

# ARE YOU PREPARED FOR THE UPCOMING INCREASES IN NEVADA'S MINIMUM WAGE AND THE ELIMINATION OF THE LONG-STANDING TWO-TIERED SYSTEM?

Insights  
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It's not only the temperature that is rising for another scorching Nevada summer but changes in the minimum wage that are guaranteed to create some additional heat this year. Effective July 1, Nevada employers will be required to pay a minimum wage of \$12.00 per hour. Additionally, the lower tier (\$1.00 per hour less) which has been available for employers who provide qualifying health benefits has been abolished. What does that mean for your company and what impact could it have on overtime?

## Nevada's Minimum Wage Will Increase On July 1

Minimum wage in Nevada was \$8.25 per hour from 2010 until 2020. Then, in 2019, the Nevada legislature passed Assembly Bill 456 to increase the state's minimum wage by \$0.75 per hour on July 1st of each year beginning in 2020.

Since the most recent of this series of increases – on July 1, 2023 – Nevada's minimum wage has been \$10.25 for employers offering qualifying health benefits and \$11.25 per hour for employers not offering qualifying health benefits.

Effective July 1, 2024, the minimum wage for all Nevada employees will be \$12.00 per hour.

## Nevada's Two-Tiered Minimum Wage Structure Has Also Been Eliminated

Some employers will experience a double hit this year. Nevada has had a two-tiered minimum wage structure since the 2006 Minimum Wage Amendment to the Nevada

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Constitution. Under this structure, employers who offered qualifying health plans to its employees were permitted to pay employee's \$1.00 per hour less than the State's standard minimum wage.

However, in 2019, the Nevada legislature passed Assembly Joint Resolution 10 to eliminate this two-tiered minimum wage structure. Going forward, AJR10 also provides for the Nevada legislature to establish a minimum wage higher than the \$12.00 hour currently included in the Nevada Constitution at any time.

### **Impact on Nevada's Overtime Laws**

Nevada's overtime laws are closely related to its minimum wage. Generally, Nevada requires employers to pay 1 ½ times an employee's regular rate of pay if an employee works more than 40 hours in a defined workweek. However, if an employee's regular rate of pay is less than 1 ½ times applicable minimum wage, Nevada requires that employers pay an employee overtime if an employee works more than eight hours in a "workday."

In Nevada, the "workday" is defined as the 24-hour period beginning when the employee begins work (usually when the employee clocks in). Daily overtime may not be required when an employer and employee agree on an alternate work schedule of 10 hours per day for four days of the workweek. You should consult with legal counsel, however, to make sure any such arrangement is properly documented for compliance with the law.

What does this mean for employers? Beginning on July 1, unless an employer has a compliant alternate work schedule agreement with its employees, employers will be required to pay all employees whose regular rate of pay is less than \$18.00 per hour ( $\$12.00 \times 1.5 = \$18.00$ ) overtime at 1 ½ times the employee's regular rate of pay after 8 hours in a 24-hour period.

Employers are cautioned to carefully scrutinize shift changes that may create daily overtime. For example, if an employee works from 8:30 am until 5:00 pm, and, therefore, works for eight hours (excluding a 30-minute meal period in which the employee performs no work) but is asked to return the next morning at 7 am, that employee will be entitled to one hour of overtime if they do not qualify for an

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overtime exemption under the law and their regular rate of pay is less than \$18.00 per hour.

### How Can Employers Prepare?

- You should evaluate if it makes sense for your business to modify wages to ensure that all employees have a regular rate of pay of \$18.00 per hour or more and, thereby, eliminate the need for daily overtime under Nevada law.
- In any case, you should also ensure that payroll is set up to capture the new minimum wage and the elimination of the lower tier effective July 1.
- If you are using a third-party payroll processing service, make sure that the service is calculating overtime using the new rates and structure and that it is capturing overtime on a daily basis as required by Nevada law, not just on a shift basis.

Violations of Nevada's overtime laws may entitle an employee to a civil action against the employer for back wages, damages, injunctive relief, attorneys' fees, and any other penalties and/or relief permitted under the law.

### Conclusion

Employers with questions regarding the changes to Nevada's minimum wage, two-tiered system and overtime laws are encouraged to reach out to a Fisher Phillips attorney, the authors of this Insight, any attorney in [our Las Vegas office](#), or any attorney in [our Wage and Hour Practice Group](#). Fisher Phillips will continue to monitor the employment laws in Nevada and provide appropriate updates, so make sure you subscribe to [the Fisher Phillips Insight System](#) to get the most up-to-date information.