

Bill No. 28-17
Concerning: Human Rights and Civil Liberties – County Minimum Wage – Amount – Annual Adjustment
Revised: 10/09/2017 Draft No. 4
Introduced: July 25, 2017
Enacted: November 7, 2017
Executive: November 13, 2017
Effective: July 1, 2018
Sunset Date: None
Ch. 32, Laws of Mont. Co. 2017

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Elrich
Co-Sponsors: Councilmembers Leventhal, Council Vice-President Riemer, and Councilmembers Hucker 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;
- (3) require the Office of Legislative Oversight to conduct an annual analysis of the impact of the County minimum wage; and
- (4) 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

By adding

Montgomery County Code
Chapter 27, Human Rights and Civil Liberties
Article XI. County Minimum Wage
Section 27-70A

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 and Section 27-70A is added as**
 2 **follows:**

3 **27-68. Minimum Wage Required.**

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

- 7 (1) the minimum wage required for that employee under the Federal
 8 Act;
- 9 (2) the minimum wage required for that employee under the State
 10 Act; or
- 11 (3) [\$11.50] \$15.00 per hour plus any annual adjustments under
 12 subsection (b).

13 (b) Annual adjustment. The Chief Administrative Officer must adjust the
 14 minimum wage rate required under Subsection (a)(3), effective July 1,
 15 [[2023]] [[2025]] 2022, and July 1 of each subsequent year, by the
 16 annual average increase, if any, in the Consumer Price Index for Urban
 17 Wage Earners and Clerical Workers[[, CPI-W]] (CPI-W) for
 18 Washington-Baltimore, or a successor index, for the previous calendar
 19 year. The Chief Administrative Officer must calculate the adjustment to
 20 the nearest multiple of five cents, and must publish the amount of this
 21 adjustment not later than March 1 of each year.

22 (c) Exclusions. The County minimum wage does not apply to an employee
 23 who:

- 24 (1) is exempt from the minimum wage requirements of the State or
 25 Federal Act; or
- 26 (2) is under the age of 19 years and is employed no more than 20
 27 hours per week[[; or

28 (3) is subject to an opportunity wage under the State or Federal
29 Act]].

30 (d) Opportunity wage. An employer may pay a wage equal to 85% of the
31 County minimum wage to an employee under the age of 20 years for
32 the first six months that the employee is employed.

33 [(c)](e) *Retaliation prohibited.* A person must not:

- 34 (1) retaliate against any person for:
 - 35 (A) lawfully opposing any violation of this Article; or
 - 36 (B) filing a complaint, testifying, assisting, or participating in
 - 37 any manner in an investigation, proceeding, or hearing
 - 38 under this Article; or
- 39 (2) obstruct or prevent enforcement or compliance with this Article.

40 * * *

41 **27-70A. Annual impact analysis.**

42 The Office of Legislative Oversight must provide to the Council, by January
43 31 of each year, [[an analysis of impact]] a report containing data related to the
44 implementation of the County minimum wage [[on]] and the local economy.

45 **Sec. 2. Transition.**

46 Notwithstanding Section 27-68, as amended in Section 1, except when the
47 scheduled increases are temporarily suspended under subsection [(e)] (f), the
48 County minimum wage[[, until July 1,]] [[2022]] [[2024,]] must be the greater of the
49 minimum wage required under the Federal or State Act or:

- 50 (a) until July 1, 2022, for [[an employer who employs]] [[26]] [[51 or more
51 employees]] a large employer as defined in subsection (d):
 - 52 (1) effective July 1, 2018, [[\$12.50]] [[\$12.00]] \$12.25 per hour;
 - 53 (2) effective July 1, 2019, [[\$13.75]] [[\$12.75]] \$13.00 per hour;
 - 54 [[and]]

