

BUSINESS ADVOCATE

What's ahead for Michigan's
Minimum Wage Law?

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LETTER from the President

In this issue of the Business Advocate we look at the winding legislative road of Michigan's minimum wage increase.

Currently, Michigan employers are able to follow the laws of the Michigan Paid Medical Leave Act which is the name legislators gave to their amendments of the voter-initiated Earned Sick Time Act and Improved Workforce Opportunity Wage Act. However, there is still the possibility that the Michigan Supreme Court will take up the case of constitutionality of the legislators "adopt and amend" strategy.

Therefore, Michigan employers should be prepared for significant changes that would require employers to provide additional sick leave to employees, raise the minimum wage, and phase out the tip credit for tipped employees.

While we wait to hear if the Michigan Supreme Court will take up a court challenge to these changes, Michigan employers should be ready to comply.

As always, we will continue to monitor this issue and keep you informed of these critical issues.



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MICHIGAN'S MINIMUM WAGE DEBATE

What is Happening with Minimum Wage Legislation?

Michigan legislators have been wrestling with the question of whether to raise the minimum wage, and if so, how much and how quickly, for years, and the issue now seems destined for the Michigan Supreme Court.

In January of 2023 the minimum wage in Michigan rose slightly, from \$9.87 to \$10.10 per hour, with the minimum wage for minors aged 16 and 17 increasing to \$8.59 per hour, or 85% of the adult minimum wage, under a phased increase mandated by state law. However, many activists on the issue had been pushing for the raise to go even higher, which still may happen, depending on how a current legal battle plays out.

The stakes are significant and tensions regarding the issue are high, for both employees pushing for higher wages and business owners concerned about labor costs. The one thing both sides agree on: we are enduring a moment of historically high inflation. While inflation is currently on the decline, in June of 2022 it peaked at 9.1%, the highest rate experienced in the United States since 1981. The effects are being felt throughout our region.

History of the Michigan Minimum Wage Debate

The current court battle dates back to 2018, when a ballot measure was set to go before voters. A progressive organization called Michigan One Fair Wage had collected enough signatures to put the question of whether the state of Michigan should raise both the hourly non-tipped minimum wage and the tipped minimum wage before voters in November 2018.

This ballot initiative was designed to increase the state's minimum wage between 60 and 75 cents each year. It also would have set the minimum wage increases to be adjusted to the consumer price index beginning in 2023 and raised the minimum wage for tipped employees to 90% of the minimum wage in 2023 and 100% in 2024.

Instead of putting the measure on the ballot, Republican lawmakers, who at the time controlled both the state house and senate, preemptively voted to approve the ballot proposal, called the Michigan Improved Workforce Opportunity Wage Act (IWOWA) on September 5, 2018. Then, in December 2018, during the same legislative session, the Michigan legislature amended IWOWA. This amended legislation instilled lower wage thresholds, maxing out at \$12.05 per hour by 2030 and maintaining the tipped minimum at 38% of the non-tipped minimum wage.

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This move was then challenged in court by Michigan One Fair Wage, in *Mothering Justice v. Nessel*. The plaintiffs claimed that the “adopt-and-amend” method of legislative revision was unconstitutional.

On July 19th of last year, the Honorable Douglas Shapiro of Michigan Court of Claims issued a decision that agreed with Michigan One Fair Wage's challenge, stating that the 2018 legislatures had overstepped their bounds and the “adopt and amend” strategy was indeed unconstitutional. This decision voided the amended versions of the Michigan Improved Workforce Opportunity Wage Act in favor of the original, unamended versions.

Then, on July 29, 2022, Justice Shapiro entered an order staying the effect of this decision until February 19, 2023, in order to give business owners and state agencies time to adjust to the sharp increase in wages. During this time, the case was brought before the Michigan Court of Appeals.

On January 26, 2023, three Michigan Court of Appeals judges determined “adopt-and-amend” was allowable under the state constitution; however, judge Michael Kelly, in a concurring opinion, also critiqued the move, pointing out it was a political ploy.

