Recent Trends in State and Local Wage and Hour Laws

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As the U.S. Department of Labor (DOL) appears to have relaxed its employee protective policy-making and enforcement efforts that grew during the Obama administration, increasingly states and localities have enacted their own, often more protective, employee-protective laws, rules and regulations. To ensure full wage and hour compliance, private clubs should consult their HR specialists and employment counsel and be mindful of all state and local requirements in each jurisdiction in which they operate and employ workers. Here are just some of the recent wage and hour requirements that have gained popularity among multiple jurisdictions.

Minimum Wage Increases

Currently, 29 states and the District of Columbia have minimum wage rates higher than the federal minimum wage of $7.25 per hour. In 2018, 18 states increased their minimum wages.

In addition, approximately 40 cities maintain minimum wages that are even higher than their state counterparts. For example, Chicago requires its employers to pay employees $12 per hour, which is significantly higher than Illinois' minimum wage of $8.25 per hour. Other cities have tiered minimum wage rates based on factors like an employer's size.

So far, no state has reached a $15 per hour minimum wage. However, Washington, D.C., and California already have laws setting $15 per hour rates to take effect in 2020 and 2022, respectively. Bills in other states propose a gradual increase to $15 per hour, including in Maryland, Wisconsin, Indiana and Virginia. At the city level, owners/operators who employ workers in New York City face a $15 per hour minimum taking effect at the end of 2018. Some of these proposed laws involve tiered minimum wage rates, which would take into effect location, size and/or industry.

State Enhancements to Overtime Exemption Qualifications

The federal Fair Labor Standards Act (FLSA) exempts employees from overtime requirements if certain job duties and salary requirements are met. The executive, administrative and professional exemptions (EAP exemptions) are most common. To qualify for an EAP exemption, an employee must perform certain qualifying duties and be paid a salary of a minimum threshold amount. The current federal annual salary threshold is $23,660 ($455 per week), although a higher threshold, $47,476 per year ($913 per week), was scheduled to take effect in December 2016 and currently is on appeal. Most recently, the DOL has announced it is considering new rulemaking to increase the current $23,660 salary threshold to an amount more modest than the previously proposed $47,476.

Several states and localities, meanwhile, maintain more stringent minimum salary thresholds. In California, for example, the minimum salary threshold is $880 per week, while in Connecticut the minimum salary threshold is $475 per week.

Enactment of Daily Overtime Laws

The FLSA requires employers to pay nonexempt employees at a rate of 1.5 times an employee's regular hourly rate of pay for all hours worked beyond 40 hours in a week. Once again, several states have gone even further, requiring employers to pay nonexempt employees at an increased rate for hours worked beyond 8 hours in a day.

For example, California requires employers to pay employees 1.5 times the employee's regular rate of pay for hours worked beyond 8 hours in a day, and two times the employee's regular rate of pay for hours worked beyond 12 hours in a day. In Colorado and Alaska, employers are required to pay employees 1.5 times the employee's regular rate for hours worked beyond 8 hours in a day, while in Nevada employers must pay employees 1.5 times the employee's regular rate only for hours worked beyond 12 hours in a day.

On-Call and Call-In Laws

Certain states require that employers compensate employees who are on-call or not previously scheduled to work. In Illinois, employers are required to pay employees for time spent "on-call," even if away from the employer's premises, but only if the time spent is "predominantly" for the benefit of the employer. New York employers must compensate employees who report to work but then are sent home early. Specifically, employees who report to work at the employer's request must be paid for a minimum of 4 hours at their regular rates of pay.

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