

21 - 0043 Amdt. #1

January 5, 2022

HAND DELIVERED

RECEIVED

JAN 07 2022

Anabel Renteria,
Initiative Coordinator
Office of the Attorney General
1300 I. Street, 17th Floor
Sacramento, CA 95814

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: Initiative No. 21-0022 - First Amendment

Dear Ms. Renteria:

Pursuant to Elections Code Section 9002(b), enclosed please find an amendment to Initiative Number 21-0043, also known as the "Living Wage Act of 2022." The amendments are reasonably germane to the theme, purpose, or subject of the initiative measure as originally proposed.

I am the proponent of the measure and request that the Attorney General prepare a circulating title and summary of the amended measure as provided by law.

Should you have any questions or require additional information, please direct any inquiries or correspondence to:

George M. Yin
Kaufman Legal Group, APC
777 South Figueroa Street
Suite 4050
Los Angeles, CA 90017
t: 213-452-6565
E-mail: gyin@kaufmanlegalgroup.com

Thank you in advance for your attention to this matter.

Very truly yours,



Joe Sanberg
Initiative Proponent

THE LIVING WAGE ACT OF 2022
[Amended Version]

21 - 0043 Amdt. #1

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8, of the California Constitution.

This initiative measure amends and adds sections to the Labor Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout~~ type and new provisions proposed to be added are printed in *italic* type to indicate that they are new.

SEC. 1. Name.

This act shall be known as the Living Wage Act of 2022.

SEC. 2. Findings and Purpose.

The People of California find and declare that:

- (a) The purpose of The Living Wage Act of 2022 ("the Act") is to ensure that workers receive wages that will financially support them and their families.
- (b) To achieve this purpose, The Living Wage Act of 2022 will increase the California minimum wage to \$18 per hour by 2025 and in each year thereafter the minimum wage will be adjusted to keep pace with the cost of living in California.
- (c) For more than 12 years, the federal minimum wage has been stuck at \$7.25. If it had increased at the rate of productivity growth since 1960, it would be \$24 right now.
- (d) Many working Californians, including essential workers, parents and seniors, have full-time jobs yet struggle to make ends meet. The minimum wage has not kept pace with the cost of living and is worth less today than it was 50 years ago.
- (e) California currently has the eighth highest income inequality among all fifty U.S. states and Washington, D.C., which is forcing many working households into poverty.
- (f) The most recent available data, which does not include the effects of COVID-19, shows that more than 6.3 million Californians lack enough resources to meet their basic needs. More than a third of Californians are living in or near poverty. The large majority of California's low-wage workers are adults, not teens. The average age for low-wage workers is 36, compared to 40 for all workers. 46 percent of low-wage workers have children, and 40 percent are married. Californians cannot support a family on the current minimum wage of \$15 per hour, or \$31,200 per year, for people working full time.
- (g) Despite being employed full-time, Californians who are paid the current minimum wage often must rely on the State's social safety net to meet their basic needs. Californians' wages are not keeping up with inflation or our state's rising cost of living. Research finds that a single

parent living in California with two children would need to make \$50 per hour to get by, but our state's minimum wage is only \$15 per hour.

(h) The purchasing power of the minimum wage will continue to erode if it is not adjusted yearly to reflect increases in the cost of living.

(i) Raising the minimum wage will increase the earnings of many Medi-Cal recipients, making them eligible for federal subsidies on California's health benefit exchange, saving the State millions of dollars a year in Medi-Cal costs.

(j) Californians working in a wide variety of jobs and industries are paid the minimum wage, and it is the goal of this Act to protect all such workers, regardless of whether they are employed by single, multiple, or joint employers.

(k) Income inequality, a growing population of working poor, and wage stagnation in California create strong justification for boosting income-support for working households struggling to meet basic needs.

SEC 3. Section 1182.12 of the Labor Code is amended, to read:

§ 1182.12. Minimum wage

(a) Notwithstanding any other provision of this part, on and after July 1, 2014, the minimum wage for all industries shall be not less than nine dollars (\$9) per hour, and on and after January 1, 2016, the minimum wage for all industries shall be not less than ten dollars (\$10) per hour.

(b) Notwithstanding subdivision (a), the minimum wage for all industries shall not be less than the amounts set forth in this subdivision, except when the scheduled increases in paragraphs (1) and (2) are temporarily suspended under subdivision (d).

(1) For any employer who employs 26 or more employees, the minimum wage shall be as follows:

(A) From January 1, 2017, to December 31, 2017, inclusive,—ten dollars and fifty cents (\$10.50) per hour.

(B) From January 1, 2018, to December 31, 2018, inclusive,—eleven dollars (\$11) per hour.

(C) From January 1, 2019, to December 31, 2019, inclusive,—twelve dollars (\$12) per hour.

