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Timely, topical insights on a variety of payroll and reporting issues.



## California Family Rights Act Expanded to Include Parent-in-Law

On September 27, 2021, California Governor Gavin Newsom signed into law Assembly Bill 1033 (AB 1033), which modifies California Government Code 12945.2 requiring that leave to care for a “parent-in-law” be included within the definition of family care and medical leave under the California Family Rights Act (CFRA). “Parent-in-law” is defined to mean the parent of a spouse or domestic partner. This change will be effective on January 1, 2022.

The CFRA is similar to the federal Family and Medical Leave Act (FMLA) and provides 12 weeks of job-protected bonding leave to eligible employees. An employee is typically eligible if he or she has worked at least 1,250 hours within the last year for an employer with 50 or more employees within 75 miles of the work location.

Currently, CFRA leave may be taken to care for the serious health condition of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner who has a serious health condition.

AB 1033 modified the definition of “parent” to include parent-in-law as follows:

“Parent” means a biological, foster, or adoptive parent, a parent-in-law, a stepparent, a legal guardian, or other person who stood in loco parentis to the employee when the employee was a child.

For a copy of AB 1033, click on the link provided below.

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB1033](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1033)

For more information on the CFRA, click on the link provided below.

<https://www.dfeh.ca.gov/family-medical-pregnancy-leave/>

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## Massachusetts Extends COVID-19 Emergency Paid Sick Leave

It was previously reported that on May 28, 2021, Massachusetts Governor Charlie Baker signed into law legislation that grants employees emergency paid sick leave for COVID-related illness, quarantine and vaccinations ("COVID-19 emergency paid sick leave"). The law became effective on the date of signing and was scheduled to remain in place through September 30, 2021, or with the exhaustion of \$75 million in program funds as determined by the Commonwealth, whichever was earlier.

Massachusetts has now enacted legislation (House Bill 4127) that extends the requirement to provide employees with COVID-19 emergency paid sick leave. The leave requirement will expire when the \$75 million fund is exhausted or April 1, 2022, whichever occurs first. Employers that provide the leave may request reimbursement from the state's COVID-19 Emergency Paid Sick Leave Fund.

The requirement was set to end on September 30, 2021, prior to the extension. Employees may now also use leave to care for a family member who obtains the COVID-19 vaccine. Below we summarize the existing requirements.

For a copy of House Bill 4127, click on the link provided below.

<https://legiscan.com/MA/bill/H4127/2021>

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## Massachusetts PFML Rate for 2022 Released

On October 1, 2021, the Massachusetts Department of Family and Medical Leave (DFML) announced the 2022 contribution rate for the Massachusetts Paid Family and Medical Leave (PFML) program. It was also announced beginning in January 2022 that the maximum total amount that can be received in PFML benefits will be \$1,084.31 per week.

For 2022, employers with 25 or more covered individuals will be required to remit a contribution to the DFML of 0.68 percent of eligible wages. This contribution can be split between covered individuals' payroll or wage withholdings and an employer contribution. In 2021, the tax rate was 0.75 percent.

### **Employers with 25 or more covered individuals**

For **Family Leave**, up to 100 percent of the family leave contribution can be withheld from a covered individual's wages (0.12 percent of eligible wages).

For **Medical Leave**, up to 40 percent of the medical leave contribution can be withheld from a covered individual's wages (0.224 percent of eligible wages). Employers are responsible for contributing the remaining 60 percent (0.336 percent of eligible wages).

### **Employers with fewer than 25 covered individuals**

Employers with fewer than 25 covered individuals must remit an effective contribution rate of 0.344 percent of eligible wages. This contribution rate is less because small employers are not required to pay the employer share of the medical leave contribution, reducing the total contribution amount.

Small employers are responsible for remitting the funds withheld from covered individuals' earnings but are under no obligation to contribute themselves. However, they may elect to cover some or all of the covered individuals' share.

For **Family Leave**, up to 100 percent of the family leave contribution can be withheld from a covered individual's wages (0.12 percent of eligible wages).

For **Medical Leave**, up to 100 percent of the medical leave contribution can be withheld from a covered individual's wages (0.224 percent of eligible wages). There is no employer share for employers with fewer than 25 covered individuals.

Generally, under the PFML, the following are considered wages:

- Salaries, hourly pay, non-cash tips and stipends
- Commissions and bonuses
- Overtime, vacation or sick pay
- 401(k) employer contributions
- Tips

For a copy of the announcement, click on the link provided below:

<https://www.mass.gov/orgs/department-of-family-and-medical-leave>

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## **Allegheny County, Pennsylvania, Enacts Paid Sick Leave Ordinance**

On September 14, 2021, the Allegheny County Council unanimously approved Ordinance 21-15 (the Ordinance), which requires employers with 26 or more employees to provide paid sick leave to its employees. However, it is important to note that the new law does not apply to independent contractors, state and federal employees or certain seasonal employees.

