



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

## Topics covered in this issue:

### Leave:

- Colorado Enacts Family Medical Leave Insurance Program
- Maine Enacts Earned Paid Leave Bill
- Paid Family and Medical Leave Program Delayed by Massachusetts — Contribution Rate Changed
- Texas House Fails to Pass Measure to Prohibit Local Paid Sick Leave Laws
- Paid Leave Required for Victims of Domestic Violence in Westchester County, New York

### Payroll:

- Colorado Amends Wage Garnishment Law
- Colorado Law Blocking Locals From Implementing Minimum Wages Repealed
- Connecticut Minimum Wage to Increase
- Georgia Amends Wage Payment by Payroll Card Provisions
- Minnesota Enacts Wage Theft Act
- Nevada Establishes Health-Care Coverage Level for Minimum Wage Purposes
- Oregon To Require Flat Tax Where Employee Fails to Submit OR-W-4
- Wages Exempt From Garnishment Increased in Oregon
- Texas Enacts Law Allowing Employers to Pay Wages Via Payroll Card
- Washington State Enacts Payroll Tax for New Long-Term Care Program
- Garnishment Exempt Amounts for Consumer Debt Increased in Washington State
- Cook County, Illinois, Minimum Wage to Increase
- Minimum Wage Increased in Emeryville, California
- Chicago, Illinois, Announces Minimum Wage Increase
- July 1, 2019 Minimum Wage Increase Reminder



## Leave

### Colorado Enacts Family Medical Leave Insurance Program

On May 30, 2019, Colorado Governor, Jared Polis, signed into law Senate Bill 188 (SB 188) creating the Family Medical Leave Insurance Program (“Program”). The intent is to provide partial wage replacement benefits to an eligible individual who takes leave from work to care for a new child or a family member with a serious health condition, or because the eligible individual is unable to work due to the individual’s own serious health condition or because the individual or a family member is the victim of abusive behavior.

It is important to note that SB 188 actually provides for “the creation of a Family and Medical Leave Insurance Program, and, in connection therewith, creating an implementation for a Family and Medical Leave Insurance Program and making an appropriation.” Actual benefits under the program are not scheduled to be available until January 1, 2024.

SB 188 provides for the following time lines:

(A) BY JULY 1, 2019, APPOINTING AUTHORITIES ARE REQUIRED TO MAKE THEIR APPOINTMENTS TO THE TASK FORCE;

(B) BY OCTOBER 1, 2019, THE DEPARTMENT IS REQUIRED TO PROVIDE THE TASK FORCE WITH THE RESULTS OF A THIRD-PARTY STUDY AND PAID FAMILY AND MEDICAL LEAVE PLAN RECOMMENDATIONS FROM THE EXPERTS IN THE FIELD; AND THE TASK FORCE IS REQUIRED TO ACCEPT AND CONSIDER PUBLIC COMMENT REGARDING THE ADMINISTRATION AND ESTABLISHMENT OF A PAID FAMILY AND MEDICAL LEAVE PROGRAM;

(C) BY NOVEMBER 1, 2019, THE TASK FORCE SHALL MAKE ITS INITIAL RECOMMENDATION ON A FAMILY AND MEDICAL LEAVE PROGRAM FOR EMPLOYEES IN THE STATE AND PROVIDE THE RECOMMENDATION TO AN ACTUARY CONTRACTED BY THE DEPARTMENT;

(D) BY DECEMBER 1, 2019, AN INDEPENDENT ACTUARIAL ANALYSIS MUST BE COMPLETED AND SUBMITTED TO THE TASK FORCE;

E) BY JANUARY 8, 2020, THE TASK FORCE SHALL REPORT ITS FINAL RECOMMENDATION ON A PAID FAMILY AND MEDICAL LEAVE PROGRAM FOR ALL EMPLOYEES IN THE STATE;

(II) THE TIME LINE MAY ALSO BE ASSUMED AS FOLLOWS:

(A) BY JULY 1, 2020, THE FAMILY AND MEDICAL LEAVE PROGRAM WILL BE ESTABLISHED;

(B) BY JANUARY 1, 2022, THE PUBLIC EDUCATION AND OUTREACH CAMPAIGN WILL BEGIN;

(C) BY JANUARY 1, 2023, THE FAMILY AND MEDICAL LEAVE PROGRAM FUNDING WILL BEGIN; AND

(D) BY JANUARY 1, 2024, THE FAMILY AND MEDICAL LEAVE PROGRAM WILL START PAYING BENEFITS.

As noted above, the legislation requires the Department to request information from third parties who may be willing to administer the Program. In asking for proposals to support the Program, the request must ask for, among other information, the third-party's prior experience with paid family and medical leave insurance or the provision of monetary benefits in Colorado related to employees taking leave from work due to serious health conditions, parental bonding, or other family and medical leave purposes.

For a copy of SB 188, click on the link provided below.

[https://leg.colorado.gov/sites/default/files/2019a\\_188\\_signed.pdf](https://leg.colorado.gov/sites/default/files/2019a_188_signed.pdf)

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## Maine Enacts Earned Paid Leave Bill

On May 28, 2019, Maine Governor, Janet Mills, signed into law legislation (S.P. 110 - L.D. 369) which provides that employers with more than 10 employees for more than 120 days in any year must allow their employees to earn paid leave. **It is important to note that this legislation allows paid leave to be taken for any purpose and Maine is the first state to pass such legislation.**

Highlights of the earned paid leave bill, effective January 1, 2021, are as follows:

- An employee is entitled to earn one hour of paid leave for every 40 hours worked, up to 40 hours per year.
- Employees can start accruing leave at the beginning of employment, but the employer is not required to allow the employee to use the accrued leave before the employee has been employed for 120 days.
- An employee, while taking earned leave, must be paid at least the same base rate of pay that the employee received immediately prior to taking earned leave and must receive the same benefits as those provided under established policies of the employer pertaining to other types of paid leave.
- Absent an emergency, illness or other sudden necessity for taking earned leave, an employee shall give reasonable notice to the employee's supervisor of the employee's intent to use earned leave. Use of leave must be scheduled to prevent undue hardship on the employer as reasonably determined by the employer.
- The taking of earned leave pursuant to the law may not result in the loss of any employee benefits accrued before the date on which the leave commenced and may not affect the employee's right to health insurance benefits on the same terms and conditions as applicable to similarly situated employees.
- Nothing in the legislation prevents an employer from providing a benefit greater than that provided under the law.
- Municipalities and other political subdivisions are not permitted to enact ordinances or other rules regulating earned paid leave.

