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LABOR AND INDUSTRIAL RELATIONS

Minimum Wages: Increase Hourly Amount; Provide for Exceptions; Provide for Related Matters

CODE SECTION: O.C.G.A. § 34-4-3 (amended)
BILL NUMBER: SB 14
ACT NUMBER: 32
GEORGIA LAWS: 2001 Ga. Laws 201
SUMMARY: The Act, called the "Georgia Minimum Wage Law," increases the minimum wage paid by employers to all covered employees. The increase from \$3.25 per hour to \$5.15 per hour brings the state minimum wage in line with the current federal minimum wage. The Act also adds an exemption for any individual who is employed by a nonprofit child-care institution or long-term care facility serving children or mentally disabled adults who are enrolled in such institutions 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. An additional exception provides that the law does not apply to employers who are subject to a minimum wage enacted by Congress if that minimum wage is higher than the wage stated in O.C.G.A. § 34-4-3.
EFFECTIVE DATE: July 1, 2001

History

At the time SB 14 was proposed, Georgia's minimum wage was the third lowest of all states with a minimum wage.¹ At \$3.25 per hour, the

¹. See *How Low Can You Go?*, NAT'L J. (Feb. 17, 2001) (citing the Department of Labor).

Georgia wage was also \$1.90 less than the federal minimum wage.² Although most workers in the state are covered by the federal minimum wage, workers not involved in interstate commerce are excluded from coverage.³ It was concern for the approximately 63,000 Georgia workers not covered by the federal minimum wage that gave rise to SB 14.⁴ Supporters of the bill also pointed to the fact that the minimum wage law had only been amended once since its enactment in 1970,⁵ and the current wage left affected Georgians with an annual income below the national and state poverty levels.⁶

Sponsors of the bill conceded that SB 14 was in some ways symbolic in that it would not affect a large number of individuals, but would send a message of hope to the working poor, reflecting Georgia's integrity to the rest of the country.⁷ In effect, the bill would demonstrate that Georgia cares about its workers.⁸ Those in support of the bill felt strongly that the bill was justified even if it would help just one person in the state.⁹

SB 14

Introduction

Senators Charles Walker, Horacena Tate, Terrell Starr, Nathan Dean, Donzella James and Mike Polak of the 22nd, 38th, 44th, 31st, 35th and 42nd Districts, respectively, sponsored SB 14.¹⁰ The bill was introduced

2. See Fair Labor Standards Act of 1938, 29 U.S.C. § 206 (1999).

3. See *id.* § 206(a).

4. See Audio Recording of Senate Proceedings, Jan. 31, 2001 (remarks by Sen. Charles Walker), at <http://www.ganet.org/services/leg/audio/2001archive.html> [hereinafter Senate Audio, Jan. 31].

5. See Senate Audio, Jan. 31, *supra* note 4 (remarks by Sen. Horacena Tate); Audio Recording of House Proceedings, Mar. 13, 2001 (remarks by Rep. Tommy Smith), at <http://www.state.ga.us/services/leg/audio/2001archive.html> [hereinafter House Audio, Mar. 13]; see also 1984 Ga. Laws 1324, § 1(a); 1970 Ga. Laws 153, § 2.

6. See Senate Audio, Jan. 31, *supra* note 4 (remarks by Sen. Horacena Tate).

7. See Audio Recording of Senate Proceedings, Feb. 2, 2001 (remarks by Sen. Regina Thomas), at <http://www.ganet.org/services/leg/audio/2001archive.html> [hereinafter Senate Audio, Feb. 2]; House Audio, Mar. 13, *supra* note 5 (remarks by Rep. Buddy Childers).

8. See Audio Recording of Senate Proceedings, Feb. 20, 2001 (remarks by Sen. Donzella James), at <http://www.ganet.org/services/leg/audio/2001archive.html> [hereinafter Senate Audio, Feb. 20].

9. See House Audio, Mar. 13, *supra* note 5 (remarks by Rep. Tommy Smith); Electronic Mail Interview with Sen. Mike Polak, Senate District No. 42 (Apr. 5, 2001) [hereinafter Polak Interview].