Under the Ordinance employees will accrue one hour of paid sick time for every 35 hours that the employee performs services within Allegheny County. Employers may, however, provide for a faster rate of accrual. Forty hours of sick leave may be accrued in a "calendar year," which is defined as a regular and consecutive 12-month period, as determined by an employer and communicated to all employees.

**NOTE: The Ordinance is silent on its interplay with the Pittsburgh Paid Sick Days Act, which went into effect in March 2020 and provides paid sick leave to eligible employees who work within the geographic boundaries of the City of Pittsburgh, which is located in Allegheny County. Future guidance on this issue is anticipated.**

Other highlights of the Ordinance include:

Paid sick time will be compensated at the same base rate of pay, and with the same benefits, including health-care benefits, as an employee would have earned at the time of their use of the paid sick time.

As noted in the Ordinance, paid sick time accrued by an employee may be used for:

1. An employee's mental or physical illness, injury or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; an employee's need for preventive medical care;
2. Care of a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; care of a family member who needs preventive medical care; or
3. Closure of the employee's place of business by order of a public official due to a public health emergency or an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or care for a family member when it has been determined by the health authorities having jurisdiction or by a health-care provider that the family member's presence in the community would jeopardize the health of others because of the family member's exposure to a communicable disease, whether or not the family member has actually contracted the communicable disease.

A "family member" is defined as:

1. A biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, or a child to whom the employee stands in loco parentis;
2. A biological, foster, adoptive, or step-parent, or legal guardian of an employee or an employee's spouse or domestic partner or a person who stood in loco parentis when the employee was a minor child;

3. A person to whom the employee is legally married under the laws of any state;
4. A grandparent or spouse or domestic partner of a grandparent;
5. A grandchild;
6. A biological, foster or adopted sibling;
7. A domestic partner; or
8. Any individual for whom the employee has received permission from the employer to care for at the time of the employee's request to make use of paid sick time.

Employees are entitled to use accrued paid sick time beginning on the 90th calendar day following the commencement of their employment.

Under Section 2406 of the Ordinance, employers must provide written notice to employees of their entitlement to paid sick time, the amount of paid sick time, and the terms of its guaranteed use.

**The effective date provision of the Ordinance states:**

The provisions of Section 2406 (Notice to employee requirements) shall become effective immediately upon final approval. The remaining provisions of this Article shall take effect on the 90th calendar day following the posting of the notice information for employers by the Agency, pursuant to the terms of Section 2406. A date of December 1, 2021, is anticipated. Further information on the actual effective date will be reported as it becomes available.

For a copy of the Ordinance, click on the link provided below (click on Option 1):

<https://allegHENYcounty.legistar.com/LegislationDetail.aspx?ID=5119954&GUID=32B6EAA9-823B-4136-838D-A05AD8A31295&Options=ID%7cText%7c&Search=&FullText=1>



**Alaska Announces No Increase to Minimum Wage For 2022**

The state of Alaska has announced that the state minimum wage will not be increased for 2022 and will remain at its current level of \$10.34 per hour.

Alaska does not allow employers to utilize a tip credit when paying tipped employees.

Pursuant to Alaska Statute 23.10.065, the Alaska minimum wage is to be adjusted annually for inflation, based on the Consumer Price Index for all urban consumers for the Anchorage metropolitan area (Anchorage CPI-U) for the preceding January-December calendar year. Because there was no inflation in 2020, the minimum wage rate will not change in 2022.

The Alaska minimum wage increase applies to all employees in the private sector, whether working in a for-profit, or nonprofit business.

For a copy of the announcement, click on the link provided below.

<https://labor.alaska.gov/news/2021/news21-28.htm>

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## **2022 Minimum Wage Announced for Arizona**

The Industrial Commission of Arizona has announced that the state minimum wage rate will increase from \$12.15 to \$12.80 per hour and the tipped employee cash wage will increase from \$9.15 per hour to \$9.80 per hour. Both increases are effective January 1, 2022.

For a copy of the announcement, click on the link provided below.

<https://www.azica.gov/sites/default/files/2022%20Minimum%20Wage%20Option%20Notification.pdf>

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## **New California Law Prohibits Piece Rates for Garment Workers**

On September 27, 2021, California Governor Gavin Newsom signed into law Senate Bill 62 (SB 62) which prohibits any employee engaged in the performance of garment manufacturing to be paid by a piece rate, except in limited circumstances. SB 62 provides that the new law will not apply to workplaces where employees are covered by a bona fide collective bargaining agreement, if the agreement expressly provides for wages, hours of work and working conditions of the employees; premium wage rates for all overtime hours worked and a regular hourly rate of pay for those employees of not less than 30 percent more than the state minimum wage; stewards or monitors; and a process to resolve disputes concerning nonpayment of wages.

