

State of Wisconsin
Department of Workforce Development
Equal Rights Division

Chapter DWD 272

Increasing Wisconsin's Minimum Wages

The Wisconsin Department of Workforce Development proposes an order to amend s. DWD 272.03 (1), (1m), (3), and (3m), s. DWD 272.05 (1)(a), (1)(b), (2)(a), and (2)(b), s. DWD 272.07 (3), and s. DWD 272.08; to repeal and recreate s. DWD 272.12(2)(g)6.; and to create ss. 272.01 (9m), 272.07 (3g), and 272.07 (3r), relating to increasing Wisconsin's minimum wages.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Sections 104.04 and 227.11, Stats.

Statutes interpreted: Chapter 104, Stats.

Explanation of Agency Authority

Chapter 104, Stats., and Chapter DWD 272 provide that Wisconsin's minimum wage should be sufficient to enable the employee receiving it to maintain himself or herself under conditions consistent with his or her reasonable comfort, physical well-being, decency, and moral well-being. Section 104.04, Stats., directs the Department of Workforce Development to determine the state's minimum wage taking into consideration the effect of the wage on the economy of the state, including employment opportunities for low-wage workers and regional economic conditions within the state.

Summary of the Proposed Rule and Analytical Methodologies

Creating good paying jobs and a "high end" economy is a top priority for Governor Jim Doyle's administration. A key focus of the Governor's *Grow Wisconsin* economic development plan is investing in people and helping families climb the economic ladder. One of the most important initiatives in the Governor's plan is raising the state minimum wage. Such an increase ensures that Wisconsin's lowest wage workers will share in the benefits of economic growth as Wisconsin's economy moves forward.

This is a critical time for Wisconsin to support low-wage workers by increasing the minimum wage. It has been nearly 8 years since the federal minimum wage has been increased, and in 2005 it will fall to its lowest inflation-adjusted value of all time. The buying power of the federal minimum wage in 1970 equaled about \$8.00 in 2004 dollars. Given the declining value of the minimum wage and the lack of federal action to increase it, 16 other states have already enacted minimum wages above the federal level.

When wages are so low that workers and their families can't afford their most basic needs, the costs that society, particularly taxpayers, must bear related to poverty are so insidious that anything that helps divert those expenses back to the consumers of the services provided by those low-wage workers is worthwhile. Educational failure, workforce failure, citizenship failure can very often be traced back to families forced to live in poverty. An adequate minimum wage supports workers, helps strengthen families and communities, and promotes the state's overall economic and fiscal health. Family-supporting wages reduce dependence on the state and increase tax revenue from these families, decreasing the burden on Wisconsin's taxpayers.

It is estimated that 200,000 workers will be affected by Wisconsin's minimum wage increase. Many of these workers are adults and a larger than proportionate share are minorities. Putting more money in the hand of these low-wage workers will result in \$175 million in consumer expenditures in Wisconsin's economy. Low-wage workers spend nearly their entire income in the local economy on basics. This spending stimulates the local economy and benefits local businesses because spending is concentrated locally on food, clothing, shelter, and transportation. Most studies considering a potential negative effect on employment opportunities available to low-wage workers as a result of a moderate minimum wage increase show little to no effect, although both advocates and opponents are able to produce studies supporting their side of the issue.

In January 2004, Governor Doyle and the Department of Workforce Development convened a Minimum Wage Advisory Council to assist with determining whether there should be an increase in Wisconsin's minimum wage. The Council included leaders from the business community, labor organizations, community organizations, and both houses of the legislature. The Department's Office of Economic Advisors provided the Advisory Council with data from the U.S. Census; Current Population Survey; and the U.S. Department of Labor, Bureau of Labor Statistics, Occupational Employment Statistics. The Council issued its recommendations in March 2004.

