

SENATE BILL NO. 991

September 11, 2024, Introduced by Senators ALBERT, BELLINO and HAUCK and referred to the Committee on Labor.

A bill to amend 2018 PA 337, entitled "Improved workforce opportunity wage act," by amending sections 4, 4a, 4d, 10, and 15 (MCL 408.934, 408.934a, 408.934d, 408.940, and 408.945).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 ~~Sec. 4. (1). Subject to the exceptions specified in this act,~~
2 ~~the minimum hourly wage rate is:~~
- 3 ~~a. Beginning January 1, 2019, \$10.00.~~
 - 4 ~~b. Beginning January 1, 2020, \$10.65.~~
 - 5 ~~c. Beginning January 1, 2021, \$11.35.~~

1 ~~d. Beginning January 1, 2022, \$12.00.~~

2 ~~(2) Every October beginning in October, 2022, the state~~
3 ~~treasurer shall calculate an adjusted minimum wage rate. The~~
4 ~~adjustment shall increase the minimum wage by the rate of~~
5 ~~inflation. The increase shall be calculated by multiplying the~~
6 ~~otherwise applicable minimum wage by the 12-month percentage~~
7 ~~increase, if any, in the consumer price index for urban wage~~
8 ~~earners and clerical workers, CPI-W, or a successor index, as~~
9 ~~published by the bureau of labor statistics of the United States~~
10 ~~department of labor, based upon the most recent 12-month period for~~
11 ~~which data are available. The adjusted minimum wage rate shall be~~
12 ~~published by November 1 of the year it is calculated and shall be~~
13 ~~effective beginning January 1 of the succeeding year.~~

14 **(1) Subject to the exceptions specified in this act, the**
15 **minimum hourly wage rate is:**

16 **(a) In calendar year 2024, or a subsequent calendar year as**
17 **described in subsection (2), \$10.56.**

18 **(b) In calendar year 2025, or a subsequent calendar year as**
19 **described in subsection (2), \$10.80.**

20 **(c) In calendar year 2026, or a subsequent calendar year as**
21 **described in subsection (2), \$11.04.**

22 **(d) In calendar year 2027, or a subsequent calendar year as**
23 **described in subsection (2), \$11.29.**

24 **(e) In calendar year 2028, or a subsequent calendar year as**
25 **described in subsection (2), \$11.54.**

26 **(f) In calendar year 2029, or a subsequent calendar year as**
27 **described in subsection (2), \$11.79.**

28 **(g) In calendar year 2030, or a subsequent calendar year as**
29 **described in subsection (2), \$12.05.**

1 (2) ~~(3)~~—An increase in the minimum hourly wage rate as
 2 prescribed in subsection ~~(2)~~—(1) does not take effect if the
 3 unemployment rate **for this state, as** determined by the ~~bureau~~
 4 **Bureau of labor statistics, Labor Statistics of the** United States
 5 ~~department of labor, for this state~~ **Department of Labor,** is 8.5% or
 6 greater for the **calendar** year preceding the **calendar** year of the
 7 prescribed increase. **An increase in the minimum hourly wage rate as**
 8 **prescribed in subsection (1) that does not take effect under this**
 9 **subsection takes effect in the first calendar year following a**
 10 **calendar year for which the unemployment rate for this state, as**
 11 **determined by the Bureau of Labor Statistics of the United States**
 12 **Department of Labor, is less than 8.5%.**

13 Sec. 4a. (1) Except as otherwise provided in this act, an
 14 employee shall receive compensation at not less than 1-1/2 times
 15 the regular rate at which the employee is employed for employment
 16 in a workweek in excess of 40 hours.

17 (2) This state or a political subdivision, agency, or
 18 instrumentality of this state does not violate subsection (1) with
 19 respect to the employment of an employee in fire protection
 20 activities or an employee in law enforcement activities, including
 21 security personnel in correctional institutions, if any of the
 22 following apply:

23 (a) In a work period of 80 consecutive days, the employee
 24 receives for tours of duty, which in the aggregate exceed 216
 25 hours, compensation for those hours in excess of 216 at a rate not
 26 less than 1-1/2 times the regular rate at which the employee is
 27 employed. The employee's regular rate ~~shall~~**must** be not less than
 28 the statutory minimum hourly rate.

