



# Substantial Pay Increases, Paid-Leave Requirement Proposed

Insights

4.08.12

If a 35% spike in the minimum wage, a \$590-per-week *increase* in the salary amount required for exempt "white collar" workers, an immediate 41% rise in the cash wage required for tipped employees, and a new paid-time-off requirement are prescriptions for an economic upturn, then help might be on the way. All are provided for in the voluminous "Rebuild America Act", S. 2252, recently introduced by Senator Tom Harkin (D-Iowa).

## The Minimum Wage

Under S. 2252, the federal Fair Labor Standards Act's minimum wage would rise in three steps from the current level of \$7.25 per hour to \$9.80 per hour about two years after passage. After that, the rate would be adjusted annually in tandem with the Consumer Price Index.

Experts typically disagree about the negative effects of minimum-wage increases, but many (if not most) acknowledge that at least some jobs and job opportunities are lost to a minimum-wage hike. Consider this: The rationales for a minimum wage might suggest that the floor should be, say, \$20 per hour, but the hiring cutbacks and layoffs this would provoke are an important reason that few would favor it.

And recent experience counsels even more caution. We first wrote in 2010 about the larger lessons to be learned from the damaging impact of minimum-wage hikes affecting American Samoa and the Northern Mariana Islands. Since then, the General Accounting Office has noted the many adverse consequences, and those whose experience with these matters is more than academic continue to seek at least a postponement in further jumps.

## Salary Amount For White-Collar Workers

Most workers who otherwise qualify for exemption as executive, administrative, or professional employees (colloquially, the FLSA's "white collar" exemptions) must be paid on a salary basis at a rate of at least \$455 per week. S. 2252 would move this floor to \$655, then to \$855, and later to \$1,045, and would thereafter tie it to the Consumer Price Index.

The U.S. Labor Department developed the salary test decades ago as one way to distinguish those who should be considered exempt from those who should not be. It was never intended to be a minimum wage for exempt people. Muddying the test's purpose as S. 2252 proposes would, among other things, risk introducing the same dangers (or worse) presented by raising the hourly minimum wage.

### **Cash Wage For Tipped Employees**

Today, a tipped employee for whom an employer takes the FLSA "tip credit" must be paid a cash wage of at least \$2.13 per hour (the tips themselves must make up the difference to \$7.25). S. 2252 would immediately raise this cash minimum to \$3.00 per hour and would continue the increases until the level reached 70% of the FLSA minimum wage.

A more-focused bill to similar effect was introduced in the House of Representatives last year. As we said then, these impulses are driven by flawed or unstated premises, or both. In any case, good intentions are not guaranteed to produce desirable results.

### **A Paid-Time-Off Requirement**

S. 2252 would also compel most employers of at least 15 employees to accrue an hour of paid "sick time" for every 30 hours an employee works, up to at least 56 hours each calendar year. Exempt white-collar workers would be presumed to work 40 hours each workweek for these purposes, except for those who worked a "shorter normal workweek". A host of detailed rights, requirements, permitted uses, limitations, procedures, prohibitions, and other complications would attach to this new paid-leave mandate.

None of this will be enacted in an election year? Recall that the subject of indexing the FLSA minimum wage has already surfaced in the Republican primary process.