HOUSE BILL 19-1210

A BILL FOR AN ACT
CONCERNING THE REPEAL OF THE PROHIBITIONS ON A LOCAL GOVERNMENT ESTABLISHING MINIMUM WAGE LAWS WITHIN ITS JURISDICTION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill allows a unit of local government to enact laws establishing a minimum wage within its jurisdiction.
Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Despite a statewide minimum wage rate, many Colorado workers struggle to afford the basic necessities of life;

(b) The cost of living can vary significantly from one community to another in Colorado;

(c) Addressing the minimum wage needs of workers is a matter of both state and local concern;

(d) Local minimum wage laws that can exceed the minimum wage required by state law offer local governments a way to address the particular minimum wage needs of workers and businesses in their jurisdiction;

(e) Studies of local minimum wage laws have shown that such laws can increase earnings for workers without negatively affecting employment;

(f) While state minimum wage laws can set a useful floor for workers and businesses, local governments should be able to listen to their residents and enact local minimum wage laws that better address their unique needs; and

(g) Ensuring that workers in Colorado can support themselves and their families benefits the larger economy and well-being of the state.

(2) Therefore, it is the intent of the general assembly to address the needs of workers across the state by empowering local governments to adopt local minimum wage laws requiring a higher minimum wage than the state when local governments determine that such laws are in the best interest of their jurisdiction.
SECTION 2. In Colorado Revised Statutes, add part 14 to article 1 of title 29 as follows:

PART 14

AUTHORITY OF LOCAL GOVERNMENT TO ENACT MINIMUM WAGE

29-1-1401. Authority of a local government to enact minimum wage laws - definition. (1) A LOCAL GOVERNMENT MAY ENACT LAWS ESTABLISHING A MINIMUM WAGE FOR INDIVIDUALS PERFORMING WORK WHILE PHYSICALLY WITHIN THE LOCAL GOVERNMENT'S JURISDICTION IN ACCORDANCE WITH SECTION 8-6-101.

(2) As used in this section, "LOCAL GOVERNMENT" MEANS A:

(a) City;
(b) Home rule city;
(c) Town;
(d) Territorial charter city;
(e) City and county;
(f) County; or
(g) Home rule county.

SECTION 3. In Colorado Revised Statutes, 8-3-102, amend (1) introductory portion; and repeal (1)(g)(II), (1)(g)(II.5), and (1)(g)(III) as follows:

8-3-102. Legislative declaration. (1) The public policy of the state as to employment relations and collective bargaining, in the furtherance of which this article ARTICLE 3 is enacted, is declared to be as follows:

(g) (II) No unit of local government, whether by acting through its governing body or an initiative, a referendum, or any other process, shall
enact any jurisdiction-wide law or ordinance with respect to minimum
wages unless specifically authorized to do so by this article; except that
a unit of local government may set minimum wages paid to its own
employees.

(II.5) Notwithstanding the provisions of subparagraph (II) of this
paragraph (g), any local government regulation or law pertaining to
minimum wages in effect as of January 1, 1999, shall remain in full force
and effect until such law is repealed by the local government entity that
enacted the law:

(III) If it is determined by the officer or agency responsible for
distributing federal moneys to a local government that compliance with
this paragraph (g) may cause denial of federal moneys that would
otherwise be available or would otherwise be inconsistent with
requirements of federal law, this section shall be suspended, but only to
the extent necessary to prevent denial of the moneys or to eliminate the
inconsistency with federal requirements.

SECTION 4. In Colorado Revised Statutes, 8-6-101, amend (3);
repeal (2); and add (4), (5), (6), (7), (8), and (9) as follows:

8-6-101. Legislative declaration - minimum wage of workers
- authority of a local government to enact minimum wage laws -
enforcement - definition. (2) The general assembly hereby finds and
determines that issues related to the wages of workers in Colorado have
important statewide ramifications for the labor force in this state. The
general assembly, therefore, declares that the minimum wages of workers
in this state are a matter of statewide concern:

(3) (a) No unit of local government, whether by acting through its
governing body or an initiative, a referendum, or any other process, shall
enact any jurisdiction-wide laws with respect to minimum wages; except that a unit of local government may set minimum wages paid to its own employees. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A LOCAL GOVERNMENT MAY ENACT THROUGH ITS GOVERNING BODY OR, WHEN AVAILABLE, THROUGH ITS INITIATIVE OR REFERENDUM POWERS, LAWS ESTABLISHING MINIMUM WAGES FOR INDIVIDUALS PERFORMING, OR EXPECTED TO PERFORM, FOUR OR MORE HOURS OF WORK FOR AN EMPLOYER IN ANY GIVEN WEEK WITHIN THE GEOGRAPHIC BOUNDARIES OF THE LOCAL GOVERNMENT’S JURISDICTION. MINIMUM WAGES ESTABLISHED IN ACCORDANCE WITH THIS SECTION MAY EXCEED THE STATEWIDE MINIMUM WAGE ESTABLISHED IN ACCORDANCE WITH SECTION 15 OF ARTICLE XVIII OF THE STATE CONSTITUTION, ANY OTHER MINIMUM WAGE ESTABLISHED BY STATE LAW, OR ANY MINIMUM WAGE ESTABLISHED BY FEDERAL LAW; EXCEPT THAT A LOCAL GOVERNMENT THAT ENACTS A MINIMUM WAGE IN ACCORDANCE WITH THIS SUBSECTION (3) SHALL PROVIDE A TIP OFFSET FOR EMPLOYEES OF ANY BUSINESS OR ENTERPRISE THAT PREPARES AND OFFERS FOR SALE FOOD OR BEVERAGES FOR CONSUMPTION EITHER ON OR OFF THE PREMISES LESS THAN OR EQUAL TO THE TIP OFFSET PROVIDED IN SECTION 15 OF ARTICLE XVIII OF THE STATE CONSTITUTION. THE TIP OFFSET APPLIES ONLY TO EMPLOYEES WHO REGULARLY RECEIVE TIPS AND ONLY WHEN A TIP OFFSET IS PERMITTED BY STATE LAW. A LOCAL GOVERNMENT SHALL NOT INCLUDE IN ITS MINIMUM WAGE LAWS TIME SPENT IN THE LOCAL GOVERNMENT’S JURISDICTION BY AN EMPLOYEE SOLELY FOR THE PURPOSE OF TRAVELING THROUGH THE LOCAL GOVERNMENT’S JURISDICTION FROM A POINT OF ORIGIN OUTSIDE OF THE LOCAL GOVERNMENT’S BOUNDARIES TO A DESTINATION OUTSIDE OF THE LOCAL GOVERNMENT’S BOUNDARIES, WITH NO EMPLOYMENT-RELATED
OR COMMERCIAL STOPS IN THE LOCAL GOVERNMENT'S JURISDICTION,
EXCEPT FOR REFUELING OR THE EMPLOYEE'S PERSONAL MEALS OR ERRANDS.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3), any local government regulation or law pertaining to minimum wages in effect as of January 1, 1999, shall remain in full force and effect until such law is repealed by the local government entity that enacted the law. A LOCAL GOVERNMENT THAT ENACTS ANY MINIMUM WAGE LAWS IN ACCORDANCE WITH THIS SUBSECTION (3) MAY ADOPT PROVISIONS FOR THE LOCAL ENFORCEMENT OF THE LAWS, INCLUDING:

(I) A PRIVATE RIGHT OF ACTION TO ENFORCE THE REQUIREMENT IN A COURT OF COMPETENT JURISDICTION;

(II) AT LEVELS THAT MAY EXCEED THOSE SET BY STATE LAW:

(A) FINES AND PENALTIES;

(B) PAYMENT OF UNPAID WAGES OR UNPAID OVERTIME BASED ON THOSE WAGES;

(C) LIQUIDATED DAMAGES;

(D) INTEREST;

(E) COSTS AND ATTORNEY FEES PAYABLE TO ANY AFFECTED PREVAILING EMPLOYEE; AND

(F) COSTS AND ATTORNEY FEES PAYABLE TO THE LOCAL GOVERNMENT OR ITS DESIGNATED ENFORCEMENT DEPARTMENTS;

(III) PROCEDURES FOR THE LOCAL GOVERNMENT TO ORDER ANY APPROPRIATE OR EQUITABLE RELIEF; AND

(IV) OTHER PROVISIONS NECESSARY FOR THE EFFICIENT AND COST-EFFECTIVE ENFORCEMENT OF LOCAL MINIMUM WAGE LAWS.

(c) (I) If it is determined by the officer or agency responsible for
distributing federal moneys to a local government that compliance with this subsection (3) may cause denial of federal moneys that would otherwise be available or would otherwise be inconsistent with requirements of federal law, this section shall be suspended, but only to the extent necessary to prevent denial of the moneys or to eliminate the inconsistency with federal requirements. Except as provided in subsection (3)(c)(II) of this section, a local minimum wage adopted by a county is only enforceable within the unincorporated portion of the county.

(II) One or more contiguous counties and any municipality within each county may enter into intergovernmental agreements to establish local minimum wage laws within the unincorporated portion of each county and within each municipality. An intergovernmental agreement entered into in accordance with this subsection (3)(c) must establish the manner in which a local government minimum wage law will be enforced and administered.

(d) Before enacting a minimum wage law, a local government shall consult with surrounding local governments and engage stakeholders, including chambers of commerce, small and large businesses, businesses that employ tipped workers, workers, labor unions, and community groups.

(4) For purposes of this section, "local government" means A:

(a) City;
(b) Home rule city;
(c) Town;
(d) TERRITORIAL CHARTER CITY;
(e) CITY AND COUNTY;
(f) COUNTY; OR
(g) HOME RULE COUNTY.