Taking into consideration the Council's recommendations, the Department proposes the following increases:

General minimum wage rate

- \$5.70/hour effective when the rule is effective (currently \$5.15/hour)
- \$6.50/hour effective 6/1/06

Minor minimum wage rate

- \$5.30/hour effective when the rule is effective (currently same as adult rate \$5.15/hour)
- \$5.90/hour effective 6/1/06

Opportunity minimum wage rate

- \$5.30/hour effective when the rule is effective (currently \$4.25/hour)
- \$5.90/hour effective 6/1/06

Agriculture minimum wage rate for workers age 18 and over

\$5.15/hour effective when the rule is effective (currently \$4.05/hour)

Agricultural minimum wage rate for workers age 17 and under

\$4.25/hour effective when the rule is effective (currently \$3.70/hour)

Camp counselor minimum wage rate for workers age 18 and over

If no room or board provided (currently \$140/week)

\$215/week effective when the rule is effective, \$270/week effective 6/1/06, and \$315/week effective 6/1/07

If board provided (currently \$110/week)

\$164/week effective when the rule is effective, \$217/week effective 6/1/06, and \$240/week effective 6/1/07

If room and board provided (currently \$91/week)

\$129/week effective when the rule is effective, \$171/week effective 6/1/06, and \$189/week effective 6/1/07

Camp counselor minimum wage rate for workers age 17 and under

If no room or board provided (currently \$123/week)

\$175/week effective when the rule is effective, \$225/week effective 6/1/06, and \$275 effective 6/1/07

If board provided (currently \$92/week)

\$133/week effective when the rule is effective, \$171/week effective 6/1/06, and \$209 effective 6/1/07

If room and board provided (currently \$74/week)

\$105/week effective when the rule is effective, \$135/week effective 6/1/06, and \$165 effective 6/1/07

Golf caddy minimum wage rate

- 10.50 for 18 holes effective when the rule is effective (currently \$5.95)
- \$5.90 for 9 holes effective when the rule is effective (currently \$3.35)

Effect of the Proposed Minimum Wage Increases on Wisconsin's Economy

The Department of Workforce Development estimates that 200,000 workers will be affected by the proposed minimum wage increases.

First increase – June 1, 2005. The first increase in the minimum wage from \$5.15 to \$5.70 per hour is estimated to directly affect the wages of 50,000 hourly paid workers currently earning at or below \$5.15 per hour, plus an additional 75,000 hourly paid workers currently earning between \$5.16 and \$5.69 per hour. Thus, the total number of workers directly affected by this first wage increase is estimated to be 125,000 hourly paid workers.

This first increase to \$5.70 per hour will also result in wage compression among those who had previously earned slightly higher hourly wages than the new minimum wage. It is estimated that approximately 50,000 workers who earn between \$5.70 and \$6.50 per hour could be indirectly affected and receive wage increases as a result of this first minimum wage increase.

Second increase – June 1, 2006. The second increase in the minimum wage from \$5.70 to \$6.50 will directly affect the hourly wages of an estimated 150,000 workers who would at that time be earning at or below \$6.50 per hour. The Department estimates that another 50,000

workers earning at or higher than \$6.50 to a cap of about \$7.00 per hour will also see their hourly wages indirectly rise due to resultant wage compression.

Industries and occupations. The majority of workers affected by the wage increase are in food preparation and serving related occupations and in personal care and services occupations. The vast majority of these workers are employed in the broad leisure and hospitality sector, which includes the food and accommodation industry. Retail trade employment also shows moderately higher than average number of minimum wage workers.

Workers affected by the wage increases include food service workers, retail clerks, cleaning and housekeeping laborers, personal care attendants, child care workers, telemarketers, laundry and dry cleaning workers, veterinary assistants, home health care aides, office workers, gaming change and booth cashiers, building and grounds maintenance laborers, and many other occupations in virtually all industries in the state.

Demographics of affected workers. It is estimated that nearly 80% of these low-wage workers are over 18 years of age, 65% are female, and over one-third are heads of their household. These workers are African-American, Hispanic, and Asian in numbers larger than their proportion in the population. Over two-thirds of these low-wage workers work more than half-time:

- 30% work 1-19 hours per week
- 35% work 20-34 hours per week
- 35% work 35+ hours per week

Effect on business. The effect of the wage increase on business will be \$175 million in increased payroll costs. Low-wage workers will circulate this money back into the economy immediately, representing a 0.1 percent increase in the gross state product. The increased spending by affected workers may be a revenue growth for some businesses. The effects may be slightly greater in northern, rural regions of the state where minimum wage jobs make up a greater percentage of the workforce. Higher wages also have a positive impact on both workers and their employers by reducing turnover, increasing work experience, and saving on training and recruitment costs for both workers and employers. Any increase in the cost of doing business will likely be passed on to consumers as part of the price of the product or service being purchased.

Effect on small businesses. The proposed rule will have an effect on small businesses, which s. 227.114 (1), Stats., defines as 25 or fewer employees or less than \$5 million in gross annual sales. The primary businesses affected by the proposed rule will be those related to food preparation and serving, personal care and services, and retail trade. The Department has considered the methods listed in s. 227.114 (2), Stats., for reducing the impact of the rule on small businesses. There are no reporting, bookkeeping, or professional skills required for compliance with the proposed rule. The rule requires businesses to pay affected employees at least the specified minimum wage.

The exemption of small businesses from the requirements of the rule would be contrary to the statutory objectives which are the basis for the proposed rule. Pursuant to Chapter 104, Stats., the primary purpose of the minimum wage is to require that every wage paid by any employer to any employee is sufficient to enable the employee receiving it to maintain himself or herself

under conditions of reasonable comfort, reasonable physical well-being, decency, and moral well-being. The Department estimates that a very high percentage of workers affected by this minimum wage increase work for employers with 25 or fewer employees or less than \$5 million in gross annual sales. If the rule exempted these employers from minimum wage coverage, it would render the minimum wage nearly meaningless.

Fiscal Effect on State and Local Government

It is estimated that 35% of the additional \$175 million in consumer expenditures will be on items subject to the sales tax. This translates to increased revenue of approximately \$3 million for the state and some increased revenue for counties with a local sales tax.

There may be increased state revenue from the income tax on higher incomes for workers. The Department of Revenue estimates that the additional individual income tax revenue on the additional wages paid due to the minimum wage increase will be \$4.725 million. This amount will be offset by the decline of business tax revenue estimated at \$5.495 million. The net effect on income tax revenue is estimated to be a decline of \$770,000.

It is estimated that 100-200 local governmental employees across the state who work as seasonal summer helpers may be affected by the increase. The increased cost is estimated at approximately \$20,000 across all local governments in the state. The minimum wage increase is not expected to affect state employees.

Federal Law and Law in Adjacent States

Section 227.14 (2)3. and 4., Stats., requires the Department to compare the proposed rule to any existing or proposed federal regulation and rules in adjacent states.

General rate:

Federal	\$5.15
Iowa	\$5.15
Michigan	\$5.15
Minnesota	\$5.15 for employers with annual gross sales of at least \$500,000; effective 8/1/05, increasing to \$6.15 for employers with annual gross sales of at least \$625,000 \$4.90 for employers with annual gross sales of less than \$500,000; effective 8/1/05, increasing to \$5.25 for employers with annual gross sales of less than \$625,000
Illinois	\$6.50

Minor rate:

Federal	None
Iowa	None

Michigan	None
Minnesota	None
Illinois	\$6.00

Opportunity rate:

Federal	\$4.25 for employees under 20 years old for first 90 days of employment
Iowa	\$4.25 for all employees for first 90 days of employment
Michigan	\$4.25 for 16- to 19-year-olds for first 90 days of employment
Minnesota	\$4.25 for employees under 20 years old for first 90 days of employment; increasing to \$4.90 effective 8/1/05
Illinois	No opportunity wage of general application. Employers may apply for a license from the Illinois Department of Labor to pay adult learners 70% of minimum wage rate for initial six months of employment.

Agricultural rate:

Federal	None
Iowa	None
Michigan	None
Minnesota	None
Illinois	None

Camp counselor rate:

Federal	None
Iowa	None
Michigan	None
Minnesota	None
Illinois	\$260 per week

Golf caddy rate:

Federal:	None
Iowa:	None
Michigan:	None
Minnesota	None

Illinois: Exempt from minimum wage

Technical Correction

The proposed rule also repeals and recreates the policy that travel time for the benefit of the employer is work time. It is rewritten for clarity and with no change in substance.

Contact Information

Elaine Pridgen
Office of Legal Counsel
Dept. of Workforce Development
201 E. Washington Avenue
P.O. Box 7946
Madison, WI 53707-7946
(608) 267-9403
elaine.pridgen@dwd.state.wi.us

Comments

A public hearing will be held on June 14, 2005 at 10 a.m. in the G.E.F. 1 Building, Room H305, 201 E. Washington Avenue, Madison. Written comments on the proposed received at the above address or email no later than June 13, 2005, will be given the same consideration as testimony presented at the hearing.

SECTION 1. DWD 272.01 (9m) is created to read:

DWD 272.01 (9m) “Minor employee” means a minor who is paid at the applicable minor minimum wage rate.

SECTION 2. DWD 272.03 (1) and (1m) are amended to read:

DWD 272.03 (1) MINIMUM RATES. This subsection is in effect from ~~October 1, 1996 to August 31, 1997~~ the effective date of this section ...[revisor inserts date] to May 31, 2006.

Except as provided in ss. DWD 272.05 to 272.09, no employer shall employ any employee in any occupation, trade, or industry at a lesser hourly rate than is indicated below:

- (a) All employees except opportunity and minor employees ~~\$4.75~~ \$5.70 per ~~hr~~ hour.
- (b) Opportunity and minor employees ~~\$4.25~~ \$5.30 per hour.

(1m) MINIMUM RATES. This subsection becomes effective on ~~September 1, 1997~~ June 1, 2006. Except as provided in ss. DWD 272.05 to 272.09, no employer shall employ any employee in any occupation, trade, or industry at a lesser hourly rate than is indicated below:

- (a) All employees except opportunity and minor employees ~~\$5.15~~ \$6.50 per ~~hr~~ hour.
- (b) Opportunity and minor employees ~~\$4.25~~ \$5.90 per ~~hr~~ hour.

SECTION 2. DWD 272.03 (3) and (3m) are amended to read:

DWD 272.03 (3) ALLOWANCE FOR BOARD AND LODGING. This subsection is in effect from ~~October 1, 1996, to August 31, 1997~~ the effective date of this section ...[revisor inserts date] to May 31, 2006. Where board or lodging or both are furnished by the employer in accordance with s. DWD 272.04, and accepted and received by a particular employee, an allowance may be made not to exceed the following amounts:

(a) *Lodging.* 1. All employees except opportunity and minor employees ~~\$38.00~~ \$45.60 per week or ~~\$5.45~~ \$6.50 per day.

2. Opportunity and minor employees ~~\$34.00~~ \$42.40 per week or ~~\$4.85~~ \$6.05 per day.

(b) *Meals.* 1. All employees except opportunity and minor employees ~~\$57.00~~ \$68.40 per week or ~~\$2.70~~ \$3.25 per meal.

2. Opportunity and minor employees ~~\$51.00~~ \$63.60 per week or ~~\$2.45~~ \$3.00 per meal.

(3m) ALLOWANCE FOR BOARD AND LODGING. This subsection becomes effective on ~~September 1, 1997~~ June 1, 2006. Where board or lodging or both are furnished by the employer

in accordance with s. DWD 272.04, and accepted and received by a particular employee, an allowance may be made not to exceed the following amounts:

(a) *Lodging*. 1. All employees except opportunity and minor employees ~~\$41.20~~ \$52.00 per week or ~~\$5.90~~ \$7.40 per day.

2. Opportunity employees ~~\$34.00~~ \$47.20 per week or ~~\$4.85~~ \$6.75 per day.

(b) *Meals*. 1. All employees except opportunity and minor employees ~~\$61.80~~ \$78.00 per week or ~~\$2.95~~ \$3.70 per meal.

