HB 166

Department of Legislative Services

Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 166 (Delegate Fennell, *et al.*)
Economic Matters

Labor and Employment - Payment of Wages - Minimum Wage and Enforcement (Fight for Fifteen)

This bill phases in an increase in the State minimum wage to $15.00 per hour by fiscal 2024 and indexes it to inflation beginning July 1, 2024. The bill expands the applicability of the Maryland Wage and Hour Law, eliminates specified subminimum wages, expands anti-retaliation provisions of specified labor laws, and phases out (by July 1, 2026) the tip credit that can be applied against direct wages paid to "tipped" employees. Additionally, the Governor's proposed budget for the Developmental Disabilities Administration (DDA) must include specified rate increases for community service providers over the funding provided in the prior year's legislative appropriation. **The bill takes effect June 1, 2019.**

Fiscal Summary

State Effect: No material effect in FY 2019. State expenditures (53% general funds, 47% federal funds, <0.1% special funds) increase by $85.1 million in FY 2020 (one half is in the Governor's proposed budget), escalating to $428.6 million in FY 2024 due to rate increases for community service providers; revenues increase for the federal share. State expenditures (all funds) increase by *at least* $4.8 million in FY 2020 for additional payroll costs, rising to at least $84.3 million in FY 2024; federal fund revenues may cover some of these costs. General fund expenditures increase by $678,000 in FY 2020 for enforcement, with ongoing costs. General fund revenues increase minimally beginning in FY 2020. **This bill establishes a mandated appropriation beginning in FY 2021.**

($ in millions)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
FF Revenue	$39.99	$74.33	$110.57	$148.79	$201.15
GF/FF Rev.	-	-	-	-	-
GF Expenditure	$45.70	$84.47	$125.50	$168.79	$228.07
SF Expenditure	$0.05	$0.05	$0.05	$0.05	$0.05
FF Expenditure	$39.99	$74.33	$110.57	$148.79	$201.15
GF/SF/FF/HE Exp.	$4.82	$14.08	$29.42	$52.64	$84.28
Net Effect	($50.57)	($98.61)	($154.98)	($221.48)	($312.40)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Generally, local government expenditures increase significantly beginning in FY 2020. Any change in local government tax revenues cannot be reliably projected but is expected to be minimal.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Mandated Rate Increases

For fiscal 2020, the Governor's proposed budget for DDA must include a 7.0% rate increase for community service providers over the funding provided in the prior year's legislative appropriation. For fiscal 2021 through 2023, the Governor's proposed budget for DDA must include an annual 5.5% rate increase for community service providers over the funding provided in the prior year's legislative appropriation. For fiscal 2024 and every year thereafter, the Governor's proposed budget for DDA must include an annual rate increase for community service providers at least equal to the percentage increase of the State minimum wage.

Maryland Wage and Hour Law

The following individuals are no longer exempted from the Maryland Wage and Hour Law: (1) those who work on commission; (2) employees employed by an employer who is engaged in canning, freezing, packing, or first processing of perishable or seasonal fresh fruits, vegetables, poultry, or seafood; and (3) specified farm workers.

The bill specifies that, unless the federal minimum wage is set at a higher rate, the State minimum wage is as follows:

- $11.00 per hour as of July 1, 2019;
- $12.00 per hour as of July 1, 2020;
- $13.00 per hour as of July 1, 2021;
- $14.00 per hour as of July 1, 2022; and
- $15.00 per hour as of July 1, 2023.

Beginning on July 1, 2024, and in subsequent fiscal years, the State minimum wage is the rate determined and announced by the Commissioner of Labor and Industry. Generally, the rate will be the prior-year rate plus the average percentage increase, based on the most recent 12-month period, in the Consumer Price Index (CPI) for all urban consumers for the Washington-Arlington-Alexandria, DC-VA-MD-WV metropolitan area (or a successor index that is published by the U.S. Bureau of Labor Statistics (BLS)). An increase in the State minimum wage must be rounded to the nearest multiple of five cents. However, if the CPI does not change during a given year, or decreases, the minimum wage remains at the same rate as that of the prior year. The commissioner must determine and announce the State minimum wage that will be in effect for the upcoming fiscal year by March 1 of each year.