(D) From January 1, 2020, to December 31, 2020, inclusive,—thirteen dollars (\$13) per hour.

(E) From January 1, 2021, to December 31, 2021, inclusive,—fourteen dollars (\$14) per hour.

(F) From January 1, 2022, ~~and until adjusted by subdivision (e) to December 31, 2022,~~ *inclusive*—fifteen dollars (\$15) per hour.

(G) From January 1, 2023 to December 31, 2023, inclusive,--sixteen dollars (\$16) per hour.

(H) From January 1, 2024 to December 31, 2024, inclusive,--seventeen dollars (\$17) per hour.

(I) From January 1, 2025, and until adjusted by subdivision (c)—eighteen dollars (\$18) per hour.

(2) For any employer who employs 25 or fewer employees, the minimum wage shall be as follows:

(A) From January 1, 2018, to December 31, 2018, inclusive,—ten dollars and fifty cents (\$10.50) per hour.

(B) From January 1, 2019, to December 31, 2019, inclusive,—eleven dollars (\$11) per hour.

(C) From January 1, 2020, to December 31, 2020, inclusive,—twelve dollars (\$12) per hour.

(D) From January 1, 2021, to December 31, 2021, inclusive,—thirteen dollars (\$13) per hour.

(E) From January 1, 2022, to December 31, 2022, inclusive,—fourteen dollars (\$14) per hour.

(F) From January 1, 2023, ~~and until adjusted by subdivision (e)~~ *to December 31, 2023, inclusive*—fifteen dollars (\$15) per hour.

(G) From January 1, 2024, to December 31, 2024, inclusive,—sixteen dollars (\$16) per hour.

(H) From January 1, 2025, to December 31, 2025, inclusive,—seventeen dollars (\$17) per hour.

(I) From January 1, 2026, and until adjusted by subdivision (c)—eighteen dollars (\$18) per hour.

(3) For purposes of this subdivision, “employer” means any person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of any person. For purposes of this subdivision, “employer” includes the state, political subdivisions of the state, and municipalities.

(4) Employees who are treated as employed by a single qualified taxpayer under subdivision (h) of Section 23626 of the Revenue and Taxation Code, as it read on the effective date of this section, shall be considered employees of that taxpayer for purposes of this subdivision.

(c) (1) Following the implementation of the minimum wage increase specified in subparagraph ~~(F)~~ *(I)* of paragraph (2) of subdivision (b), on or before August 1 of that year, and on or before each August 1 thereafter, the Director of Finance shall calculate an adjusted minimum wage. The calculation shall increase the minimum wage by the lesser of 3.5 percent and the rate of change in the averages of the most recent July 1 to June 30, inclusive, period over the preceding July 1 to June 30, inclusive, period for the United States Bureau of Labor Statistics nonseasonally

adjusted United States Consumer Price Index for Urban Wage Earners and Clerical Workers (U.S. CPI-W). The result shall be rounded to the nearest ten cents (\$0.10). Each adjusted minimum wage increase calculated under this subdivision shall take effect on the following January 1.

(2) If the rate of change in the averages of the most recent July 1 to June 30, inclusive, period over the preceding July 1 to June 30, inclusive, period for the United States Bureau of Labor Statistics nonseasonally adjusted U.S. CPI-W is negative, there shall be no increase or decrease in the minimum wage pursuant to this subdivision on the following January 1.

(3) (A) Notwithstanding the implementation timing described in paragraph (1) of this subdivision, if the rate of change in the averages of the most recent July 1 to June 30, inclusive, period over the preceding July 1 to June 30, inclusive, period for the United States Bureau of Labor Statistics nonseasonally adjusted U.S. CPI-W exceeds 7 percent in the first year that the minimum wage specified in subparagraph ~~(F)~~(I) of paragraph (1) of subdivision (b) is implemented, the indexing provisions described in paragraph (1) of this subdivision shall be implemented immediately, such that the indexing will be effective on the following January 1.

(B) If the rate of change in the averages of the most recent July 1 to June 30, inclusive, period over the preceding July 1 to June 30, inclusive, period for the United States Bureau of Labor Statistics nonseasonally adjusted U.S. CPI-W exceeds 7 percent in the first year that the minimum wage specified in subparagraph ~~(F)~~(I) of paragraph (1) of subdivision (b) is implemented, notwithstanding any other law, for employers with 25 or fewer employees the minimum wage shall be set equal to the minimum wage for employers with 26 or more employees, effective on the following January 1, and the minimum wage increase specified in subparagraph ~~(F)~~(I) of paragraph (2) of subdivision (b) shall be considered to have been implemented for purposes of this subdivision.