10. See SB 14, as introduced, 2001 Ga. Gen. Assem.

on the Senate floor on January 9, 2001.¹¹ Two Senate floor amendments passed on January 31, 2001.¹² The bill was referred to the Senate Labor and Insurance Committee, which favorably reported the bill, with changes, on February 15, 2001.¹³ The Senate then adopted the Committee substitute and passed the bill on February 20, 2001.¹⁴ The bill was first introduced on the House floor on February 20, 2001.¹⁵ The House Industrial Relations Committee favorably reported the bill, without changes, on March 13, 2001.¹⁶ The Senate sent SB 14 to the Governor on April 4, 2001.¹⁷ Governor Roy Barnes signed the bill into law on April 13, 2001.¹⁸

Consideration in the Senate

On the Senate floor, two amendments were proposed and passed on January 31, 2001.¹⁹ The result of these amendments was to strike lines fifteen through twenty-two of the bill as originally proposed which would have required an automatic increase in the state minimum wage in accordance with any federal minimum wage increase, and to reinstate in the law that language exempting the following individuals from the minimum wage law: 1) employers with sales equal to or less than \$40,000 per year 2) employers with five or fewer employees 3) employers of domestic employees 4) employees who are high school or college students and 5) individuals employed as newspaper carriers.²⁰

Senator Don Balfour of the 9th District introduced a floor substitute on January 31, 2001.²¹ The substitute proposed repealing the minimum wage law in its entirety.²² The floor substitute passed in the Senate and per Senate Rule 143, was required to layover for a day before being automatically submitted for reconsideration on February 1, 2001.²³ The

11. See State of Georgia Final Composite Status Sheet, SB 14, Mar. 21, 2001.

12. See Georgia Senate Voting Record, SB 14 (Jan. 31, 2001) (vote on amendments).

13. See State of Georgia Final Composite Status Sheet, SB 14, Mar. 21, 2001.

14. See Georgia Senate Voting Record, SB 14 (Feb. 20, 2001).

15. See Audio Recording of House Proceedings, Feb. 20, 2001, at <http://www.state.ga.us/services/leg/audio/2001archive.html> [hereinafter House Audio, Feb. 20].

16. See State of Georgia Final Composite Status Sheet, SB 14, Mar. 21, 2001.

17. See *id.*

18. See 2001 Ga. Laws 201, § 2, at 202.

19. See Georgia Senate Voting Record, SB 14 (Jan. 31, 2001); State of Georgia Final Composite Status Sheet, SB 14, Mar. 21, 2001.

20. Compare SB 14, as introduced, 2001 Ga. Gen. Assem., with SB 14 (SCSFA), 2001 Ga. Gen. Assem.

21. See Senate Audio, Jan. 31, *supra* note 4 (remarks by Sen. Don Balfour).

22. Compare SB 14, as introduced, 2001 Ga. Gen. Assem., with SB 14 (SFS), 2001 Ga. Gen. Assem.

23. GA. SEN. R. 143 (“[W]hen the Senate adopts a substitute to any bill or resolution other than one

floor substitute failed the second vote on February 1, 2001.²⁴ The bill as amended also failed to achieve a constitutional majority that day.²⁵ The author of the bill made a motion to reconsider the bill and the bill was placed on the calendar for the next day.²⁶

On February 2, 2001, the motion to reconsider failed the first vote²⁷ but a second motion to reconsider passed and the bill was again placed on the Senate general calendar.²⁸ The bill was favorably reported out of the Senate Labor and Insurance Committee on February 15, 2001, with changes.²⁹

The Committee substituted language within SB 14 exempting from the minimum wage law certain individuals who are employed by nonprofit child-care institutions or long-term care facilities serving children or mentally disabled adults who are enrolled in such institutions and reside in residential facilities of the institution.³⁰ This amendment was proposed because many of those workers are employed on an on-call basis twenty-four hours per day.³¹ If those employees were not exempted, the facilities would have had to pay minimum wage plus overtime for all twenty-four hours, and that would have a negative economic impact on those institutions.³² In particular, supporters of the amendment suggested these institutions would be forced to reduce or eliminate such jobs as being cost-prohibitive.³³ In this way, the bill was intended to create a "safety net" for those and other workers.³⁴

offered by the committee from which the bill was last reported, passage of the bill shall be suspended at that time. The bill shall then be placed at the top of the General Calendar of the next meeting day of the Senate, at which time the previously adopted substitute shall stand automatically reconsidered and the substitute and the bill shall be before the Senate for consideration and passage.").

24. See Georgia Senate Voting Record, SB 14 (Feb. 1, 2001).

25. See *id.*

26. See Audio Recording of Senate Proceedings, Feb. 1, 2001 (remarks by Sen. Charles Walker), at <http://www.ganet.org/services/leg/audio/2001archive.html> [hereinafter Senate Audio, Feb. 1].

27. See Georgia Senate Voting Record, SB 14 (Feb. 2, 2001).

28. See *id.*; Senate Audio, Feb. 2, *supra* note 7 (remarks by Sen. Charles Walker).

29. See Audio Recording of Senate Proceedings, Feb. 15, 2001, at <http://www.ganet.org/services/leg/audio/2001archive.html> [hereinafter Senate Audio, Feb. 15].