“Although this procedure is permissible under the language of our constitution, this ploy — adopting an initiative into law so as to prevent it from going onto the ballot and then promptly and substantially amending that law in a manner that has left it essentially defanged — is anti-democratic. I cannot believe that this drastic action is what the drafters of our constitution even contemplated, let alone intended.”

Now it is up to the Michigan Supreme Court to decide if they will hear the case. The Michigan Supreme Court previously denied to hear the case in 2019.

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What does this mean for business owners?

If this originally adopted petition had been approved the minimum wage for 2023 would have risen to \$13.03 per hour for untipped employees, and \$11.73 per hour for tipped staff.

“This ruling is welcome news for Michigan’s job providers, who were struggling with how they could possibly make the sweeping and costly changes called for by the lower court’s decision,” says Wendy Block, senior VP of Business advocacy and member engagement for the Michigan Chamber. “If the lower court’s ruling had been left to stand, it would have had dire consequences on the state’s employers, overall business climate and the economy, all at a time when our state, communities and families can least afford it.

The thing is “wages continue to rise” says Block. As employers face ongoing market challenges “They are doing everything they can to retain quality workers.” For this reason, in many places the market wage for entry level workers is already much higher than the state minimum wage.

Block also pointed out that “Michigan already has one of the highest minimum wages in the Midwest, and in the nation.” There is potential risk to being an outlier on this issue. “It can have a chilling impact on attracting jobs to the state.”

What will happen now?

The Michigan Chamber believes the best way to determine the ideal starting wage threshold is basic supply and demand. “We believe these decisions should be made in the market,” says Block. “Each individual employer should be able to decide what is best for their business.”

However, the Michigan Supreme Court may have a different opinion, if they decide to take the case.

It is also worth noting that the Michigan state legislature looks very different in 2023 than it did in 2018, with both the senate and the state house under Democratic control for the first time in over 40 years. Thus, it is possible that we’ll see new minimum wage legislation introduced.

“I’m in favor of increasing the minimum wage,” Says Senator Kristen McDonald-Rivet, who represents Michigan Senate District 35, “but it’s how and when we get there. Without current legislation to point to, it’s hard to get more specific.”

There is also another ballot proposal on this issue in the works. Signatures were collected, and are currently being counted, making it conceivable that the minimum wage debate will be on the ballot in 2024.

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Elliott Larsen Civil Rights Amendment (ELCRA) heads for governor's signature

The Michigan House approved legislation to give civil rights protections to the LGBTQ+ community on March 8 and the bill was sent to Governor Whitmer for her signature. The amendment makes Michigan the 24th state to add protections for individuals on the basis of their sexual orientation and/or gender identity.

The amendment codifies two previous court decisions. The ELCRA will continue to support non-discriminatory hiring practices and give every employee equal opportunity and equal protection under the law regardless of their religion, race, color, national origin, age, sex, height, weight, familial status, marital status and sexual orientation or gender identity.

Chamber advocacy impacts local community and the region

One of the Saginaw Chamber's top six priorities is advocacy in support of our vision to create a thriving economy in Saginaw County and beyond. We prioritize legislative and local issues that help influence and shape public policy to achieve a healthy, business-friendly community, region and state. To accomplish this priority, we work with individual members, as well as strategic partners.

Over the past several years, the Saginaw Chamber has worked in partnership with other chambers in the region to support each other's local priorities where appropriate, as well as to establish policies and priorities for the Great Lakes Bay Region as a whole. When the Regional Chambers agree on shared priorities, the potential for influencing change with legislators and policymakers is exponentially greater due to the greater number of constituents who will be impacted. Said another way, the more voices the Chambers represent, the more likely they will be heard.

The Chambers are currently in discussion to establish shared regional priorities for 2023. Once they are approved, the Saginaw Chamber will report on both the local priorities for this legislative cycle as well as the issues the Regional Chambers will work on together. Past cooperation has centered around talent attraction, economic stimulation, energy, and revitalization. Some of these issues remain relevant and ongoing even as new priorities emerge.

As always, if you have questions or advocacy needs for your business, please feel free to contact Veronica Horn at the Saginaw County Chamber of Commerce, 989-752-7161 or Veronica@SaginawChamber.org.



