

Regular Session, 2014

HOUSE BILL NO. 1188

BY REPRESENTATIVE DIXON

PUBLIC CONTRACTS: Requires state contractors and subcontractors to pay workers performing such contract a minimum wage

1 AN ACT

2 To enact Chapter 27 of Subtitle III of Title 39 of the Louisiana Revised Statutes of 1950, to
3 be comprised of R.S. 39:2211 through 2218, relative to certain contracts; to require
4 state contractors and subcontractors to pay a minimum wage to workers in
5 performance of the contract or subcontract; to provide for establishment and
6 increases in such wage; to provide for a minimum wage for tipped employees under
7 state contract; to provide for regulations and implementation; to provide for
8 enforcement; to provide for applicability; to provide for effective dates; and to
9 provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Chapter 27 of Subtitle III of Title 39 of the Louisiana Revised Statutes of
12 1950, comprised of R.S. 39:2211 through 2218 is hereby enacted to read as follows:

13 CHAPTER 27. MINIMUM WAGE FOR STATE CONTRACTORS

14 AND SUBCONTRACTORS

15 §2211. Title

16 This Chapter shall be known as the "Minimum Wage for State Contractors
17 and Subcontractors Act".

18 §2212. Minimum wage for state contractors and subcontractors; establishment

19 A. On February 12, 2014, the president of the United States released an
20 executive order which provided that in order to promote economy and efficiency in

1 procurement by contracting with sources who adequately compensate their workers,
2 parties who contract with the federal government shall compensate employees at a
3 rate of ten dollars and ten cents per hour.

4 B. Raising the pay of low-wage workers increases morale, productivity, and
5 the quality of work. Raising pay lowers turnover and its accompanying costs, and
6 reduces supervisory costs. These savings and quality improvements will lead to
7 improved economy and efficiency in government procurement.

8 C. To establish a minimum wage for state contractors and subcontractors, the
9 commissioner of administration and all state agencies shall, to the extent permitted
10 by law, ensure that new contracts, contract-like instruments, and solicitations include
11 a clause, which the contractor and any subcontractors shall incorporate into
12 lower-tier subcontracts, specifying, as a condition of payment, that the minimum
13 wage to be paid to workers in the performance of the contract or any subcontract
14 thereunder, shall be at least:

15 (1) Ten dollars and ten cents per hour beginning January 1, 2015.

16 (2)(a) Beginning January 1, 2016, and annually thereafter, the minimum
17 wage amount shall be the amount determined by the United States Secretary of
18 Labor for federal contractors and subcontractors as required by the executive order
19 issued February 12, 2014.

20 (b) Nothing shall excuse noncompliance with any applicable federal or state
21 prevailing wage law, or any applicable law or municipal ordinance establishing a
22 minimum wage higher than the minimum wage established pursuant to this Chapter.

23 §2213. Tipped employees

24 A.(1) For workers in the performance of the contract or any subcontract
25 thereunder who are tipped employees pursuant to 29 U.S.C. 203(t), the hourly cash
26 wage that shall be paid by an employer to such workers shall be at least four dollars
27 and ninety cents per hour, beginning on January 1, 2015.

28 (2) For each succeeding one-year period until the hourly cash wage under
29 this Section equals seventy percent of the wage in effect pursuant to R.S. 39:2212,

1 an hourly cash wage equal to the amount determined for the preceding year shall be,
2 increased by the lesser of ninety-five cents or the amount necessary for the hourly
3 cash wage to equal seventy percent of the wage pursuant to R.S. 39:2212.

4 (3) For each subsequent year, the hourly cash wage shall be seventy percent
5 of the wage in effect pursuant to R.S. 39:2212 rounded to the nearest multiple of five
6 cents.

7 B. When a worker does not receive a sufficient additional amount on account
8 of tips when combined with the hourly cash wage paid by the employer such that
9 their wages are equal to the minimum wage pursuant to R.S. 39:2212, the cash wage
10 paid by the employer shall be increased such that the wages of the tipped employee
11 equal the minimum wage.

12 C. If the wage required to be paid under any applicable law or regulation is
13 higher than the wage required by this Chapter, the employer shall pay additional cash
14 wages sufficient to meet the highest wage required to be paid.

15 §2214. Regulations and Implementation

16 A. The commissioner of administration shall issue regulations by October 1,
17 2014, to the extent permitted by law and consistent with the requirements of the
18 Administrative Procedure Act, to implement the requirements of this Chapter.

19 B. The commissioner of administration shall issue regulations to provide for
20 inclusion of the contract clause in procurement solicitations and contracts governed
21 by Chapters 16 and 17 of this Title.

22 C. Within sixty days of the commissioner of administration issuing
23 regulations, agencies shall take steps, to the extent permitted by law, to exercise any
24 applicable authority to ensure that contracts as described in this Chapter, entered into
25 after January 1, 2015, consistent with the effective date of such agency action,
26 comply with the requirements set forth in this Chapter.

