Two New Michigan Employee Benefit Laws

On December 14, 2018, Michigan Governor Snyder signed the Paid Medical Leave Act and the Improved Workforce Opportunity Wage Act (IWOWA). Oswald previously provided information about these laws when they were initially passed by the legislature. The final legislation signed by the governor contains dramatically different requirements from the proposed legislation. These changes make the final legislation more employer-friendly. The Paid Medical Leave Act requires employers to provide their employees paid leave that can be used for sick and safe time purposes. The IWOWA increases the minimum wages for Michigan employees.

**Paid Medical Leave Act**

*What is the law?*

- A mandatory paid sick leave law; Michigan becomes the 11th state to enact this type of law
- Employees can use the leave for themselves or family members for these purposes:
  - Mental or physical illness, injury, or health condition
  - Medical diagnosis, care, or treatment thereof; or
  - Preventative medical care
  - “Safe time”, i.e., for victims of domestic violence or sexual assault, including medical care or psychological or other counseling, obtaining services from a victim services organization, relocation, obtaining legal services and participating in any civil or criminal proceedings
  - Caring for a child if the employer’s workplace or child’s school or day care facility is closed due to a public health emergency
- Employees accrue one hour of earned sick time for every 35 hours worked, capped at one hour accrued per workweek, regardless of the number of hours worked. Further, the maximum amount of paid sick leave in a year is 40 hours.
- Allows for the carryover of up to 40 hours of earned sick time from year to year
- Penalties for noncompliance – failure to provide sick time – civil fine of not more than $1,000. Willful violation of the laws notice or posting requirements – civil fine of not more than $100 for each separate violation

*When is the law effective?*

- The effective date is estimated to be April 1, 2019
Which employers are affected by this law?
- All private employers employing 50 or more individuals

Which employees are exempt from this law?
- Employees exempt from the overtime pay provisions under the Federal Fair Labor Standards Act’s “white-collar” definitions
- Private sector employees covered by collective bargaining agreements
- Seasonal, part-time and variable-hour employees
- Individuals who worked, on average, fewer than 25 hours per week during the immediately preceding calendar year

Definition
Family Members – includes an employee’s child, parent, spouse, domestic partner, grandparent, grandchild and sibling

Rules to know
- An employer’s existing policies for paid leave, (e.g. vacation, sick time, PTO) comply with the law if they provide 40 hours of paid leave each benefit year
- Paid leave must be taken in at least one hour increments
- A newly-hired employee is subject to a 90-calendar day waiting period before they can use any accrued leave
- Employers can require employees to provide reasonable documentation that a leave for more than three consecutive days was used for a covered purpose (e.g., physician statement for an illness, police report for safe-time purposes). Employees must be given at least 3 days to provide this documentation.
- In lieu of tracking hours, employers have the option of providing 40 hours of paid sick leave at the beginning of the benefit year

Employer Administrative Requirements
- Employers must provide each employee written notice and display a poster that includes:
  o Amount of leave required to be provided under the law;
  o Terms under which leave may be used;
  o Employee's right to file a complaint with the Department of Licensing & Regulatory Affairs for any violation
- The Department of Licensing & Regulatory Affairs will make available to employers, at no cost, posters containing the necessary information

Improved Workforce Opportunity Wage Act (IWOWA)

What is the law?
- Minimum hourly wage rate will increase annually
- Scheduled increases:
  o Current hourly rate – $9.25 to $9.45 upon the effective date of the law (presumed to be April 1, 2019 given the date the legislature passed the law)
o January 1, 2020 – $9.65
o January 1, 2021 – $9.87
o January 1, 2022 – $10.10
o January 1, 2023 – $10.33
o January 1, 2024 – $10.56
o January 1, 2025 – $10.80
o January 1, 2026 – $11.04
o January 1, 2027 – $11.29
o January 1, 2028 – $11.54
o January 1, 2029 – $11.79
o January 1, 2030 – $12.05

An important difference from the initial legislation is that there are no automatic increases tied to the Consumer Price Index. Additionally, each yearly increase does not take affect if the state unemployment rate is 8.5% or higher in the preceding calendar year.

Service employees who receive tips – minimum hourly wage will be 38% of the minimum hourly rate.