

HOUSE BILL 116<sup>1</sup>: MINIMUM WAGE; PROVIDE INCREASE

**Co-Sponsors:** Dewey McClain (100<sup>th</sup>); Sheila Jones (53<sup>rd</sup>); Kimberly Alexander (66<sup>th</sup>); Bee Nguyen (89<sup>th</sup>); Renitta Shannon (84<sup>th</sup>); and Mandisha Thomas (65<sup>th</sup>)

**Summary:** “A BILL to be entitled an Act to amend Chapter 4 of Title 34 of the Official Code of Georgia Annotated, relating to minimum wage law, so as to provide for an increase in the minimum wage; to provide a credit toward the minimum wage for employers of tipped workers; to eliminate various eligibility exemptions from the minimum wage; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.”<sup>2</sup>

**Status:** 2021-01-28 - House Second Readers. Pending House Industry and Labor Committee<sup>3</sup>

TEXT OF H.B. 116<sup>4</sup>

**SECTION 1.**

Chapter 4 of Title 34 of the Official Code of Georgia Annotated, relating to minimum wage

law, is amended by revising Code Section 34-4-3, relating to amount of minimum wage to

be paid by employers, as follows:

"34-4-3.

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<sup>1</sup> H.B. 116, 156th Gen. Assemb., 1st Reg. Sess. (Ga. 2021), *available* at <https://www.legis.ga.gov/api/legislation/document/20212022/19591> (last visited Jan. 6, 2022).

<sup>2</sup> Ga. Gen. Assemb., Legislation: 2021-2022 Regular Session-HB 116, <http://www.legis.ga.gov/Legislation/en-US/display/20212022/HB/116> [hereinafter H.B. 116 Status Sheet].

<sup>3</sup> *Id.*

<sup>4</sup> H.B. 116.

(a) Except as otherwise provided in this Code section, every employer, whether a person,

firm, or corporation, shall pay to all covered employees a minimum wage which shall be

not less than \$5.15 \$15.00 per hour for each hour worked in the employment of such

employer.

(b) Employers of employees that meet the eligibility requirements for the tip credit under

the federal Fair Labor Standards Act, 29 U.S.C. Section 203(t), may credit tips toward the

satisfaction of up to 50 percent of the minimum wage provided by this Code section.

(b)(c) This chapter shall not apply with respect to:

(1) Any employer that has sales of \$40,000.00 \$50,000.00 per year or less;

(2) Any employer having five employees or less;

(3) Any employer of domestic employees;

(4) Any employer who is a farm owner, sharecropper, or land renter;

(5) Any employee whose compensation consists wholly or partially of gratuities;

(6)(3) Any employee who is a high school or college student;

(7)(4) Any individual who is employed as a newspaper carrier; or

(8)(5) Any individual who is employed by a nonprofit child-caring institution or

long-term care facility serving children or mentally disabled adults who are enrolled in

such institution and reside in residential facilities of the institution, if such employee

resides in such facilities, receives without cost board and lodging from such institution,

and is compensated on a cash basis at an annual rate of not less than \$10,000.00

\$15,000.00.

(c) This chapter shall not apply to any employer who is subject to the minimum wage

provisions of any act of Congress as to employees covered thereby if such act of Congress

provides for a minimum wage which is greater than the minimum wage which is provided

for in this Code section."

## SECTION 2.

This Act shall become effective on January 1, 2022.

## SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.

### SPONSOR'S RATIONALE

Representative Dewey McClain, sponsors House Bill 116, a proposed legislation to raise the state's minimum wage to \$15 per hour.<sup>5</sup> Although the federal minimum wage is \$7.25 an hour, Georgia's state minimum wage is \$5.15 per hour.<sup>6</sup> McClain has constantly advocated for an increase in the minimum wage in the state of Georgia.<sup>7</sup> McClain, along with many of his supporters, believe that this BILL will tremendously help Georgians, especially lower-income Georgians.<sup>8</sup> While Georgia's state law sets the minimum wage rate at \$5.15 per hour, the Federal Fair Labor Standards Act applies, meaning that most employees must earn a minimum wage of \$7.25

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<sup>5</sup> Curt Yeomans, "Political Notebook: McClain Introduces Legislation for \$15-per-Hour Minimum Wage." GWINNETT DAILY POST (Feb.19, 2017), [https://www.gwinnettdailypost.com/local/political-notebook-mcclain-introduces-legislation-for-15-per-hour-minimum-wage/article\\_d9838996-b28a-5da9-b518-734e10e2bb73.html](https://www.gwinnettdailypost.com/local/political-notebook-mcclain-introduces-legislation-for-15-per-hour-minimum-wage/article_d9838996-b28a-5da9-b518-734e10e2bb73.html).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

per hour.<sup>9</sup> A gradual increase in the federal minimum wage to \$15 an hour would increase the pay of low-income workers across the U.S. but particularly in Georgia and much of rest of the South, researchers and experts predict.<sup>10</sup> Low-income earning Georgians suffer the most under the current minimum wage because they are not able to sufficiently provide for themselves, or themselves and their family.<sup>11</sup> A minimum wage increase will help Georgians to afford basic necessities and reduce reliance on food stamps, “so they can eat.”<sup>12</sup>

#### OPPOSITION’S RATIONALE

Republicans, along with business groups that are Georgia affiliates, such as the Chamber of Commerce and the National Federation for Independent Business are worried about the negative effects the raising of the minimum wage would bring about.<sup>13</sup> Some of their issues focus on the high labor costs and the given incentive to employers to lay off multiple workers.<sup>14</sup> They particularly seem to worry about small business owners who would not have the necessary cash reserves or profit margins to absorb higher labor costs.<sup>15</sup> Opposers of raising the minimum seem to express the sentiment that a raise would inevitably hurt business, especially small businesses.<sup>16</sup> They argue that business will not be able to withstand keeping up with paying

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<sup>9</sup> *Georgia Minimum Wage Increases: Everything You Need To Know*. SQUARE, (May 10, 2021), <https://squareup.com/us/en/townsquare/guide-to-georgia-minimum-wage>.

