

# HR COMPLIANCE LIBRARY

## Ideas & Trends

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### STATE LAW ROUNDUP

## State lawmakers pass slew of minimum wage laws in 2016; also expand employee protections

As the year 2016 comes to a close, it is time to reflect on state law activity and its anticipated impact on the workplace. State lawmakers were especially focused this year on employee wages. Whether increasing minimum wages or enhancing “wage theft” laws with tighter wage payment penalties, the majority of states saw legislative activity in this realm.

As for employee protections, three states enhanced social media privacy protections and another five joined the ranks of those with “Ban the Box” laws on the books. Interestingly, Vermont’s enactment of this type of law, which generally prohibits employers from inquiring about an applicant’s criminal history on a job application (the timing of when that inquiry is or is not allowed during the hiring process varies by state), makes it the seventh state to implement a state-wide “Ban the Box” law that applies to both state *and* private employers.

A considerable amount of legislative activity at the state level also focused on protections for military personnel. Six states either amended or enacted veterans’ preference laws while another handful enhanced veterans leave legislation. The expansion of veterans leave protections focused mostly on leave for National Guard service in a state other than the one in which the servicemember is currently employed.

As we usher in a new year, we also anticipate a new presidential administration. It remains to be seen what, and how great, the impact of the newly elected American leader will be on these laws. In the meantime, we focus on the state laws as they currently stand. What is referenced here represents only a few of the legal issues state legislatures took up in 2016. Some of the major state legislative activity is highlighted below.

This summary is in two parts, with the next issue of *Ideas & Trends* set to report on state legislative activity as it pertains to fair employment practices, employee misclassification, wage payment, “right to work,” employment verification, and a variety of new and expanded employee leave laws. Please note that this summary is not exhaustive, and generally covers only laws of broad application in the specified subject areas. It is important to keep in mind that state executive orders, rules and regulations, administrative agency actions, and case law also determine where states stand on some issues. The following summary focuses almost exclusively on statutory activity.

## VETERANS' PREFERENCE LAWS

### More states allowing employers to grant hiring preference to veterans

**Florida.** The state's public employment veterans' preference law was amended with respect to recruitment plans (Ch. 2016-102 (H. 1219), L. 2016, eff. October 1, 2016).

**Maryland.** Effective October 1, 2016, an employer may grant a preference in hiring and promotion to (1) an eligible veteran; (2) the spouse of an eligible veteran who has a service-connected disability; or (3) the surviving spouse of a deceased eligible veteran (Ch. 319 (H. 306), L. 2016).

**Pennsylvania.** The state enacted a law allowing private employers to give preference to veterans. Employers who wish to do this must adopt and apply a written policy. The policy must include a statement in any job posting that indicates that the employer has and applies a veterans' preference employment policy. The policy must be provided to applicants at the time of hiring, and to all employees on an annual basis (Act No. 2016-135 (H. 1600), L. 2015, enacted November 3, 2016).

**Rhode Island.** Rhode Island now allows private employers to adopt an employment policy providing a preference in hiring or promotion or both to veterans who served an active duty in the U.S. Armed Forces and received an honorable or general discharge (Ch. 365 (H. 8036) and Ch. 348 (S. 2886), L. 2015, enacted and eff. July 6, 2016).

**South Dakota.** The state's veterans' preference law was amended to require the Department of Veterans' Affairs to coordinate with the Veterans' Commission and the South Dakota Veterans' Council to create informative materials about current state laws pertaining to veterans' preference in employment to be both posted on the Department of Veterans' Affairs website for public access and for distribution by the council and its member organizations (H. 1056, L. 2016).

**Wyoming.** The state enacted a law allowing a private employer to grant preference to a veteran in hiring and promotion, effective July 1, 2016 (S. 3, L. 2016). ■

## MILITARY LEAVE

### Military leave now includes National Guard service in another state

**Florida.** Effective July 1, 2016, a county or state official may be granted a leave of absence from employment to serve in the National Guard of any state. Under prior law, such leave was limited to members of the Florida National Guard. The law also clarifies that a National Guard member who is ordered into active duty by another state is not to be penalized by employers (S. 7040, L. 2016).

**Georgia.** The Protecting Guardsmen's Employment Act requires that private employers reemploy certain members of the National Guard of another state who have been discharged or suspended from employment due to being called into active state service (Act 454 (H. 831), L. 2015, enacted April 26, 2016).

**Hawaii.** The law relating to military leaves of absence for public officers and employees was amended to authorize reserve and national guard members to receive paid military leave while on inactive-duty training (Act 201 (H. 1807), L. 2016).

**Idaho.** The Militia Civil Relief Act has been amended with respect to the length of time constituting state active duty (H. 473, L. 2016).

**Indiana.** The state extended employment protections under the federal Uniformed Services Employment and Reemployment Rights Act, and extended the rights, benefits, and protections under the Servicemembers Civil Relief Act to members

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of the national guard of another state during state sponsored activation (P.L. 116 (H. 1373), L. 2016, eff. July 1, 2016).

**Maryland.** The state enacted a law altering and clarifying certain provisions of the statutes governing employment and re-employment rights for certain members of the National Guard. The law also repeals the application of certain employment protection provisions relating to members of the Maryland Defense Force (Ch. 62 (S. 281), L. 2016, eff. October 1, 2016).

A member of the National Guard whose employment and reemployment rights have been violated may bring a civil action for economic damages, including lost wages and benefits. If the court determines the member's rights have been violated, such member may be entitled to damages, reasonable counsel fees and other costs, and any other appropriate relief (Ch. 560 (S. 557) and Ch. 561 (H. 249), L. 2016, eff. October 1, 2016).

**Michigan.** The state enacted a law providing employment protections for National Guard members who work outside of the state where they mobilize (P.A. 172 (H. 4796), L. 2015, enacted June 12, 2016, eff. September 12, 2016).

Also, the Civil Air Patrol Employment Protection Act will prohibit an employer from discriminating against, disciplining, or discharging an employee who is absent from work to respond to an emergency as a civil air patrol volunteer (Act 75 (H. 4537), L. 2015, enacted April 5, 2016, eff. July 4, 2016).

**Nebraska.** The state amended its military leave law to cover any person employed in Nebraska who is a member of the National Guard of another state and who is called into active service by the governor of that state (L.B. 753, L. 2015, enacted March 9, 2016).

**Rhode Island.** The state enacted a law providing that a person who is a duly qualified member of the Rhode Island National Guard or the guard of any other state who

leaves employment upon being called to serve is entitled to be restored to his or her employment upon completion of such military service. Prior law only guaranteed this right to members of the Rhode Island National Guard (Ch. 366 (H. 8037), L. 2015, enacted and eff. July 6, 2016).

**Vermont.** Vermont enacted a law expanding its military leave provisions to include employees who are members of the National Guard of another state. The law, which took effect July 1, 2016, permits Vermont employees that serve in another state's National Guard to retain their civilian employer-sponsored health insurance if ordered to state active duty. The law also clarifies relief available through a civil action for a member of the National Guard or a Reserve Component of the U.S. Armed Forces whose employment or reemployment rights are violated (H. 805, L. 2015, enacted May 23, 2016).

**Virginia.** The Commonwealth extended its military leave, reemployment rights and related discrimination protections to employees who are members of the National Guard of another state (H. 111, L. 2016).

**West Virginia.** Members of the organized militia in the active service of this state or of another state shall be entitled to the same reemployment rights granted to members of the reserve components of the Armed Forces of the United States by applicable federal law, including rights protected by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), as amended, 38 U.S.C. Sections 4301-4334 (Ch. 104 (S. 484), L. 2016).

**Wyoming.** The purpose section of the Military Service Relief Act was amended to specify its application to uniformed services of all states. In addition, the military leave of absence provisions were amended to specify application to members of national guards in other states (S. 4, L. 2016). ■

## BAN THE BOX

### "Ban the Box" legislation signed into law in four more states

**Connecticut.** Governor Malloy signed House Bill 5237 into law as P.A. 16-83 on June 1, 2016. House Bill 5237, after being gutted and replaced by amendment, will preclude employers with one or more employees in the state from inquiring about a prospective employee's criminal history on an initial job application, except under certain circumstances.

Under the final version of the "ban the box" law, which will take effect January 1, 2017, employers will be permitted to inquire into an applicant's criminal background where required to do so under state or federal law, or when the prospective

employee has applied for a job for which the employer must obtain a security or fidelity bond or equivalent bond.

Employers who violate the law will be subject to a penalty of \$300 for each violation.

**Louisiana.** The state enacted a "ban the box" law for state employment. No state employer, when filling a position, may inquire, including without limitation on an initial application form, about a prospective employee's criminal history until after the prospective employee has been given

an opportunity to interview for the position or, if no such interview is to be conducted, until after the prospective employee has been given a conditional offer of employment. (Act 398 (H. 266), L. 2016, eff. August 1, 2016).

**Ohio.** Governor John R. Kasich signed a “ban-the-box” bill into law. House Bill 56 prohibits public employers from including on an employment application any question concerning the criminal background of the applicant, while also prohibiting a felony conviction from being used against an officer or employee when a public employer is undertaking certain employment practices.

Prior to enactment of the law, the state had a “ban-the-box” policy directive that applied to applicants for civil service jobs in Ohio (*State of Ohio Administrative Policy HR-29*, effective May 15, 2015) (*Governor’s Press Release*, December 22, 2015; Session Law No. 32 (H. 56), L. 2015, enacted December 22, 2015).

**Vermont.** Governor Peter Shumlin signed “ban the box” legislation—H. 261—to remove questions about criminal records from the very first part of job applications in Vermont. According to the Governor, the bill will give those

with criminal records a fair chance at a good job and reduce the risk of recidivism and incarceration. The law follows a 2015 Executive Order signed by Governor Shumlin to implement a “ban the box” hiring policy for state jobs.

H. 261 prohibits employers from asking questions about prior criminal convictions on an initial job application, allowing applicants to be judged on their work history and qualifications rather than on a mistake made in their past. Employers will still be allowed to ask questions in later stages of the hiring process, and the law provides exemptions for certain positions where a criminal conviction would automatically disqualify an applicant due to state or federal law.

Vermont is the seventh state to implement a state-wide “ban the box” law that applies to both state and private employers (*State of Vermont, Office of the Governor, Press Release*, May 3, 2016).

**Wisconsin.** The state amended its civil service law extensively. “Ban the box” provisions have been enacted for civil service employment (A. 373, L. 2015, enacted February 12, 2016, and eff. July 1, 2016). ■

## RECORDKEEPING

### States enact and amend laws pertaining to personnel files and recordkeeping

**California.** The state amended its Labor Code establishing the Property Service Workers Protection Act. The Act applies to employers of janitors, defined as any individual predominantly working as a janitor. Independent contractors and franchisees working as janitors are also covered by the law.

The new law specifies recordkeeping requirements for employers and requires every covered employer to register with the Labor Commissioner of the Division of Labor Standards Enforcement annually, beginning July 1, 2018. The commissioner shall maintain a public database of property service employers on the Internet website of the Department of Industrial Relations.

Additionally, the Division of Labor Standards Enforcement is required to establish a biennial in-person sexual violence and harassment prevention training requirement for covered employees and employers by January 1, 2019, and all new applications for registration and renewal of registration shall complete such training effective January 1, 2020.

Civil fines will be imposed for failure to register (Ch. 373 (A. 1978), L. 2015, enacted September 15, 2016).

The state’s law was also amended to require a person or business conducting business in California, and any agency, that owns or licenses computerized data that includes personal information to disclose a breach of the security of the data to a resident of California whose encrypted personal information

was, or is reasonably believed to have been, acquired by an unauthorized person and the encryption key or security credential was, or is reasonably believed to have been, acquired by an unauthorized person and the person, business, or agency that owns or licenses the encrypted information has a reasonable belief that the encryption key or security credential could render that personal information readable or useable (Ch. 337 (A. 2828), L. 2015, enacted September 13, 2016).

**Colorado.** The state has enacted a law providing private sector employees the right to inspect their personnel files (H. 1432, L. 2016).

**Hawaii.** The law relating to enforcement of wage and hour laws by the Department of Labor and Industrial Relations was amended with regard to employer recordkeeping requirements to require employers to keep a record of the former physical addresses and current physical addresses of the employer and the North American Industry Classification System code that applies to the employer (Act 190 (S. 2289), L. 2016, eff. July 1, 2016).

**North Carolina.** The state enacted a law relating to information contained in a personnel file, and the disclosure of such information to defend against a claim filed by an employee or former employee against a board of education or a school official or employee (Session Law 2016-116 (H. 561), L. 2015, enacted July 28, 2016, eff. October 1, 2016).

**Oregon.** Oregon law relating to employee access to personnel records has been amended to provide that, effective January 1, 2017, within 45 days after receipt of an employee's request, the employer is to provide the employee reasonable opportunity to inspect his or her personnel records used to determine the employee's qualification for employment, promotion, additional compensation, em-

ployment termination or disciplinary action and time and pay records of the employee for the period required by the federal Fair Labor Standards Act (29 U.S.C. 211(c)), and accompanying regulations. The employer is to furnish the employee with a certified copy of the records within 45 days after receipt of the employee's request (Ch. 115 (S. 1587), L. 2016). ■

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## EQUAL PAY

### Employee equal pay protections amended in handful of states in 2016

**California.** California law prohibits an employer from paying employees at wage rates less than the rates paid to employees of the opposite sex for substantially similar work, unless the employer demonstrates that specific, reasonably applied factors account for the entire wage differential. This law has been amended effective January 1, 2017, to also prohibit discrimination in payment of wages based on a person's race or ethnicity.

