



WAGE Watch



Monthly Newsletter | April 2017

Minimum Wage & Overtime Updates

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The madness of March may be behind us, but April is no joke when it comes to minimum wage and overtime updates. Developments at the federal, state, and local levels could affect employer operations in the near or distant future.

St. Louis Minimum Wage Will Take Effect Any Day Now:

The Missouri Supreme Court declined to rehear a case in which it held a state preemption law did not invalidate the St. Louis Minimum Wage Ordinance. As a result, on April 26, 2017, the city updated its minimum wage information to note: “the Circuit Court’s 2015 injunction [is] the only barrier to a higher minimum wage. . . . The City expects the Circuit Court will lift that injunction within the next week. By law, the **City’s minimum wage ordinance will take effect immediately after.**”

If at First You Don’t Succeed: The U.S. Senate voted 60-38 to confirm Alexander Acosta as the next U.S. Department of Labor Secretary. The delayed confirmation was recently cited in the Department’s request to extend the time it has to file a reply brief with the U.S. Court of Appeals for the Fifth Circuit concerning the validity of the DOL’s enjoined white-collar salary regulations.

The Fight for Federal \$15: Senators Bernie Sanders (I-VT) and Patty Murray (D-WA) announced they intend to introduce the Raise the Wage Act, which aims to increase the federal minimum wage to \$15.00 per hour by 2024. The Act would also initially increase the minimum cash wage for tipped employees from \$2.13 to \$4.15 per hour, with the

rate increasing \$1.15 per hour each year until it reaches the full minimum wage, at which point a tip credit will no longer be available.

It May Be a Stretch, But Congress Attempts to be Flexible:

The House Committee on Education and the Workforce voted 22-16 in favor of the Working Families Flexibility Act of 2017, which proposes to allow certain private employees to receive, in lieu of overtime pay, at least one-and-a-half compensatory time hours for each overtime hour worked, up to a maximum of 160 compensatory time hours. Compensatory time would be paid at the rate in effect when accrued or the employee’s final regular rate. On January 1 of each calendar year, employers would be required to cash out accrued but unused compensatory time hours from the previous calendar year, though during-employment cash-outs are permitted under limited circumstances.

Nevada Workers Do Not Hit the Jackpot:

The Nevada Labor Commissioner released its annual minimum wage and daily overtime bulletins. No changes will occur. For employees to whom qualifying health benefits have been offered / made available by an employer, the minimum wage will remain \$7.25 per hour and daily overtime must be paid if a non-exempt employee is paid less than \$10.875 per hour. For other employees, the minimum wage will remain \$8.25 per hour and daily overtime must be paid if a non-exempt employee is paid less than \$12.375 per hour.

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Ballot Battle Briefing: Parties challenging the validity of a ballot measure increasing Washington's minimum wage and creating a statewide paid sick leave law have moved for summary judgment, arguing the ballot measure violated the state constitution. In response, the Washington State Attorney General argued the measure was constitutional and that, not only should the court deny summary judgment to the challengers, it should enter judgment in the state's favor.

Off a Governor's Desk: New Mexico Governor Susana Martinez (R) vetoed two proposals to increase the state minimum wage, House Bill 442 and Senate Bill 386.

On a Governor's Desk (Soon): Seeking to avoid having Minnesota renamed the land of 10,000 laws, state legislators are reconciling two bills to ban local wage, leave of absence, scheduling, and employee benefits laws. After reconciliation is completed, the Uniform State Labor Standards Act will go to the governor. The bill, written to be retroactive to January 1, 2016, would preempt paid sick leave laws in Minneapolis and Saint Paul, and halt those cities' efforts to enact a local minimum wage law.

Cleared at Least One House: West Virginia Senate Bill 399 seeks to limit local regulation of the laws in a number of areas, including, minimum wage, employee benefits, leaves of absence, and scheduling.

