



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-4511/1
GMM:jld

2015 ASSEMBLY BILL 904

February 11, 2016 - Introduced by Representatives SINICKI, BOWEN, BARNES, SPREITZER, JOHNSON, OHNSTAD, BROSTOFF, SARGENT, GOYKE, BERCEAU, SUBECK, WACHS, SHANKLAND, KAHL and C. TAYLOR, cosponsored by Senators HARRIS DODD, L. TAYLOR, BEWLEY, VINEHOUT and C. LARSON. Referred to Committee on State Affairs and Government Operations.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to amend** 104.035 (1) (a), 104.035 (2) (a), 104.035 (2m) (a), 104.035 (3)
2 (a) (intro.), 104.035 (4) (a), 104.035 (5) and 104.035 (6); and **to create** 15.227 (1),
3 19.85 (1) (ej), 104.01 (5d) and 104.065 of the statutes; **relating to:** creation of
4 a Wage Council to study and make recommendations concerning increases in
5 the minimum wage and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill creates a Wage Council in the Department of Workforce Development and requires the Wage Council, early in each regular session of the legislature, to convene for the purpose of studying the need for an increase in the minimum wage and making recommendations to DWD for any changes in the minimum wage that may be necessary to ensure that the wages paid to any employee are sufficient to enable the employee to maintain himself or herself under conditions consistent with his or her welfare (living wage). The Wage Council, in conducting that study and making those recommendations, and DWD, in revising the minimum wage, must consider 1) any changes in the consumer price index; 2) the effect of those changes on the real income of employees in this state; and 3) the effect that an increase in the minimum wage might have on the economy of the state, including the effect of a minimum wage increase on job creation, retention, and expansion; on the availability of entry-level jobs; and on regional economic conditions within the state. If DWD approves the findings and recommendations of the Wage Council, DWD may promulgate rules to revise the minimum wage.

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Finally, under the bill, the biennial minimum wage revision procedure specified in the bill does not preclude DWD from convening the Wage Council at other times during the regular session of the legislature if, upon investigation, DWD finds that there is reasonable cause to believe that the wages paid to any employee are not a living wage. If DWD so convenes the Wage Council, the Wage Council so convened must study the need for an increase in the minimum wage and report its recommendations as provided in the bill.

Under current law, the minimum wage is established by statute at \$7.25 per hour for employees generally, minor employees, and agricultural employees; at \$5.90 per hour for employees under 20 years of age who are in their first 90 consecutive days of employment with their employer (opportunity employees); at \$2.33 per hour for tipped employees; and at \$2.13 per hour for tipped opportunity employees. Currently, DWD is authorized to establish a minimum wage by rule only for workers with a disability, student learners, and students employed at an independent college or university for less than 20 hours per week.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 15.227 (1) of the statutes is created to read:

2 15.227 (1) WAGE COUNCIL. There is created in the department of workforce
3 development a wage council consisting of all of the following members:

4 (a) Five representatives of employers, including a representative of an
5 association that is primarily composed of small businesses, appointed by the
6 secretary of workforce development for 3-year terms.

7 (b) Five representatives of employees appointed by the secretary of workforce
8 development for 3-year terms.

9 (c) The chairpersons and ranking minority party members of one senate
10 standing committee and one assembly standing committee concerned with labor
11 issues, appointed as are the members of standing committees in their respective
12 houses.

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1 (d) Five representatives of the public interest who do not have the
2 qualifications of the members described in pars. (a) to (c) appointed by the secretary
3 of workforce development for 3-year terms.

4 **SECTION 2.** 19.85 (1) (ej) of the statutes is created to read:

5 19.85 (1) (ej) Deliberating by the wage council in a meeting at which all
6 employer members of the council or all employee members of the council are
7 excluded.

8 **SECTION 3.** 104.01 (5d) of the statutes is created to read:

9 104.01 (5d) "Living wage" means compensation for labor performed by an
10 employee, whether measured by time, piecework, or otherwise, that is sufficient to
11 enable the employee receiving the compensation to maintain himself or herself
12 under conditions that are consistent with his or her welfare.

13 **SECTION 4.** 104.035 (1) (a) of the statutes, as created by 2015 Wisconsin Act 55,
14 is amended to read:

15 104.035 (1) (a) *Minimum rates.* Except as provided in subs. (2) to (8) and
16 subject to s. 104.065 (3), the minimum wage is \$7.25 per hour.

17 **SECTION 5.** 104.035 (2) (a) of the statutes, as created by 2015 Wisconsin Act 55,
18 is amended to read:

19 104.035 (2) (a) *Minimum rates.* Except as provided in subs. (2m) to (8) and
20 subject to s. 104.065 (3), the minimum wage for a minor employee is \$7.25 per hour.

21 **SECTION 6.** 104.035 (2m) (a) of the statutes, as created by 2015 Wisconsin Act
22 55, is amended to read:

23 104.035 (2m) (a) *Minimum rates.* Except as provided in subs. (3) to (8) and
24 subject to s. 104.065 (3), the minimum wage for an opportunity employee is \$5.90 per
25 hour.

ASSEMBLY BILL 904**SECTION 7**

1 **SECTION 7.** 104.035 (3) (a) (intro.) of the statutes, as created by 2015 Wisconsin
2 Act 55, is amended to read:

3 104.035 **(3)** (a) *Minimum rates.* (intro.) Except as provided in subs. (4) to (8)
4 and subject to s. 104.065 (3), if an employer of a tipped employee establishes by the
5 employer's payroll records that, when adding the tips received by the tipped
6 employee in a week to the wages paid to the tipped employee in that week, the tipped
7 employee receives not less than the applicable minimum wage specified in sub. (1),
8 (2), or (2m), the minimum wage for the tipped employee is as follows:

9 **SECTION 8.** 104.035 (4) (a) of the statutes, as created by 2015 Wisconsin Act 55,
10 is amended to read:

11 104.035 **(4)** (a) *Minimum rates.* Except as provided in subs. (7) and (8) and
12 subject to s. 104.065 (3), the minimum wage for an agricultural employee is \$7.25 per
13 hour.

