



## **S.B. 11**

126th General Assembly  
(As Introduced)

**Sen. Prentiss**

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### **BILL SUMMARY**

- Increases the basic state minimum wage to \$6.15 per hour on January 1, 2006 and to \$7.15 per hour one year later.
- Increases the wage payable to certain tipped employees to \$3.07 on January 1, 2006 and to \$3.57 one year later.
- Requires the Director of Commerce to adjust the basic state minimum wage on September 30 every year by increasing the wage by the rate of inflation for the 12 months prior to September 1 every year according to the consumer price index for urban wage earners and clerical workers and makes this increase effective on January 1 each year, beginning in 2008.

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### **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. (See **COMMENT 1**.) 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 basic state minimum wage exceeds the federal minimum wage. Thus, employers subject to both laws must pay the higher basic 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 \$6.15 per hour on January 1, 2006, and from \$6.15 to \$7.15 per hour one year later. (Sec. 4111.02(A).) The Minimum Fair Wage Standards Law establishes a lower state minimum wage for tipped employees and learners.

### 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 \$3.07 per hour on January 1, 2006 and to \$3.57 per hour one year later (see **COMMENT 2**). (Sec. 4111.02(D).)

If the employer's gross annual sales are less than \$500,000, then the employer currently may pay not less than \$2.01 per hour to tipped employees. This rate does not change under 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 the basic state minimum wage rate under the Minimum Fair Wage Standards Law, the learner wage rate also increases proportionately. (Sec. 4111.02(B).)

### Adjusted increases effective January 1, 2008 and thereafter

Under the bill, the Director of Commerce must increase the basic state minimum wage on January 1, 2008 and January 1 every year thereafter. The bill requires the Director to calculate the adjustment on September 30 every year by increasing the wage by the rate of inflation for the 12 months prior to each first day of September according to the consumer price index for urban wage earners and clerical workers, or a successor index, calculated by the United States Department of Labor. The wage rate for tipped employees and learners therefore increases in proportion to each increase in the basic state minimum wage. The bill

requires the Director to publish these adjusted wage rates. (Sec. 4111.02(A), (B), and (D).)

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## COMMENT

1. Wage rates applicable to other categories of employers are described below.

### **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. (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. (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. Other agricultural employees who meet specified conditions relative to hand harvest laborers currently must be paid not less than \$2.80 per hour. (Sec. 4111.02(C) and (E).)

2. 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 \$3.075 per hour. Whether this should be rounded up to \$3.08 or down to \$3.07 is unclear.

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## HISTORY

| ACTION     | DATE     | JOURNAL ENTRY |
|------------|----------|---------------|
| Introduced | 01-25-05 | p. 72         |

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