

FIRM NEWS

MICHIGAN EMPLOYERS TO TACKLE YET ANOTHER CHANGE TO THEIR POLICY MANUALS AS GOV. SNYDER SIGNS AMENDED MINIMUM WAGE AND PAID SICK TIME LEGISLATION INTO LAW

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PROFESSIONALS
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It's never a dull moment for Michigan employers, even at holiday time. Last month, employers braced for the impact of the legalization of recreational marijuana following its approval in the November 6 election. Now, with Michigan Governor Rick Snyder signing legislation on Friday, December 14 that delays an increase to the minimum wage and limits the parameters of mandatory paid sick time, employers are trying to understand the impact of the changes. Terry Bonnette, a partner with Detroit-based management side labor and employment law firm Nemeth Law, P.C., looks at the issues.

Background

In August 2018, the Michigan Legislature was presented with two pieces of voter-initiated legislation: (1) increasing the minimum wage from \$10 per hour in 2019 to \$12 per hour by 2022, and (2) requiring employers to provide employees with paid sick time. Generally, such voter-initiated legislation ends up as a ballot initiative at the next election. But in Michigan, the Legislature has the opportunity before the election to pass the proposed legislation as written. In September, the Republican-controlled Legislature passed the initiative. At the time, the passage was viewed as controversial. It was believed the Legislature only passed the initiative to later amend it after the election and rollback many of its provisions. And that's what happened when amendments to Acts on the minimum wage and paid sick time passed both houses of the Legislature December 4, 2018. Gov. Snyder signed the amended legislation into law December 14.

Impact of new law on minimum wage and paid sick time

"As expected, the Legislature amended the legislation to delay the increases in Michigan's minimum wage law (the "Improved Workforce Opportunity Wage Act" or "IWOWA") and roll back many of the provisions of the "Earned Sick Time Act" (now renamed the "Paid Medical Leave Act" or "PMLA"), Bonnette said. "The amendments to IWOWA will increase Michigan's minimum wage to \$9.45 per hour by March or April of 2019, and to \$12.05 per hour by 2030. IWOWA also eliminates the provision of the voter-initiated legislation that would have required tipped employees to be paid the same minimum wage as non-tipped employees."

Bonnette explains that the PMLA initially required that all employers provide employees who work more than 25 hours per week and are eligible to earn overtime with up to 40 hours of paid sick leave, and follow certain posting and recordkeeping requirements. Under the revised law, employers who provide employees with 40 hours of combined paid vacation days, personal days, or other forms of paid time off will be presumed to be in compliance with the new law.

Challenges to the new law

It has been reported that the Legislature has never before approved voter-initiated legislation, only to change it in the same term. Consequently, supporters of the legislation have been threatening for months to bring legal challenges to block amendments of the legislation like those that the Legislature just passed. Accordingly, it is not immediately clear what will be the long-term implications of these lame-duck actions. Still, Bonnette encourages employers to act in the near term.

“Employers should be on notice that revisions to their wage rates and sick time policies will be needed,” Bonnette said. “Both the IWOWA and PMLA are currently expected to take effect in March 2019. Employers should determine what actions need to be taken now to ensure compliance with the laws when they do become effective.”

Actions employers can take now

- For the IWOWA, prior to March 2019, employers can identify those employees earning less than \$9.45 per hour and determine any necessary increases and make budgetary adjustments if necessary. When the required wage increase law does become effective, such changes can be quickly and smoothly implemented.
- For the PMLA, employers can review how much paid time off they currently provide to employees, any restrictions on using that time, determine the financial impact of the new PMLA, analyze how the PMLA intersects with the FMLA policies, and what documents, including the budget, may require updating to comply with the new law. For example, if paid time off or sick leave is discussed in an employee handbook/policies/procedures, employers should consider how those documents need to be revised so that employers are in compliance with the new law.
- Employers may also consider whether new Acknowledgement of Receipt forms will be needed, and plan for the distribution of new handbooks/policies/procedures to all employees, if necessary.

About Nemeth Law, P.C.

Nemeth Law specializes in arbitration, mediation, workplace investigations, employment litigation, traditional labor law and management consultation/training for private and public sector employers. It is the largest woman-owned law firm in Michigan to exclusively represent management in the prevention, resolution and litigation of labor and employment disputes.