everyone on the payroll.
- Determine how much paid leave is currently offered to employees.
- Ensure that you have a plan to track accrual and use of paid sick time for **all employees.**
- Determine whether you will offer a separate paid sick time bank or an all-purpose leave such as PTO.
- Decide if you wish to frontload paid sick time in a lump sum or provide it as it accrues.
- Familiarize your decision makers with the permitted reasons to take paid sick time.





Questions

Chad Karsten

Fahey Schultz Burzych Rhodes PLC
4151 Okemos Rd., Okemos, MI 48864

Tel: 517-381-0100

ckarsten@fsbirlaw.com

www.fsbirlaw.com

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