

Chicago Hikes Minimum Wage

On July 1, new minimum wage rates took effect for most private-sector employees who work in Chicago and for city employees. Employers will have to factor the new rates — and scheduled increases — into their compensation plans and overtime pay calculations. Employers should review their pay practices to ensure that they have appropriate pay ranges in place and take all other steps needed to ensure compliance.

Background

The federal minimum wage, which is set by the Fair Labor Standards Act (FLSA), was last raised in 2009 to \$7.25 per hour. All but a handful of states have their own minimum wage requirements, and most employers are subject to both federal and state laws. When wage rates set by those laws differ, employers must pay the higher rate unless their employees are exempt under applicable state or local law.

As debate over raising the federal rate continues, a trend toward higher state and local minimum wages has emerged. (See our [July 8, 2014 For Your Information.](#)) Nearly half of the states raised their rates for 2015, with more increases to follow. Now, 29 states — including Illinois — and the District of Columbia have minimum wage rates that exceed the federal floor. (See our [January 20, 2015 For Your Information.](#))

Chicago's Minimum Wage Ordinance

In December 2014, Chicago enacted the Minimum Wage [Ordinance](#), joining a growing number of cities — such as San Francisco and Seattle — that have taken action to raise local wage rates. The ordinance establishes a minimum wage rate of \$10 per hour for workers in Chicago, exceeding both the federal minimum and the state minimum of \$8.25 per hour. Through phased-in increases, it gradually raises the city's wage floor to \$13 per hour by 2019.

Chicago's Department of Business Affairs and Consumer Protection (BACP) is responsible for enforcing the ordinance. BACP has now made available online [FAQs](#) and [Minimum Wage Rules](#), effective July 1.



Covered Employers and Employees

Chicago's minimum wage ordinance generally applies to entities that maintain a business facility in the city and/or are subject to Chicago's business license requirements. Employers (including individuals, partnerships, associations, corporations, limited liability companies and business trusts) generally are covered if they employ at least one covered employee. An employee is covered if he or she spends two or more hours "working" in Chicago in any two-week period. For these purposes, working time includes time spent traveling in the city that is compensated time (including deliveries, sales calls and travel related to other business activity within the city) while time spent traveling in the city that is uncompensated commuting time does not count as work within the city.

The ordinance covers most private-sector employees and employees of the city. There are, however, limited exceptions, including for: employees taking part in some government-subsidized employment programs; employees of governmental entities other than the city; and certain employees exempted under state law. There is also a carve-out for employees covered by collective bargaining agreements in which the union waives its members' rights to collect the minimum wage.

Higher Minimum Wage Rates

On July 1, the minimum wage in the City of Chicago increased to \$10 per hour. As indicated in the table below, incremental increases will be phased in over five years, reaching a \$13 per hour rate on July 1, 2019 (or other higher rate set under the Illinois Minimum Wage Law or the FLSA). Increases will be indexed for inflation based on the Consumer Price Index (CPI) beginning in 2020.

The rate for tipped employees also increased on July 1 from the current state minimum of \$4.95 to \$5.45 per hour. The minimum rate is slated to increase to \$5.95 in 2016, and will be indexed annually to the CPI after 2016.

Effective Date	Non-Tipped Employees	Tipped Employees
July 1, 2015	\$ 10.00	\$ 5.45
July 1, 2016	\$ 10.50	\$ 5.95
July 1, 2017	\$ 11.00	Increases with CPI*
July 1, 2018	\$ 12.00	Increases with CPI*
July 1, 2019	\$ 13.00	Increases with CPI*
July 1, 2010	Increases with CPI*	Increases with CPI*

* The minimum wage will not increase when Chicago's unemployment rate for the preceding year (calculated by the Illinois Department of Employment Security) equals or exceeds 8.5%. In addition, if the CPI increases by more than 2.5% in any year, the minimum wage increase will be capped at 2.5%.

City Contractors and Concessionaires

Last year, Mayor Rahm Emanuel increased the minimum wage for for-profit city contractors, subcontractors and concessionaires. Executive Order No. [2014-1](#) set a \$13 per hour minimum wage for work performed under a city contract or concession agreement advertised on or after October 1, 2014.

Notice and Recordkeeping

The ordinance requires employers to post a [notice](#) issued by the BACP in each place of business informing employees of their rights, and to provide the notice with each covered employee's first paycheck after the wage increases go into effect. Going forward, the notice must also be provided to new hires with their first paycheck.

As the minimum wage rules confirm, employers must maintain, for at least three years, detailed records for covered employees of hours worked and wages paid. In addition to describing the content of the records employers must maintain for covered employees, the rules provide additional detail on specific records requirements for covered employees whose compensation is derived in part from tips. In addition, the city's minimum wage rules require employers to have current copies of both the rules and the ordinance on file and readily accessible.

Anti-Discrimination and Anti-Retaliation Provisions

Employers are prohibited from discriminating or take any adverse employment action against an employee in retaliation for exercising his or her rights under this ordinance.

Penalties

Employers face civil fines of between \$500 to \$1,000 per violation, as well as license suspension or revocation and orders to pay restitution to underpaid employees. Each day that a violation continues constitutes a separate and distinct offense to which a separate fine shall apply. The city may also deny a business license to an employer that commits three violations of the ordinance within a 24-month period. Employees may also file civil lawsuits under this ordinance, in which they can recover up to three times the amount of the underpayment, along with attorney fees and costs.

Cook County Wage Theft Ordinance

The [Cook County Wage Theft Ordinance](#) took effect on May 1, 2015. Under that ordinance, an employer may be ineligible to hold — or may lose — a Cook County business license for violating any wage laws.

In Closing

Chicago employers will want to make sure that they are familiar with Chicago's minimum wage ordinance as well as the Cook County Wage Theft Ordinance, both of which are now in effect. Employers will need to review their current pay practices, adjust pay ranges as needed, and factor scheduled minimum wage increases into their overall compliance strategies.

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