

DECEMBER 2004**Volume XIV, No. 12****MINIMUM WAGE TO INCREASE**

As you probably know by now, this past November, Florida voters overwhelmingly approved an amendment to the state constitution that will impose a state minimum wage. Florida has never had a state minimum wage; we have always been covered by the federal minimum wage, which is currently \$5.15 an hour. **This new state minimum wage will start out at \$6.15 an hour, and it will go up in January of each year according to the inflation rate.**

- **What is the new Florida minimum wage and when do I have to start paying it?** The constitutional amendment approved by Florida voters in the November 2004 election established a new Florida minimum wage of \$6.15 per hour. Although we hope the Florida legislature will pass a bill to clarify the date on which you will have to start paying the minimum wage, you can expect to start having to pay it somewhere between May 2 and July 4, 2005.
- **Who is entitled to receive the new Florida minimum wage?** Any employee who is currently entitled to receive the federal minimum wage of \$5.15 per hour must be paid the new Florida minimum wage for all hours worked in the state of Florida.
- **How will the new Florida minimum wage change from year to year?** The new minimum wage will increase on January 1st of each year to reflect an adjustment for inflation. We cannot predict how much it will go up year to year, but we expect the Florida Agency for Workforce Innovation to publish the new rate each fall, which will then take effect the next January.
- **How will the new Florida minimum wage apply to tipped employees (like restaurant servers)?** Since tips make up part of the wages of a tipped employee, employers can deduct from the new Florida minimum wage a “tip credit” for each employee, which is capped at \$3.02 an hour. This credit is generally available if the tipped employee regularly receives tips in excess of \$30 a month and retains all his or her tips. Thus, when the new minimum wage of \$6.15 per hour takes effect, you will have to pay your tipped employees a direct cash wage of \$3.13 an hour [\$6.15 required minimum wage minus the \$3.02 tip credit]. In later years, as the Florida minimum wage increases with inflation, the same \$3.02 per hour tip credit will apply, so the direct cash wage you will have to pay will go up from year to year. You should also note that if a tipped employee does not receive at least \$3.02 per hour in tips, the direct cash wage you pay that employee will have to be higher in order to make up the difference between the tips the employee actually received and the Florida minimum wage they are required to be receive.
- **What are the legal consequences for failing to pay the new Florida minimum wage?** First, an employee who claims that he or she was not paid the required minimum wage can file a court action seeking double the amount of the unpaid wages, plus attorneys’ fees and costs. Second, the state can impose a civil fine of \$1,000 for each willful violation of the minimum wage amendment. Third, it is illegal for an employer to retaliate against or fire an employee who asserts his or her rights under the amendment or who informs other employees of their rights.

- **Will a new poster be required?** We assume employers will have to put up a new poster about the minimum wage, but no one knows what it will have to say or who will be responsible for printing the poster.
- **How does this new Florida minimum wage affect agricultural businesses who are currently exempt from the federal Wage and Hour law?** Based upon the Florida Supreme Court opinion approving the initiative for ballot placement, the new Florida minimum wage should apply only to those employees who are **presently** entitled to receive the federal minimum wage. So, those businesses (like agriculture) who are currently exempt from paying the minimum wage will most likely **not** have to pay the new Florida minimum wage.

As more details about the new state minimum wage become available, we will certainly pass them along to you. Please watch future editions of this newsletter for more information on when the minimum wage starts and what kind of new poster is required.

UNEMPLOYMENT COMPENSATION TAX RATES ARE GOING UP AGAIN

The Florida Department of Revenue has announced that unemployment tax rates are going up in 2005, as required by laws designed to ensure that the state's unemployment compensation trust fund maintains a sufficient balance to pay benefits to unemployed workers.

A typical Florida small business with 10 employees who is currently paying the minimum unemployment comp tax rate will see an increase of \$49 per year in its total tax bill.

Employers who pay the minimum rate will pay \$29.40 per employee per year, which breaks down to \$4.20 for every \$1,000 in wages, up to a maximum of \$7,000 in wages. In Florida, wages above the \$7,000 level are not subject to the unemployment tax.

Currently, employers at the minimum rate pay \$24.50 per employee per year, or \$3.50 per \$1,000 of wages. This rate, which took effect in January of 2004, was a significant increase over the previous year's rate. This will be the second time in two years the rates have increased.

This increase in the state unemployment compensation tax rate does not include the effect of unemployment claims filed during August and September after four hurricanes struck the state. These claims may have an impact on the rates for 2006.

The maximum tax rate, which is paid by about 18,000 Florida businesses that have had the most layoffs, will not change. The maximum rate is \$54 per \$1,000 per employee per year, up to a maximum of \$378 per employee.

The rate for new employers is also not going up. New employers pay \$189 per employee until they have accumulated enough time in the state unemployment compensation insurance program to qualify for the minimum rate.

The Department of Revenue is mailing notices of the new rates to all 446,000 affected employers. The new rates will be effective for calendar year 2005.

The first payment under the new rates will be due April 1, 2005, with your business' regular quarterly unemployment tax report (UCT-6).

DOES YOUR BUSINESS NEED MONEY FOR TRAINING EMPLOYEES?

Workforce Florida's Incumbent Worker Training Program encourages small businesses with 25 or fewer employees to apply for training grants. Small businesses are often at a disadvantage when it comes to training their employees. Most do not have a dedicated Human Resources or training department, much less the financial resources to help their employees remain or become more skilled. The Incumbent Worker Training (IWT) Program, administered by Workforce Florida, provides expense reimbursement grants to eligible Florida companies for skills upgrade training for their existing full-time employees. Since its creation in 1999, this grant program has helped provide skills upgrade training for over 23,000 employees for more than 300 businesses throughout Florida—many of them small businesses. According to Program staff, businesses using their services gave high ratings to the ease of the application process as well as the helpfulness of the program. To find out more and obtain an application visit the IWT website at www.workforceflorida.com. Or, you can contact Catherine Kennedy, IWT Program Coordinator, via phone, 850 921-1119, or email her at ckennedy@workforceflorida.com.