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FISCAL IMPACT REPORT

SPONSOR Rodella/Egolf/
Trujillo, CA/Ruiloba/
Garcia, MP ORIGINAL DATE 02/17/17
LAST UPDATED 03/03/17 HB 442/aHJC

SHORT TITLE Minimum Wage & Wage Related Conduct SB _____

ANALYST Klundt

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		
	Unquantifiable	Unquantifiable	Recurring	Personal Income Taxes
	Unquantifiable	Unquantifiable	Recurring	Corporate Income Taxes

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0.0	\$609.5	\$1,219.1	\$1,828.6	Recurring*, see discussion	General and various
	\$0.0	\$2,300.0	\$4,000.0	\$6,300.0	Recurring	General, Public Schools

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Workforce Solutions Department (WSD)\

State Personnel Office (SPO)

U.S. Department of Labor (US DOL)

National Conference of State Legislatures (NCSL)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee (HJC) amendment of House Bill 442 (HB 442) strikes “regulates or attempts to regulate the” on page 3, line 19, strikes lines 20 and 21, and inserts in lieu thereof “requires or attempts to require a private-sector employer to provide its employees with advanced notice of their work schedules.”

This amendment preempt cities, counties and other political subdivisions of the state from enacting or keeping laws that regulate private-sector employers to provide employees advanced work notice.

Synopsis of Bill

HB 442 proposes five substantive changes to Section 50-4-22 NMSA 1978 of New Mexico’s Minimum Wage Act:

- (1) Raises the statewide minimum wage rate from \$7.50 an hour to \$9.25 an hour.
- (2) Raises the tipped-employee minimum wage from \$2.13 an hour to 40 percent of HB 442’s new statewide minimum wage rate.
- (3) Bars employers from lowering the hourly pay rate of employees solely because they already make more than HB 442’s new minimum wage rates.
- (4) HB 442 specifically does not preempt cities and counties from enacting or keeping in effect higher minimum wage rates than those called for by HB 442.
- (5) However, HB 442 does specifically preempt cities, counties and other political subdivisions of the state from enacting or keeping laws that regulate the schedule of work hours that private-sector employers provide their employees.

If enacted, HB 442’s new minimum wage rates would go into effect January 1, 2018. The effective date of its other provisions not setting minimum wage rates is July 1, 2017.

FISCAL IMPLICATIONS

WSD’s Labor Relations Division (LRD) would be impacted in that it would have to update its website information, Wage and Hour employer/employee presentations and all WSD publications, which have a published minimum wage rate each January 1.

Previous analysis stated unquantifiable but positive impacts to personal income taxes (PIT) may result from raising the minimum wage. Any positive increases may partially be offset by lower employment levels due to fewer minimum wage jobs. However, the effective PIT rate increases as the income level of person increases, particularly in the lower income strata, so the net effect is likely to be a positive PIT revenue impact. For example, one person making \$25 thousand annually will contribute more than double the PIT revenues that two people each making \$12.5 thousand would contribute. In FY16, PIT contributed \$1.3 billion, or 23.2 percent of recurring revenues, to the general fund.

Unquantifiable impacts to corporate income taxes (CIT) may also result from raising the minimum wage. In FY16, CIT contributed \$118.5 million, or 2.1 percent, to the general fund.

SPO reported 402 state employees across all salary plans fall below \$9.25 per hour. The annualized salary cost (excluding benefits) to bring these employees to \$9.25 per hour would be \$962,624 (based on 2,080 hour year). The annualized cost with benefits would be \$962,624 x

1.2664= \$1,219,067. The cost to the State for FY18 from January 1, 2018 until June 30, 2018 would be \$609,534.

Since HB442 makes no provision for increasing the minimum wage in successive years, the minimum wage would remain at \$9.25 per hour. Therefore, the projected annual cost for FY19 is based on the same methodology used for FY18. The annualized salary cost (excluding benefits) to maintain 402 employees at \$9.25 per hour is \$962,624 (based on 2,080 hour year). The annualized cost with benefits is \$962,624 x 1.2664= \$1,219,067. The cost to the State for FY19 from July 1, 2018 until June 30, 2019 would be \$1,219,067.

*However, as of December 2016, the vacancy rate for state agencies was 15.7 percent and funded vacancy rates for the largest agencies ranged from .5 to 4 percent (See, LFC Volume III pages 73-76). Funded vacancies may absorb additional operating costs resulting from this bill.

According to the Legislative Study Education Committee (LESC), the statewide projected impact of increasing the minimum wage to \$9.25 in school districts and state-chartered charter schools is \$2.3 million in FY18, increasing to over \$4 million in FY19, and subsequent fiscal years.

SIGNIFICANT ISSUES

The federal minimum wage has remained at \$7.25 an hour since 2009, however many states have adopted higher minimum wage laws. According to the National Conference of State Legislatures (NCSL) in 2017, 19 states began the New Year with higher minimum wages. Seven states (AK, FL, MO, MT, NJ, OH, SD) automatically increased their rates based on the cost of living, five states (AZ, AR, CO, ME, WA) increased their rates through ballot initiatives previously approved by voters, and seven states (CA, CT, HI, MA, MI, NY, VT) did so as a result of legislation passed in prior sessions. Washington D.C., Maryland and Oregon are scheduled to raise their respective minimum wages on July 1, 2017 due to previously enacted legislation.

Currently, 29 states and D.C. have minimum wages above the federal minimum wage of \$7.25 per hour.

