

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1305 (Delegate Fennell)
Economic Matters

Labor and Employment - Payment of Wages - Minimum Wage

This bill requires employers in the State to pay the greater of the federal minimum wage or a State minimum wage of \$10.10 per hour to employees subject to State minimum wage requirements beginning January 1, 2018, instead of beginning July 1, 2018. Additionally, the bill specifies that, unless the federal minimum wage is set at a higher rate, the State minimum wage is \$12.50 beginning July 1, 2019.

Fiscal Summary

State Effect: State expenditures (all funds) increase significantly in FY 2018, are not materially affected in FY 2019, but increase even more significantly beginning in FY 2020. State expenditures increase, mostly due to additional payroll costs, by at least \$1.2 million in FY 2018 and by at least \$11.9 million beginning in FY 2020 but likely by significantly more to account for wage adjustments to internal salary ladders. Federal fund revenues increase minimally to offset increased wages paid to senior citizen aides employed by the Maryland Department of Aging. Any increase in general fund tax revenues to the State cannot be reliably projected but is expected to be minimal.

Local Effect: Local government expenditures increase significantly in FY 2018, are not materially affected in FY 2019, but increase even more significantly beginning in FY 2020 for certain local jurisdictions to pay additional wages to minimum wage government employees. Any increase in local government tax revenues cannot be reliably projected but is expected to be minimal.

Small Business Effect: Meaningful.

Analysis

Current Law:

Maryland Wage and Hour Law

The Maryland Wage and Hour Law is the State complement to the federal Fair Labor Standards Act (FLSA). State law sets minimum wage standards to provide a maintenance level consistent with the needs of the population. State law specifies that an employee must be paid the greater of the federal minimum wage (which is currently \$7.25 per hour) or \$8.75 per hour. Under Chapter 262 of 2014, the State minimum wage is scheduled to increase on an incremental basis over the next two years to \$9.25 per hour as of July 1, 2017, and \$10.10 per hour as of July 1, 2018.

However, an employer may pay an employee a wage that equals 85% of the State minimum wage for the first six months that the employee is employed if the employee is younger than age 20. Additionally, an employer of an amusement or a recreational establishment, including a swimming pool, that meets specified conditions may pay an employee a wage that equals the greater of \$7.25 or 85% of the State minimum wage. Exceptions to the minimum wage requirement also exist for a training wage and a disabled employee of a sheltered workshop under specified conditions.

The Maryland Wage and Hour Law and minimum wage requirements do not apply to certain categories of employees, including those defined as administrative, executive, or professional; certain seasonal employees; part-time employees younger than age 16; salesmen and those who work on commission; an employer's immediate family; drive-in theater employees; employees training in a special education program in a public school; employees of an establishment that sells food and drink for on-premises consumption and has an annual gross income of \$400,000 or less; employees employed by an employer who is engaged in canning, freezing, packing, or first processing of perishable or seasonal fresh fruits, vegetables, poultry, or seafood; and certain farm workers.

The employer of a tipped employee is allowed a tip credit that can be applied against the direct wages paid by the employer. The employee can be paid tipping wages so long as the wages plus the tips received equal at least the minimum wage, the employee retains all tips, and the employee customarily receives more than \$30.00 a month in tips. The tip credit is equal to the State minimum wage, less \$3.63. Thus, the tip credit increases as the minimum wage increases, and the wage paid by employers to tipped employees remains \$3.63, as long as their wages plus tips equal the minimum wage. The State and local governments are not considered employers under the tip credit provisions of the Maryland Wage and Hour Law.

If an employer pays less than the wages required, the employee may bring an action against the employer to recover (1) the difference between the wage paid to the employee and the

wage required; (2) an additional amount equal to the difference as liquidated damages; and (3) legal fees. The court must award these differences in wages, damages, and counsel fees if the court determines that an employee is entitled to recovery. However, if an employer shows to the satisfaction of the court that the employer acted in good faith and reasonably believed that the wages paid to the employee were not less than the required wages, then the court must award liquidated damages of an amount less than the difference in wages or no liquidated damages.

A person who violates the State’s Wage and Hour Law is guilty of a misdemeanor and on conviction is subject to a fine of up to \$1,000.

Background: As of January 2017, as shown in **Exhibit 1**, 29 states, including Maryland, and the District of Columbia mandate a minimum wage higher than the federal minimum wage of \$7.25 per hour, with rates ranging from \$0.25 to \$4.25 above the federal rate. Five states had no mandated minimum wage, another two had a minimum wage set lower than the federal minimum wage, and the remaining 14 states used the federal minimum wage. Unless a state had a higher minimum wage rate, the federal minimum wage rate applied.

