

**Department of Legislative Services**  
Maryland General Assembly  
2022 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 721  
Finance

(Senators Waldstreicher and McCray)

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**Labor and Employment - State Minimum Wage Rate - Acceleration**

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This bill accelerates the phase-in of the increase in the State minimum wage to \$15.00 per hour so that the State minimum wage rate is \$15.00 per hour beginning July 1, 2022, instead of January 1, 2025. Likewise, the bill accelerates the phase-in for employers with 14 or fewer employees so that the State minimum wage rate is \$15.00 per hour beginning July 1, 2023, instead of July 1, 2026. The bill repeals the Board of Public Works' (BPW) authority to temporarily suspend a scheduled increase in the State minimum wage. **The bill takes effect June 1, 2022.**

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**Fiscal Summary**

**State Effect:** No effect in FY 2022. Higher education expenditures increase significantly in FY 2023 through 2025 to provide mostly undergraduate student workers higher wages. State expenditures (all funds) may increase through FY 2026 for increased service provider costs. Federal fund revenues increase minimally in FY 2023 through 2025 to offset increased wages paid to senior citizen aides. Any increase in general fund tax revenues to the State cannot be reliably projected but is expected to be minimal in FY 2023 through 2026.

**Local Effect:** Local government expenditures increase significantly in FY 2023 through 2025 for some local jurisdictions to pay additional wages to minimum wage employees. Any increase in local government tax revenues cannot be reliably projected but is expected to be minimal.

**Small Business Effect:** Meaningful.

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## Analysis

**Bill Summary/Current Law:** Exhibit 1 shows the State minimum wage rates under current law and as proposed under the bill.

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### Exhibit 1 Minimum Wage Rates under Current Law and the Bill

#### Current Law

<u>Effective Date of Rate</u>	<u>Employers with 15 or More Employees</u>	<u>Employers with 14 or Fewer Employees</u>
January 1, 2022	\$12.50	\$12.20
January 1, 2023	\$13.25	\$12.80
January 1, 2024	\$14.00	\$13.40
January 1, 2025	\$15.00	\$14.00
January 1, 2026	\$15.00	\$14.60
July 1, 2026	\$15.00	\$15.00

#### Under the Bill

<u>Effective Date of Rate</u>	<u>Employers with 15 or More Employees</u>	<u>Employers with 14 or Fewer Employees</u>
July 1, 2022	\$15.00	\$13.60
July 1, 2023	\$15.00	\$15.00

Source: Department of Legislative Services

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For a description of Maryland's enforcement of minimum wages, please see the **Appendix – Maryland Wage and Hour Law**.

Under current law, BPW may temporarily suspend a scheduled increase in the minimum wage if it determines that seasonally adjusted total employment for a six-month period has decreased compared with the prior six-month period. BPW may exercise its authority to suspend a scheduled increase only once. BPW has not exercised this authority, and the bill repeals its authority to do so.

## *Living Wage*

Chapter 284 of 2007 made Maryland the first state to require State service contractors to pay their employees a “living wage.” For fiscal 2008, the living wage was set at \$11.30 in Montgomery, Prince George’s, Howard, Anne Arundel, and Baltimore counties and Baltimore City (Tier 1). It was set at \$8.50 for all other areas of the State (Tier 2). The living wage rates are adjusted annually for inflation by the Commissioner of Labor and Industry within the Maryland Department of Labor (MDL). Effective September 2021, the Tier 1 living wage is \$14.55, and the Tier 2 wage is \$10.93. Montgomery and Prince George’s counties and Baltimore City have local living wage ordinances that apply to their procurement of services. The living wage law does not apply to State contracts with nonprofit organizations.

**State Revenues:** General fund tax revenues may increase minimally from increasing the State’s minimum wage beginning in fiscal 2023 through 2026. Individuals earning minimum wage likely have low, if any, State income tax liability so raising the minimum wage only has a minimal effect on State income tax revenues. Any increase in personal income tax revenue is likely offset from diminished revenues from businesses with higher payroll expenses and potentially from a decrease in demand for labor. Given that raising the minimum wage boosts the purchasing power of minimum wage workers and generates new consumer spending, general fund sales tax revenues may increase minimally beginning in fiscal 2023 through 2026.