- 55 (3) effective July 1, 2020, ~~[\$15.00]~~ ~~[\$13.50]~~ \$14.00 per hour~~[.];~~
 56 and
 57 (4) effective July 1, 2021, ~~[\$14.25]~~ \$15.00 per hour~~[; and]~~.
 58 ~~[(5) effective July 1, 2022, \$15.00 per hour.]~~
 59 (b) until the minimum wage under this subsection is equal to the minimum
 60 wage required under Section 27-68, [for an employer who employs]
 61 [25] [50 or fewer employees; has tax exempt status under Section
 62 501(c)(3) of the Internal Revenue Code; or has been designated by the
 63 Office of Human Rights as an eligible services provider under] for a
 64 mid-sized employer as defined in subsection [(c)] (d):
 65 (1) effective July 1, 2018, ~~[\$12.00]~~ ~~[\$11.75]~~ \$12.00 per hour;
 66 (2) effective July 1, 2019, ~~[\$12.75]~~ ~~[\$12.25]~~ \$12.50 per hour;
 67 (3) effective July 1, 2020, ~~[\$13.50]~~ ~~[\$12.75]~~ \$13.25 per hour;
 68 ~~[and]~~
 69 (4) effective July 1, 2021, ~~[\$14.25]~~ ~~[\$13.25]~~ \$14.00 per hour~~[.];~~
 70 (5) effective July 1, 2022, ~~[\$13.75]~~ \$14.50 per hour; [and]
 71 (6) effective July 1, 2023, ~~[\$14.50]~~ \$15.00 per hour; and
 72 (7) effective July 1, 2024 until it is equal to the minimum wage
 73 required under Section 27-68, the minimum wage required under
 74 this subsection must be adjusted each year, to the nearest multiple
 75 of five cents, by:
 76 (A) the annual average increase, if any, in the Consumer Price
 77 Index for Urban Wage Earners and Clerical Workers (CPI-
 78 W) for Washington-Baltimore, or a successor index, for
 79 the previous calendar year; plus

80 (B) if the increase under subparagraph (A) is less than \$0.50,
 81 one percent of the minimum wage required for the prior
 82 year, up to a total increase of \$0.50.

83 (c) until the minimum wage under this subsection is equal to the minimum
 84 wage required under Section 27-68, for a small employer as defined in
 85 subsection (d):

- 86 (1) effective July 1, 2018, \$12.00 per hour;
- 87 (2) effective July 1, 2019, \$12.50 per hour;
- 88 (3) effective July 1, 2020, \$13.00 per hour;
- 89 (4) effective July 1, 2021, \$13.50 per hour;
- 90 (5) effective July 1, 2022, \$14.00 per hour;
- 91 (6) effective July 1, 2023, \$14.50 per hour;
- 92 (7) effective July 1, 2024, \$15.00 per hour; and
- 93 (8) effective July 1, 2025 until it is equal to the minimum wage
 94 required under Section 27-68, the minimum wage required under
 95 this subsection must be adjusted each year, to the nearest multiple
 96 of five cents, by:

97 (A) the annual average increase, if any, in the Consumer Price
 98 Index for Urban Wage Earners and Clerical Workers (CPI-
 99 W) for Washington-Baltimore, or a successor index, for
 100 the previous calendar year; plus

101 (B) if the increase under subparagraph (A) is less than \$0.50,
 102 one percent of the minimum wage required for the prior
 103 year, up to a total increase of \$0.50.

104 (d) [[An employer who provides “home health services” as defined by 42
 105 C.F.R. § 440.70 or “home or community-based services” as defined by
 106 42 C.F.R. § 440.180, and receives at least 75% of gross revenues

107 through state and federal Medicaid programs, may apply to the Office of
 108 Human Rights for designation as an eligible services provider subject to
 109 the implementation schedule in subsection (b).]] In this Section:

110 (1) large employer means an employer who employs 51 or more
 111 employees;

112 (2) mid-sized employer means:

113 (A) an employer who employs between 11 and 50
 114 employees; or

115 (B) an employer who employs 11 or more employees and:

116 (i) has tax exempt status under Section 501(c)(3) of
 117 the Internal Revenue Code; or

118 (ii) provides "home health services" as defined by 42
 119 C.F.R. § 440.70 or "home or community-based
 120 services" as defined by 42 C.F.R. § 440.180, and
 121 receives at least 75% of gross revenues through
 122 state and federal Medicaid programs.

