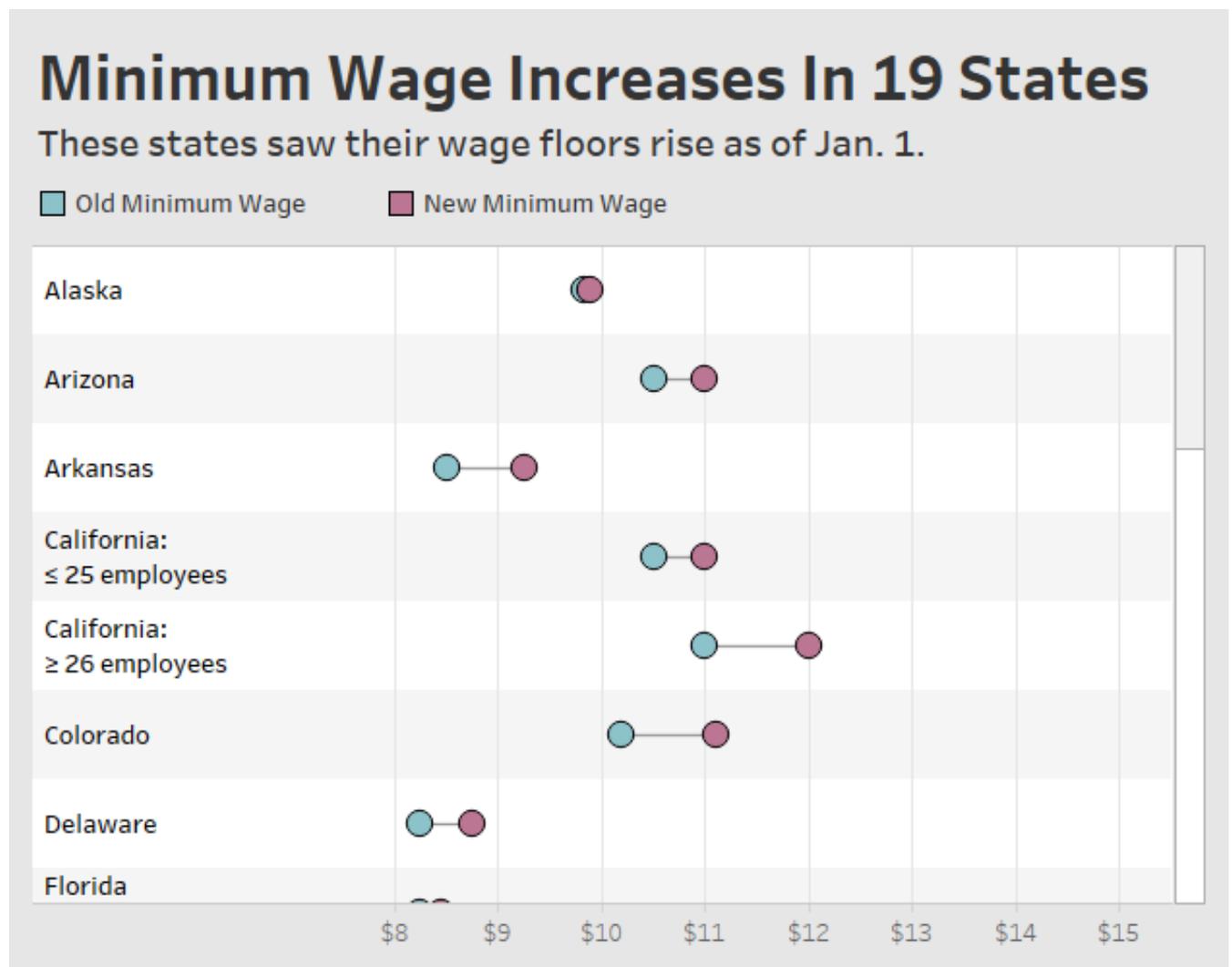


As The Ball Drops, Minimum Wage Rises In 19 States

By Vin Gurrieri

Law360 (January 4, 2019, 9:13 PM EST) -- As the calendar flipped to January, 19 states as well as several cities saw their minimum wage rates tick upward, a trend that experts say is likely to continue, since the government hasn't moved to increase the federal wage floor in a decade.

The latest batch of wage increases are the result of a combination of state legislative action, ballot initiatives approved by voters, and scheduled cost-of-living increases. The federal minimum wage rate of \$7.25 per hour has remained unchanged since 2009.



