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H.B. 69
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Kelly and Jarrells

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SUMMARY

- Increases the basic state minimum wage to \$10.00 per hour beginning January 1, 2022.
- Increases the basic state hourly minimum wage rate by \$1.00 each year for the following five years, beginning January 1 of the respective year.
- Increases the state hourly minimum wage rate for tipped employees to \$5.00 per hour beginning January 1, 2022.
- Increases the state hourly minimum wage for tipped employees by \$.50 each year for the following five years, beginning January 1 of the respective year.
- Requires, beginning January 1, 2028, the minimum wage rates to be adjusted annually based on the Consumer Price Index, in accordance with Ohio's constitutional minimum wage requirements.

DETAILED ANALYSIS

State minimum wage for nontipped employees

The bill raises the state minimum wage rate to \$10.00 per hour beginning January 1, 2022. (Because this date has passed, it is unclear when the bill would be implemented. An amendment may be necessary to address this issue.) It also increases the hourly minimum wage by \$1.00 each year for the following five years. The following table identifies the minimum wage under the bill an employee who does not receive tips must be paid during the listed year.¹

¹ R.C. 4111.02(A)(1).

Year	Hourly wage rate under the bill (nontipped employee)
2022	\$10.00
2023	\$11.00
2024	\$12.00
2025	\$13.00
2026	\$14.00
2027	\$15.00

Under current law, the basic state minimum wage is \$9.30 per hour and will increase to \$10.10 per hour on January 1, 2023. The basic state minimum wage is currently set pursuant to the Minimum Wage Amendment of the Ohio Constitution (MWA). The MWA requires the basic state minimum wage to be increased annually according to the Consumer Price Index or its successor index for all urban wage earners and clerical workers for all items as calculated by the federal government, rounded to the nearest five cents. However, the MWA allows laws to be passed that set the state minimum wage at a rate higher than the rate calculated pursuant to the MWA.² The bill establishes scheduled increases in the minimum wage rate and, beginning January 1, 2028, requires the Director of Commerce, who administers and enforces the law, to adjust the minimum wage rate annually in accordance with the MWA.³

Currently, pursuant to MWA, employees who are under age 16 or who are employed by a business with gross annual receipts of \$342,000 or less in 2021 (\$372,000 in 2022) must be paid at least the federal minimum wage rate, which is \$7.25 per hour. Under the MWA, the amount of gross annual receipts is adjusted annually based on the Consumer Price Index. The bill permits these employees to continue to be paid the federal minimum wage rate.⁴

State minimum wage for tipped employees

Under continuing law, tipped employees may be paid less than, but not less than half, the basic state minimum wage rate if the employer is able to demonstrate that the employee receives tips that combined with the wages paid by the employer are equal to or greater than

² Ohio Constitution, Article II, Section 34a; *see also* Ohio Department of Commerce Division of Industrial Compliance (ODC-DIC), [State of Ohio 2022 Minimum Wage](#) and [State of Ohio 2023 Minimum Wage](#), both of which may be accessed by conducting a keyword “minimum wage poster” search on the Department’s website: <https://com.ohio.gov/>.

³ R.C. 4111.02, with conforming changes in R.C. 4111.09 and 4111.14.

⁴ R.C. 4111.02(A)(3); Ohio Const., art. II, sec. 34a; 29 United States Code (U.S.C.) 206; ODC-DIC, [State of Ohio 2022 Minimum Wage](#) and [State of Ohio 2023 Minimum Wage](#).

the state minimum wage rate for all hours worked. Because the bill raises the state minimum wage, the minimum wage for tipped employees (\$4.65 per hour in 2022; \$5.05 per hour in 2023) would also increase. The following table identifies the minimum wage under the bill a tipped employee must be paid during the listed year:⁵

Year	Hourly wage rate under the bill (tipped employee)
2022	\$5.00
2023	\$5.50
2024	\$6.00
2025	\$6.50
2026	\$7.00
2027	\$7.50

Apprentices

The bill also eliminates the authority of the Director to adopt rules permitting the employment of apprentices at a wage rate not less than 85% of the state minimum wage. The Director has not adopted these rules.⁶

Relationship between state and federal law

The federal Fair Labor Standards Act⁷ (FLSA) and Ohio's minimum wage laws both specify minimum wages that an employer must pay the employer's employees at least the minimum wage. An employer may be subject to one or both laws. The FLSA specifies that if an employer is subject to both laws, the employer is governed by the law that establishes the higher minimum wage.⁸ Currently, Ohio has a higher basic minimum wage (\$9.30 per hour in 2022) as compared to the basic minimum wage under the FLSA (\$7.25 per hour). Thus, employers subject to both laws pay the state rate under current law and under the bill.

HISTORY

⁵ R.C. 4111.02(A)(2); Ohio Const., art. II, sec. 34a; ODC-DIC, [State of Ohio 2022 Minimum Wage](#) and [State of Ohio 2023 Minimum Wage](#).

⁶ R.C. 4111.07, repealed.

⁷ 29 U.S.C. 201 *et seq.*

⁸ 29 U.S.C. 218.

Action	Date
Introduced	02-09-21