123 (3) small employer means an employer who employs 10 or fewer
 124 employees.

125 [[d]](e) For the purposes of subsections (a), [[and]] (b), and (c), an
 126 employer's number of employees must be calculated based
 127 upon the employer's average number of employees per calendar
 128 week during the preceding calendar year for any and all weeks
 129 during which at least one employee worked for compensation.
 130 For employers that did not have any employees during the
 131 preceding calendar year, the employer's number of employees
 132 must be calculated based upon the average number of
 133 employees who worked for compensation per calendar week

134 during the first 90 calendar days of the current year in which the
 135 employer engaged in business. An employer's number of
 136 employees must be calculated at the time the employer first
 137 becomes subject to this Act, and that employer remains subject to
 138 the applicable schedule under subsection (a), (b), or (c), regardless
 139 of the number of employees employed by the employer in
 140 subsequent years.

141 ~~[(e)]~~(f) (1) On or before January 31 of each year beginning in 2018
 142 through ~~[[2022]]~~ 2024, to ensure that economic conditions can
 143 support a minimum wage increase scheduled under Section 2 of
 144 this Act, the Director of Finance must make a determination
 145 and certify to the Executive and Council whether each of the
 146 following conditions is met:

147 (A) total private employment for Montgomery County
 148 decreased by 1.5% over the period from April 1 to June
 149 30 of the previous year. The calculation must compare
 150 total private employment in June to total private
 151 employment in April, as reported by the Maryland State
 152 Department of Labor, Licensing, and Regulation's
 153 Quarterly Census of Employment and Wages data series;

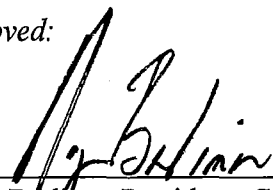
154 (B) total private employment for Montgomery County
 155 decreased by 2.0% over the period from January 1 to
 156 June 30 of the previous year. The calculation must
 157 compare total private employment in June to total private
 158 employment in January, as reported by the Maryland
 159 State Department of Labor, Licensing, and Regulation's
 160 Quarterly Census of Employment and Wages data series;

- 161 (C) the Gross Domestic Product of the United States, as
162 published by the U.S. Department of Commerce, has
163 experienced negative growth for the preceding two
164 quarters; and
- 165 (D) the National Bureau of Economic Research has
166 determined that the United States economy is in
167 recession.
- 168 (2) If, in any year, the Director of Finance certifies that a condition
169 in subparagraphs (A) through (D) of paragraph (1) is met, the
170 Executive may, on or before February 10 of that year,
171 temporarily suspend the minimum wage increases scheduled
172 under subsections (a), ~~[[and]]~~ (b), and (c) of Section 2 of this
173 Act for that year.
- 174 (3) If the Executive temporarily suspends the scheduled minimum
175 wage increases for a year, all dates specified in subsections (a),
176 ~~[[and]]~~ (b), and (c) that follow the temporary suspension must
177 be postponed by an additional year.
- 178 (4) The Executive must not temporarily suspend scheduled
179 minimum wage increases under this Section more than two
180 times.

181 **Sec. 3. Effective Date.**

182 This Act takes effect on July 1, 2018.

Approved:

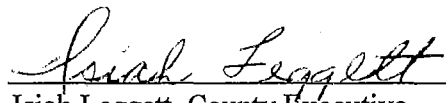


Roger Berliner, President, County Council

11/09/2017

Date

Approved:

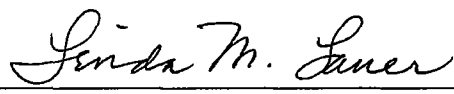


Isiah Leggett, County Executive

Nov 13, 2017

Date

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council

11/14/17

Date