



Ohio Employers Face New Minimum Wage and Record Keeping Requirements

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As a result of the November, 2006 general election, Ohio employers must comply with the new minimum wage and record keeping changes created by the Ohio Fair Minimum Wage Amendment. The primary purpose of the Amendment, otherwise known as State Issue 2, is to provide for an increase in the State minimum wage. As of January 1, 2007, all Ohio employers will be required to pay employees a minimum wage of \$6.85 per hour. Currently, very few exceptions to this requirement exist. Ohio employers with annual gross receipts of less than \$250,000.00 per year are exempt and may continue to pay employees only the Federal minimum wage of \$5.15 per hour. Employees under the age of 16 are also entitled only to \$5.15 per hour. Tipped employees may now be paid half of the new minimum wage as long as the combined wages and tips total at least the new minimum wage of \$6.85 per hour for all hours worked.

Of equal importance to the minimum wage hike are the record keeping requirements the Amendment creates for employers. Employers must maintain a record for each employee containing the employee's name, address, occupation, pay rate, hours worked for each day and the amount paid to each employee. Employers must keep this information in a file for a minimum of three years following the end of an employee's employment.

In addition to maintaining all of this information, employers must now provide the information without charge to the employee or any person acting on behalf of the employee upon request. There is no limit to the number of requests that can be made of the employer and at present no exemption exists for an employer to deny a request. The Amendment also provides that an employee can designate a representative to request records on the employee's behalf. This representative can be anyone designated by the employee, including a union representative.

Employers have voiced concerns over establishing processes to use for documenting employees' requests, and employers have concerns regarding privacy issues. One issue that arose early in the debate over the Amendment was whether or not under the language of the Amendment an employee could request the payroll records of fellow employees.

Opponents of the Amendment argued that the language of the Amendment was so vague as to allow the distribution of all employee payroll records to any employee who requested them. Proponents, on the other hand, looked to the intent of the Amendment and argued that an employee is only able to access his or her own records. At present, this particular issue has not been resolved. It is clear, however, that the Amendment imposes significant new burdens on Ohio employers.