

# Cook County Board Passes Minimum Wage Ordinance

## Labor & Employment Law Update

By Sara Zorich on November 1, 2016

On October 25, 2016, the Cook County Minimum Wage Ordinance (CCMWO) became immediately effective, on the heels of the county's Paid Sick Leave Ordinance. The CCMWO provides the following significant requirements:

1. **Covered Employees** are those who work at least two (2) hours in any particular two (2) week period physically within the county's geographic boundaries, including compensated travel time for business activities.
2. **Covered Employers** include individuals who employ at least one Covered Employee AND (1) maintain a business facility within the county's geographic boundaries and/or (2) are subject to one (or more) county business license. Home-rule municipalities may choose to opt-out of the Ordinance within their geographic boundaries. Municipalities and other federal, state, and local governmental employers (other than Cook County) are excluded from the Ordinance.
3. **The Cook County Minimum Wage** increases on 7/1/2017 to \$10.00, and then: \$11.00 on 7/1/2018; \$12.00 on 7/1/2019; and \$13.00 on 7/1/2020. It increases annually thereafter by the CPI, up to 2.5%.
4. **Tipped Employees** wages increase by the CPI (up to 2.5%) as of 7/1/2018, and annually thereafter. Employers must submit reports to the Director evidencing that no part of the tips were returned to the employer – establishing another, independent cause of action against employers who fail to properly maintain tips and tip pooling arrangements.
5. **There is no grandfathering, exemption, or safe harbor for currently “in force” CBAs!** They will be subject to these new provisions upon their effective date. We anticipate that there will be substantial controversy over this in heavily unionized Cook County.
6. **Posting & Notice.** Employers with a physical location in Cook County must post a notice (poster to be prepared by the Director) at each facility within the county, and must provide a notice to each covered employee with the first paycheck subject to the CCMWO and any newly hired employee.
7. **Retaliation and discrimination** are prohibited, specifically including punitive schedule or work assignment changes to covered employees and harassment.
8. **Penalties** include (i) fines of \$500-\$1000 per violation per day, enforced by the Cook County Commission on Human Rights; (ii) government contractor

disqualification for five (5) years; and (iii) loss of property tax incentives for five (5) years.

9. **Private causes of action exist**, with the ability to recover three (3) times the amount of any underpayment, costs, and reasonable attorney fees.

#### **The Bottom Line:**

Local minimum wage ordinances are popping up across the United States. As a result, employers must now, more than ever, pay attention to local laws which might also dictate where the company operates and conducts business.

For example, in addition to the CCMWO, employers must also comply with the Chicago Minimum Wage Ordinance for work performed within the City's geographic boundaries (see our prior blog posts for more information). Note: the minimum wage increases under the Cook County and Chicago ordinances are NOT on the same schedule and thus employers must be aware of which law applies to the work being performed.

Today, in addition to planning for the impending US Department of Labor increase to the salary level for exempt employees (effective 12/1/16), employers with employees working in or traveling through Cook County should start planning for wage increases now, and review CBAs as well. Experienced labor and employment counsel are able to provide advice on best practices.

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