The tip credit that employers can apply against the direct wages paid to employees classified as tipped employees may not exceed the minimum wage less:

- $3.63 per hour as of July 1, 2019;
- $5.25 per hour as of July 1, 2020;
- $7.50 per hour as of July 1, 2021;
- $9.00 per hour as of July 1, 2022;
- $10.50 per hour as of July 1, 2023;
- $12.00 per hour as of July 1, 2024;
- $13.50 per hour as of July 1, 2025; and
- $15.00 per hour as of July 1, 2026.

Beginning July 1, 2027, an employer may not include a tip credit amount as part of an employee’s wage and must pay an employee a wage that is at least equal to the State minimum wage.

An employer may no longer pay a training wage as authorized under the federal Fair Labor Standards Amendments of 1989 or pay 85% of the State minimum wage rate to employees younger than age 20 for the first six months of employment or to employees who work for specified amusement, recreational, or swimming pool establishments.

The bill clarifies that the Commissioner of Labor and Industry may conduct an investigation under the Maryland Wage and Hour Law on the commissioner’s own initiative or on receipt of an employee’s written complaint.

Anti-retaliation Provisions

An employer may not take adverse action as specified in the bill or otherwise discriminate against an employee because the employee took specified actions or because an employer believes that the employee may take specified actions.

The bill eliminates prohibitions against an employee (1) making a groundless or malicious complaint to the Commissioner of Labor and Industry or (2) in bad faith bringing an action or testifying in an action or a proceeding related to the bill.

If there is a preponderance of the evidence that specified prohibited activity was a contributing factor in an employer's alleged retaliation or adverse action, the defendant bears the burden of proof to prove by clear and convincing evidence that the alleged adverse employment action would have occurred for legitimate, nondiscriminatory reasons even if the employee had not engaged in the protected activity. The commissioner must keep confidential the name of the employee or another person identified in a complaint or an investigation unless the commissioner determines that the employee's name should be disclosed, with the employee's consent, to further investigate the complaint.

An employee may bring an action against an employer on behalf of the employee and other employees similarly affected. Upon written request of an employee, the commissioner may take an assignment of the claim in trust for the employee, ask the Attorney General to bring an action on behalf of the employee, and consolidate two or more claims against an employer. An action generally must be filed within three years after the employee knew or should have known of the employer's action.

If a court determines that an employee is entitled to judgment in an action, the court must allow against the employer reasonable counsel fees and other costs of the action. If a person is found to have violated certain provisions of the bill, the commissioner or court must require the person to pay the greater of actual damages plus liquidated damages or $500 for each day that the violation continued. If an employer subsequently violated provisions of the bill within six years after a previous violation, the commissioner or court must assess against the employer a civil penalty of at least $10,000. The commissioner and a court may order additional civil penalties and any other appropriate relief for violations under the bill. Each civil penalty assessed under the bill must be paid to the general fund.

The poster of the Maryland Wage and Hour Law that employers must keep posted in each place of employment must include the anti-retaliation provisions specified under the bill.

Maryland Wage Payment and Collection Law

The bill establishes that the Commissioner of Labor and Industry may conduct an investigation under the Maryland Wage Payment and Collection Law on the commissioner's own initiative, in addition to on receipt of a written complaint.

An employer may not pay or agree to pay an employee in a manner that violates the Maryland Wage Payment and Collection Law or hinder or delay the Commissioner of Labor and Industry or authorized representative in enforcing the law. An employer may not take adverse action as specified in the bill or otherwise discriminate against an employee because the employee took specified actions or because an employer believes that the employee may take specified actions. The same enforcement provisions, civil penalties, and remedies provided under the Maryland Wage and Hour Law apply to the Maryland Wage Payment and Collection Law if an employer takes specified adverse action or otherwise discriminates against an employee.

Current Law:

Maryland Wage and Hour Law

The Maryland Wage and Hour Law is the State complement to the federal Fair Labor Standards Act (FLSA). State law sets minimum wage standards to provide a maintenance level consistent with the needs of the population. State law specifies that an employee must be paid the greater of the federal minimum wage (which is currently $7.25 per hour) or $10.10 per hour.

However, an employer may pay an employee a wage that equals 85% of the State minimum wage for the first six months that the employee is employed if the employee is younger than age 20. Additionally, an employer of an amusement or a recreational establishment, including a swimming pool, that meets specified conditions may pay an employee a wage that equals the greater of $7.25 or 85% of the State minimum wage. Exceptions to the minimum wage requirement also exist for a training wage and a disabled employee of a sheltered workshop under specified conditions.

