

# Eye On Washington State and Local Updates



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

## Benefits

### Seattle Enacts Pretax Commuter Benefit Requirement

Seattle, Washington has enacted Ordinance No. 125684 that will require Seattle companies with 20 or more employees as of January 1, 2020 to offer employees who work an average of 10 hours or more per week in Seattle in the previous calendar month the opportunity to use pretax earnings to purchase commuter benefits, other than parking.

The pretax election will allow employees to exclude certain transportation fringe benefits incurred for transit (e.g., buses, light rail, ferry, water taxi) and vanpool commuting from taxable wages up to the maximum allowed under federal law. In 2018, employees are able to pay up to \$260 per month on a pretax basis for transit purposes. Any amounts for transit expenses paid by the employer reduces the pretax amount allowed. For example, if an employer reimburses the employee for \$100 in transit expenses in a month, the employee would be limited to \$160 in pretax contributions for transit expenses in that month.

A few of the highlights of the ordinance are as follows:

- Employers are required to offer this benefit to new employees within 60 calendar days after they begin employment.
- Employers must make the payroll deduction within 30 calendar days after the employee makes the election.
- Fully or partially subsidized employer-provided transit passes will satisfy the requirements of the new ordinance.
- Employers will be required to display a poster on the ordinance and to retain written records of their offer of pretax election commuter benefits for three years.

For a copy of Seattle Ordinance No. 125684, please click on the link provided below.

<http://seattle.legistar.com/View.ashx?M=F&ID=6683282&GUID=30BDF150-9BBB-43D0-85B0-DD2727B5B983>



## Leave

### New Jersey Publishes Paid Sick Leave Notice of Employee Rights and Additional FAQs

New Jersey Governor Phil Murphy signed into law Assembly Bill 1827 (A1827), now codified at N.J.S.A. 34:11 D-1 through D-8, which provides many workers in the state with paid sick leave. The legislation became effective on October 29, 2018.

#### Notice Requirements – Notice of Employee Rights

The paid sick leave law requires employers to post in a conspicuous place a notice to be issued by the Commissioner of Labor and Workforce Development. In addition, employers will be required to provide written copies of the notice to employees within 30 days of the date on which the Commissioner issues the notice, or at the time of hiring for employees hired after that date. Employers must also provide a written copy of the notice to employees upon request.

The New Jersey Department of Labor has now published the Notice of Employee Rights (link below).

[https://www.state.nj.us/labor/forms\\_pdfs/mw565sickleaveposter.pdf](https://www.state.nj.us/labor/forms_pdfs/mw565sickleaveposter.pdf)

#### Some of the highlights of New Jersey paid sick leave law are as follows:

##### Amount of Sick Time Provided

The law provides that an employee may accrue one hour of earned sick leave for every 30 hours worked. However, employees are not able to accrue more than 40 hours of sick leave annually. Alternatively, employers may provide employees with the full amount of earned sick leave (40 hours) at the beginning of the benefit year.

##### Maximum Use Per Year

Employers may limit an employee's use of paid sick time to 40 hours annually.

##### Carryover of Unused Sick Time

Employers may limit an employee's ability to carry over unused paid sick time to the next year to no more than 40 hours.

Employers using the "1 hour for 30 hours" option will have the option to offer employees payment for unused earned sick leave at the end of the benefit year, which employees may accept in lieu of carrying the paid leave over to the next year.

Employers who provide the full amount of leave at the beginning of the benefit year must either pay for the unused sick leave in the final month of the benefit year or allow the employee to carry forward any unused sick leave to the next benefit year.

##### Covered Employers

Virtually all employers operating in New Jersey are subject to the law. The bill's definition of "employer" excludes only public employers that are required to provide paid sick leave pursuant to a different New Jersey law, rule, or regulation.

##### Covered Employees

The definition of "employee" applies to any "individual engaged in service to an employer in the business of the employer for compensation." Notably, the law specifies that, in the case of a temporary help service firm placing an employee with client firms, earned sick leave shall accrue on the basis of the total time worked on assignment with the temporary help service firm, and not separately for each client firm to which the employee is assigned.

