2015 ASSEMBLY BILL 904


AN ACT to amend 104.035 (1) (a), 104.035 (2) (a), 104.035 (2m) (a), 104.035 (3) (a) (intro.), 104.035 (4) (a), 104.035 (5) and 104.035 (6); and to create 15.227 (1), 19.85 (1) (ej), 104.01 (5d) and 104.065 of the statutes; relating to: creation of a Wage Council to study and make recommendations concerning increases in the minimum wage and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill creates a Wage Council in the Department of Workforce Development and requires the Wage Council, early in each regular session of the legislature, to convene for the purpose of studying the need for an increase in the minimum wage and making recommendations to DWD for any changes in the minimum wage that may be necessary to ensure that the wages paid to any employee are sufficient to enable the employee to maintain himself or herself under conditions consistent with his or her welfare (living wage). The Wage Council, in conducting that study and making those recommendations, and DWD, in revising the minimum wage, must consider 1) any changes in the consumer price index; 2) the effect of those changes on the real income of employees in this state; and 3) the effect that an increase in the minimum wage might have on the economy of the state, including the effect of a minimum wage increase on job creation, retention, and expansion; on the availability of entry-level jobs; and on regional economic conditions within the state. If DWD approves the findings and recommendations of the Wage Council, DWD may promulgate rules to revise the minimum wage.
Finally, under the bill, the biennial minimum wage revision procedure specified in the bill does not preclude DWD from convening the Wage Council at other times during the regular session of the legislature if, upon investigation, DWD finds that there is reasonable cause to believe that the wages paid to any employee are not a living wage. If DWD so convenes the Wage Council, the Wage Council so convened must study the need for an increase in the minimum wage and report its recommendations as provided in the bill.

Under current law, the minimum wage is established by statute at $7.25 per hour for employees generally, minor employees, and agricultural employees; at $5.90 per hour for employees under 20 years of age who are in their first 90 consecutive days of employment with their employer (opportunity employees); at $2.33 per hour for tipped employees; and at $2.13 per hour for tipped opportunity employees. Currently, DWD is authorized to establish a minimum wage by rule only for workers with a disability, student learners, and students employed at an independent college or university for less than 20 hours per week.

For further information see the state 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:

SECTION 1. 15.227 (1) of the statutes is created to read:

15.227 (1) WAGE COUNCIL. There is created in the department of workforce development a wage council consisting of all of the following members:

(a) Five representatives of employers, including a representative of an association that is primarily composed of small businesses, appointed by the secretary of workforce development for 3-year terms.

(b) Five representatives of employees appointed by the secretary of workforce development for 3-year terms.

(c) The chairpersons and ranking minority party members of one senate standing committee and one assembly standing committee concerned with labor issues, appointed as are the members of standing committees in their respective houses.
(d) Five representatives of the public interest who do not have the qualifications of the members described in pars. (a) to (c) appointed by the secretary of workforce development for 3-year terms.

SECTION 2. 19.85 (1) (ej) of the statutes is created to read:

19.85 (1) (ej) Deliberating by the wage council in a meeting at which all employer members of the council or all employee members of the council are excluded.

SECTION 3. 104.01 (5d) of the statutes is created to read:

104.01 (5d) “Living wage” means compensation for labor performed by an employee, whether measured by time, piecework, or otherwise, that is sufficient to enable the employee receiving the compensation to maintain himself or herself under conditions that are consistent with his or her welfare.

SECTION 4. 104.035 (1) (a) of the statutes, as created by 2015 Wisconsin Act 55, is amended to read:

104.035 (1) (a) Minimum rates. Except as provided in subs. (2) to (8) and subject to s. 104.065 (3), the minimum wage is $7.25 per hour.

SECTION 5. 104.035 (2) (a) of the statutes, as created by 2015 Wisconsin Act 55, is amended to read:

104.035 (2) (a) Minimum rates. Except as provided in subs. (2m) to (8) and subject to s. 104.065 (3), the minimum wage for a minor employee is $7.25 per hour.

SECTION 6. 104.035 (2m) (a) of the statutes, as created by 2015 Wisconsin Act 55, is amended to read:

104.035 (2m) (a) Minimum rates. Except as provided in subs. (3) to (8) and subject to s. 104.065 (3), the minimum wage for an opportunity employee is $5.90 per hour.
**SECTION 7.** 104.035 (3) (a) (intro.) of the statutes, as created by 2015 Wisconsin Act 55, is amended to read:

104.035 (3) (a) Minimum rates. (intro.) Except as provided in subs. (4) to (8) and subject to s. 104.065 (3), if an employer of a tipped employee establishes by the employer’s payroll records that, when adding the tips received by the tipped employee in a week to the wages paid to the tipped employee in that week, the tipped employee receives not less than the applicable minimum wage specified in sub. (1), (2), or (2m), the minimum wage for the tipped employee is as follows:

**SECTION 8.** 104.035 (4) (a) of the statutes, as created by 2015 Wisconsin Act 55, is amended to read:

104.035 (4) (a) Minimum rates. Except as provided in subs. (7) and (8) and subject to s. 104.065 (3), the minimum wage for an agricultural employee is $7.25 per hour.

