

Department of Legislative Services  
Maryland General Assembly  
2006 Session

**FISCAL AND POLICY NOTE**

House Bill 1142  
Economic Matters

(Delegate Quinter, *et al.*)

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**Minimum Wage - Constitutional Right and Provisions**

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This bill proposes an amendment to the Maryland Constitution that states all working residents of Maryland are entitled to be paid a minimum wage that is sufficient to maintain a level consistent with the needs for general well-being and health and that protects State employers and employees from unfair low-wage competition. The proposed amendment also states that there is a minimum wage rate set in Maryland by the General Assembly, and that this rate shall be annually adjusted by the Commissioner of Labor and Industry to account for inflation.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** If approved by the General Assembly, this constitutional amendment will be submitted to the voters at the 2006 general election. It should not result in additional costs for the county election boards.

**Small Business Effect:** If the amendment is enacted, the amendment would have a meaningful impact as discussed below.

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**Analysis**

**Current Law:** Employers are required to pay the greater of the federal minimum wage or a wage that equals a rate of \$6.15 per hour to employees subject to federal or State minimum wage requirements. Employers can apply a “tip credit” against the direct wages paid to employees classified as tipped employees. The tip credit is equal to 50%

of the higher of the federal or State minimum wage. As a result, employers are required to pay tipped employees a wage rate that equals \$3.08 per hour.

Employees are considered covered by minimum wage standards through either the federal Fair Labor Standards Act (FLSA) of 1938 or Maryland statute. Certain employees are exempted from coverage including commissioned sales employees; farm workers; and executive, administrative, and professional employees who are paid on a salary basis. In addition, various minimum wage exceptions apply in specific circumstances to workers with disabilities, full-time students, student-learners, youth workers, and tipped employees.

## **Background:**

### *Maryland Minimum Wage*

In the 2005 session, the General Assembly passed HB 391, which mandated a State minimum wage of at least \$6.15 per hour for private-sector workers subject to federal or State minimum wage requirements. Governor Robert Ehrlich vetoed the measure, citing concerns that the bill would hurt the least skilled and educated members of the workforce and that the State would be at a competitive disadvantage with neighboring states that do not pay above \$5.15 per hour. Earlier in the 2006 session, the General Assembly overrode Governor Ehrlich's veto, and the bill, Chapter 2 of 2006, became effective January 17, 2006. The bill did not apply to State and local governments, and these employees are required to be paid \$5.15 per hour as specified under federal law. Legislation proposed in the 2006 session, HB 55, would apply the State minimum wage of \$6.15 per hour to State and local government employees.

### *Federal Minimum Wage*

The federal minimum wage first established in 1938 has been incrementally increased and expanded to cover additional employees through subsequent amendments to FLSA. The last increase in the federal minimum wage was effective September 1, 1997. In the last several years, bills have been introduced in the U.S. Congress proposing to increase the minimum wage, but none has been enacted.

### *States with Higher Minimum Wage Laws*

As shown in **Exhibit 1**, 17 other states and the District of Columbia mandate a minimum wage higher than the federal minimum wage of \$5.15 an hour (\$10,712 annually for a full-time worker). Of the states that mandate a higher minimum wage, seven states mandate some type of indexing. Four states require annual increases based on the

percent change in a price index, while three states index relative to the federal minimum wage.

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**Exhibit 1**  
**States with Higher than Federal Minimum Wage, 2006**

<u>State</u>	<u>Rate</u>	<u>Increases and Indexation</u>
Washington	\$7.63	Increases annually by increase in CPI-W*
Oregon	\$7.50	Increases annually by increase in CPI-U**
Connecticut	\$7.4	Automatically increases to 0.5% above federal minimum wage if the federal rate equals or becomes higher than the state minimum; increases to \$7.65 effective 1/1/2007
Vermont	\$7.25	Beginning 1/1/2007, automatically increases annually by 5% or increase in CPI
Alaska	\$7.15	
Washington, DC	\$7.00	Automatically increases to \$1.00 above federal rate if the federal rate equals or becomes higher than the district minimum
California	\$6.75	
Massachusetts	\$6.75	Automatically increases to \$0.10 above federal rate if the federal rate equals or becomes higher than the state minimum
Rhode Island	\$6.75	
Hawaii	\$6.75	Effective 1/1/2007: \$7.25
New York	\$6.75	Effective 1/1/2007: \$7.15
Illinois	\$6.50	
Maine	\$6.50	
Florida	\$6.40	Increases annually by increase in CPI-W
Delaware	\$6.15	
Minnesota	\$6.15	
New Jersey	\$6.15	Effective 10/1/2006: \$7.15
Maryland	\$6.15	
Wisconsin	\$5.70	Effective 6/1/2006: \$6.50

\*Consumer Price Index for urban wage earners and clerical workers.

\*\*Consumer Price Index for all urban consumers.

Source: U.S. Department of Labor

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**Local Effect:** The Maryland Constitution requires that proposed amendments to the constitution be publicized either: (1) in at least two newspapers in each county, if available, and in at least three newspapers in Baltimore City once a week for four weeks immediately preceding the general election; or (2) by order of the Governor in a manner provided by law. State law requires local boards of elections to publicize proposed amendments to the constitution either in newspapers or on specimen ballots; local boards of elections are responsible for the costs associated with these requirements. It is anticipated that the fiscal 2007 budgets of local election boards will contain funding for notifying qualified voters about proposed constitutional amendments for the 2006 general election in newspapers or on specimen ballots.

**Small Business Effect:** Should the amendment be enacted, small businesses that employ low-wage individuals would be impacted by the bill through increased wage payments and mandatory payroll taxes such as Social Security taxes and unemployment insurance taxes. The amount of the increase would depend on the method of indexation adopted by the Commissioner of Labor and Industry. If the federal minimum wage of \$5.15 per hour established in 1997 were indexed to the Consumer Price Index (CPI), the minimum wage today would be approximately \$6.30 per hour. Based on current economic projections, the State minimum wage, if indexed to CPI, would be approximately \$7.05 in five years.

**Additional Comments:** Employees are considered covered by minimum wage standards through either FLSA or Maryland statute. The proposed constitutional amendment states that “all working residents of Maryland are entitled to be paid a minimum wage.” Should this amendment be enacted, the Attorney General’s Office advises that it could be construed in a manner that eliminates existing exemptions under FLSA or Maryland statute. The amendment could mandate that a minimum wage determined by the General Assembly would apply to State and local workers; full-time students; workers with disabilities; and outside sales, administrative, and professional employees.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** U.S. Department of Labor, Department of Legislative Services

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Analysis by: Robert J. Rehrmann

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510