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BILL ANALYSIS

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Senate Bill 318 (as enrolled) **PUBLIC ACT 81 of 2006**
Senate Bill 453 (as enrolled) **PUBLIC ACT 372 of 2006**
Senate Bill 1364 (as enrolled) **PUBLIC ACT 375 of 2006**
House Bill 6213 (as enrolled) **PUBLIC ACT 373 of 2006**
Sponsor: Senator Raymond E. Basham (S.B. 318)
Senator Nancy Cassis (S.B. 453)
Senator Cameron S. Brown (S.B. 1364)
Representative Bill Huizenga (H.B. 6213)
Senate Committee: Commerce and Labor (S.B. 318 & H.B. 6213)
Finance (S.B. 453)
Government Operations (S.B. 1364)
House Committee: Commerce (H.B. 6213)

Date Completed: 4-4-07

CONTENT

Senate Bills 318 and 1364 and House Bill 6213 amended the Minimum Wage Law to do all of the following:

- **Increase the State minimum hourly wage from $5.15 to $7.40 in increments between October 1, 2006, and July 1, 2008.**
- **Establish a lower minimum hourly wage rate for employees who are under 18 years of age.**
- **Exempt from the Law's overtime compensation requirements an employer who otherwise would be subject to the Law only because the State's minimum wage exceeds the Federal minimum wage.**

Senate Bill 453 amended the Income Tax Act to allow a taxpayer to credit against his or her income tax a percentage of the earned income tax credit (EITC) he or she may claim under Federal law.

Senate Bills 453 and 1364 and House Bill 6213 were tie-barred. Senate Bill 318 took effect on March 28, 2006; Senate Bill 453 took effect on September 22, 2006; and Senate Bill 1364 and House Bill 6213 took effect on October 1, 2006.

Senate Bill 318

The bill raised the minimum hourly wage rate, subject to the exceptions specified in the Minimum Wage Law, to $6.95, beginning October 1, 2006. Before that date, the minimum wage had been $5.15 per hour (which was the same as the Federal minimum hourly wage). Under the bill, the minimum wage will increase to $7.15 per hour, beginning July 1, 2007, and to $7.40 per hour, beginning July 1, 2008.

Senate Bill 453

Under the bill, a taxpayer may credit against the income tax an amount equal to a percentage of the credit the taxpayer is allowed to claim as a credit under Section 32 of the Internal Revenue Code (the EITC) for a tax year on a return filed under the Act for the same tax year. For tax years beginning after December 31, 2007, and before January 1, 2009, an eligible taxpayer may claim a credit of 10% of his or her EITC. For tax years beginning after December 31, 2008, an eligible taxpayer may claim a credit of 20% of his or her EITC.

If the credit allowed under the bill exceeds the taxpayer's tax liability for the tax year, the State Treasurer must refund the excess to the taxpayer without interest, except as provided in Section 30 of the revenue Act. (Section 30 requires the Department of Treasury to credit or refund an overpayment of taxes; taxes, penalties, and interest erroneously assessed and collected; and taxes, penalties, and interest that are found unjustly assessed, excessive in amount, or wrongfully collected.)

(The EITC is a refundable Federal income tax credit for low-income working individuals and families. To qualify, taxpayers must meet certain requirements and file a tax return, even if they did not earn enough money to be obligated to file a return.)

Senate Bill 1364

Under the Minimum Wage Law, an employer may pay a new employee who is under 20 years old a training hourly wage of $4.25 for the first 90 days of employment. This hourly wage is in lieu of the minimum hourly wage otherwise prescribed by the Law.

Under the bill, except as provided above, the minimum hourly wage for an employee who is under 18 is 85% of the general minimum hourly wage established in Section 4 (the section Senate Bill 318 amended).

The Law prohibits an employer from displacing an employee to hire a person at the training hourly wage. A violation is subject to a civil fine of up to $1,000. Under the bill, the prohibition and fine also apply to displacing an employee to hire a person at the lower minimum wage for an employee who is under 18. ("Displace" includes termination of employment or any reduction of hours, wages, or employment benefits.)

House Bill 6213

Under Section 4a of the Minimum Wage Law, except as otherwise provided, an employee must receive compensation at not less than 1.5 times his or her regular rate for more than 40 hours of employment in a workweek.

Section 14 states that the Law does not apply to an employer who is subject to the minimum wage requirements of the Fair Labor Standards Act *unless* those Federal minimum wage provisions would result in a lower minimum wage than provided in the Law. (That is, if the State minimum wage is higher than the Federal minimum wage—as it has been since October 1, 2006—then the State minimum wage applies to an employer that is subject to the Federal law and otherwise would be exempt from the State requirements.)

Under the bill, if an employer is subject to the Minimum Wage Law only because of the application of Section 14, then Section 4a does not apply, and the Law does not apply to an employee who is exempt from the minimum wage requirements of the Fair Labor Standards Act.

The bill also provides, however, that an employee must be paid in accordance with the minimum wage and overtime compensation requirements of Sections 4 and 4a of the Minimum Wage Law if the employee is employed under either of the following conditions:

-- In domestic service employment to provide companionship services for individuals who, because of age or infirmity, are unable to care for themselves, if the employee is not a live-in domestic service employee.
-- To provide child care, but not as a live-in domestic service employee, unless the employee is under 18; provides services on a casual basis; and provides services that do not regularly exceed 20 hours per week, in the aggregate.