For a copy of S.P 110 – L.D. 369, click on the link provided below.

<http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=SP0110&item=4&snum=129>

## Paid Family and Medical Leave Program Delayed by Massachusetts – Contribution Rate Changed

On June 11, 2019, Massachusetts Governor Charlie Baker, Senate President Karen Spilka and House Speaker Robert DeLeo announced an agreement to delay the start of employer contributions to the new Massachusetts Paid Family and Medical Leave (“PFML”) program until **October, 1, 2019** (a three-month extension from the prior deadline of July 1, 2019). In a joint statement, they announced:

“To ensure businesses have adequate time to implement the state’s Paid Family and Medical Leave program, the House, Senate, and Administration have agreed to adopt a three-month delay to the start of required contributions to the program. We will also adopt technical changes to clarify program design. We look forward to the successful implementation of this program this fall.”

It was also announced that legislation was being drafted that needed to be enacted in order to make the delay “official.”

Subsequently, Governor Baker of Massachusetts on June 13, 2019, signed into law S. 2255 which officially delays the start of employer contributions to the new Massachusetts Paid Family and Medical Leave program until October, 1, 2019 (a three-month extension from the prior deadline of July 1, 2019).

S. 2255 states in part as follows:

SECTION 9. Clause (iii) of section 30 of chapter 121 of the acts of 2018, as amended by section 49 of chapter 273 of the acts of 2018, is hereby further amended by striking out the word “July” and inserting in place thereof the following word: October.

### Change in Contribution Rate Announced

The Massachusetts Department of Paid Family and Medical Leave (link below) has released a communication confirming the three-month delay. Of important note is that the contribution rate has been adjusted from 0.63 percent to 0.75 percent to account for the shorter collection period.

### Contribution Rate Change

The PFML law requires that the Department adjust the contribution rate to offset the shorter period for collections that will result from the three-month delay. As a result, the total contribution rate has been adjusted from 0.63 percent to 0.75 percent of employee qualifying earnings. This adjustment will ensure that full funding will be in place for the commencement of benefits payments in January 2021.

<https://mailchi.mp/07a7c0b31af0/notice-to-massachusetts-employers?e=e13dfd29a9>

For more information on the Massachusetts Paid Family and Medical Leave program, click on the link provided below.

<https://www.mass.gov/info-details/paid-family-medical-leave-for-employers-faq>

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## Texas House Fails to Pass Measure to Prohibit Local Paid Sick Leave Laws

Ordinances requiring private employers to provide paid sick leave to its employees were enacted in Austin, Dallas and San Antonio, Texas. The Austin mandate, originally effective October 1, 2018, was struck down in court as violating the Texas Minimum Wage Act. The Dallas and San Antonio ordinances are set to be effective August 1, 2019.

Opponents of these local paid sick leave laws recently introduced legislation (Senate Bill 2487) to prohibit local paid sick leave mandates. The measure stated in part as follows:

A political subdivision of this state may not adopt or enforce any ordinance, order, rule, regulation, or policy regulating a private employer’s terms of employment relating to any form of employment leave, including paid days off from work for holidays, sick leave, vacation, and personal necessity.

Although Senate Bill 2487 passed the Senate, it failed to be brought to a vote in the House prior to the legislative session ending on May 27, 2019.

## **Future Outlook:**

The court ruling striking down the Austin mandate is currently being appealed to the Texas Supreme Court. The timing of when the legal action will be exhausted is uncertain.

It is still possible a legal challenge to the Dallas and San Antonio ordinances, which are effective August 1, 2019, could be filed given the recent failure to enact Senate Bill 2487.

Although the Texas legislature is not scheduled to go into regular session again until January of 2021, the Governor may call a special session, where it is possible the action to prohibit local paid sick leave laws may be continued.

ADP® will continue to monitor and report on this matter.

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## **Paid Leave Required for Victims of Domestic Violence in Westchester County, New York**

The County of Westchester, New York enacted an ordinance titled "Safe Time Leave for Victims of Domestic Violence and Human Trafficking" requiring employers in that county to provide paid safe-time leave to full-time and part-time employees employed within the county for more than 90 days in a calendar year, who are victims of domestic violence or human trafficking. The law becomes effective October 30, 2019, which is 180 days from the enactment date of May 3, 2019.

Note: This entitlement is in addition to the Westchester County "Earned Sick Leave Law," effective April 11, 2019, that already required employers with five or more employees in Westchester County to provide paid sick leave, and employers with fewer than five employees must provide unpaid sick leave.