In addition, prior salary would not, by itself, justify any pay disparity. Violation of the law is a misdemeanor offense, subjecting a person to a fine of not more than \$10,000 and/or imprisonment of not more than six months (Ch. 856 (A. 1676), L. 2016, and Ch. 866 (S. 1063), L. 2016).

**Maryland.** The state amended its equal pay law to prohibit discrimination on the basis of gender identity. Also, the state has enacted new law prohibiting an employer from taking certain actions concerning the disclosure or discussion of an employee's wages (Ch. 556 (S. 481), L. 2016, and Ch. 557 (H. 1003), L. 2016, eff. October 1, 2016).

**Massachusetts.** Governor Charlie Baker on August 1, 2016, signed a bipartisan pay equity bill—S. 2119, "An Act to Establish Pay Equity"—to ensure equal pay for comparable work for all Massachusetts workers and equal opportunities to earn competitive salaries in the workplace.

The bill was passed unanimously by both legislative branches on July 23.

The new law will prevent pay discrimination for comparable work based on gender. The bill also allows employees to freely discuss their salaries with coworkers, prohibits employers from requiring applicants to provide their salary history before receiving a formal job offer and authorizes

the Attorney General to issue regulations interpreting and applying the expanded law.

Employers will, however, be permitted to take certain attributes of an employee or applicant into account when determining variation in pay, such as work experience, education, job training, or measurements of production, sales, or revenue.

The statute of limitations laid out currently under the Equal Pay statute will be expanded from one to three years, and employees will no longer be required to pursue a general claim of intentional discrimination at the Massachusetts Commission against Discrimination before filing a separate equal pay claim in court (Ch. 177 (S. 2119), L. 2015, eff. July 1, 2018).

**Nebraska.** Nebraska's equal pay law, which prohibits discrimination in the payment of wages based on sex, was amended to apply the law to employers with two or more employees.

Under prior law, coverage was extended to employers with 15 or more employees working each day in 20 or more calendar weeks in the current or preceding year, as well as to any agent of such employer.

The law also applies to any party whose business is financed in whole or in part under the Nebraska Investment Finance Authority Act, and includes the state of Nebraska, its government agencies, and political subdivisions, regardless of the number of employees (L.B. 83, L. 2015, enacted March 30, 2016, eff. July 20, 2016).

**Utah.** The law prohibiting discrimination in compensation was amended to provide that a person who is subject to such discrimination may receive a remedy in an additional amount equal to the back pay amount already available (S. 185, L. 2016). ■

## WAGE LAWS

**Minimum wage, wage payment action dominates state legislative activity**

**Alabama.** Governor signed the Alabama Uniform Minimum Wage and Right to Work Act on February 25, 2016, effectively halting Birmingham and other local governmental entities from enacting their own minimum wage and benefit requirements. The new law also bans any local mandate that would create any requirement, regulation or process relating to labor peace or similar agreements. The law prohibits local governmental entities from requiring minimum leave, wages, or other benefits for employees, classes of employees, or independent contractors of employers; and provides for the Act to retain the exclusive authority of the state through the legislature to regulate collective bargaining under federal labor laws, and wages, leave, and benefits provided by an employer to employees, classes of employees, and independent contractors (Act 2016-18 (H. 174)).

**Alaska.** The Alaska minimum wage will increase from \$9.75 to \$9.80 per hour effective January 1, 2017. The increase applies to all employees in the private sector, whether working in a for-profit, not-for-profit or non-profit business. Tips still do not count toward the minimum wage. Public school bus driver wages must be compensated not less than twice the current Alaska minimum wage.

Certain exemptions apply to minimum wage and overtime requirements, including an exemption for individuals employed in a bona fide executive, administrative, or professional capacity to be compensated on a salary or fee basis at a rate of not less than two times the state minimum wage for the first 40 hours of employment each week, exclusive of board or lodging that is furnished by the individual's employer. However, this minimum salary requirement for exemption has recently been increased to \$913 per week effective December 1, 2016.

**Arizona.** The minimum wage in Arizona will increase to \$10 per hour on January 1, 2017. The "Fair Wages and Healthy Families Act" initiative (Proposition 206) was approved by voters in the November 8, 2016, General Election. The Act increases the minimum wage to \$12 per hour by 2020, and also provides for earned paid sick time. The minimum wages are scheduled to increase as follows: \$10 on and after January 1, 2017; \$10.50 on and after January 1, 2018; \$11 on and after January 1, 2019; and \$12 on and after January 1, 2020. Effective January 1, 2021, the minimum wage would then be increased based on increases in the cost of living.

Currently, the minimum wage in Arizona is \$8.05 per hour. Had the ballot initiative failed to pass, the Arizona minimum wage would have increased to \$8.15 per hour on January 1, 2017, as adjusted by the Commissioners for the Industrial Commission of Arizona, based on an increase in the

cost of living. However, since the ballot measure provides for a higher minimum wage than that determined by the Industrial Commission, the higher voter-approved wage of \$10 per hour will take effect on January 1, 2017.

In addition, employees will be entitled to paid sick leave, at the rate of one hour of paid sick time for every 30 hours worked, but with limits based on the size of the employer. Note that election results are not final until certified (Proposition 206, <http://apps.azsos.gov/election/2016/general/ballotmeasuretext/1-24-2016.pdf>; Election results, <http://results.arizona.vote/2016/General/n1591/Results-State.html>).

**California.** The California minimum wage is scheduled to gradually increase to \$15 per hour by 2022 for large employers with 26 or more employees, and by 2023 for smaller employers with 25 or fewer employees, under legislation signed by the Governor on April 4, 2016. The legislation also provides that a scheduled increase could be suspended if negative economic or budgetary conditions emerge.

If no increases are paused, the scheduled wage increases would be as follows: \$10.50 per hour on January 1, 2017, for large businesses (26 employees or more) and on January 1, 2018, for smaller employers (with 25 employees or less); \$11 per hour on January 1, 2018, for large businesses and on January 1, 2019, for smaller employers; \$12 per hour on January 1, 2019, for large businesses and on January 1, 2020, for smaller employers; \$13 per hour on January 1, 2020, for large businesses and on January 1, 2021, for smaller employers; \$14 per hour on January 1, 2021, for large businesses and on January 1, 2022, for smaller employers; \$15 per hour on January 1, 2022, for large businesses and on January 1, 2023, for smaller employers.

Once the minimum wage reaches \$15 per hour for all businesses, 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 (Ch. 4 (S. 3), L. 2016, eff. January 1, 2017).

*November General Election Ballot Measure.* Prior to enactment of S. 3 (see just above), California Secretary of State Alex Padilla announced on March 22, 2016, that an initiative proposing to raise the state minimum wage was eligible for the November 8, 2016, General Election ballot. The ballot measure also calls for the minimum wage to gradually increase to \$15, but by 2021. Currently, the minimum wage is \$10 per hour.

