



H.B. 316

126th General Assembly
(As Introduced)

Rep. DeBose

BILL SUMMARY

- Increases the basic state minimum wage to \$5.15 per hour on the bill's effective date and to \$6.50 per hour one year thereafter; the minimum wage payable to employees of certain retail and service establishments to \$3.82 per hour on the bill's effective date and to \$4.83 per hour one year thereafter; the minimum wage applicable to most agricultural employees to \$5.15 per hour on the bill's effective date and to \$6.50 per hour one year thereafter; and the amount payable to tipped employees to \$2.57 or \$2.73, depending on the employer, on the bill's effective date and to \$3.25 or \$3.45 one year thereafter.
- Requires certain agricultural employees and employees of employers with less than \$150,000 gross annual sales to be paid at least \$3.40 per hour on the bill's effective date and \$4.29 per hour one year thereafter.

CONTENT AND OPERATION

Introduction

The bill raises the minimum wage under the state Minimum Fair Wage Standards Law (R.C. Chapter 4111.). Various minimum wages are applicable to employers based upon categories established in statute. Whether an employer is required to pay the state or federal minimum wage depends upon the definition of "employer" for purposes of both laws. Some employers, including many public employers, are subject to both laws because they are defined similarly in both laws. A provision in the federal Fair Labor Standards Act, 29 U.S.C. 201, *et seq.*, stipulates that an employer who is subject to both minimum wage laws must pay the higher of the two (29 U.S.C.S. 218(a)). Under the bill, the state minimum wage exceeds the federal minimum wage. Thus, employers subject to both laws must pay the higher state minimum wage established by the bill.

State minimum wage

Basic minimum hourly wage

Currently, the basic state minimum wage payable by employers subject to Ohio's Minimum Fair Wage Standards Law to each employee is \$4.25 per hour. The bill increases this amount to \$5.15 per hour on the bill's effective date, and from \$5.15 to \$6.50 per hour one year after the bill's effective date. (Sec. 4111.02(A).) The Minimum Fair Wage Standards Law establishes a lower state minimum wage for certain agricultural workers, tipped employees, learners, and the employees of certain employers on the basis of their gross sales per year.

Retail and service establishments

Under current law, employers who were subject to the federal minimum wage law prior to the federal "Fair Labor Standards Act Amendments of 1989," P.L. 101-157, 103 Stat. 938, but are now exempt from the federal law (essentially employers who gross between \$362,500 and \$500,000 per year) must pay their employees not less than \$3.35 per hour. Employers whose gross annual sales are under \$362,500 per year but more than \$150,000 per year also currently pay their employees at least \$3.35 per hour. For employers whose gross annual sales are more than \$150,000 but less than \$500,000, the bill increases the minimum wage to \$4.54 per hour on the bill's effective date and to \$5.74 per hour one year thereafter. (Sec. 4111.02(F) and (G).)

Small business employers

Even though employers with less than \$150,000 gross annual sales are excluded from the definition of "employer" for the purposes of the Minimum Fair Wage Standards Law and are thereby excluded generally from coverage under that law, those employers currently are required to pay at least \$2.80 per hour to all employees except tipped employees. The bill increases this amount to \$3.40 per hour on the bill's effective date, and to \$4.29 per hour one year thereafter. (Sec. 4111.02(E).)

Agricultural employees

Generally, agricultural employees currently must be paid at least \$4.25 per hour, which is the same as the basic minimum wage. Agricultural employees, under the bill, are paid \$5.15 per hour on the bill's effective date, and \$6.50 per hour one year thereafter. Other agricultural employees who meet specified conditions relative to hand harvest laborers currently must be paid not less than \$2.80 per hour. The bill increases that amount to \$3.40 per hour on the bill's effective date, and to \$4.29 per hour one year after that date. (Sec. 4111.02(C) and (E).)

Tipped employees

For any employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 per month in tips from patrons or others, the amount of minimum wage the employer must pay depends upon the employer's annual gross sales. If not subject to the special provision described below, under current law an employer must pay a tipped employee a minimum of 50% of the basic state minimum wage, which is approximately \$2.13 per hour. The bill increases this amount to approximately \$2.57 per hour on the bill's effective date and to \$3.25 per hour one year after the bill's effective date (see **COMMENT**). (Sec. 4111.02(D).)

If the employer's gross annual sales are less than \$500,000, then the employer currently must pay not less than \$2.01 per hour to tipped employees. The bill increases this amount to \$2.73 per hour beginning on the effective date of the bill, and from \$2.73 per hour to \$3.45 per hour beginning one year after the effective date of the bill. (Sec. 4111.02(E) and (G).)

Learner wage rate

Students enrolled in cooperative vocational education programs approved by the State Board of Education may be employed at a learner wage rate equal to 80% of the applicable minimum wage for a period not to exceed 180 days each year. Because the bill raises all the wage rates under the Minimum Fair Wage Standards Law, the learner wage rate also increases proportionately. (Sec. 4111.02(B).)

COMMENT

The use of "approximately" in the bill's analysis is due to the fact that neither current law nor the bill provides for a rounding mechanism to either round up or round down amounts calculated under the bill. For example, the minimum wage to be used on the bill's effective date is 2.575 per hour. Whether this should be rounded up to \$2.58 or down to \$2.57 is unclear.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	07-14-05	p. 1553

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