Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4180 (Substitute H-7 as passed by the House)
Sponsor: Representative Bob Emerson
House Committee: Human Resources and Labor
Senate Committee: Human Resources, Labor and Veterans Affairs

Date Completed: 11-14-96

CONTENT

The bill would amend the Minimum Wage Law to do all of the following:

- **Provide for two scheduled increases in the State minimum wage, and delete a provision requiring that statutory changes to the State minimum wage reflect changes in the cost of living.**
- **Allow an employer to pay a training hourly wage, at a rate lower than the State minimum wage, to a new employee who was less than 20 years old.**
- **Lower the minimum age in the Act's definition of "employee".**
- **Allow employees to receive compensatory time off instead of a monetary overtime payment.**

State Minimum Wage Increases

Currently, the State minimum wage is set at $3.35 per hour, which was established on January 1, 1981. The bill would increase the State minimum hourly wage rate to $4.75 beginning October 1, 1996, and to $5.15 beginning September 1, 1997.

The bill also would delete a provision requiring that increases or decreases in the minimum hourly rate, established in the Act after 1967, reflect corresponding increases or decreases in the cost of living.

The Act requires the wage deviation board to determine, on its own or on petition of an interested party, the amount of gratuities and the value to an employee of board, lodging, apparel, or other items or services customarily furnished to an employee for the employee's benefit, and establish from that amount a reasonable deduction from the State minimum wage to be paid by the employer. The allowed deduction may not be more than 25% of the hourly wage rate. Based on the bill's proposed increases in the State minimum hourly wage, these employees could receive no less than $3.57 per hour beginning October 1, 1996, and no less than $3.87 per hour beginning September 1, 1997.

Training Hourly Wage

The bill would allow an employer to pay a training hourly wage of $4.25 for the first 90 days of employment to a new employee who was under 20. The training hourly wage would be in lieu of the otherwise applicable State minimum wage.

An employer could not displace an employee to hire someone at the training hourly wage. "Displace" would include the termination of employment or any reduction of hours, wages, or employment benefits. A violation of this prohibition would be a misdemeanor, punishable by a maximum fine of $1,000, up to 93 days' imprisonment, or both.

"Employee" Definition

Under the Act, "employee" means an individual not less than 18 years of age employed on the employer's premises or at a fixed site designated by the employer, or a minor at least 16 years of age for whom a work permit is issued under the Youth Employment Standards Act to be employed in, about, or in connection with a licensed liquor establishment in which the sale of food or other goods constitutes at least 50% of the total gross receipts. The bill would reduce the definition's minimum age from 18 to 14 and indicate that "employee" would include a minor at least 16 years of age for whom a work permit was issued to work in, about, or in connection with such a licensed liquor establishment.

The bill also would delete language specifying that "employee" includes but is not limited to "an individual employed to provide the practice of massage".

Compensatory Time

The bill would allow an employee to choose to receive compensatory time off, rather than overtime pay, at a rate of not less than 1.5 hours for each hour of employment for which overtime compensation is required under the Act. In order for an employee to receive compensatory time, rather than overtime pay, all of the following would apply:

-- The compensatory time off would have to be provided through either 1) a collective bargaining agreement, or any other agreement between the employer and the affected employees represented by a collective bargaining agent or other representative designated by the employees; or 2) an agreement or understanding reached between affected employees and their employer before the employees' performance of work, if those employees were not represented by a collective bargaining agent or other designated representative and the agreement or understanding were knowingly and voluntarily entered by the employees.
-- The affected employee provided written or other verifiable affirmation of his or her election to receive compensatory time in lieu of overtime compensation, and the verifiable affirmation was preserved and maintained by the employer.
-- The employee had not accrued compensatory time in excess of 240 hours, or 480 hours if he or she were employed by a public body in a public safety activity, emergency response activity, or seasonal activity.

An employer could not directly or indirectly intimidate, threaten, or coerce or attempt to intimidate, threaten, or coerce an employee for the purpose of interfering with the employee's right to request or not request compensatory time off in lieu of payment of overtime compensation or for the purpose of requiring an employee to use compensatory time.

MCL 408.382 et al. Legislative Analyst: P. Affholter

FISCAL IMPACT

Given that a new Federal minimum wage has been recently implemented for many Michigan employees, this bill would have an impact primarily on Michigan employees who receive tips. The fiscal impact on the State, assuming that the first minimum wage increase would be for a full fiscal year, would be an increase in income tax collections of $1.2 million, an increase in sales tax collections of $1.4 million, and an increase in other consumption taxes of $0.7 million, for a total of $3.2 million in additional State revenue. The fiscal impact on the State, using the second minimum wage increase for a full fiscal year, would be an increase in income tax collections of $1.7 million, an increase in sales tax collections of $2.0 million, and an increase in other consumption taxes of $1.0 million, for a total of $4.8 million in additional State revenue. These revenue increases would be less if the number of minimum wage jobs decreased.

Fiscal Analyst: R. Ross

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