SB 62 also increases the amount of time garment manufacturers must keep certain records. Current law requires every employer engaged in the business of garment manufacturing to keep certain records for three years, including, among other things, contract worksheets indicating the price per unit agreed to between the contractor and manufacturer. The new legislation requires every employer engaged in the business of garment manufacturing to keep all contracts, invoices, purchase orders, work orders, style or cut sheets, and any other documentation pursuant to which garment manufacturing work was, or is being, performed for four years.

In addition, SB 62 stipulates those employers will be subject to compensatory damages of \$200 per employee, payable to the employee, for each pay period the worker was paid by a piece rate.

The new law will go into effect on January 1, 2022.

For a copy of SB 62, click on the link provided below.

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220SB62](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB62)

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## **Delaware Eliminates Youth and Training Subminimum Wage**

On October 8, 2021, Delaware Governor John Carney signed into law House Bill 88 that will eliminate Delaware's youth and training subminimum wages effective December 29, 2021. Under current law, Delaware employers are allowed to pay a training wage (first 90 days for employees 18 or older) or a youth wage (employees under the age of 18) \$8.75 per hour, which is \$0.50 less per hour than the current state minimum wage of \$9.25 per hour.

For a copy of House Bill 88, click on the link provided below.

<https://legis.delaware.gov/BillDetail/48343>

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## Maine Announces Minimum Wage and Other Threshold Changes for 2022

The Maine Department of Labor has announced the state's minimum wage and other threshold changes that will take effect on January 1, 2022.

- The state minimum wage will increase from \$12.15 per hour to \$12.75 per hour for most workers.
- The cash minimum wage rate for tipped employers increases from \$6.08 per hour to \$6.38 per hour.
- The minimum salary level for an employee to qualify for exemption from overtime will increase from \$36,450 per year (\$700.97 per week) to \$38,251 per year (\$735.59 per week).

For a copy of the announcement, click on the link provided below.

[https://www.maine.gov/labor/news\\_events/article.shtml?id=5636664](https://www.maine.gov/labor/news_events/article.shtml?id=5636664)

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## Minimum Wage Effective January 1, 2022, Announced for Montana

The state of Montana has announced that the state minimum wage will increase from \$8.75 per hour to \$9.20 per hour effective January 1, 2022. Montana law does not allow for tip credit, meal credit or training wage rates of pay.

Annually, the Department of Labor and Industry calculates the cost-of-living adjustment based on the increase in the consumer price index, if any, from August of the preceding year to August of the year in which the calculation is made. Such calculation must be made no later than September 30th.

For a copy of the minimum wage announcement, click on the link provided below.

<https://erd.dli.mt.gov/labor-standards/wage-and-hour-payment-act/minimum-wage-history>

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## Ohio Announces January 1, 2022, Minimum Wage

The state of Ohio has provided a notice stating that, effective January 1, 2022, the minimum wage rate for non-tipped employees will increase from \$8.80 per hour to \$9.30 per hour and the cash minimum wage rate for tipped employees will increase from \$4.40 per hour to \$4.65 per hour.

Employees working for employers whose annual gross sales are \$342,000 or less beginning January 1, 2022 (currently, \$323,000 or less), and employees under the age of 16, only need to be paid the federal minimum wage rate of \$7.25 per hour.

For a copy of the notice, click on the link provided below.

[https://www.com.ohio.gov/documents/dico\\_2022MinimumWageposter.pdf](https://www.com.ohio.gov/documents/dico_2022MinimumWageposter.pdf)

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## Puerto Rico to Increase Minimum Wage

On September 21, 2021, Puerto Rico Governor Pedro Pierluisi signed into law legislation that raises the hourly minimum wage from \$7.25 to \$8.50 effective January 1, 2022, and to \$9.50 on July 1, 2023.

On July 1, 2024, another increase up to \$10.50 per hour is contemplated. However, this final increase is still subject to the approval of the newly created Minimum Wage Evaluation Committee (WEC).

The minimum cash wage for tipped employees will remain at \$2.13 per hour and, when added to tips, must equal the minimum wage set by the new law.

It is important to note that new legislation only applies to employees covered by the Fair Labor Standards Act. There are a number of exceptions to this new minimum wage, starting with all government employees, including legislative, judicial and municipal government employees. Agricultural workers are excluded from this new legislation, as well as those regarded as executives, administrators and professionals.