The Maryland Wage and Hour Law and minimum wage requirements do not apply to certain categories of employees, including those defined as administrative, executive, or professional; certain seasonal employees; part-time employees younger than age 16; salesmen and those who work on commission; an employer’s immediate family; drive-in theater employees; employees training in a special education program in a public school; employees of an establishment that sells food and drink for on-premises consumption and has an annual gross income of $400,000 or less; employees employed by an employer who is engaged in canning, freezing, packing, or first processing of perishable or seasonal fresh fruits, vegetables, poultry, or seafood; and certain farm workers.

The employer of a tipped employee is allowed a tip credit that can be applied against the direct wages paid by the employer. The employee can be paid tipping wages so long as the wages plus the tips received equal at least the minimum wage, the employee retains all tips, and the employee customarily receives more than $30.00 a month in tips. The tip credit is equal to the State minimum wage, less $3.63. Thus, the tip credit increases as the minimum wage increases, and the wage paid by employers to tipped employees remains $3.63, as long as their wages plus tips equal the minimum wage. The State and local governments are not considered employers under the tip credit provisions of the Maryland Wage and Hour Law.

If an employer pays less than the wages required, the employee may bring an action against the employer to recover (1) the difference between the wage paid to the employee and the wage required; (2) an additional amount equal to the difference as liquidated damages; and (3) legal fees. The court must award these differences in wages, damages, and counsel fees if the court determines that an employee is entitled to recovery. However, if an employer shows to the satisfaction of the court that the employer acted in good faith and reasonably believed that the wages paid to the employee were not less than the required wages, then the court must award liquidated damages of an amount less than the difference in wages or no liquidated damages.

A person who violates the Maryland Wage and Hour Law is guilty of a misdemeanor and on conviction is subject to a fine of up to $1,000.

Maryland Wage Payment and Collection Law

Maryland's Wage Payment and Collection Law regulates the payment of wages by employers in the State. The law requires employers to pay workers the wage promised; establish regular paydays; pay wages when due; pay employees in a specified manner; pay employees at least once every two weeks, with exceptions; furnish employees with a statement of gross earnings; advise employees of their rate of pay and designated payday; and pay employees all wages due on termination of employment. The Department of Labor, Licensing, and Regulation's Division of Labor and Industry enforces the State's Wage Payment and Collection Law. Unless otherwise specified, the definition of "employer" in the State's Wage Payment and Collection Law does not include units of government.

The commissioner may investigate a violation of the Wage Payment and Collection Law only upon receipt of a written complaint by an employee. Whenever it is determined that the State's Wage Payment and Collection Law has been violated, the commissioner may (1) try to resolve the violation informally through mediation; (2) ask the Office of the Attorney General to bring an action on behalf of the employee; or (3) bring an action on behalf of the employee in the county where the violation allegedly occurred.

In wage complaints amounting to $3,000 or less, the Commissioner of Labor and Industry may review and investigate the complaint and may either issue an order requiring the employer to pay or dismiss the claim. Under specified circumstances, the commissioner may proceed in District Court to enforce payment of the order.

For wage complaints over $3,000, an employee entitled to wages from an employer may – after two weeks have elapsed – bring an action against the employer in a court of competent jurisdiction to recover the unpaid wages.

If a court determines that an employer withheld an employee's wage unlawfully, and not as a result of a bona fide dispute, the court may award the employee up to three times the amount of wages owed, counsel fees, and other costs.

Employers who violate the State's Wage Payment and Collection Law are guilty of a misdemeanor and may be fined up to $1,000.

Federal Fair Labor Standards Act

With some exceptions, similar to State law, FLSA requires that workers be paid a minimum hourly wage and that overtime compensation be paid to employees who work more than 40 hours in a week.

Mandated Rate Increases

Chapter 262 of 2014 required the Governor's proposed budget in fiscal 2016 through 2019 for DDA to include an annual 3.5% rate increase for community service providers over the funding provided in the prior year's legislative appropriation.

