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

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

BILL ANALYSIS

Senate Bill 8 (as enacted) **PUBLIC ACT 1 of 2025**
Sponsor: Senator Kevin Hertel
Senate Committee: Regulatory Affairs
House Committee: Select Committee on Protecting Michigan Employees and Small Businesses

Date Completed: 3-7-25

RATIONALE

In 2017, the One Fair Wage Michigan coalition began a petition drive to initiate the Improved Workforce Opportunity Wage Act. The proposed legislation increased the State's minimum wage each year. The Legislature adopted the Act as Public Act (PA) 337 of 2018. Following the 2018 elections, the Legislature enacted PA 368 of 2018, which amended the Act to increase the minimum wage over a longer period and at a lower rate. The Michigan Supreme Court (MSC) ruled that the Legislature's enactment and amendment of the Act in the same session was unconstitutional and that the original legislation, PA 337, would take effect unamended on February 21, 2025. Testimony before the Senate Committee on Regulatory Affairs indicates that this process caused confusion and concern, as employers raced to align their business's models with the Act's requirements. In the face of these concerns, it was suggested that the Act be taken up for the debate and discussion it did not receive in 2018.

CONTENT

The bill amended the Improved Workforce Opportunity Wage Act to prescribe annual minimum wage rates for employees in the State.

The Improved Workforce Opportunity Wage Act and the bill took effect February 21, 2025. (For more information, see **BACKGROUND**).

Generally, the Act prescribes minimum hourly wage rates in the State. Previously, the Act prescribed a minimum hourly wage rate of $10, beginning in 2019, that would increase every year to a rate of $12 in 2022. Under the bill, the minimum wage is as follows:

-- Beginning February 21, 2025, $12.48.
-- Beginning January 1, 2026, $13.73.
-- Beginning January 1, 2027, $15.00.

For service employees that receive tips, the Act reduced its minimum hourly wage rates by specified percentages, such as 48% of the minimum hourly wage rate established in 2019. Under the bill, the minimum hourly wage rate for an employee who receives tips is as follows:

-- Beginning February 21, 2025, 38% of the minimum hourly wage rate.
-- Beginning January 1, 2026, 40% of the minimum hourly wage rate.
-- Beginning January 1, 2027, 42% of the minimum hourly wage rate.
-- Beginning January 1, 2028, 44% of the minimum hourly wage rate.
-- Beginning January 1, 2029, 46% of the minimum hourly wage rate.
-- Beginning January 1, 2030, 48% of the minimum hourly wage rate.
-- Beginning January 1, 2031, 50% of the minimum hourly wage rate.

The bill further provides that an employer that fails to pay the minimum hourly wage to an employee is subject to a civil fine of up to $2,500.

Additionally, every October beginning in 2027, the bill requires the State Treasurer to calculate an adjusted minimum wage rate based on the rate of inflation. The State Treasurer must calculate the increase by multiplying the applicable minimum wage by the 12-month percentage increase, if any, in the Consumer Price Index for the Midwest region, CPI-U (as opposed to the Consumer Price Index for urban wage earners and clerical workers, CPI-W, as previously required by the Act).

MCL 408.934 et al.

BACKGROUND

In 2017, the One Fair Wage Michigan coalition began a petition drive to initiate a new law, the Improved Workforce Opportunity Wage Act. The proposed legislation increased the State's minimum wage each year until reaching $12 in 2022. After gathering the required number of petitions, the coalition submitted the proposal to the Secretary of State for canvass by the Board of State Canvassers (the Board). The Board submitted the proposal to the Legislature, which adopted the Act without amendment as PA 337 of 2018. As a result, the Act was not submitted to voters for their approval during the 2018 midterm elections.

