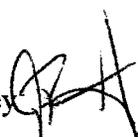


MEMORANDUM

April 8, 2016

TO: County Council

FROM: Josh Hamlin, Legislative Attorney 

SUBJECT: **Introduction:** Bill 12-16, Human Rights and Civil Liberties – County Minimum Wage – Amount - Annual Adjustment

Bill 12-16, Human Rights and Civil Liberties – County Minimum Wage – Annual Adjustment, sponsored by Lead Sponsor Councilmember Elrich, and Co-Sponsors Councilmembers Leventhal, Riemer and Navarro, is scheduled to be introduced on April 12. A public hearing is tentatively scheduled for June 21 at 7:30 p.m.

Bill 12-16 would:

- increase the County minimum wage by a certain amount;
- require the Chief Administrative Officer to adjust the County minimum wage rate each year; and
- generally amend the laws governing the minimum wage

Background

In 2013, the Council enacted Bill 27-13,¹ which established a County minimum wage for private sector employees working in the County, unless the State or federal minimum wage is higher. The County minimum wage established under Bill 27-13, as amended, is phased in over several years. The rate was set at \$8.40 per hour effective October 1, 2014, and increased to \$9.55 per hour on October 1, 2015. It is set to increase to \$10.75 on July 1 of this year, and will go to \$11.50 per hour on July 1, 2017. The County minimum wage does not apply to a worker who is exempt from the State or federal minimum wage, is under the age of 19 years and is employed no more than 20 hours per week, or subject to an “opportunity wage” under the State or federal law. Employers of tipped employees may include in the computation of their wage amount a “tip credit” not exceeding the County minimum wage less \$4.00 per hour.

In 2014, the Maryland General Assembly enacted a law raising the State’s minimum wage from \$7.25 to \$10.10 per hour over four years, with incremental increases to \$8.25 in 2015, \$8.75 in 2016, \$9.25 in 2017, and \$10.10 in 2018. The federal minimum wage is \$7.25 hour and

¹ The County minimum wage law has been amended twice since being established by Bill 27-13. Bill 59-14 modified some of the effective dates for increases, and Bill 24-15 modified the method for calculating the “tip credit” allowed to employers of tipped employees.

has not changed since 2009.² There is a nationwide effort to increase the minimum wage at the federal, state, and local levels to \$15.00 per hour, which has thus far had some success.³ California and New York are currently in the process of enacting statewide laws that would increase the minimum wage for at least some workers to \$15.00 per hour over a period of years.

Bill 12-16 would extend the incremental increases set in County law to go up to \$15.00 per hour effective July 1, 2020. Under the Bill's transition provisions, the County minimum wage would increase to \$12.50 in 2018, \$13.75 in 2019, and \$15.00 in 2020. Additionally, the Bill would require, beginning in 2021, annual adjustments to the minimum wage by the annual average increase, if any, in the Consumer Price Index for Urban Wage Earners and Clerical Workers, CPI-W for the previous calendar year.

Legal Authority

Montgomery County can set its own minimum wage by law even though the State of Maryland has a minimum wage law. In *City of Baltimore v. Sitnick*, 254 Md. 303 (1969), the Maryland Court of Appeals upheld a city ordinance establishing a minimum wage standard that was higher than the State standard. In that case, the plaintiffs argued that State law had preempted the field of minimum wage. In rejecting that argument, the Court held that the City of Baltimore could pass its own minimum wage law based on the city's exercise of concurrent power because the city law did not conflict with the State law.

| This packet contains: | Circle # |
|----------------------------|----------|
| Bill 12-16 | 1 |
| Legislative Request Report | 4 |

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² A chart showing the federal minimum wage rates from 1938-2009 is at <http://www.dol.gov/whd/minwage/chart.htm>

³ A summary of jurisdictions approving some form of \$15 minimum wage is at <http://www.nelp.org/content/uploads/PR-Minimum-Wage-Year-End-15.pdf>

Bill No. 12-16
Concerning: Human Rights and Civil Liberties – County Minimum Wage – Amount – Annual Adjustment
Revised: 03/29/2016 Draft No. 2
Introduced: April 12, 2016
Expires: October 12, 2017
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Elrich
Co-Sponsors: Councilmembers Leventhal, Riemer and Navarro

AN ACT to:

- (1) increase the County minimum wage by a certain amount;
- (2) require the Chief Administrative Officer to adjust the County minimum wage rate each year; and
- (3) generally amend the laws governing the minimum wage