30. Compare SB 14 (SCSFA), 2001 Ga. Gen. Assem., with SB 14 (SCS), 2001 Ga. Gen. Assem.

31. See Polak Interview, *supra* note 9; Senate Audio, Feb. 20, *supra* note 8 (remarks by Sen. Charles Walker).

32. See Polak Interview, *supra* note 9.

33. See *id.*

34. See Dave Williams, *House OKs Bill to Increase Minimum Wage Measure Will Raise Rate From \$3.25 Per Hour to \$5.15 For Workers Not Covered Under Federal Law*, AUGUSTA CHRON., Mar. 14, 2001, at B7; House Audio, Mar. 13, *supra* note 5 (remarks by Rep. Tommy Smith).

The Committee favorably reported the bill, as substituted, on February 15, 2001.³⁵ The Senate adopted the Committee substitute and passed the bill, as substituted, on February 20, 2001.³⁶

Consideration in the House

The bill was first read on the House floor on February 20, 2001.³⁷ The House Industrial Relations Committee favorably reported the bill, without changes, and the House adopted and passed the bill without changes on March 13, 2001.³⁸

The bill was sent to the Governor for approval on April 4, 2001,³⁹ and was signed into law on April 13, 2001.⁴⁰

The Act

Section 1 of the Act provides the short title, "Georgia Minimum Wage Law."⁴¹ The Act amends Code section 34-4-3 to provide for an increase in the minimum wage and to provide for exceptions.⁴² Specifically, Code section 34-4-3(1)(a) was amended to increase the minimum wage for covered employees from \$3.25 to \$5.15 per hour for each hour worked.⁴³ Code subsections 34-4-3(1)(b)(6) and (7), which describe certain exceptions to the law, were added and eliminated the word "or" following each of those exceptions.⁴⁴ A new Code section 34-4-3(1)(b)(8) was added to exempt

[a]ny 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

35. See State of Georgia Final Composite Status Sheet, SB 14, Mar. 21, 2001.

36. See Georgia Senate Voting Record, SB 14 (Feb. 20, 2001).

37. See House Audio, Feb. 20, *supra* note 15.

38. State of Georgia Final Composite Status Sheet, SB 14, Mar. 21, 2001; Georgia House of Representatives Voting Record, SB 14 (Mar. 13, 2001).

39. See State of Georgia Final Composite Status Sheet, SB 14, Mar. 21, 2001.

40. See *id.*

41. O.C.G.A. § 34-4-3 (Supp. 2001).

42. Compare 1984 Ga. Laws 1324, § 1, at 1324 (formerly found at O.C.G.A. § 34-4-3 (1998)), with O.C.G.A. § 34-4-3 (Supp. 2001).

43. Compare 1984 Ga. Laws 1324, § 1, at 1324 (formerly found at O.C.G.A. § 34-4-3 (1998)), with O.C.G.A. § 34-4-3(a) (Supp. 2001).

44. Compare 1984 Ga. Laws 1324, § 1, at 1324 (formerly found at O.C.G.A. § 34-4-3 (1998)), with O.C.G.A. § 34-4-3(b)(6), (7) (Supp. 2001).

cost board and lodging from such institution, and is compensated on a cash basis at an annual rate of not less than \$10,000.⁴⁵

An additional section of the Act provides that the law does not apply to employers who are subject to a minimum wage enacted by Congress if that minimum wage is higher than the wage stated in Code section 34-4-3.⁴⁶

Opposition to SB 14

Those opposing SB 14 pointed to the fact that many southern states have no minimum wage.⁴⁷ Others insisted that the bill was unnecessary because it would affect an insignificant number of people, and might actually have the unintended effect of decreasing the number of jobs available to the working poor.⁴⁸ Ultimately though, the spirit that this was simply “the right thing to do” carried the vote and the bill passed both houses.⁴⁹

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45. Compare 1984 Ga. Laws 1324, § 1, at 1324 (formerly found at O.C.G.A. § 34-4-3 (1998)), with O.C.G.A. § 34-4-3(b)(8) (Supp. 2001).

46. Compare 1984 Ga. Laws 1324, § 1, at 1324 (formerly found at O.C.G.A. § 34-4-3 (1998)), with O.C.G.A. § 34-4-3(c) (Supp. 2001).

47. See Senate Audio, Jan. 31, *supra* note 4 (remarks by Sen. Don Balfour).

48. See Telephone Interview with Sen. Seth Harp, Senate District No. 16 (Apr. 6, 2001); Senate Audio, Jan. 31, *supra* note 4 (remarks by Sen. Don Balfour).

49. See House Audio, Mar. 13, *supra* note 5 (remarks by Rep. Earl Ehrhart).