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Legislative Document

No. 1098

S.P. 330

In Senate, March 5, 2019

**An Act To Help Small Employers by Making the Minimum Wage
Increase More Gradual in Nonurban Areas**

Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator KEIM of Oxford.
Cosponsored by Representative STEWART of Presque Isle and
Senators: GUERIN of Penobscot, MOORE of Washington, Representatives: ALLEY of Beals,
STANLEY of Medway.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 26 MRSA §664, sub-§1**, as amended by IB 2015, c. 2, §1, is further
3 amended to read:

4 **1. Minimum wage.** The minimum hourly wage is \$7.50 per hour. Starting January
5 1, 2017, the minimum hourly wage is \$9.00 per hour; starting January 1, 2018, the
6 minimum hourly wage is \$10.00 per hour; starting January 1, 2019, the minimum hourly
7 wage is \$11.00 per hour; and starting January 1, 2020, the minimum hourly wage is
8 \$12.00 per hour. On January 1, ~~2021~~ 2024 and ~~each~~ every 3 years on January 1st
9 thereafter, the minimum hourly wage then in effect must be increased by the increase, if
10 any, in the cost of living, calculated as an average of the increase for each of the 3 prior
11 years. The increase in the cost of living must be measured by the percentage increase, if
12 any, as of August of the previous year over the level as of August of the year preceding
13 that year in the Consumer Price Index for Urban Wage Earners and Clerical Workers,
14 CPI-W, for the Northeast Region, or its successor index, as published by the United
15 States Department of Labor, Bureau of Labor Statistics or its successor agency, with the
16 amount of the minimum wage increase rounded to the nearest multiple of 5¢. A
17 scheduled increase in the minimum hourly wage in this section does not take effect if
18 there is an extended benefit period in effect, pursuant to section 1195, as determined by
19 the Department of Labor. Subsequent to any cessation of a scheduled increase in the
20 minimum hourly wage due to this subsection, the minimum hourly wage is increased to
21 the next scheduled level once there is no longer an extended benefit period in effect,
22 pursuant to section 1195, as of January 1st of a given year, as determined by the
23 Department of Labor. If the highest federal minimum wage is increased in excess of the
24 minimum wage in effect under this section, the minimum wage under this section is
25 increased to the same amount, effective on the same date as the increase in the federal
26 minimum wage, and must be increased in accordance with this section thereafter.

27 **Sec. 2. 26 MRSA §664, sub-§2**, as amended by PL 2017, c. 272, §1, is further
28 amended to read:

29 **2. Tip credit.** An employer may consider tips as part of the wages of a service
30 employee, but such a tip credit may not exceed 50% of the minimum hourly wage
31 established in this section, or, if applicable, section 664-A, except that from January 1,
32 2017 to December 31, 2017, the minimum cash wage paid directly to a tipped service
33 employee may not be less than \$5.00 per hour. An employer who elects to use the tip
34 credit must inform the affected employee in advance, as provided for in this subsection,
35 and must be able to show that the employee receives at least the minimum hourly wage
36 when direct wages and the tip credit are combined within the established 7-day
37 workweek. Upon a satisfactory showing by the employee or the employee's
38 representative that the actual tips received were less than the tip credit, the employer shall
39 increase the direct wages by the difference.

40 The tips received by a service employee become the property of the employee and may
41 not be shared with the employer. Tips that are automatically included in the customer's
42 bill or that are charged to a credit card must be treated like tips given to the service
43 employee. A tip that is charged to a credit card must be paid by the employer to the

1 employee by the next regular payday and may not be held while the employer is awaiting
2 reimbursement from a credit card company. The employer may not deduct any amount
3 from employee tips charged to a credit card, including, but not limited to, service fees
4 assessed to the employer in connection with the credit card transaction.

5 An employer who elects to use the tip credit must inform the affected employee in
6 advance, either orally or in writing, of the following information:

- 7 A. The amount of the direct wage to be paid by the employer to the tipped employee;
- 8 B. The amount of tips to be credited as wages toward the minimum wage;
- 9 C. That the amount of tips to be credited as wages may not exceed the value of the
10 tips actually received by the employee;
- 11 D. That all tips received by the affected employee must be retained by the employee,
12 except for a valid tip pooling arrangement limited to employees who customarily and
13 regularly receive tips in accordance with subsection 2-A;
- 14 E. That the tip credit may not apply to any employee who has not been informed by
15 the employer of the provisions for a tip credit; and
- 16 F. If the employer uses a tip pooling arrangement, any required tip pool contribution
17 amount from the employee.

18 **Sec. 3. 26 MRSA §664-A** is enacted to read:

19 **§664-A. Alternative minimum wage; certain nonurban areas**

20 **1. Alternative minimum wage; scheduled increases.** Notwithstanding section 664,
21 for areas listed in subsection 3 the minimum hourly wage is \$11.00 per hour starting
22 January 1, 2020; \$11.50 per hour starting January 1, 2021; and \$12.00 per hour starting
23 January 1, 2022.

24 **2. Tolling of scheduled increases.** A scheduled increase in the minimum hourly
25 wage in this section does not take effect if there is an extended benefit period in effect,
26 pursuant to section 1195, as determined by the Department of Labor. Subsequent to any
27 cessation of a scheduled increase in the minimum hourly wage due to this subsection, the
28 minimum hourly wage is increased to the next scheduled level once there is no longer an
29 extended benefit period in effect, pursuant to section 1195, as of January 1st of a given
30 year, as determined by the Department of Labor.

31 **3. Application.** This section applies to all areas of the State except for those
32 municipalities in Cumberland County other than Baldwin, Bridgton, Harrison and Naples.

33 **4. Report.** The Department of Labor shall submit by January 15, 2020, and every
34 January 15th thereafter, to the joint standing committee of the Legislature having
35 jurisdiction over labor matters, a report analyzing job creation and job loss trends in
36 urban and nonurban areas since the initiation of minimum wage increases established by
37 Initiated Bill 2015, chapter 2, section 1. This analysis must be performed by the State
38 Economist and the chief economist at the Department of Labor and must include the use
39 of data from the United States Department of Commerce, United States Census Bureau
40 and employment and wage information contained in confidential unemployment tax

1 reports. Any confidential information must be reported in aggregate form in order to
2 preserve confidentiality.

3

SUMMARY

4 This bill creates an alternative minimum hourly wage that applies to certain
5 designated nonurban areas starting on January 1, 2020. Under this bill the minimum
6 hourly wage rate for those areas is \$11 per hour and increases by 50¢ each January 1st
7 until it reaches \$12 per hour on January 1, 2022. The minimum hourly wage stays the
8 same as in current law for Cumberland County, except for the towns of Baldwin,
9 Bridgton, Harrison and Naples.

10 The bill also freezes any scheduled increase in the current minimum wage or the new
11 alternative minimum wage if there is in effect an extended benefit period for
12 unemployment compensation benefits, as determined by the Commissioner of Labor.
13 The scheduled increase or increases will resume once there is no longer an extended
14 benefit period in effect as of January 1st of a given year. It also delays the cost-of-living
15 adjustment for the current minimum wage to January 1, 2024, changes the calculation to
16 be the average cost-of-living increase over the prior 3 years and changes the timing of the
17 cost-of-living adjustment to be every 3 years instead of every year.

18 It also requires the Department of Labor to submit an annual report analyzing job
19 creation and job loss trends in urban and nonurban areas since the initiation of minimum
20 wage increases established by Initiated Bill 2015, chapter 2, section 1.