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California Minimum Wage to Increase to $15 Over Next Several Years

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On April 4, 2016, Governor Jerry Brown signed California Senate Bill 3, a deal reached between lawmakers and labor unions that will raise the state minimum wage to $15 over several years. The legislation avoids taking the minimum wage issue to the ballot box, where one initiative, backed by the Service Employees International Union-United Healthcare Workers West (SEIU-UHW), has already qualified for the November 8 ballot. The bill will avert a costly political campaign this fall. When the legislation is fully implemented it will give California, along with New York, the highest state minimum wages in the country.

Under the bill, California's minimum wage will increase from the current $10 to $10.50 on January 1, 2017. In 2018 it will increase to $11, then increase by $1 annually until 2022. Businesses with fewer than 26 employees will get an additional year to implement each raise. For in-home health aides, the bill also provides three paid sick days per year. Assuming no pauses, starting in 2023, the minimum wage will then increase each year by the lesser of 3.5% or the rate of inflation based on the United States CPI-W.

The bill's scheduled increases are not automatic, but are subject to annual review of certain non-farm employment and retail sales data. If the Director of the Department of Finance certifies that the indices tracking this data have declined within the state by certain amounts, then the Governor has the discretion and authority to suspend the next scheduled increase until the fiscal year in which the specified decline does not occur. The Governor also has the discretion and authority to suspend the next scheduled increase if the Director certifies that it would cause a budget deficit in the current fiscal year or in either of the following two fiscal years. However, the Governor may only suspend the next scheduled increase for this reason "no more than two times." The bill is ambiguous, unfortunately, as to whether the Governor can implement a suspension based on the state's budget two times per scheduled increase or only two times prior to the implementation of the fifteen dollar amount.

Economists have estimated the measure will increase the pay of 5.6 million workers across the state – nearly 1 in 3 – by an average of 24 percent. The University of California, Berkeley Center for Labor Research and Education projects the increase will have a ripple effect for those whose wages will increase to keep pace. For example, some exempt employees who must earn a minimum monthly salary of at least double the state minimum wage for full-time employment will likely see their salaries increase.

There is considerable debate about the economic merits of the measure. According to the state Department of Finance, when fully implemented, the wage hike will cost the State of California about $4 billion annually because of higher government employee pay. Some have criticized the pay hike on the grounds that it will be implemented too rapidly and does not take into account the broad wealth differences among California's different regions. "Economically, minimum wages may not make sense… [but] work is not just an economic equation; it's part of living in a moral community," the Sacramento Bee quoted Brown as saying at the April 4th signing ceremony.

Employers affected by these changes should review their employees' compensation rates in light of these mandated increases. Many employers may need to significantly adjust their compensation and benefits structure, and perhaps their job qualifications and labor utilization, to account for the wage increases. Our attorneys have deep counseling and litigation experience on these issues. To discuss these issues further or pose questions about this Alert, please contact one of the attorneys listed above.

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