Some of the highlights of the newly enacted ordinance are as follows:

- Employees who are victims of domestic violence or victims of human trafficking are entitled to take up to 40 hours of paid leave, in any year or calendar year (each as defined by the ordinance), which can be utilized in full days and/or increments in order to attend/testify in criminal and/or civil court proceedings relating to domestic violence or human trafficking and/or to move to a safe location.
- "Calendar year" shall mean from January 1 to December 31 in any given year.
- "Year," other than "calendar year" means a regular and consecutive 12-month period as determined by the employer.
- "Domestic violence" shall mean a pattern of violent or abusive behavior used by one person to gain or maintain control over another.
- "Human trafficking" involves the use of force, fraud, or coercion to obtain some type of labor or commercial sex act.
- "Eligible employees" mean full-time and part-time employees employed within the county for more than 90 days in a calendar year.
- Unlike the Westchester County paid sick leave law, safe time does not accrue, but rather is available to an eligible employee on an as-needed basis, up to 40 hours per year. The ordinance does not permit employers to set a minimum daily increment of use, so employees may determine the amount of safe time needed if less than a full day.
- Safe-time leave must be provided upon request, which may be provided by oral, written, or by electronic means.
- Employers may request reasonable documentation that safe-time leave is being used for the intended purposes. Reasonable documentation may include (1) a court appearance ticket or subpoena; (2) a copy of a police report; (3) an affidavit from an attorney involved in the court proceeding relating to the issue of domestic violence and/or human trafficking; or (4) an affidavit from an authorized person from a reputable organization to provide assistance to victims of domestic violence and victims of human trafficking.
- By the later of 90 days from the effective date or at the commencement of employment, employers are required to provide employees with a copy of the Safe Time Leave Law and written notice of how the law applies to that employee. Additionally, employers are required to display a copy of the law and a poster in English, Spanish and any other language the county deems necessary.

- Violations of notice and posting requirements are subject to a fine of up to \$500 per offense.
- The ordinance requires employers to keep confidential any information about an employee or family member obtained solely for purposes of safe-time leave, except if disclosure is required by law or the employee gives written permission for disclosure. Any "health or safety information" obtained by an employer in this regard must also be maintained on a separate form and in a separate file from other personnel information.
- Employers are prohibited from interfering with an employee's exercise of rights under the ordinance or retaliating against an employee for their use of safe time or attempt to enforce their rights under the law. Specifically, the law prohibits employers from including safe time as an absence that may lead to or result in discipline, discharge, demotion or suspension.



## Colorado Amends Wage Garnishment Law

On May 20, 2019, Colorado Governor, Jared Polis, signed into law House Bill 1189 (HB 1189) that reduces disposable earnings available for garnishment by health insurance premiums and provides more detailed information to the judgment debtor regarding garnishment.

Under current law, the amount of an individual's disposable earnings subject to garnishment is either 25 percent of the individual's disposable earnings for a week or the amount an individual's disposable earnings for a week exceeds 30 times the state or federal minimum wage, whichever is less. HB 1189 changes the amount subject to garnishment from 25 percent to 20 percent of the individual's disposable weekly earnings and from 30 times to 40 times the amount an individual's disposable earnings for a week exceed the state or federal minimum wage.

Currently, the cost of court-ordered health insurance for a child provided by an individual is deducted from the individual's disposable earnings subject to garnishment. The bill also deducts from an individual's disposable earnings subject to garnishment the cost of any health insurance that is provided by the individual's employer and voluntarily withheld from the individual's earnings.

In addition, HB 1189 creates an exemption that would permit individuals to prove that the amount of their pay subject to garnishment should be further reduced or eliminated altogether if the individual can establish that such reductions are necessary to support the individual or the individual's family.

Although the enrolled bill states that the new garnishment limits "apply to all writs of garnishment issued on or after October 1, 2020, regardless of the dates of entry of the judgments upon which the writs of garnishment are based," the Colorado legislature has released a summary (link below) indicating as follows.

"The bill applies to all writs of garnishment issued on or after January 1, 2020, regardless of the date of the judgment that is basis of the writ of garnishment."

<https://leg.colorado.gov/bills/hb19-1189>

For a copy of HB 1189, click on the link provided below.

[https://leg.colorado.gov/sites/default/files/2019a\\_1189\\_signed.pdf](https://leg.colorado.gov/sites/default/files/2019a_1189_signed.pdf)

ADP® will continue to monitor and report on the disparity in the effective date of HB 1189.

## Colorado Law Blocking Locals From Implementing Minimum Wages Repealed

On May 28, 2019, Governor Jared Polis of Colorado signed into law House Bill 1210 (HB 1210), which repeals a 1999 state law blocking cities and counties from adopting a local minimum wage higher than the state minimum wage.

Effective January 1, 2020, local governments are permitted to enact minimum wage ordinances for workers expected to perform four or more hours of work per week in its jurisdiction.

The minimum wage implemented must be higher than the Colorado state minimum wage which is currently \$11.10 per hour (\$8.08 cash wages for tipped employees) and is scheduled to be increased to \$12.00 per hour and \$8.98 cash wages for tipped employees effective on January 1, 2020.

Some other highlights of HB 1210 are:

- The bill limits the number of local governments that may enact local minimum wage ordinances to 10 percent of all local governments within the state of Colorado.
- Local minimum wage ordinances may only schedule an increase of no greater than: \$1.75 per hour or 15 percent of the state minimum wage.
- Local governments may enact laws to enforce the local minimum wage laws that include the provision of fines and penalties, payment of unpaid wages or overtime, liquidated damages, interests and attorney fees.
- Increases in the local minimum wage must be scheduled to take effect on the same date as a scheduled increase in the state minimum wage.
- Local governments are required to consult with surrounding local governments and stakeholders prior to enacting a local minimum wage ordinance.
- Nursing facility providers located in a jurisdiction that have a local minimum wage higher than the state minimum wage may apply for a local minimum wage enhancement payment for funding the impact of the local minimum wage increase.

For a copy HB 1210, click on the link provided below.

