



## MICHIGAN LAME DUCK SESSION UPDATE: BILLS IN PLAY

*As of 12/19/2024 11:00am*

The session days after an election before new legislators are sworn in is called “Lame Duck.” Because Democrats have lost the state house, and there will no longer be a Democrat Trifecta, this year’s Lame Duck was expected to be especially dangerous for small businesses as many damaging pieces of legislation were in play.

**Earned Sick Time and Minimum Wage.** Unfortunately, there was never an agreement between the legislative majorities to make critical changes for small business to the Earned Sick Time Act and Minimum Wage (restoration of the tipped wage), so no legislation moved. NFIB will continue to advocate for changes – the new House Republican majority has already indicated this will be a top priority in January.

Please note that there may be bills that are industry specific that NFIB opposed that are not on this list. NFIB actively opposed all of the following legislation.

### **✘ Anti-Small Business Legislation that has Passed Both the House and Senate**

**Increase in Unemployment Insurance Benefits and Duration:** Senate Bill (SB) 40 passed last week which would increase unemployment insurance weekly benefits from \$364 to \$614 over three years and indexes it to inflation thereafter and increases duration from 20 to 26 weeks.

**Plumber Ratios:** Would create apprentice to master plumber ratio on job sites. Currently, there are no ratios, so this could have a negative effect on non-union plumbing companies.

### **✓ Anti-Small Business Legislation that was STOPPED\***

*\*assuming no additional session days are added, which is highly unlikely*

**Family Leave Optimized Benefits (paid family leave):** Unemployment Insurance style program that would allow employees up to 12 weeks of paid family leave – included a tax on employers and employees.

**Elimination of Local Preemption on Labor Mandates:** would have removed the local preemptions put in place on wage and hour issues that prevent locals from passing their own minimum wage, paid sick leave policies, etc.

**Independent Contractor (1099 employees) Definition Change:** would have used the California ABC test and essentially eliminated independent contractors (1099 employees) in Michigan.

**Workers Compensation Legislation:** changes that would favor claimants and trial attorneys including an expansion of the definition of disability and allowing claims going back to the 1980s.

**Wage Theft Package:** would have increased fines and penalties on wage and hour violations including making some of them felonies; allowed for private right of action; allowed for employees to be told the salary of other employees in the same position; eliminated non-compete agreements,

**Pay Equity Package** (some elements similar to Wage Theft Package): would update wage and hour discrimination to all protected classes in the Elliott-Larsen Act (including sexual identity, gender, weight, etc.) and allow for fines and private right of action for violations; mandatory job descriptions; allowed for employees to be told the salary of other employees in the same position; eliminated non-compete agreements.

**Bottle Deposit Law Expansion:** would have expanded deposits to non-carbonated beverages like fruit juices and bottled water.

**Water Management Districts/Stormwater Fees "Rain Tax":** legislation that would have allow local governments to levy taxes on stormwater to pay for upgraded infrastructure.

**Un-Cap Medical Malpractice Liability:** would have removed the cap on non-medical damages.

**The Homeless Bill of Rights:** would have made it illegal to discriminate against people who are homeless; employers would be fined for requiring a permanent address. Property owners would also be unable to move a homeless individual or their belongings from anywhere considered public property, including a storefront.

### Anti-Small Business Legislation that Could Pass

#### **Currently in the HOUSE\*:**

*\*As of this writing, the House Democrats do not have a quorum and are not expected to pass any more legislation, however, we will not consider these issues stopped until they have officially adjourned.*

- **SB 170: Project Labor Agreements:** Allows local governments to enter into Project Labor agreements and set minimum wage and benefit requirements.
- **SB 895: Electrician Apprentices Ratios:** Would require a 1:1 apprentice to master ratio for electricians.
- **SB 408 and 409: Wage Garnishment:** Changes the threshold for how much wages/property is exempt from garnishment by a creditor.
- **SB 605-607: Polluter Pay:** These bills were substituted minutes before passing the senate along party vote. Prescribes cleanup standards for properties, allows DEGLE to promulgate rules, and requires bonds to be procured for certain businesses.
- **SB 609 and 611: Water Contamination:** These bills were substituted minutes before passing the senate along party vote. Allows for individuals who were exposed to pollution to file a claim, even if they aren't symptomatic.
- **SB 659: Data Privacy:** Creates a new data privacy act for consumers. A data collector must provide an 'opt-in' for consumers and provide a privacy notice regarding the purpose of data collection. Allows the AG and consumers to initiate civil actions. Would create a Data Broker registry and funds for administering the bills contents.
- **SB 888-892: Identity Theft:** Creates framework for security measures that each entity which houses personal data must follow, penalties for any data breaches, and notification of any breaches along with consumer protection information. This includes hiring or assignment of a security coordinator. Includes AG civil right of action.
- **SB 954-956: Price Gouging:** Prohibits excessive price gouging, which is defined as more than a 10% raise in prices unless there is a demonstrable change in cost of inputs, during a state of emergency. Allows for civil action by the AG or local prosecuting attorney as well as a class action by the AG. *(unfortunately, these bills passed the House too – there had been agreed upon changes with Restaurants, but those were not done)*
- **SB 1052: TENORM Prohibition:** Prohibits the acceptance of TENORM into disposal facilities in Michigan.
- **SB 1170: Price Displays:** Increases fines and penalties for violating the act. Also removes exemption for vending machines
- **SB 1173: Repeal of Local Prevailing Wage Exemption:** Allows local governments to adopt ordinances that would pay employees more than the state minimum wage as a prevailing wage on construction projects. The bill would also enable local governments to enact ordinances, policies or resolutions limiting the hours and scheduling of an employee who worked on a project to which a project labor agreement applied.
- **SB 1129-1130: Public Employee Benefits:** eliminates requirement on public employees to pay 20% of their health benefits

- **SB 663: Water Regulation Rules:** remove prohibition on rule making for water withdrawal.
- **SB 1022: Consumer Protection Act changes:** would have removed the current exemptions for businesses/professions that are regulated by the state or federal government.

### ***Currently in the SENATE***

- **HB 5895-5897: Price Gouging:** Prohibits excessive price gouging, which is defined as more than a 10% rise in prices unless there is a demonstrable change in cost of inputs, during a state of emergency. Allows for civil action by the AG or local prosecuting attorney as well as a class action by the AG.
- **HB 6060, HB 4665-4667 Pension Expansion Bills:** Would reopen the pension system for new and existing teachers, state police and correction officers, and conservation officers who previously did not qualify. This is estimated to add \$15-20 billion in liability to the state budget.
- **HB 5594: Youth Employment:** A bill that would change youth employment registration from the local school district to the Department of Labor and Economic Opportunity. *Changes were made so it is relatively harmless.*
- **HB 6058: Public Employee Benefits:** eliminates requirement on public employees to pay 20% of their health benefits.
- **HB 6238: Prohibits employers from discriminating against employees who are victims of certain crimes”** create a new act to prohibit an employer from taking an adverse employment action against an individual who was the victim of a violent crime or whose family member was a victim of a violent crime
- **4900: Wage Garnishment:** makes it harder to garnish—it reduces the amount of earnings that can be garnished from 25% to 15% percent regardless of income.