29 (b) For an employee to whom a work period of ~~at least~~**not less**

1 **than** 7 but less than 28 days applies, in the employee's work period
2 the employee receives for tours of duty, which in the aggregate
3 exceed a number of hours which bears the same ratio to the number
4 of consecutive days in the employee's work period as 216 bears to
5 28 days, compensation for those excess hours at a rate not less
6 than 1-1/2 times the regular rate at which the employee is
7 employed. The employee's regular rate ~~shall~~**must** be not less than
8 the statutory minimum hourly rate.

9 (c) If an employee engaged in fire protection activities would
10 receive overtime payments under this act solely as a result of that
11 employee's trading of time with another employee pursuant to a
12 voluntary trading time arrangement, overtime, if any, ~~shall~~**must** be
13 paid to employees who participate in the trading of time as if the
14 time trade had not occurred. As used in this subdivision, "trading
15 time arrangement" means a practice under which employees of a fire
16 department voluntarily substitute for one another to allow an
17 employee to attend to personal matters, if the practice is neither
18 for the convenience of the employer nor because of the employer's
19 operations.

20 (3) This state or a political subdivision, agency, or
21 instrumentality of this state engaged in the operation of a
22 hospital or an establishment that is an institution primarily
23 engaged in the care of the sick, the aged, or the mentally ill or
24 developmentally disabled who reside on the premises does not
25 violate subsection (1) if both of the following conditions are met:

26 (a) Pursuant to a written agreement or written employment
27 policy arrived at between the employer and the employee before
28 performance of the work, a work period of 14 consecutive days is
29 accepted instead of the workweek of 7 consecutive days for purposes

1 of overtime computation.

2 (b) For the employee's employment in excess of 8 hours in a
3 workday and in excess of 80 hours in the 14-day period, the
4 employee receives compensation at a rate of 1-1/2 times the regular
5 rate, which ~~shall~~**must** be not less than the statutory minimum
6 hourly rate at which the employee is employed.

7 (4) Subsections (1), (2), and (3) do not apply to any of the
8 following:

9 (a) An employee employed in a bona fide executive,
10 administrative, or professional capacity, including an employee
11 employed in the capacity of academic administrative personnel or
12 teacher in an elementary or secondary school. However, an employee
13 of a retail or service establishment is not excluded from the
14 definition of employee employed in a bona fide executive or
15 administrative capacity because of the number of hours in the
16 employee's workweek that the employee devotes to activities not
17 directly or closely related to the performance of executive or
18 administrative activities, if less than 40% of the employee's hours
19 in the workweek are devoted to those activities.

20 (b) An individual who holds a public elective office.

21 (c) A political appointee of ~~a person holding an individual~~
22 **who holds a** public elective office or a political appointee of a
23 public body, if the political appointee described in this
24 subdivision is not covered by a civil service system.

25 (d) An employee employed by an establishment that is an
26 amusement or recreational establishment, if the establishment does
27 not operate for more than 7 months in a calendar year.

28 (e) An employee employed in agriculture, including farming in
29 all its branches, which among other things includes: cultivating

1 and tilling soil; dairying; producing, cultivating, growing, and
 2 harvesting agricultural or horticultural commodities; raising
 3 livestock, bees, fur-bearing animals, or poultry; and a practice,
 4 including forestry or lumbering operations, performed by a farmer
 5 or on a farm as an incident to or in conjunction with farming
 6 operations, including preparation for market, delivery to storage,
 7 or delivery to market or to a carrier for transportation to market
 8 or processing or preserving perishable farm products.

9 (f) An employee who is not subject to the minimum hourly wage
 10 provisions of this act.

11 (5) The director of the department of licensing and regulatory
 12 affairs shall promulgate rules under the administrative procedures
 13 act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to define the terms
 14 used in subsection (4).

15 (6) For purposes of administration and enforcement, an amount
 16 owing to an employee that is withheld in violation of this section
 17 is unpaid minimum wages under this act.