### **Employees Excluded From Definition of Covered Employee**

1. employees performing services in the construction industry under contract pursuant to a collective bargaining agreement;
2. “per diem healthcare employee[s]”; or
3. public employees receiving paid sick leave pursuant to another New Jersey law, rule, or regulation.

### **Reasons for Use of Paid Sick Time**

1. the diagnosis/care of their own illness;
2. the care of an ill family member;
3. absences related to domestic or sexual violence;
4. a workplace closure or the closure of school or daycare attended by the employee’s child; or
5. attending school conferences or meetings.

### **Paid Sick Time Rate of Pay**

Employers are required to pay their employees for earned sick leave at the same rate of pay, and with the same benefits, as the employee normally earns.

### **Impact on Employer’s Existing Paid Time Off Policies**

The law allows that an employer is in compliance with the new paid time off legislation if the employer’s paid time off policy offers any type of paid time off that meets the bill’s requirements. For example, an employer who allows employees to use vacation time for the purposes set forth above is in compliance with the bill so long as vacation time accrues at the appropriate rate.

### **Pay for Unused Sick Time at Employee Separation**

Unless an employer policy or collective bargaining agreement provides otherwise, an employee is not entitled to payment of unused sick leave upon separation from employment.

### **Impact on Local Paid Sick Leave Ordinances**

The law provides that as of the effective date of the New Jersey paid sick leave law, all local leave laws within the state are preempted. Furthermore, the new law will prohibit counties and municipalities from enacting any new ordinance, resolution, law, rule, or regulation regarding earned sick leave.

Consequently, the following local paid sick leave ordinances have been preempted:

- Newark, New Jersey (eff. 05/2014)
- Irvington, New Jersey (eff. 01/28/2015)
- Passaic, New Jersey (eff. 01/2015)
- East Orange, New Jersey (eff. 01/2015)
- Paterson, New Jersey (eff. 01/2015)
- Trenton, New Jersey (eff. 03/2015)
- Montclair, New Jersey (eff. 03/2015)
- Bloomfield, New Jersey (eff. 06/2015)
- Jersey City, New Jersey (eff. 01/2014, amended eff. 01/2016)
- New Brunswick, New Jersey (eff. 01/2016)
- Elizabeth, New Jersey (eff. 03/2016)
- Plainfield, New Jersey (eff. 09/2016)
- Morristown, New Jersey (eff. 1/11/17)

### **Recordkeeping Requirements**

Employers are required to maintain records documenting paid leave taken by employees for a period of five years.

## Additional Frequently Asked Questions

The Department of Labor and Workforce Development has now also issued Earned Sick Leave frequently asked questions (FAQs) to help employers comply with the new law. Following are a few examples of the FAQs provided:

**Q. How is the term “employer” defined within the Earned Sick Leave Law?**

“Employer” means any person, firm, business, educational institution, nonprofit agency, corporation, Limited Liability Company (LLC) or other entity that employs employees in the state, including a temporary help service firm. In the case of a temporary help service firm placing an employee with client firms, earned sick leave shall accrue on the basis of the total time worked on assignment with the temporary help service firm, not separately for each client firm to which the employee is assigned.

**Q. Are any employers exempt from coverage under the Earned Sick Leave Law?**

Yes. Public employers are exempt from the Earned Sick Leave Law for employees who are provided with sick leave at full pay pursuant to any law or rule of New Jersey other than the Earned Sick Leave Law (for example, N.J.S.A. 11A and N.J.A.C. 4A, civil service).

**Q. Is there any minimum number of employees that an employer must have in order for its employees to be entitled to earned sick leave under the New Jersey Earned Sick Leave Law? For example, does the Earned Sick Leave Law only apply to those who work for an employer with more than 5 employees?**

No. There is no minimum number of employees that an employer must have in order for its employees to be entitled to earned sick leave under the Earned Sick Leave Law. Employers of every size are covered.

**Q. Must an employer based outside of New Jersey provide earned sick leave to employees who work in New Jersey?**

Yes. Out-of-state employers with employees in New Jersey must provide earned sick leave to its employees who work in New Jersey.