27 D. Any regulations issued pursuant to this Section should, to the extent
28 practicable, incorporate existing definitions, procedures, remedies, and enforcement
29 processes under Chapters 16 and 17 of this Title.

1 §2215. Enforcement

2 A. The commissioner of administration has the authority for investigating
3 potential violations of and obtaining compliance with this Chapter.

4 B. This Chapter creates no rights, and disputes regarding whether a
5 contractor has paid the wages prescribed by this Chapter, to the extent permitted by
6 law, shall be disposed of only as provided by the commissioner of administration in
7 regulations issued pursuant to this Chapter.

8 §2216. Severability

9 If any provision of this Chapter, or applying such provision to any person or
10 circumstance, is held to be invalid, the remainder of the Chapter and the application
11 of the provisions of such to any person or circumstance shall not be affected thereby.

12 §2217. General Provisions

13 A. This Chapter shall be implemented consistent with applicable law and
14 subject to the availability of appropriations.

15 B. This Chapter is not intended to, and does not create any right or benefit,
16 substantive or procedural, enforceable at law or in equity by any party against the
17 state of Louisiana, its departments, agencies, or entities, its officers, employees, or
18 agents, or any other person.

19 C. This Chapter shall apply only to a new contract or contract-like
20 instrument, as defined by the commissioner of administration in the regulations
21 issued pursuant to this Chapter if any of the following apply:

22 (1) It is a procurement contract for services or construction under the
23 Louisiana Procurement Code.

24 (2) It is a contract or contract-like instrument for personal, professional,
25 consulting, or social services under Chapter 16 of this Title.

26 D. This Chapter shall not apply to grants, contracts, and agreements
27 expressly excluded by the regulations issued pursuant to the Federal executive order.

28 E. Political subdivisions are authorized to adopt all or any part of this
29 Chapter and its accompanying regulations.

1 §2218. Effective Date2 A. The provisions of this Chapter shall apply to covered contracts where the
3 solicitation for such contract has been issued on or after January 1, 2015.4 B. The order shall not apply to contracts or contract-like instruments entered
5 into pursuant to solicitations issued on or before the effective date for the relevant
6 action taken pursuant to this Chapter.7 C. For all new contracts and contract-like instruments negotiated between
8 the August 1, 2014, and the effective dates set forth in this Chapter, agencies are
9 strongly encouraged to take all steps that are reasonable and legally permissible to
10 ensure that individuals working pursuant to those contracts and contract-like
11 instruments are paid an hourly wage of at least ten dollars and ten cents per hour.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Dixon

HB No. 1188

Abstract: Requires state contractors and subcontractors to agree to pay workers in the performance of the contract or subcontract a minimum wage of \$10.10 per hour.

Proposed law is similar to the presidential executive order issued by President Obama on February 12, 2014, which requires that employers who are contractors or subcontractors with the federal government shall pay their employees a wage of \$10.10 per hour beginning Jan. 1, 2015.

Proposed law requires the commissioner of administration and all state agencies to ensure that beginning Jan. 1, new contracts, contract-like instruments, and solicitations include a clause, specifying, as a condition of payment, a minimum wage of \$10.10 per hour to be paid to workers in the performance of the contract or any subcontract thereunder. The contractor and any subcontractors shall incorporate into lower-tier subcontracts. Proposed law provides that beginning January 1, 2016, the rate shall be the same as the minimum wage for federal contractors and subcontractors determined by the US Secretary of Labor.

Proposed law sets the minimum wage for contracted tipped employees at \$4.90 per hour beginning on January 1, 2015. Provides for an increase in succeeding years based on the minimum wage for other employees. Requires the minimum wage for contracted tipped employees to be increased if the wage plus tips fall below the minimum wage such that the wages of the tipped employee equal the minimum wage.

Proposed law requires the commissioner of administration to issue regulations by October 1, 2014, consistent with the requirements of the Administrative Procedure Act, to implement the requirements of proposed law. Requires agencies to take steps within 60 days of the regulations to exercise authority to ensure contracts entered into on or after January 1, 2015, comply with proposed law.

Proposed law shall be implemented consistent with applicable law and subject to the availability of appropriations.

Proposed law shall apply only to a new contract or contract-like instrument if it is a procurement contract under the La. Procurement Code or it is for personal, professional, consulting, or social services under Chapter 16 of Title 39.

Proposed law shall not apply to grants, contracts, and agreements expressly excluded by the regulations issued pursuant to the federal executive order.

Proposed law authorizes political subdivisions to adopt all or any part of proposed law and its accompanying regulations.

Proposed law applies to covered contracts where the solicitation for such contract has been issued on or after January 1, 2015. The order shall not apply to contracts or contract-like instruments entered into pursuant to solicitations issued on or before the effective date for the relevant action taken pursuant to proposed law.

Proposed law encourages agencies to take all reasonable and permissible steps to ensure workers are paid an hourly wage of at least \$10.10 per hour in all new contracts and contract-like instruments negotiated between August 1, 2014, and the effective dates set forth in proposed law,

(Adds R.S. 39:2211-2218)