

## Emerging trend toward higher state and local minimum wages

With Congressional legislation to raise the federal minimum wage stalled in Congress, states and cities are taking steps to hike local minimum wages. In some states, changes in the applicable minimum wage can trigger other compliance obligations, such as required wage theft notices. Changes may also increase the minimum salary basis for exempt status from overtime pay under state law, and minimum payments for commission-based employees. Employers will need to update their current pay practices to comply with new rates and, as appropriate, adjust their pay structures for a series of increases.

### Background

Most employers are subject to both federal and state minimum wage laws. When the laws differ, employers must follow the stricter standard — the one that is the most beneficial to the employee. When state or local law requires a higher minimum wage than federal law, employers subject to both laws must pay the state or local minimum wage rate unless their employees are exempt under applicable state or local law.

### State and local wage hikes



Seattle is one of a growing number of cities that have taken action to raise the local minimum wage. On June 2, Seattle's City Council unanimously [approved](#) gradually raising the local minimum wage to \$15 per hour — the highest of any major US city and more than twice the federal minimum wage of \$7.25 per hour. For large employers (more than 500 employees), the raise is slated to be phased in over a several year period beginning April 1, 2015. The new \$15 minimum wage would apply to large employers by 2017 if they do not provide health insurance to their employees, and by 2018 if they do. The increase would be phased in for smaller employers through 2021.

San Francisco, Santa Fe, San Jose, Albuquerque, and Washington DC are among the cities that have raised the local minimum wage well above the federal level. A new regional minimum wage is taking shape as Washington DC took the first step in a phased-in increase on July 1, and two neighboring Maryland

counties (Montgomery and Prince George's) will begin their phased-in increases in October. Other cities, including New York, San Diego, and Portland, Maine, are currently weighing increases.

**Buck comment.** Although San Francisco's minimum wage is already slated to rise to \$11.03 on January 1, 2015, efforts are underway to raise it to \$15 per hour by July 2018. A proposed measure that would gradually increase the city's minimum wage over the next four years will be on the November ballot. At the same time, mayors in Oakland, Berkeley, and other East Bay cities are exploring the possibility of a regional minimum wage.

States have also taken action. In this year alone, ten states and the District of Columbia have approved increases in the state minimum wage. Connecticut, Maryland, Massachusetts, Hawaii, Vermont, and the District of Columbia have approved gradual increases to at least \$10.10 an hour, while Minnesota, West Virginia, Michigan, Delaware, and Rhode Island have passed smaller increases. Other states — and cities — are considering putting proposed increases in the local minimum wage on their November ballots.

**Buck comment.** In 2013, California Governor Jerry Brown signed into [law](#) an increase to California's minimum wage to be phased in over a two-year period. The state minimum wage went to \$9.00 per hour on July 1, and will increase to \$10 per hour on January 1, 2016. Because California law requires salaried, exempt employees to earn a monthly salary of at least twice the state minimum wage, the new minimum salary for exempt employees is \$3,120 per month, or \$37,440 annually.

## Federal contractor wage hike

Earlier this year, President Barack Obama issued an [executive order](#) that increases the federal minimum wage for certain federal contractors and subcontractors to \$10.10 per hour beginning January 1, 2015. On June 17, the DOL [proposed regulations](#) to implement the order, and [said](#) it will issue a Final Rule by October 1, 2014.

Legislation has been introduced in Congress that would gradually raise the federal minimum wage from \$7.25 to \$10.10 per hour for all employees covered by the Fair Labor Standards Act. To date, however, lawmakers have failed to advance it. (See our [May 2, 2014 Legislate](#) for more information on the bill.)

## In closing

With legislation that would raise the federal minimum wage shelved in Congress, efforts to hike minimum wages at the state and/or local level are likely to continue. Employers — particularly multi-state employers — will need to monitor and plan for increases in state/local minimum wage rates. Because increases may affect overtime eligibility for salaried employees in some locations, employers should make sure that employees who are currently exempt from overtime under applicable state/local requirements will remain so when the minimum wage changes. Employers (such as in the hospitality industry) in states that permit tip credits should also consider whether minimum wage increases will affect the credit they can take against tipped employees' hourly wages.

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