

Legislative Analysis



MINIMUM WAGE INITIATIVE

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Proposed Initiated Law Placed before the Legislature by Petition By Michigan One Fair Wage

Analysis available at
<http://www.legislature.mi.gov>

Complete to 9-5-18

(Enacted as Public Act 337 of 2018)

ISSUE BEFORE THE LEGISLATURE:

On August 24, 2018, the Michigan Board of Canvassers certified that an initiative petition filed by the ballot question committee Michigan One Fair Wage had an adequate number of signatures for it to move forward. The legislature received the initiative, which is named the Improved Workforce Opportunity Wage Act, on August 27.

Under Section 9 of Article II of the State Constitution of 1963, “Any law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 session days from the time such petition is received by the legislature.” In the case of the Michigan One Fair Wage petition, the legislature has through October 5 to act.¹

If the legislature enacts the initiative, it becomes law. If the legislature rejects (or does not act on) the initiative, it goes before the voters on the November 2018 ballot. The legislature also has the option of proposing a different law on the same subject (an “alternative measure”), which, if approved by roll call vote, would appear on the November ballot alongside the Michigan One Fair Wage initiative. (In this circumstance, if both measures were approved by the voters, the one with the most votes would become law.)

An initiative submitted to and approved by the voters takes effect 10 days after the official declaration of the vote. It is not subject to veto by the governor, and it cannot be amended or repealed by the legislature without a three-fourths majority in each house.

THE CONTENT OF THE PROPOSED INITIATED LAW:

The Michigan One Fair Wage initiative would create a new act, entitled the “Improved Workforce Opportunity Wage Act.” The new act’s provisions would largely duplicate those of Michigan’s current minimum wage law, the Workforce Opportunity Wage Act, Public Act 138 of 2014. However, the initiative would increase Michigan’s minimum hourly wage to \$12 by 2022; change the way in which future inflationary adjustments to that minimum wage would be made; and change the minimum wage for employees who receive tips from a current level of 38% of the general minimum wage to 100% of that wage by 2024. A more detailed description of the proposed initiated law follows.

¹ However, given the time the Secretary of State has indicated is needed to prepare, print, and distribute November ballots, the legislature may effectively have only through September 7.

Minimum Wage

Michigan's minimum wage is currently governed by the Workforce Opportunity Wage Act, which repealed the Minimum Wage Law of 1964 while at the same time reenacting many of that older act's provisions.² Currently, the minimum wage for adult employees who do not receive tips in their jobs is \$9.25 per hour. For employees who are 16 or 17 years of age, the minimum wage is 85% of the general minimum wage, or \$7.86 an hour currently.³ The minimum wage for tipped employees is set at 38% of the general minimum wage; currently, it is \$3.52 per hour.

The Michigan One Fair Wage initiative would increase the state's minimum hourly wage according to the following schedule:

Beginning January 1, 2019:	\$ 10.00
Beginning January 1, 2020:	\$ 10.65
Beginning January 1, 2021:	\$ 11.35
Beginning January 1, 2022:	\$ 12.00

Under the initiative, the minimum wage for employees who are 16 or 17 years old would remain 85% of the general minimum wage; that minimum hourly wage would be as follows:

Beginning January 1, 2019:	\$ 8.50
Beginning January 1, 2020:	\$ 9.05
Beginning January 1, 2021:	\$ 9.65
Beginning January 1, 2022:	\$ 10.20

The initiative would also change the basis on which the minimum hourly wage for tipped employees is calculated, increasing it from its current 38% of the general minimum wage to 100% by 2024 (see **Tipped Employees**, below, for further discussion). For the periods referenced above, the minimum hourly wage for tipped employees would be as follows:

Beginning January 1, 2019:	\$ 4.80
Beginning January 1, 2020:	\$ 6.39
Beginning January 1, 2021:	\$ 7.95
Beginning January 1, 2022:	\$ 9.60

Inflation Adjustment

Currently, the general minimum wage must be adjusted annually by the state treasurer to reflect the average annual percentage change in consumer prices for the previous five years, based on the Consumer Price Index, Midwest Region, from the Bureau of Labor Statistics of the United States Department of Labor. The first such adjustment under the current minimum wage law will take place in January 2019. (The minimum wage for the years

² See <http://www.legislature.mi.gov/documents/2013-2014/billanalysis/House/pdf/2013-HLA-0934-93E08FB9.pdf>

³ There is also a "training wage" of \$4.25 that can be paid during the first 90 days of employment of a new employee who is 16 to 19 years old.