2. Opportunity and minor employees ~~\$51.00~~ \$70.80 per week or ~~\$2.45~~ \$3.35 per meal.

SECTION 3. DWD 272.05 (1)(a), (1)(b), (2)(a), and (2)(b) are amended to read:

DWD 272.05 (1) (a) ~~Adult employees~~ Employees 18 years of age and over: ~~\$4.05~~ \$5.15 per ~~hr~~ hour.

(b) ~~Minors~~ Employees 17 years of age and under: ~~\$3.70~~ \$4.25 per ~~hr~~ hour.

(2) (a) Lodging— Adults <u>Employees</u> 18 years of age and over:	\$32.40 <u>\$41.20</u> per week or \$4.65 <u>\$5.90</u> per day.
Minors <u>Employees</u> 17 years of age and under:	\$29.60 <u>\$34.00</u> per week or \$4.25 <u>\$4.85</u> per day
(b) Meals— Adults <u>Employees</u> 18 years of age and over:	\$48.60 <u>\$61.80</u> per week or \$2.30 <u>\$2.95</u> per meal
Minors <u>Employees</u> 17 years of age and under:	\$44.40 <u>\$51.00</u> per week or \$2.10 <u>\$2.40</u> per meal

SECTION 4. DWD 272.07 (3) is amended to read:

DWD 272.07 (3) COUNSELORS. This subsection is in effect from the effective date of this section ...[revisor inserts date] to May 31, 2006. The minimum wage of counselors employed in seasonal recreational or educational camps and day camps may be computed on a weekly basis as follows:

(a) Adult counselors 18 years of age and over:	PER WEEK
1. If board and lodging are not furnished	\$140.00 <u>\$215</u>
2. If board only is furnished	\$110.00 <u>\$164</u>
3. If board and lodging are furnished	\$91.00 <u>\$129</u>
(b) Counselors 17 years of age and under:	PER WEEK
1. If board and lodging are not furnished	\$123.00 <u>\$175</u>
2. If board only is furnished	\$92.00 <u>\$133</u>
3. If board and lodging are furnished	\$74.00 <u>\$105</u>

SECTION 5. DWD 272.07 (3g) and (3r) are created to read:

DWD 272.07 (3g) COUNSELORS. This subsection is in effect from the June 1, 2006, to May 31, 2007. The minimum wage of counselors employed in seasonal recreational or educational camps and day camps may be computed on a weekly basis as follows:

(a) Adult counselors 18 years of age and over:	PER WEEK
1. If board and lodging are not furnished	\$270
2. If board only is furnished	\$217
3. If board and lodging are furnished	\$171
(b) Counselors 17 years of age and under:	PER WEEK
1. If board and lodging are not furnished	\$225
2. If board only is furnished	\$171
3. If board and lodging are furnished	\$135

DWD 272.07 (3r) COUNSELORS. This subsection becomes effective on June 1, 2007. The minimum wage of counselors employed in seasonal recreational or educational camps and day camps may be computed on a weekly basis as follows:

- (a) Adult counselors 18 years of age and over: PER WEEK
- | | |
|---|-------|
| 1. If board and lodging are not furnished | \$315 |
| 2. If board only is furnished | \$240 |
| 3. If board and lodging are furnished | \$189 |
- (b) Counselors 17 years of age and under: PER WEEK
- | | |
|---|-------|
| 1. If board and lodging are not furnished | \$275 |
| 2. If board only is furnished | \$209 |
| 3. If board and lodging are furnished | \$165 |

SECTION 6. DWD 272.08 is amended to read:

DWD 272.08 Caddies. The minimum wage of employees employed as caddies shall be:

~~\$3.35~~ \$5.90 9 holes

~~\$5.95~~ \$10.50 18 holes

SECTION 7. DWD 272.12(2)(g)6. is repealed and recreated to read:

DWD 272.12(2)(g)6. Travel away from home community. Travel time away from the home community for business purposes that occurs for the benefit of the employer is considered hours worked.

SECTION 8. EFFECTIVE DATE. This rule shall take effect on the first day of the third month commencing after the date of publication in the Wisconsin administrative register as provided in ss. 227.22 (2)(b), Stats., and 227.22(2)(e), Stats.