Federal fund revenues increase to cover the additional payroll costs incurred by the State for senior citizen aides in fiscal 2023 through 2025.

**State Expenditures:** MDL can implement and enforce the bill with existing resources. Repealing BPW’s authority to temporarily suspend a scheduled increase in the State minimum wage may ease some administrative burden for BPW and the Comptroller’s Office.

The Department of Budget and Management reports that all State regular and temporary employees within the State Personnel Management System are paid \$15.00 per hour or more. Likewise, the Judiciary and Department of Legislative Services report their employees are paid an hourly wage rate of \$15.00 per hour or more.

The University System of Maryland (USM) Board of Regents increased the minimum wage for nonexempt hourly workers to \$15.00 effective January 1, 2022, but other exempt employees, mostly undergraduate student workers, are paid less than \$15.00 per hour. USM estimates higher education expenditures increase significantly beginning in fiscal 2023 to pay thousands of undergraduate student workers and other employees a \$15.00 minimum wage. For example, the University of Maryland Baltimore County

estimates higher education expenditures increase by \$1.6 million in fiscal 2023, \$1.0 million in fiscal 2024, and \$368,396 in fiscal 2025 to pay certain employees higher wages. Thus, higher education expenses for USM and other public universities likely increase by several million dollars in fiscal 2023; the increase diminishes over time so that there is no material fiscal impact beyond fiscal 2025. Likewise, federal expenditures for senior citizen aides increase in fiscal 2023 through 2025.

To the extent that the State contracts with service providers who employ low wage or minimum wage workers, State expenditures may increase through fiscal 2025 or 2026 (if the State contracts with businesses with fewer than 15 employees). For example, the Maryland Transportation Authority notes that it has contracts with service providers, such as janitorial services, so these contracts may increase in the short term. To the extent that these vendors pay living wages in Tier I jurisdictions, the effects on State contract costs are minimal.

The increase in State expenditures diminishes each fiscal year as the minimum wage increases under current law. The increase in expenditures in fiscal 2023 is calculated based on the difference between the \$15.00 minimum wage rate under the bill and the current law minimum wage rates of \$12.50 for the first half of fiscal 2023 and \$13.25 for the second half of fiscal 2023. The increase in expenditures in fiscal 2024 is calculated based on the difference between the \$15.00 minimum wage rate under the bill and the current law minimum wage rates of \$13.25 for the first half of fiscal 2024 and \$14.00 for the second half of fiscal 2024. Current law has the minimum wage rate increasing to \$15.00 halfway through fiscal 2025, so there is no material fiscal effect beyond fiscal 2025 because the State minimum wage rate is set at \$15.00 per hour under both current law and under the bill by then.

**Local Expenditures:** Expenditures may increase significantly in fiscal 2023 through 2025 for some local governments to pay employees (typically part-time or contractual employees) the minimum wage rate of \$15.00 per hour. For example, Anne Arundel County estimates local expenditures increase by about \$1.0 million in fiscal 2023 to pay approximately 600 employees a minimum wage of \$15.00 per hour. This does not account for any wage adjustments for employees who currently earn just above the minimum wage and have more job responsibilities than minimum wage employees. Any such wage adjustments further increase local expenditures.

The City of Laurel employs hourly wage workers for its summer programs, such as park maintenance workers, day camp staff, and swimming pool and lake house operations staff, along with year-round low-wage workers for recreation center attendants and pre-school teachers. Thus, the City of Laurel estimates local expenditures increase by more than \$150,000 in fiscal 2023 to increase the salaries of low-wage workers.

However, as explained above in State expenditures, the increase in local expenditures diminishes each fiscal year as the minimum wage increases under current law so there is no fiscal effect after fiscal 2025.

Other local governments may not be greatly affected. Montgomery and Howard counties currently have local minimum wage laws of \$15.00 per hour, although Howard County's increase to \$15.00 per hour takes effect six months after the increase in the bill. Garrett County estimates local expenditures only increase by \$12,000 in fiscal 2023 to pay its affected employees the minimum wage.

**Small Business Effect:** Small businesses in the State that employ minimum wage or low-wage workers experience significant increases in their labor costs due to the bill through fiscal 2025 if businesses have 15 or more employees or through fiscal 2026 if businesses have 14 or fewer employees.

