

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2015

Legislative Fiscal Note

BILL NUMBER: House Bill 230 (First Edition)

SHORT TITLE: Up Minimum Wage With COLA/Const. Amendment.

SPONSOR(S): Representatives Farmer-Butterfield, L. Hall, Fisher, and Cunningham

FISCAL IMPACT					
(\$ in millions)					
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No Estimate Available					
	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
State Impact					
General Fund Revenues:					
General Fund Expenditures:					
Special Fund Revenues:					
Special Fund Expenditures:					
State Positions:					
NET STATE IMPACT	Likely budget costs. See Assumptions & Methodology section for additional details.				
Local Impact					
Revenues:					
Expenditures:					
NET LOCAL IMPACT	Likely budget costs. See Assumptions & Methodology section for additional details.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:					
All State Agencies, Departments, and Institutions					
EFFECTIVE DATE: The bill is effective when it becomes law. If approved by voters, the amendment becomes effective December 1, 2016 and increases to the statewide minimum wage would begin January 1, 2017 .					
TECHNICAL CONSIDERATIONS:					
Yes - See Technical Considerations Section					

BILL SUMMARY:

House Bill 230, Up Minimum Wage with COLA/ Constitutional Amendment, authorizes a statewide ballot on a North Carolina Constitution amendment that would set a statewide minimum wage. The statewide minimum wage would be set at \$8.80 per hour effective December 1, 2016 if the ballot measure passes. The minimum wage would be automatically adjusted to reflect changes in the Consumer Price Index for all Urban Consumers, commonly referred to as the CPI-U, or other successor index, calculated by the U.S. Department of Labor. The NC Department of Labor

would determine the subsequent year's minimum wage on September 30, to take effect on January 1 of the following year. The statewide general election is to be held on November 8, 2016.

HB 230 provides for protection from discrimination for the exercise of any rights protected by this amendment, and for a civil action for people aggrieved by violations of this amendment, with specified relief, damages, and penalties. The bill does not require legislation to enforce these provisions but legislation is permissible. The General Assembly may establish additional remedies and fines for violations.

If approved by voters, the amendment becomes effective December 1, 2016 and increases to the statewide minimum wage would begin January 1, 2017 and on January 1 of successive years.

ASSUMPTIONS AND METHODOLOGY:

This fiscal note is based on the assumption that both HB 230 and that the ballot measure put to the voters in December, 2016, pass and the statewide minimum wage is increased to \$8.80 effective January 1, 2017. The analysis of the effect of increasing the minimum wage is limited to the direct effect on statewide expenditures and revenues.

Three potentially important analyses are beyond the scope of this fiscal memo:

- (1) An analysis of the bill's impact on local governments;
- (2) An analysis of the bill's impact on private businesses and nonprofits, and
- (3) An analysis of the long-term economic effects of increasing the minimum wage.

Background

North Carolina's minimum wage is tied to the national minimum wage set forth in paragraph 1 of section 6(a) of the Fair Labor Standards Act, 29 U.S.C. 6 206(a)(1). Currently, the minimum wage is \$7.25 per hour.

According to 2014 estimates provided by the US Bureau of Labor Statistics (BLS), there are approximately 68,000 employees in North Carolina earning the minimum wage and 45,000 employees earning less than the minimum wage. The BLS data excludes any commissions, tips, overtime pay, and self-employed persons. Therefore, the 45,000 population estimate earning less than minimum wage contains employees that receive tips and commissions as a part of their overall compensation and certain employees that are permitted under federal law to earn less than the applicable minimum wage. The automatic inflationary adjustment contained in the bill would affect the minimum wage rate applied to the estimated 68,000 employees included in the BLS data. G.S. 95-25.3 lays out a few exceptions to the minimum wage requirement, allowing certain employees to receive a percentage of the minimum wage.

Projected Inflation

Moody's estimates that the CPI-U for the next five years will range from 1.2% to 2.9% as shown in Table 1. Table 1 also provides the estimated minimum wage based upon projected increases in the CPI-U.

Table 1: Projected CPI-U¹ and Estimated Hourly Minimum Wage, 2016-2020

	2015	2016	2017	2018	2019	2020
Projected CPI-U	1.2%	1.9%	2.7%	2.9%	2.8%	2.4%
Est. Hourly Min. Wage	\$7.25		\$8.80	\$9.04	\$9.30	\$9.56

(HB 230 not in effect)

State Government Impact

Expenditures

HB 230 would have a fiscal impact on the State, increasing expenditures as the minimum wage increases. The additional costs come from increased wages paid to a small number of temporary and seasonal employees at various State agencies and UNC campuses.

