

Arizona voters approve \$10 minimum wage for 2017, mandate paid leave

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Thanks to Arizona voters, you have even more on your HR to-do list than usual for December. Between the November 8 election and January 1, 2017, employers have 54 days to implement a nearly \$2-an-hour pay increase for workers earning minimum wage and decide whether the increase requires wage adjustments for anyone else in your workforce or other reactionary measures.

Propositions 206, 414

Nearly 60% of Arizona voters supported increasing the state's minimum wage and providing mandatory paid sick leave when they went to the polls on Election Day. Based on unofficial returns, Proposition 206, known as the Healthy Working Families Initiative, passed by comfortable margins in 14 of Arizona's 15 counties with only Graham County in the southeastern quadrant of the state voting against the minimum wage increase. Voters were most in favor of the increase in Apache County in the state's northeastern corner, with nearly 73% of voters saying yes to Proposition 206.

The new law mandates a statewide minimum wage of \$10 per hour beginning January 1, 2017. Thereafter, the minimum wage will increase by 50 cents each year until it reaches \$12 per hour in 2020. Employers can take a tip credit of up to \$3 per hour for tips earned by workers who regularly and customarily receive tips.

Minimum wage workers in Flagstaff will see their wages increase at an even faster rate than employees in other parts of the state. On November 8, voters in that city passed an initiative that will raise the hourly minimum wage to \$15 by 2021 within city boundaries. Based on unofficial returns,

the Flagstaff measure, Proposition 414, passed by a narrower margin than the statewide initiative, 53% to 47%.

According to data from the U.S. Bureau of Labor Statistics (BLS), about 770,000 Arizonans make less than \$10 per hour. That means that about a quarter of the state's workforce will get an immediate wage boost in 2017.

Many employees who will get a raise work in cafeterias for public or charter schools or as aides, crossing guards, bus drivers, and janitors. Proposition 206 applies to political subdivisions of the state, including counties, cities, and school districts, and excludes only the state and federal governments.

Private businesses can raise their prices to offset the wage increase, but school districts cannot. Also, school districts won't get additional money from the state to plug holes in their budgets through the end of the school year. Chandler Unified School District, for example, reports that 459 of its employees will get a raise, resulting in a \$220,000 expense not in the district's current budget. Some school districts planned ahead for the passage of Proposition 206. For example, Phoenix Union High School District eliminated its bottom two wage tiers at the beginning of the school year, bringing its lowest hourly wage to \$10.17.

The jump from the current statewide minimum wage of \$8.05 to \$10 is the largest ever. However, minimum wage workers in Arizona were going to get an increase even if Proposition 206 failed. On October 27, 2016, the Arizona Industrial Commission applied the formula mandated by voters in 2006 to determine what the minimum wage would have been for 2017 under previous law.

The minimum wage would have increased, but only to \$8.15 per hour. The formula pegged annual adjustments to the minimum wage to the percentage increase in the cost of living as measured by the Consumer Price Index for urban areas calculated by the U.S. Department of Labor (DOL). That method will resume for 2021 and subsequent years after the last 50-cent increase has been implemented.

Paid sick leave

Arizona voters gave you more work to do in the first half of 2017. Proposition 206 also requires Arizona employers to grant workers paid time off (PTO) for the first time. The paid sick leave provisions will not take effect until July 1, 2017, so you have another six months to get your leave policies and practices in order.

The accrual rate for all Arizona employees will be one hour of sick leave for every 30 hours worked. The total amount of required sick leave is capped, depending on the size of the employer. Employers with fewer than 15 employees must allow workers to earn 24 hours of sick leave per year, while employers with 15 or more employees must grant 40 hours of earned paid sick leave annually.

The PTO can be used for more than just an employee's own sickness. Leave also can be used for preventive care, physical or mental illness, and services related to domestic or sexual violence for the employee or an employee's family member.

Family members are broadly defined. The leave entitlement extends to family members of the employee and the employee's spouse or domestic partner. Included are parents, children, grandparents, grandchildren, and any individuals regardless of age who acted, or for whom your employee or your employee's spouse or domestic partner acted, in a parental role during childhood. Finally, there is an extremely broad catchall provision—anyone else whose close relationship because of blood or affinity is equivalent to that of a family member.

Proposition 206 limits the types of documentation employers can require to support leave and

prohibits discrimination or retaliation against employees for exercising any rights created by the new law. Employers will be able to require advance notice of a foreseeable need to use paid sick leave, but only if they put the requirement in a written policy that has been provided to employees.

No rest for HR

Proposition 206 has many specific technical requirements, including notices, postings, and specific policy mandates regarding the accrual and carryover of leave. Employers that already grant PTO as generously as required by Proposition 206 do not have to increase the amount of paid leave they offer, but their policies will be considered generous only if they comply with the accrual and use provisions of the law.

Between now and July 2017, conduct a thorough review of your leave and time-off policies, and make any necessary revisions to bring them into compliance with Proposition 206's technical requirements. Make sure to allow time to have legal counsel review your new policies to confirm that you have incorporated all of the law's requirements and correctly harmonized them with your obligations to other leave laws, such as the federal Family and Medical Leave Act (FMLA), while minimizing the burden on your business.

Proponents of Proposition 206 have estimated that about 934,000 Arizonans hold jobs for which employers currently provide no paid sick leave. All employers in Arizona (except the state and federal governments) will be affected, no matter how generous their existing leave policies are. There is no ignoring the need to come up with a compliance plan for Arizona's new leave mandate.

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