



ALERTS

Michigan Court Of Appeals Upholds ‘Adopt And Amend,’ No Sick Time Or Wage Changes For Now

January 26, 2023

Highlights

Michigan Court of Appeals ruled unanimously that the Michigan Legislature did not violate the Michigan Constitution when it adopted and amended two laws

For Michigan employers, this means the Michigan Paid Medical Leave Act and amended minimum wage law in effect since 2019 remain the law in Michigan

The ruling likely will be appealed to the Michigan Supreme Court

Today, a three-judge panel of the Michigan Court of Appeals ruled unanimously that the Michigan Legislature did not violate the Michigan Constitution when it adopted and amended the Earned Sick Time Act (ESTA) and the Improved Workforce Opportunity Wage Act (WOWA) ballot initiatives during the same legislative session.

For Michigan employers, this means that the Michigan Paid Medical Leave Act and the amended minimum wage law they have lived with since 2019 remain the law in Michigan. For now, the ESTA with its 72 hours of paid leave will not become law. Likewise, the WOWA with its 2023 \$13.03 minimum wage (vs. the current \$10.10) and a tipped

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employee wage of \$11.73 (vs. the current \$3.84) will not become law.

However, this ruling may only be a temporary reprieve, as it is expected to be appealed to the Michigan Supreme Court.

In reaching its decision, the Michigan Court of Appeals first emphasized that the policies underlying the ballot initiatives “are completely irrelevant to our decision.” In doing so, it confirmed its “focus is exclusively on the constitutionality of the procedures used by the Legislature to amend these acts.”

The court determined that, unless restricted, the legislature can legislate as it sees fit. It disagreed with the trial court’s opinion that the Michigan Constitution’s referendum provisions prevented the “adopt and amend” legislative action taken by the legislature during the same legislative session when it adopted the ballot initiatives. The court concluded that “adopt and amend” does not interfere with the referendum process and is not inconsistent with the general purpose of initiatives. It also held that any motives of the legislature are irrelevant.

The Court of Appeals’ decision has immediate effect. For now, Michigan employers can relax knowing that the original ballot initiatives will not return in the immediate future.

For more information, please contact the Barnes & Thornburg attorney with whom you work or Donald Lawless at 616-742-3994 or dlawless@blaw.com or Grant Pecor at 616-742-3911 or gpecor@btlaw.com.

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