

By: McClendon

H.B. No. 396

A BILL TO BE ENTITLED

AN ACT

relating to the state minimum wage, including adjustments based on the consumer price index and authorization for a county or municipality to establish a local minimum wage.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 62.051, Labor Code, is amended to read as follows:

Sec. 62.051. MINIMUM WAGE. (a) In this section:

(1) "Adjusted minimum wage" means the minimum wage as calculated under Subsection (d).

(2) "Consumer price index" means the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), published by the Bureau of Labor Statistics of the United States Department of Labor.

(b) This section applies only to wages paid to an employee who is subject to the minimum wage provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.).

(c) Except as provided by Sections 62.052 and [Section] 62.057, an employer shall pay to each employee not less than the greater of:

(1) the adjusted minimum wage; or

(2) the federal minimum wage under Section 6, Fair Labor Standards Act of 1938 (29 U.S.C. Section 206).

(c-1) This subsection applies to wages paid by an employer

1 for the 2016 and 2017 calendar years. Subsection (c) does not apply
2 in a year to which this subsection applies. Except as provided by
3 Sections 62.052 and 62.057:

4 (1) for the 2016 calendar year, an employer shall pay
5 to each employee not less than the greater of:

6 (A) \$8.75 an hour; or

7 (B) the federal minimum wage under Section 6,
8 Fair Labor Standards Act of 1938 (29 U.S.C. Section 206); and

9 (2) for the 2017 calendar year, an employer shall pay
10 to each employee not less than the greater of:

11 (A) \$10.10 an hour; or

12 (B) the federal minimum wage under Section 6,
13 Fair Labor Standards Act of 1938 (29 U.S.C. Section 206).

14 (c-2) Subsection (c-1) and this subsection expire January
15 1, 2018.

16 (d) Not later than September 30 of each year, the commission
17 shall calculate, to the nearest cent, the adjusted minimum wage to
18 be paid for the next calendar year, if applicable, by increasing the
19 adjusted minimum wage for that calendar year by the percentage
20 increase, if any, in the consumer price index, for the 12-month
21 period that ends on August 31 preceding the calculation.

22 (e) The adjusted minimum wage may not be decreased under
23 this section on the basis of any decrease in the consumer price
24 index.

25 (f) A reference in this code or another law to the minimum
26 wage established by state law means the adjusted minimum wage.

27 SECTION 2. Section 62.0515, Labor Code, is amended to read

1 as follows:

2 Sec. 62.0515. ~~[APPLICATION OF]~~ MINIMUM WAGE ESTABLISHED BY
3 ~~[TO]~~ CERTAIN GOVERNMENTAL ENTITIES; CERTAIN AGREEMENTS WITH
4 GOVERNMENTAL ENTITIES. (a) A municipality may adopt a minimum wage
5 that is greater than the minimum wage established by Section 62.051
6 to be paid by an employer to each employee for services performed in
7 the municipality. A county may adopt a minimum wage that is greater
8 than the minimum wage established by Section 62.051 to be paid by an
9 employer to each employee for services performed in the
10 unincorporated areas of the county, including areas located within
11 the extraterritorial jurisdiction of a municipality. ~~[Except as~~
12 ~~otherwise provided by this section, the minimum wage provided by~~
13 ~~this chapter supersedes a wage established in an ordinance, order,~~
14 ~~or charter provision governing wages in private employment, other~~
15 ~~than wages under a public contract.]~~

16 (b) ~~[This section does not apply to any state or federal job~~
17 ~~training or workforce development program.]~~

18 ~~[(c) This section does not apply to a minimum wage~~
19 ~~established by a governmental entity that applies to a contract or~~
20 ~~agreement, including a non-annexation agreement, entered into by a~~
21 ~~governmental entity and a private entity.]~~ A private entity that
22 enters into a contract or agreement, including a non-annexation
23 agreement, with a governmental entity, under the terms of which the
24 private entity agrees to comply with a minimum wage that is greater
25 than the minimum wage established by Section 62.051 or, if
26 applicable, Subsection (a) of this section ~~[the governmental~~
27 ~~entity]~~, is subject to the terms of that contract or agreement, and

1 those terms apply to and may be enforced against a general
2 contractor, subcontractor, developer, and other person with which
3 the private entity contracts in order to comply with the provisions
4 of the original contract or agreement.

5 [~~(d)~~] For purposes of this subsection [~~section~~],
6 "governmental entity" includes a municipality, a county, a special
7 district or authority, a junior college district, or another
8 political subdivision of this state.

9 SECTION 3. Subchapter D, Chapter 62, Labor Code, is amended
10 by adding Section 62.162 to read as follows:

11 Sec. 62.162. CERTAIN SMALL BUSINESSES. An employer that
12 employs fewer than 26 employees is exempt from this chapter.

13 SECTION 4. Section 62.151, Labor Code, is repealed.

14 SECTION 5. Not later than September 30, 2017, the Texas
15 Workforce Commission shall determine the first increase in the
16 adjusted minimum wage, if any, as required by Section 62.051(d),
17 Labor Code, as added by this Act. For purposes of that computation,
18 the adjusted minimum wage for the 2017 calendar year is \$10.10 an
19 hour.

20 SECTION 6. This Act takes effect January 1, 2016.