**Q. May an employer have a different benefit year for each employee, based on that employee’s anniversary date?**

No. The employer is required to establish a single benefit year for all employees.

**Q. How is the term “employee” defined in the Earned Sick Leave law?**

“Employee” means an individual engaged in service for compensation to an employer in the business of the employer who performs that service in New Jersey.

**Q. When do employees begin to accrue earned sick leave?**

For an employee who commences employment on or before October 29, 2018, earned sick leave shall begin to accrue no later than October 29, 2018.

**Q. How does an employer calculate the accrual of earned sick leave for an employee whose hours of work the employer does not ordinarily track, because the employee is exempt from overtime requirements under either the Federal Fair Labor Standards Act (FLSA) or the New Jersey Wage and Hour Law (NJWHL)?**

Where the employer does not ordinarily record the hours worked by an employee because the employee is exempt from overtime requirements under either the FLSA or the NJWHL, the employer may either (a) begin recording the actual hours worked for that employee for the purpose of calculating earned sick leave accrual, or (b) presume, solely for the purpose of calculating earned sick leave accrual, that the employee works 40 hours per week.

**Q. May an employer have a policy that advances the employee 40 hours of earned sick leave at the beginning of each benefit year to avoid calculating accruals?**

Yes. An employer may have a policy that provides an employee with 40 hours of earned sick leave at the beginning of each benefit year. This option may be attractive to employers who prefer not to track the accrual of earned sick leave for each covered employee.

**Q. May an employer have a policy that permits employees to donate unused earned sick leave to other employees?**

Yes. An employer may have a policy that allows employees to donate unused earned sick leave to other employees, so long as the policy is voluntary.

**Q. If an employee is reinstated by an employer within six months of his or her separation from employment with that employer, must the employee wait 120 days after resuming employment with the employer to begin using accrued earned sick leave?**

No. If an employee is rehired within six months of separating from an employer, upon rehire the employer shall credit toward the new 120-day waiting period the total number of calendar days worked by the employee prior to the separation.

**Q. Do employers have to pay out unused earned sick leave to employees who leave the employer?**

No. If an employee resigns, retires, is terminated, or is otherwise separated from employment, an employer is not required to pay out unused earned sick leave to the employee.

**Q. May an employer discipline an employee who uses earned sick leave for an impermissible purpose?**

Yes. An employer may take disciplinary action against an employee who uses earned sick leave for purposes other than those provided for under the law.

Note: Employers may only require medical documentation where the employee uses earned sick leave for three or more consecutive days or where the employee's need to use earned sick leave is not foreseeable and the employee seeks to use such earned sick leave during a blackout period. (For more information on blackout periods, click on the link (below) and see questions 18. and 19.) .

**Q. May an employee use earned sick leave for doctor, dentist, or eye doctor appointments?**

Yes.

**Q. How much does an employer have to pay an employee for earned sick leave?**

The employer is required to pay the employee for earned sick leave at the same rate of pay as the employee normally earns.

For a copy of all the FAQs, please click on the link below:

[https://www.nj.gov/labor/forms\\_pdfs/lwdhome/Legal/earnedsickleave.pdf](https://www.nj.gov/labor/forms_pdfs/lwdhome/Legal/earnedsickleave.pdf)

For a copy of N.J.S.A. 34:11 D-1 through D-8, please paste the following into your browser.

[https://nj.gov/labor/wagehour/lawregs/nj\\_state\\_wage\\_and\\_hour\\_laws\\_and\\_regulations.html#11D1](https://nj.gov/labor/wagehour/lawregs/nj_state_wage_and_hour_laws_and_regulations.html#11D1)

## Northbrook Opts Back Into Cook County Sick Leave Ordinance

The Village of Northbrook, Illinois, city council has voted to opt back into the Cook County sick leave ordinance effective January 1, 2019. This reverses a previous decision to opt out of the Cook County ordinance.

The Cook County sick leave ordinance requires employers to provide one hour of paid sick leave for every 40 hours worked to employees who have worked at least 80 hours in a 120-day period in the county.

