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Amended Michigan Paid Medical Leave Act In Jeopardy? Stay Tuned

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On Dec. 18, 2019, the Michigan Supreme Court ruled 4-3 that it will not issue an advisory opinion on the Michigan legislature's adoption of the paid sick leave and minimum wage ballot initiatives before they went on the November 2018 ballot and subsequent amendment of both during the December 2018 lame duck legislative session. Instead, the constitutionality of the [legislature's "adopt and amend" strategy](#) will proceed through the courts and established appeal process before the Supreme Court will rule on the merits.

In the meantime, there is concern that the Michigan Attorney General could issue an opinion finding the "adopt and amendment" legislative approach unconstitutional. Based on her opinion, the Attorney General could determine that the amended Paid Medical Leave Act (PMLA) was wrongfully enacted and direct the Michigan Wage and Hour Division to enforce the initially adopted Earned Sick Time Act with its 72-hour sick time entitlement (vs. 40 hours under the PMLA), no coverage exemptions, and onerous use and notice requirements. The same could happen with the minimum wage law, too.

Such an act by the Attorney General would make Michigan an outlier, as 40-hour paid sick leave is the standard in other states that have passed such legislation.

In October, Gov. Gretchen Whitmer directed that Michigan issue an administrative rule to raise the minimum salary up to \$51,000 per year for

exempt status under the Fair Labor Standards Act. She stated that the U.S. Department of Labor's increase of that minimum to \$35,568 effective Jan. 1, 2020, was not enough.

So, precipitous action by the Michigan Attorney General on the Paid Medical Leave Act may be a possibility, despite the turmoil it would cause in the employer community. We will keep you posted.