Background: As of January 2019, as shown in **Exhibit 1**, 29 states, including Maryland, and the District of Columbia mandate a minimum wage higher than the federal minimum wage of $7.25 per hour, with rates ranging from $0.25 to $6.00 above the federal rate. Eight of these states (Alaska, Florida, Minnesota, Montana, New Jersey, Ohio, South Dakota, and Vermont) automatically increase their minimum wage rate based on the cost of living (and 9 more states will begin indexing their minimum wage rates to inflation in the next five years). Five states had no mandated minimum wage, another 2 had a minimum wage set lower than the federal minimum wage (and, therefore, are subject to the federal rate), and the remaining 14 states used the federal minimum wage. Unless a state has a higher minimum wage rate, the federal minimum wage rate applies.

California, Massachusetts, New Jersey, New York, and the District of Columbia have passed laws to phase in a $15.00 minimum wage rate. Some states, such as California, New York, Ohio, and Nevada, have different minimum wage rates based on various factors like employer size, location, and health benefits offered.

Exhibit 1
States with Higher than Federal Minimum Wage, as of January 2019

State	Rate	State	Rate
District of Columbia	$13.25	Minnesota	$9.86
California*	12.00	Arkansas	9.25
Massachusetts	12.00	Michigan	9.25
Washington	12.00	South Dakota	9.10
Colorado	11.10	Nebraska	9.00
New York*	11.10	New Jersey	8.85
Arizona	11.00	Delaware	8.75
Maine	11.00	West Virginia	8.75
Vermont	10.78	Missouri	8.60
Oregon	10.75	Ohio*	8.55
Rhode Island	10.50	Montana	8.50
Connecticut	10.10	Florida	8.46
Hawaii	10.10	Illinois	8.25
Maryland	**10.10**	Nevada*	8.25
Alaska	9.89	New Mexico	7.50

*California's minimum wage is $11.00 per hour for employers with 25 employees or fewer and $12.00 per hour for employers with 26 or more employees.
*New York's minimum wage rate varies based on location, industry, and size of a business. For example, generally the minimum wage rate is $15.00 per hour for New York City employers with 11 or more employees and $13.50 per hour for New York City employers with 10 or fewer employees. In Long Island and Westchester, the minimum wage rate is $12.00; elsewhere in the state it is $11.10.
*In Ohio, employers who gross less than $314,000 must pay their employees no less than the current federal minimum wage rate.
*In Nevada, the minimum wage rate is $7.25 per hour for employees who have qualifying health benefits offered by the employer and a minimum wage rate of $8.25 per hour for all other employees.

Source: U.S. Department of Labor; National Conference of State Legislatures

Local Jurisdiction Labor Laws

Prince George's County has a local minimum wage law of $11.50 per hour. Montgomery County has a local minimum wage law of $12.25 per hour for employers with 51 or more employees and $12.00 per hour for employers with 50 or fewer employees. The county minimum wages for Montgomery and Prince George's counties do not apply to an employee who is exempt from the minimum wage requirements of the Maryland Wage and Hour Law or the federal FLSA or to an employee who is younger than age 19 and is employed no more than 20 hours in a week. Montgomery County passed legislation in

2017 to gradually increase its minimum wage so that employers with 51 or more employees are required to pay a minimum wage of $15.00 per hour effective July 1, 2021; mid-sized employers are required to pay a minimum wage rate of $15.00 per hour effective July 1, 2023; and employers with fewer than 11 employees are required to pay a minimum wage of $15.00 per hour effective July 1, 2024, and the county indexes the minimum wage rates to inflation. An employer may pay a wage equal to 85% of the county minimum wage to an employee younger than age 20 for the first six months that the employee is employed.

Baltimore City enacted a city minimum wage rate in 1964, which was challenged in the State Court of Appeals in *Mayor of Baltimore v. Sitnick*, 254 Md. 303, 255 A.2d 376 (1969). The court found that the State's minimum wage rate did not preempt Baltimore's minimum wage law since Baltimore's law supplemented the State law by setting a higher rate. Baltimore City still has its own minimum wage statute with an enforcement commission, which currently enforces the State minimum wage rate in the city.

Effects on the Economy

There is much debate on how raising the minimum wage affects the economy. Positive impacts on the economy may include (1) increases in personal income; (2) decreases in employee turnover; (3) increases in local consumption; (4) higher labor force participation rates; (5) decreases in social welfare costs; and (6) higher levels of technological development, investment, and productivity.

