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BILL ANALYSIS

Senate Fiscal Agency

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Senate Bill 727

Sponsor: Senator Robert Geake

Committee: Human Resources and Senior Citizens

Date Completed: 2-9-90

SUMMARY OF SENATE BILL 727 as introduced 12-13-89:

The bill would amend the Minimum Wage Law to increase the minimum wage, establish a training wage, expand the category of persons exempt from the minimum wage requirement, require the Commissioner (i.e., the Director of Labor) to report to the Legislature on the effectiveness of the training wage, and increase the deduction from the minimum wage that an employer is entitled to receive for providing board, lodging, apparel and other services to the employee,

Specifically, the bill would increase the minimum wage from \$3.35 an hour to \$3.80 an hour beginning April 1, 1990, and to \$4.25 an hour beginning April 1, 1991. Further, the bill would allow an employer to pay an employee a training wage of not less than 85% of the minimum hourly wage for up to 90 days of employment after the date the employee was hired if all of the following circumstances existed:

- The employer did not lay off or reduce the wages of any other employee in the same or substantially similar position as a result of hiring an employee who was paid a training wage.
- The amount of the training wages paid by the employer did not exceed 25% of the total wages paid by the employer for trainees and minimum wage employees in any calendar month.
- The employer informed the employee in writing before hiring the employee of the employer's intent to pay the training wage.

The bill would prohibit an employer from paying a training wage to an employee who was more than 19 years old or a migrant or seasonal agricultural worker as defined in the Federal Migrant and Seasonal Agricultural Worker Protection Act.

An employer wishing to hire an employee at a training wage would have to apply to the Commissioner for a separate authorization for the hiring of each employee at the training wage. The Commissioner would be required to issue the authorization if the employer agreed to do all of the following:

- Hire the employee to do productive work designed to provide training, technical, and other skills that were essential to his or her full and adequate performance.
- Provide to the employee and the Commissioner a copy of the training program.

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-- Post in a conspicuous place at the employment site a notice of the types of jobs for which the employer was providing a training wage.

An employer could not pay a new employee a training wage if the employee were already paid a training wage by another employer unless the new employer applied for and obtained an exception from the Commissioner. Upon application by an employer, the Commissioner, or his or her designee, would be required to grant an exception if the employer demonstrated to the Commissioner's satisfaction that the employee was employed in productive work as specified in the bill.

An employee would be required to provide to an employer proof of any other employment in which the employee was paid a training wage. An employer's good faith reliance on the information provided by an employee regarding the previous payment of a training wage would be a complete defense to any civil or criminal action brought by any person for a violation of the bill or rules promulgated under it.

The Commissioner, not later than March 1, 1993, would be required to report to the chairpersons of the Senate and House standing committees responsible for legislation concerning labor on the effectiveness of the training wage as it applied to employees in this State who were not covered by the Federal minimum wage law.

The bill would expand the category of persons exempt from the minimum wage provisions to include an employee employed for not more than a total of 10 hours in excess of the maximum work week as specified by law, company policy, or the terms of an employee contract if during those hours the employer were providing remedial education to an employee lacking a high school diploma or educational attainment at an eighth grade level as determined by standards set forth in rules promulgated by the Commissioner.

The Act currently requires the wage deviation board to determine the amount of the gratuities and the value to the employee of board, lodging, apparel or other items or services customarily furnished to an employee for his or her benefit, and establish a reasonable deduction for those items from the minimum wage paid by the employer. The total deduction cannot exceed 25% of the hourly wage rate. The bill specifies that beginning April 1990, the total deduction could not exceed 45% of the hourly wage rate or result in an hourly wage of less than \$2.51 an hour. Beginning April 1, 1991, the total deduction could not be more than 50% or result in an wage of less than \$2.51 an hour.

MCL 408.384 et al.

Legislative Analyst: L. Burghardt

FISCAL IMPACT

The bill would have an impact on those employers with gross annual receipts of less than \$500,000 that compensate employees at the minimum wage. The current wage of \$3.35 per hour would be increased by 13.4% to \$3.80 on April 1, 1990, and by an added 11.8% one year later. Employees could use a training wage equal to 85% of the base rate for 90 days provided, generally, that the employee was between 18 and 19 years old. (The Minimum Wage Law only regulates the minimum wage of employees aged 18 or older and minors aged 16 or older who are permitted to work in establishments that sell or manufacture liquor.) This could soften the effect of the increase in the minimum wage rate.

This bill contains the same provisions as the recently enacted Federal legislation. In 1987-88, the State of Michigan employed 192 people in full-time minimum wage jobs. This base rate of \$3.35 per hour increase to \$3.80 in April 1990 will increase the State payroll for these employees by 13.4%. If the same number of employees is evident in the 1989-90 fiscal year as in 1987-88, the total State payroll will increase by \$939.60 for each employee, for a total increase of \$180,403. Since the number of short-term employees in the relative Civil Service classifications is not known, the precise impact on State government cannot be determined. Figures are not available for local governmental units.

Other provisions of this bill could reduce the wage level for minimum wage employees to as low as \$2.51 per hour for those employers with gross annual receipts lower than \$500,000. (Other firms are covered by the Federal statute.) An employer can deduct the value of services from the hourly rate. These services could include the following government-supplied benefits:

- Employer-furnished uniforms.
- Residential costs and living expenses.
- Provided meals.
- Other services provided without cost to employees.

Employee pay levels may also be reduced if it can be shown that gratuities (i.e., tips) represent a significant part of an employee's income.

Potentially, employer credits for these services could double with a maximum saving of \$1.29 per hour or \$2,693.52 annually for minimum wage employees. Savings could be greater for higher paid employees depending on the value of gratuities and services if this contingency were not addressed in a negotiated contract.

This bill would not increase the payroll costs if local governmental units since the State statutory minimum wage would not be higher than the Federal minimum wage of \$3.80 per hour.

Fiscal Analyst: K. Lindquist

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.