

# **Administrative Rule Analysis**

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## **PAYMENT OF WAGES AND FRINGE BENEFITS**

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**Department: Licensing and Regulatory Affairs**  
**Agency: Michigan Occupational Safety and Health Administration**  
**Rule Set No.: 2013-019-LR**

**Complete to: 08/29/14**

## **BACKGROUND & SUMMARY OF PROPOSED RULES SUBMITTED TO JCAR**

The federal Fair Labor Standards Act of 1938 (FLSA) and rules promulgated under the FLSA define executive, administrative, and professional employment. The state Payment of Wages and Fringe Benefits act of 1978 stipulates that employers are exempt from maintaining specified payroll records for executive, administrative, and professional. The rule revisions proposed by 2013-019-LR would bring state definitions pertaining to executive, administrative, and professional employment in conformity with federal standards.

The proposed rule revisions would also bring the requirements for employment records in conformity with R 408.702 within the General Rules for the Wage and Hour Division of the Michigan Occupational Safety and Health Administration.

Approximately 1,100 employees of the City of Detroit or the Detroit Public Schools filed complaints under the Payment of Wages and Fringe Benefits act of 1978 with the Wage and Hour Division of the Michigan Occupational Safety and Health Administration. The Division asserted that it lacked jurisdiction under the Act. However, in absence of a specific rule concerning such jurisdiction, the courts granted the complainants appeal rights and ordered the Division to determine whether it had jurisdiction. 2013-019-LR proposes to promulgate a new rule that would stipulate instances in which the Division would dismiss a complaint due to lack of jurisdiction. The new rule would address jurisdiction issues similar to those found in the aforementioned complaints.

Lastly, 2013-019-LR proposes revisions requiring written statements of complaints, removing the Division as a required party to settlement agreements, and permitting verbal requests to cease enforcement on complaints involving amounts less than \$30.

## **FISCAL IMPACT OF PROPOSED RULES**

According to the Division, the rules revised and added by 2013-019-LR would have a nominal fiscal impact on the state to the extent that the Division would avoid labor costs engendered by reviewing and approving settlement agreements, mailing costs associated with complaints amounting to less than \$30, and court costs to resolve the currently ambiguous issues concerning jurisdiction.

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