For purposes of this provision, "companionship services", "live-in domestic service employee", and "casual basis" refer to those terms as defined or described in certain sections of the Code of Federal Regulations (CFR) dealing with the Fair Labor Standards Act.

The bill specifies that its changes do not deprive an employee or any class of employees of any right that existed on September, 30, 2006, to receive overtime compensation or to be paid the minimum wage.

(Under 29 CFR 552.6, "companionship services" means "those services which provide fellowship, care, and protection for a person who, because of advanced age or physical or mental infirmity, cannot care for his or her own needs". Those services may include household work related to the person's care that does not exceed 20% of the total weekly hours worked. The term does not include services that require and are performed by trained personnel, such as a nurse.

Under 29 CFR 552.102, domestic service employees residing in the household where they are employed are entitled to the same minimum wage as domestic service employees who work by the day, but overtime compensation requirements of the Fair Labor Standards Act do not apply to them.

Under 29 CFR 552.5, the term "casual basis", when applied to babysitting services, means employment that is irregular or intermittent, and that is not performed by an individual whose vocation is babysitting. Casual babysitting services may include some household work not related to the care of children that does not exceed 20% of the total weekly hours worked on the particular babysitting assignment.)

MCL 408.384 (S.B. 318)
206.272 (S.B. 453)
408.384b (S.B. 1364)
408.394 (H.B. 6213)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Senate Bill 318

An increase in the minimum wage will have a positive, but very small impact on the economy and overall tax collections. A small economic impact is anticipated because the additional income that will be paid to minimum wage workers will not be new income, but rather income that would have otherwise gone to others. For example, an increase in the minimum wage may reduce business profits from the level they otherwise would have been or reduce the amount of compensation paid to other non-minimum wage workers. In addition, an increase in the minimum wage will likely reduce the number of minimum wage workers as employers react to the increase in the cost of labor. Some businesses also will likely react to a minimum wage increase by raising the prices on their products and/or services and thus pass some of the new cost on to their customers. Therefore, while a minimum wage increase certainly will benefit workers who receive the increase in their pay, the overall positive economic impact will be small because the minimum wage increase will consist primarily of a redistribution of income rather than the source of new economic activity.

There are currently no State employees who receive less than the hourly minimum wage. All State employees are currently above the minimum wage of $7.40 per hour that will take effect on July 1, 2008. There might be local units of government that employ personnel at less than the minimum wage required under the bill. If so, those local units of government will have to bear the cost of increasing the wages of employees who receive less than the minimum wage. The exact number of local units of government and the number of affected employees are indeterminate.

Senate Bill 453

It is estimated that the Michigan earned income credit will reduce income tax revenue $132.0 million in FY 2008-09 and $293.0 million in FY 2009-10. Almost all of this loss in revenue will affect the General Fund/General Purpose (GF/GP) budget.

The following table helps illustrate how families will benefit from the Michigan earned income credit, based on the actual parameters for the Federal earned income credit for the 2006 tax year. This table presents for various family types the range within which a person's or family's income had to fall to be eligible for the earned income credit in 2006, the maximum Federal credit that was provided, and what the maximum Michigan credit would have been in 2006 if the 20% credit that will begin in 2009 had been in place in 2006.

Earned Income Tax Credit:
Federal Maximum Credit and
Enacted Michigan Maximum Credit*

Family Type	Earned Income Range For Credit (2006)	Maximum Fed. Credit	Enacted 20% Max. MI Credit
Single, No Children	$1 - $12,120	$412	$82
Married, No Children	1 – 14,120	412	82
Single, One Child	1 – 32,001	2,747	549
Married, One Child	1 – 34,001	2,747	549
Single, Two Children	1 – 36,348	4,536	907
Married, Two Children	1 – 38,348	4,536	907

*Michigan credit will equal 10% of Federal credit for the 2008 tax year and 20% for tax years 2009 and after.

Source: Federal Internal Revenue Service, Publication 17, and Senate Fiscal Agency.

Senate Bill 1364

The budget bill for the Department of Labor and Economic Growth (Public Act 345 of 2006) includes 4.0 FTEs and $361,000 of restricted Contingent Fund, Penalty and Interest funds that may be used to cover any additional costs related to increased complaints or wage inquiries from employers and/or employees.

House Bill 6213

The bill maintains existing policy on overtime pay after the implementation of the minimum wage increase. The effects of this change on State and local government are difficult to estimate given the many secondary effects of changes in compensation. Factors include how the bill will affect the willingness of employers to have staff work overtime and the secondary effects on the willingness to hire new employees.

According to the Department of Labor and Economic Growth, due to the enactment of Senate Bill 318, there is expected to be an increased number of wage complaints and inquiries from both employers and employees. Previously, the Department was responsible for regulating only those employers not regulated by the U.S. Department of Labor, which totaled approximately 4% to 9% of employers. Now that Michigan's minimum wage exceeds the Federal standard, the Department is responsible for regulating all employers. As noted above, the budget bill for the Department, Public Act 345 of 2006, includes funding for an additional 4.0 FTEs and $361,000 of restricted Contingent Fund, Penalty and Interest funds to cover the cost of these positions.

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