Exhibit 1
States with Higher than Federal Minimum Wage, as of January 2017

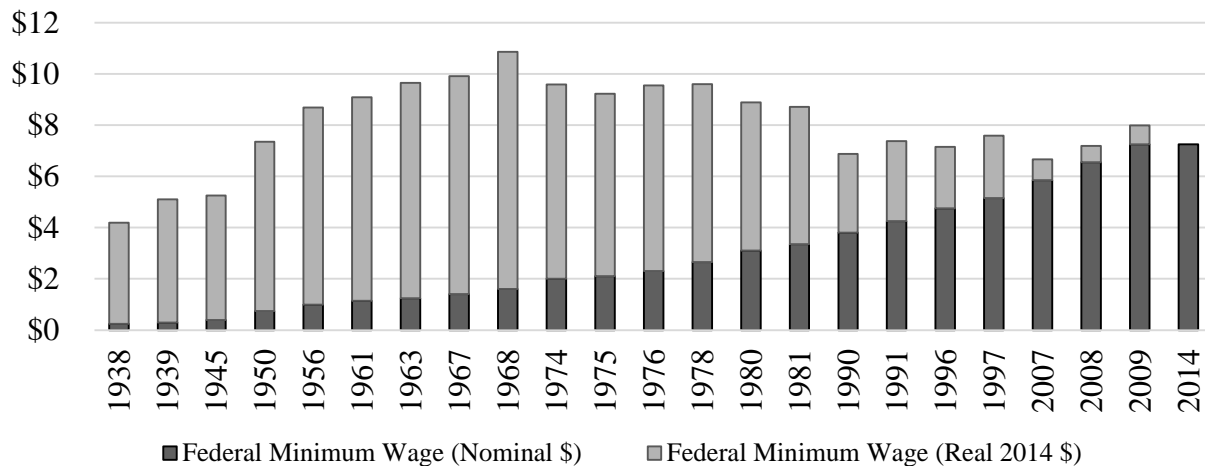
<u>State</u>	<u>Rate</u>	<u>State</u>	<u>Rate</u>
District of Columbia	\$11.50	Nebraska	\$9.00
Massachusetts	11.00	Michigan	8.90
Washington	11.00	Maryland	8.75
California	10.50	West Virginia	8.75
Connecticut	10.10	South Dakota	8.65
Arizona	10.00	Arkansas	8.50
Vermont	10.00	New Jersey	8.44
Alaska	9.80	Delaware	8.25
Oregon	9.75	Illinois	8.25
New York	9.70	Nevada	8.25
Rhode Island	9.60	Montana	8.15
Minnesota	9.50	Ohio	8.15
Colorado	9.30	Florida	8.10
Hawaii	9.25	Missouri	7.70
Maine	9.00	New Mexico	7.50

Source: U.S. Department of Labor

Federal Minimum Wage

The federal minimum wage, first established in 1938, has been incrementally increased and expanded to cover additional employees through subsequent amendments to FLSA. The last increase in the federal minimum wage was in July 2009. **Exhibit 2** shows the nominal and real values for each time the minimum wage was changed, expressed in terms of July 2014 dollars. The real value reflects the purchasing power of the minimum wage, taking inflation into consideration. When Maryland established a minimum wage rate of \$6.15 in January 2006, the real value of the minimum wage then was \$7.54, in 2014 dollars.

Exhibit 2
Federal Minimum Wage in Real and Nominal Dollars
1938-2014



Source: U.S. Congressional Research Service; U.S. Bureau of Labor Statistics

Local Jurisdiction Labor Laws

Montgomery County and Prince George's County passed local minimum wage laws in 2013 – Montgomery County Bill 27-13 and Prince George's County Bill CB-94-2013. Both bills phase in minimum wage increases over four years. The bills increase the minimum wage to \$8.40 per hour beginning October 1, 2014; \$9.55 per hour beginning October 1, 2015; \$10.75 per hour beginning October 1, 2016; and \$11.50 per hour beginning October 1, 2017. The county minimum wages for Montgomery and Prince George's counties do not apply to an employee who is exempt from the minimum wage requirements of the Maryland Wage and Hour Law or the federal FLSA or to an

employee who is younger than age 19 and is employed no more than 20 hours in a week. The Montgomery County Executive recently vetoed legislation that would have increased the minimum wage in Montgomery County to \$15.00 per hour by 2020.

Baltimore City enacted a city minimum wage rate in 1964, which was challenged in the State Court of Appeals in *Mayor of Baltimore v. Sitnick*, 254 Md. 303, 255 A.2d 376 (1969). The court found that the State's minimum wage rate did not preempt Baltimore's minimum wage law since Baltimore's law supplemented the State law by setting a higher rate. Baltimore City still has its own minimum wage statute with an enforcement commission, which currently enforces the State minimum wage rate in the city. Legislation was introduced in 2016 to raise the minimum wage in Baltimore City to \$15.00 per hour by fiscal 2021, but the legislation did not pass.

Minimum Wage Effects on the Economy

There is much debate on how raising the minimum wage affects the economy. Positive impacts on the economy may include (1) increases in personal income; (2) decreases in employee turnover; (3) increases in local consumption; (4) higher labor force participation rates; (5) decreases in social welfare costs; and (6) higher levels of technological development, investment, and productivity.

