

SENATE BILL REPORT

SB 6087

As of February 3, 2016

Title: An act relating to increasing the minimum hourly wage.

Brief Description: Increasing the minimum hourly wage.

Sponsors: Senators Hobbs and Mullet.

Brief History:

Committee Activity: Commerce & Labor: 2/01/16.

SENATE COMMITTEE ON COMMERCE & LABOR

Staff: Richard Rodger (786-7461)

Background: Employers covered under the state Minimum Wage Act are required to pay employees age 18 or older at least the minimum hourly wage. Each year, the minimum hourly wage rate is adjusted for inflation using the consumer price index for urban wage earners and clerical workers (CPI-W).

The Department of Labor and Industries has authority to set the minimum wage rate for employees under the age of 18. The rules require that employees who are 16 and 17 years old must be paid at least the same minimum wage as adults. Employees under the age of 16 must be paid at least 85 percent of the minimum wage rate.

The current state minimum hourly wage is \$9.47. The federal minimum wage is \$7.25.

Several state and federal laws address leave from employment. These laws include the:

- Federal Family and Medical Leave Act (FMLA). Eligible employees are entitled to take up to 12 weeks of unpaid leave in a 12-month period for specified reasons. The state Family Leave Act is very similar to the FMLA.
- State Family Care Law. If, under state law, collective bargaining agreements, or employer policies, employees are entitled to sick leave or other paid time off, employers must allow employees to use their choice of leave to care for: children with health conditions that require treatment or supervision; or spouses, parents, parents-in-law, or grandparents who have serious health conditions or emergency conditions.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Domestic Violence Leave Law. Victims of domestic violence, sexual assault, or stalking may take reasonable leave from work for specified legal, law enforcement, medical, and safety reasons. Family members may also take reasonable leave. The leave is with or without pay.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): New Minimum Wage. The state minimum hourly wage is increased to \$12 per hour over the course of four years, as follows:

- January 1, 2017 - \$10.00;
- January 1, 2018 - \$10.50;
- January 1, 2019 - \$11.00;
- January 1, 2020 - \$12.00; and
- beginning January 1, 2021 and thereafter - the rate is adjusted for inflation using the CPI-W.

Intent. The provisions on minimum wage standards and sick leave are supplemental to any other state or federal law. The Legislature finds that it is in the public interest to provide reasonable paid sick leave for employees to care for the health of themselves and their families.

Accrual of Sick Leave. Employees accrue leave beginning January 1, 2018 at the rate of at least one hour of paid sick leave for every 40 hours worked. Unused sick leave carries over to the following year, except an employer is not required to allow carry over in excess of 40 hours per year.

Use of Sick Leave. Employees may use up to 24 hours of accrued leave in the first full calendar year of employment and up to a total of 40 hours of accrued leave in subsequent years of employment.

Earned sick leave may be used for:

- the medical diagnosis, care, or treatment of the employee's mental or physical illness, injury, or health concern;
- the medical diagnosis, care, or treatment of the employee's family member's mental or physical illness, injury, or health concern;
- any reasons identified in the domestic violence leave act; or
- bereavement leave in connection with the death of a family member.

Sick Leave Rate of Pay. Compensation due to an employee who takes sick leave must be paid at the same rate of pay as earned by the employee if leave was not taken. The employer is not required to compensate for lost tips or commissions.

Exchange of Hours of Shifts. Employers are not prohibited from allowing the voluntary exchange of hours or shifts between employees. Employers at eating or drinking establishments may offer their employees the option to substitute hours or shifts; however, the employee is not required to accept such offers.

Donated Sick Leave. An employer may allow employees to donate earned leave to another co-worker.

Leave Requests. Paid leave must be provided upon the request of an employee. The request must include the expected duration if it is reasonably foreseeable. Generally, the employer may require the employee to comply with the usual and customary notice and procedural requirements. An employer may not require the employee to search for a replacement worker.

Documentation. An employer may require reasonable documentation for use of more than three consecutive days of sick time. The verification may not impose an unreasonable burden or expense on the employee and may not exceed other legal privacy or verification laws.