### Other highlights of Cook County Ordinance are as follows:

- "Covered Employee" is any employee employed for at least 80 hours for an Employer within a 120-day period.
- "Employer" means: Any person employing one or more employees, or seeking to employ one or more employees; has its principal place of business within Cook County; or does business within Cook County.

- The term Employer does not mean:
  - The government of the United States or a corporation wholly owned by the government of the United States;
  - An Indian tribe or a corporation wholly owned by an Indian tribe;
  - The government of the State of Illinois or any agency or department thereof; or
  - The government of any municipality in Cook County.
- A Covered Employee, who is exempt from overtime requirements shall be assumed to work 40 hours in each workweek for purposes of paid sick leave accrual, unless his or her normal workweek is less than 40 hours, in which case paid sick leave shall accrue based upon that normal workweek.
- For each Covered Employee, there shall be a cap of 40 hours paid sick leave accrued per 12-month period, unless his or her Employer sets a higher limit. The 12-month period for a Covered Employee shall be calculated from the date he or she began to accrue paid sick leave.
- At the end of a Covered Employee's 12-month accrual period, he or she shall be allowed to carry over to the following 12-month period half of his or her unused accrued paid sick leave, up to a maximum of 20 hours.
- If an Employer is subject to the Family and Medical Leave Act (FMLA), each of the Employer's Covered Employees shall be allowed, at the end of his or her 12-month paid sick leave accrual period, to carry over up to 40 hours of his or her unused accrued paid sick leave.
- An Employer shall allow a Covered Employee to begin using paid sick leave no later than on the 180th calendar day following the commencement of his or her employment.
- A Covered Employee may use paid sick leave when:
  - He or she is ill or injured, or for the purpose of receiving medical care, treatment, diagnosis or preventative medical care.
  - A member of his or her family is ill or injured, or for the purpose of receiving medical care, treatment, diagnosis or preventative medical care.
- An Employer shall not require, as a condition of a Covered Employee taking paid sick leave that he or she search for or find a replacement worker to cover the hours during which he or she is on paid sick leave.
- If a Covered Employee's need for paid sick leave is reasonably foreseeable, an Employer may require up to seven days' notice before leave is taken. If the need for paid sick leave is not reasonably foreseeable, an Employer may require a Covered Employee to give notice as soon as is practicable on the day the Covered Employee intends to take paid sick leave by notifying the Employer via phone, e-mail, or text message. For purposes of this subsection, needs that are "reasonably foreseeable" include, but are not limited to, prescheduled appointments with healthcare providers for the Covered Employee or for a family member, and court dates in domestic violence cases. Any notice requirement imposed by an Employer pursuant to this subsection shall be waived in the event a Covered Employee is unable to give notice because he or she is unconscious, or otherwise medically incapacitated.
- Where a Covered Employee is absent for more than three consecutive work days, his or her Employer may require certification that the use of paid sick leave was authorized under this section.
- If any Employer violates any of the paid sick leave provisions, the affected Covered Employee may recover in a civil action damages equal to three times the full amount of any unpaid sick time denied or lost by reason of the violation, and the interest on that amount calculated at the prevailing rate, together with costs and such reasonable attorney's fees as the court allows.

For a copy of the Cook County Ordinance, please click on the link provided below.

<https://cook-county.legistar.com/LegislationDetail.aspx?ID=2775571&GUID=CCBEEF29-D744-4015-91A1-7948EEE28668&Options=&Search=&FullText=1>

## Westchester County, New York Enacts Paid Sick Leave Law

The Westchester County Board of Legislators, on October 1, 2018, adopted Local Law Intro No. 10623-2018 and it was signed into law by Westchester County Executive George Latimer on October 12, 2018.

The law, effective April 11, 2019, amends the Laws of Westchester to add a new Chapter 585 – Earned Sick Leave Law and mandates earned sick leave for certain employees.