However, on the downside, raising the minimum wage may (1) decrease demand for labor; (2) increase inflation from employers passing higher employee costs onto the consumer; (3) cause wage compression; (4) reduce local competitiveness; and (5) have disemployment effects. The disemployment effects happen when businesses hire fewer low-wage workers in response to an increase in the minimum wage; benefits to low-wage workers from increased wages may be offset by a reduction in hours worked or increased unemployment.

Tipped Employees

According to the U.S. Department of Labor, 7 states require employers to pay workers the full state minimum wage before tips in 2019 (Alaska, California, Minnesota, Montana, Nevada, Oregon, and Washington). Employers pay workers the federal tipped minimum wage of $2.13 per hour in 17 states. The remaining states, including Maryland, allow employers to pay tipped employees a minimum wage rate that is higher than the federal tipped minimum wage of $2.13 per hour but lower than the state's minimum wage.

State Revenues: General fund tax revenues may increase minimally from increasing the State's minimum wage beginning in fiscal 2020. Individuals earning minimum wage likely have low, if any, State income tax liability so raising the minimum wage only has a minimal effect on State income tax revenues. Any increase in personal income tax revenue is likely offset from diminished revenues from businesses with higher payroll expenses and potentially from a decrease in demand for labor. Given that raising the minimum wage boosts the purchasing power of minimum wage workers and generates new consumer spending, general fund sales tax revenues may increase minimally.

General fund revenues may increase minimally from penalties paid by employers who are found by the Department of Labor, Licensing, and Regulation (DLLR) to be in violation of the Maryland Wage and Hour Law or the Maryland Wage Payment and Collection Law.

As noted below, federal fund revenues increase to cover the federal fund share of the rate increase for community service providers and *may* increase to cover a small portion of the additional payroll costs incurred by the State.

State Expenditures: Expenditure effects – for the minimum wage increase, administrative costs, and rate increases for DDA providers – are addressed separately in this section.

Minimum Wage Increase

State expenditures (all funds) increase significantly as a result of incrementally raising the State minimum wage to $15.00 per hour by July 1, 2023; **Exhibit 2** displays some of the additional wages that must be paid to State employees in fiscal 2020 through 2024 under the bill.

State expenditures increase by $4.8 million in fiscal 2020, which is the total wage effect of the difference between $10.10 and the $11.00 wage rate established under the bill. Expenditures in future years are calculated based on the difference between the $10.10 minimum wage rate required under current law versus the rates under the bill so, by fiscal 2024, State expenditures increase by $84.3 million compared with the current $10.10 baseline. These costs do not take into account any future wage increases or increases in other compensation tied to wages, which may reduce the overall effect. Conversely, to combat wage compression, the State may increase wages for an employee who currently earns just above $11.00 per hour in fiscal 2020 or just above $15.00 per hour in fiscal 2024 and has more job responsibilities than a minimum wage employee. Any such wage adjustments further increase the State's expenditures, potentially significantly. To the extent the State currently pays 85% of the State minimum wage to employees younger than age 20 for the first six months of employment, State expenditures may also increase in fiscal 2019.

While the Judiciary reports that its full-time employees earn more than $15.00 per hour, a small number of seasonal temporary employees are paid the State minimum wage;

nevertheless, the higher minimum wage is not expected to have a measurable impact on the Maryland Judiciary as an employer.

Exhibit 2
Effect of Phasing in a $15.00 Minimum Wage on State Employees
Fiscal 2020-2024

Additional Staffing Costs	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Senior citizen aides	$84,581	$236,421	$388,261	$540,901	$694,561
DLS employees	857	5,889	20,820	41,318	70,926
TSHRS and MTA union employees	0	0	16,733	192,669	806,655
MDOT contractual/temporary employees	0	0	0	92,916	312,322
SPS university employees	1,087,723	2,548,680	4,374,371	6,632,071	9,113,216
Contractual employees in SPMS	196,517	674,251	1,506,961	2,807,293	4,591,702
Temporary employees in SPMS	0	0	0	31,627	99,306
Salaried employees in SPMS	0	57,011	349,864	1,124,874	2,637,450
St. Mary’s College employees	169,290	360,593	565,250	784,155	1,030,391
USM Employees	3,284,522	10,200,413	22,201,637	40,395,898	64,923,327
Increase in Expenditures	**$4,823,490**	**$14,083,259**	**$29,423,897**	**$52,643,722**	**$84,279,856**
Offsetting Federal Revenues	$84,581	$236,421	$388,261	$540,901	$694,561
Net Increase in Expenditures	**$4,738,909**	**$13,846,838**	**$29,035,636**	**$52,102,821**	**$83,585,295**