(d) (1) On or before July 28, 2017, and on or before every July 28 thereafter until the minimum wage is ~~fifteen dollars (\$15)~~ *eighteen dollars (\$18)* per hour pursuant to paragraph (1) of subdivision (b), to ensure that economic conditions can support a minimum wage increase, the Director of Finance shall annually make a determination and certify to the Governor and the Legislature whether each of the following conditions is met:

(A) Total nonfarm employment for California, seasonally adjusted, decreased over the three-month period from April to June, inclusive, prior to the July 28 determination. This calculation shall compare seasonally adjusted total nonfarm employment in June to seasonally adjusted total nonfarm employment in March, as reported by the Employment Development Department.

(B) Total nonfarm employment for California, seasonally adjusted, decreased over the six-month period from January to June, inclusive, prior to the July 28 determination. This calculation shall compare seasonally adjusted total nonfarm employment in June to seasonally adjusted total nonfarm employment in December, as reported by the Employment Development Department.

(C) Retail sales and use tax cash receipts from a 3.9375-percent tax rate for the July 1 to June 30, inclusive, period ending one month prior to the July 28 determination is less than retail sales and

use tax cash receipts from a 3.9375-percent tax rate for the July 1 to June 30, inclusive, period ending 13 months prior to the July 28 determination. The calculation for the condition specified in this subparagraph shall be made as follows:

(i) The State Board of Equalization shall publish by the 10th of each month on its Internet Web site the total retail sales (sales before adjustments) for the prior month derived from their daily retail sales and use tax reports.

(ii) The State Board of Equalization shall publish by the 10th of each month on its Internet Web site the monthly factor required to convert the prior month's retail sales and use tax total from all tax rates to a retail sales and use tax total from a 3.9375-percent tax rate.

(iii) The Department of Finance shall multiply the monthly total from clause (i) by the monthly factor from clause (ii) for each month.

(iv) The Department of Finance shall sum the monthly totals calculated in clause (iii) to calculate the 12-month July 1 to June 30, inclusive, totals needed for the comparison in this subparagraph.

(2) (A) On or before July 28, 2017, and on or before every July 28 thereafter until the minimum wage is ~~fifteen dollars (\$15)~~ *eighteen dollars (\$18)* per hour pursuant to paragraph (1) of subdivision (b), to ensure that the state General Fund fiscal condition can support the next scheduled minimum wage increase, the Director of Finance shall annually make a determination and certify to the Governor and the Legislature whether the state General Fund would be in a deficit in the current fiscal year, or in either of the following two fiscal years.

(B) For purposes of this subdivision, deficit is defined as a negative balance in the Special Fund for Economic Uncertainties, as provided for in Section 16418 of the Government Code, that exceeds, in absolute value, 1 percent of total state General Fund revenue and transfers, based on the most recent Department of Finance estimates required by Section 12.5 of Article IV of the California Constitution. For purposes of this subdivision, the estimates shall include the assumption that only the minimum wage increases scheduled for the following calendar year pursuant to subdivision (b) will be implemented.

(3) (A) (i) If, for any year, the condition in either subparagraph (A) or (B) of paragraph (1) is met, and if the condition in subparagraph (C) of paragraph (1) is met, the Governor may, on or before August 1 of that year, notify the Legislature of an initial determination to temporarily suspend the minimum wage increases scheduled pursuant to subdivision (b) for the following year.

(ii) If the Director of Finance certifies under paragraph (2) that the state General Fund would be in a deficit in the current fiscal year, or in either of the following two fiscal years, the Governor may, on or before August 1 of that fiscal year, notify the Legislature of an initial determination to temporarily suspend the minimum wage increases scheduled pursuant to subdivision (b) for the following year.

(B) If the Governor provides notice to the Legislature pursuant to subparagraph (A), the Governor shall, on September 1 of any such year, make a final determination whether to temporarily suspend the minimum wage increases scheduled pursuant to subdivision (b) for the following year. The determination to temporarily suspend the minimum wage increases scheduled pursuant to subdivision (b) for the following year shall be made by proclamation.

(C) The Governor may temporarily suspend scheduled minimum wage increases pursuant to clause (ii) of subparagraph (A) no more than two times.

(D) If the Governor makes a final determination to temporarily suspend the scheduled minimum wage increases pursuant to subdivision (b) for the following year, all dates specified in subdivision (b) that are subsequent to the September 1 final determination date shall be postponed by an additional year.

SEC. 4. Amendment.

Pursuant to subdivision (c) of Section 10 of Article II of the California Constitution, this Act may be amended by a subsequent measure submitted to a vote of the people at a statewide election. This Act may also be amended by a two-thirds vote of each house of the Legislature. However, this Act may be amended to adopt an increase to the state minimum wage at rates that are higher than those specified herein on its effective date by a majority vote of each house of the Legislature.

SEC 5. Severability.

It is the intent of the People that the provisions of this Act are severable and that if any provision of this Act, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other provision or application of this Act that can be given effect without the invalid provision or application.