

Minimum Wage and Overtime Updates (November Edition)

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The leftovers are (mostly) gone, and turkey-induced naps have been taken, but if you think a post-Thanksgiving minimum wage and overtime update will be uneventful, you are mistaken. Jurisdictions continue to announce 2018 minimum wage rates,¹ cities have amended existing or introduced new minimum wage ordinances, state legislators have pre-filed 2018 bills, and a lawsuit challenging a forthcoming local law has been filed.

2018 Minimum Wage Rates Update: The State of Missouri and The City of Oakland, California officially announced their 2018 minimum wage rates, both effective January 1. The Missouri minimum wage will increase from \$7.70 to \$7.85 per hour. For tipped employees, the minimum cash wage and maximum tip credit will increase from \$3.85 to \$3.925 per hour. In Oakland, the minimum wage will increase from \$12.86 to \$13.23 per hour. California law prohibits tip credits, so tipped employees must be paid the full local minimum wage.

Christmas in July 2018: Montgomery County, Maryland amended its minimum wage ordinance and, beginning July 1, 2018, will temporarily transition from a single-rate to a multiple-rate system, with different rates applying to large, mid-sized, and small employers. A large employer has 51 or more employees; a small employer has 10 or fewer employees; and a mid-sized employer has between 11 and 50 employees or has 11 or more employee and either is a 501(c)(3) tax-exempt organization or provides home health services or home or community-based

services and receives at least 75% of gross revenues through state and federal Medicaid programs.

The current minimum wage in the county is \$11.50 per hour. On July 1, 2018, the large employer minimum wage will be \$12.25 per hour; increasing in future years, on July 1, to \$13.00 (2019), \$14.00 (2020), and \$15.00 (2021). On July 1, 2018, the mid-sized employer minimum wage will be \$12.00 per hour; increasing in future years, on July 1, to \$12.50 (2019), \$13.25 (2020), \$14.00 (2021), \$14.50 (2022), and \$15.00 (2023). On July 1, 2018, the small employer minimum wage will be \$12.00; increasing in future years, on July 1, to \$12.50 (2019), \$13.00 (2020), \$13.50 (2021), \$14.00 (2022), \$14.50 (2023), and \$15.00. Regardless of whether an employer is large, mid-sized, or small, the minimum cash wage that must be paid to covered tipped employees is \$4.00 if the direct wage an employer pays the employee plus tips equals at least the applicable minimum wage rate.

All three rates will eventually be annually adjusted, but each rate's first adjustment will occur in a different year: 2022 for large employers; 2024 for mid-sized employers; and 2025 for small employers. The mid-sized and small employer rates will eventually match and merge with the large employer rate. Accordingly, percentage-wise the mid-sized and small employer annual adjustments will be larger.

If certain conditions are met, the County Executive can temporarily suspend a scheduled minimum wage increase, which will postpone increases one year. However, increases cannot be suspended more than twice.

¹ For a list of other 2018 minimum wage rate changes, see Lee Schreter and Sebastian Chilco, [The Minimum Wage in 2018: A Rates-Only Update](#), Littler Insight (Nov. 8, 2017).

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The Skinny in Minneapolis: At its November 15, 2017 meeting, the Minneapolis City Council's Committee of the Whole scheduled a public hearing for December 6, 2017, to consider amendments to the city's minimum wage ordinance that would clarify business size determinations. Currently, different wage rates and schedules apply based on whether an employer has fewer than 100, or 100 or greater, employees.

The Minnesota Chamber of Commerce filed a lawsuit challenging the ordinance, arguing state law preempts it. The Chamber has asked the court to issue a temporary injunction halting the ordinance from taking effect until its validity is determined. Currently, the ordinance is scheduled to become operative for large employers on January 1, 2018, and for small employers on July 1, 2018.

News reports suggest funding for the Minneapolis Department of Civil Rights' Labor Standard Enforcement Division will not increase enough in 2018 for the Department to hire a third employee to help enforce the forthcoming minimum wage ordinance (and existing paid sick leave ordinance). This could result in individuals using the courts, instead of the agency, to resolve disputes because the minimum wage – but not paid sick leave – ordinance allows private lawsuits.