### Some of the highlights of the new law are as follows:

#### Covered Employers

An “employer” means any “employer” as defined in Section 190(3) of New York State Labor Law, except that an employer includes Westchester County government for its employees that are not subject to a collective bargaining agreement. New York State Labor Law defines an “employer” as any person, corporation, limited liability company, or association employing any individual in any occupation, industry, trade, business, or service.

#### Covered Employees

An “employee” means any person employed for hire by an employer in any employment within Westchester County for more than 80 hours in a calendar year who performs work on a full-time or part-time basis, including work performed in subsidized private sector and not-for-profit employment programs, but not including:

- work performed as a participant in a work experience program established by a social services district;
- work performed pursuant to work study programs under 42 U.S.C Section 2753;
- work performed by employees compensated by or through qualified scholarships as defined in 26 U.S.C. Section 117.

#### Accrual & Use

##### Accrual

At the commencement of employment or 90 days after the law goes into effect, whichever is later, all employees, except for domestic workers, must accrue a minimum of one hour of sick time for every 30 hours worked.

- Employees of an employer with five or more employees are entitled to earn up to 40 hours of *paid* sick time in a year.
  - The employer may select a limit higher than 40 hours in a calendar year.
- Employees of an employer with fewer than five employees are entitled to earn up to 40 hours of *unpaid* sick time in a year.

In determining the number of employees performing work for an employer, all employees performing work for compensation on a full-time, part-time, or temporary basis must be counted, provided that where the number of employees who work for an employer per week fluctuates, the number of employees for the current calendar year may be based upon the average number of employees who worked per week during the preceding calendar year. Calendar year means from January 1 to December 31 in any given year.

Domestic workers must accrue a minimum of one hour of sick time for every seven days worked. This is in addition to the one day of rest provided by New York State Labor Law. All domestic workers employed by any employer, regardless of the number of domestic workers employed, are entitled to earn and use up to 40 hours of earned paid sick time a year.

All employers can opt to provide more than 40 hours of sick time a year to their employees.

There are no frontloading specifications provided within the legislation.

## Use

An employee may begin to use earned sick time after the employee has worked for the employer for 90 days.

- Employees of an employer with five or more employees are entitled to use up to 40 hours of paid sick time in a year.
- Employees of an employer with fewer than five employees are entitled to use up to 40 hours of unpaid sick time in a year.
- Domestic workers are entitled to use up to 40 hours of paid sick time in a year.

An employee may use a minimum of four hours, and, if more time is needed, then the smallest increment that the employer's payroll system uses to account for absence or use of other time.

Earned sick time may be used in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.

## **Carryover Limit**

Earned sick time that has not been utilized can be carried over to the following year provided that the maximum amount of sick leave for any given year remains at 40 hours.

*Rehires* – An employer who rehires an employee within nine months after leaving employment is required to reinstate any unused earned sick leave that had accrued at the time of separation.

## **Rate of Pay Requirements**

Paid sick time must be compensated at the same hourly rate as the employee normally earns during hours worked. In no case can this hourly amount be less than the current New York State minimum wage.

## **Notice Requirements**

At the commencement of employment or within 90 days of the effective date of this law, whichever is later, all employers must give employees a copy of the Earned Sick Leave Law and written notice of how the law applies to that employee.

Employers must display a copy of the Earned Sick Leave Law and a poster in English, Spanish, and any other language deemed appropriate by the County of Westchester, in a conspicuous location accessible to their employees.

## **Pay Statement Requirements**

No pay statement requirements are stipulated at this time.

For more information on Local Law Intro No. 10623-2018 and a copy of the legislation, please paste the following into your browser:

<http://westchesterlegislators.com/earned-sick-leave-law.html>



## Payroll

### Alaska Announces January 1, 2019 Minimum Wage

The State of Alaska has announced that the state minimum wage will increase to \$9.89 per hour effective January 1, 2019, from its current level of \$9.84 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 proceeding January-December calendar year.

The Alaska minimum wage increase applies to all employees in the private sector, whether working in a for-profit, not-for-profit or nonprofit business.

