

Authority of Local Governments to Enact Minimum Wages

Under H.B. 19-1210, as of January 1, 2020, any “local government may enact a law establishing a minimum wage for Individuals performing work while physically within ... [its] jurisdiction” (C.R.S. § 29-1-1401(1))

Local Governments Permitted to Establish Minimum Wages:

- The following local governments may establish a minimum wage: city, county, town, home rule city or county, territorial charter city, and city or county. (CRS 29-1-1401(2))
- One or more contiguous counties and any municipality within each county may enter into an intergovernmental agreement to establish local minimum wages within the unincorporated portion of each county and within each municipality. (CRS 8-6-101(3)(c)(II))

Parties Subject to Minimum Wages Enacted by a Local Government:

- 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. (CRS 8-6-101(3)(a)(I))
- A local minimum wage adopted by a county is enforceable only within the unincorporated portion of the county. (CRS 8-6-101(3)(c)(I))

Requirements and Methods to Establish a Local Government Minimum Wage:

- Local Government may enact a minimum wage either through its governing body or, through its initiative or referendum powers. (CRS 8-6-101(3)(a)(I))
- Before enacting any minimum wage, a local government must consult 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. (CRS 8-6-101(3)(d))

Relationship of Local Minimum Wages to State or Federal Minimum Wages:

- May exceed the state and/or federal minimum wage (CRS 8-6-101(3)(a)(I))
- Must take effect the same date as a scheduled increase to the statewide minimum wage under the Colorado Constitution, Article xviii, Section 15. (CRS 8-6-101(6))
- Must provide the state tip offset (Colo. Const. Art. xviii, Sec. 15) for employers that prepare and sell food or beverages for consumption, but only for employees who regularly receive tips, and only when state law permits a tip offset. (CRS 8-6-101(3)(a)(I))
- Local government may increase the minimum wage by no more than \$1.75 or 15% per year (whichever is higher). (CRS 8-6-101(7))

Enforcement Methods Local Governments May Implement:

A local government that enacts a minimum wage may adopt provisions for local enforcement, including:

- a private right to sue to enforce the minimum wage in court;
- payment of all unpaid wages;
- liquidated damages a percentage, or a multiple, of the unpaid wages);
- fines and penalties;
- interest;

- costs and attorney fees, payable to any affected prevailing employee, as well as to the local government or its designated enforcement departments;
- procedures for local government to order appropriate or equitable relief; and
- other provisions necessary for the efficient and cost-effective enforcement of a local minimum wage law. (C.R.S. § 8-6-101(3)(b))

When a Local Government Needs General Assembly Approval:

If and when 10% of local governments have enacted a local minimum wage, local governments that have not previously enacted a local minimum wage may not do so without authorization by the Colorado General Assembly. (C.R.S. § 8-6-101(10))

Recommendations of the Division of Labor Standards and Statistics for Local Governments Considering Enacting Minimum Wages:

Consult the Division before drafting the enforcement procedures, to avoid having inconsistent or duplicative state/local filing, relief, or other rules, to the detriment of employers and employees.

To help any proposed local minimum wages be implemented smoothly and compliant with state law, the Division is available to advise any local government considering adopting a local minimum wage.

Inform the Division after any minimum wage is enacted or changed, because all such enactments or changes (whether annual or otherwise) must be reported by the Division to the state legislature.