By amending

Montgomery County Code
Chapter 27, Human Rights and Civil Liberties
Article XI. County Minimum Wage
Section 27-68

| | |
|------------------------------|--|
| Boldface | <i>Heading or defined term.</i> |
| <u>Underlining</u> | <i>Added to existing law by original bill.</i> |
| [Single boldface brackets] | <i>Deleted from existing law by original bill.</i> |
| <u>Double underlining</u> | <i>Added by amendment.</i> |
| [[Double boldface brackets]] | <i>Deleted from existing law or the bill by amendment.</i> |
| * * * | <i>Existing law unaffected by bill.</i> |

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec 1. Section 27-68 is amended as follows:**

2 **27-68. Minimum Wage Required.**

3 (a) *County minimum wage.* Except as provided in Subsection (b), an
4 employer must pay wages to each employee for work performed in the
5 County at least the greater of:

- 6 (1) the minimum wage required for that employee under the Federal
7 Act;
8 (2) the minimum wage required for that employee under the State
9 Act; or
10 (3) [\$11.50] \$15.00 per hour.

11 (b) *Annual adjustment.* The Chief Administrative Officer must adjust the
12 minimum wage rate required under Subsection (a)(3), effective July 1,
13 2021, and July 1 of each subsequent year, by the annual average
14 increase, if any, in the Consumer Price Index for Urban Wage Earners
15 and Clerical Workers, CPI-W, or a successor index, for the previous
16 calendar year. The Chief Administrative Officer must calculate the
17 adjustment to the nearest multiple of five cents, and must publish the
18 amount of this adjustment not later than March 1 of each year.

19 (c) *Exclusions.* The County minimum wage does not apply to an employee
20 who:

- 21 (1) is exempt from the minimum wage requirements of the State or
22 Federal Act;
23 (2) is under the age of 19 years and is employed no more than 20
24 hours per week; or
25 (3) is subject to an opportunity wage under the State or Federal Act.

26 [(c)](d) *Retaliation prohibited.* A person must not:

- 27 (1) retaliate against any person for:

- 28 (A) lawfully opposing any violation of this Article; or
- 29 (B) filing a complaint, testifying, assisting, or participating in
- 30 any manner in an investigation, proceeding, or hearing
- 31 under this Article; or
- 32 (2) obstruct or prevent enforcement or compliance with this Article.

Sec. 2. Transition.

34 Notwithstanding Section 27-68, as amended in Section 1, the County
35 minimum wage, until July 1, 2020, must be the greater of the minimum wage
36 required under the Federal or State Act or:

- 37 (a) effective July 1, 2017, \$11.50 per hour;
- 38 (b) effective July 1, 2018, \$12.50 per hour;
- 39 (c) effective July 1, 2019, \$13.75 per hour.

Sec. 3. Effective Date.

41 This Act takes effect on October 1, 2016.

42 *Approved:*

43 Nancy Floreen, President, County Council Date

44 *Approved:*

45 Isiah Leggett, County Executive Date

46 *This is a correct copy of Council action.*

47 Linda M. Lauer, Clerk of the Council Date

LEGISLATIVE REQUEST REPORT

Bill 12-16

Human Rights and Civil Liberties – County Minimum Wage – Amount - Annual Adjustment

- DESCRIPTION:** The Bill would increase the County minimum wage that must be paid to certain employees working in the County for a private sector employer or the County government to \$15.00 per hour by 2020. It would also require annual adjustments to the County minimum wage each year beginning in 2021.
- PROBLEM:** The existing County minimum wage of \$9.55 per hour, which will increase to \$10.75 on July 1 of this year and \$11.50 on July 1, 2017, is insufficient to support a full-time worker in the County, and existing law does not provide for annual increases based on inflation.
- GOALS AND OBJECTIVES:** To maintain a reasonable living wage for workers in the County when the State and federal minimum wage is insufficient.
- COORDINATION:** Human Rights Commission, Office of Management and Budget, Department of Finance
- FISCAL IMPACT:** To be requested.
- ECONOMIC IMPACT:** To be requested.
- EVALUATION:** To be requested.
- EXPERIENCE ELSEWHERE:** To be researched.
- SOURCE OF INFORMATION:** Josh Hamlin, Legislative Attorney, 240-777-7892
- APPLICATION WITHIN MUNICIPALITIES:** To be researched.
- PENALTIES:** Class A civil citation and equitable relief.