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

[http://labor.state.ak.us/lss/forms/2019\\_Minimum\\_Wage\\_Determination.pdf](http://labor.state.ak.us/lss/forms/2019_Minimum_Wage_Determination.pdf)

### Minimum Wage Increase Approved by Arkansas Voters

By a vote of 68 percent in favor, Arkansas voters on November 6, 2018 approved "Issue 5: Arkansans for a Fair Wage." With the passage of Issue 5, the state minimum wage will increase from the current rate of \$8.50 per hour to the following:

Effective January 1, 2019	\$9.25 per hour
Effective January 1, 2020	\$10.00 per hour
Effective January 1, 2021	\$11.00 per hour

Tipped employees must be paid a minimum of \$2.63 in cash wages.

### California Releases 2019 Minimum Earnings Thresholds

According to the California Labor Code, computer software professionals and licensed physicians and surgeons may be exempt from California's overtime requirements if certain criteria are met. One of the criteria is that the employee's hourly rate of pay is not less than a certain rate, which is determined by the California Department of Industrial Relations (the "Department"). The Department adjusts this rate each year on October 1, with the new rate to be effective on January 1st of the following year.

On October 19, 2018, the Department released the rates applicable to these exemptions for 2019 as follows:

- Computer software professionals are exempt from overtime if they are paid at least \$45.41 per hour (currently, \$43.58 per hour), or (1) are paid on a salary basis, (2) earn an annual salary of at least \$94,603.25 (currently, \$90,790.07), and (3) are paid at least \$7,883.62 monthly (currently, \$7,565.85 monthly).
- Licensed physicians and surgeons are exempt from overtime beginning in 2018 if they are paid at least \$82.72 per hour (currently, \$79.39 per hour).

Links to updated relevant publications by the California Department of Industrial Relations can be found below:

Computer Software Professionals

<https://www.dir.ca.gov/oprl/ComputerSoftware.pdf>

Licensed Physicians and Surgeons

<https://www.dir.ca.gov/oprl/Physicians.pdf>

## District of Columbia Minimum Wage Initiative Repealed

The District of Columbia city council voted 8 to 5 in favor of repealing Initiative 77 and that Mayor Muriel Bowser had to make a decision to sign or veto the repeal bill. On October 23, 2018, Mayor Bowser signed the bill thus repealing Initiative 77.

### Background

On June 19, 2018, Washington D.C. voted by a margin of 55 percent to 45 percent to approve Initiative 77 which would gradually phase out the use of tipped credits to pay tipped employees with the result being that by 2026, tipped employees and non-tipped employees will be receiving the same minimum wage.

Currently, non-tipped minimum wage employees earn \$13.25 an hour, but tipped employees, like servers and bartenders, earn \$3.89 an hour and supplement the rest of their income with tips. If the employee does not make enough in tips to bring their hourly wage to the minimum wage, the employer must increase the employee's cash wages to make up the difference.

In summary, Initiative 77 (if it had taken effect) would have required the following:

- Gradually increase the minimum wage in the District of Columbia to \$15.00 hourly by 2020;
- Gradually increase the minimum wage for tipped employees so that they receive the same minimum wage directly from their employer as other employees by 2026;
- Beginning in 2021, require the minimum wage increase yearly in proportion to increases in the Consumer Price Index.

With the repeal of Initiative 77, the minimum wage in D.C. will remain at \$13.25 per hour for non-tipped employees and \$3.89 in cash wages for tipped employees. These minimum amounts are scheduled to increase to \$14.00 and \$4.45, respectively, as of July 1, 2019.

It is important to note that the supporters of Initiative 77 have announced plans to hold a referendum vote on the council's decision to overturn the ballot measure. This would require the gathering of 25,000 signatures to place the issue on the ballot. If the referendum qualified for the ballot, the repeal bill would be blocked from taking effect until voters had another say during a special election.

If the referendum passes, the council cannot amend it for at least one year. After that year ends, the council could again try to halt Initiative 77.

ADP will continue to monitor and report on this matter.

## Florida Raises Minimum Wage Effective January 1, 2019

The Florida Department of Economic Opportunity (DEO) has announced the minimum wage rate will increase from \$8.25 per hour to \$8.46 per hour and the minimum cash wage for tipped employees will increase from \$5.23 per hour to \$5.44 per hour. Both increases will be effective January 1, 2019.