<https://leg.colorado.gov/bills/hb19-1210>

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## Connecticut Minimum Wage to Increase

On May 28, 2019, the Governor of Connecticut, Ned Lamont, signed into law House Bill 5004 (HB 5004) which provides for an increase to the state's minimum wage. The current minimum wage is \$10.10 per hour. The minimum cash wage for hotel and restaurant staff is \$6.38 per hour and \$8.23 per hour for bartenders.

HB 5004 increases the minimum wage incrementally as shown below:

Effective October 1, 2019	\$11.00 per hour
Effective September 1, 2020	\$12.00 per hour
Effective August 1, 2021	\$13.00 per hour
Effective July 1, 2022	\$14.00 per hour
Effective June 1, 2023	\$15.00 per hour

Beginning January 1, 2024, the minimum wage rate will then be indexed to the employment cost index calculated by the U.S. Department of Labor.

The bill also freezes the minimum cash wages at their current values (\$6.38 for hotel and restaurant staff, and \$8.23 for bartenders). Thus, as the minimum wage increases, the value of the tip credit will correspondingly increase to make up the difference between the employer's share and the new minimum wage.

In addition, the bill eliminates the training wage exceptions for learners and beginners, and limits the training wage to only people under age 18, except emancipated minors, for the first 90 days (currently, 200 hours) of their employment, effective October 1, 2019.

Finally, effective October 1, 2020, the bill prohibits employers from taking action to displace, or partially displace, an employee in order to hire people under the age of 18 at a subminimum wage.

For a copy of HB 5004, click on the link provided below.

<https://www.cga.ct.gov/2019/ACT/pa/pdf/2019PA-00004-R00HB-05004-PA.pdf>

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## Georgia Amends Wage Payment by Payroll Card Provisions

Georgia has enacted legislation (House Bill 373), effective May 6, 2019, removing the requirement of a form being provided by an employer to an employee that allows the employee to opt out of receiving wages by payroll card.

The law previously in effect stated:

"A form shall be provided simultaneously with the written explanation of fees allowing employees to opt out of receiving such payments as credit to a payroll card account as provided in paragraphs (2) and (3) of this subsection. Such form shall also be made generally available to employees; (2) The ability to opt out of receiving such payments as credit to a payroll card account by submitting in writing a request for a check; and (3) The ability to opt out of receiving such payments as credit to a payroll card account by providing the proper designation and authorization for an electronic credit transfer."

The new legislation states in part as follows:

"Every person, firm, or corporation, including steam and electric railroads, but not including farming, sawmill, and turpentine industries, employing skilled or unskilled wageworkers in manual, mechanical, or clerical labor, including all employees except officials, superintendents, or other heads or subheads of departments who may be employed by the month or year at stipulated salaries, shall, upon the discretion of such person, firm, or corporation, make wage and salary payments to such employees or to their authorized representatives:

- (1) By lawful money of the United States;
- (2) By check;
- (3) By credit to a payroll card account; or
- (4) With the consent of the employee, by authorization of electronic credit transfer to his or her account with a bank, trust company, or other financial institution authorized by the United States or one of the several states to receive deposits in the United States."

For a copy of HB 373, click on the link provided below.

<http://www.legis.ga.gov/Legislation/20192020/187603.pdf>

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## Minnesota Enacts Wage Theft Act

On May 30, 2019, Minnesota Governor Tim Walz signed legislation (HF2) enacting the Minnesota Wage Theft law designed to create additional protections for workers, including adding criminal penalties for employers who commit wage theft. Employers who violate the provisions of the legislation are "guilty of a misdemeanor." In addition, HF2 modifies the elements that must be present on wage statements provided to employees, requires that employers provide certain notices to employees, increases the types of records that must be kept by employers for each employee and modifies certain wage payment frequency requirements. **The Minnesota Department of Labor and Industry indicates that the new laws go into effect on July 1, 2019, unless otherwise indicated in the legislation.** A link to that website, which includes a copy of the wage theft legislation may be found below:

<https://www.dli.mn.gov/business/employment-practices/wage-theft-legislation-2019>

## The requirements for wage statements were modified as follows –

Wage Statements: [underlined language indicates a new requirement – a strikethrough indicates deleted language]

- (b) The earnings statement may be in any form determined by the employer but must include:
- (1) the name of the employee;
  - (2) the hourly rate or rates of pay (if applicable) and basis thereof, including whether the employee is paid by hour, shift, day, week, salary, piece, commission, or other method;
  - (3) allowances, if any, claimed pursuant to permitted meals and lodging;
  - (4) the total number of hours worked by the employee unless exempt from chapter 177;
  - ~~(4)~~ (5) the total amount of gross pay earned by the employee during that period;
  - ~~(5)~~ (6) a list of deductions made from the employee's pay;
  - ~~(6)~~ (7) the net amount of pay after all deductions are made;
  - ~~(7)~~ (8) the date on which the pay period ends; and
  - ~~(8)~~ (9) the legal name of the employer and the operating name of the employer if different from the legal name;
  - (10) the physical address of the employer's main office or principal place of business, and a mailing address if different; and
  - (11) the telephone number of the employer.

In addition, an employer must provide earnings statements to an employee in writing, rather than by electronic means, if the employer has received at least 24 hours' notice from an employee that the employee would like to receive earnings statements in written form. Once an employer has received notice from an employee that the employee would like to receive earnings statements in written form, the employer must comply with that request on an ongoing basis.

### **New Hire Notices:**

At the start of employment, an employer shall provide each employee with a written notice containing the following information:

- (1) the rate or rates of pay and basis thereof, including whether the employee is paid by the hour, shift, day, week, salary, piece, commission, or other method, and the specific application of any additional rates;
- (2) allowances, if any, claimed pursuant to permitted meals and lodging;
- (3) paid vacation, sick time, or other paid time-off accruals and terms of use;
- (4) the employee's employment status and whether the employee is exempt from minimum wage, overtime, and other provisions of chapter 177, and on what basis;
- (5) a list of deductions that may be made from the employee's pay;
- (6) the number of days in the pay period, the regularly scheduled payday, and the payday on which the employee will receive the first payment of wages earned;
- (7) the legal name of the employer and the operating name of the employer if different from the legal name;
- (8) the physical address of the employer's main office or principal place of business, and a mailing address if different; and
- (9) the telephone number of the employer.

