



Minimum Wage Amendment

IMPROVED WORKFORCE OPPORTUNITY WAGE ACT

(SB 1171 - 2018 PA 368 – AMENDING 2019 PA 337)

SUMMARY FOR PUBLIC LIBRARIES.

NOTE: THIS SUMMARY IS MEANT ONLY TO PROVIDE A GENERAL OVERVIEW OF THE NEW LEGISLATION IN RELATION TO THE POSSIBLE EFFECT ON LIBRARY OPERATIONS. IT IS NOT MEANT AS A LEGAL OPINION OR LEGAL ADVICE. LIBRARIES SHOULD CONSULT THEIR ATTORNEYS FOR INFORMATION, CLARIFICATION OR ADVICE REGARDING HOW THE LAW MAY AFFECT THEIR SPECIFIC SITUATIONS.

WHAT

Increases the hourly minimum wage for covered Michigan workers according to a prescribed table beginning at \$9.45 starting Calendar Year 2019 (or, specifically, the 91st day after the final adjournment of the 2018 Regular Session, which means the effective date will be around March 30, 2019).

EXACT AMOUNTS:

MCL 408.934 NEW MINIMUM HOURLY WAGE RATE:

(e) Beginning January 1, 2018, \$9.25.

(f) **In calendar year 2019**, or a subsequent calendar year as described in subsection (2), **\$9.45**.

(g) In calendar year 2020, or a subsequent calendar year as described in subsection (2), \$9.65.

- (h) In calendar year 2021, or a subsequent calendar year as described in subsection (2), \$9.87.
- (i) In calendar year 2022, or a subsequent calendar year as described in subsection (2), \$10.10.
- (j) In calendar year 2023, or a subsequent calendar year as described in subsection (2), \$10.33.
- (k) In calendar year 2024, or a subsequent calendar year as described in subsection (2), \$10.56.
- (l) In calendar year 2025, or a subsequent calendar year as described in subsection (2), \$10.80.
- (m) In calendar year 2026, or a subsequent calendar year as described in subsection (2), \$11.04.
- (n) In calendar year 2027, or a subsequent calendar year as described in subsection (2), \$11.29.
- (o) In calendar year 2028, or a subsequent calendar year as described in subsection (2), \$11.54.
- (p) In calendar year 2029, or a subsequent calendar year as described in subsection (2), \$11.79.
- (q) In calendar year 2030, or a subsequent calendar year as described in subsection (2), \$12.05

NOTE: Planned increases will *not be implemented* if the unemployment for the state (Michigan), as determined by the Bureau of Labor Statistics *is 8.5% or higher* for the calendar year preceding the calendar year of the prescribed increase. If this occurs, minimum wage increases will not be reinstated until the first calendar year following a calendar year for which the unemployment rate for Michigan (as determined by the BLS) is less than 8.5%.

FOR EXAMPLE:

If the unemployment rate for Michigan (as determined by the Department of Labor, Bureau of Labor Statistics) raises to 8.5% in a particular year (for sake of example, let's say the rate rises in 2021 to 8.5%), then the FOLLOWING year (ie 2022), the planned minimum wage increase (which, for purpose of our example would be to \$10.10 from the 2021 rate of \$9.87) would NOT be implemented. The increases would then not be reinstated until the unemployment rate dips below 8.5 %, and then the reinstatement of increased minimum wage would be re-implemented in the year following the year in which the unemployment rate went below 8.5%. (so, for our example, if the unemployment rate drops to less than 8.5% in 2023, then the increased minimum wage would return as of January 1, 2024.

OVERTIME PROVISIONS

- Employees who work more than 40 hours in a workweek must receive “compensation at not less than 1 ½ times the regular rate of pay” the employee receives.

- Employees **may** receive compensatory time off at a rate no less than 1 ½ hours for each hour of employment for which overtime compensation is required**.
- Employer must allow employees a total of at least 10 days of leave per year without loss of pay.
- Compensatory time is voluntary
- Voluntary compensatory time in lieu of overtime pay must be part of a collective bargaining agreement, memorandum of understanding, or other written agreement between employer and representative of employee, OR
 - Employers must have a plan in writing that provides a voluntary option to receive compensatory time in lieu of overtime pay when there is an express voluntary written request by an employer for such time in lieu of pay before the performance of overtime work.
- Employers may not require employees to take compensatory time in lieu of overtime pay.
- Employers may not terminate a compensatory time plan unless 60 days' notice has been given to employees.
- Employees may not accrue more than a total of 240 hours of compensatory time. The law includes certain administrative and recordkeeping requirements that employers offering voluntary compensatory time would have to comply with these requirements. (See <http://legislature.mi.gov/doc.aspx?2018-SB-1171> section 4a(8)(c))
- Earned compensatory time can be used by the employee for any reason unless timing of requested use will unduly disrupt the operations of the employer.

****THIS LIST IS NOT COMPLETE** – this list includes only those types of employees that may be pertinent to Public Libraries. There are other exceptions and modifications for fire and police and other workers with unusual scheduling.