Crucial Amendments in Las Cruces: On November 20, 2017, the city council of Las Cruces, New Mexico held its first hearing concerning an amendment to its minimum wage ordinance. Currently, the ordinance has predetermined rates for 2015, 2017, and 2019, and annual adjustments afterwards. However, it lists January 1, 2018 as the first annual adjustment date instead of January 1, 2020, which caused city officials to announce an adjusted rate for 2018. The proposed amendments clarify that annual adjustments will not occur until 2020. Another hearing will be held on December 4, 2017.

For Whom the Belmont Tolls: After a second reading on November 28, 2017, the city council in Belmont, California – located in Northern California – adopted a citywide minimum wage ordinance. The proposed ordinance requires the signature of the mayor, city clerk, and city attorney before it becomes official. If enacted, beginning

July 1, 2018, the Belmont minimum wage will be \$12.50, and will increase on January 1 in subsequent years: \$13.50 (2019); \$15.00 (2020); \$15.90 (2021). For 2022 and future years, the rate will be annually adjusted based on changes to the consumer price index.

New State-Level Proposals: A pair of Wisconsin legislators – both Democrats – introduced a proposal to increase the state's \$7.25 per hour minimum wage to \$8.50 per hour, with further increases to \$10.00, \$11.50, \$13.00, \$14.00, and \$15.00 per hour, and annual updates afterwards. The proposal also seeks to eliminate the tip credit for tipped employees, meaning these workers would need to be paid the full minimum wage.

A Kentucky representative introduced a measure to increase the state minimum wage from \$7.25 to \$8.20 on July 1, 2018, with future increases on July 1: \$9.15 (2019); \$10.10 (2020); \$11.00 (2021); \$12.05 (2022); \$13.10 (2023); \$13.95 (2024); and \$15.00 (2025). Tipped employees could be paid a minimum cash wage of \$2.13 per hour, if the direct wage an employer pays plus tips equals the minimum wage. In future years, the minimum cash wage would increase to \$3.05 (2019), \$3.95 (2020), and \$4.90 (2021). As proposed, businesses that annually grossed less than \$500,000 during the five years before the increase would be exempt.

Status of the Federal Salary Level Rule: Alexander Acosta, Secretary of the U.S. Department of Labor, testified before the House Education and the Workforce Committee. Although his testimony suggested he supported increasing the minimum salary level exempting executive, administrative, or professional employees from overtime, he did not indicate what that dollar amount should be.²

Ballot Measure Ballyhoo: A group behind a ballot measure to eventually increase the Massachusetts minimum wage to \$15.00 per hour by 2022 contends it has obtained enough signatures to send the proposal to

2 For more information about the Secretary's testimony, see Ilyse Schuman and Michael Lotito, [Labor Secretary Discusses DOL Priorities During House Committee Hearing](#), Littler ASAP (Nov. 15, 2017).

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the state legislature to enact before the first Wednesday in May 2018. If true, and if the legislature does not enact the measure, proponents must collect an additional 10,792 registered voter signatures by early July 2018 to put the initiative before voters at the November 2018 ballot.

Signatures are being collected to put a ballot measure before Florida voters in November 2018. The proposal would amend the state constitution to increase the state minimum wage to \$10.00 per hour on September 30, 2021, with \$1.00 per hour increases each subsequent year until September 30, 2026, when the rate will hit \$15.00 per hour. In 2028 and subsequent years, the minimum wage would be annually adjusted. The Florida minimum wage

is currently scheduled to increase from \$8.10 to \$8.25 per hour on January 1, 2018.

Top-Level Support for Increasing State and Local

Minimum Wage Rates: The governor of Pennsylvania and governor-elect of New Jersey – both Democrats – have voiced their support for increasing their states’ minimum wage rate. On the campaign trail, the mayor-elect of Saint Paul, Minnesota – also a Democrat – expressed support for a citywide minimum wage.

We will continue to monitor and report on minimum wage and overtime developments as they occur.

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