

Newsflash: Chicago Minimum Wage Increasing to \$13.00/hour

Labor & Employment Law Update

on December 3, 2014

On December 2, 2014, the Chicago City Council approved The Chicago Minimum Wage Ordinance (Chicago Municipal Code §1-24), increasing the minimum wage to \$13.00 per hour. **Here are nine points you need to know now:**

1. **Covered employees** are those who work for at least two hours in any two-week period within Chicago's geographic boundaries, including driving through the city (e.g., that delivery driver that takes Route 94 from Evanston to Gary and gets stuck in rush hour traffic is covered!). Time commuting between home and work does not count.
2. **Employers with at least one covered employee are subject to the Ordinance** (excluding various City entities, local, state, and federal government, and employees during certain stages of employment and in certain subsidized programs).
3. **The City of Chicago Minimum Wage ("CCMW")** only needs to be paid for work while the employee is **physically present** within the geographic boundaries of Chicago (you may need to determine how long your driver was stuck in traffic).
4. **CCMW for non-tipped employees will increase:** on July 1, 2015 to \$10.00/hour, on July 1, 2016 to \$10.50/hour, on July 1, 2017 to \$11.00/hour, on July 1, 2018 to \$12.00/hour, and on July 1, 2019 to \$13.00/hour. Each July 1 thereafter, the CCMW will increase by an amount announced by the Commissioner of Business Affairs and Consumer Protection (and, of course, if the CCMW is less than the Illinois or Federal minimum wage, then the highest wage rate applies).
5. **For tipped employees, the CCMW will increase:** on July 1, 2015 to the greater of the Federal or Illinois minimum wage for tipped employees plus \$0.50/hour, and on July 1, 2016 by an additional \$0.50 (\$1.00 total). Each July 1 thereafter, the CCMW will increase by an amount announced by the Commissioner.
6. **There is no grandfathering for current "in-force" collective bargaining agreements!** Unlike other municipalities' similar recent laws, there is no exemption or safe harbor for currently in-force CBAs. This means that, depending on the provisions of a current CBA, there could be an automatic

increase in all employees' wages (i.e., if only the lowest paid employee's rates are defined and each other level is based a percentage higher), or the union could even demand to re-open bargaining mid-contract. We anticipate that there will be substantial controversies over this.

7. **Notice:** Employers with a physical location within Chicago must post a notice; notice must also be provided with the first paycheck subject to the Ordinance.
8. **Penalties** include daily fines of \$500 to \$1000.
9. **Damages:** Through a private cause of action, covered employees may recover three-times the underpayment, attorney fees, and costs.

The bottom line: Employers with employees working in or traveling through Chicago should start planning for wage increases now, and review CBAs as well.

Readers are encouraged to reach out to experienced LE counsel for advice and direction.

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