Following the elections, the Legislature enacted PA 368 of 2018, which amended the Improved Workforce Opportunity Wage Act to increase the minimum wage each year until reaching $12.05 in 2030, instead of 2022. As a result, the One Fair Wage Michigan coalition brought an action in the Court of Claims against the State of Michigan. The plaintiffs alleged that it was unconstitutional for the Legislature to adopt and amend initiated legislation within the same legislative session (2017-2018). The State argued that the Constitution did not prevent the Legislature from doing so. The Court ruled in favor of the plaintiffs, stating that PA 368 was unconstitutional and void. Accordingly, PA 337 remained in effect. The Court of Appeals later reversed this decision; however, the MSC upheld the Court of Claims' original decision in July 2024. In accordance with PA 337's original effective date of 205 days after its enactment, the MSC determined that PA 337 would take effect February 21, 2025, 205 days after the MSC's final decision.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill will avert significant economic difficulty for the State's restaurants and tipped workers. The version of the Act that was set to take effect on February 21 included, among other things, provisions to align Michigan's tipped workers with non-tipped workers by scrapping tipped wage; however, testimony before the Senate Committee on Regulatory Affairs indicates the removal of tipped wage could result in negative outcomes. Many of the State's tipped workers serve in the restaurant business, which has suffered since the COVID-19 pandemic. Reportedly, 40% of Michigan's restaurant industry struggles to make a profit. Many restaurants, particularly small, local restaurants, operate with thin profit margins. The previous version of the law would have increased operating costs by requiring restaurants to pay their employees a higher wage. Increased operating costs may have forced restaurants to pass the costs onto consumers or reduce staff and hours. It also may have led to many beleaguered restaurants closing, resulting in significant industry unemployment. Additionally, testimony indicates that service workers prefer the tipped wage, as they make more per shift based on tips than they would have on minimum wage alone. Retaining the tipped wage will ensure that Michigan's tipped workers and industries continue to benefit from their hard work.

Response: Testimony indicates that the evidence concerning whether the removal of tipped wage would lead to the outcomes outlined above is mixed. According to an analysis performed by the Center for American Progress, tipped workers and businesses in the eight states that have eliminated tipped wage have done as well as or better than their counterparts in other states. In states using the Federal tipped minimum wage of $2.13 per hour (which does not include Michigan), the percentage of tipped workers in poverty was 14.8%, compared to 11% in states that eliminated the tipped wage.[1] The analysis also found that, from 2011 to 2016, businesses in tipped industries had higher employment growth in states that had eliminated the tipped wage than those that had not. As such, workers and businesses in states that align their tipped workers' wages with their minimum wage may benefit. Michigan should have eliminated the tipped wage system to support minimum wage workers.

Additionally, tipping harms some workers more than others. According to testimony, tipped industries were originally created to underpay workers of color in the wake of emancipation, and so tipped industries may be more likely to attract employees who face barriers to entry in other industries, such as people from low-income backgrounds and people of color. Tipped industries also are more likely to attract women, who make up 74.3% of all tipped workers in the State.[2] Removing the tipped wage would have offered Michigan the chance to reduce its gender pay gap and help individuals out of poverty.

Supporting Argument

The bill raises minimum wage for Michigan workers, benefiting them and the economy. Testimony before the Senate Committee on Regulatory Affairs indicates that many Michiganders support their families on minimum wage; however, wages have not kept pace with the rising cost of living. For example, according to the Massachusetts Institute of Technology's (MIT) Living Wage Calculator, a family of four in Wayne County requires a minimum wage of $24.79 to meet basic needs, while a family of four in Kent County requires $25.89.[3] Reportedly, 41% of Michiganders struggle to make ends meet. Minimum wage jobs can be skilled jobs, and many people work hard without seeing the benefits. Additionally, minimum wage jobs in difficult fields, such as healthcare, may struggle to attract workers, and so employers also struggle with worker retention and continuous expenses on recruitment and training. The bill addresses these issues by ensuring such fields can offer a livable wage. By ensuring minimum wage reaches $15 by 2027, the State will alleviate the financial strain for Michigan families and provide Michigan businesses with a happier, stabler workforce.

