

Publications

Michigan Employers Need to Be Aware of Changes to the State's Wage and Hour Laws

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Employers in Michigan should remain vigilant with respect to recent, dramatic changes to the state's wage and hour laws, which include raising the minimum wage to \$12.00 an hour, phasing out the tipped employee wage classification, and creating new sick leave obligations for employers.

On July 19, 2022, the Michigan Court of Claims ruled that the Michigan legislature's amendment of two popular ballot initiatives was unconstitutional. The initiatives are the Improved Workforce Opportunity Wage Act (IWOWA) (the minimum wage law) and the Paid Medical Leave Act (PMLA) (formerly the Earned Sick Time Act). The case, *Mothering Justice v. Nessel*, is stayed until February 20, 2023. On August 5, 2022, the Michigan Attorney General filed a Joint Motion for Expedited Appeal. The Michigan Court of Appeals—and potentially the Michigan Supreme Court—will soon decide whether the IWOWA and the PMLA must be enacted as originally submitted by the voters to the Michigan legislature or as the legislature later amended them.

IWOWA

As originally written, the IWOWA increased the state's minimum wage by \$0.65 to \$0.70 annually, which was set to hit \$12.00/hour by January 1, 2022, increasing at the rate of inflation thereafter. It also gradually eliminated the state's tipped employee classification, requiring payment of 60% of the minimum hourly wage to tipped employees by January 1, 2022; 80% by January 1, 2023; and 100% by January 1, 2024. However, when the Michigan legislature enacted SB 1171, the legislature reduced the increase on the minimum wage from \$12 to \$10.10 (for 2022) removed the annual adjustment for inflation, and eliminated the language phasing out the tip credit.

PMLA

Similar to the IWOWA, the PMLA was more expansive in its original ballot initiative. For employers with fewer than 10 employees, it mandated one hour of paid sick time for every 30 hours worked, up to a

maximum of 40 hours, plus up to an additional 32 hours of unpaid sick time. For all other employers, the PMLA mandated one hour of paid sick time for every 30 hours worked, to a maximum of 72 hours. However, when the PMLA was enacted by the Michigan legislature, the bill exempted employers with fewer than 50 employees, lowered the minimum number of sick time hours that could be used in a year to 40, and repealed a section prohibiting employers from taking retaliatory personnel actions against employees.

What Comes Next?

In holding that the Michigan legislature’s amendments to the IWOLA and PMLA were unconstitutional, the Court of Claims ordered that “the initiatives adopted by the Legislature...remain in effect.” For now, that means minimum wage and sick pay can continue to be paid in accordance with existing law. Fortunately for employers, the Court of Claims recognized the “justified concerns regarding the ability of employers and the relevant state agencies to immediately accommodate the changes,” and stayed the effect of its judgment until February 20, 2023. Still, the *Mothering Justice* decision and subsequent appeal create a host of considerations, including the potential for a prolonged stay of enforcement, a lifting of the stay, or the overturning of the decision. Vorys will continue to monitor this issue throughout the remainder of 2022, and report on any changes affecting Michigan employers. Contact your Vorys lawyer if you have questions about *Mothering Justice* or any other wage and hour or leave issues.