(5) IF ANY PROVISION OF THIS SECTION IS FOUND BY A COURT OF COMPETENT JURISDICTION TO BE UNCONSTITUTIONAL, THE REMAINING PROVISIONS OF THIS SECTION ARE VALID, UNLESS IT APPEARS TO THE COURT THAT THE VALID PROVISIONS OF THIS SECTION ARE SO ESSENTIALLY AND INSEPARABLY CONNECTED WITH, AND SO DEPENDENT UPON, THE VOID PROVISION THAT IT CANNOT BE PRESUMED THE LEGISLATURE WOULD HAVE ENACTED THE VALID PROVISIONS WITHOUT THE VOID ONE; OR UNLESS THE COURT DETERMINES THAT THE VALID PROVISIONS, STANDING ALONE, ARE INCOMPLETE AND ARE INCAPABLE OF BEING EXECUTED IN ACCORDANCE WITH THE LEGISLATIVE INTENT.

(6) A LOCAL GOVERNMENT THAT ENACTS A LOCAL MINIMUM WAGE LAW PURSUANT TO THIS SECTION MUST SPECIFY THAT AN INCREASE IN THE LOCAL MINIMUM WAGE MUST TAKE EFFECT ON THE SAME DATE AS A SCHEDULED INCREASE TO THE STATEWIDE MINIMUM WAGE REQUIRED UNDER SECTION 15 OF ARTICLE XVIII OF THE STATE CONSTITUTION.

(7) IF A LOCAL GOVERNMENT ENACTS A LOCAL MINIMUM WAGE LAW REQUIRING A MINIMUM WAGE THAT EXCEEDS THE STATEWIDE MINIMUM WAGE, THE LOCAL GOVERNMENT MAY ONLY INCREASE THE LOCAL MINIMUM WAGE EACH YEAR BY UP TO ONE DOLLAR AND SEVENTY-FIVE CENTS OR FIFTEEN PERCENT, WHICHEVER IS HIGHER, UNTIL THE LOCAL MINIMUM WAGE REACHES THE AMOUNT ENACTED BY THE LOCAL GOVERNMENT.

(8) (a) BY JULY 1, 2021, THE EXECUTIVE DIRECTOR OF THE
DEPARTMENT OF LABOR AND EMPLOYMENT SHALL ISSUE A WRITTEN REPORT REGARDING LOCAL MINIMUM WAGE LAWS IN THE STATE. THE REPORT MUST INCLUDE THE LOCATION, NATURE, AND SCOPE OF ENACTED LOCAL MINIMUM WAGE LAWS. TO THE EXTENT FEASIBLE, THE EXECUTIVE DIRECTOR SHALL ALSO INCLUDE IN THE REPORT ECONOMIC DATA, INCLUDING JOBS, EARNINGS, AND SALES TAX REVENUE, IN THE JURISDICTION OF ANY LOCAL GOVERNMENT THAT HAS ENACTED A LOCAL MINIMUM WAGE LAW PURSUANT TO THIS SECTION, AS WELL AS DATA FOR NEIGHBORING JURISDICTIONS, RELEVANT REGIONS, AND THE STATE. THE REPORT MAY INCLUDE RECOMMENDATIONS FOR POSSIBLE IMPROVEMENTS TO THIS SECTION.

(b) The executive director shall update the report by July 1 each year thereafter if an additional local government enacts a minimum wage law after July 1 of the year prior.

(c) (1) The executive director shall submit the report required in this subsection (8) to the Senate Local Government Committee and the House of Representatives Transportation and Local Government Committee, or their successor committees.

(II) Notwithstanding section 24-1-136 (11)(a)(I), the report required in this subsection (8) continues indefinitely.

(9) (a) The executive director of the Department of Labor and Employment shall notify the executive director of the Department of Health Care Policy and Financing if a local government enacts a minimum wage that exceeds the statewide minimum wage.

(b) If the executive director of the Department of Health Care Policy and Financing receives notice pursuant to subsection
(9)(a) of this section, the executive director shall, as soon as practicable, submit a report to the joint budget committee with recommendations about whether provider rates need to be increased to accommodate the local government's minimum wage increase and if establishing a fund to pass through those increases to facilities in the jurisdiction of the local government that has raised the minimum wage is necessary.

(c) notwithstanding section 24-1-136(11)(a)(I), the report required in this subsection (9) continues indefinitely.

SECTION 5. In Colorado Revised Statutes, 8-12-102, repeal (2) as follows:

8-12-102. Legislative declaration. (2) (a) the general assembly hereby finds and determines that certain issues related to youth employment in Colorado have important statewide ramifications for the labor force in this state. in particular, the general assembly declares that the issue of minimum wages, as it relates to youth employment in this state, is a matter of statewide concern.

(b) no unit of local government, whether by acting through its governing body or an initiative, a referendum, or any other process, shall enact any jurisdiction-wide law or ordinance with respect to the minimum wages earned by young people unless otherwise specifically authorized to do so by this article; except that a unit of local government may enact such provisions with respect to its own employees.

SECTION 6. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.