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) and (5) 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 WORK
WHILE PHYSICALLY WITHIN 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.

(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.

(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.

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.