*Overtime.* California Labor Code Section 515.5 provides that certain computer software employees are exempt from

the overtime requirements stipulated in Labor Code Section 510 if certain criteria are met. One of the criteria is that the employee's hourly rate of pay is not less than the statutorily specified rate, which the department is responsible for adjusting October 1st of each year to be effective on January 1st of the following year by an amount equal to the percentage increase in the California Consumer Price Index for Urban Wage Earners and Clerical Workers. Assembly Bill 10, L. 2008, amended Labor Code Section 515.5 effective on September 30, 2008, to extend the exemptions to salaried employees whose annual and monthly salaries are not less than the statutorily specified rates, which the department is responsible for adjusting every October 1st of each year to be effective on January 1st of the following year by an amount equal to the percentage increase in the California Consumer Price Index for Urban Wage Earners and Clerical Workers. The Department has adjusted the computer software employee's minimum hourly rate of pay exemption from \$41.85 to \$42.39, the minimum monthly salary exemption from \$7,265.43 to \$7,359.88, and the minimum annual salary exemption from \$87,185.14 to \$88,318.55, effective January 1, 2017, reflecting a 1.3% increase in the cost of living (*State of California, Department of Industrial Relations, Office of the Director -Research Unit, Memorandum on the Overtime Exemption for Computer Software Employees*, October 5, 2016, <https://www.dir.ca.gov/oprl/Computer-Software.pdf>).

California Labor Code Section 515.6 provides that certain licensed physicians and surgeons are exempt from the overtime requirements stipulated in Labor Code Section 510 if certain criteria are met. One of the criteria is that the employee's hourly rate of pay is not less than \$55.00, effective January 1, 2002. The department is responsible for adjusting this pay rate on October 1st of each year to be effective on January 1st of the following year by an amount equal to the percentage increase in the California Consumer Price Index for Urban Wage Earners and Clerical Workers.

The Department has adjusted the licensed physicians and surgeons employee's minimum hourly rate of pay exemption from \$76.24 to \$77.23 effective January 1, 2017, to reflect the 1.3% increase in the cost of living (*State of California, Department of Industrial Relations, Office of the Director -Research Unit, Memorandum on the Overtime Exemption for Licensed Physicians and Surgeons*, October 5, 2016, <https://www.dir.ca.gov/oprl/Physicians.pdf>).

Also, the "Domestic Worker Bill of Rights" law regulates the hours of work of domestic work employees who are personal attendants and provides an overtime compensation rate for those employees. The Domestic Worker Bill of Rights law was scheduled for repeal on January 1, 2017, but Senate Bill 1015 was enacted on September 12, 2016, to delete the repeal date and extend the law (Ch. 315 (S. 1015), L. 2016, eff. January 1, 2017).

Agricultural workers will no longer be exempt from state requirements covering hours, meal breaks, and other working conditions, including specific wage requirements. Overtime compensation requirements for these workers will be phased in over the course of four years, from 2019 to 2022, under the "Phase-in Overtime for Agricultural Workers Act of 2016."

Beginning January 1, 2022, any work performed by a person employed in an agricultural occupation in excess of 12 hours in one day must be compensated at a rate of no less than twice the employee's regular rate of pay. Employers who employ 25 or fewer employees will be given an additional three years to comply with the phasing in of these overtime requirements. The Act also authorizes the Governor to temporarily suspend implementation if the Governor has also suspended implementation of a scheduled minimum wage increase. The Act also requires the Department of Industrial Relations to update Wage Order 14-2001 to be consistent with the statutory law (Ch. 313 (A. 1066), L. 2016).

Teachers at private elementary and secondary academic institutions are exempt under the state's overtime compensation law if certain criteria are met, including that the employee earns a monthly salary equivalent to no less than two times the state minimum wage for full-time employment. This provision has been amended to suspend that earnings standard until July 1, 2017. On and after that date, a revised earnings standard is prescribed for exemption from the overtime provisions that would require the employee to earn no less than the lowest salary offered by any school district or the equivalent of no less than 70% of the lowest schedule salary offered by the school district or county in which the school is located, as specified (Ch. 314 (A. 2230), L. 2016).

*Penalties.* The law covering penalties for violations provides that if a person desires to contest a citation or proposed assessment of penalties, wages or liquidated damages, the person is to give notice to the office of the Labor Commissioner within 15 business days after service of the citation, of an appeal by a request for an informal hearing. After a hearing with the Labor Commissioner, a person contesting a citation may file a writ of mandate, within 45 days, with the appropriate superior court.

This law has been amended to provide that a person seeking a writ of mandate contesting the Labor Commissioner's ruling will be required to post a bond with the Labor Commissioner in an amount equal to the unpaid wages assessed under the citation, excluding penalties. The bond is to be issued in favor of the unpaid employees and ensure that the person seeking the writ makes prescribed payments pursuant to the proceedings. The proceeds of the bond, sufficient to cover the amount owed, would be forfeited to the employee if the employer fails to pay the amounts owed within 10 days from the conclusion of the proceedings (Ch. 622 (A. 2899), L. 2016, enacted September 25, 2016, eff. January 1, 2017).

*Local wage laws.* New law has been added to the California Government Code to provide that the legislative body of a city or county is authorized to delegate that body's authority to issue subpoenas and to report noncompliance to the judge of the superior court of the county, in order to enforce any local law or ordinance, including but not limited to local wage laws (Ch. 115 (S. 1342), L. 2016, enacted July 25, 2016, eff. January 1, 2017).

**Colorado.** Colorado voters in the November 8, 2016, General Election approved an initiative to raise the minimum wage to \$12 by 2020. Amendment 70 amends Section 15 of Article XVIII of the Colorado Constitution to increase the state minimum wage from \$8.31 per hour to \$9.30 per hour on January 1, 2017, with annual 90-cent increases each January 1 until the minimum wage reaches \$12 per hour in January 2020 (\$9.30, \$10.20, \$11.10, \$12). The minimum wage would be adjusted annually after that based on cost-of-living increases, as measured by the Consumer Price Index for Colorado.

The voter initiative is higher than the increase proposed by the Colorado Department of Labor and Employment, Division of Labor Standards and Statistics, which would, through a revised minimum wage order (No. 33), increase the state minimum wage to \$8.56 per hour on January 1, 2017. Therefore the higher voter-approved rate of \$9.30 per hour will apply on January 1. Note that election results are not final until certified (Amendment 70 (Proposed Initiative 101, <http://www.sos.state.co.us/pubs/elections/Initiatives/titleBoard/filings/2015-2016/101Final.pdf>; Colorado election results, <http://results.enr.clarityelections.com/CO/63746/182824/Web01/en/summary.html>).

**District of Columbia. Living wage.** As of January 1, 2016, the 2016 Living Wage for contractors of the District of Columbia Government is \$13.85. District contractors and recipients of government assistance in the amount of \$100,000 or more must pay their affiliated employees no less than the current living wage rate. Subcontractors of D.C. contractors who receive \$15,000 or more from the contract and subcontractors of the recipients of government assistance who receive \$50,000 or more from the assistance are also required to pay their affiliated employees no less than the current living wage rate.