Opposing Argument

The bill may reduce Michigan voters' faith in the Constitution's initiative petition process. The MSC ruled that it was unconstitutional for the Legislature to adopt and amend an initiated law within the same session (2017-2018). While Senate Bill 8 was enacted in a subsequent session, the Legislature went against the spirit of the MSC's ruling by amending PA 337 before it could take effect. The Legislature and the MSC promised Michiganders increases to minimum wage and the elimination of tipped wage. The Legislature's reversal may erode faith in the system, as Michiganders' right to initiate laws was circumvented. Instead of enacting the bill, the law should have been allowed to go into effect, with any issues addressed as they arose.

Legislative Analyst: Nathan Leaman

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[1] Schweitzer, Justin, "Ending the Tipped Minimum Wage Will Reduce Poverty and Inequality", *Center for American Progress*, March 30, 2021.

[2] Stanton, Monique, "League opposes Michigan legislation weakening minimum wage, earned paid sick time", *Michigan Advance*, January 27, 2025.

[3] "Counties and Metropolitan Statistical Areas in Michigan", MIT Living Wage Calculator.

FISCAL IMPACT

The bill likely will increase State and local revenue by an unknown and likely minimal amount beginning in Fiscal Year 2025-26, depending on the number of affected employees and the number of hours they work.

Under the terms of the MSC's ruling in *Mothering Justice v. Nessel*, ___ Mich ___ (2024) (No. SC 165325), Michigan's minimum wage would increase from $10.56 per hour to $12.48 per hour, effective February 21, 2025. Subsequent changes will occur every February 21 in later years, raising the minimum hourly wage rate to $13.29 in 2026, $14.16 in 2027, and $14.97 in 2028. After the 2028 increase, the hourly minimum wage will continue to increase based on inflation.

The bill implements a new progression for the minimum wage, keeping the 2025 changes, but raising the minimum hourly wage every January 1 thereafter to levels higher than would occur under the Court ruling, with the wage rising to $13.73 in 2026, $15 in 2027, and adjusting for inflation beginning in 2028. The bill's fiscal impact reflects the differences between the rates under the Court decision (as opposed to the current minimum wage) and those created under the bill.

The number of employees affected by the bill likely will be relatively small and remain so even as the minimum hourly wage rate rises in future years. The Federal minimum wage is currently $7.25 per hour, and in 2023, the Bureau of Labor Statistics (BLS) reported that approximately 1% of workers paid at hourly rates (about 60% of all wage and salary employment), were paid less than the Federal minimum wage. The BLS also reports that for Michigan, the 10^{th} percentile for wages in 2023 (the level where only 10% of workers made less) was $13.88 per hour. Without accounting for any wage gains since 2023, these figures suggest that a small percentage of hourly workers make less than the current Michigan minimum wage (including those who are exempt from minimum wage provisions) and that relatively few employees will be affected by the bill.

Higher wages will increase State income tax revenue and, to the degree some of the increased earnings are spent on taxable items, sales tax revenue; however, any revenue increases will be minimal and indistinguishable from the normal variation that occurs in revenue collections. Under the bill, a worker affected by minimum wage provisions will make approximately 44 cents per hour more in 2026, and 84 cents per hour more in 2027. If such a worker averaged 40 hours per week, the maximum increase in the worker's income tax liability would be $39 in 2026 and $74 in 2027. As such, the total change in individual income tax revenue will be less than 0.1%, and to the extent hourly workers that work less than 40 hours per week or a meaningful number of low-wage hourly employees are exempt from the provisions of the bill, the revenue impact will be even less. Similarly, given that less than 40% of personal income is spent on items subject to sales and use taxes, any revenue impact on sales and use taxes will be even less than the impact on income taxes. For local units that levy income taxes, the bill will have similar relative impacts, although local income tax rates are less than the State's tax rate.

The bill may affect business income tax liabilities, although between the increased number of factors that affect business tax liabilities, the minimal impact the bill likely will have on workers' income taxes, and the relative size of business tax liabilities relative to personal income tax liabilities suggest any change in business tax liabilities will be negligible.

Fiscal Analyst: David Zin

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