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AMEND MINIMUM WAGE LAW

House Bill 4177 as passed by the House First Analysis (2-5-97)

Sponsor: Rep. Bob Emerson
Committee: Labor and Occupational Safety

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).

THE CONTENT OF THE BILL:

House Bill 4177 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 However, the Michigan act is superseded by the federal minimum wage law in cases where the employer is: 1) engaged in interstate commerce; 2) has a gross annual dollar volume of \$500,000; 3) a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 increases in the minimum hourly wage set by the state. Specifically, the

bill would set those increases as follows: on the effective date of "the amendatory act that added section 4b" (a provision included in the bill as it was introduced, and deleted by a committee amendment, that would have allowed employer's to pay a training wage to certain employees), the minimum wage would be increased to \$4.75 (unless the effective date was on or after September 1, 1997); and on September 1, 1997 the wage would be increased to \$5.15. These changes would mirror the changes provided for in federal law with the exception of the effective dates, which are, under federal law, October 1, 1996 and September 1, 1997. 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 retain the current provision establishing the 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 his or her 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. Further, the bill would transfer to the director of the Department of Consumer and Industry Services the authority currently granted to the Wage Deviation Board regarding petitions for the determination of the amount of value of gratuities and other items or services received by an employee under these provisions.

Finally, the bill would 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

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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 increase. However, any change would be minimal due to the limited number of jobs affected. (2-4-97)

ARGUMENTS:

For:

The minimum wage has not been raised since January 1, 1981; in the intervening 16 years, the cost of living has increased considerably. The money that a minimum wage earner receives buys far less now than it did back in 1981. The purpose of minimum wage legislation is to provide workers with at least a minimum standard of living. 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 bill would help to bring Michigan's 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.

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:

The bill 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.

Current law requires employers to pay at least \$2.52 per hour to their tipped employees and this is only allowed when the tipped employee receives enough hourly tip income to make the total of tip and payroll income equal to or greater than the minimum wage amount. As a result, it is unnecessary to increase the minimum wage for tipped workers. Under the current system, a tipped employee's tip income and payroll wage must combine to equal the minimum wage or better. If the employee does not receive tip income that is sufficient, when combined with the payroll wage, to meet the minimum wage, then the employer must increase the employee's payroll wage until the combination of tips and wages is equal to the minimum wage.

Furthermore, it should be noted that since tips are usually based upon a percentage of the cost of the meal or service provided by the employer, the amount of money received by tipped employees has increased in accordance with the increases in the prices of the meals or services.

Against:

As reported from committee, the bill will not allow 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. Allowing for a training wage would encourage businesses to hire younger, untrained workers that employers might be less willing to provide with opportunities because of the higher minimum wage.

POSITIONS:

The Michigan AFL-CIO supports the bill. (2-4-97)

The Michigan Federation of Teachers and School Related Personnel supports the bill. (2-4-97)

The Michigan teamsters Joint Council 43 supports the bill. (2-4-97)

The Michigan Catholic Conference supports the bill. (2-4-97)

The Michigan Education Association supports the bill. (2-4-97)

The Hotel Employees and Restaurant Employees Union Local 24 supports the bill. (2-4-97)

The Michigan Chamber of Commerce opposes the bill. (2-4-97)

The Small Business Association of Michigan opposes the bill. (2-4-97)

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

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.