*Minimum wage.* As of July 1, 2016, the minimum wage in the District of Columbia is \$11.50 per hour for all workers, regardless of size of employer. The Minimum Wage Amendment Act of 2013 was signed into law on January 15, 2014, after unanimous passage by the D.C. Council. The law also includes provisions to further increase the minimum wage in subsequent years (B20-459).

The "Fair Shot Minimum Wage Amendment Act of 2016" increases the minimum wage in the District to \$15 per hour

by 2020, including a \$5 per hour tipped minimum wage. Both wages would be indexed to inflation. The Act provides for a schedule of minimum wage increases to reach \$15 per hour by 2020, and increases in the tipped minimum wage to reach \$5 per hour. Future increases would be based on the cost of living starting in 2021, and the minimum wage will apply to public contracts if the living wage is ever lower than the District's minimum wage. The first scheduled increase is scheduled to begin in July of 2017, with an increase to \$12.50 per hour for the minimum wage rate, and \$3.33 for the tipped minimum wage (currently, \$2.77).

The Fair Shot Minimum Wage Amendment Act of 2016 applies to all employers in the District, including the District government, but it does not apply to the federal government.

In addition, the District's Living Wage Act of 2006 is amended to provide that these minimum wage requirements would apply to contracts and agreements for government assistance if the minimum wage is ever higher than the living wage. The Mayor will be required to publish in the District of Columbia Register, on the Department of Employment Services Internet website, and make available to employers a bulletin announcing the adjusted minimum hourly wage at least 30 days before an increase is scheduled to take effect (*Council of the District of Columbia, News Release, July 21, 2016; DC Law 21-0144 (Act 21-429; B21-712)*, signed June 29, 2016, eff. from August 19, 2016 (63 DC Register 11135)).

The Minimum Wage Act Revision Act has been amended by the "Wage Theft Prevention Correction and Clarification Temporary Amendment Act of 2016" to extend temporary corrections and clarifications, to clarify the time period for retention of payroll records, when a general contractor and subcontractor or a general contractor and temporary staffing firm will be jointly and severally liable for violations, and how the Mayor will make certain information available to employers (Act 493 (B21-845), L. 2016, enacted October 4, 2016, with a projected law date of December 23, 2016 (63 DC Register 12600)).

*Child Labor.* The Youth Employment Act has been amended. The Act provides for a summer youth jobs program for youth. For youth ages 14 and 15 at date of enrollment into the program, employers must pay an hourly work readiness training rate of not less than \$5.25. For youth ages 16 through 21, employers must pay an hourly rate of \$8.25. For those ages 22 through 24 in the program, employers must pay no less than the city minimum hourly wage (DC Law 21-112 (Act 21-340; B21-399), eff. from May 12, 2016, 63 DCR 4326).

*Wage Payment.* The "Wage Theft Prevention Amendment Act of 2014," effective February 26, 2015 (DC Law 20-157; 61 DCR 10157) ("Wage Theft Act") has been amended by temporary emergency legislation to exempt an employer



from keeping precise time records for bona fide executive, administrative and professional employees; to limit the languages necessary for employer compliance with payment notice requirements; to exempt an employer from paying wages to a bona fide executive, administrative, and professional employees at least twice during each calendar month, provided that the employer pays wages to employees at least once per month (Resolution No. R21-358 (PR 21-515), effective from January 5, 2016; Resolution Number 21-645 (PR21-999), eff. from November 1, 2016).

The Act was also amended to clarify when certain provisions shall take effect, who may bring an action on behalf of an employee, amend criminal penalties, clarify when amounts in the Wage Theft Prevention Fund may be spent, authorize the Mayor to issue rules, and clarify how the Mayor shall make certain information available to manufacturers. The changes are intended to enhance the ability of the District to enforce laws prohibiting wage theft (Resolution R21-350 (PR21-517), eff. from January 5, 2016).

**Florida.** The Florida minimum wage will increase to \$8.10 per hour, effective January 1, 2017. Florida law requires the Florida Department of Economic Opportunity to calculate a minimum wage rate each year. The annual calculation is based on the percentage increase in the federal Consumer Price Index for Urban Wage Earners and Clerical Workers in the South Region for the 12-month period prior to September 1, 2016. The change for 2017 reflects a 0.62% increase in the cost of living, resulting in an increase of five cents over the 2016 rate of \$8.05 per hour.

On November 2, 2004, Florida voters approved a constitutional amendment which created Florida's minimum wage. The minimum wage applies to all employees in the state who are covered by the federal minimum wage.

Employers must pay their employees the hourly state minimum wage for all hours worked in Florida. The definitions of employer, employee, and wage for state purposes are the same as those established under the federal Fair Labor Standards Act (FLSA) and its implementing regulations. Employers of tipped employees, who meet eligibility requirements for the tip credit under the FLSA, may credit towards satisfaction of the minimum wage tips up to the amount of the allowable FLSA tip credit in 2003. However, the employer must pay tipped employees a direct wage. The direct wage is calculated as equal to the minimum wage (\$8.10) minus the 2003 tip credit (\$3.02), or a direct hourly wage of \$5.08 as of January 1, 2017 (*Florida Department of Economic Opportunity, 2017 Minimum Wage Announcement*, October 15, 2016, <http://www.floridajobs.org/docs/default-source/2017-minimum-wage/florida-minimum-wage-2017-announcement.pdf?sfvrsn=2>; 2017 Florida Minimum Wage Calculations, <http://www.floridajobs.org/docs/default-source/2017-minimum-wage/2017-minimum-wage-calculation.pdf?sfvrsn=2>).

**Idaho.** Idaho's minimum wage law was amended to prohibit political subdivisions from establishing, by ordinance or other action, minimum wages higher than the state minimum wage. A "political subdivision" is defined to mean any county, city, municipal corporation, health district, school district, irrigation district, an operating agent of irrigation districts whose board consists of directors of its member districts, special improvement or taxing district, or any other political subdivision or public corporation (Ch. 145 (H. 463), L. 2016, enacted March 23, 2016, without the governor's signature, eff. July 1, 2016).

**Illinois.** The Illinois Minimum Wage Law was amended to include domestic workers as covered employees (P.A. 99-758 (H. 1288), L. 2015, enacted August 12, 2016, eff. January 1, 2017).

The Wages of Women and Minors Act was amended to remove the exemption for domestic service in the home from the definition of "occupation", thus including such work as covered under the Act (P.A. 99-758 (H. 1288), L. 2015, enacted August 12, 2016, eff. January 1, 2017).

The Domestic Workers' Bill of Rights Act was signed on August 12, 2016, to ensure and generally enforce the rights of domestic workers, effective January 1, 2017 (P.A. 99-758 (H. 1288), L. 2015).