18 (7) The legislature shall annually appropriate from the
 19 general fund to each political subdivision affected by subsection
 20 (2) an amount equal to the difference in direct labor costs before
 21 and after the effective date of this act arising from any change in
 22 existing law that results from the enactment of subsection (2) and
 23 incurred by the political subdivision.

24 (8) ~~In lieu~~ **Instead** of monetary overtime compensation, an
 25 employee subject to this act may receive compensatory time off at a
 26 rate that is not less than 1-1/2 hours for each hour of employment
 27 for which overtime compensation is required under this act, subject
 28 to all of the following:

29 (a) The employer must allow employees a total of ~~at least~~ **not**

1 **less than** 10 days of leave per year without loss of pay and must
2 provide the compensatory time to the employee under either of the
3 following:

4 (i) ~~(i)~~ Applicable provisions of a collective bargaining
5 agreement, memorandum of understanding, or any other written
6 agreement between the employer and representative of the employee.

7 (ii) ~~(ii)~~ If employees are not represented by a collective
8 bargaining agent or other representative designated by the
9 employee, a plan adopted by the employer and provided in writing to
10 ~~its~~ **the employer's** employees that provides employees with a
11 voluntary option to receive compensatory time off for overtime work
12 when there is an express, voluntary written request to the employer
13 by an individual employee for compensatory time off ~~in lieu~~ **instead**
14 of overtime pay before the performance of any overtime assignment.

15 (b) The employee has not earned compensatory time in excess of
16 the applicable limit prescribed by subdivision (d).

17 (c) The employee is not required as a condition of the
18 employment to accept or request compensatory time. An employer
19 shall not directly or indirectly intimidate, threaten, or coerce or
20 attempt to intimidate, threaten, or coerce an employee for the
21 purpose of interfering with the employee's rights under this
22 section to request or not request compensatory time off ~~in lieu~~
23 **instead** of payment of overtime compensation for overtime hours, or
24 requiring an employee to use compensatory time. In assigning
25 overtime hours, an employer shall not discriminate among employees
26 based upon an employee's choice to request or not request
27 compensatory time off ~~in lieu~~ **instead** of overtime compensation. An
28 employer ~~who~~ **that** violates this subsection is subject to a civil
29 fine of not more than \$1,000.00.

1 (d) An employee may not accrue more than a total of 240 hours
2 of compensatory time. An employer shall do both of the following:

3 (i) ~~(i)~~—Maintain in an employee's pay record a statement of
4 compensatory time earned by that employee in the pay period that
5 the pay record identifies.

6 (ii) ~~(ii)~~—Provide an employee with a record of compensatory
7 time earned by or paid to the employee in a statement of earnings
8 for the period in which the compensatory time is earned or paid.

9 (e) Upon request of an employee who has earned compensatory
10 time, the employer shall, ~~within not more than~~ 30 days ~~following~~
11 **after** the request, provide monetary compensation for that
12 compensatory time at a rate not less than the regular rate earned
13 by the employee at the time the employee performed the overtime
14 work.

15 (f) An employee who has earned compensatory time authorized
16 under this subsection shall, upon the voluntary or involuntary
17 termination of employment or upon expiration of this subsection, be
18 paid unused compensatory time at a rate of compensation not less
19 than the regular rate earned by the employee at the time the
20 employee performed the overtime work. A terminated employee's
21 receipt of or eligibility to receive monetary compensation for
22 earned compensatory time ~~shall~~**must** not be used by either of the
23 following:

24 (i) ~~(i)~~—The employer to oppose an employee's application for
25 unemployment compensation under the Michigan employment security
26 act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75.

27 (ii) ~~(ii)~~—The state to deny unemployment compensation or
28 diminish an employee's entitlement to unemployment compensation
29 benefits under the Michigan employment security act, ~~1936 (Ex Sess)~~

1 **1936 (Ex Sess) PA 1**, MCL 421.1 to 421.75.

2 (g) An employee ~~shall~~**must** be ~~permitted~~**allowed** to use any
3 compensatory time accrued under this subsection for any reason
4 unless use of the compensatory time for the period requested will
5 unduly disrupt the operations of the employer.