DLS: Department of Legislative Services
MDOT: Maryland Department of Transportation
MTA: Maryland Transit Administration
SPS: Statewide Personnel System (includes SPMS and three postsecondary institutions)
SPMS: State Personnel Management System
TSHRS: Transportation Service Human Resources System
USM: University System of Maryland

Note: Numbers may not sum to total due to rounding.

Source: Department of Legislative Services

Administrative Expenses

The bill creates additional responsibilities for DLLR's Division of Labor and Industry by expanding the scope of who is covered under the Maryland Wage and Hour Law (and to a lesser extent, the Maryland Wage Payment and Collection Law), gradually phasing out the tip credit, providing for subsequent increases in the minimum wage, and expanding anti-retaliation provisions. These changes are expected to significantly increase the number of inquiries and complaints related to payment of the minimum wage and increase field investigations related to the anti-retaliation provisions of the bill. DLLR cannot fully absorb the additional workload within existing resources and requires additional staff to respond to the increase in inquiries and complaints prompted by the bill.

DLLR advises that general fund expenditures increase by $1.2 million in fiscal 2020 for 16 additional employees to handle the increased workload stemming from the bill. The Department of Legislative Services (DLS) disagrees that 16 positions are required but agrees some additional staff are needed to handle the increased workload.

Thus, general fund expenditures increase for DLLR by $678,035 in fiscal 2020, which accounts for a one-month implementation delay from the bill's June 1, 2019 effective date. This estimate reflects the cost of hiring four DLLR wage and hour investigators to conduct outreach, respond to inquiries, investigate complaints, and enforce the new requirements; two civil rights officers to investigate anti-retaliation cases; one administrative officer to handle the penalty provisions of the bill and assist with various administrative functions; and one assistant Attorney General to handle legal proceedings. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	8.0
Salaries and Fringe Benefits	$482,825
Operating Expenses	195,210
Total FY 2020 DLLR Administrative Expenditures	**$678,035**

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

Additionally, general fund expenditures may increase depending on the number of cases filed in Maryland courts. It is unknown how many cases will be filed in court, but DLS assumes the bill does not materially affect the workload of the Judiciary.

Mandated Rate Increases for DDA Community Service Providers

The bill establishes a mandated appropriation beginning in fiscal 2021. Even so, beginning a year earlier (in fiscal 2020), the bill requires the Governor's proposed budget for DDA to include an annual specified rate increase for community service providers over the funding provided in the prior year's legislative appropriation. A portion of the funds *may* be allocated to address the impact of an increase in the State minimum wage on wages and benefits of direct support workers employed by community providers licensed by DDA.

The Governor's proposed fiscal 2020 budget includes $1.3 billion (total funds) for contractual expenses for DDA community service providers, which includes $42.5 million for a 3.5% rate increase for DDA community service providers, which is not required under current law. The bill's 7.0% required rate increase means that DDA community service providers receive an increase of $85.1 million in fiscal 2020, or double the amount included in the Governor's proposed fiscal 2020 budget. DDA expenditures increase by an estimated $428.6 million (53% general funds, 47% federal funds) in fiscal 2024 to provide a 7.14% rate increase to community service providers, which is the percentage increase in the State minimum wage rate from increasing the State minimum wage from $14.00 per hour to $15.00 per hour in fiscal 2024. (Federal fund revenues increase correspondingly.) Additionally, special fund expenditures from the Waiting List Equity Fund increase by $48,328 annually. The compounding effect of the rate increases on expenditures for fiscal 2020 through 2024 is shown in **Exhibit 3**.

Exhibit 3
Impact of Annual Rate Increase for Developmental Disabilities Providers
Fiscal 2020-2024
($ in Millions)

	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
General Fund	$45.02	$83.90	$124.91	$168.18	$227.45
Federal Fund	39.99	74.33	110.57	148.79	201.15
Special Fund	0.05	0.05	0.05	0.05	0.05
Total Expenditures	**$85.06**	**$158.28**	**$235.53**	**$317.03**	**$428.64**

Note: Numbers may not sum to total due to rounding.

