



# MI Supreme Court 2024: Minimum Wage and Sick Time Decision

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SMITH HAUGHEY  
RICE & ROEGGE

# Agenda

- THE DECISION
- History- From ballot initiative to Supreme Court
- Impacts- How will this impact employers?
- Timelines- When will we feel the impact?
- Employer Response- How to prepare

# JULY 31, 2024

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- Michigan Supreme Court 4-3 decision
  - UNCONSTITUTIONAL
- What was Unconstitutional?
- The Initiative Process



# History

- 2018 Ballot Initiative
  - Michigan One Fair Wage and Michigan Time to Care sponsored two proposals- the Improved Workforce Opportunity Wage Act and the Earned Sick Time Act
  - Proposed raising Michigan's minimum wage, allowing for compensatory time in lieu of overtime, and providing paid sick leave to employees.

# History

- Adoption...Amendment
  - 3 Options
  - 2 Options- need 75% to amend
  - Idea was if it is silent, Legislature has the power
    - (Important as business owners and influencers for the future! If involved, make sure you know the outcomes)
- Appeals and Stays
  - Can they do that?
  - 4<sup>th</sup> Option
  - Undue burden- not on those that it will affect, but the intent of the initiative/ voters' rights and democracy
  - Court says yes...then no...then stays

# Today (Pre-Decision)

- On January 1, 2024-Minimum Wage went from \$10.10 to \$10.33
- Tipped Wages remained at 38% of Minimum Wage
  - Rate for minors- \$8.78 per hour.
  - Tipped employee rate- \$3.93 per hour.
  - Training wage- \$4.25 per hour

# The Differences- Improved Workforce Opportunity Act (Wages)

## Non-Tipped Employees

Year	Minimum Wage
2018	\$9.25
2019	\$10.00
2020	\$10.65
2021	\$11.35
2022	\$12.00

State Treasurer to increase Minimum Wage according to inflation

Year	Minimum Wage
2018	\$9.25
DCY 2019	\$9.45
DCY 2020	\$9.65
DCY 2021	\$9.87
DCY 2022	\$10.10
DCY 2023	\$10.33
DCY 2024	\$10.56
DCY 2025	\$10.80
DCY 2026	\$11.04
DCY 2027	\$11.29
DCY 2028	\$11.54
DCY 2029	\$11.79
DCY 2030	\$12.05

Increase only in effect while unemployment remains under 8.5%



# The Differences- Improved Workforce Opportunity Act (Wages)

## Tipped Employees

<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
38%	48%	60%	70%	80%	90%	100%
38%	38%	38%	38%	38%	38%	38%

### Future

Wage Act      State Treasurer to increase Minimum Wage according to inflation

Amended      State Treasurer to increase Minimum Wage by \$0.23 per year



# Improved Workforce Opportunity Act (Time off)

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Overtime and Paid Time Off

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Employees earn 1.5 hours of PTO for every hour of overtime worked in lieu of compensation

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Max of 240 hours annually

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These Comp hours can be used for any purpose

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Employee can convert hours back into compensation for the wage they would have earned it

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Employees can convert to compensation at time of termination

# The Differences ESTA and PMLA

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- Earned Sick Time Leave Act
  - **Entirely new benefits an employee can seek from and employer**
  - Broad Reaching- ANY employee
  - 1 hour of sick time per 30 hours
  - Uncapped but limited to 72 Annually
  - Carryover in full
  - Small business carve out after 40 hours

**SICK LEAVE**

# The Differences ESTA and PMLA

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- Paid Medical Leave Act
  - In effect since March 29, 2019
  - Exemptions- Employees working less than 25 weeks, exempt professionals, trainees under 18, those under collective-bargaining agreements through unions, under 50 employees
  - Changes- 1 hour of sick time per 30 hours, accrual cap at 40, use cap at 40, employer created notice and request policies

**SICK LEAVE**

# Impacts on Current Employer Required Programs

- FMLA- unpaid time off for childcare or illness
  - Federal program that will still exist
  - 50+ employees
  - ESTA- can be used for more extensive list of illnesses, wider range of family members, only 1 week per year (40 hours) can be used
- FLSA- US Wage Act- No cover for Exempts
  - Federal Program that will still exist
  - Wage Act Time and Half vs Comp Days (Comps for everyone?)

# Impacts on Your Business

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Reduction in Workforce-  
MRA polling

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Managing Requirements-  
Systems, Processes, Staff

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Terminations- REBUTTABLE  
PRESUMPTION

# Potential Outcomes

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- Actions to Block Changes- NO, Final Rule
- New Ballot Initiatives/Legislations
- Amendments- An act can be amended through the legislature once we are in a new session (How we got here in the first place!)
  - Would make sections of these Acts moot
    - Already has been one ballot initiative advocating for \$15.00 per hour- struck down only from a reporting error.



# Timeline

- November 1, 2024: State Treasurer determines inflation adjustment
- February 21, 2025: The Wage Act AND Earned Sick Time Act goes into effect
- February 21, 2025: Minimum hourly wage \$10 plus the state treasurer's inflation adjustment; tip credit 48% of minimum wage
- February 21, 2026: Minimum hourly wage \$10.65 plus inflation adjustment; tip credit 60% of minimum wage
- February 21, 2027: Minimum hourly wage \$11.35 plus inflation adjustment; tip credit 70% of minimum wage
- February 21, 2028: Minimum hourly wage \$12.00 plus inflation adjustment; tip credit 80% of minimum wage
- February 21, 2029 (and after): Minimum hourly wage adjusted to inflation-adjusted minimum wage AND tip credit no longer exists



# Preparation

- Identify all employees and their current wage rate
- Determine positions that may need to be modified
- Assess short- and long- term budgets to ensure you can be in compliance with the timeline
  - Include Paid Time Off and Sick Time in this budget analysis
- Include your CPA and HR teams if applicable, assess your systems and capabilities

Questions?

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