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SENATE BILL 36

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

William P. Soules

AN ACT

RELATING TO LABOR; RAISING THE MINIMUM WAGE; PROVIDING
ALTERNATIVES; REQUIRING COST-OF-LIVING ADJUSTMENTS; ALLOWING
LOCAL GOVERNMENT MINIMUM WAGE ENACTMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 50-4-22 NMSA 1978 (being Laws 1955,
Chapter 200, Section 3, as amended) is amended to read:

"50-4-22. MINIMUM WAGES.--

~~[A. An employer shall pay an employee the minimum
wage rate of six dollars fifty cents (\$6.50) an hour. As of
January 1, 2009, an employer shall pay the minimum wage rate of
seven dollars fifty cents (\$7.50) an hour.]~~

A. Except as provided in Subsections B and C of
this section, an employer shall pay an employee the minimum
wage of eight dollars forty-five cents (\$8.45) an hour adjusted

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1 annually on January 1 for the increase, if any, in the cost of
2 living pursuant to Subsection D of this section.

3 B. An employer employing ten or fewer employees
4 shall pay the minimum wage of seven dollars fifty cents (\$7.50)
5 an hour adjusted annually on January 1 for the increase, if
6 any, in the cost of living pursuant to Subsection D of this
7 section.

8 C. An employer employing ten or more employees and
9 also employing trainee employees shall pay a trainee employee
10 during the training period the minimum wage rate of seven
11 dollars fifty cents (\$7.50) per hour adjusted annually on
12 January 1 for the increase, if any, in the cost of living
13 pursuant to Subsection D of this section; provided that after
14 six months from the date of hire, the employer shall pay a
15 trainee employee the minimum wage set forth in Subsection A of
16 this section.

17 D. Beginning on January 1, 2018 and then on January
18 1 of each subsequent year, an employer shall pay an employee
19 the prior year's minimum wage increased by a percentage equal
20 to the percentage increase, if any, in the cost of living
21 calculated pursuant to Subsection E of this section with the
22 amount of the minimum wage increase rounded to the nearest
23 multiple of five cents (\$.05).

24 E. No later than September 30 of each year,
25 beginning in 2017, the workforce solutions department shall

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1 calculate a percentage increase, if any, in the cost of living
2 based upon the percentage increase, if any, from August of the
3 preceding year to August of the year in which the calculation
4 is made in the United States city average consumer price index
5 for all urban consumers for all items as prepared by the bureau
6 of labor statistics of the United States department of labor or
7 its successor. The workforce solutions department shall
8 publish no later than November 1 of each year the adjusted
9 minimum wage rates that shall take effect the following January
10 1. Minimum wage rates shall not be adjusted downward as a
11 result of a decrease in the cost of living.

12 F. Nothing in this section shall:

13 (1) be construed to authorize or require an
14 employer to lower the hourly wage of an employee; or

15 (2) replace or preempt the enactment of a
16 local governing body that sets a minimum wage rate higher than
17 a minimum wage rate set pursuant to this section.

18 ~~[B.]~~ G. An employer furnishing food, utilities,
19 supplies or housing to an employee who is engaged in
20 agriculture may deduct the reasonable value of such furnished
21 items from any wages due to the employee.

22 ~~[G.]~~ H. An employee who customarily and regularly
23 receives more than thirty dollars (\$30.00) a month in tips
24 shall be paid a minimum hourly wage of [~~two dollars thirteen~~
25 ~~cents (\$2.13)] two dollars sixty-five cents (\$2.65) per hour~~

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1 adjusted annually on January 1 for the increase, if any, in the
2 cost of living pursuant to Subsection D of this section. The
3 employer may consider tips as part of wages, but the tips
4 combined with the employer's cash wage shall not equal less
5 than the minimum wage rate as provided in Subsection A of this
6 section. All tips received by such employees shall be retained
7 by the employee, except that nothing in this section shall
8 prohibit the pooling of tips among employees.

9 ~~[D-]~~ I. An employee shall not be required to work
10 more than forty hours in any week of seven days, unless the
11 employee is paid one and one-half times the employee's regular
12 hourly rate of pay for all hours worked in excess of forty
13 hours. For an employee who is paid a fixed salary for
14 fluctuating hours and who is employed by an employer a majority
15 of whose business in New Mexico consists of providing
16 investigative services to the federal government, the hourly
17 rate may be calculated in accordance with the provisions of the
18 federal Fair Labor Standards Act of 1938 and the regulations
19 pursuant to that act; provided that in no case shall the hourly
20 rate be less than the federal minimum wage."

21 **SECTION 2. EFFECTIVE DATE.**--The effective date of the
22 provisions of this act is July 1, 2017.