WHO

- Employers who employ 2 or more employees 16 years of age or older (including minors under 16 employed by establishments that manufacture, distribute or serve alcohol under MCL 409.115).
- ANY Employee normally covered under the Fair Labor Standards Act (see below under “But Not”) IF that employee is making LESS than the rate prescribed by this act (ie: the Michigan designated minimum wage).

BUT NOT

- Employers and employees covered under the Fair Labor Standards Act (FLSA) (29 USC 201, et.seq.)- Which, essentially, would include*:
 - Engaged in interstate commerce (manufacture, sell, trade, goods or services for use or sale outside of the State, or, who frequently speaks with or contacts entities outside the state as part of their employment).
 - Domestic Service Workers ○ Businesses that have an annual dollar volume of sales or business done of at least \$500,000 ○ Hospitals, businesses providing medical or nursing care for residents, schools and preschools, and government agencies
 - Employees of Federal, State and Local governments

This list may not be all inclusive. See 29 USC 203, and The Department of Labor FLSA website for additional information:

<https://www.dol.gov/whd/flsa/index.htm>

<https://www.dol.gov/whd/regs/compliance/whdfs14.htm>

OVERTIME SECTIONS DO NOT APPLY TO

- Employees “employed in a bona fide executive, administrative or professional capacity including an employee who is academic administrative personnel or teacher in an elementary or secondary school. (This includes retail employees in executive or administrative capacities – if the number of hours that employee devotes to tasks that are NOT administrative or executive activities is less than %40 of their total hours worked). (This essentially means non-exempt employees are not covered by the overtime provisions). For additional information on whether or not an employee is “exempt” consult your Library’s Attorney, and visit https://www.dol.gov/whd/overtime/fs17a_overview.htm
- Some employees covered under FLSA who are also covered under the Michigan Minimum Wage standard because the Michigan rate is higher (see section 10 of act <http://legislature.mi.gov/doc.aspx?2018-SB-1171>)

*****This list is not complete** – this list includes only those types of employees that may be pertinent to Public Libraries. There are other exclusions, such as agricultural workers, that are listed in the act, but who are not generally pertinent to the operation of public libraries. For additional information and workers not covered, see <http://legislature.mi.gov/doc.aspx?2018-SB-1171> section 4a(8)(c)).

ADDITIONAL INFORMATION:

FEDERAL INFORMATION

FLSA Coverage

<https://www.dol.gov/whd/regs/compliance/whdfs14.htm> Federal

Minimum Wage (US Dept of Labor)

<https://www.dol.gov/whd/minimumwage.htm>

<https://www.dol.gov/general/topic/wages/minimumwage>

MICHIGAN INFORMATION (LARA)

LARA'S Wage & Hour page: <https://www.michigan.gov/lara/0,4601,7-154-59886---,00.html>

LARA'S Michigan Minimum Wage pages:

https://www.michigan.gov/lara/0,4601,7-154-59886_27909---,00.html (Main page on Minimum Wage. Has not yet been updated with information from new law – likely because law does not go into effect until March 2019).

https://www.michigan.gov/lara/0,4601,7-154-59886_76527-140972--,00.html (This information has not been updated to reflect the new legislation – probably because the new legislation will not go into effect until March 2019).

Improved Workforce Opportunity Wage Act (SB 1171 2018 PA 368) (text and legislative information): <http://legislature.mi.gov/doc.aspx?2018-SB-1171>

CDM/12-2018

WHAT DOES THIS MEAN FOR MICHIGAN LIBRARIES??

- Full and part-time non-exempt hourly staff currently working for Michigan Public Libraries are usually employees of LOCAL GOVERNMENT ENTITIES, and therefore, should be covered under the Fair Labor Standards Act, and required to follow those standards.
- **BUT** If employees covered under FLSA (such as eligible Public Library Employees) make **LESS under FLSA wage standards than the Michigan Minimum Wage**, then the employees **MUST** be paid the higher amount (ie the Michigan Minimum Wage) even though they are covered by FLSA.(in other words, the Michigan law requires under section 10 of the new amendment, <http://legislature.mi.gov/doc.aspx?2018-SB-1171>, that where State Laws mandate different minimum wages from FLSA, employees must be paid the higher wage.)(*NOTE – Although the higher wage applies, employees covered under FLSA may not be covered by some other portions of this new law. See Section 4a of the act, <http://legislature.mi.gov/doc.aspx?2018-SB-1171> , and your Library attorney for additional information).

SO:

- Since the current federal minimum wage (also the FLSA mandated minimum wage) is \$7.25/hour, and this is LESS than the \$9.45 required under 2018 PA 368, Improved Workforce Opportunity Wage Act, starting with the effective date of this act, which would be approximately March 30, 2019, eligible public library staff would likely be entitled to receive \$9.45/hour.
- Eligible Staff is essentially all “hourly,” non-exempt” staff, whether part time or full-time

Definition of “non-exempt” can be found:

https://www.dol.gov/whd/overtime/fs17a_overview.htm

NOTE - Individual situations can differ - PLEASE consult your library’s attorney with questions concerning wage & hour laws.

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