The employer must keep a copy of the notice signed by each employee acknowledging receipt of the required notice. The notice must be provided to each employee in English. The English version of the notice must include text provided by the Department of Labor commissioner ("commissioner") that informs employees that they may request, by indicating on the form, the notice be provided in a particular language. If requested, the employer shall provide the notice in the language requested by the employee. The commissioner shall make available to employers the text to be included in the English version of the notice required by this section and assist employers with translation of the notice in the languages requested by their employees.

An employer must provide the employee with any written changes to the information contained in the notice prior to the date the changes take effect.



**Record Keeping:**

Every employer subject to the Minnesota Fair Labor Standards Act must make and keep a record of:

- (1) the name, address, and occupation of each employee;
- (2) the rate of pay, and the amount paid each pay period to each employee;
- (3) the hours worked each day and each workweek by the employee, including for all employees paid at piece rate, the number of pieces completed at each piece rate;
- (4) a list of the personnel policies provided to the employee, including the date the policies were given to the employee and a brief description of the policies;
- (5) a copy of the notice provided to each employee as required, including any written changes to the notice;
- (6) for each employer subject to the State Projects and State Highway Construction Public Policy and while performing work on public works projects funded in whole or in part with state funds, the employer shall furnish under oath signed by an owner or officer of an employer to the contracting authority and the project owner every two weeks, a certified payroll report with respect to the wages and benefits paid each employee during the preceding weeks specifying for each employee: name; identifying number; prevailing wage master job classification; hours worked each day; total hours; rate of pay; gross amount earned; each deduction for taxes; total deductions; net pay for week; dollars contributed per hour for each benefit, including name and address of administrator; benefit account number; and telephone number for health and welfare, vacation or holiday, apprenticeship training, pension, and other benefits programs;
- (7) other information the commissioner finds necessary and appropriate to enforce the law.

The records must be kept for three years in the premises where an employee works except each employer subject to sections of the State Projects and State Highway Construction Public Policy, and while performing work on public works projects funded in whole or in part with state funds, the records must be kept for three years after the contracting authority has made final payment on the public works project.

All records required to be kept must be readily available for inspection by the commissioner upon demand. The records must be either kept at the place where employees are working or kept in a manner that allows the employer to comply within 72 hours.

The commissioner may fine an employer up to \$1,000 for each failure to maintain records as required by the law, and up to \$5,000 for each repeated failure. This penalty is in addition to any other penalties that may apply. In determining the amount of a civil penalty under this subdivision, the appropriateness of such penalty to the size of the employer's business and the gravity of the violation shall be considered.

If the records maintained by the employer do not provide sufficient information to determine the exact amount of back wages due an employee, the commissioner may make a determination of wages due based on available evidence.

**Wage Payment Frequency:**

Every employer (other than employers of volunteer firefighters, first responders, or volunteer ambulance drivers or attendants as noted below) must pay all wages, including salary, earnings, and gratuities earned by an employee at least once every 31 days and all commissions earned by an employee at least once every three months, on a regular payday designated in advance by the employer regardless of whether the employee requests payment at longer intervals. Unless paid earlier, the wages earned during the first half of the first 31-day pay period become due on the first regular payday following the first day of work.

If payment of wages is not made within 10 days of service of the demand for payment, the commissioner may charge and collect the wages earned at the employee's rate or rates of pay or at the rate or rates required by law, including any applicable statute, regulation, rule, ordinance, government resolution or policy, contract, or other legal authority, whichever rate of pay is greater, and a penalty in the amount of the employee's average daily earnings at the same rate agreed upon in the contract of employment, not exceeding 15 days in all, or rates for each day beyond the 10-day limit following the demand. If payment of commissions is not made within 10 days of service of the demand, the commissioner may charge and collect the commissions earned and a penalty equal to 1/15 of the commissions earned but unpaid for each day beyond the 10-day limit.

An employer of a volunteer firefighter, a member of an organized first responder squad that is formally recognized by a political subdivision in the state, or a volunteer ambulance driver or attendant, must pay all wages earned by the volunteer firefighter, first responder, or volunteer ambulance driver or attendant at least once every 31 days, unless the employer and the employee mutually agree upon payment at longer intervals.

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## Nevada Establishes Health-Care Coverage Level for Minimum Wage Purposes

The minimum wage law in Nevada currently requires an employer to pay employees \$8.25 per hour but only \$7.25 if the employer provides the employee the opportunity to elect "qualifying health benefits." There is no tip credit allowed in Nevada. The statute also did not specify what level of coverage of health benefits was required to be offered.

The Nevada Supreme Court (the "Court") was asked to clarify what constitutes "health benefits" for purposes of paying Nevada's lower-tier minimum wage. In *MDC Restaurants, LLC v. The Eighth Judicial Dist. Court*, No. 71289 Nev. decided on May 31, 2018, the Court determined that in Nevada the minimum wage law "requires an employer who pays one dollar per hour less in wages to provide a benefit in the form of health insurance at least equivalent to the one dollar per hour in wages that the employee would otherwise receive."

The Nevada legislature has now enacted legislation (Senate Bill 192) that establishes the minimum level of health benefits that an employer is required to make available to an employee and his or her dependents for the purpose of determining whether the employer is authorized to pay the lower minimum wage to the employee.