MDL notes that the home health care industry may be particularly challenged by the increases in the State minimum wage as their funding comes from State or federal reimbursements, which do not increase automatically when the State minimum wage rates increase.

To the extent that higher wages increase worker productivity, businesses are less affected by the provisions of the bill. Additionally, minimum wage workers tend to have a low saving rate, so increasing their wages may lead to additional consumer spending for small businesses.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** HB 698 (Delegate Turner, *et al.*) - Economic Matters.

**Information Source(s):** Garrett, Howard, and Montgomery counties; City of Laurel; Maryland Association of Counties; Maryland Municipal League; Comptroller's Office; Judiciary (Administrative Office of the Courts); University System of Maryland; Department of Budget and Management; Maryland Department of Labor; Board of Public Works; Maryland Department of Transportation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 20, 2022  
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## Appendix – Maryland Wage and Hour Law

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The Maryland Wage and Hour Law is the State complement to the federal Fair Labor Standards Act, which specifies minimum wage and overtime requirements for employers and employees in the State. Chapters 10 and 11 of 2019 increase the State minimum wage rate for employers with 15 or more employees in increments until the full phase-in of \$15.00 per hour on January 1, 2025. For employers with 14 or fewer employees, the wage rate reaches full phase-in on July 1, 2026.

The Board of Public Works (BPW), however, may temporarily suspend one scheduled increase in the State minimum wage for one year between October 1, 2020, and October 1, 2024, if it determines that the seasonally adjusted total employment is negative as compared with the previous six-month period. If total adjusted employment is negative, BPW may also consider the recent performance of State revenues in making its determination.

The Acts specify that, unless the federal minimum wage is set at a higher rate, the State minimum wage for employers with 15 or more employees is as follows:

- \$12.50 per hour as of January 1, 2022;
- \$13.25 per hour as of January 1, 2023;
- \$14.00 per hour as of January 1, 2024; and
- \$15.00 per hour as of January 1, 2025.

The State minimum wage for an employer that employs 14 or fewer employees is as follows:

- \$12.20 per hour as of January 1, 2022;
- \$12.80 per hour as of January 1, 2023;
- \$13.40 per hour as of January 1, 2024;
- \$14.00 per hour as of January 1, 2025;
- \$14.60 per hour as of January 1, 2026; and
- \$15.00 per hour as of July 1, 2026.

An employer may pay 85% of the State minimum wage rate to employees younger than age 18.

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; certain farm workers; and covered employees under the Secure Maryland Wage Act.

Generally, the employer of a tipped employee is allowed a tip credit that can be applied against the direct wages paid by the employer. The employee can be paid tipping wages so long as the wages plus the tips received equal at least the minimum wage, the employee retains all tips, and the employee customarily receives more than \$30.00 a month in tips. The tip credit is equal to the State minimum wage, less \$3.63. Thus, the tip credit increases as the minimum wage increases, and the wage paid by employers to tipped employees remains \$3.63, as long as their wages plus tips equal the minimum wage.

Under Maryland's Wage and Hour Law, an employer is required to pay an overtime wage of at least 1.5 times the usual hourly wage for each hour over 40 hours that an employee works during one work week. This requirement does not apply to an employer that is subject to federal rail laws; a nonprofit concert promoter, legitimate theater, music festival, music pavilion, or theatrical show; or specified amusement or recreational establishments. It also does not apply to an employee for whom the U.S. Secretary of Transportation sets qualifications and maximum hours of service under federal law; a mechanic, parts person, or salesperson, under certain conditions; a driver employed by a taxicab operator; or specified air carrier employees under certain conditions. Also, specific exemptions apply for farm work, bowling establishments, and infirmaries.

If an employer pays less than the wages required, the employee may bring an action against the employer to recover (1) the difference between the wage paid to the employee and the wage required; (2) an additional amount equal to the difference as liquidated damages; and (3) legal fees. The court must award these differences in wages, damages, and counsel fees if the court determines that an employee is entitled to recovery. However, if an employer shows to the satisfaction of the court that the employer acted in good faith and reasonably believed that the wages paid to the employee were not less than the required wages, then the court must award liquidated damages of an amount less than the difference in wages or no liquidated damages.

A person who violates the Maryland Wage and Hour Law is guilty of a misdemeanor and on conviction is subject to a fine of up to \$1,000.