

Legal Alert: New Jersey Voters Approve Minimum Wage Hike; Rate to Increase to \$8.25 with Future Increases Tied to Cost of Living

November 6, 2013

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Executive Summary: New Jersey voters overwhelmingly approved a measure that will increase the state's minimum wage rate from \$7.25 to \$8.25, effective January 2014. The measure also included a constitutional amendment that will tie the minimum wage rate to increases in the cost of living.

How Will New Jersey Compare With Other States?

As of January 1, 2014, New Jersey will be tied for fourth in the nation for the highest minimum wage rates. Only Oregon, at \$8.95 per hour, Vermont, at \$8.60 per hour, and Washington, at \$9.19 per hour, have higher minimum wage rates. New Jersey's \$8.25 minimum wage rate will match those of Connecticut, Washington D.C., and Illinois, at fourth highest in the nation. However, of the states tied for fourth place, only New Jersey's minimum wage rate incorporates annual increases tied to the cost of living.

Two other states have approved measures to increase the minimum wage rates incrementally. New York's minimum wage rate, currently \$7.25, will increase to \$8 at the end of 2013, to \$8.75 at the end of 2014, and to \$9 per hour at the end of 2015. California's minimum wage will increase from \$8 to \$9 per hour on July 1, 2014, and to \$10 by 2016.

New Jersey will join ten other states with minimum wage rates linked to cost of living (those states are Arizona, Colorado, Florida, Missouri, Montana, Nevada, Ohio, Oregon, Vermont and Washington). New Jersey will become the fifth state (joining Colorado, Florida, Nevada and Ohio) to include a constitutional provision tying the minimum wage rate to the CPI.

What Will Tying Rate To Increases In CPI Mean?

The measure amends the state constitution to tie the state minimum wage rate to the federal consumer price index for urban wage earners and clerical workers (CPI-W). The CPI-W, a variation on the CPI, is calculated by the federal Bureau of Labor Statistics by measuring the consumer prices certain workers are exposed to. The rate is calculated using information from households with at least 50% of household income coming from clerical or hourly-wage paying jobs, and at least one of the household's earners must have been employed for at least 70% of the year. The amendment provides that if the index increases, the state minimum wage rate will also increase. The CPI-W has shown steady annual increases since the 1950s. From 2003 to 2012, the index increased by 26%. From 2011 to 2012, the index increased by 2%; from 2010 to 2011, the index increased by 3.5%; from 2009

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The measure also ties to the state minimum wage rate to the federal minimum wage. Should the federal minimum wage rate increase, the state rate will increase to match the federal rate. Annual increases based on CPI-W will then be based on the new, higher rate. President Obama has repeatedly stated he would like to see the federal minimum wage rate increased to \$9.50 per hour and increased annually based on increases to the CPI.

By enshrining the measure in the state constitution, the minimum wage rate cannot be decreased except by constitutional amendment. Any potential constitutional amendment must be approved by three-fifths of both houses of the state legislature, and then approved by a majority of the state's voters.

How Did This Measure Go To Voters?

Legislators had proposed raising the minimum wage to \$8.50, with automatic annual increases tied to the national CPI, but the proposal was conditionally vetoed by Governor Chris Christie. Christie proposed phasing in a \$1.00 increase over three years, and eliminating the provision tying the minimum wage rate to the CPI. The Legislature rejected Christie's conditional veto, and placed the matter on the ballot for a referendum. For more information, please see our earlier Legal Alert on this topic, [New Jersey Governor Conditionally Vetoes Minimum Wage Increase](http://www.fordharrison.com/9008), <http://www.fordharrison.com/9008>.

What Does this Mean for Employers?

The 14% increase in the minimum wage rate will take effect in January 2014. Most employees in New Jersey earn well above the minimum wage. According to the Rutgers Center for Women and Work, the increase would impact about 275,000 employees who earn less than \$8.25 per hour. The real concern for employers is ensuring that payroll systems are correctly programmed to accommodate the increase the minimum wage each year as the CPI increases. Industries that rely on tip credits should be prepared for additional legislation requiring that the minimum cash wage of \$2.13 per hour be increased to about 60% of the minimum wage or \$4.95 per hour. Although recent legislative attempts to decrease the tip credit in New Jersey failed, we suspect that the passing of this amendment will reinvigorate these efforts.

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