State Employees

Permanent Full-time

An individual working full-time at the current federal minimum wage of \$7.25 per hour earns an annual salary of \$15,080 (assuming one works a 40 hour work week worked 52 weeks per year). In 2005, the General Assembly enacted a State Annual Fair Minimum Wage for all permanent full-time (i.e. salaried) employees subject to the State Human Resources Act (SHRA) of \$20,112, or \$9.67 per hour. Due to legislative salary adjustments since FY 2005-06, the effective Annual Fair Minimum Wage for permanent full-time SPA employees is now \$23,332, or \$11.21 per hour. This Annual Fair Minimum Wage reflects the pay for employees in positions at the minimum of salary grade 50.

Similarly in 2006, the General Assembly applied the State's Annual Fair Minimum Wage of \$20,112 to all permanent full-time non-certified employees in the local education agencies (i.e. public schools). Based on the Department of Public Instruction's FY 2012-13 salary schedules, the current effective minimum wage for non-certified public school employees is \$23,332 or \$11.21 per hour.

Because North Carolina's Annual Fair Minimum Wage applies to SPA employees, it excludes employees in positions that are exempt from the State Human Resources Act (EHRA), including employees of North Carolina community colleges, UNC and State agency EHRA employees, and LEA employees other than the non-certified personnel. The UNC System noted one permanent employee paid less than \$8.80 per hour (see Table 3 below). The NC Community College System (NCCCS) Office has identified 47 full-time positions of the over 16,000 in the system that are paid less than \$8.80 per hour.

State-funded personnel within the LEAs other than non-certified employees are paid in accordance with salary guidelines set in the Appropriations Act; these salaries for educators, school-based administrators, and central office personnel are all set above the State's Annual Fair Minimum Wage.

¹ These CPI-U projections are based on the fiscal year, July 1- June 30, and are the standard inflationary factors used by Fiscal Research. Calendar year inflationary projections may vary from these estimates. Regardless, these estimates have been applied in this analysis to illustrate the potential effect of inflation on the minimum wage.

Temporary, Part-time, Seasonal, and Student Employees

The statewide Annual Fair Minimum Wage discussed previously applies to permanent employees and excludes certain other State employees, namely temporary employees, but these employees must still be paid the federally-mandated minimum wage. State Statute and federal law allows for students (see G.S. 95-25.3(b)) and seasonal employees (see G.S. 95-25.3(d)) to be paid less than the federal minimum wage.

Office of State Personnel created Temporary Solutions in 1986 to provide temporary staffing services for State Government agencies and departments. Temporary Solutions currently has 24 employees earning the federal minimum wage and an additional 11 employees making less than \$8.80 per hour. There are approximately 732 other temporary State employees across a variety of State agencies that are being paid less than \$8.80 per hour.

Table 2: State Agency Employees Paid Less than \$8.80 per Hour, June 2015

	No. of Employees	Average Hourly Wage
Administration	88	\$ 8.25
Agriculture Consumer Services	9	\$ 8.51
Public Safety	56	\$ 7.83
Cultural Resources	43	\$ 7.40
Transportation	28	\$ 8.75
Environment Natural Resources	508	\$ 7.46
State Human Resources (Temp. Solutions)	35	\$ 7.51
Grand Total	767	\$ 7.64

In addition, there are 996 employees within the University of North Carolina (UNC) system that are paid less than \$8.80 per house, the majority of these employees are student employees subject to G.S. 95-25.3(b). Table 3 provides a breakdown of UNC system employees making less than \$8.80 per hour.

A survey of a two of the State’s community colleges revealed that they had no part-time, temporary, seasonal, or student employees making less than \$8.80 per hour. The System Office does not believe that there are many, if any employees making less than \$8.80 per hour across the system.