**Kentucky.** Kentucky law requires that employers compensate employees at a rate of not less than one and one-half times an employee's hourly wage for employment in excess of 40 hours in a workweek. This law was amended to allow an exception for peace officers working longer than 40 hours in a seven-consecutive-day workweek. A law enforcement department of a consolidated local government will not be in violation of overtime requirements with respect to a peace officer if (1) the officer works 80 hours or less in a work period of 14 consecutive days and (2) the law enforcement department and a representative of a certified collective bargaining unit that includes the officer agree to the exception (Ch. 43 (H. 149), L. 2016).

**Maine.** Voters in Maine approved Citizen Initiative Question 4 to raise the minimum wage. The initiative raises the minimum wage from the current rate of \$7.50 per hour to \$9 per hour on January 1, 2017. The minimum hourly wage will then increase each year by \$1 as follows: \$10, January 1, 2018; \$11, January 1, 2019; and \$12, January 1, 2020. On January 1, 2021, and each January 1 after that, the minimum wage is to be adjusted based on increases in the cost of living. In addition, the minimum cash wage for workers who receive tips will increase to \$5 on January 1, 2017, and then will increase each January after that by \$1 until it is equal to the overall minimum wage. Election results are not final until certified (Citizen Initiative Question 4, <http://www.maine.gov/sos/cec/elec/upcoming/index.html>; Election results, <http://www.maine.gov/sos/cec/elec/UOCAVReferendumResults.pdf>).

**Maryland.** Governor Larry Hogan signed legislation on May 19 that phases out the authority for the Commissioner of Labor and Industry to authorize a work activities center or other sheltered workshop to pay a subminimum wage to an employee with a disability. It also restricts the authority of a work activities center or other sheltered workshop to pay a subminimum wage and/or a sub-prevailing wage to an employee with a disability. Beginning October 1, 2020, the Developmental Disabilities Administration (DDA) may not fund providers that pay individuals less than the minimum wage under a specified federal certificate. Work certificates for an employee with a disability will be limited to federal certificates allowing a work activities center or sheltered workshop to pay an employee with a disability less than the federal prevailing wage of pay to the extent authorized under federal law, if the center or workshop was authorized before October 1, 2016, and maintains the federal certificate (Ch. 521 (S. 417) and Ch. 522 (H. 420), L. 2016).

Also, effective July 1, 2017, the minimum wage in Maryland increased from \$8.25 per hour to \$8.75 per hour. The increase is part of scheduled increases put into place by the passage of Ch. 262 (H. 295) in 2014. The minimum wage is scheduled to increase again to \$9.25 on July 1, 2017, and finally to \$10.10 per hour on July 1, 2018.

**Michigan.** The Workforce Opportunity Wage Act was amended with respect to covered employers, to provide that, except as specifically provided in a franchise agreement, between a franchisee and a franchisor, the franchisee is considered the sole employer of workers for whom the franchisee pays wages or provides a benefit plan (P.A. 19 (H. 5072), L. 2016).

**Minnesota.** Effective August 1, 2016, large employers in Minnesota must pay employees a minimum wage of at least \$9.50 per hour, and small employers must pay employees a minimum wage of at least \$7.75 per hour, as part of scheduled increases set forth by Ch. 166 (H. 2091), L. 2014. Starting January 1, 2018, the minimum wage is to be based on a percentage increase in the cost of living, to be determined by the Labor Commissioner no later than August 31, 2017.

**Missouri.** The Missouri Department of Labor and Industrial Relations announced on November 15, 2016, that the minimum wage in Missouri will increase to \$7.70 per hour effective January 1, 2017. All businesses are required to pay at a minimum, the \$7.70 hourly rate, except retail and service businesses whose annual gross sales are less than \$500,000. Per state law, the minimum wage rate is calculated once a year and may increase or decrease based on the cost of living as measured by the previous year's Consumer Price Index (*Missouri Department of Labor and Industrial Relations Press Release*, November 15, 2016,

<https://labor.mo.gov/news/press-releases/missouri-minimum-wage-rate-set-2017>).

Missouri law requires every employer covered by the minimum wage and overtime pay law or regulation to keep an approved summary of the law, and copies or a summary of any applicable wage regulations, posted in a conspicuous and accessible place in or about the premises where any person covered by Missouri's minimum wage law is employed (Sec. 290.522). The Missouri Department of Labor and Industrial Relations has updated the state minimum wage poster for 2017. 2017 Missouri Minimum Wage Summary Poster, English, [https://labor.mo.gov/sites/labor/files/pubs\\_forms/LS-52-AI-2017.pdf](https://labor.mo.gov/sites/labor/files/pubs_forms/LS-52-AI-2017.pdf) and 2017 Missouri Minimum Wage Summary Poster, Spanish, [https://labor.mo.gov/sites/labor/files/pubs\\_forms/LS-52-S-AI-2017.pdf](https://labor.mo.gov/sites/labor/files/pubs_forms/LS-52-S-AI-2017.pdf).

**Montana.** The minimum wage in Montana will increase by 10 cents, from \$8.05 per hour to \$8.15 per hour, on January 1, 2017.

Montana Code Annotated Section 39-3-409 requires a minimum wage adjustment annually based on changes in inflation as measured by the Consumer Price Index (CPI) from August of the preceding year to August of the year in which the calculation is made. An adjustment to the minimum wage is to be calculated no later than September 30 of each year based upon any increase in the CPI, rounded to the nearest five cents. The new, adjusted minimum wage then becomes effective on January 1 of the following year. The 2017 rate reflects a 1.10 percent increase in the CPI-U from August 2015, to August 2016 (Calculated as  $\$8.05 \times 1.10\% = \$8.0955$ , rounded to \$8.10). Montana's minimum wage is to be the greater of the federal or current state minimum wage (*Montana Department of Labor and Industry, Commissioner's Office, Notice of Montana Minimum Wage Determination*, September 29, 2016, <http://erd.dli.mt.gov/Portals/54/Documents/Labor-Standards/dli-erd-ls011.pdf>).

**New Hampshire.** The state's minimum wage law was amended to exempt from minimum wage requirements ski area employees who exclusively perform welcoming and guest relation services at a ski area which are not essential to the functional operations of a ski area (Ch. 316 (H. 1339), L. 2016, eff. November 1, 2016).

**New Jersey.** The minimum wage in New Jersey will increase from \$8.38 per hour to \$8.44 per hour, effective January 1, 2017, according to the New Jersey Department of Labor and Workforce Development, the Division of Wage and Hour Compliance, in a "Notice of Administrative Changes" published on September 30, 2016.

New Jersey Administrative Code 12:56-3.1 is amended to reflect the cost-of-living increase.

