

2016 Regular Session

SENATE BILL NO. 269

BY SENATORS PETERSON, BARROW, BISHOP AND CARTER

EMPLOYMENT. Provides for an increase in the state minimum wage. (2/3-CA7s2.1)(8/1/16)

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

CHAPTER 6-B. MINIMUM WAGE

§671. Minimum wage; establishment

A. Notwithstanding any other provision of law to the contrary, the state

minimum wage is established and set as follows:

(1) Beginning January 1, 2017, the minimum wage shall be set at eight

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

4 (2) Beginning January 1, 2018, the minimum wage shall be set at eight
5 dollars and fifty cents per hour. Every employer in the state shall pay to each
6 employee wages at a rate of not less than eight dollars and fifty cents per hour
7 for hours worked in a pay period regardless of how the time at work is
8 measured.

9 B. If, at any time, the federal minimum hourly wage rate set by Section
10 6 of the federal Fair Labor Standards Act of 1938, or a successor federal law,
11 is raised to a level higher than the state minimum wage rate, then the state
12 minimum wage rate shall be increased to the level of the federal minimum wage
13 rate.

14 §672. Civil remedy

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

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

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

26 (2) If the employer is the state, venue for the civil action shall be proper
27 in the Nineteenth Judicial District Court in East Baton Rouge Parish.

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

1 **§673. Damages**

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

7 **§674. Limitation of action**

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

12 **§675. Notification of information**

13 A. The clerk for each court shall maintain a docket for the record of
14 cases filed that are filed pursuant to the provisions of this Chapter. These
15 dockets shall be submitted monthly to the Louisiana Workforce Commission,
16 Wage and Hour Division, beginning the first full month after the effective date
17 of this Act.

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

24 **§676. Penalties and enforcement**

25 A. An employer who violates the provisions of R.S. 23:671 shall be
26 subject to a civil fine, or penalty, to be assessed by the executive director of the
27 Louisiana Workforce Commission in an amount not less than one hundred
28 dollars nor more than five hundred dollars per employee for each day of
29 violation and for each violation.

1 **B. In determining the amount of the civil fine, or penalty, the executive**
2 **director shall consider the appropriateness of the amount of the civil fine by**
3 **considering the size of the business and the gravity of the violation.**

4 **§677. Exceptions**

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

6 **(1) Student employees of the state.**

7 **(2) Student employees of state colleges and universities.**

8 **(3) Student employees of a private employer.**

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

12 **§678. Regulations**

13 **The Louisiana Workforce Commission is hereby authorized to**
14 **promulgate rules and regulations pursuant to the provisions of the**
15 **Administrative Procedure Act which may be necessary for the implementation**
16 **of the provisions of this Chapter.**

17 * * *

18 **§1516. Minimum wage enforcement account**

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

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

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

28 **C.(1) The moneys in the account shall be used to pay for all costs**
29 **associated with the enforcement of the provisions of Chapter 6-B of this Title**

- 1 **as determined to be necessary by the executive director.**
- 2 **(2) All moneys in the account shall be deposited, administered, and**
- 3 **disbursed in the same manner and under the same conditions and requirements**
- 4 **as is provided for in the Employment Security Administration Fund pursuant**
- 5 **to this Subpart.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

DIGEST

SB 269 Engrossed

2016 Regular Session

Peterson

Proposed law establishes a state minimum wage and sets it at \$8.00 per hour beginning Jan. 1, 2017.

Proposed law provides that the state minimum wage shall be \$8.50 per hour beginning on Jan. 1, 2018.

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 Art. 42.
- (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 the dockets shall be submitted monthly to the Louisiana Workforce Commission, Wage and Hour Division,

beginning the first full month after the effective date of proposed law.

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 thereby, and the dollar amount of each violation and submit an annual list of such information to the La. Senate Committee on Labor and Industrial Relations and the La. House Committee on Labor and Industrial Relations and to the governor's office.

Proposed law provides a civil fine or penalty 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 executive director 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 provides for the following exceptions to proposed law:

- (1) The provisions of this Chapter shall not apply to any of the following students:
 - (a) Student employees of the state.
 - (b) Student employees of state colleges and universities.
 - (c) Student employees of a private employer.
- (2) The provisions of proposed law shall not apply to the employees who are also exempted from the standard federal minimum wage laws (federal Fair Labor Standards Act) as follows:
 - (a) Tipped employees, such as restaurant workers.
 - (b) Agriculture employees

Proposed law authorizes the La. Workforce Commission to promulgate rules and regulations pursuant to the provisions of the A.P.A. which may be necessary for the implementation of the provisions of this Chapter.

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 as provided in La. Const. Art. VII, Section 9(B), the treasurer will deposit in and credit to the account the revenues as provided for in proposed law.

Proposed law provides the moneys 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 executive director.

Proposed law provides that all moneys 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 August 1, 2016.

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

Summary of Amendments Adopted by SenateCommittee Amendments Proposed by Senate Committee on Labor and Industrial Relations to the original bill

1. Changes the amount of the civil fine which may be levied by the La. Workforce Commission against an employer who violates proposed law from a minimum of \$500 and a maximum of \$1,000 to a minimum of \$100 and a maximum of \$500.
2. Adds provision to allow an employee to file a civil suit against an employer for damages and provides for appropriate venues.
3. Provides that the right to a civil action prescribes in three years.
4. Provides for notifications of information.
5. Provides for exceptions for tipped employees, agriculture workers, and student workers of private employers.
6. Creates an account in which to deposit fines collected from employers who violate proposed law.