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

[http://www.floridajobs.org/docs/default-source/business-growth-and-partnerships/for-employers/posters-and-required-notices/2019-minimum-wage-poster/poster-fl\\_minwage2019.pdf?sfvrsn=2](http://www.floridajobs.org/docs/default-source/business-growth-and-partnerships/for-employers/posters-and-required-notices/2019-minimum-wage-poster/poster-fl_minwage2019.pdf?sfvrsn=2)

## Missouri Voters Approve Minimum Wage Increase

On November 6, 2018, Missouri voters approved Petition 2018-204 "Statutory Amendment to Chapter 290, Relating to Minimum Wage." Sixty-one percent of Missouri voters voted to approve the petition to raise the state minimum wage from its current level of \$7.85 as follows:

- \$8.60 per hour beginning January 1, 2019;
- \$9.45 per hour beginning January 1, 2020;
- \$10.30 per hour beginning January 1, 2021;
- \$11.15 per hour beginning January 1, 2022; and
- \$12.00 per hour beginning January 1, 2023.

The petition also penalizes an employer who pays employees below the minimum wage and requires the employer to provide the underpaid employee with the full amount of the wage rate plus an additional amount equal to twice the unpaid wages.

It is important to note that the petition exempts government employers from the minimum wage increase.

Tipped employees must be paid 50 percent of the minimum wage in cash wages.

## Salary Thresholds and Minimum Wage to Increase in New York

### Salary Thresholds:

Effective December 31, 2018, the new salary thresholds in New York, for the overtime exemption as an executive or administrative employee, are as follows:

#### Employers in New York City

Large employers (11 or more employees)

- \$1,125.00 per week (\$58,500 annually) on and after 12/31/18 (currently \$975.00 per week (\$50,700 annually))

Small employers (10 or fewer employees)

- \$1,012.50 per week (\$52,650 annually) on and after 12/31/18 (currently \$900.00 per week (\$46,800 annually))

#### Employers in Nassau, Suffolk, and Westchester Counties

- \$900.00 per week (\$46,800 annually) on and after 12/31/18 (currently \$825.00 per week (\$42,900 annually))

#### Employers Outside of New York City and Nassau, Suffolk, and Westchester Counties

- \$832.00 per week (\$43,264 annually) on and after 12/31/18 (currently \$780.00 per week (\$40,560 annually))

New York State has no minimum salary for exempt “professional” employees, although most of those employees would still be subject to the federal salary minimum for exemption (\$455 per week, or \$23,660 annually). The U.S. Department of Labor (DOL) has not raised the federal minimum salary for exemption since 2004.

### Minimum Wage:

The minimum state wage in New York effective 12/31/18 is as follows:

#### Employers in New York City

Large employers (11 or more employees)

- \$15.00 per hour (currently \$13.00 per hour)

Small employers (10 or fewer employees)

- \$13.50 per hour (currently \$12.00 per hour)

#### Employers in Nassau, Suffolk, and Westchester Counties

- \$12.00 per hour (currently \$11.00 per hour)

#### Employers Outside of New York City and Nassau, Suffolk, and Westchester Counties

- \$11.10 per hour (currently \$10.40 per hour)

## Washington State Considers Increasing Wage Thresholds for Overtime Exemption

Washington State regulators are exploring possible rule changes on white-collar exemptions from overtime pay which, if enacted, could result in many more employees being entitled to overtime when they work in excess of 40 hours in a workweek.

Currently, white-collar workers in Washington State are exempt from overtime if they make at least \$455 per week or \$23,660 annually as required under federal law. It is important to note that under state law (which has not been updated for 42 years) white-collar workers must make at least \$250 weekly or \$13,000 annually to be exempt from overtime, but the state law is preempted by the federal law as it is less generous to the employee.

The proposal is to tie the new salary-exemption threshold amount at one-and-a-half to three times the state minimum wage which will be \$12.00 per hour effective January 1, 2019.

