

2020 Regular Session

SENATE BILL NO. 401

BY SENATOR PETERSON

EMPLOYMENT. Provides relative to an increase in the state minimum hourly wage.
(2/3-CA7s2.1(A)) (gov sig)

1 AN ACT

2 To enact Chapter 6-B of Title 23 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 23:671 through 678, and R.S. 23:1516, relative to minimum wage; to
4 establish a state minimum wage; to provide for an annual increase of the minimum
5 wage; to provide for enforcement; to provide for civil remedies; to provide for
6 damages; to provide for venue; to provide for the limitation of actions; to provide for
7 notifications; to provide for the creation of an account within a fund; to provide for
8 exceptions; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 6-B of Title 23 of the Louisiana Revised Statutes of 1950,
11 comprised of R.S. 23:671 through 678, and R.S. 23:1516 are hereby enacted to read as
12 follows:

13 **CHAPTER 6-B. MINIMUM WAGE**

14 **§671. Minimum wage; establishment**

15 **A. Notwithstanding any other provision of law to the contrary, the state**
16 **minimum wage is established and set as follows:**

17 **(1) Beginning January 1, 2021, the minimum wage shall be set at eleven**

1 dollars per hour. Every employer in the state shall pay to each employee wages
2 at a rate of not less than eleven dollars per hour for hours worked in a pay
3 period regardless of how the time at work is measured.

4 (2) Beginning January 1, 2023, the minimum wage shall be set at thirteen
5 dollars per hour. Every employer in the state shall pay to each employee wages
6 at a rate of not less than thirteen dollars per hour for hours worked in a pay
7 period regardless of how the time at work is measured.

8 (3) Beginning January 1, 2025, the minimum wage shall be set at fifteen
9 dollars per hour. Every employer in the state shall pay to each employee wages
10 at a rate of not less than fifteen dollars per hour for hours worked in a pay
11 period regardless of how the time at work is measured.

12 B. If, at any time, the federal minimum hourly wage rate set by Section
13 6 of the federal Fair Labor Standards Act of 1938, or a successor federal law,
14 is raised to a level higher than the state minimum wage rate, then the state
15 minimum wage rate shall be increased to the level of the federal minimum wage
16 rate.

17 §672. Civil remedy

18 A. In addition to any other remedy provided by law, an employee shall
19 have a civil right of action for damages against the employer for a violation of
20 the provisions of R.S. 23:671.

21 B. Notwithstanding any provision of law to the contrary, such civil action
22 may be instituted in a parish, city, or district court of proper venue as provided
23 for in this Subsection.

24 (1) If the employer is a natural or juridical person, venue for the civil
25 action shall be proper if brought in the parish where the plaintiff is domiciled,
26 or the parish where the work or service subject to minimum wage was
27 performed, or a parish of proper venue pursuant to the general rules of venue
28 as set forth in Code of Civil Procedure Article 42.

29 (2) If the employer is the state, venue for the civil action shall be proper

1 in the Nineteenth Judicial District Court in East Baton Rouge Parish.

2 (3) If the employer is a public entity other than the state, venue shall be
3 proper in the parish of its domicile.

4 §673. Damages

5 An employer who violates the provisions of R.S. 23:671 shall be liable to
6 the affected employee in the amount of the difference between the amount that
7 the employee was paid and the amount the employer was statutorily obligated
8 to pay pursuant to R.S. 23:671, plus reasonable attorney fees and court costs
9 associated with the civil action.

10 §674. Limitation of action

11 Any civil action filed, pursuant to R.S. 23:672, to recover wages for a
12 violation of R.S. 23:671 shall be commenced within three years from the date
13 that an employee becomes aware that the employer is in violation of this
14 Chapter.

15 §675. Notification of information

16 A. The clerk for each court shall maintain a docket for the record of
17 cases filed that are filed pursuant to the provisions of this Chapter. Beginning
18 February 1, 2021, these dockets shall be submitted monthly to the Louisiana
19 Workforce Commission, wage and hour division.

20 B. The Louisiana Workforce Commission shall compile a list of the
21 names of the employers who violated the provisions of this Chapter, the number
22 of employees affected thereby, and the dollar amount of each violation and shall
23 submit an annual list of such information to the Senate Committee on Labor
24 and Industrial Relations, the House Committee on Labor and Industrial
25 Relations, and to the governor's office.

26 §676. Penalties and enforcement

27 A. An employer who violates the provisions of R.S. 23:671 shall be
28 subject to a civil fine, or penalty, to be assessed by the secretary of the Louisiana
29 Workforce Commission in an amount not less than one hundred dollars nor

1 more than five hundred dollars per employee for each day of violation and for
2 each violation.

3 B. In determining the amount of the civil fine, or penalty, the secretary
4 shall consider the appropriateness of the amount of the civil fine by considering
5 the size of the business and the gravity of the violation.

6 §677. Exceptions

7 A. The provisions of this Chapter shall not apply to any of the following:

8 (1) Student employees of the state.

9 (2) Student employees of state colleges and universities.

10 (3) Student employees of a private employer.

11 B. The provisions of this Chapter shall not apply to tipped employees or
12 agriculture employees as defined by the federal Fair Labor Standards Act of
13 1938, or a successor federal law.