Senate Bill 192 adds the following language to NRS 608.250:

"For the purpose of determining the minimum wage that may be paid per hour to an employee in private employment pursuant to Section 16 of Article 15 of the Nevada Constitution and NRS 608.250, an employer:

1. Provides health benefits as described in Section 16 of Article 15 of the Nevada Constitution only if the employer makes available to the employee and the employee's dependents:
  - (a) At least one health benefit plan that provides:
    - (1) Coverage for services in each of the following categories and the items and services covered within the following categories:
      - (I) Ambulatory patient services;
      - (II) Emergency services;
      - (III) Hospitalization;
      - (IV) Maternity and newborn care;
      - (V) Mental health and substance-use-disorder services, including, without limitation, behavioral health treatment;
      - (VI) Prescription drugs;
      - (VII) Rehabilitative and habilitative services and devices;
      - (VIII) Laboratory services;
      - (IX) Preventative and wellness services and chronic disease management;
      - (X) Pediatric services which are not required to include oral and vision care; and
      - (XI) Any other health-care service or coverage level required to be included in an individual or group health benefit plan pursuant to any applicable provision of Title 57 of NRS; and
    - (2) A level of coverage that is designed to provide benefits that are actuarially equivalent to at least 60 percent of the full actuarial value of the benefits provided under the plan; or
  - (b) Health benefits pursuant to a Taft Hartley trust which is formed pursuant to 29 U.S.C. § 186(c)(5) and qualifies as an employee welfare benefit plan pursuant to:
    - (1) The Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.; or
    - (2) The provisions of the Internal Revenue Code; and

2. Does not provide health benefits as described in Section 16 of Article 15 of the Nevada Constitution if the employer makes available to the employee and the employee's dependents a hospital indemnity insurance plan or fixed indemnity insurance plan unless the employer separately makes available to the employee and the employee's dependents at least one health benefit plan that complies with the requirements of subsection 1.
3. As used in this section, 'health benefit plan' has the meaning ascribed to it in NRS 687B.470."

For a copy of Senate Bill 192, click on the link provided below:

<https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6334/Text>

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## **Oregon to Require Flat Tax Where Employee Fails to Submit OR-W-4**

On May 22, 2019, Oregon Governor, Kate Brown, signed into law House Bill 2119 (HB 2119) stipulating Oregon employers must withhold a flat eight percent state income tax on wages or other income paid on or after January 1, 2020, from employees who have not provided Form OR-W-4.

Under current law, employers are instructed to withhold as if the employee was single with zero allowances if the employee did not submit Form OR-W-4 and/or did not have a valid federal Form W-4 on file.

HB 2119 states in part as follows:

"The Department of Revenue may require a withholding statement or an exemption certificate to be filed on a form prescribed by the department ... for purposes of an employee instructing the employee's employer of the proper amount of tax to withhold from the employee's pay, or of the employee's exemption from withholding requirements

If a statement or certificate is not provided to the employer as required under subsection (1) of this section, the employer shall withhold tax from the wages paid to the employee at the rate of eight percent of the wages."

For a copy of HB 2119, click on the link provided below.

<https://apps.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2119>

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## **Wages Exempt From Garnishment Increased in Oregon**

On June 6, 2019 Governor Kate Brown of Oregon signed into law Senate Bill 519 (SB 519), which increased the amount of wages that are exempt from creditor garnishment.

Oregon law, not modified by SB 519, provides that 75 percent of the disposable earnings of an individual are exempt from execution.

However, effective January 1, 2020, the disposable earnings of an individual that are exempt from execution to the extent that payment under a garnishment would result in net disposable earnings for an individual of less than the amounts below has been modified by SB 519 as follows:

\$254 for any period of one week or less (currently \$218);

\$509 for any two-week period (currently \$435);

\$545 for any half-month period (currently \$468);

\$1,090 for any one-month period (currently \$936; and for any other period longer than one week, \$254 (currently \$218) multiplied by that fraction produced by dividing the number of days for which the earnings are paid by seven.

If an individual is paid for a period shorter than one week, the exemption may not exceed \$254 (currently \$218) for any one-week period.

For a copy of SB 519, click on the link below.

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/SB519/Enrolled>

## Texas Enacts Law Allowing Employers to Pay Wages Via Payroll Card

On May 29, 2019, Texas Governor, Greg Abbott, signed into law House Bill 2240 (HB 2240) which provides that employers may pay their employees' wages by use of a payroll card. The new law, effective September 1, 2019, states in part as follows:

Section 61.016(a), Labor Code, is amended to read as follows:

(a) an employer shall pay wages to an employee:

- (1) in United States currency;
- (2) by a written instrument issued by the employer that is negotiable on demand at full face value for United States currency; or
- (3) by the electronic transfer of funds to:

(A) a financial institution account designated by the employee; or

(B) a payroll card account established by the employer.

An employer may elect to pay wages to an employee through a payroll card account plan that is linked to a federally insured financial institution and uses electronic funds transfer to deposit wages in the employee's payroll card account.

Should the employer elect to pay its employees via payroll card, the employer must do the following:

- Notify the employee in writing regarding the employer's adoption of a payroll card account plan not later than the 60th day before the date of the first electronic funds transfer to the payroll card account of an affected employee or, for an employee hired after the date the employer adopts the plan, not later than the employee's first day of work.
- Provide to the employee a complete list of all fees associated with the employee's payroll card account in English, or, if the employer offers a payroll card account to an employee in a language other than English, in that other language.
- Provide to the employee a form the employee may use to request an alternate form of payment if the employee elects to opt out of the payroll card account plan.
- Obtain from the employee any information required by the payroll card account issuer that is necessary to implement the electronic funds transfer.
- If an employee requests an alternate form of payment the employer shall pay the employee's wages in the alternate form as soon as practicable, but not later than the first payday occurring after the 30th day after the employee requests the alternate form of payment.

For a copy of HB 2240, click on the link provided below.

