

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 416aaa

51st Legislature, 1st Session, 2013

Tracking Number: .192257.2

Short Title: Raise Minimum Wage

Sponsor(s): Senators Richard C. Martinez and William P. Soules and Others

Analyst: Kevin Force

Date: March 14, 2013

AS AMENDED

The House Labor and Human Resources Committee amendments:

- **strike the exceptions created by the Senate Floor Amendments and replace them with new exceptions from the general minimum wage requirements for:**
 - **employers not subject to the *Workers' Compensation Act*, who must pay employees at least \$7.50 per hour; and**
 - **employers of the following sorts of employees, who must be paid at least \$7.50 per hour:**
 - **interns working for business or academic credit related to a course of study at an accredited school;**
 - **employees of an accredited school, while that employee is attending that school;**
 - **employees working for a business in connection with a court-ordered community service program; or**
 - **an apprentice employee of an organization that qualifies for exemption from taxes under Section 501(c)(3) of the *Internal Revenue Code*¹, except for registered apprentices and learners as otherwise provided by law; and**
- **include a provision that nothing in this section of law is to be construed as either requiring or allowing an employer to lower the hourly wage of an employee.**

The Senate Floor amendment:

- **adds the phrase “PROVIDING EXCEPTIONS” to the title of Section 1² of the bill;**
- **strikes all Senate Corporations and Transportation Committee amendments; and**
- **creates exceptions from the general minimum wage requirements for:**

¹ The exempt purposes set forth in section 501(c)(3) are charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals.

² Section 50-4-22 NMSA 1978

- employers of 10 or fewer employees, who must pay employees at least \$7.50 per hour; and
- employers of “trainees,” who must pay their trainees at least \$7.50 per hour during the training period, but for no longer than one year from the date of the trainee’s hire.

The Senate Corporations and Transportation Committee amendments:

- add the phrase “providing exceptions for the minimum wage requirement” to the title of the bill; and
- exclude from the definition of “employee” in the *Minimum Wage Act* “persons hired as trainees for a period of one year or less receiving a bona fide training wage.”

Original Bill Summary:

SB 416 proposes to amend current law to raise the state minimum wage to \$8.50 per hour from \$7.50 per hour.

Fiscal Impact:

SB 416 does not contain an appropriation.

The New Mexico Department of Workforce Solutions (DWS) reports a nonrecurring impact of \$1,000 to the General Fund for FY 14.

Fiscal Issues:

According to DWS:

- if passed, SB 416 would raise the minimum wage in New Mexico by 11.76 percent;
- the *Fair Labor Standards Act* sets a federal minimum hourly wage of \$7.25 per hour, but states may enforce higher pay rates;
- employees subject to both federal and state minimum wage standards are entitled to the higher of the two.

The Economic Development Department (EDD) notes the following:

- One goal of any economic development program is to increase wages available to its constituents by recruiting and encouraging the growth of higher-paying industries.
- A single mandated *percentage* wage increase does not consider the differences in wage levels paid by each industry and skill level.
- According to DWS, average weekly wages for the second quarter of 2012 in retail trade were \$490 compared to \$1,372 in the mining industry.
- Percentage increases will clearly impact higher paying industries at a disproportionate rate, providing a disincentive to pay higher wages.

Original Substantive Issues:

DWS reports that:

- the agency will need to update its website if SB 416 passes, as well as other publications where appropriate; and
- the agency’s Wage and Hour Bureau of the Labor Relations Division will have to update staff and constituents on any changes to the minimum wage, to “address situations when a constituent files a wage claim against their employer if the claim includes any hourly wages impacted by the minimum wage rate change.”

According to the Economic Development Department:

- Mandating cost of living wage increases may be well-intended in a high-poverty state, but determining a single percentage wage increase that is appropriate in all regions of New Mexico presumes the state is less diverse than the data indicate.
- A study³ from the University of Kentucky Department of Economics, comparing vulnerable households in cities that implemented a living wage to those that did not, shows that, “the living wage had statistically insignificant effects on household total income and earnings”:
 - for every \$1.00 increase, cash transfers fell by \$0.44; and
 - of those affected by living wage:
 - 75 percent did not live in poverty; and
 - 40 percent had incomes greater than 200 percent of poverty line;
 - the data suggest that even using a cash-based measure of poverty, the living wage is not well-targeted; and
 - living wages target individual earnings, rather than family income, and may benefit single individuals such as teens who are not “at-risk.”
- An alternative that may yield more desirable outcomes might be amending the Earned Income Tax Credit (EITC) rather than adding taxable income that is not particularly good at improving family incomes:
 - EITC often is not counted as income for transfer programs;
 - EITC and living wage do not complement each other, but are substitutes for one another; and
 - the marginal earnings from the living wage end up in the EITC phase-out range of 21 percent⁴.

Amended Technical Issues:

The third Senate Floor amendment, which creates exceptions from the general minimum wage requirements, reads, “[A] trainee *employee* shall pay the trainee *employee* . . .” (emphasis added). This appears to be a typo, which the sponsor may wish to consider correcting by changing the first instance of “trainee employee” to “trainee employer.”

³ See, “The ‘Poverty Trap’ and Living Wage Laws,” Economic Development Quarterly, Toika, Yelowitz and Neveu, February 2005, at: <http://gatton.uky.edu/Faculty/yelowitz/Yelowitz-povtrap.pdf>.

⁴ Id.

Background:

Recent increases to the New Mexico minimum wage include:

- in 2007, an increase to \$6.50 from \$5.15 per hour, effective January 1, 2008, and an increase to \$7.50 from \$6.50, effective January 1, 2009; and
- in 2003, an increase to \$5.15 per hour from \$4.25 per hour, effective June 20, 2003.

According to EDD:

- The US Department of Commerce Bureau of Economic Analysis calculates and releases per capita personal income in dollars on both a quarterly and annual basis.
- The United States comprises 3,113 counties; between 2010 and 2011 changes to per capita personal income (PCPI) varied by county from an increase in King County, Texas of 62.2 percent to a decrease of 28.8 percent in Lynn County, Texas.
- Within New Mexico, 2011 PCPI varied from \$60,719 in Los Alamos County, to \$24,079 in McKinley County.
- The US Chamber of Commerce reported a study by the Employment Policies Institute⁵, suggesting that, as a result of the 1996 wage increase of only \$0.50 an hour, 645,000 entry-level jobs were destroyed despite the robust economy at that time.
- An additional increase in the minimum wage may cause:
 - small business employers to eliminate more entry-level jobs;
 - reduced hours and benefits for current employees; and
 - dismissal of current employees.
- For small businesses, the extra cost associated with a minimum wage increase may be impossible to recoup by raising prices, as customers may shift their business to competitors who are better able to absorb the increased wage burden.
- Statistics show that increases in the minimum wage do little to help low-income families, the intended beneficiaries of such increases.
- The Employment Policy Foundation indicates that less than 0.9 percent of current minimum wage earners are part of families with a total family income of \$20,000 or less.

Committee Referrals:

SPAC/SCORC/HLC

Related Bills:

HB 550 *Raise Minimum Wage for Tipped Employees*

HJR 6 *Increase Minimum Wage Annually, CA*

⁵ *Job Loss in a Booming Economy, 2d Edition*, the Employment Policies Institute, April 1998.