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## **South Dakota Announces 2022 Minimum Wage**

South Dakota has announced that the state minimum wage for non-tipped employees will increase from \$9.45 per hour to \$9.95 per hour effective January 1, 2022. The cash wage that employers must pay tipped employees will increase from \$4.725 per hour to \$4.975 per hour effective also on January 1, 2022.

Under South Dakota law, the state minimum wage is adjusted on an annual basis, increasing at the same rate as the cost of living as measured in the Consumer Price Index published by the U.S. Department of Labor. The amount of the increase is rounded to the nearest five cents. The minimum wage cannot decrease. The new adjusted rate must be announced for the following year no later than October 15th of each year.

For a copy of the announcement, click on the link provided below.

[https://dlr.sd.gov/employment\\_laws/minimum\\_wage.aspx](https://dlr.sd.gov/employment_laws/minimum_wage.aspx)

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## **Washington State Announces 2022 Minimum Wage**

The Washington State Department of Labor & Industries (WDOL) has announced that, effective January 1, 2022, the state minimum wage rate will increase from \$13.69 per hour to \$14.49 per hour. Workers who are 14 or 15 years old may be paid 85 percent of the adult minimum wage which increases from \$11.64 per hour to \$12.32 per hour. Washington state does not permit the use of a tip credit in paying tipped employees.

In addition, it was announced that the overtime exemption salary thresholds, which are based on the state minimum wage, will also increase effective January 1, 2022. For both small businesses with one to 50 employees and large employers with 51 or more employees, an exempt employee must earn a salary of at least 1.75 times the minimum wage, or \$1,014.30 a week (\$52,743.60/year).

Finally, the WDOL announced that in order to qualify for the overtime exemption, computer professionals employed by businesses (regardless of size), must earn a salary of at least 3.5 times the minimum wage (\$50.72 per hour).

For a copy of the WDOL announcements, access the links provided below.

### **Minimum Wage**

<https://lni.wa.gov/workers-rights/docs/FY22-084-2022MinimumWageAnnouncement.pdf>

### **Overtime Exemption Salary Thresholds**

<https://www.lni.wa.gov/forms-publications/F700-207-000.pdf>

### **Computer Professionals**

<https://www.lni.wa.gov/forms-publications/F700-213-000.pdf>

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## Daly City, California, Announces 2022 Minimum Wage

It was previously communicated that Daly City, California, enacted a minimum wage ordinance that increased the minimum wage in the city to \$15.00 per hour effective January 1, 2021. Under the ordinance, after 2021, the rate will increase by the lesser of 3.5 percent or a percentage equal to the prior year's regional Consumer Price Index.

Daly City has now released the minimum wage rate effective January 1, 2022 via the following announcement:

### **Minimum Wage Increase for 2022 to \$15.53 per Hour**

**Beginning January 1, 2022**, Daly City's local minimum wage of \$15.53 applies to all businesses within the geographic boundaries of Daly City and any employee working at least two or more hours per week. The minimum wage applies to all companies that have employees who work in Daly City. An employer may not use tips, or fringe benefits such as health insurance, vacation, sick leave or other benefits to offset or use as a credit towards the employer's obligation to pay the City's minimum wage.

Violations of the minimum wage ordinance are subject to a civil penalty of \$40 per employee, per day of violation.

For a copy of the announcement and a link to the minimum wage notice required to be posted on the employer's premises "where an employee may easily read," click on the following.

<https://www.dalycity.org/388/Minimum-Wage>

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## City of SeaTac, Washington, Announces 2022 Minimum Wage for Hospitality and Transportation Industry Employees

On October 11, 2021, the City of SeaTac, Washington, has announced that the minimum wage rate for hospitality and transportation industry employees working in and near the Seattle-Tacoma International Airport will increase from \$16.57 per hour to \$17.53 per hour, effective January 1, 2022. Hospitality and transportation employers are required to provide written notification of the rate adjustment to each of their workers by the effective date of the minimum wage rate change.

Washington state does not allow employers the use of a tip credit when paying tipped employees.

For a copy of the announcement, click on the link provided below.

<https://www.seatacwa.gov/home/showpublisheddocument/31673/637695593679434250>

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ADP maintains a staff of dedicated professionals who carefully monitor federal and state legislative and regulatory measures affecting employment-related human resource, payroll, tax and benefits administration, and help ensure that ADP systems are updated as relevant laws evolve. For the latest on how federal and state tax law changes may impact your business, visit the *ADP Eye on Washington* Web page located at [www.adp.com/regulatorynews](http://www.adp.com/regulatorynews).

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