N.J.A.C. 12:56-3.1 provides that, on an annual basis, on or about September 30, the Department is to revise the minimum hourly wage rate “based on any percentage increase during the one-year period of August of the prior year through August of the current year of the consumer price index (CPI) for all urban wage earners and clerical workers (CPI-W, U.S. City Average), as released by the United States Department of Labor, Bureau of Labor Statistics.” The rule further provides that the Department shall, annually, (1) through a public notice published in the New Jersey Register, provide the newly adjusted minimum wage rate, and (2) no later than September 30 of each year, publish the public notice on the Department's website (*New Jersey Department of Labor and Workforce Development, Division of Wage and Hour Compliance, “Notice of Administrative Changes,”* September 30, 2016, [http://lwd.dol.state.nj.us/labor/forms\\_pdfs/lwdhome/MinWage.pdf](http://lwd.dol.state.nj.us/labor/forms_pdfs/lwdhome/MinWage.pdf)).

**New York.** Governor Andrew M. Cuomo announced on January 4, 2016, that the State University of New York (SUNY) will raise the minimum wage for more than 28,000 employees. This increase for SUNY employees will mirror the phased-in schedule for fast food workers secured in 2015, as well as for state workers announced in October of 2015. Upon approving the SUNY increase, more than 28,000 hourly paid staff, student workers, and work study participants will see their wages increase to \$9.75 an hour beginning in February of 2016, and ultimately reach \$15 an hour on December 31, 2018, in New York City, and July 1, 2021, statewide, mirroring the increased schedule of fast food workers and state employees. This move makes New York among the first in the nation to set its higher education public employees on a path to \$15 an hour. The SUNY Board of Trustees is expected to approve this increase in its minimum wage in its January board meeting (*New York State Office of the Governor, Press Release,* January 4, 2016).

Also, on January 6, 2016, New York City Mayor Bill de Blasio announced a \$15 minimum wage for all city government employees and employees who provide contracted work for the city at social service organizations—meaning that by the end of 2018, approximately 50,000 additional employees will see their wages boosted to \$15 an hour. Under current contracts, wages are already ahead of the minimum wage increase that has been proposed in Albany. However, most contracts expire in 2017 or 2018. Mayor de Blasio's announcement guarantees that all employees will make \$15 an hour by the end of 2018, regardless of whether their contract expires beforehand. The city will immediately work with municipal unions and social service providers to sign letters of understanding that guarantee the increased wages. For direct city employees, the

minimum wage increases are scheduled as follows: Dec. 31, 2015, \$11.79 per hour; Dec. 31, 2016, \$12.14 per hour; Dec. 31, 2017, \$13.50 per hour; and Dec. 31, 2018, \$15.00 per hour. Employees who will benefit from the increases include school crossing guards, city seasonal aides, and job training participants.

For purchase of service employees, the wage increases will be as follows: Dec. 31, 2015, \$11.50 per hour; Dec. 31, 2016, \$12.00 per hour; Dec. 31, 2017, \$13.50 per hour; Dec. 31, 2018, \$15.00 per hour. Employees covered by these increases include teacher aides, custodial aides, and family and infant care workers. These employees already saw their wages boosted to \$11.50 under the Mayor's Fiscal Year 2016 adopted budget (*City of New York, Office of the Mayor, News Release,* January 6, 2016, <http://www1.nyc.gov/office-of-the-mayor/news/019-16/mayor-de-blasio-guaranteed-15-minimum-wage-all-city-government-employees--#10>).

On April 4, 2016, Governor Andrew M. Cuomo signed legislation to gradually increase the state minimum wage to eventually reach \$15 per hour for all workers in the state. The increases vary by geographical area, with the minimum wage for employees of large employers in New York City (11 or more employees) reaching \$15 per hour by 2018 (with the first increase set at \$11 on December 31, 2016); the minimum wage for employees of small employers in New York City (10 or less) reaching \$15 by 2019 (starting with an increase at \$10.50 on December 31, 2016); and workers in Nassau, Suffolk and Westchester counties reaching \$15 by 2021 (starting with an increase to \$10 on December 31, 2016). For workers in the rest of the state, the minimum wage would reach \$12.50 by 2020, and then be increased to eventually reach \$15 per hour on an indexed schedule by the Division of Budget in consultation with the Department of Labor (with the first increase scheduled at \$9.70 per hour on December 31, 2016). The bill provides a safety net of a temporary suspension in the scheduled increases, based on economics, if determined necessary.

For food service workers receiving tips, such employees are to receive a cash wage of at least two-thirds of the minimum wage rate, rounded to the nearest five cents, or \$7.50, whichever is higher, provided that such tips, when added to the cash wage, are equal to or exceed the minimum wage in effect and no other cash wage is established (under Section 653). Meal and lodging allowances for such workers would increase not more than two-thirds as applied to state wage orders in effect.

The minimum wage increases are part of the 2016 budget bill (Ch. 54 (S. 6406), L. 2015, enacted April 4, 2016 (2016 Budget, Part K), [http://assembly.state.ny.us/leg/?default\\_fld=&bn=S06406&Term=2015&Actions=Y&Text=Y](http://assembly.state.ny.us/leg/?default_fld=&bn=S06406&Term=2015&Actions=Y&Text=Y)).

*Living wage.* Under the New York City Fair Wages for New Yorkers Act, the living wage for employees covered under Executive Order No. 7 (September 30, 2014), for the period April 1, 2016, through March 31, 2017, is \$11.70 per hour with health benefits, and \$13.40 without health benefits.

The Schedule of “Living Wages” under NY Administrative Code Section 6-109, covering building services, day care, food services, head start services, homecare services, services to persons with cerebral palsy and temporary services, have been updated for the period July 1, 2016, through June 30, 2017, with various rates by occupation, with rates ranging from \$10 per hour with \$1.50 supplemental benefit, to \$34.97 for administrative assistants (*Office of the Comptroller, City of New York, NYC Admin. Code Section 6-109 Schedule of “Living Wages,”* <http://comptroller.nyc.gov/wp-content/uploads/documents/6-109-schedule2016-2017.pdf>).

The “Living Wage” for Employees in New York City Financially Assisted Workplaces, per NY Administrative Code Section 6-134, is \$10.50 per hour, with a supplemental benefit rate of \$1.70 per hour, effective April 1, 2016, through March 31, 2017 (*Office of the Comptroller, City of New York, NYC Admin. Code Section 6-134 Living Wage,* <http://comptroller.nyc.gov/wp-content/uploads/documents/6-134-schedule2015-2016.pdf>).

**North Carolina.** The North Carolina Wage and Hour Act was amended to preempt and supersede any ordinance, regulation, resolution, or policy adopted or imposed by any unit of local government or other political subdivision of the state that regulates or imposes any requirement upon an employer pertaining to compensation of employees, such as wage levels of employees, hours of labor, payment of earned wages, benefits, leave, or well-being of minors in the workforce. This would not apply to: (1) a local government regulating, compensating, or controlling its own employees; (2) economic development incentives; (3) a requirement of federal community development block grants; or (4) community development programs (Session Law 2016-3 (H. 2), enacted March 23, 2016).

Also, a city or county may not require a public contractor to abide by regulations or controls on the contractor’s employment practices or mandate or prohibit the provision of goods, services, or accommodations by any member of the public as a condition of bidding on a contract or a qualification-based selection, except as otherwise provided by state law (Session Law 2016-3 (H. 2), eff. March 23, 2016).

