



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-0287/1
MED:kjf

2017 ASSEMBLY BILL 814

January 5, 2018 - Introduced by Representatives SARGENT, OHNSTAD, ANDERSON, POPE, BERCEAU, BROSTOFF, CONSIDINE, GENRICH, ZEPNICK, CROWLEY, SPREITZER, SUBECK and C. TAYLOR, cosponsored by Senators WIRCH, CARPENTER, RINGHAND, VINEHOUT and LARSON. Referred to Committee on Labor.

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) of
3 the statutes; **relating to:** a state minimum wage, permitting the enactment of
4 local minimum wage ordinances, extending the time limit for emergency rule
5 procedures, providing an exemption from emergency rule procedures,
6 providing an exemption from rule-making procedures, and requiring the
7 exercise of rule-making 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 employees generally is \$7.25 per hour. This bill raises the minimum wage for employees generally as follows:

Minimum wage on effective date	\$8.50 per hour
Minimum wage one year after effective date	\$10 per hour
Minimum wage two years after effective date	\$11.50 per hour
Minimum wage three years after effective date	\$13 per hour

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Minimum wage four years after effective date	\$14 per hour
Minimum wage five years after effective date	\$15 per hour

Beginning six years after the bill's effective date, the bill requires the Department of Workforce Development annually to promulgate rules revising the minimum wages established under the bill by determining the percentage difference between the consumer price index for the preceding 12-month period (year) and the consumer price index for the year before the preceding year, adjusting the minimum wages 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.

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; and 3) provisions setting specific meal and lodging allowances. In addition, the bill repeals 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. This 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.

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1 **SECTION 5.** 104.035 of the statutes is repealed and recreated to read:

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

4 (a) For wages earned before the first day of the 15th month beginning after
5 publication [LRB inserts date], \$8.50 per hour.

6 (b) For wages earned beginning on the first day of the 15th month beginning
7 after publication [LRB inserts date], and ending on the last day of the 26th month
8 beginning after publication [LRB inserts date], \$10 per hour.

9 (c) For wages earned beginning on the first day of the 27th month beginning
10 after publication [LRB inserts date], and ending on the last day of the 38th month
11 beginning after publication [LRB inserts date], \$11.50 per hour.

12 (d) For wages earned beginning on the first day of the 39th month beginning
13 after publication [LRB inserts date], and ending on the last day of the 50th month
14 beginning after publication [LRB inserts date], \$13 per hour.

15 (e) For wages earned beginning on the first day of the 51st month beginning
16 after publication [LRB inserts date], and ending on the last day of the 62nd month
17 beginning after publication [LRB inserts date], \$14 per hour.

18 (f) For wages earned beginning on the first day of the 63rd month beginning
19 after publication [LRB inserts date], and ending on the last day of the 74th month
20 beginning after publication [LRB inserts date], \$15 per hour.

21 (g) For wages earned beginning on the first day of the 75th month beginning
22 after publication [LRB inserts date], the amount determined by the department
23 by rule promulgated under sub. (4).

24 **(2) MINIMUM WAGE ESTABLISHED BY DEPARTMENT.** The department shall
25 promulgate rules providing the minimum wage for all of the following:

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1 (a) Opportunity employees.

2 (b) Agricultural employees.

3 (c) Camp counselors.

4 (d) Golf caddies.

5 (e) An employee or worker with a disability covered under a license under s.
6 104.07.

7 (f) A student learner.

8 (g) A student employed by an independent college or university for less than
9 20 hours per week.

10 **(3) EMPLOYMENT EXEMPTED BY DEPARTMENT.** The department shall promulgate
11 rules exempting from the minimum wage requirement under subs. (1) and (2) all of
12 the following:

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

15 (b) A person who resides in the home of an employer who, due to advanced age
16 or physical or mental disability, cannot care for his or her own needs, for the purpose
17 of companionship and who spends not more than 15 hours per week on general
18 household work for the employer.

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

21 **(4) DEPARTMENT TO REVISE.** (a) 1. Subject to par. (b), by the date specified in sub.
22 (1) (g) and annually thereafter, the department shall promulgate rules to revise the
23 minimum wages established under sub. (1). Subject to subd. 2., the department shall
24 determine the revised minimum wages by calculating the percentage difference
25 between the consumer price index for the 12-month period ending on the last day of

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1 the last month for which that information is available and the consumer price index
2 for the 12-month period ending on the last day of the month 12 months prior to that
3 month, adjusting the minimum wage then in effect by that percentage difference,
4 and rounding that result to the nearest multiple of 5 cents.

5 2. The department may use the emergency rule procedures under s. 227.24 to
6 promulgate the rules required under subd. 1. Notwithstanding s. 227.24 (1) (a) and
7 (3), the department may promulgate those rules as emergency rules without
8 providing evidence that promulgating those rules as emergency rules is necessary
9 to preserve the public peace, health, safety, or welfare and without a finding of
10 emergency. Notwithstanding s. 227.24 (1) (e) 1d. and 1g., the department is not
11 required to prepare a statement of the scope of those rules or to submit those rules
12 in final draft form to the governor for approval. A revised minimum wage
13 determined under subd. 1. shall first apply to wages earned on the first day of the
14 3rd month beginning after the month of publication [LRB inserts date], of the year
15 in which the wage is revised and, notwithstanding s. 227.24 (1) (c) and (2), shall
16 remain in effect until that same date the following year.

17 (b) Paragraph (a) 1. does not apply if the consumer price index for the 12-month
18 period ending on the last day of the last month for which that information is available
19 has not increased over the consumer price index for the 12-month period ending on
20 the last day of the month 12 months prior to that month.

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

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

24 **104.045 (title) Tips, meals, Meals, lodging, and hours worked.**

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