If the threshold is set at one-and-a-half times the \$12.00 minimum rate, the new threshold exemption amount would be \$720 per week or \$37,440 annually.

If the level is set at three times the minimum wage effective January 1, 2019, the white-collar exemption amount would increase to \$1,440 per week or \$74,880 annually.

ADP will continue to monitor this situation and will report as new developments arise.

Please find attached the proposed rule regarding the white-collar exemption threshold being circulated by the Washington Department of Labor and Industries. Comments on the proposal were due by October 26, 2018.

<https://lni.us.engagementhq.com/EAP-Pre-Draft-Rule-Language?preview=true>

## Bernalillo County, New Mexico Announces 2019 Minimum Wage

Bernalillo County, New Mexico, has announced that the minimum wage effective January 1, 2019, for “employees who work within the unincorporated area of Bernalillo County, outside of the city limits” is as follows:

\$9.05 per hour (up from \$8.85 per hour) where the employee’s employer does NOT provide healthcare and/or childcare benefits to the employee during any pay period and the employer pays an amount for these benefits equal to or in excess of an annualized cost of \$2,500.00.

\$8.05 per hour (up from \$7.85 per hour) where the employee’s employer DOES provide healthcare and/or childcare benefits to the employee during any pay period and the employer pays an amount for these benefits equal to or in excess of an annualized cost of \$2,500.00.

### Tipped Employees:

Where the employee’s employer does NOT provide healthcare and/or childcare benefits to the employee during any pay period and the employer pays an amount for these benefits equal to or in excess of an annualized cost of \$2,500.00:

Minimum Cash Wage	\$2.13
Maximum Tip Credit	\$6.92
Minimum Hourly Rate	\$9.05

Where the employee’s employer DOES provide healthcare and/or childcare benefits to the employee during any pay period and the employer pays an amount for these benefits equal to or in excess of an annualized cost of \$2,500.00.

Minimum Cash Wage	\$2.13
Maximum Tip Credit	\$5.92
Minimum Hourly Rate	\$8.05

## City of Albuquerque Announces 2019 Minimum Wage

The City of Albuquerque, New Mexico, has announced the minimum wage rate is increasing from \$8.95 to \$9.20 per hour, effective January 1, 2019.

However, the minimum wage will be \$8.20 per hour (increased from \$7.95 per hour) if the employee’s employer provides healthcare and/or childcare benefits to the employee during any pay period and the employer pays an amount for these benefits equal to or in excess of an annualized cost of \$2,500.00.

The minimum wage rate for tipped employees will increase from \$5.35 to \$5.50 per hour on January 1, 2019.

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

<http://www.cabq.gov/legal/news/albuquerque-minimum-wage-2019>

## Las Cruces, New Mexico Announces 2019 Minimum Wage

The City of Las Cruces, New Mexico, has announced that effective January 1, 2019, the city's minimum wage rate will increase from \$9.20 to \$10.10 per hour. On that same date, the rate will increase from \$3.68 to \$4.04 per hour for tipped employees.

Beginning January 1, 2020, and on January 1 of each year thereafter, the minimum wage will be adjusted by the increase, if any, in the cost of living.

## City of SeaTac, Washington Announces 2019 Minimum Wage

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 \$15.64 per hour to \$16.09 per hour, effective January 1, 2019.

The announcement also states the following:

Each hospitality employer and transportation employer shall provide written notification of the rate adjustments to each of its workers and make the necessary payroll adjustments by January 1 following the publication of the bulletin. Tips, gratuities, service charges and commissions shall not be credited as being any part of or be offset against the wage rates required by this chapter.

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

<http://www.seatacwa.gov/home/showdocument?id=25356>

## Tacoma, Washington Announces 2019 Minimum Wage

Tacoma, Washington, has announced that that effective January 1, 2019, the minimum wage rate for employees will increase from \$12.00 per hour to \$12.35 per hour.

The use of tip credits to pay tipped employees is not allowed in Washington State, so tipped employees must be paid at least the minimum wage in cash wages per hour.

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## ADP Compliance Resources

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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