<https://capitol.texas.gov/tlodocs/86R/billtext/pdf/HB02240F.pdf#navpanes=0>

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## Washington State Enacts Payroll Tax for New Long-Term Care Program

Washington Governor, Jay Inslee, signed into law House Bill 1087 creating a new state-run long-term program. Effective January 1, 2022, employers will be required to withhold employee contributions of 0.58 percent of a covered employee's wages and remit contributions to the Washington Employment Security Department (ESD). For the long-term care program, all gross wages are subject to the premium assessment. The legislation did not provide for a maximum limit to be withheld but that could change when regulations are released. Beginning January 1, 2025, a qualified individual may become an "eligible beneficiary" if the individual has been determined by the Department of Social and Health Services (DSHS) to require assistance with at least three activities of daily living. The benefit lifetime maximum is \$36,500 per person.

Some highlights of the new program are as follows:

### **Covered Employers**

"Employer" means:

- any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance

company, limited liability company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the legal representative of a deceased person, having any person in employment or, having become an employer, has not ceased to be an employer as provided in this chapter;

- the state, state institutions, and state agencies; and
- any unit of local government including, but not limited to, a county, city, town, municipal corporation, quasi-municipal corporation, or political subdivision.

"Employer" does not include the United States of America.

Employers subject to a collective bargaining agreement in existence on October 19, 2017 are not required to reopen negotiations of the agreement or to apply any of the responsibilities within this act unless and until the existing agreement is reopened and renegotiated by the parties or expires.

### **Covered Employees**

"Employee" means an individual who is in the employment of an employer, except employees of the United States of America.

Self-employed individuals, including a sole proprietor, independent contractor, partner, or joint venturer, may elect coverage. A self-employed individual who has elected coverage may withdraw from coverage, at such times as the employment security department may adopt by rule, by filing a notice of withdrawal in writing with the employment security department, with the withdrawal to take effect not sooner than thirty days after filing the notice with the employment security department.

### **Approved Services**

"Approved services" means long-term services and supports including, but not limited to:

- Adult day services;
- Care transition coordination;
- Memory care;
- Adaptive equipment and technology;
- Environmental modification;
- Personal emergency response system;
- Home safety evaluation;
- Respite for family caregivers;
- Home-delivered meals;
- Transportation;
- Dementia supports;
- Education and consultation;
- Eligible relative care;
- Professional services;
- Services that assist paid and unpaid family members caring for eligible individuals, including training for individuals providing care who are not otherwise employed as long-term care workers under RCW 74.39A.074;
- In-home personal care;
- Assisted living services;
- Adult family home services; and
- Nursing home services.

### **Employee Contributions**

Beginning January 1, 2022, all covered Washington employers will deduct and contribute to the long-term services and support trust account at an initial contribution rate of 0.58 percent of each employee's wages.

- The premium will be paid to the employment security department for deposit into the long-term services and support trust account.

- Beginning January 1, 2024, and biennially thereafter, the premium rate must be set by the pension funding council at a rate no greater than 0.58 percent.

Self-employed individuals are responsible for payment of 100 percent of all premiums assessed to an employee.

Wages has the same meaning as provided in RCW 50A.04.010 under the Family and Medical Leave Program (see attachment 190249A3), except that all wages are subject to a premium assessment and not limited by the commissioner of the ESD.

Note: An employee who demonstrates that the employee has long-term insurance is exempt from the premium assessment.

### **Length of Premium Contribution Requirements**

Qualified individuals must have paid the long-term services and supports premiums required by this act for the equivalent of either:

- A total of 10 years without interruption of five or more consecutive years; or
- Three years within the last six years

Individuals must have worked at least 500 hours during the above applicable time frame.

The ESD will adopt rules for determining the hours worked and the wages for self-employed individuals. A revision will be issued when these rules become available.

### **Employer Contributions**

There is no employer contribution.

### **Benefit Amount**

Beginning January 1, 2025, approved services must be available and benefits payable to a registered long-term services and supports provider on behalf of an eligible beneficiary.

The benefit lifetime maximum is \$36,500 per person.

### **Notice Requirements**

There are no notice requirements documented within the legislation.

### **Posting Requirements**

There are no poster requirements documented within the legislation.

### **Pay Statement Requirements**

There are no pay statement requirements documented within the legislation.

### **Reporting Requirements**

There are no reporting requirements documented within the legislation.

For a copy of House Bill 1087, click on the link provided below.

<http://lawfilesexternal.leg.wa.gov/biennium/2019-20/Pdf/Bills/Session%20Laws/House/1087-S2.SL.pdf#page=1>

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## **Garnishment Exempt Amounts for Consumer Debt Increased in Washington State**

**Washington Governor, Jay Inslee, has signed legislation (House Bill 1602), which increases the amount of wages exempt** from consumer debt garnishments in Washington State. Currently, the wage garnishment exemption is the greater of 35 times the state minimum wage rate or 75 percent of disposable earnings. Effective July 28, 2019, the wage garnishment exemption will be the greater of 35 times the state minimum wage rate or 80 percent of disposable earnings.

Consumer debt is defined as "any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes. Consumer debt includes medical debt."

House Bill 1602 also requires all writs must be clearly marked "consumer debt" when applicable and sets the maximum judgment interest rate for consumer debt garnishments at nine percent.

For a copy of House Bill 1602, click on the link provided below.

<http://lawfilesexternal.leg.wa.gov/biennium/2019-20/Pdf/Bills/Session%20Laws/House/1602-S.SL.pdf#page=1>

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## **Cook County, Illinois, Minimum Wage to Increase**

Cook County, Illinois, has announced that effective July 1, 2019, the minimum wage in the county will increase to \$12.00 per hour and the cash wage for tipped employees will increase to \$5.25 per hour. The current Cook County minimum wage is \$11.00 per hour and \$5.10 cash wage for tipped employees.