14 **SECTION 9.** 104.035 (5) of the statutes, as created by 2015 Wisconsin Act 55, is
15 amended to read:

16 104.035 **(5)** **CAMP COUNSELORS.** ~~The~~ Subject to s. 104.065 (3), the minimum wage
17 for a counselor at a seasonal recreational or educational camp, including a day camp,
18 is \$350 per week if meals and lodging are not furnished, \$265 per week if only meals
19 are furnished, and \$210 per week if both meals and lodging are furnished.

20 **SECTION 10.** 104.035 (6) of the statutes, as created by 2015 Wisconsin Act 55,
21 is amended to read:

22 104.035 **(6)** **GOLF CADDIES.** ~~The~~ Subject to s. 104.065 (3), the minimum wage for
23 a golf caddy is \$10.50 for caddying 18 holes and \$5.90 for caddying 9 holes.

24 **SECTION 11.** 104.065 of the statutes is created to read:

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1 **104.065 Wage council; determination of minimum wage. (1) LIVING WAGE**
2 STUDY AND RECOMMENDATIONS. (a) Early in each regular session of the legislature, the
3 wage council shall convene for the purpose of studying the need for an increase in the
4 minimum wage and making recommendations to the department for any changes in
5 the minimum wage that may be necessary to ensure that the wages paid to any
6 employee are a living wage.

7 (b) The wage council, in conducting the study and making the
8 recommendations under par. (a), and the department, in revising the minimum wage
9 under sub. (3), shall consider all of the following:

10 1. The percentage difference between the consumer price index, as defined in
11 s. 49.455 (1) (b), for the 12-month period ending on December 31 of the preceding
12 year and the consumer price index for the 12-month period ending on December 31
13 of the most recent even-numbered year before the preceding year, except that the
14 wage council may not consider that percentage difference if the consumer price index
15 for the 12-month period ending on December 31 of the preceding year did not
16 increase over the consumer price index for the 12-month period ending on December
17 31 of the most recent even-numbered year before the preceding year.

18 2. The effect that any change in the consumer price index might have on the
19 real incomes of employees in this state, unless the department is precluded from
20 considering such a change under subd. 1.

21 3. The effect that an increase in the minimum wage might have on the economy
22 of the state, including the effect of a minimum wage increase on job creation,
23 retention, and expansion; on the availability of entry-level jobs; and on regional
24 economic conditions within the state.

ASSEMBLY BILL 904**SECTION 11**

1 (c) If the wage council recommends an increase in the minimum wage for a class
2 of employees for whom the minimum wage is determined on an hourly basis, the
3 wage council shall recommend the same increase for all classes of employees for
4 whom the minimum wage is determined on an hourly basis.

5 (2) REPORT OF FINDINGS AND RECOMMENDATIONS. The wage council shall submit
6 a report of its findings and recommendations, together with an explanation for those
7 findings and recommendations, to the secretary, the governor, the speaker of the
8 assembly, the senate majority leader, and the minority leaders of each house of the
9 legislature and to the standing committee of each house of the legislature that is
10 concerned with labor issues under s. 13.172 (3).

11 (3) RULES REVISING MINIMUM WAGE. The department shall consider the findings
12 and recommendations of the wage council and, if the department approves those
13 findings and recommendations, the department may promulgate rules to revise the
14 minimum wage.

15 (4) OTHER MINIMUM WAGE INCREASES NOT PRECLUDED. The biennial minimum
16 wage revision procedure specified in subs. (1) to (3) does not preclude the department
17 from convening the wage council at other times during the regular session of the
18 legislature if, upon investigation, the department finds that there is reasonable
19 cause to believe that the wages paid to any employee are not a living wage. If the
20 department so convenes the wage council, the wage council so convened shall study
21 the need for an increase in the minimum wage as provided in sub. (1) and report its
22 findings and recommendations as provided in sub. (2).

SECTION 12. Nonstatutory provisions.

23 (1) WAGE COUNCIL; INITIAL TERMS. Notwithstanding the length of terms specified
24 for the members of the wage council specified under section 15.227 (1) (a), (b), and
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1 (d) of the statutes, as created by this act, the initial members specified in those
2 paragraphs shall be appointed for the following terms:

3 (a) One of the initial members specified under section 15.227 (1) (a) of the
4 statutes, as created by this act, one of the initial members specified under section
5 15.227 (1) (b) of the statutes, as created by this act, and one of the initial members
6 specified under section 15.227 (1) (d) of the statutes, as created by this act, shall be
7 appointed for a term that expires on June 1, 2017.

8 (b) Two of the initial members specified under section 15.227 (1) (a) of the
9 statutes, as created by this act, 2 of the initial members specified under section
10 15.227 (1) (b) of the statutes, as created by this act, and 2 of the initial members
11 specified under section 15.227 (1) (d) of the statutes, as created by this act, shall be
12 appointed for a term that expires on June 1, 2018.

13 (c) Two of the initial members specified under section 15.227 (1) (a) of the
14 statutes, as created by this act, 2 of the initial members specified under section
15 15.227 (1) (b) of the statutes, as created by this act, and 2 of the initial members
16 specified under section 15.227 (1) (d) of the statutes, as created by this act, shall be
17 appointed for a term that expires on June 1, 2019.

18 **SECTION 13. Effective date.**

19 (1) WAGE COUNCIL. This act takes effect on January 1, 2017.

20 (END)