Discipline, discrimination, or retaliation. An employer may not discipline, discriminate against, or retaliate against an employee exercising their rights to use paid sick leave.

Existing Employer Policies. If an employer has a paid leave policy that meets or exceeds these minimum standards, the employer is not required to provide additional leave.

Collective Bargaining & Preemption. Public or private employers are not prohibited from paying wages at a rate higher than the state minimum wage rate, agreeing to pay a higher wage rate in collective bargaining, or agreeing to provide additional leave from employment.

Existing provisions of a collective bargaining agreement in effect on the effective date of this act are not impaired.

Except as provided for collective bargaining or agreements as specified above, the state occupies and preempts the entire field of regulation of minimum standards for wages, leave from employment, labor scheduling, and standards by private employers within the boundaries of the state.

A city, town, county, port district, or other municipal corporation, political subdivision, or taxing district of the state may not establish, require, or otherwise regulate the provisions regarding minimum standard of wages, leave from employment, labor scheduling, or standards by private employers. This limitation does not apply to the local government's own employees.

Grandfather Clause. The preemption clause does not apply to local laws, ordinances, administrative directives, contracts, or policies in effect prior to the effective date of this act.

Exceptions and Revisions. The state is not prohibited from adopting exceptions to the uniform minimum wage standard or leave from employment standard or invalidate any such existing exceptions adopted by the state.

Referendum Clause. The act must be submitted to a vote for adoption and ratification or rejection at the next general election held in the state.

Appropriation: None.

Fiscal Note: Fiscal note available on original bill. Requested on substitute January 29, 2016.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect 30 days after the election at which the referendum is approved.

Staff Summary of Public Testimony: PRO: We need to take action so we can solve this without the need for an initiative. This bill copies what Tacoma has done and covers minimum wages and paid sick leave. This bill provides a third way to move this issue forward. We need to phase in a minimum wage increase that works for employers. We could do with or without the referendum clause.

The restaurant association supports this bill because the state currently has five different minimum wages and four different sick leave laws. We need uniformity on these standards. We have employees who work in multiple jurisdictions each day and it is unclear what wage they must be paid. Business in these jurisdiction are responding with changes to prices, tip practices, services charges, and hiring practices for first time workers.

CON: This bill doesn't raise the minimum wage enough to support a family. We need paid sick leave so we don't have to come to work while sick. This bill is too little, too late, it should be raised to \$13.50/hour.

The minimum wage is an entry level/starting wage. We do support the preemption clause and the phase-in. This is a serious bill that deserves serious debate. Small businesses need the flexibility to deal with their own employees to find the right balance of pay and sick leave. This creates problems for businesses on the borders with Idaho and Oregon. One retailer will be closing 10 stores in Seattle because of the new minimum wage.

OTHER: Minimum wage is a critical issue for large and small businesses. Raising the minimum wage is not what we need, but the public wants it. We'd like to see a teen wage and training wage included in this proposal. Please consider an addition dealing with construction workers and paid leave, allowing us to use premium pay or other alternatives. We have found no decrease in the poverty rate and increased teen unemployment associated with changes in minimum wages.

Persons Testifying: PRO: Senator Steve Hobbs, prime sponsor; Senator Mark Mullet; Bruce Beckett, WA Restaurant and Lodging Association; Holly Chisa, NW Grocery Association.

CON: Ariana Davis, Grocery Worker; Sharon Kitchel, Homecare Provider; Sheley Secret , National Association for the Advancement of Colored People; Pastor Christopher, Shiloh Baptist Church/TMA; Mark Johnson, Washington Retail Association; Patrick Connor, NFIB/ Washington; Larry Stewart, Washington Association of Neighborhood Stores; Jan Gee, Washington Food Industry Association.

OTHER: Bob Battles, AWB; Maxford Nelsen, Freedom Foundation; Kathleen Collins, Sheet Metal and Air Conditioning Contractors of Western WA.

Persons Signed In To Testify But Not Testifying: CON: Jae Townsend, Janessa Rhone, Worker; Dave Williams, Assoc. of WA Cities.

OTHER: Dolores Chiechi, Recreational Gaming Association.