Table 3: UNC and NCCCS Employees Paid Less than \$8.80 per Hour, June 2015

UNC Student Employees	972
UNC Other Employes	20
UNC Graduate or Teaching Assistant (GTA)	3
UNC Permanent	1
NCCCS Full-time Employees	47
Grand Total	1,043

As evidenced by Tables 2 and 3, there are currently 1,810 State employees who make less than the minimum wage proposed in HB 230. However, no information is available on the source of funds for these positions nor on the number of hours worked by the individuals in these positions. Thus, the State is expected to have additional expenditures associated with increasing the salaries of the

1,763 positions making less than \$8.80 per hour, but there is no estimate of the total cost of this change.

Finally, there will be an annual cost of inflationary changes to the minimum wage in any year the CPI-U is positive. The cost of these inflationary adjustments will depend on (1) the number of employees making the minimum wage, (2) the number of hours worked by these employees, and (3) the annual change in statewide minimum wage each year. None of these factors are known at this time.

Therefore, no estimate of the expected cost of increasing salaries to \$8.80 per hour or of the cost of annual inflationary changes to the minimum wage for State employees is available.

State Board of Elections

There is no fiscal impact expected related to the cost of the ballot measure. A Statewide general election is already expected to be held November 8, 2016.

Department of Labor

HB 230 requires the Wage and Hour Division within the Department of Labor primarily administers the Wage and Hour Act by operating a call center available to employees working within North Carolina. The call center answers and investigates employee inquiries regarding employment wages along with other employee protection provisions detailed in the Wage and Hour Act. The bill provides an automatic minimum wage adjustment that could modify the state minimum wage each year, depending on the publication of the CPI-U. The annual change in the minimum wage could potentially cause an increase in call volume to the Wage and Hour Division from employers overlooking or slowly implementing annual changes. However, there is not sufficient information available to conclude that call volume would substantially increase; consequently, no fiscal impact is anticipated.

Table 4 contains the adjustments that would have occurred in the previous seven years if the inflationary adjustment mechanism provided in the bill was in effect. Note the negative year-over-year CPI-U calculation that occurred in 2009. Please see the technical considerations section.

Table 4: CPI-U 7-Year History Year, 2008-2014

	2008	2009	2010	2011	2012	2013	2014
CPI-U (Sept.)	4.9%	-1.3%	1.1%	3.9%	2.0%	1.3%	1.7%

Revenue

Increasing the salaries of State employees and workers across the State may generate additional revenue for the State. However, any analysis of this economic impact is beyond the scope of this fiscal note.

Section 1.1.(6) states that any employer or person found to be willfully violating the minimum wage will be subject to a fine of \$1,000 per violation or a civil action brought by the Attorney General. Per Article IX, Sec. 7, of the North Carolina Constitution revenue from all civil penalties, fines, and forfeitures “shall be faithfully appropriated and used exclusively for

maintaining free public schools.” Thus, all revenue from fines resulting from HB 230 would be credited to the Civil Penalty and Forfeiture Fund and transferred to local education agencies (LEAs) via the State Public School Fund and the State School Technology Fund.

SOURCES OF DATA:

1. U.S. Bureau of Labor Statistics. “Characteristics of Minimum Wage Workers, 2014.” <http://www.bls.gov/opub/reports/cps/characteristics-of-minimum-wage-workers-2014.pdf>
2. Moody’s. Projected Inflationary Rates. www.economy.com
3. U.S. Department of Labor, Wage & Hour Division. “The Fair Labor Standards Act of 1938, As Amended.” <http://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>
4. Office of State Human Resources. “2014 Salary Plan.” <http://www.oshr.nc.gov/Guide/CompWebSite/2014%20Salary%20Plan%20Book.pdf>
5. University of North Carolina-General Administration
6. BEACON

TECHNICAL CONSIDERATIONS:

1. Should adjustments to the minimum wage be tied to the CPI-U or another index of inflation such as the CPI-W (the CPI for Urban Wage Earners and Clerical Workers)? The table below shows the 5-year projections from Moodys.com for both the CPI-U and the CPI-W.

Category	FY2016	FY2017	FY2018	FY2019	FY2020
General (CPI-U)	1.85%	2.72%	2.88%	2.76%	2.44%
Salaries & Wages (CPI-W)	0.59%	1.48%	1.64%	1.47%	1.09%

2. Proposed G.S. 95-25.3 (a1) states that the Commissioner of Labor shall increase the minimum wage on January 1 of successive years by the increase in the cost of living. The bill does not provide guidance to the Commissioner if the CPI-U is negative (See Table 4, 2009). Should wages decline or remain unadjusted, and when should wages begin to increase once the CPI is positive?

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