6 (h) Unless prohibited by a collective bargaining agreement, an
7 employer may terminate a compensatory time plan upon not less than
8 60 days' notice to employees.

9 (i) As used in this subsection:

10 **(i)** ~~(i)~~"Compensatory time" and "compensatory time off" mean
11 hours during which an employee is not working and for which the
12 employee is compensated in accordance with this subsection ~~in lieu~~
13 **instead** of monetary overtime compensation.

14 **(ii)** ~~(ii)~~"Overtime assignment" means an assignment of hours
15 for which overtime compensation is required under this act.

16 **(iii)** ~~(iii)~~"Overtime compensation" means the compensation
17 required under this section.

18 Sec. 4d. (1) The minimum hourly wage rate of an employee ~~shall~~
19 **be as is 38% of the minimum hourly wage rate** established ~~under~~
20 ~~subsection (2) in section 4~~ if all of the following occur:

21 (a) The employee receives gratuities in the course of ~~his or~~
22 ~~her~~**the employee's** employment.

23 (b) ~~The~~**If the** gratuities described in subdivision (a) **plus**
24 **the minimum hourly wage rate under this subsection do not** equal or
25 exceed ~~the difference between~~ the minimum hourly wage rate
26 **otherwise** established under ~~subsection (2) and the minimum hourly~~
27 ~~wage established under~~ section 4, **the employer pays any shortfall**
28 **to the employee.**

29 (c) The gratuities are proven gratuities as indicated by the

1 employee's declaration for purposes of the federal insurance
2 contribution act, 26 USC 3101 to 3128.

3 ~~(d) The entirety of the gratuities are retained by the~~
4 ~~employee who receives them, except as voluntarily shared with other~~
5 ~~employees who are directly or indirectly part of the chain of~~
6 ~~service and whose duties are not primarily managerial or~~
7 ~~supervisory.~~

8 **(d)** ~~(e)~~—The employee was informed by the employer of the
9 provisions of this section. ~~in writing, at or before the time of~~
10 ~~hire, and gave written consent.~~

11 ~~(2) For purposes of subsection (1) the minimum hourly wage~~
12 ~~rate of an employee shall be 48% of the minimum hourly wage rate~~
13 ~~established under section 4 effective January 1, 2019; beginning~~
14 ~~January 1, 2020, it shall be 60% of the minimum hourly wage rate~~
15 ~~established under section 4; beginning January 1, 2021, it shall be~~
16 ~~70% of the minimum hourly wage rate established under section 4;~~
17 ~~beginning January 1, 2022, it shall be 80% of the minimum hourly~~
18 ~~wage rate established under section 4; beginning January 1, 2023,~~
19 ~~it shall be 90% of the minimum hourly wage rate established under~~
20 ~~section 4; and beginning January 1, 2024 and thereafter, it shall~~
21 ~~be 100% of the minimum hourly wage rate established under section~~
22 ~~4.~~

23 **(2)** ~~(3)~~—As used in this section, "gratuities" means tips or
24 voluntary monetary contributions received by an employee from a
25 guest, patron, or customer for services rendered to that guest,
26 patron, or customer and that the employee reports to the employer
27 for purposes of the federal insurance contributions act, 26 USC
28 3101 to 3128.

29 ~~(4) Gratuities will remain property of the employee who~~

1 ~~receives them, except pursuant to a valid and voluntary tip sharing~~
2 ~~agreement outlined in subsection (1)(d) above, regardless of~~
3 ~~whether the employer pays the lower tipped hourly wage described in~~
4 ~~subsection (2) or the full minimum hourly rate established under~~
5 ~~section 4. Gratuities and service charges paid to an employee are~~
6 ~~in addition to, and may not count towards, wages due to the~~
7 ~~employee.~~

8 ~~(5) Employers must provide employees and consumers written~~
9 ~~notice of their plan to distribute service charges.~~

10 ~~(6) Employer shall keep records showing compliance with~~
11 ~~provisions of Section 4d for no less than 3 years from the date of~~
12 ~~employee's last pay period.~~

13 Sec. 10. (1) This act does not apply to an employer that is
14 subject to the minimum wage provisions of the fair labor standards
15 act of 1938, 29 USC 201 to 219, unless those federal minimum wage
16 provisions would result in a lower minimum hourly wage than
17 provided in this act. Each of the following exceptions applies to
18 an employer ~~who~~**that** is subject to this act only by application of
19 this subsection:

20 (a) Section 4a does not apply.

