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BILL ANALYSIS

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Senate Bill 1171 (as enacted)
Sponsor: Senator Dave Hildenbrand
Senate Committee: Government Operations
House Committee: Michigan Competitiveness

PUBLIC ACT 368 of 2018

Date Completed: 3-27-19

CONTENT

The bill amends the Improved Workforce Opportunity Wage Act to do the following:

- **Eliminate a provision that increases the standard minimum wage each year from \$10, beginning on January 1, 2019, to \$12, beginning on January 1, 2022.**
- **Increase the standard minimum hourly wage from \$9.25 to \$9.45, beginning in calendar year 2019, and each year after that until it equals \$12.05.**
- **Eliminate a provision requiring the State Treasurer to calculate an adjusted minimum wage rate based on the rate of inflation.**
- **Specify that an annual increase in the minimum wage that did not take effect because the State's unemployment rate was 8.5% or higher for the preceding year will take effect on the first January 1 for which the State's unemployment rate was less than 8.5% for the immediately preceding year.**
- **Eliminate a provision that increases the minimum hourly wage of a tipped employee from 38% to 48%, beginning in January 1, 2019, and annually thereafter until it equals 100% of the standard minimum wage, beginning on January 1, 2024.**

The bill will take effect on March 29, 2019.

Standard Minimum Wage Increase

Currently, the standard minimum hourly wage is \$9.25 per hour. The Improved Workforce Opportunity Wage Act prescribes a standard minimum hourly wage of \$10.00, beginning on January 1, 2019, and increases the minimum wage as follows:

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

The bill eliminates these rate increases. Instead, the bill increases the minimum wage rate each year, or subsequent calendar year (described below), as follows:

- In calendar year 2019: \$9.45.
- In calendar year 2020: \$9.65.
- In calendar year 2021: \$9.87.
- In calendar year 2022: \$10.10.
- In calendar year 2023: \$10.33.
- In calendar year 2024: \$10.56.
- In calendar year 2025: \$10.80.

- In calendar year 2026: \$11.04.
- In calendar year 2027: \$11.29
- In calendar year 2028: \$11.54.
- In calendar year 2029: \$11.79.
- In calendar year 2030: \$12.05.

Under the Act, the State Treasurer every October, beginning in 2022, will have to calculate an adjusted minimum wage to increase it by the rate of inflation. The increase will have to be calculated by multiplying the applicable minimum wage by the 12-month percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers, or a successor index, for the most recent 12-month period for which data are available. The adjusted wage will have to be published on November 1 of the years it is calculated, and it will be effective beginning January 1 of the next year. The bill eliminates these provisions.

The Act specifies that a scheduled increase in the minimum wage will not take effect if the unemployment rate for the State is 8.5% or greater for the year before the year of the prescribed increase. The bill refers to "calendar year" instead of "year". Also, under the bill, an increase in the minimum wage rate prescribed above that does not take effect because the State's unemployment rate was 8.5% or greater will take effect in the first calendar year following a calendar year for which the State's unemployment rate is less than 8.5%.

Minimum Wage Increase for Tipped Employees

The Act specifies that the minimum wage for an employee who receives gratuities in the course of his or her employment applies if all of the following conditions are met:

- The gratuities equal or exceed the difference between the tipped employee minimum wage and the standard minimum wage prescribed under the initiated law.
- The gratuities are proven gratuities as indicated by the employee's declarations for purposes of the Federal Insurance Contributions Act.
- The entirety of the gratuities are retained by the employee who receives them, except as voluntarily shared with other employees who are directly or indirectly part of the chain of service and whose duties are not primarily managerial or supervisory.
- The employee was informed by the employer of these provisions in writing, at or before the time of hire, and gave written consent.

Under the Workforce Opportunity Wage Act, the minimum hourly wage rate for a tipped employee is 38% of the standard minimum wage. The Improved Workforce Opportunity Wage Act retained the 38% rate through December 31, 2018, and increases it 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%.

The bill eliminates these wage increases; instead, for an employee who receives gratuities in the course of his or her employment, the minimum wage is 38% of the standard minimum wage, if all of the following conditions are met:

- The employer pays any shortfall if the gratuities plus the minimum wage do not equal or exceed the standard minimum wage.

- The gratuities are proven gratuities as indicated by the employee's declarations for purposes of the Federal Insurance Contributions Act.
- The employee is informed by the employer of these provisions.

Under the Act, gratuities remain property of the employee who receives them, except under a valid and voluntary tip sharing agreement, regardless of whether the employer pays the lower tipped hourly wage or the standard minimum hourly rate established under the initiated law. Gratuities and service charges paid to an employee are in addition to, and may not count towards, wages due to the employee. An employer will have to provide employees and consumers written notice of its plan to distribute service charges, and will have to keep records showing compliance with tipped employee minimum wage provisions for at least three years from the date of employee's last pay period. The bill eliminates these provisions.

Other Provisions

The bill specifies that the Act would not apply to an individual who was at least 16, but less than 21, years of age in his or her capacity as an ice hockey player for a junior ice hockey team that is a member of a regional, national, or international junior ice hockey team. (Public Act 243 of 2017 amended the Workforce Opportunity Wage Act to include this language. The Improved Workforce Opportunity Wage Act, which supersedes the Workforce Opportunity Wage Act, omitted this language.)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

Department of Licensing and Regulatory Affairs

The Department of Licensing and Regulatory Affairs will experience a minor negative fiscal impact primarily due to communications-related expenses, including the publication of required notices and materials. The Department expects that additional staff time may be required depending upon the number of inquiries received regarding the policy change, possibly resulting in the addition of an FTE.