However, on the downside, raising the minimum wage may (1) decrease demand for labor; (2) increase inflation from employers passing higher employee costs onto the consumer; (3) cause wage compression; (4) reduce local competitiveness; and (5) have disemployment effects. The disemployment effects happen when businesses hire fewer low-wage workers in response to an increase in the minimum wage; benefits to low-wage workers from increased wages may be offset by a reduction in hours worked or increased unemployment.

State Revenues: General fund tax revenues increase minimally from increasing the State's minimum wage beginning in fiscal 2018. Individuals earning minimum wage likely have low, if any, State income tax liability so raising the minimum wage only has a minimal effect on State income tax revenues. Any increase in personal income tax revenue could be offset from diminished revenues from businesses with higher payroll expenses. Given that raising the minimum wage boosts the purchasing power of minimum wage workers and generates new consumer spending, general fund sales tax revenues increase minimally.

The Department of Labor, Licensing, and Regulation (DLLR) does not anticipate investigating a significant increase in violations of the State's Wage and Hour Law under the bill, so general fund revenues are not materially affected.

State Expenditures: State expenditures (all funds) increase significantly as a result of raising the State minimum wage to \$12.50 per hour beginning July 1, 2019; **Exhibit 3** displays some of the additional wages that must be paid to State employees in fiscal 2018 through 2022 under the bill.

Exhibit 3
Effect of Phasing in a \$12.50 Minimum Wage on State Employees
Fiscal 2018-2022

<u>Additional Staffing Costs</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
Senior Citizen Aides	\$110,864	\$0	\$635,232	\$635,232	\$635,232
MDOT Employees	0	0	127,672	127,672	127,672
SPMS University Employees	723,185	0	7,446,634	7,446,634	7,446,634
Hourly/Contractual Employees within SPMS	72,623	0	1,007,103	1,007,103	1,007,103
Salaried Employees within SPMS	0	0	304,716	304,716	304,716
Judiciary	1,200	0	57,600	57,600	57,600
USM Employees	341,190	0	2,361,960	2,361,960	2,361,960
Increase in Expenditures	\$1,249,062	\$0	\$11,940,917	\$11,940,917	\$11,940,917
Federal Fund Revenues	110,864	0	635,232	635,232	635,232
Net Increase in Expenditures	\$1,138,198	\$0	\$11,305,685	\$11,305,685	\$11,305,685

MDOT: Maryland Department of Transportation

SPMS: State Personnel Management System

USM: University System of Maryland

Source: Department of Legislative Services

Current law has the minimum wage rate increasing to \$9.25 in fiscal 2018, so State expenditures increase by \$1.2 million in fiscal 2018, which is the difference between \$9.25 and a \$10.10 wage rate for the second half of the fiscal year. There is no fiscal effect in fiscal 2019 because the State minimum wage rate is set at \$10.10 per hour under both current law and under the bill for fiscal 2019. Expenditures in fiscal 2020 are calculated based on the difference between the \$10.10 minimum wage rate under current law versus the \$12.50 minimum wage rate under the bill, so in fiscal 2020, State expenditures increase by \$11.9 million. These costs do not take into account any wage adjustments to internal salary ladders. The State may increase wages for an employee who currently earns just above \$10.10 per hour in fiscal 2018 or just above \$12.50 per hour in fiscal 2020 and has

more job responsibilities than a minimum wage employee. Any such wage adjustments further increase the State's expenditures, potentially significantly.

DLLR can implement and enforce the bill with existing resources.

Local Fiscal Effect: Expenditures could increase significantly in fiscal 2018, with no impact in fiscal 2019, but a more significant increase beginning in fiscal 2020 for some local governments to pay employees (typically part-time or contractual employees) the minimum wage rates specified in the bill.

Montgomery and Prince George's counties each established a county minimum wage of \$8.40 per hour that phases up to \$9.55 per hour in October 2015 and up to \$11.50 per hour in October 2016, so the bill only has a minimal impact to Montgomery and Prince George's counties in fiscal 2018 to the extent that workers are not covered under the county minimum wage but are covered under the State minimum wage. However, beginning in fiscal 2020, expenditures may increase for additional payroll expenses.

The Maryland Municipal League advises that increasing the minimum wage significantly impacts cities and towns that employ part-time and seasonal workers who are paid below the minimum wage rates specified in the bill.

Small Business Effect: Small businesses in the State that employ minimum wage or low-wage workers experience significant increases in their labor costs due to the bill. To the extent that higher wages increase worker productivity, businesses would be less affected by the provisions of the bill. Additionally, minimum wage workers tend to have a low savings rate, so increasing their wages could lead to additional consumer spending for small businesses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): University System of Maryland; Department of Budget and Management; Department of Labor, Licensing, and Regulation; Maryland Department of Transportation; Judiciary (Administrative Office of the Courts); U.S. Department of Labor; Department of Legislative Services

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