



House  
Legislative  
Analysis  
Section  
Olds Plaza Building, 10th Floor  
Lansing, Michigan 48909  
Phone: 517/373-6466

## AMEND MINIMUM WAGE LAW

### House Bill 4180 as passed by the House Second Analysis (10-25-96)

**Sponsor: Rep. Bob Emerson**  
**Committee: Human Resources and Labor**

#### ***THE APPARENT PROBLEM:***

Recently Congress increased the federal minimum wage rate. Although Michigan's minimum wage law affects a far smaller percentage of workers than its federal counterpart, there are those who feel the wage rate should be increased to correspond with the recent changes in the federal minimum wage and to help workers cope with increases in the cost of living since the state rate was last increased (to \$3.35 per hour in 1981). In addition, it has been suggested that employers be allowed to pay a lower, "training wage" to new teenage employees and to provide employees with the option of taking compensatory time off instead of payment for working overtime.

#### ***THE CONTENT OF THE BILL:***

House Bill 4180 would amend the Minimum Wage Law of 1964 to increase the state minimum wage. The Minimum Wage Law of 1964 sets the minimum hourly wage rate that employers must pay to their employees in Michigan. In certain cases, however, employers are governed by the federal minimum wage law. The state's minimum wage law supersedes the federal law in cases where the minimum hourly wage established by the state's law is greater than the federal minimum hourly wage. However, the Michigan act is superseded by the federal minimum wage law in cases where the employer is: 1) engaged in interstate commerce; 2) has a gross annual dollar volume of \$500,000; 3) a hospital or health care facility that cares for the sick, aged or mentally ill; 4) a pre-school, elementary or secondary school, or college; 4) an agricultural employer who employs 500 man days of agricultural labor in a quarter for the current or previous year; 5) a federal, state, or local government; or 6) any enterprise covered by the Fair Labor Standards Act on March 31, 1990. (This refers to those employers who were subject to the federal minimum wage law in 1990 when the gross annual dollar volume requirement was raised from \$362,500 to \$500,000. Those businesses that had a gross dollar volume of \$362,500 or more but less than \$500,000 were required under federal law to continue to pay at least \$3.35 an hour, but were not required to pay the new federal minimum).

Currently, the Michigan minimum wage is set at \$3.35 per hour. The bill would provide for 2 annual increases

in the minimum hourly wage set by the state. Specifically, the bill would set those increases as follows: October 1, 1996, \$4.75; September 1, 1997, \$5.15. These changes would mirror the changes provided for in federal law. In addition, the bill would lower the age in the definition of employee from 18 to 14 years old. This would match the lowest age that a person could work under Youth Employment Act and would also mirror federal law.

The bill would also allow employers to pay a lower rate to new employees who were less than 20 years old. This training wage of \$4.25 per hour could be paid during the first 90 days of the employee's employment instead of requiring the minimum hourly wage otherwise required by the act. The bill would also bar employers from displacing (through reduction of hours, wages, or employment benefits) an employee in order to replace them with a training wage employee. An employer who violated this restriction would be guilty of a misdemeanor punishable by up to 93 days imprisonment, a fine of up to \$1,000, or both.

The bill would retain the current amount that employers of tipped employees may deduct from the minimum wage to be paid to those employees. Currently, the employer may reduce the minimum wage rate paid to its employees by up to 25 percent, based upon the amount of gratuities received by the employee, or other items or services provided by the employer for the employees' benefit. Based on the new wage rate these employees would receive no less than \$3.57 after October 1, 1996 and no less than \$3.87 after September 1, 1997.