14 §678. Regulations

15 The Louisiana Workforce Commission is hereby authorized to
16 promulgate rules and regulations pursuant to the provisions of the
17 Administrative Procedures Act necessary for the implementation of the
18 provisions of this Chapter.

19 * * *

20 §1516. Minimum wage enforcement account

21 A.(1) There is hereby created in the Employment Security
22 Administration Fund an account which shall be known as the Minimum Wage
23 Enforcement Account, hereinafter referred to as the "account."

24 (2) All civil fines, or penalties, and interest collected from employers
25 under the provisions of this Chapter shall be deposited into the account.

26 B. After allocation of money to the Bond Security and Redemption Fund
27 as provided in Article VII, Section 9(B) of the Constitution of Louisiana, the
28 treasurer shall deposit in and credit to the account the revenues as provided for
29 in Subsection A of this Section.

1 C.(1) The monies in the account shall be used to pay for all costs
2 associated with the enforcement of the provisions of Chapter 6-B of this Title
3 as determined to be necessary by the secretary.

4 (2) All monies in the account shall be deposited, administered, and
5 disbursed in the same manner and under the same conditions and requirements
6 as is provided for in the Employment Security Administration Fund pursuant
7 to this Subpart.

8 Section 2. This Act shall become effective upon signature by the governor or, if not
9 signed by the governor, upon expiration of the time for bills to become law without signature
10 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
11 vetoed by the governor and subsequently approved by the legislature, this Act shall become
12 effective on the day following the approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Yoursheka George.

DIGEST

SB 401 Original

2020 Regular Session

Peterson

Proposed law establishes a state minimum wage and sets it at \$11.00 per hour beginning January 1, 2021.

Proposed law provides that the state minimum wage shall be \$13.00 per hour beginning on January 1, 2023.

Proposed law provides that the state minimum wage shall be \$15.00 per hour beginning on January 1, 2025.

Proposed law requires that if the federal minimum wage is raised, the state minimum wage shall also be raised to that level.

Proposed law provides that, in addition to any other remedy provided by law, an employee will have the right to file a civil lawsuit for damages against the employer for a violation of the provisions of proposed law.

Proposed law provides that the employee's civil lawsuit may be filed in a parish, city, or district court of proper venue in the following manner:

- (1) If the employer is a natural person or a corporation, partnership or limited liability company, the employee's lawsuit will be proper if brought in the parish where the plaintiff is domiciled, or the parish where the work or service subject to minimum wage was performed, or a parish of proper venue pursuant to the general rules of venue as set forth in the La. Code of Civil Procedure.
- (2) If the employer is the state, venue for the civil action will be proper in the 19th Judicial District Court in East Baton Rouge Parish.

- (3) If the employer is a public entity other than the state, a local government or a local political subdivision, venue will be proper in the parish of its domicile.

Proposed law provides that an employer who violates the provisions of proposed law by paying an employee less than the state minimum wage will be liable to the affected employee in the amount of the difference between the amount that the employee was paid and the amount the employer was statutorily obligated to pay, plus reasonable attorney fees and court costs associated with the civil action.

Proposed law provides that a lawsuit filed by the employee to recover wages for a violation of proposed law must be commenced within three years from the date that an employee becomes aware that the employer is in violation of proposed law.

Proposed law requires the clerk for each court to maintain a docket for the record of cases filed that are filed pursuant to the provisions of proposed law. Provides that beginning February 1, 2021, the dockets shall be submitted monthly to the Louisiana Workforce Commission.

Proposed law requires the La. Workforce Commission to compile a list of the names of the employers who violated the provisions of proposed law, the number of employees affected, and the dollar amount of each violation and submit an annual list of such information to the Senate Committee on Labor and Industrial Relations, the House Committee on Labor and Industrial Relations, and to the governor's office.

Proposed law provides a civil fine of not less than \$100 and not more than \$500 per employee, per day, for each violation for failure to pay minimum wage.

Proposed law provides that, in determining the amount of the civil fine, or penalty, the secretary will consider the appropriateness of the amount of the civil fine by considering the size of the business and the gravity of the violation.

Proposed law shall not apply to any of the following:

- (1) Student employees of the state.
- (2) Student employees of state colleges and universities.
- (3) Student employees of a private employer.

Proposed law shall not apply to tipped employees and agriculture employees who are also exempted from the standard federal minimum wage laws.

Proposed law authorizes the La. Workforce Commission to promulgate rules and regulations pursuant to the provisions of the Administrative Procedure Act that may be necessary for the implementation of the provisions of proposed law.

Proposed law provides for the creation of an account in the Employment Security Administration Fund, which will be known as the "Minimum Wage Enforcement Account."

Proposed law provides that all civil fines, or penalties, and interest collected from employers under the provisions of proposed law shall be deposited into the account.

Proposed law provides that, after allocation of money to the Bond Security and Redemption Fund, the treasurer will deposit in and credit to the account the revenues as provided for in proposed law.

Proposed law provides that the monies in the account shall be used to pay for all costs associated with the enforcement of the provisions of proposed law as determined to be

necessary by the secretary.

Proposed law provides that all monies in the account shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided for in the Employment Security Administration Fund.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 23:671-678 and 1516)