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James G. Ryan, chair of Cullen & Dykman LLP's employment litigation practice, said the broader trend of states and large cities upping their minimum wages "shows no sign of abating and in fact will probably continue until the economics dictate otherwise."

"The trend has garnered grassroots support from voters of all income levels, and while there have been some anecdotal incidents of businesses closing as a result of the wage increases, the vast majority of affected businesses has weathered these new wage requirements," Ryan said. "But it should be noted that many businesses have had to raise wages regardless of the local minimum wage laws in order to attract and keep employees because of the current historically tight labor market."

In addition to the 19 states that have higher minimum wages as of the new year, three states and 18 municipalities will also raise their hourly wage floors later in 2019, according to an analysis released Friday by the National Employment Law Project, which also noted that 13 cities have adopted \$15 wage floors as of Jan. 1.

Christine Owens, executive director of NELP, said in a statement Friday that the minimum wage issue strongly resonates with individuals nationwide "because people feel like they're working harder than ever but have little to show for it."

"The American people believe in the value of work — and that workers deserve to be valued," Owens said in a statement "That's why there's such strong support for raising the minimum wage. People believe it's the right thing to do, and they understand it's one of the best ways to lift the

incomes of working families who really need that money.”

The other states that will hike their wage floors in 2019 are Michigan, Oregon and Delaware, which is also one of the states that increased its minimum wage on Jan. 1 and would be doing so for a second time, according to NELP. Nevada will also announce whether its rate will go up, the group’s report said.

Laura Jacobsen, an employment attorney in McDonald Carano LLP’s Reno, Nevada, office, said there was no change in the minimum wage in her state on Jan. 1 largely because the state legislature is infrequently in session and the governorship was held by a Republican for the past eight years. But with a Democratic governor set to take the reins, she said, rumors are circulating that a minimum wage increase may be in store in 2019, potentially making Nevada the next state to push its wage floor upward.

The state currently allows employers who offer health benefits that meet certain minimum standards to pay the federal minimum wage rate and requires employers who don’t offer such benefits to pay a minimum wage of \$8.25.

“The trend of states continuing to raise minimum wage will likely continue,” Jacobsen said. “Nevada also has a minimum wage amendment in our constitution that already provides for increases beginning on Jan. 1, 2021. Until then, the constitution permits the governor or a designated state agency to increase Nevada minimum wage based on cost of living. This has never happened before, but again, the possibility exists that our labor commissioner will make this increase, with the governor’s blessing, early this year.”

Jacobsen’s description of the particulars of Nevada’s minimum wage law serve as an example of how different states have adopted varying approaches to the issue and how those approaches can change based on factors like leadership and voter preferences.

In California, the minimum wage varies based on the number of workers a business employs. Employers with at least 26 workers will now have to shell out no less than \$12 per hour as of Jan. 1, and businesses that employ 25 workers or fewer must pay them at least an \$11 hourly rate — both of which are slight increases over the prior year.

And in New York, which has one of the most elaborate minimum wage programs in the country, the minimum wage framework includes variations based on an employer’s size and geographic region. More specifically, the minimum wage in New York City for businesses with at least 11 workers will rise in 2019 from \$13 to \$15 per hour, and from \$12 to \$13.50 for those in the city with 10 workers or fewer. Elsewhere in the state, the minimum wage went up from \$11 to \$12 for employers in Long Island and Westchester County and from \$10.40 to \$11.10 for all remaining employers in the state.

Ryan, who practices in Cullen & Dykman’s office on Long Island, said that no matter the reason why workers’ wages have gone up, many businesses have passed those costs on to consumers, which could threaten future increases if an economic downturn should occur.

“Obviously, if the economy should hiccup or falter in the future and the labor market becomes less constrained as a result, it is very questionable whether the trend of annual increases to the minimum wage rates by states and large cities will or can continue,” Ryan said.

But Angela Reddock-Wright, managing partner of the Reddock Law Group in Los Angeles, told Law360 that it will become progressively harder for the 21 states that haven’t recently implemented some form of a minimum wage increase to continue on that course.

“Given the increased cost of living in the U.S., even in states where the cost of living is low, it will become increasingly more difficult for the federal government and the 21 states that have not implemented minimum wage increases, to justify paying employees the federal minimum wage of

only \$7.25 per hour," Reddock-Wright said. "Realizing the difficulty of recruiting and retaining quality workers at such low wages, several business and chamber organizations have supported minimum wage increases as well — they view it as good business."

--Editing by Alanna Weissman.