The bill would also allow employees to receive compensatory time off instead of monetary overtime payment. The rate of time off would have to be no less than one and one-half hours for each hour of overtime. In cases where the employees were represented by a collective bargaining agent or other representative designated by the employees, time off would have to be provided in accordance with a collective bargaining agreement, memorandum, or understanding, or any other agreement between the employer and the affected employees. If the affected employees were not

House Bill 4180 (10-25-96)

represented, then time off would have to be provided in accordance with an agreement or understanding between the employees and their employer that was knowingly and voluntarily entered by the employees. In addition, the affected employee would have to provide a written or otherwise verifiable affirmation of his or her decision to take time off instead of monetary compensation. The employer would be required to preserve and maintain the employee's affirmation. An employee who had accrued more than 240 hours of compensatory time off, or 480 hours, if he or she were employed by a public body in a public safety, emergency response, or seasonal activity, could not receive further compensatory time off for overtime. The bill would also bar employers from directly or indirectly intimidating, attempting to intimidate, or otherwise coercing their employees into either taking compensatory time off instead of payment or vice versa, or forcing an employee to use compensatory time off that he or she had already earned.

Finally, the bill would also remove language in the act that requires increases or decreases in the minimum hourly rate instituted after 1967 to reflect corresponding changes in the cost of living, as well as language in the definition of employee that specifically included individuals employed to provide the practice of massage. In addition, the bill would change a reference to physically and mentally handicapped persons to persons with physical or mental disabilities and change a reference to the Department of Labor to the Department of Consumer and Industry Services.

### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, because the bill would increase the personal income of minimum wage earning employees, state income tax revenues would be increased by approximately \$15.6 million. However, if implementation of the bill resulted in fewer minimum wage jobs, the expected amount of state revenues would be lowered. (9-22-96)

### ***ARGUMENTS:***

#### ***For:***

At \$3.35 an hour, a full time worker would make only \$6,968 in a year. At \$5.15 per hour, the same worker would make \$10,712 a year. The purpose of minimum wage legislation is to provide workers with at least a minimum standard of living. The bill would help to bring the minimum wage into line with both increases in the cost of living and the increases in the federal minimum wage. In addition, the bill would make the minimum wage more of a living wage and would help to decrease

the degree to which persons being paid the minimum wage need to rely upon public assistance.

Furthermore, the bill will allow employees to take compensatory time off instead of payment for overtime under certain circumstances. This will provide another option for employers and employees for dealing with overtime payments that in many cases could benefit both the employer and the employee.

#### ***Against:***

The marketplace, not the government, should determine wages. Raising the minimum wage could lead to further inflation and could force employers to reduce their workforces.

The businesses that are affected by Michigan's Minimum Wage Law are primarily small family-owned businesses. These businesses should have the opportunity to pay the lower wages currently allowed in Michigan's law. If Michigan matches the federally-required minimum wage, the exemption these smaller businesses receive from the federal law is essentially made moot. These smaller businesses work with a smaller margin of profit than the larger businesses subject to the federal law and thus may be far more adversely affected by an increase in the amount that they must pay their employees. Although most small businesses in Michigan already pay more than the minimum wage, they need the flexibility provided in Michigan's current law to set wage levels that are appropriate to their businesses. Furthermore, according to the National Federation of Independent Businesses, most minimum wage earners are not the working poor, but are predominately part-time second wage earners from middle class families.

#### ***Against:***

As reported from committee, the bill would have retained the current wage level for tipped employees. A House floor amendment, however, would require an increase in wages for tipped employees that could increase labor costs for the employers of tipped employees by \$150 million per year. Most of this increase would go to servers employed in restaurants who are already making well over the minimum wage due to the tips they receive. The increase in costs for labor due to this increase in tipped wages could drive some employers out of business, or cause a significant increase in the prices of their products.

#### ***For:***

The bill will help some businesses to lower their employment costs by providing a training wage for inexperienced, younger employees allowing the employer

to pay less than the regular minimum wage for employees under the age of 20 during the first 90 days of their employment.

***Against:***

The bill will unfairly allow employers to pay a reduced wage to summer employees. Students working during their summer vacations usually are only employed for about 90 days. Thus it is unlikely that a student working during the summer months to put himself or herself through school would ever receive the minimum wage.

***POSITIONS:***

The Michigan AFL-CIO supports the bill. (10-10-96)

The National Federation of Independent Businesses/Michigan opposes the bill. (10-10-96)

The Michigan Restaurant Association opposes the bill. (10-17-96)

Analyst: W. Flory

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.