Cleared Committee: In California, Assembly Bill 1565 aims to change the minimum amount exempt executive, administrative, or professional employees must be paid from a monthly salary equivalent to at least twice the minimum wage for full-time employment (i.e., 40 hours per workweek) to a monthly salary of \$3,956 or twice the minimum wage for full-time employment – whichever is greater. A \$3,956 monthly salary would produce a \$47,472 annual salary.

California's Assembly Bill 1099 seeks to amend Labor Code section 352 – which governs credit card tips – to have the statute apply only to certain

employers, such as hotels and other lodging establishments, car washes, salons, restaurants, and organizations using online-enabled applications or platforms to connect workers with customers to engage workers to provide labor services, including, but not limited to, a transportation network company.

Illinois House Bill 198 proposes to increase the state minimum wage from \$8.25 to \$9.00 per hour on January 1, 2018; to \$10 per hour on January 1, 2019; to \$11.25 on January 1, 2020, to \$13.00 per hour on January 1, 2021; and to \$15.00 per hour on January 1, 2022.

In Nevada, Assembly Bill 175 seeks to establish the minimum level of health benefits employers must make available to employees so they can pay the above-mentioned lower minimum wage rate.

Budgeting for an Increase: Pennsylvania Governor Tom Wolf's (D) proposed 2017-18 budget calls for increasing the state's minimum wage from \$7.25 to \$12.00 per hour, with increases based on inflation. The governor believes the increase would generate \$95 million in revenue for the state's general fund.

New & Notable: Louisiana Senate Bill 153 seeks to establish a statewide minimum wage law. Louisiana is one of a handful of states without a minimum wage. The bill would create an \$8.00 per hour minimum wage on January 1, 2018, which would increase to \$8.50 per hour on January 1, 2019. The proposed law would not apply to tipped employees or agriculture employees, as defined by the federal Fair Labor Standards Act (FLSA). The measure is supported by Louisiana Governor John Bel Edwards (D).

What's Cookin' in Cook County: The Cook County, Illinois Commission on Human Rights issued draft regulations implementing its Minimum Wage Ordinance (and separate draft regulations implementing its Earned Sick Leave Ordinance). Public comments concerning either proposal must be submitted by May 8, 2017. The Commission intends to publish final rules by June 1, 2017.

As the county moves toward implementation, towns, villages, and cities within the county

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continue to opt out of coverage under the law. In April, at least three villages – Elk Grove, Palos Park, and Wheeling – joined the opt-out list, with additional opt-out votes expected before the law's July 1, 2017 effective date.

How Appealing: The City of Miami Beach, Florida has appealed a state trial court judge's ruling that the city's minimum wage ordinance (scheduled to take effect on January 1, 2018) was preempted by state law.

An appeal to the Ninth Circuit has been filed concerning an employer being granted summary judgment on an employee's San Jose, California minimum wage claim based on the dispute being governed by the federal Labor Management Relations Act (LMRA) instead of the local wage ordinance.

Preempted, but Persistent: Although Johnson County, Iowa will not challenge the recently enacted statewide preemption law, its minimum wage advisory committee will remain active and the county intends to continue to publish annual minimum wage cost-of-living adjustment updates.

Coveting Thy Neighbor's Minimum Wage Rate: Santa Clara, California – in the greater San Francisco Bay Area – is considering increasing its local minimum wage, but a draft proposal is not expected for months. Presently, Santa Clara's minimum wage rate (\$11.10 per hour) is not scheduled to increase as substantially and rapidly as rates in neighboring cities with local minimum wage laws.

Na Na Na Na, Hey Hey Hey, Goodbye: Bills want to grow up to become laws, but the harsh world of legislation differentiates between dreams and destiny. Some measures around the country have not lived up to their potential. Kentucky House Bill 178 aimed to annually increase the state minimum wage from \$7.25 to \$15.00 per hour by August 1, 2021. Nevada Senate Bill 157 sought to eliminate the daily overtime requirement while retaining the weekly overtime requirement. Both bills died in committee.

We will continue to monitor and report on minimum wage and overtime developments as they occur.

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