**Ohio.** Ohio’s minimum wage will increase to \$8.15 per hour for nontipped employees, and \$4.08 per hour for tipped employees on January 1, 2017, according to the

Ohio Department of Commerce. The minimum wage will apply to employees of businesses with annual gross receipts of more than \$299,000 per year.

The current minimum wage rate in Ohio is \$8.10 per hour for non-tipped employees, and \$4.05 for tipped employees. The 2016 wage rates apply to employees of businesses with annual gross receipts of more than \$297,000 per year.

The Constitutional Amendment (II-34a) passed by Ohio voters in November 2006 states that Ohio’s minimum wage shall increase on January 1 of each year by the rate of inflation. The state minimum wage is tied to the Consumer Price Index (CPI-W) for urban wage earners and clerical workers for the 12-month period prior to September. This CPI-W index increased by 0.7 percent over the 12-month period from September 1, 2015, to August 31, 2016.

For employees at smaller companies with annual gross receipts of \$299,000 or less per year after January 1, 2017, and for 14- and 15-year-olds, the state minimum wage is \$7.25 per hour. For these employees, the state wage is tied to the federal minimum wage of \$7.25 per hour, which requires an act of Congress and the President’s signature to change (*State of Ohio, Department of Commerce, News Release, September 29, 2016,* <http://www.com.ohio.gov/dico>).

**Oregon.** On March 2, Oregon Governor Kate Brown signed Senate Bill 1532 to raise the state minimum wage according to a tiered system. The minimum wage bill calls for gradual increases over six years, with increases based on geographical boundaries, to reach, by July 1, 2022, \$14.75 in the metro Portland area, \$13.50 in smaller cities such as Salem and Eugene, and \$12.50 in rural areas.

Beginning in 2023, the minimum wage would then be determined based on inflation, with the larger cities being \$1.25 more than the basic state minimum wage and the rural areas being \$1 less. Currently, the minimum wage in Oregon is \$9.75 per hour (Ch. 12 (S. 1532), L. 2016).

**Pennsylvania.** On March 7, Pennsylvania Governor Tom Wolf signed Executive Order 2016-2 to increase the minimum wage for employees under the governor’s jurisdiction to \$10.15 per hour, effective immediately. There will be annual increases based on inflation beginning in January of 2017.

The Executive Order also covers employees of organizations that negotiate state contracts or that lease property to the government. Those employees that perform direct services to the commonwealth or spend at least 20 percent of their working time on ancillary services related to the con-

tract or lease will be paid a minimum of \$10.15 an hour. This provision will take effect when contracts or leases are solicited or bilaterally modified on or after July 1, 2016.

**South Dakota.** The state minimum wage will increase from \$8.55 per hour to \$8.65 per hour effective January 1, 2017.

The hourly minimum wage for tipped employees will increase from \$4.275 per hour to \$4.325 per hour effective January 1, 2017, half the minimum wage for non-tipped employees. Wages and tips combined must equal at least the minimum wage.

South Dakota voters approved “Initiated Measure 18—Minimum Wage” in the November 4, 2014, General Election to raise the state minimum wage initially to \$8.50 per hour, effective January 1, 2015, and, after that, to annually adjust the minimum wage by any increase in the cost of living, starting with year 2016. In addition, the measure increases the hourly minimum wage for tipped workers to be half the state minimum hourly wage for non-tipped workers.

The annual wage adjustment is based on the Consumer Price Index published by the U.S. Department of Labor. The amount of the increase is to be rounded to the nearest five cents. This year's increase is based on a 1.06 percent increase in the cost of living.

These increases will apply to all South Dakota employers, with some limited exceptions (*South Dakota Department of Labor and Regulation, News Release, October 19, 2016, [http://dlr.sd.gov/news/releases16/nr101916\\_minimum\\_wage.aspx](http://dlr.sd.gov/news/releases16/nr101916_minimum_wage.aspx)*).

A voter initiative in the November 8, 2016, General Election (Referred Law 20) that would have put in place a reduced minimum wage rate for youth under the age of 18 was rejected by the voters. Therefore, youth must be paid the same minimum wage rate as adults (Referred Law 20; South Dakota election results are at <http://election-results.sd.gov/resultsSW.aspx?type=BQ&map=CTY>).

**Utah.** The Utah Minimum Wage Act was amended to adopt federal definitions for “franchisee” and “franchisor,” and to clarify that a franchisor is not considered to be an employer of a franchisee or of a franchisee’s employees with respect to a specific claim for relief under the Act made by a franchisee or the franchisee’s employee.

However, this does not apply to a franchisor under a franchise that exercises a type or degree of control over the

franchisee or the franchisee’s employees not customarily exercised by a franchisor for the purpose of protecting the franchisor’s trademark and brand.

The law has also been amended to address federal executive branch rulings in determining whether two or more persons are joint employers, providing that such an administrative ruling may not be considered a generally applicable law unless the ruling is determined to be so by a court of law or adopted by statute or rule (H. 116, L. 2016).

**Virginia.** Overtime compensation requirements relating to “fire protection employees” have been amended to clarify the definition of such employee to mean any person, other than an employee who is exempt from the overtime provisions of the Fair Labor Standards Act, who is employed by an employer as a paid firefighter, emergency medical services provider, or hazardous materials worker who is (i) trained in fire suppression and has the legal authority and responsibility to engage in fire suppression and is employed by a fire department of an employer or (ii) engaged in the prevention, control, or extinguishment of fires or response to emergency situations where life, property, or the environment is at risk (S. 704, L. 2016, eff. July 1, 2016).

**Washington.** In Washington, which already has one of the highest minimum wages nationwide, at \$9.47 per hour, voters approved a ballot measure that will increase the state minimum wage to reach \$13.50 per hour in 2020. Initiative Measure No. 1433 increases the state minimum wage to \$11 in 2017, \$11.50 in 2018, \$12 in 2019, and finally to \$13.50 in 2020. Beginning in 2021, the minimum wage will be adjusted for inflation.

The voter-approved hike is higher than the minimum wage increase determined by the Department of Labor and Industries, which would have raised the minimum wage by only six cents to \$9.53 per hour on January 1. The initiative also guarantees paid sick time to workers, allowing workers to accrue one hour of paid sick leave for every 40 hours worked.

In addition, the state must pay certain health care service providers (as defined under Section 74.39A.240) in accordance with minimum wage, overtime and paid sick leave requirements. Election results are not final until certified (Initiative Measure No. 1433, [https://www.sos.wa.gov/\\_assets/elections/initiatives/FinalText\\_954.pdf](https://www.sos.wa.gov/_assets/elections/initiatives/FinalText_954.pdf); Election results, <http://results.vote.wa.gov/results/current/State-Measures-Initiative-Measure-No-1433-concerns-labor-standards.html>). ■