State & Local Revenue

Analyses of minimum wage increases and tax revenue effects in Pennsylvania suggest that the bill may result in a minor increase in State and local income tax revenues as well as sales tax revenue due to increased incomes. A change in business practices, such as decreased hiring for minimum wage positions, will offset a portion of this increase, but the State and income tax-collecting local governments likely will experience a minor net increase in tax revenues.

Fiscal Impact on the Department of Health and Human Services (DHHS)

An increase in the length of the phase-in of a minimum wage increase will have a direct impact on wages paid directly and indirectly by the DHHS to Adult Home Help (AHH) and behavioral health direct care workers. The AHH workers are reimbursed directly by the State through Medicaid payments. The behavioral health direct care workers are reimbursed by the Prepaid Inpatient Health Plans (PIHPs). Boilerplate language directs that any wage increases be a part of the actuarial soundness rate-setting process for PIHPs, so a lengthening of minimum wage increases will reduce PHIP costs of relative to the initiated law wage increases for direct care workers.

The language in the bill concerning gratuities will have no fiscal impact on the wages paid directly or indirectly by the DHHS to AHH and behavioral health workers. The bill's language makes changes pertaining to gratuities and employer payment of any shortfall between the minimum hourly wage and gratuities. At this time, there are no known employees who receive gratuities from direct or indirect DHHS wage payments, so there will be no fiscal impact on the State.

There may be a more general secondary effect if the bill's changes result in an effective minimum wage decrease relative to the initiated law that will take effect on March 29, 2019. Any change in the minimum wage may have an implication on income qualifications for cash assistance. The Family Independence Program (FIP) has an income disregard, so if changes in the calculation of the minimum hourly wage with gratuities or the length of time between minimum wage increases is lengthened results in a recipient's income decreasing, the FIP payment may increase, which will lead to a possible increase in FIP costs relative to the increases scheduled under the initiated law.

Adult Home Help

The vast majority of Adult Home Help workers earn the minimum wage. The minimum wage will be increased each January 1 and will continue to increase incrementally each January 1 until FY 2029-30, at the earliest, when the minimum wage will be increased by \$0.26 to \$12.05, which will lead to increased wages for AHH workers, who are paid by the State's Medicaid program. The fiscal impact will be based on a blended wage increase as the fiscal year starts each October 1. For instance, the minimum wage would be \$9.45 per hour during calendar year 2019 and \$9.65 per hour in calendar year 2020, compared to the current \$9.25 per hour. During fiscal year (FY) 2019-20, the cost will be based on a wage increase of \$0.22 per hour (\$9.45 per hour less the current \$9.65 per hour) from October 1, 2019, to December 31, 2019, and a wage increase of \$0.40 per hour (\$9.65 per hour less the current \$9.25 per hour) from January 1, 2020, to September 30, 2020. As the initiated law would have fully increased the minimum wage to \$12.05 on January 1, 2023, the comparison of the fiscal impact must match the time period of phase-in. Under current law the total cost of the increase to FY 2029-30 is estimated to be \$849.4M Gross and \$296.4M General Fund/General Purpose (GF/GP). Under the bill, the total cost will be \$503.1M Gross and \$175.6 GF/GP leading to a savings of \$346.3M Gross and \$120.8M GF/GP.

AHH Savings Relative to Cost Estimate of Minimum Wage Initiated Law (in millions)		
	Gross	GF/GP
FY 2018-19	\$ (12.4)	\$ (4.3)
FY 2019-20	(26.6)	(9.3)
FY 2020-21	(40.8)	(14.2)
FY 2021-22	(53.9)	(18.8)
FY 2022-23	(51.8)	(18.1)
FY 2023-24	(44.9)	(15.7)
FY 2024-25	(37.8)	(13.2)
FY 2025-26	(30.6)	(10.7)
FY 2026-27	(23.2)	(8.1)
FY 2027-28	(15.7)	(5.5)
FY 2028-29	(8.2)	(2.9)
FY 2029-30	(0.4)	(0.2)

Behavioral Health Direct Care Workers

Although behavioral health direct care workers are not employed directly by the DHHS, boilerplate language in the DHHS budget requires any wage increases resulting from state or Federal laws affecting direct care workers to be included as a variable in the calculation of the actuarially sound rates paid to the PIHPs. Therefore, the minimum wage increase may result in a larger increase in the actuarially sound rates than would have occurred without the increase in the minimum wage. As a result of Public Act 107 of 2017, all direct care workers received a \$0.50 per hour wage increase, bringing the current wage floor for direct care workers to \$9.75 per hour compared to the State minimum wage of \$9.25 per hour. Most direct care workers earn somewhere between the current wage floor of \$9.75 per hour, and the January 1, 2030-wage floor of \$12.05 per hour. Under current law, the total cost of the increase to FY 2029-30 is estimated to be \$1.0B Gross and \$357.6M GF/GP. Under the bill, the total cost will be \$357.8M Gross and \$127.7 GF/GP leading to a savings of \$642.2M Gross and \$229.9M GF/GP.

Direct Care Worker Savings Relative to Cost Estimate of Minimum Wage Initiated Law (in Millions)		
	Gross	GF/GP
FY 2018-19	\$ (3.0)	\$ (1.1)
FY 2019-20	(11.8)	(4.2)
FY 2020-21	(39.4)	(14.0)
FY 2021-22	(88.1)	(31.3)
FY 2022-23	(98.8)	(35.1)
FY 2023-24	(95.1)	(33.8)
FY 2024-25	(89.5)	(31.8)
FY 2025-26	(80.0)	(28.4)
FY 2026-27	(65.4)	(23.2)
FY 2027-28	(48.5)	(17.2)
FY 2028-29	(26.2)	(9.3)
FY 2029-30	(1.5)	(0.5)

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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.