2014 through 2018 is specifically set by the law.) The adjusted minimum wage must be calculated each year in January, must be published by the Department of Licensing and Regulatory Affairs (LARA) by February 1, and takes effect April 1. An annual increase in the minimum wage cannot exceed 3.5%, and no increase takes effect if Michigan's unemployment rate was 8.5% or higher for the year preceding the increase.

The initiative would set the general minimum wage specifically for the years 2019 through 2022 and require the state treasurer to annually adjust the minimum wage for inflation beginning in October 2022. The adjusted wage would be calculated each October, would be published by November 1, and would take effect January 1. The adjustment would be based on the increase, if any, in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the previous 12 months, as published by the Bureau of Labor Statistics. There would be no cap on the size of an increase. No increase could take effect if Michigan's unemployment rate were 8.5% or higher for the year preceding the increase.

Tipped Employees

Currently, employees who receive tips in the course of their employment have a minimum hourly wage that is 38% of the general minimum wage. If the sum of that wage and the tips received does not at least equal the general minimum wage, the employer must make up the shortfall. The reduced minimum wage applies only if the employee is informed by the employer of the provisions of state law governing the wages of tipped employees.

The initiative would increase the percentage of the general minimum wage that a tipped employee must be paid, as follows:

Beginning January 1, 2019:	48%
Beginning January 1, 2020:	60%
Beginning January 1, 2021:	70%
Beginning January 1, 2022:	80%
Beginning January 1, 2023:	90%
Beginning January 1, 2024:	100%

That is, by 2024 there would be no difference between a tipped employee minimum wage and the general minimum wage.

The initiative would provide that tips are the property of the employee who receives them, except under a voluntary tip-sharing agreement in which tips are shared with other employees who are directly or indirectly part of the chain of service and whose duties are not primarily managerial or supervisory. Tips would remain property of the employee regardless of whether the employer pays the general minimum wage or the tipped employee minimum wage. Tips and service charges paid to an employee would be in addition to, and could not count toward, the wages due to the employee.

The initiative would require employers to provide employees and consumers with written notice of their plan to distribute service charges. Employers would have to keep records

showing compliance with the law governing tipped employee pay for at least three years after the date of an employee's last pay period.

Finally, under the initiative, the minimum wage for tipped employees would apply only if the employee were informed by the employer of the relevant provisions of the act in writing, at or before the time of hire, and gave his or her written consent.

Other Provisions

The initiative stipulates that the Improved Workforce Opportunity Wage Act would supersede any acts or parts of acts that conflict with it, but only to the extent of the conflict. However, the act would not supersede or otherwise affect any prevailing wage law.⁴ The initiative also stipulates that any reference in Michigan law to the Workforce Opportunity Wage Act (Public Act 138 of 2014) or to the state minimum wage law would be considered a reference to the Improved Workforce Opportunity Wage Act.

In addition to the changes described above, the Improved Workforce Opportunity Wage Act also differs from the Workforce Opportunity Wage Act in omitting a provision regarding junior ice hockey players that was added to the law in December 2017.⁵

FISCAL IMPACT:

The initiative would likely increase costs to the state and local units of government and have an indeterminate impact on state and local tax revenue.

State and Local Revenue

According to data from the Bureau of Labor Statistics, in 2017 more than 60% of Michigan's 4.4 million employed workers were hourly workers subject to the minimum wage. Of those 2.7 million hourly workers, roughly 52,000 earned less than the federal minimum wage of \$7.25 per hour. It is this cohort that would be most affected by being eligible for a minimum wage significantly higher than the federal minimum, although they represent about 2.0% of all hourly workers in Michigan.

