(**Without Reference to File**)

SENATE THIRD READING
SB 3 (Leno, et al.)
As Amended March 28, 2016
Majority vote

SENATE VOTE: (Vote not relevant)

Committee	Votes	Ayes	Noes
Labor **(Vote not relevant)**			
Appropriations	12-7	Gonzalez, Bloom, Bonilla, Bonta, Calderon, Eduardo Garcia, Roger Hernández, Holden, Quirk, Santiago, Weber, Wood	Bigelow, Chang, Daly, Gallagher, Jones, Obernolte, Wagner

SUMMARY: Increases the state minimum wage, ultimately to $15 per hour, indexes the minimum wage thereafter, and provides for paid sick days to providers of in-home supportive services (IHSS), as specified. Specifically, **this bill**:

1) Increases the minimum wage as follows:

   a) To $10.50 per hour on January 1, 2017 (and for employers with 25 employees or less on January 1, 2018).

   b) To $11 per hour on January 2, 2018 (and for employers with 25 employees or less on January 1, 2019).

   c) To $12 per hour on January 1, 2019 (and for employers with 25 employees or less on January 1, 2020).

   d) To $13 per hour on January 1, 2020 (and for employers with 25 employees or less on January 1, 2021).

   e) To $14 per hour on January 1, 2021 (and for employers with 25 employees or less on January 1, 2022).

   f) To $15 per hour on January 1, 2022 (and for employers with 25 employees or less on January 1, 2023).

2) Defines "employer" to mean any person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours or working conditions of any person (consistent with the definition contained in the Industrial Welfare Commission Wage Orders). "Employer" includes the state, political subdivisions of the state, and municipalities.

3) Provides that employees who are treated as employed by a "single qualified taxpayer" under a specified provision of the Revenue and Taxation Code shall be considered employees of that taxpayer for purposes of this bill.

4) Provides for two potential "off-ramps" whereby the Governor can temporarily suspend a scheduled increase to the minimum wage set forth above as follows:

   Economic Conditions "Off-Ramp"

   a) On or before July 28, 2017, and on or before every July 28 until the minimum wage is $15 per hour, to ensure that economic conditions can support a minimum wage increase, the Director of Finance shall annually make a determination and certify to the Governor and Legislature whether each of the following conditions is met:

      i) Total nonfarm employment for California decreased over the three-month period from April to June, prior to the July 28 determination, as specified.

      ii) Total nonfarm employment for California decreased over the six-month period from January to June, prior to the July 28 determination, as specified.

      iii) Retail sales and use tax cash receipts, as specified, for a specified period ending one months prior to the July 28 determination date is less than the retail sales and use tax cash receipts, as specified, for a specified period ending 13 months prior to the July 28 determination.

   b) If, for any year, either of the nonfarm employment criteria above are met *and* the retail sales and use tax criteria is met, the Governor may, by August 1, notify the Legislature of an initial determination to temporarily suspend the scheduled minimum wage increase for the following year. The Governor shall make a final determination by proclamation whether to temporarily suspend the scheduled minimum wage increase on September 1.

   Budget Deficit "Off-Ramp"

   a) On or before July 28, 2017, and on or before every July 28 until the minimum wage is $15 per hour, to ensure that the state General Fund fiscal condition can support the next scheduled minimum wage increase, the Director of Finance shall annually make a determination and certify to the Governor and Legislature whether the state General Fund would be in a deficit in the current fiscal year, or in either of the following two fiscal years, as specified. "Deficit" is defined as a negative balance that exceeds 1 percent of the total state General Fund revenues and transfers, as specified.

   b) If the Director of Finance makes the above determination, the Governor may, by August 1, notify the Legislature of an initial determination to temporarily suspend the scheduled minimum wage increase for the following year. The Governor shall make a final determination by proclamation whether to temporarily suspend the scheduled minimum wage increase on September 1. The Governor may temporarily suspend a scheduled minimum wage increase related to a General Fund deficit no more than two times.

5) Provides that if the Governor makes a final determination to temporarily suspend the scheduled minimum wage increase pursuant to the "off-ramps" described above, all dates

specified above for scheduled minimum wage increases that are subsequent to that final determination shall be postponed by one additional year.

6) Provides that, following implementation of the $15 per hour minimum wage for all employers, on or before August 1 of that year (and each year thereafter), the Director of Finance shall calculate an adjusted minimum wage (indexing).

7) Provides that that calculation shall increase the minimum wage by the lesser of: a) 3.5 %, or b) the rate of change in the United States Consumer Price Index for Urban Wage Earners and Clerical Workers (US CPI-W), as specified. The result shall be rounded to the nearest $0.10.

