CalChamber
HR Expert & Business Advocate™

2019 Minimum Wage Hike Brings Changes for California Employers

By: CalChamber Employment Law Counsel

In 2016, Governor Brown signed SB 3, a bill that increases the minimum wage in California to $15 per hour by 2022. The governor's action made California the first state in the nation to commit to raising the minimum wage to $15 per hour statewide.

Large businesses with 26 or more employees began complying on January 1, 2017, and will reach $15 per hour in 2022. Small businesses have until 2023 to reach the $15 per hour rate.

For more information on complying with California labor laws, sign up for a **free trial of HRCalifornia**.

Date	Employers with 26 or More Employees	Employers with 25 or Fewer Employees
01/01/2019	$12 per hour	$11 per hour
01/01/2020	$13 per hour	$12 per hour
01/01/2021	$14 per hour	$13 per hour
01/01/2022	$15 per hour	$14 per hour
01/01/2023	$15 per hour	$15 per hour

Until the minimum wage reaches $15 per hour, the governor has the authority to suspend increases based on current economic conditions. However, these "off-ramps" are discretionary and would come into play only if there are declining state revenues from sales tax, there is a decline in the labor market or there is a budget deficit (this off-ramp is permitted to occur only twice).

Prepare for the minimum wage increase by analyzing other pay practices that might be affected.

Once the minimum wage reaches $15 per hour for all businesses in 2023, wages could then be increased each year up to 3.5 percent (rounded to the nearest 10 cents) for inflation, as measured by the national Consumer Price Index.

Employers must prepare for the minimum wage increase and examine other pay practices that might be affected by the increase. (Hint: There are more than you might think!)

- Minimum wage
- Overtime rate
- Exempt/nonexempt
- Notice requirements

- Meals and lodging
- Piece-rate employees
- Draws against commissions
- Tools/equipment
- Subminimum wage

This white paper covers just a partial list of pay practices that can be affected by the minimum wage hike. CalChamber members can visit this HRCalifornia page for the full list of pay practices and best practices.

Overtime

The minimum wage increase affects the overtime rate that must be paid to employees who perform work that qualifies for overtime.

Effective January 1, 2019, the overtime rate for minimum wage employees is:

- Employers with 26 or more employees: $18 per hour for time and one-half or $24 per hour for double-time.
- Employers with 25 or fewer employees: $16.50 per hour for time and one-half or $22 per hour for double-time.

Double check your overtime rates beginning January 1...

Classifying Employees

The minimum wage rate change affects the classification of employees as exempt versus nonexempt. For an employee to qualify under the commonly used administrative, executive or professional exemptions from overtime, the employee must meet the salary-basis test (which means the employee's salary must be no less than two times the state minimum wage for full-time employment) in addition to meeting all other legal requirements for the exemption.

That minimum salary rate is $49,920 annually, effective January 1, 2019, for employers with 26 or more employees. For employers with 25 or fewer employees, the minimum salary threshold for the administrative, executive and professional exemptions is $45,760 for 2019.

By 2023, the minimum salary threshold for these exemptions will rise to at least $62,400 for all employers. This works out to an increased cost to employers of $20,800 per exempt employee over the salary threshold that was in effect when the new minimum wage law was initially passed in 2016.

Employers should be mindful of the effect of the required salary threshold for exempt/nonexempt classifications and ensure that employees meet the salary basis test for the particular exemption claimed. Misclassification is costly. Employers who are unsure if their employees are exempt or nonexempt should always check with their legal counsel.

Posters and Notices

The minimum wage rate change affects your notice requirements:

First, all California employers must post the official Minimum Wage Order in a conspicuous location frequented by employees. A new minimum wage poster will be mandatory for January 1, 2019, as the current poster (MW-2017) only displays the 2017 and 2018 wage rates.

Second, California employers must provide each employee with a written itemized wage statement at the time wages are paid (Labor Code section 226). Among other mandatory information, the itemized wage statement must include all applicable hourly rates in effect during the pay period and the corresponding number of hours the employee worked at each hourly rate.

Third, employers in California must provide nonexempt employees with a written wage notice at time of hire and again within seven calendar days after a change is made to any information in the notice (Labor Code section 2810.5).

If an employee's rate of pay, including overtime rate, increases on January 1, 2019, due to the minimum wage increase, the employee must receive notice from his/her employer by January 7, 2019. The separate wage notice is not required if the employer has reflected the change on a timely itemized wage statement that meets all legal requirements.

Wage statements should include any change to employees' pay caused by the minimum wage increase.

Local Ordinances

Remember that local ordinances may affect your minimum wage obligations. Some cities and counties in California adopted their own local minimum wage rates that are separate from the state rate. This is part of a growing trend. Local minimum wage rates may change at any time; employers should closely monitor them. CalChamber members have access to local ordinance content, including a wizard to help employers determine which local ordinances and labor law posters apply to their business.

Note: Exempt/nonexempt classification is based on the state minimum wage, not local ordinances.

Best Practices for California Employers

Remember: California employers must pay employees no less than the state minimum wage per hour for all hours worked. Because California's state minimum wage is higher than the federal minimum wage, employers will be required to pay the state rate. When state and federal laws differ, employers must comply with the more restrictive requirements.

- Display a poster that includes the official Minimum Wage Order. CalChamber's 2019 California and Federal Labor Law poster includes the mandatory, updated minimum wage notice.
- Update any necessary payroll documentation.
- Provide revised, itemized wage statements in a timely manner when wages are paid and ensure the statements accurately reflect the new minimum wage increase.
- Provide employees affected by the minimum wage increase with an appropriate wage notice showing the change in the rate of pay, if required.
- The obligation to pay the minimum wage can't be waived by any agreement, including collective bargaining agreements.

v100118

CalChamber Can Help ...
Did you find this white paper helpful? Please share it with colleagues using the share link at the bottom of each page.

For more information on California labor laws and HR compliance, sign up for a free 15-day trial of HRCalifornia.

Your 15-day free trial includes access to the website's HR Library, compliance tools, and select forms and checklists.

To learn more about CalChamber resources, please call our Customer Service Representatives at (800) 331-8877, Monday through Thursday from 8 a.m. to 5 p.m. PT, and on Friday from 8 a.m. to 4 p.m. PT.

© California Chamber of Commerce