The Saginaw Chamber has worked in partnership with other chambers in the region to establish policies and priorities for the Great Lakes Bay Region as a whole.



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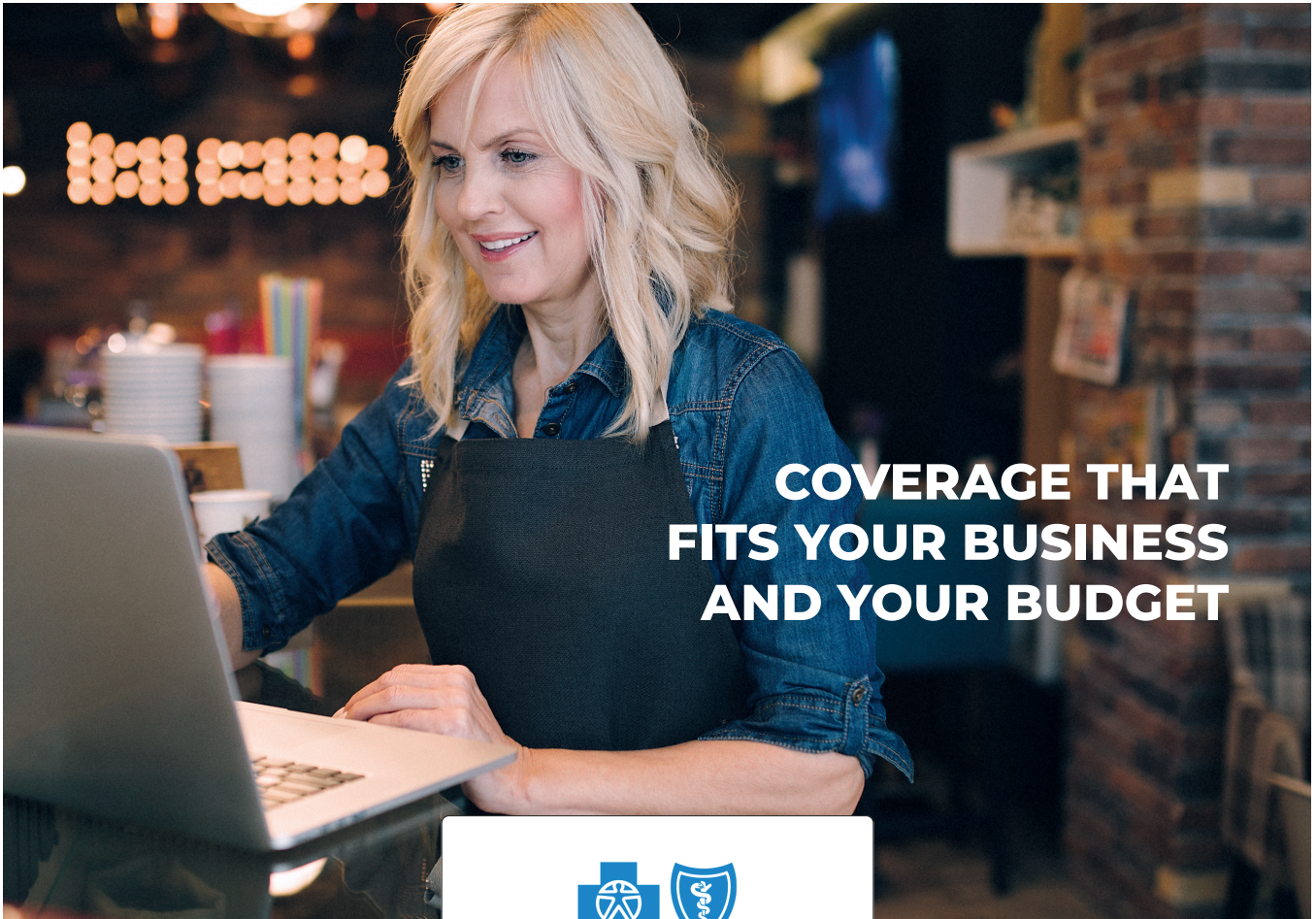


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