8) Provides that each adjusted minimum wage calculated shall take effect on the following January 1.

9) Provides that if the rate of change in the US CPI-W, as specified, is negative, there shall be no increase or decrease in the minimum wage.

10) Provides that if the rate of change in the US CPI-W, as specified, exceeds seven percent in the first year of implementation of the $15 per hour minimum wage for employers with 26 or more employees, the indexing provisions described above shall be implemented immediately, such that indexing will be effective the following January 1.

11) Further provides that if that occurs, for employers with 25 or fewer employees, the minimum wage shall be set equal to the minimum wage for employers with 26 or more employees, effective on the following January 1. For those employers, the $15 per hour minimum wage shall be considered to have been implemented.

12) Provides that on an after July 1, 2018, a provider of IHSS services who works in California for 30 or more days within a year is entitled to paid sick days as follows:

    a) Eight hours or one day beginning July 1, 2018.

    b) Sixteen hours or two days beginning when the minimum wage (accounting for any temporary suspension described above) for employers with 26 or more employees has reached $13 per hour.

    c) Twenty-four hours or three days beginning when the minimum wage (accounting for any temporary suspension described above) for employers with 26 or more employees has reached $15 per hour.

13) Requires the State Department of Social Services (DSS), in consultation with stakeholders, to convene a working group to implement paid sick leave for IHSS providers. The workgroup shall finish its implementation work by November 1, 2017, and DSS shall issue guidance such as an all-county letter or similar instruction by December 1, 2017.

14) Makes related and conforming changes.

EXISTING LAW:

1) Establishes the minimum wage under federal law as $7.25 per hour. (Fair Labor Standards Act of 1938, 29 United States Code Chapter 8).

2) Effective January 1, 2016, establishes the minimum wage in California for all industries as not less than $10 per hour. (Labor Code Section 1182.12).

3) Provides for the provision of paid sick days for employees, as specified, but excludes from the definition of "employee" a provider of IHSS services.

FISCAL EFFECT: According to the Assembly Appropriations Committee:

1) Current year costs of approximately $19 million General Fund (GF), and Budget Year costs of approximately $40 million GF, to increase state minimum wages for IHSS, Department of Developmental Services and civil service employees from $10 an hour to $10.50 an hour starting January 1, 2017. These costs include offsetting savings to Medi-Cal and CalWORKS programs, assuming increases in the minimum wage will result in individuals and families no longer qualifying for all or a portion of these services. The Administration estimates costs of $3.6 billion GF assuming a minimum wage of $15 an hour is provided by 2022-23.

2) General Fund costs of approximately $90 million GF in 2018-19 to provide one day of sick leave to the approximately 468,000 IHSS providers in California. These costs are estimated to increase to approximately $227 million GF in 2022-23, when the state provides three paid sick days per year. Medi-Cal does not provide federal funding for services not rendered by IHSS providers, therefore, the state is responsible for the costs of a provider's wage while on paid sick leave. These cost estimates also include back up provider costs, Case Management, Information and Payroll System (CMIPS) automation changes and Department of Social Services administrative costs.

COMMENTS: In recent years, much debate at the national, state, and local level has centered around efforts to increase the minimum wage as an effort to address income inequality and raise individuals out of poverty.

Although under federal law the minimum wage is currently $7.25 per hour, many state governments and some local governments have established higher minimum wage rates.

California first established a statewide minimum wage in 1916, and has increased the minimum wage several times over the years. California's current minimum wage is $10 per hour (which was enacted pursuant to AB 10 (Alejo) of 2013). According to the National Conference of State Legislatures, as of January 1, 2016, California and Massachusetts had minimum wages of $10 per hour. The District of Columbia has a minimum wage of $10.50 per hour. An additional nine states have minimum wages above $9 per hour.

Although the state's minimum wage has never declined, it has often grown more slowly than inflation. Unlike California, current laws in 15 states and the District of Columbia establish minimum wages that automatically increase (or index) proportionally to some measure of inflation.

Some cities in California have established minimum wages that are higher than the current statewide minimum wage. For example, the cities of San Francisco, Oakland, and Emeryville all have minimum wages higher than $12 per hour. The Los Angeles City Council recently voted to raise that city's minimum wage to $15 per hour by 2020.

In summary, this bill would increase California's statewide minimum wage from the current $10 per hour to $15 per hour, over the course of the next six years. There would be a one-year lag in the increase for small businesses with 25 or fewer employees. For these businesses, the first increase (to $10.50) will begin in 2018, and the $15 would be achieved in 2023. The bill permits a temporary "pause" in the scheduled statewide increase to $15 per hour should the State's economic or budgetary conditions deteriorate. In addition, this bill would provide for annual "indexing" of the statewide minimum wage (to account for rising costs of living) in the future, starting after the $15 wage level is reached.

