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Michigan Court Voids the State's Current Minimum Wage and Sick Pay Acts

7/27/2022

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Practices: Employment, Labor & Benefits

On July 19, 2022, the Michigan Court of Claims concluded that the “adopt-and-amend” process that the Michigan Legislature used to enact the Improved Workforce Opportunity Wage Act (2018 PA 368) and the Paid Medical Leave Act (2018 PA 369) violated the Michigan Constitution. In doing so, the Court held that the original public acts remain in effect.

Background. The Michigan Constitution allows voters to initiate legislation via petitions. In the summer of 2018, two groups sponsored proposals and filed petitions with the Secretary of State: the Improved Workforce Opportunity Wage Act (“IWOWA”) and the Earned Sick Time Act (“ESTA”). After the Board of State Canvassers confirmed that an adequate number of signatures were obtained, the proposals were submitted to the Legislature. On September 5, 2018, the Legislature adopted the two voter-initiated proposals without amendment. Because both proposals were enacted into laws, neither proposal was placed on the November 2018 ballot. Then, on December 5, 2018, the Legislature amended the laws, significantly reducing their scope and application.

In ruling against the December 2018 amendments, the Michigan Court of Claims held that the letter and spirit of the Michigan Constitution “support the conclusion that the Legislature has only three options to address voter-initiated legislation within the same legislative session—adopt it, reject it, or propose an alternative. Once the Legislature adopted the Earned Sick Time Act and the Improved Workforce Opportunity Act, it could not amend the laws within the same legislative session. To hold otherwise would effectively thwart the power of the People to initiate laws and then vote on those same laws—a power expressly reserved to the people in the Michigan Constitution.”

The Improved Workforce Opportunity Wage Act (“IWOWA”). IWOWA originally required periodic increases in the Michigan minimum wage resulting in a \$12.00 per hour minimum wage by 2022. However, the December 2018 Legislative amendments to IWOWA slowed the planned increases in the minimum wage to \$12.05 per hour by 2030, essentially creating an eight-year delay. Based on the Court’s decision, the original version of IWOWA is reinstated. As a result, the Michigan minimum wage is increased from its current level of \$9.87 per hour to \$12.00 per hour.

Earned Sick Time Act (“ESTA”). ESTA required virtually all Michigan employers to provide paid sick time. However, the December 2018 Legislative amendments significantly reduced the scope of ESTA by exempting employers with fewer than 50 employees from having to provide paid sick time, reducing the minimum hours that employees can earn in a year from 72 hours to 40 hours, and eliminating the ability of employers to frontload sick time at the beginning of a year. The amendments also renamed ESTA as the Paid Medical Leave Act (“PMLA”). Based on the Court’s decision to reinstate ESTA, all employers in Michigan should review their current paid sick time policies. The key differences between PMLA (recently voided law) and ESTA (current law according to the Court) are summarized in the attached chart ([link](#)).

Next Steps: The State immediately appealed the decision and filed a motion to stay the Court’s decision while the appeal is pending. In addition, the Michigan Department of Labor and Economic Opportunity has indicated that they will not enforce the Court’s decision pending the outcome of the appeal. For now, all Michigan employers should review their minimum wage and sick pay policies to determine possible modifications. In addition, payroll and HR systems should be evaluated to ensure that the accrual, use, and carryover of paid sick time can be tracked (if necessary).

Please call with questions or for assistance with next steps. We will continue to monitor this important development and provide updates.