



Potential California Minimum Wage Increase is Still Pending – Here's What Employers Need to Know as Votes Are Counted

Insights

11.18.24

Californians voted on a measure this Election Day which would act to immediately increase the minimum wage statewide – and we're still not sure how things will turn out. Two weeks after the election, officials are still counting ballots on Proposition 32 to determine whether it will pass. At the time of publishing, the margin between the "Yes" and "No" votes is less than 2% with hundreds of thousands of ballots left to be counted. In the meantime, here is what employers need to know about Prop 32 and what they should do to ensure compliance if it passes.

[Ed. Note: The day after publication of this Insight, the AP officially called this measure as FAILED by a narrow margin, marking the first time a state has rejected a minimum wage ballot increase in nearly 30 years.]

Summary of Prop 32

Proposition 32 would **immediately** increase the minimum wage to \$17 for employers with 26 or more employees with a subsequent increase to \$18 on January 1, 2025. For employers with 25 or fewer employees, there would be no increase for the remainder of 2024 – but the minimum wage would increase to \$17 on January 1, 2025, and to \$18 on January 1, 2026.

Currently, California's minimum wage is \$16 an hour for all employers regardless of size (except where a higher local or industry specific minimum wage is set such as certain fast food workers and certain healthcare workers). Absent Prop 32, the minimum wage for California employees is set to increase to \$16.50 regardless of the size of the employer on January 1, 2025.

The passage of Prop 32 would represent one of the largest increases to the minimum wage California has seen in recent years deviating from the normal pattern of increases of \$0.50 to \$1.00 each calendar year per statutory indexing for inflation. This would also represent the first year since 2022 that employers with 25 or fewer employees would have a lower minimum wage requirement than employers with 26 or more employees.

The ballot measure was written to appeal to consumers by explaining that it was intended to increase minimum wages each year "based on how fast prices are going up." Arguments made in favor of the bill promised that workers would be able to afford life's basic needs. Those against Prop

32 argued that it was poorly written and horribly flawed, resulting in budget deficits and making it even harder for business and workers to understand California's complex minimum wage laws.

When Would Prop 32 Take Effect?

Under California law, ballot measures like Prop 32 are not effective until the fifth day after the Secretary of State certifies the election results. The Secretary of State is required to certify the results no later than 38 days after the election – which would be not later than December 13. At the latest, the new law would take effect on December 18. It is possible that the Secretary of State certifies the results earlier, but employers will still have five days' notice before the new law takes effect.

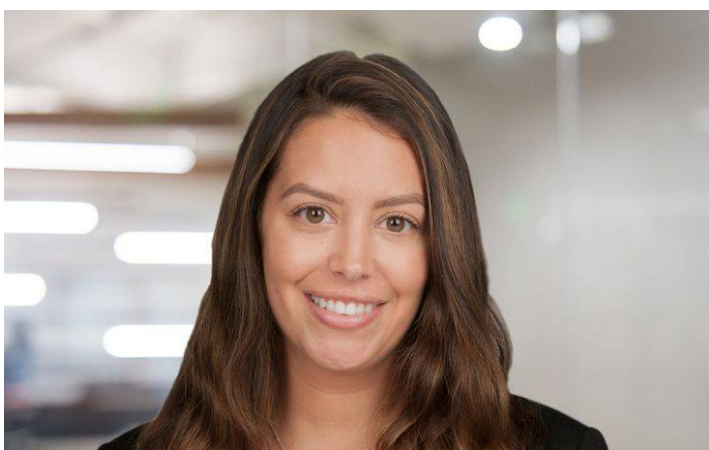
Steps for Employers

1. Employers with more than 26 employees should be prepared to increase the hourly wage of all employees earning the current minimum wage (\$16) to \$17 on short notice. Employers should be prepared to institute the hourly wage increase to those minimum wage earners to \$17 in early December if the proposition passes.
2. For employers with 25 or fewer employees: while there is nothing in Prop 32 which requires attention in 2024, be prepared for a larger increase for minimum wage earners than anticipated in 2025 and plan accordingly. Further, if you increase beyond 26 employees during 2024, be aware that you will need to meet the increased minimum wage of \$17 immediately.

Conclusion

We will continue to monitor the ballots being counted for this proposition and provide the most up-to-date information directly to your inbox, so make sure you are subscribed to [Fisher Phillips' Insight System](#). If you have questions, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in [our California offices](#).

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