<sup>10</sup> Ariana Figueroa, *Proposed \$15-an-Hour Minimum Wage Would Boost Paychecks in the South*. GEORGIA RECORDER (Feb. 13, 2021), <https://georgiarecorder.com/2021/02/12/proposed-15-an-hour-minimum-wage-would-boost-paychecks-in-the-south/>.

<sup>11</sup> *Id.*

<sup>12</sup> Yeomans, *supra* note 12, at 5.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

employees such a high wage.<sup>17</sup> In turn, business will ultimately fail because they will have to fire most, if not all of their workers.<sup>18</sup>

Similar sentiments have been expressed by a focus group at the Georgia Center for opportunity.<sup>19</sup> One of the members of the focus group stated that the minimum wage should be increased, or the cost of living should be lowered.<sup>20</sup> The group stated that the federal government had the responsibility of promoting purchasing power.<sup>21</sup> However, the federal government has done a terrible job at this as prices have increased 3.4% annually on average.<sup>22</sup> One of the members, along with a multitude of other Georgians, are struggling with rising prices.<sup>23</sup> They don't believe that raising the minimum wage will suddenly fix the problem.<sup>24</sup> Low-income workers are having a hard time of keeping up with inflated prices for goods and services.<sup>25</sup> The group believes that raising the minimum wage will not suffice as many economists believe inflation is just going to get worse.<sup>26</sup> Instead of raising the minimum wage, the group believes that Congress needs to renew the nation's purchasing power policy and get its fiscal house in order, to in turn help Georgians manage their minimum wage crisis.<sup>27</sup>

#### IMPLICATIONS IN GEORGIA

Georgia's minimum wage is even below the set federal minimum wage.<sup>28</sup> Some state employers still however pay the federal minimum wage

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<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> Erik Randolph, *Promote Purchasing Power-Not the Minimum Wage*, GEORGIA CENTER FOR OPPORTUNITY (July 13, 2021), <https://georgiaopportunity.org/promote-purchasing-power-not-the-minimum-wage/>.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> Square, *supra* note 30, at 9.

of \$7.25.<sup>29</sup> Still, most of these workers are not able to afford basic living necessities.<sup>30</sup> The passing of this Bill would not only allow Georgia workers to finally receive the federal minimum wage but will allow workers to exceed that marking and eventually receive more than double the current federal minimum wage.<sup>31</sup> Reports show that 33% of workers in Georgia would be impacted by a minimum wage increase.<sup>32</sup> This increase would significantly bring many Georgians out of poverty and bring about many more living wages.<sup>33</sup> 571,000 people in Georgia who would be directly affected by increasing the minimum wage.<sup>34</sup> 340,000 people in Georgia who would be indirectly affected by increasing the minimum wage.<sup>35</sup> Increasing the minimum wage would have a total wage increase of \$1,371,822,000 for Georgia.<sup>36</sup> Although positive implications are sure to come about; so are negative ones. To combat the effects of the minimum wage increase, employers will become more hesitant in hiring workers, try to move towards automated systems, and even cut hours.<sup>37</sup> Also, naturally the prices of goods and cost of living may rise.<sup>38</sup> Some employers in Georgia are attempting to get around paying employees the minimum wage, by relying on exceptions, such as when employers are subject to minimum wage provisions of any act of Congress.<sup>39</sup> For example, in Anderson, employers argued that their

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<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> Figueroa, *supra* note 34, at 10. (1 in 3 workers in the South could benefit or suffer from a minimum wage increase.)

<sup>33</sup> *Id.*

<sup>34</sup> Center for American Progress Action Fund, *It's Time to Raise the Minimum Wage: Georgia*. <https://www.americanprogressaction.org/wp-content/uploads/2014/03/MinWage-Georgia.pdf>.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> Jennifer Morejon, *South Georgians React to Minimum Wage Increase Possibility*. (Feb. 10, 2021), <https://www.walb.com/2021/02/10/south-georgians-react-minimum-wage-increase-possibility/>.

<sup>38</sup> *Id.*

<sup>39</sup> *Anderson v. Southern Home Care Services, Inc.*, 780 S.E.2d 339, 341 (Ga. 2015) (Employers argued that their employees were exempt from the Georgia Minimum Wage Law, because the employees fell within an exception to the law since they were “covered” by the federal FLSA.

employees were exempt from the Georgia Minimum Wage Law, because the employees fell within an exception to the law since they were “covered” by the federal FLSA.<sup>40</sup> Employers argued because of this exception, the employees were not entitled to the minimum wage guaranteed under the Georgia law.<sup>41</sup> If the minimum wage increases, this tactic being used is a very plausible inference since it has been used before when the minimum wage amount was lower.

#### LEGISLATIVE GENEALOGY

First introduced in the House on January 26, 2021.<sup>42</sup> The BILL was then introduced to the house hopper on January 26, 2021 and had its first reading on January 27, 2017.<sup>43</sup> House second readers on January 28, 2021.<sup>44</sup>

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Employers argued because of this exception, the employees were not entitled to the minimum wage guaranteed under the Georgia law.)

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> H.B. 116 Status Sheet.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*