Source: Department of Legislative Services

DLS notes that the bill attempts to establish a mandated appropriation beginning in fiscal 2020. Constitutionally, the General Assembly cannot mandate an appropriation for the coming fiscal year, and the bill's effective date is after the fiscal 2020 budget will have been passed. Thus, any amount provided in fiscal 2020 is discretionary. An alternative scenario involves using the Governor's proposed fiscal 2020 DDA allowance (with the 3.5% increase) as the baseline and then implementing the bill's mandates for fiscal 2021 and beyond. Under this scenario, which is shown in **Exhibit 4**, expenditures increase by $332.6 million in fiscal 2024 (53% general funds, 47% federal funds).

Exhibit 4
Alternative Scenario
Impact of Annual Rate Increase for Developmental Disabilities Providers
With Rate Increases Based on the Governor's Proposed Fiscal 2020 Budget
Fiscal 2020-2024
($ in Millions)

	FY 2020	**FY 2021**	**FY 2022**	**FY 2023**	**FY 2024**
General Fund	$0	$37.64	$77.34	$119.23	$176.61
Federal Fund	0	33.24	68.32	105.32	156.00
Total Expenditures	**$0**	**$70.88**	**$145.66**	**$224.55**	**$332.60**

Note: Numbers may not sum to total due to rounding.

Source: Department of Legislative Services

Local Expenditures: Expenditures could increase significantly by fiscal 2024 for some local governments to pay employees (typically part-time or contractual employees) the minimum wage rates specified in the bill. For example, Garrett County estimates expenditures increasing by $20,552 in fiscal 2020 and by $273,641 by fiscal 2024 to pay employees the specified State minimum wage rates. Other local jurisdictions may experience less of a fiscal impact. The City of College Park has no full-time or part-time employees who earn less than $15.00 per hour, so the city estimates expenditures only increase by approximately $360 in fiscal 2024 to pay a few temporary workers $15.00 per hour.

Montgomery County pays community service providers a wage supplement so that direct care workers receive, on average, 125% of the county minimum wage. Thus, the county advises that the mandated rate increases for community service providers may decrease the supplement that the county would likely fund beginning in fiscal 2020.

Small Business Effect: Small businesses in the State that employ minimum wage or low-wage workers experience significant increases in their labor costs due to the bill. The impact is even greater for small businesses that employ tipped employees and for employers that pay subminimum wages or are exempt from being required to pay employees the State minimum wage under the Maryland Wage and Hour Law.

Beginning June 1, 2019, small businesses will no longer be able to pay 85% of the State minimum wage to employees younger than age 20 for the first six months of employment and to employees in specified amusement, recreational, and swimming pool establishments. Small businesses may incur a substantial increase in labor costs for employing individuals who are no longer exempted from the Maryland Wage and Hour Law, which include those who work on commission; employees employed by an employer who is engaged in canning, freezing, packing, or first processing of perishable or seasonal fresh fruits, vegetables, poultry, or seafood; and certain farm workers.

BLS reports there were 41,630 waiters and waitresses in the State in 2017, earning median hourly wages of $9.54. By phasing out the tip credit and raising the State minimum wage, an employer must pay a tipped employee an hourly wage rate of at least $15.00 (plus the indexed inflation if applicable) instead of $3.63 by July 1, 2026. Thus, the bill has a significant adverse impact on small businesses that pay tipped employees.

To the extent that higher wages increase worker productivity, businesses would be less affected by the provisions of the bill. Additionally, minimum wage workers tend to have a low saving rate, so increasing their wages could lead to additional consumer spending for goods and services sold by small businesses.

Additional Information

Prior Introductions: None.

Cross File: SB 280 (Senator McCray, *et al.*) - Finance.

Information Source(s): Garrett and Montgomery counties; Maryland Association of Counties; City of College Park; Maryland Municipal League; Office of the Attorney General; Judiciary (Administrative Office of the Courts); University System of Maryland; St. Mary's College of Maryland; Department of Budget and Management; Maryland Department of Health; Department of Labor, Licensing, and Regulation; Maryland Department of Transportation; U.S. Department of Labor; U.S. Bureau of Labor Statistics; National Conference of State Legislatures; Department of Legislative Services

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