It is important to note that municipalities within Cook County have the option to opt out of the Cook County minimum wage mandate. Out of the 135 municipalities in the county, 105 have opted out. Consequently, the following 30 are the only municipalities to adopt the Cook County minimum wage mandate.

1. Barrington Hills
2. Bartlett
3. Bedford Park
4. Bellwood
5. Berwyn
6. Bridgeview
7. Countryside
8. Deerfield
9. Elmhurst
10. Evanston
11. Ford Heights
12. Frankfort
13. Glencoe
14. Glenview
15. Homer Glen
16. Kenilworth
17. McCook
18. Northfield
19. Oak Brook
20. Oak Forest
21. Olympia Fields
22. Phoenix
23. Riverdale
24. Robbins

25. Skokie
26. South Chicago Heights
27. University Park
28. Western Springs
29. Wilmette
30. Winnetka

Municipalities, with the exception of Chicago, which has its own minimum wage ordinance, that have opted out of the Cook County minimum wage follow the Illinois state minimum wage law. The current state minimum wage is \$8.25 per hour and \$4.95 cash wage for tipped employees. As of January 1, 2020, the state minimum wage will \$9.25 per hour and \$5.55 cash wage for tipped employees.

The current minimum wage for employees working in Chicago is \$12.00 per hour and \$6.25 cash wage for tipped employees. As of July 1, 2019, this will increase to \$13.00 per hour. The cash wage increase for July 1, 2019, which is based on the rate of inflation, has yet to be announced.

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

<https://www.cookcountyil.gov/service/minimum-wage-ordinance>

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### **Minimum Wage Increased in Emeryville, California**

The City of Emeryville, California, has announced that its minimum wage rate will increase effective July 1, 2019 to \$16.30 per hour for both small (55 or fewer employees) and large businesses (56 or more employees).

The current minimum wage per hour is \$15.00 per hour for small businesses (55 or fewer employees) and \$15.69 for large businesses (56 or more employees).

The use of a tip credit is not allowed when paying tipped employees.

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

<https://www.ci.emeryville.ca.us/1024/Minimum-Wage-Ordinance>

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### **Chicago, Illinois, Announces Minimum Wage Increase**

The city of Chicago, Illinois, has announced that its minimum wage will increase to \$13.00 per hour effective July 1, 2019. It was also announced that the required minimum cash wages for tipped employees will increase to \$6.40 per hour on the same date.

Currently, the minimum wage in Chicago is \$12.00 per hour with the tipped employee minimum cash wage being \$6.25 per hour.

For a copy of the Chicago minimum wage announcement, paste the following link into your browser.

<https://www.chicago.gov/city/en/depts/bacp/provdrs/enforce/alerts/2019/may/minimumwageupdate.html>



## July 1, 2019 Minimum Wage Increase Reminder

The following is a list of cities, counties and states where the minimum wage will increase as of July 1, 2019. It is important to note that the rates reflected are those required to be paid by "large" private-sector employers subject to the Fair Labor Standards Act. Rates that may be paid in certain states by "small employers" as defined by applicable state law, to individuals under a certain age (e.g., youth wage), to a certain classification of employees (e.g., fast food workers) or to employees during a "training" period are not reflected.

<b>Jurisdiction</b>	<b>July 1, 2019 Minimum Wage Per Hour</b>
Alameda, California	\$13.50 (currently \$11.00). Tipped Credit not allowed in California.
Emeryville, California	\$16.30 (currently \$15.69). Tipped Credit not allowed in California.
Fremont, California	\$13.50 (currently \$12.00). Tipped Credit not allowed in California.
Los Angeles, California	\$14.25 (currently \$13.25). Tipped Credit not allowed in California.
Los Angeles County, California	\$14.25 (currently \$13.25). Tipped Credit not allowed in California.
Malibu, California	\$14.25 (currently \$13.25). Tipped Credit not allowed in California.
Milpitas, California	\$15.00 (currently \$13.50). Tipped Credit not allowed in California.
Pasadena, California	\$14.25 (currently \$13.25). Tipped Credit not allowed in California.
San Francisco, California	\$15.59 (currently \$15.00). Tipped Credit not allowed in California.
San Leandro, California	\$14.00 (currently \$13.00). Tipped Credit not allowed in California.
Santa Monica, California	\$14.25 (currently \$13.25). Tipped Credit not allowed in California.
District of Columbia	\$14.00 (currently \$13.25). Tipped employees must be paid at least \$4.45 (currently \$3.89) in cash wages.
Chicago, Illinois	\$13.00 (currently \$12.00). Tipped employees must be paid at least (\$6.40) (currently \$6.25) in cash wages.
Cook County, Illinois	\$12.00 (currently \$11.00). Tipped employees must be paid at least \$5.25 (currently \$5.10) in cash wages.
Portland, Maine	\$11.11 (currently \$10.90). Tipped employees must be paid at least \$5.50 (currently \$5.50) in cash wages.
Montgomery County, Maryland	\$13.00 (currently \$12.25). Tipped employees must be paid at least \$4.00 (currently \$4.00) in cash wages.
Minneapolis, Minnesota	\$12.25 (currently \$11.25). Tipped Credit not allowed in Minnesota.
New Jersey	\$10.00 (currently \$8.85). Tipped employees must be paid at least \$2.63 (currently \$2.13) in cash wages.
Oregon	\$11.25 (currently \$10.75). Tipped Credit not allowed in Oregon.
Portland, Oregon Urban Growth Boundary	\$12.50 (currently \$12.00). Tipped Credit not allowed in Oregon.
Oregon Non-Urban Counties	\$11.00 (currently \$10.50). Tipped Credit not allowed in Oregon

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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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