

in this issue:

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California joins ten other states that, so far this election year, have acted to increase their minimum wage — and there may be more states doing so before the year ends.

California Edition

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A Rising Tide for the Smallest Boats: The Minimum Wage Increases in California and Elsewhere

By Christopher E. Cobey and Cathy S. Beyda

Note: Governor Schwarzenegger signed A.B. 1835 on September 12, 2006.

In a policy decision driven as much by election-year politics as by labor economics, Republican California Governor Arnold Schwarzenegger is expected to sign a bill (A.B. 1835) authored by Assemblymember Sally Lieber (D-Mountain View) that will increase in two steps California's minimum wage for the first time since January 1, 2002.

New section 1182.12 of the California Labor Code will take effect on January 1, 2007, if A.B. 1835 is passed by the legislature as expected. The new statute will increase the California minimum wage from its current rate of \$6.75 per hour to:

- \$7.50 per hour on January 1, 2007, and to
- \$8.00 per hour on January 1, 2008.

California's current minimum wage rate is the eighth highest in the country, tied with Hawaii and Massachusetts. If no other state increases its minimum wage rate, California's minimum wage rate will tie for third highest among the states on January 1, 2007, and would be tied for the highest minimum wage rate in the nation on January 1, 2008.

California Economy "Bounces Back"

A.B. 1835 was the result of careful political posturing and fencing between the Governor and the legislature throughout 2005 and 2006. At the end of the 2005 legislative session, for the second consecutive year, Governor Schwarzenegger vetoed a bill that would have raised the minimum wage. The

Governor made clear that his opposition was to the bill's feature allowing future wage increases without legislative action — what he called putting increases on "autopilot." Although the Governor had also vetoed a bill in 2004 raising the minimum wage, his comment in vetoing the 2005 bill signaled a change in his attitude about such an increase. Schwarzenegger's 2005 veto message noted that he would sign a minimum wage increase if passed by the legislature, but he would not sign a bill that had an automatic increase provision.

In his January 2006 State of the State message to the state legislature, the Governor said:

"...when I ran for governor, I said that we could not afford an increase in the minimum wage unless the economy bounced back. Well, the economy has bounced back, so it is now time for those who often work the hardest and earn the least to benefit from California's growth. So let us increase the minimum wage by one dollar an hour, with half starting this year. So and I ask you to pass this measure immediately so that I can sign it without delay. ..."

Opponents of the minimum wage increases cited economic studies showing that minimum wage increases can result in at least an initial reduction of the number of minimum wage positions available. Proponents of the bill cited studies indicating that roughly 1.4 million California workers earn at or near the state minimum wage, and that low wage workers are relying on public assistance to make ends meet, in effect shifting their labor costs on to the public. Minimum wage posi-

tions are found disproportionately in the food service, personal care, hospitality and janitorial sectors of the economy.

The August 2006 political compromise had the Democratic legislature give up its demand for automatic future adjustments in the minimum wage rate (“indexing”) pegged to changes in the consumer price index, and for the Governor to accept a higher increase in the minimum wage than he had proposed earlier this year. The legislative action means that the Governor can discontinue his resurrection and activation of the Industrial Welfare Commission (IWC) for the purpose of seeking an increase in the minimum wage, which he had reactivated earlier this year for that purpose (DIR - IWC Home Page). The only meeting of the IWC to debate raising the minimum wage featured contentious and sometime acrimonious discussions, and a series of 6-6 tie votes between the labor and business representatives on the Commission.

Congressional Action

Political commentators have noted that Democratic Party supporters have seized on increases in the minimum wage as a key issue in their platform going into this fall’s elections. Public opinion polls have, over a long period of time, consistently shown majority support among voters for increases in the minimum wage.

Congress has addressed the issue of the minimum wage in a highly partisan manner. In August, the Republican-controlled Senate brought to a vote an increase in the minimum wage – but only as an inseparable part of a bill that also reduced inheritance taxes. The Senate Republican leadership would not allow separate votes on either the minimum wage or the inheritance tax proposals – Senators had to vote yes or no on both subjects in one bill. Though the dual-subject bill garnered majority support (56-42), it failed passage on August 3 because it did not receive the 60 votes necessary to end debate on the bill.

Other States’ Action on the Minimum Wage

California has not been alone in considering minimum wage increases. Many state legislatures take such action in election years. In 2006 alone, the following states have so far

taken legislative action to increase their state’s minimum wages:

Arkansas	\$6.25 per hour effective 10/1/2006
Delaware	\$6.65 per hour effective 1/1/2007 \$7.15 per hour effective 1/1/2008
Maine	\$6.75 per hour effective 10/1/2006 \$7.00 per hour effective 10/1/2007
Maryland	\$6.15 per hour effective 2/16/2006 (or the federal minimum wage, whichever is greater)
Massachusetts	\$7.50 per hour effective 1/1/2007 \$8.00 per hour effective 1/1/2008
Michigan	\$6.95 per hour effective 10/1/2006 \$7.15 per hour effective 7/1/2007 \$7.40 per hour effective 7/1/2008
North Carolina	\$6.15 per hour effective 1/1/2007
Ohio	\$5.15 per hour effective 6/30/2006
Pennsylvania	\$6.25perhoureffective 1/1/2007 (> 10 employees) \$7.15perhoureffective 7/1/2007 (> 10 employees) \$5.65perhoureffective 1/1/2007 (< 10 employees) \$6.65perhoureffective 7/1/2007 (< 10 employees) \$7.15perhoureffective 7/1/2008 (< 10 employees)

West Virginia	\$5.85 per hour effective 7/1/2006 \$6.55 per hour effective 7/1/2007 \$7.25 per hour effective 7/1/2008
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Two more states (Connecticut and New York) will see increases authorized before 2006, take effect at the beginning of 2007. (For a list of all states’ current minimum wages, see: DOL WHD: Minimum Wage Laws in the States.) Last April, the city of Albuquerque, New Mexico, voted to raise the city’s minimum wage in three annual increments, finishing at \$7.50 an hour by January 1, 2009, after a city initiative to raise the wage was defeated last fall, and the New Mexico legislature this year failed to pass a proposal for a statewide wage increase.

Even where legislative action is absent, in some locations, voters will face ballot propositions to increase the minimum wage. Such propositions will be on the fall 2006 ballots in at least Arizona and Montana (and perhaps Ohio).

At this writing, twenty states have minimum wage rates in effect in excess of the current federal rate of \$5.15 per hour. Kansas is now the only state with a minimum wage lower than the federal rate (although its rate does not apply to employers subject to the FLSA). Employers must usually pay the higher of the federal or state rate.

In addition, some employers’ rates of pay for hourly employees are governed by higher wage rates imposed by counties, cities or other local government entities, usually in the form of “living wage” rates. These rates exceed the federal or state minimum wage rates. Their imposition is a matter of local public policy. California’s anticipated minimum wage increase will not affect those California jurisdictions that have individually passed higher, or “living wage” increases which exceed the amounts set in the new statute. In California alone, there are at least 18 cities, six counties, one town, and one port with some kind of living wage ordinance. The most recent national addition to the living wage requirement is the City of Chicago. For a discussion of that change, and of the status of the “living wage” movement, see “Chicago’s Living Wage Ordinance: A Sign of What is to

Come?” and Living wage - Wikipedia, the free encyclopedia).

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The conclusion of this most recent legislative battle in California suggests that next significant push for an increase in the minimum wage, may not occur until as late as the 2009 legislative session. Employers should remain diligent in monitoring wage increase proposals in their county, city or other applicable governing unit or units.

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