In addition to the minimum wage proposals, this bill would also provide for three days of paid sick leave to IHSS workers, bringing these workers the same benefits provided to other workers in California pursuant to AB 1522 (Gonzalez), Chapter 317, Statutes of 2014, the Health Workplaces, Healthy Families Act of 2014, which went into effect on July 1, 2015. According to the Assembly Appropriations Committee, "Providers of IHSS were originally included in AB 1522 but were excluded towards the end of the Legislative process due to cost concerns. These cost concerns have been addressed by phasing in the provision of paid sick days, consistent with increases in the minimum wage."

Arguments in Support

Supporters of this bill, including the California Labor Federation, AFL-CIO, argue that it represents a reasonable and responsible proposal. This proposal is phased in over a long period of time. Small businesses are given an additional year to catch up. Indexing only applies after initial wage increases are implemented. The Governor will be able to temporarily pause the increase if we are in a recession or the budget is in significant deficit.

Supporters also argue that this proposal guarantees that, while our economy is growing, workers are sharing in the economic gains. Both the wage increases and the indexing guarantee that workers will not have inflation swallowing their raises. No one who works full-time should live in poverty. This proposal takes a responsible approach to lifting millions of working Californians out of poverty.

They note that, thanks to worker organizing, we have higher minimum wages in some cities and counties of California. This patchwork creates situations where a worker on one side of the street makes less than a worker doing the same job on the other side of the street. Workers also live in different cities from where they work. This bill raises the floor for all workers and addresses growing inequities between local minimum wages.

Supporters also contend that this bill will create predictability and stability for employers and workers. No longer will our state's minimum wage be subject to politics. Indexing allows for businesses to plan for incremental increases and workers to plan for family budgets. Rather than large legislative jumps going forward, incremental increases can be planned for.

Supporters conclude by stating that, under this bill, nearly 6 million California workers will receive a raise, which represents over one third of our total workforce. They note that, already, more than 750,000 workers will reach $15 under local minimum wage laws. Taken together, 6.5 million Californians will get a raise. Supporters state that workers will, on average, get a $3700 annual raise under this proposal. Of those workers, 96% are over 20 years old, 36% have kids, 74% are workers of color, 55% are Latino, 44% are immigrants, and more than two-thirds (67%) work full-time.

Arguments in Opposition

Opponents, including the California Chamber of Commerce, argue that this unprecedented increase in the minimum wage will simply overwhelm many businesses that are already struggling with the current minimum wage increase and will limit job growth in this state.

Opponents argue that not all regions of California can absorb the increase to the minimum wage proposed by this bill. They state that, while California's overall unemployment rate is at 5.7%, there are still many regions of the state (more than one dozen counties) where the unemployment rate is 10% or higher. Imposing such a significant increase in the minimum wage on employers in these areas that are still trying to recover from the "Great Recession" will further inhibit job growth. They argue that, as evidenced by the 16 local jurisdictions in California which have adopted their own local minimum wage ordinances, regions that believe they can afford a higher minimum wage without impacting job growth or the local economy have done so.

Opponents also argue that the "off-ramps" to suspend the scheduled minimum wage increases are discretionary and limited. The suspension is not mandatory and, for a budget deficit, can only be utilized twice. Moreover, once the minimum wage reaches $15 an hour and is adjusted to national inflation, there is no "off-ramp" available. They argue that, in order to protect California's economy, this bill should have mandatory off-ramps when the job market or state revenue has declined, is stagnant, or is not increasing at the same rate as the proposed minimum wage increase.

In addition, opponents contend that raising the minimum wage creates job loss for untrained workers and those who are new to the job market. This bill will negatively impact economic recovery by either limiting available jobs, hours of work or, worse, creating further job loss, especially for vulnerable workers who are untrained and new to the job market. An increase in the minimum wage also significantly impacts teenage employees who are new to the job and untrained. Opponents also cite to evidence that they argue suggests that increasing the minimum wage does not target those in actual need. They state that increasing the minimum wage does not assist those actually living in poverty and could potentially harm them further if low-wage jobs are reduced due to the increased cost on businesses.

The California Restaurant Association, writing in opposition to this bill, argues that "a minimum wage is a starting wage – not a forever wage." They contend that minimum wage increases often have a perverse effect on the restaurant community. Wage increases typically benefit those who are the best paid individuals; minimum wage earners are often tipped well above the minimum wage. The added cost pressure from the mandatory annual wage increase for the employees already earning the most takes finite dollars an operator may have and reduces, if not eliminates, their ability to provide non-tipped employees with a wage increase.

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