

Department of Legislative Services
 Maryland General Assembly
 2017 Session

FISCAL AND POLICY NOTE
 First Reader - Revised

House Bill 763
 Economic Matters

(Delegate Tarlau, *et al.*)

Maryland Wage and Hour Law - Public Senior Higher Education Institution -
 Payment of County Minimum Wage

This bill requires a public four-year higher education institution to pay employees who are subject to both the federal Fair Labor Standards Act (FLSA) and Maryland’s Wage and Hour Law at least the greater of the federal minimum wage, the State minimum wage, or the county minimum wage (the minimum wage set by the county in which the employee’s principal place of employment is located). A public four-year higher education institution must pay employees who are only subject to Maryland’s Wage and Hour Law *at least* either (1) the greater of the federal minimum wage, the State minimum wage, or the county minimum wage or (2) a training wage under regulations that the Commissioner of Labor and Industry adopts. A public four-year higher education institution may still pay an employee a wage that equals 85% of the State minimum wage for the first six months that the employee is employed if the employee is younger than age 20, and exceptions to minimum wage requirements still exist for a disabled employee of a sheltered workshop under specified conditions.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: Higher education expenditures for the University System of Maryland (USM) increase by \$3.4 million annually beginning in FY 2018 to pay employees the county minimum wage. The Department of Labor, Licensing, and Regulation can investigate any wage complaints with existing resources. Revenues are not directly affected.

(\$ in millions)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Revenues	\$0	\$0	\$0	\$0	\$0
Higher Ed Exp.	3.4	3.4	3.4	3.4	3.4
Net Effect	(\$3.4)	(\$3.4)	(\$3.4)	(\$3.4)	(\$3.4)

Note:(-) = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A public four-year higher education institution means Morgan State University, St. Mary's College of Maryland, and the constituent institutions of the USM and the University of Maryland Center for Environmental Science.

Maryland Wage and Hour Law

The Maryland Wage and Hour Law is the State complement to FLSA. State law sets minimum wage standards to provide a maintenance level consistent with the needs of the population. State law specifies that an employee must be paid the greater of the federal minimum wage (which is currently \$7.25 per hour) or \$8.75 per hour. Under Chapter 262 of 2014, the State minimum wage is scheduled to increase on an incremental basis over the next two years to \$9.25 per hour as of July 1, 2017, and \$10.10 per hour as of July 1, 2018.

However, an employer may pay an employee a wage that equals 85% of the State minimum wage for the first six months that the employee is employed if the employee is younger than age 20. Additionally, an employer of an amusement or a recreational establishment, including a swimming pool, that meets specified conditions may pay an employee a wage that equals the greater of \$7.25 or 85% of the State minimum wage. Exceptions to the minimum wage requirement also exist for a training wage and a disabled employee of a sheltered workshop under specified conditions.

The Maryland Wage and Hour Law and minimum wage requirements do not apply to certain categories of employees, including those defined as administrative, executive, or professional; certain seasonal employees; part-time employees younger than age 16; salesmen and those who work on commission; an employer's immediate family; drive-in theater employees; employees training in a special education program in a public school; employees of an establishment that sells food and drink for on-premises consumption and has an annual gross income of \$400,000 or less; employees employed by an employer who is engaged in canning, freezing, packing, or first processing of perishable or seasonal fresh fruits, vegetables, poultry, or seafood; and certain farm workers.

Background: Montgomery County and Prince George's County passed local minimum wage laws in 2013 – Montgomery County Bill 27-13 and Prince George's County Bill CB-94-2013. Both bills phase in minimum wage increases over four years. The bills increase the minimum wage to \$8.40 per hour beginning October 1, 2014; \$9.55 per hour

beginning October 1, 2015; \$10.75 per hour beginning October 1, 2016; and \$11.50 per hour beginning October 1, 2017. The county minimum wages for Montgomery and Prince George's counties do not apply to an employee who is exempt from the minimum wage requirements of the Maryland Wage and Hour Law or the federal FLSA or to an employee who is younger than age 19 and is employed no more than 20 hours in a week. The Montgomery County Executive recently vetoed legislation that would have increased the minimum wage in Montgomery County to \$15.00 per hour by 2020.

Baltimore City enacted a city minimum wage rate in 1964, which was challenged in the State Court of Appeals in *Mayor of Baltimore v. Sitnick*, 254 Md. 303, 255 A.2d 376 (1969). The court found that the State's minimum wage rate did not preempt Baltimore's minimum wage law since Baltimore's law supplemented the State law by setting a higher rate. Baltimore City still has its own minimum wage statute with an enforcement commission, which currently enforces the State minimum wage rate in the city. Legislation was introduced in 2016 to raise the minimum wage in Baltimore City to \$15.00 per hour by fiscal 2021, but the legislation did not pass.

State Fiscal Effect: Higher education expenditures for the University of Maryland, College Park campus increase by \$3.4 million annually to pay employees the county minimum wage. Additionally, some units within the university, like Student Affairs, rely heavily upon student labor and pay wages slightly above minimum wage to attract and retain workers. To the extent that the university must pay higher wages to attract and retain these workers, expenditures increase by an additional \$5.0 million annually, with a portion of these costs offset by an increase in auxiliary fees charged to students.

The bill codifies existing practice of most other public four-year higher education institutions in Montgomery and Prince George's counties. If county minimum wage rates are increased or established, higher education expenditures may increase further for public four-year higher education institutions, depending on the rate of the county minimum wage.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; Montgomery and Prince George's counties; University System of Maryland; Morgan State University; St. Mary's College of Maryland; Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History:
md/mcr

First Reader - February 26, 2017

Revised - Updated Information - February 28, 2017

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