21 (b) This act does not apply to an employee ~~who~~**that** is exempt
22 from the minimum wage requirements of the fair labor standards act
23 of 1938, 29 USC 201 to 219.

24 (2) Notwithstanding subsection (1), an employee ~~shall~~**must** be
25 paid in accordance with the minimum wage and overtime compensation
26 requirements of sections 4 and 4a if the employee meets either of
27 the following conditions:

28 (a) ~~He or she~~**The employee** is employed in domestic service
29 employment to provide companionship services as defined in 29 CFR

1 552.6 for individuals who, because of age or infirmity, are unable
 2 to care for themselves and is not a live-in domestic service
 3 employee as described in 29 CFR 552.102.

4 (b) ~~He or she~~ **The employee** is employed to provide child care,
 5 but is not a live-in domestic service employee as described in 29
 6 CFR 552.102. However, the requirements of sections 4 and 4a do not
 7 apply if the employee meets all the following conditions:

8 (i) ~~(i) He or she is under~~ **Is less than** the age of 18.

9 (ii) ~~(ii) He or she provides~~ **Provides** services on a casual
 10 basis as defined in 29 CFR 552.5.

11 (iii) ~~(iii) He or she provides~~ **Provides** services that do not
 12 regularly exceed 20 hours per week, in the aggregate.

13 (3) This act does not apply to ~~persons~~ **individuals** employed in
 14 summer camps for not more than 4 months or to employees who are
 15 covered under section 14 of the fair labor standards act of 1938,
 16 29 USC 214.

17 (4) This act does not apply to agricultural fruit growers,
 18 pickle growers and tomato growers, or other agricultural employers
 19 who traditionally contract for harvesting on a piecework basis, as
 20 to those employees used for harvesting, until the board has
 21 acquired sufficient data to determine an adequate basis to
 22 establish a scale of piecework and determines a scale equivalent to
 23 the prevailing minimum wage for that employment. The piece rate
 24 scale ~~shall~~ **must** be equivalent to the minimum hourly wage in that,
 25 if the payment by unit of production is applied to a worker of
 26 average ability and diligence in harvesting a particular commodity,
 27 ~~he or she~~ **the worker** receives an amount not less than the hourly
 28 minimum wage.

29 (5) **This act does not apply to an individual who is 16 years**

1 of age or older but less than 21 years of age in the individual's
 2 capacity as an ice hockey player for a junior ice hockey team that
 3 is a member of a regional, national, or international junior ice
 4 hockey league.

5 (6) ~~(5)~~ Notwithstanding any other provision of this act,
 6 subsection (1) (a) and (b) and subsection (2) do not deprive an
 7 employee or any class of employees of any right that existed on
 8 September 30, 2006 to receive overtime compensation or to be paid
 9 the minimum wage.

10 Sec. 15. (1) ~~Except as provided in subsection (2), this~~ **This**
 11 act ~~shall supersede~~ **supersedes** any acts or parts of acts
 12 inconsistent with or in conflict with this act, but only to the
 13 extent of such inconsistency or conflict.

14 ~~(2) This act does not repeal, abrogate, amend, limit, modify,~~
 15 ~~supersede, or otherwise affect Act No. 166 of the Public Acts of~~
 16 ~~1965, as amended, being sections 408.551 to 408.558 of the Michigan~~
 17 ~~Compiled Laws, or any other prevailing wage law.~~

18 (2) ~~(3)~~ Any reference in any law to ~~2014 Public Act 138, the~~
 19 ~~Workforce Opportunity Wage Act, or to the state minimum wage law~~
 20 ~~shall be~~ **the workforce opportunity wage act, 2014 PA 138, MCL**
 21 **408.411 to 408.424, is** considered a reference to this act.