



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3615/1
MED:klm

2015 SENATE BILL 780

March 3, 2016 – Introduced by Senators L. TAYLOR, CARPENTER, HARRIS DODD and VINEHOUT, cosponsored by Representatives BERCEAU, GOYKE, MILROY and SUBECK. Referred to Committee on Labor and Government Reform.

1 **AN ACT to amend** 104.035 (3) (a) (intro.), 104.035 (3) (a) 1., 104.035 (3) (a) 2. and
2 104.045 (1); and **to create** 104.035 (3) (a) 3. to 7. and (am) of the statutes;
3 **relating to:** the minimum wage required to be paid to tipped employees.

Analysis by the Legislative Reference Bureau

This bill raises the separate minimum wage required to be paid to tipped employees by \$0.95 per year until it reaches \$7.08 per hour, one year after which the bill eliminates the separate minimum wage for tipped employees altogether, making tipped employees subject to the general minimum wage.

Generally under current law, every wage paid by any employer to any employee must be not less than the applicable minimum wage established under the statutes. However, if an employer of a tipped employee establishes that, when adding the tips received by the tipped employee in a week to the wages paid to the tipped employee in that week, the tipped employee receives not less than the applicable minimum wage (generally \$7.25 per hour), the minimum wage for the tipped employee is \$2.33 per hour or, with respect to an employee under 20 years of age in the first 90 consecutive days of employment with his or her employer (opportunity employee), \$2.13 per hour.

Beginning approximately six months after enactment, this bill eliminates the alternate minimum wage for tipped employees who are opportunity employees and raises the minimum wage for all tipped employees by \$0.95, to \$3.28 per hour. The bill further raises the minimum wage for tipped employees by \$0.95 per year until it reaches \$7.08 per hour. Beginning one year after it reaches \$7.08 per hour, the bill

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eliminates the separate minimum wage for tipped employees altogether, making tipped employees subject to the general minimum wage of \$7.25 per hour or, for opportunity employees, \$5.90 per hour.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 104.035 (3) (a) (intro.) of the statutes, as created by 2015 Wisconsin
2 Act 55, is amended to read:

3 104.035 **(3)** (a) *Minimum rates.* (intro.) Except as provided in par. (am) and
4 subs. (4) to (8), if an employer of a tipped employee establishes by the employer's
5 payroll records that, when adding the tips received by the tipped employee in a week
6 to the wages paid to the tipped employee in that week, the tipped employee receives
7 not less than the applicable minimum wage specified in sub. (1), (2), or (2m), the
8 minimum wage for the tipped employee is as follows:

9 **SECTION 2.** 104.035 (3) (a) 1. of the statutes, as created by 2015 Wisconsin Act
10 55, is amended to read:

11 104.035 **(3)** (a) 1. For wages earned before the effective date of this subdivision
12 [LRB inserts date], by a tipped employee who is not an opportunity employee,
13 \$2.33 per hour.

14 **SECTION 3.** 104.035 (3) (a) 2. of the statutes, as created by 2015 Wisconsin Act
15 55, is amended to read:

16 104.035 **(3)** (a) 2. For wages earned before the effective date of this subdivision
17 [LRB inserts date], by a tipped employee who is an opportunity employee, \$2.13
18 per hour.

19 **SECTION 4.** 104.035 (3) (a) 3. to 7. and (am) of the statutes are created to read:

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1 104.035 (3) (a) 3. For wages earned beginning on the effective date of this
2 subdivision ... [LRB inserts date], and prior to the date that is one year after the
3 effective date of this subdivision ... [LRB inserts date], \$3.28 per hour.

4 4. For wages earned beginning on the date that is one year after the effective
5 date of this subdivision ... [LRB inserts date], and prior to the date that is 2 years
6 after the effective date of this subdivision ... [LRB inserts date], \$4.23 per hour.

7 5. For wages earned beginning on the date that is 2 years after the effective date
8 of this subdivision ... [LRB inserts date], and prior to the date that is 3 years after
9 the effective date of this subdivision ... [LRB inserts date], \$5.18 per hour.

10 6. For wages earned beginning on the date that is 3 years after the effective date
11 of this subdivision ... [LRB inserts date], and prior to the date that is 4 years after
12 the effective date of this subdivision ... [LRB inserts date], \$6.13 per hour.

13 7. For wages earned beginning on the date that is 4 years after the effective date
14 of this subdivision ... [LRB inserts date], and prior to the date that is 5 years after
15 the effective date of this subdivision ... [LRB inserts date], \$7.08 per hour.

16 (am) *Nonapplicability.* Paragraph (a) does not apply to wages earned
17 beginning on the date that is 5 years after the effective date of this paragraph ...
18 [LRB inserts date]. Except as provided in subs. (4) to (8), beginning on the date that
19 is 5 years after the effective date of this paragraph ... [LRB inserts date], the
20 minimum wage for tipped employees shall be the applicable minimum wage
21 specified in sub. (1), (2), or (2m).

22 **SECTION 5.** 104.045 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
23 is amended to read:

24 104.045 (1) The counting of tips or similar gratuities toward fulfillment of the
25 employer's obligation under this chapter. Rules promulgated under this subsection

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SECTION 5

1 do not apply beginning on the date that is 5 years after the effective date of this
2 subsection ... [LRB inserts date].

3 **SECTION 6. Effective date.**

4 (1) This act takes effect on the first day of the 7th month beginning after
5 publication.

6 (END)