

CALIFORNIA GOVERNOR AGREES TO UNPRECEDENTED \$15.00 MINIMUM WAGE

Insights
Mar 31, 2016

On Monday, March 28, 2016, California Governor Jerry Brown, flanked by union and state government officials, announced an agreement with state legislators to increase the statewide minimum wage from \$10.00 to \$15.00 per hour.

The Governor's plan follows previous legislation, signed into law in 2013, which raised the minimum wage from \$8.00 to \$9.00 in July 2014, and to \$10.00 on January 1, 2016.

Rate To Increase Each Year For Next Six Years - Except for Small Businesses

Although the scope of this minimum wage increase is certainly historic and unprecedented, the increase to \$15.00, if approved as expected by the state legislature, would not happen immediately. Instead, it would be phased in gradually each year until reaching \$15.00 per hour by January 1, 2022, subject to an exception accommodating certain small businesses.

| DATE | NEW RATE |
|-----------------|-----------------|
| January 1, 2017 | \$10.50 |
| January 1, 2018 | \$11.00 |
| January 1, 2019 | \$12.00 |
| January 1, 2020 | \$13.00 |
| January 1, 2021 | \$14.00 |
| January 1, 2022 | \$15.00 |

Businesses with 25 or fewer employees will have an additional year to comply, which means that the first

Related People



John K. Skousen

Senior Counsel

214.220.8305

increase for them will occur on January 1, 2018, and they will have until January 1, 2023 to reach \$15.00 per hour.

Local Ordinances Still In Effect – For Now

This agreement does not affect higher local minimum “living” wage ordinances. Eleven cities and counties in the state have set their own minimum wages which, in some cases, currently outpace the planned statewide increases (see full chart [here](#)). Employers will still be obligated to pay the higher local rate until the statewide rate catches up and surpasses it. At that point, employers will have to pay their workers the higher state minimum rate.

Opportunity For Flexibility If Needed

As indicated on the state website, Governor Brown explained, “This plan raises the minimum wage in a careful and responsible way and provides some flexibility if economic and budgetary conditions change” by increasing the minimum wage over time that would be consistent with anticipated economic expansion. In his public address, the Governor also made clear that this legislation (which was more conservative than alternatives pushed by organized labor), was necessary to achieve “social justice.”

Accordingly, the plan is not so rigid that it would prevent intervention in an economic downturn. It permits the Governor “to act by September 1 of each year to pause the next year’s wage increase for one year if there is a forecasted budget deficit (of more than one percent of annual revenue) or poor economic conditions (negative job growth and retail sales).”

The plan also provides for the possibility of further growth. It provides that “once the minimum wage reaches \$15.00 per hour for all businesses, wages could then be increased each year up to 3.5 percent (rounded to the nearest 10 cents) for inflation as measured by the national Consumer Price Index.”

This plan also will phase in sick leave for In-Home Supportive Services workers starting in July 2018.

Plan Could Replace Ballot Initiative

Importantly, California’s plan for increasing the minimum wage, if implemented and passed this year, may replace a current public initiative called the California “Fair Wage Act of 2016” \$15 Minimum Wage Initiative (2016). This initiative, currently scheduled to appear on the November 2016 ballot,

is designed to increase the minimum hourly wage to \$15 per hour by 2021. The proponents are expected to withdraw the ballot initiative if the final bill passed by the legislature mirrors the plan introduced by the Governor.

Ongoing Federal Efforts To Raise Pay

Outside California, the Governor's plan follows efforts by federal legislators and President Obama to increase the federal minimum wage. While these plans have thus far been unsuccessful, there are nonetheless some changes already coming under federal law that should be noted. For example, President Obama has approved changes to federal wage and hour regulations that will impact many businesses.

The most significant anticipated change will raise the minimum salary for salaried-exempt white collar employees from \$23,660 to somewhere around \$50,000. This will exceed California's current minimum salary for salaried exempt employees (based on the California minimum wage) and even the salary levels under the Governor's planned schedule, at least for the initial years. These changes are expected to take effect this year (read more [here](#)).

What Does This Mean For California Employers?

Now that the Governor's plan has been formally introduced, we anticipate it will soon be passed by the state legislature. The plan requires final approval by both houses and the Governor's signature, all which could take place over the next several days (although delays could occur). The plan, added to SB 3 as amended, was reportedly passed by the Assembly Appropriations Committee on Wednesday, March 30, and is being debated on the Assembly on Thursday, March 31. If any changes to the plan occur before finalization, we will provide timely updates.

In anticipation of the expected minimum wage increases in California, as well as actual and proposed changes to federal regulations, employers in California should act quickly and seek legal counsel to make sure that all elements of their compensation agreements will be adjusted to comport with the applicable minimum wage levels. This includes meal and lodging deductions, commissioned salesperson exemption pay levels and related minimum draws, minimum pay for employees using their hand tools, minimum salary requirements, and a whole host of other considerations.

If you have any questions about this legislative proposal or how they may affect your business, please contact your Fisher Phillips attorney or one of the attorneys in our California offices:

Irvine: 949.851.2424

Los Angeles: 213.330.4500

San Diego: 858.597.9600

San Francisco: 415.490.9000

This Legal Alert provides an overview of a specific legislative proposal. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.