Five states have not adopted a state minimum wage: Alabama, Louisiana, Mississippi, South Carolina and Tennessee. New Hampshire repealed their state minimum wage in 2011 but adopted the federal minimum wage by reference.

The current minimum wage rate in New Mexico is \$7.50, which is higher than the federal minimum wage. State minimum wage rates are controlled by the respective legislatures within the individual states. The Fair Labor Standards Act (FLSA) sets a federal minimum hourly rate (\$7.25 per hour since 2009) for non-exempt employees, but states may enforce higher pay rates. If an employee is subject to both the state and federal minimum wage laws, the employee is entitled to the higher of the two minimum wages. The LRD's Wage and Hour Bureau enforces the Minimum Wage Act. The Bureau investigates and gathers data on wage issues to enforce compliance with the Act.

RELATIONSHIP

Senate Bill 386 raises the statewide minimum wage rate to \$9 per hour but permits employers to pay "training employees" a minimum wage of \$8 per hour for up to 60 days from the date of

hire. SB 386 defines a training employee as an employee who is being trained to perform the job for which the employee was hired. SB 386 raises the minimum wage for employees who customarily and regularly receive more than \$30 per month in tips from \$2.13 to \$2.63 an hour. SB 386 makes no provision for regular cost-of-living increases. SB 386's minimum wage rates would go into effect July 1, 2017.

Senate Bill 321 amends Section 10-7-9 NMSA 1978 to increase the minimum salary for “[e]very state employee and every person regularly employed at a state educational institution,” except for student employees, from \$400 per month to \$8.75 per hour. SB 321 also amends Section 50-4-22 NMSA 1978 to raise the minimum wage paid by “an employer” from \$7.50 to \$8.75 per hour; to raise the base minimum hourly wage of an employee who receives \$30.00 a month in tips from \$2.13 to \$2.50 an hour; and creates a minimum wage for employees with “a valid server permit issued pursuant to the” Liquor Control Act of \$9.75 per hour. SB 321's rates would go into effect July 1, 2017.

House Bill 27 raises New Mexico's base minimum wage rate for all employees to \$15 an hour beginning January 1, 2018. As of January 1, 2019 and each succeeding January 1 thereafter, the base minimum wage would be subject to annual cost-of-living increases based on a consumer price index (CPI). HB 27 eliminates the separate minimum wage for tipped employees. HB 27 requires the WSD to publish the adjusted minimum wage rate for each upcoming calendar year no later than November 1 of the current year. All annual increases required by HB 27 would be capped at four percent. The minimum wage rate will not be subject to downward adjustment due to decreases in the cost of living.

House Bill 67, as amended by the Labor and Economic Development Committee, provides for three consecutive annual increases to the statewide minimum wage rate starting January 1, 2018, when the rate would increase to \$8.40 per hour; by January 1, 2019, it would increase to \$9.40 per hour; and by January 1, 2020 it would increase to \$10.10 per hour. Additionally, HB 67 requires yearly cost-of-living increases tied to a CPI starting January 1, 2021 but caps these increases at four percent in any given year. With respect to tipped employees, HB 67 increases the minimum wage to an amount equal to 40% of the minimum wage rate for non-tipped employees starting January 1, 2018. HB 67 does not authorize decreases in the minimum wage due to CPI-based cost-of-living decreases. HB 67 requires the Workforce Solutions Department (WSD) to publish the adjusted minimum wage rates for each upcoming calendar year no later than November 1 of the current year.

House Bill 134 provides that school districts or charter schools shall pay \$15.00 per hour to cafeteria staff and bus drivers through fiscal year 2019 with the cost of living amount to be adjusted beginning with fiscal year 2020 based on the change in the CPI.

Senate Bill 36, as amended by the Public Affairs Committee, raises the statewide minimum wage rate to \$8.45 an hour beginning July 1, 2017. SB 36 increases the minimum wage rate for tipped employees to \$2.65 an hour. Starting January 1, 2018 and on January 1 of each subsequent year, these rates would be subject to cost-of-living increases tied to a CPI. SB 36 requires the WSD to publish the adjusted minimum wage rates for each upcoming calendar year by November 1 of the current year. SB 36 would not prohibit counties and cities from setting minimum wage rates higher than the minimum wage rates provided for in SB 36.

OTHER SUBSTANTIVE ISSUES

States with Minimum Wages Higher than the \$7.25/hr Federal	
D.C.	\$ 11.50
Massachusetts	\$ 11.00
Washington	\$ 11.00
California	\$ 10.50
Connecticut	\$ 10.10
Arizona	\$ 10.00
Vermont	\$ 10.00
Alaska	\$ 9.80
Oregon	\$ 9.75
New York	\$ 9.70
Rhode Island	\$ 9.60
Minnesota	\$ 9.50
Colorado	\$ 9.30
Hawaii	\$ 9.25
Maine	\$ 9.00
Nebraska	\$ 9.00
Michigan	\$ 8.90
Maryland	\$ 8.75
West Virginia	\$ 8.75
South Dakota	\$ 8.65
Arkansas	\$ 8.50
New Jersey	\$ 8.44
Delaware	\$ 8.25
Illinois	\$ 8.25
Nevada	\$ 8.25
Montana	\$ 8.15
Ohio	\$ 8.15
Florida	\$ 8.05
Missouri	\$ 7.65
New Mexico	\$ 7.50

Source: USDOL/PEW Charitable Trust

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