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State and Local Law Update Could Signal Trend

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Employers should generally be aware and mindful of employment law at the state and local level as a possible signal of larger movements. Over the past couple of weeks, significant changes have occurred in minimum wage and family leave laws in California and New York.

On April 4, 2016, California and New York finalized legislation to increase those states' minimum wage to \$15 per hour, with the Governors from both states claiming "economic justice." In California, the minimum wage will be \$15 for large and small businesses alike by 2023. Several cities in California already had \$15 minimum wages in place. In New York, the raise in minimum wage will initially only affect New York City before moving on to the rest of the state. These changes come on the heels of thirteen states raising their minimum wages to varying degrees on January 1, 2016, and some larger companies either raising or pledging to raise their minimum wages even in the absence of a legal mandate to do so, including Wal-Mart, Target and McDonald's. The federal minimum wage, which has received significant attention during the current Presidential primaries, is \$7.25 and has been that rate since 2009.

Also on April 4, 2016, New York finalized probably the most generous family leave program in the country to date. The new law allows employees to take twelve weeks of partially-paid leave each year to care for a new child or seriously ill family member. By contrast, the federal Family and Medical Leave Act (FMLA), when applicable, generally allows for twelve weeks of unpaid leave for a qualified employee. While California, New Jersey, and Rhode Island already had paid leave laws in effect, New York's law went much further. California and New Jersey provide six weeks of paid leave, and Rhode Island allows four weeks of paid leave. Massachusetts and Connecticut are this year considering passage of laws providing for twelve weeks of paid family leave, and numerous other states are in varying steps of the process toward similar legislation. By the way, the New York plan is financed not by employers, but by small weekly paycheck deductions, thereby making it much more palatable and more likely to be mimicked in other jurisdictions.

On April 5, 2016 – one day after the flurry of activity in New York – San Francisco's Board of Supervisors approved legislation for six weeks of fully-paid family leave. If signed by the mayor, the law requires employers to make up the pay difference between the California state law on partial paid family leave and the employee's full rate of pay. The new San Francisco law is expected to take effect on January 1, 2017, and applies to businesses with 50 or more employees.

The trends for minimum wage hikes and more generous family leave seem to be present and growing. The end-goals for employee activists in these areas are (1) an increase to the federal minimum wage and (2) a federal law guaranteeing paid family leave, perhaps by amending the FMLA. Employers should continue to monitor these developments and always be on the lookout for possible compliance issues not only with federal and state law, but also local legislation, especially in the larger metropolitan areas.