**SECTION 9.** 104.035 (5) of the statutes, as created by 2015 Wisconsin Act 55, is amended to read:

104.035 (5) Camp counselors. Subject to s. 104.065 (3), the minimum wage for a counselor at a seasonal recreational or educational camp, including a day camp, is $350 per week if meals and lodging are not furnished, $265 per week if only meals are furnished, and $210 per week if both meals and lodging are furnished.

**SECTION 10.** 104.035 (6) of the statutes, as created by 2015 Wisconsin Act 55, is amended to read:

104.035 (6) Golf caddies. Subject to s. 104.065 (3), the minimum wage for a golf caddy is $10.50 for caddying 18 holes and $5.90 for caddying 9 holes.

**SECTION 11.** 104.065 of the statutes is created to read:
104.065 Wage council; determination of minimum wage. (1) Living wage study and recommendations. (a) Early in each regular session of the legislature, the wage council shall convene for the purpose of studying the need for an increase in the minimum wage and making recommendations to the department for any changes in the minimum wage that may be necessary to ensure that the wages paid to any employee are a living wage.

(b) The wage council, in conducting the study and making the recommendations under par. (a), and the department, in revising the minimum wage under sub. (3), shall consider all of the following:

1. The percentage difference between the consumer price index, as defined in s. 49.455 (1) (b), for the 12-month period ending on December 31 of the preceding year and the consumer price index for the 12-month period ending on December 31 of the most recent even-numbered year before the preceding year, except that the wage council may not consider that percentage difference if the consumer price index for the 12-month period ending on December 31 of the preceding year did not increase over the consumer price index for the 12-month period ending on December 31 of the most recent even-numbered year before the preceding year.

2. The effect that any change in the consumer price index might have on the real incomes of employees in this state, unless the department is precluded from considering such a change under subd. 1.

3. The effect that an increase in the minimum wage might have on the economy of the state, including the effect of a minimum wage increase on job creation, retention, and expansion; on the availability of entry-level jobs; and on regional economic conditions within the state.
(c) If the wage council recommends an increase in the minimum wage for a class of employees for whom the minimum wage is determined on an hourly basis, the wage council shall recommend the same increase for all classes of employees for whom the minimum wage is determined on an hourly basis.

(2) **Report of findings and recommendations.** The wage council shall submit a report of its findings and recommendations, together with an explanation for those findings and recommendations, to the secretary, the governor, the speaker of the assembly, the senate majority leader, and the minority leaders of each house of the legislature and to the standing committee of each house of the legislature that is concerned with labor issues under s. 13.172 (3).

(3) **Rules revising minimum wage.** The department shall consider the findings and recommendations of the wage council and, if the department approves those findings and recommendations, the department may promulgate rules to revise the minimum wage.

(4) **Other minimum wage increases not precluded.** The biennial minimum wage revision procedure specified in subs. (1) to (3) does not preclude the department from convening the wage council at other times during the regular session of the legislature if, upon investigation, the department finds that there is reasonable cause to believe that the wages paid to any employee are not a living wage. If the department so convenes the wage council, the wage council so convened shall study the need for an increase in the minimum wage as provided in sub. (1) and report its findings and recommendations as provided in sub. (2).

**SECTION 12. Nonstatutory provisions.**

(1) **Wage council; initial terms.** Notwithstanding the length of terms specified for the members of the wage council specified under section 15.227 (1) (a), (b), and
(d) of the statutes, as created by this act, the initial members specified in those paragraphs shall be appointed for the following terms:

(a) One of the initial members specified under section 15.227 (1) (a) of the statutes, as created by this act, one of the initial members specified under section 15.227 (1) (b) of the statutes, as created by this act, and one of the initial members specified under section 15.227 (1) (d) of the statutes, as created by this act, shall be appointed for a term that expires on June 1, 2017.

(b) Two of the initial members specified under section 15.227 (1) (a) of the statutes, as created by this act, 2 of the initial members specified under section 15.227 (1) (b) of the statutes, as created by this act, and 2 of the initial members specified under section 15.227 (1) (d) of the statutes, as created by this act, shall be appointed for a term that expires on June 1, 2018.

(c) Two of the initial members specified under section 15.227 (1) (a) of the statutes, as created by this act, 2 of the initial members specified under section 15.227 (1) (b) of the statutes, as created by this act, and 2 of the initial members specified under section 15.227 (1) (d) of the statutes, as created by this act, shall be appointed for a term that expires on June 1, 2019.

SECTION 13. Effective date.

(1) WAGE COUNCIL. This act takes effect on January 1, 2017.