

West Virginia to Increase Minimum Wage to \$8.00 in 2015, \$8.75 in 2016

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UPDATE: On May 29, 2014, West Virginia's governor signed a new law, [2014 Bill Text WV H.B. 201B](#), that:

- Restores through December 31, 2014, the minimum wage exemption for employers that have 80 percent or more of their employees subject to the federal Fair Labor Standards Act (FLSA);
- Restores the overtime exemption for employers that have 80 percent or more of their employees subject to the FLSA;
- Changes the effective date for the \$8.00 minimum wage increase from January 1, 2015, to December 31, 2014;
- Changes the effective date for the \$8.75 minimum wage increase from January 1, 2016, to December 31, 2015;
- Postpones from June 6, 2014, to December 31, 2014, the 50 percentage point increase in the proportion of the minimum wage that can be satisfied by tips;
- Continues the current \$5.15 subminimum wage through December 31, 2014, when the new \$6.40 subminimum wage kicks in; and
- Provides that the West Virginia subminimum wage may never fall below the federal subminimum wage.

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West Virginia's governor has signed a bill that will increase the state's minimum wage from \$7.25 to \$8.00 on January 1, 2015, and to \$8.75 on January 1, 2016. [2014 Bill Text WV H.B. 4283](#).

The new law also increases from 20 percent to 70 percent the proportion of the minimum wage that can be satisfied by tips. Currently, an employer may claim only \$1.45 (20 percent of the \$7.25 minimum wage) in employees' tips as a credit against the minimum wage, meaning tipped employees must be paid a cash wage of at least \$5.80 per hour. The tip credit will increase to \$5.08 when the new law takes effect on June 6, 2014, to \$5.60 on January 1, 2015, and to \$6.13 on January 1, 2016; meanwhile the minimum cash wage for tipped employees will increase to \$2.18 on June 6, 2014, to \$2.40 on January 1, 2015, and to \$2.63 on January 1, 2016.

In a [statement](#), West Virginia Governor Earl Ray Tomblin said he signed the bill despite reservations about "some unintended consequences relating to overtime compensation and maximum hours worked."

"I will call the Legislature into extraordinary session during the May interims, beginning May 19, 2014 to address the issues of great concern to businesses large and small - including the fiscal challenges expected to affect our local governments," he said. "President Kessler and Speaker Miley have both committed to working with me to achieve this ultimate goal."

A request for clarification about the "unintended consequences" was not returned. However, it appears likely that it relates to the new law deleting a clause in the statute that exempts an employer from the state's minimum wage and overtime laws if more than 80 percent of its employees are subject to the federal Fair Labor Standards Act (FLSA). Because most

employers are covered by the FLSA, the new law will significantly expand the coverage of West Virginia's minimum wage and overtime laws if it is not amended during the special session.

West Virginia's legislators may also clarify another change in the law that appears to temporarily halt the state's subminimum training wage. Currently, the West Virginia statute allows an employer to pay an employee hired after January 1, 2006, a subminimum training wage as low as \$5.15 per hour for up to 90 days from hire if the employee is under 20 years of age during the 90-day period. When the new law takes effect on June 6, it will amend the statute to state that "an employer may pay an employee first hired after January 1, 2015, a subminimum training wage not less than \$ 6.40 per hour."

West Virginia is the third state to pass legislation increasing its minimum wage this year, following on the heels of [Connecticut](#) and [Delaware](#).

Chances are good that other states will follow. As of today, [241 minimum wage bills have been introduced in 41 state legislatures](#) and efforts are underway in at least 10 states to [add minimum wage resolutions to the November ballots](#).