In addition, hourly workers earning above the federal minimum wage but at or below Michigan's minimum wage would also benefit if the minimum wage increases above its current level. However, there is no way to determine the size of this group since many of Michigan's 2.7 million hourly workers already earn more than the state minimum wage and may not see any immediate wage increase from a higher state minimum wage. Thus, there is not enough data with which to determine the total number of workers who would see increased wages from a higher minimum wage.

Although the potential impact of a higher minimum wage on state and local income tax revenues cannot be determined, it is likely to be small relative to total collections given the

⁴ Public Act 166 of 1965, the state prevailing wage law, was repealed in June 2018 when the legislature enacted an initiative petition filed by Protecting Michigan Taxpayers as Public Act 171 of 2018.

⁵ MCL 408.420(5). See:

<http://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-0483-B03AE529.pdf>

modest size of the cohort that would see the most significant impacts from an increase in the minimum wage. Additionally, any increase in income tax revenue related to the cohort who would see an hourly wage increase could be offset by other tax revenue changes depending on the effect the minimum wage increase has on employer business practices.

State And Local Government Wage and Contract Expenditures

From a state and local government perspective, the proportion of government employment composed of minimum wage workers is typically small, so any changes in government labor costs due to an increasing minimum wage would likely be insignificant relative to overall expenditures. However, the increased minimum wage could increase the costs of goods and services purchased by the state and local units.

State Medicaid Costs – Home Help and Health Care Workers

Increasing the state minimum wage would increase state Medicaid costs, beginning at \$3.8 million gross (\$1.3 million GF/GP) during FY 2018-19 and increasing annually as the state minimum wage is increased. Once fully implemented in FY 2022-23, increasing the state minimum wage to \$12 would entail additional state Medicaid costs of \$104.6 million gross (\$37.1 million GF/GP) each year.

Additional Medicaid Costs Compared to Current FY 2018-19 Appropriations

Millions of \$

	Gross	GF/GP
FY 2018-19	\$3.8	\$1.3
FY 2019-20	\$13.1	\$4.6
FY 2020-21	\$42.7	\$15.1
FY 2021-22	\$89.1	\$31.6
FY 2022-23	\$104.6	\$37.1

The two Medicaid services that are affected by changes to the state minimum wage are adult home help services and direct behavioral health care workers. Adult home help services are paid for directly by the Department of Health and Human Services (DHHS) on a fee-for-service basis, and this initiative would require DHHS to increase the rates paid to these individuals and agencies.

Medicaid direct behavioral health care workers are part of the service array provided under the prepaid inpatient health plan (PIHP) managed care contracts for specialty behavioral health services. The rates paid to PIHPs are established through an annual, actuarial review of encounter and claims data and do require PIHPs to accept some level of financial risk. Since direct care worker costs are only one part of the PIHP rate-setting process, there would not be an explicit requirement that the rates paid to the PIHPs would have to increase more than what a regular actuarial soundness rate adjustment would provide. Nonetheless, boilerplate Section 920 of the DHHS budget requires DHHS to include any state and federal wage increases as part of the actuarial soundness rate calculation, and therefore this fiscal estimate includes the projected cost of increasing direct care wages.

State Medicaid and Cash Assistance Caseloads

The initiative would also reduce public assistance caseloads and expenditures as an individual's earned income directly affects whether an individual is eligible and the amount of cash assistance provided. Increased wages are estimated to reduce eligible Medicaid recipients by less than 1%, thus reducing Medicaid program costs by \$14.0 million gross (\$2.7 million GF/GP) during the first fiscal year and by \$62.0 million gross (\$13.0 million GF/GP) annually once fully implemented.

Increased wages are estimated to reduce Family Independence Program (FIP) costs by approximately \$1.0 million GF/GP in the first fiscal year and by approximately \$6.0 million GF/GP annually once fully implemented. Changes in earned income directly impact how much a FIP recipient is awarded, as net income is deducted from the FIP payment standard. For example, a FIP household of three with 20 working hours a week at the current minimum wage of \$9.25 receives \$191 in FIP per month, while the same recipient who works 20 hours a week at \$12.00 per hour receives \$72 per month.

POSITIONS:

The sponsor of the initiative is Michigan One Fair Wage.

The Michigan Chamber of Commerce opposes the initiative.

The Michigan Restaurant Association opposes the initiative.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.