



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-5704/1
MIM:emw

2023 SENATE BILL 1038

February 19, 2024 - Introduced by Senators AGARD, WIRCH, ROYS, LARSON and SPREITZER, cosponsored by Representatives SUBECK, SINICKI, NEUBAUER, RATCLIFF, JOERS, CLANCY, BALDEH, JACOBSON, C. ANDERSON, EMERSON, CONLEY, MOORE OMOKUNDE, HONG, J. ANDERSON, BARE, OHNSTAD and VINING. Referred to Committee on Labor, Regulatory Reform, Veterans and Military Affairs.

1 **AN ACT** *to repeal* 104.001, 104.01 (5g), 104.01 (7m) and 104.045 (1); *to amend*
2 104.045 (title); *to repeal and recreate* 104.035; and *to create* 104.01 (1g) and
3 227.01 (13) (Lw) of the statutes; **relating to:** a state minimum wage, allowing
4 the enactment of local minimum wage ordinances, and granting rule-making
5 authority.

Analysis by the Legislative Reference Bureau

Currently, the state minimum wage law requires that employers pay the applicable minimum wage set in statute to their employees. Under that law, the current minimum wage for most employees is \$7.25 per hour. This bill raises the minimum wage for most employees to \$10.85 per hour on the effective date of the bill and \$15 per hour one year after the effective date of the bill.

Beginning two years after the bill's effective date, the bill requires the Department of Workforce Development to annually revise the minimum wage established under the bill by determining the percentage difference between the consumer price index for the preceding year and the consumer price index for the year before the preceding year, adjusting the minimum wage then in effect by that percentage difference, and rounding that result to the nearest multiple of five cents. DWD, however, is not required to revise the general minimum wage if the consumer price index for the preceding year has not increased over the consumer price index for the year before the preceding year. DWD is required to publish the revised minimum wage in the Wisconsin Administrative Register and on DWD's website.

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The bill also repeals 1) provisions establishing a separate, lower minimum wage for tipped employees; 2) a provision that requires DWD to promulgate rules governing the counting of tips or similar gratuities toward payment of the minimum wage; 3) provisions setting specific meal and lodging allowances; and 4) provisions establishing minimum wages for minor employees, opportunity employees, agricultural employees, and others and instead requires DWD to establish the minimum wage for those employees by rule.

Finally, current law prohibits a city, village, town, or county from enacting and administering an ordinance establishing a minimum wage. The bill eliminates that prohibition.

For further information see the state and local 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.** 104.001 of the statutes is repealed.

2 **SECTION 2.** 104.01 (1g) of the statutes is created to read:

3 104.01 (1g) “Consumer price index” means the average of the consumer price
4 index over each 12-month period for all urban consumers, U.S. city average, all
5 items, not seasonally adjusted, as determined by the bureau of labor statistics of the
6 U.S. department of labor.

7 **SECTION 3.** 104.01 (5g) of the statutes is repealed.

8 **SECTION 4.** 104.01 (7m) of the statutes is repealed.

9 **SECTION 5.** 104.035 of the statutes is repealed and recreated to read:

10 **104.035 Minimum wage; established. (1) EMPLOYEES GENERALLY.** Except
11 as provided in subs. (2) and (3), the minimum wage is as follows:

12 (a) For wages earned after the effective date of this paragraph [LRB inserts
13 date], but before the first day of the 12th month beginning after the effective date of
14 this paragraph [LRB inserts date], \$10.85 per hour.

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1 (b) For wages earned beginning on the first day of the 12th month beginning
2 after the effective date of this paragraph [LRB inserts date], and ending on the
3 last day of the 23rd month beginning after the effective date of this paragraph
4 [LRB inserts date], \$15 per hour.

5 (c) For wages earned beginning on the first day of the 24th month beginning
6 after the effective date of this paragraph [LRB inserts date], the amount
7 determined by the department under sub. (4).

8 **(2) MINIMUM WAGE ESTABLISHED BY DEPARTMENT.** The department shall
9 promulgate rules establishing the minimum wage for all of the following:

10 (a) Opportunity employees.

11 (b) Agricultural employees.

12 (c) Camp counselors.

13 (d) Golf caddies.

14 (e) An employee or worker with a disability covered under a license under s.
15 104.07.

16 (f) A student learner.

17 (g) A student employed by an independent college or university for less than
18 20 hours per week.

19 **(3) EMPLOYMENT EXEMPTED BY DEPARTMENT.** The department shall promulgate
20 rules exempting from the minimum wage requirements under subs. (1) and (2) all
21 of the following:

22 (a) A person engaged in casual employment in and around an employer's home
23 on an irregular or intermittent basis for not more than 15 hours per week.

24 (b) A person who resides in the home of an employer who, due to advanced age
25 or physical or mental disability, cannot care for his or her own needs for the purpose

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1 of companionship and who spends not more than 15 hours per week on general
2 household work for the employer.

3 (c) An elementary or secondary school student performing student work-like
4 activities in the student's school.

5 (4) DEPARTMENT TO REVISE. (a) Subject to par. (b), by the date specified in sub.
6 (1) (c) and annually thereafter, the department shall revise the minimum wage under
7 sub. (1) (c) by calculating the percentage difference between the consumer price
8 index for the 12-month period ending on the last day of the last month for which that
9 information is available and the consumer price index for the 12-month period
10 ending on the last day of the month that is 12 months prior to that month, adjusting
11 the minimum wage then in effect by that percentage difference, and rounding that
12 result to the nearest multiple of 5 cents. The department shall annually send a notice
13 of the revised amount to the legislative reference bureau for publication in the
14 Wisconsin Administrative Register and shall annually publish the revised amount
15 on the department's website.

16 (b) Paragraph (a) does not apply if the consumer price index for the 12-month
17 period ending on the last day of the last month for which that information is available
18 has not increased over the consumer price index for the 12-month period ending on
19 the last day of the month that is 12 months prior to that month.

20 (5) GENDER-SPECIFIC MINIMUM WAGE PROHIBITED. The department may not
21 establish a different minimum wage for men and women.

22 **SECTION 6.** 104.045 (title) of the statutes is amended to read:

23 **104.045 (title) ~~Tips, meals, Meals, lodging, and hours worked.~~**

24 **SECTION 7.** 104.045 (1) of the statutes is repealed.

25 **SECTION 8.** 227.01 (13) (Lw) of the statutes is created to read:

