
Councilmember David A. Catania

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Minimum Wage Act Revision Act of 1992 to establish a living wage for employees of contractors performing services for the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Living Wage Establishment Amendment Act of 2005".

Sec. 2. Section 4(a) of The Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1003 (a)), is amended by adding a new paragraph (3) to read as follows:

"(3)(A) Each public contract for the provision of services which takes effect on or after January 1, 2006 shall require that the contractor pay each employee assigned to perform services under such public contract an hourly rate of no less than \$10.50. The Department of Employment Services shall adjust the wage rate required under this section, effective July 1 of each year, by the annual average increase, if any, in the Consumer Price Index for all urban consumers for the Washington-Baltimore metropolitan area, or any successor index, for the previous calendar year. The Department of Employment Services shall calculate the adjustment to the nearest multiple of \$.05, and shall publish the amount of this adjustment not later than

March 1 of each year.	31
(B) The requirement of this section shall not apply to:	32
(i) A contractor who employs fewer than 10 employees at any time the contract is	33
in effect;	34
(ii) A contractor who will be entitled to receive less than \$50,000 for the	35
performance of the contract;	36
(iii) A contract with a public entity;	37
(iv) A contract with a nonprofit organization that has qualified for an exemption	38
from federal income taxes under Section 501(c)(3) of the Internal Revenue Code;	39
(v) A contract for electricity, telephone, water, sewer or similar service delivered	40
by a regulated utility;	41
(vi) A contract for services needed immediately to prevent or respond to an	42
imminent threat to public health or safety;	43
(vii) An employer to the extent that the employer is expressly precluded from	44
complying with this section by the terms of any federal or District of Columbia law or regulation.	45
(C) The wage requirements of this section shall not apply to any employee:	46
(i) Who performs no measurable work related to any contract with the District of	47
Columbia;	48
(ii) Who participates in a government-operated or government-sponsored program	49
that restricts earnings of or wages paid to employees to a level below the wage required by this	50
section;	51
(iii) Who participates for no longer than 120 days in any calendar year in a	52

government-operated or government-sponsored summer youth employment program; or 53

(iv) For whom a lower rate is expressly set in a bona fide collective bargaining 54
agreement. 55

(D) Each bid or proposal covered by this section shall specify how the contractor and 56
each subcontractor will comply with these wage requirements, and shall include sufficient funds 57
to meet these requirements. The contractor under each public contract to which this section 58
applies shall include the provisions of this section in every subcontract so that such provisions 59
will be binding upon each subcontractor. 60

(E) The required wage rate shall be paid without contemporaneous or subsequent 61
deduction or rebate of any nature, except such payroll deductions as are required or permitted by 62
law, by a collective bargaining agreement, or by specific written authorization from an employee. 63
A contractor shall not split or subdivide a contract, pay an employee through a third party, or 64
treat an employee as a subcontractor or independent contractor, to avoid the imposition of any 65
requirement under this section. 66

(F)(i) The purchasing agent shall require each covered employer to: 67

(I) Certify that the employer and each subcontractor is aware of and will comply 68
with the applicable wage requirements; 69

(II) Keep and submit any records necessary to show compliance; and 70

(III) Conspicuously post notices informing employees of the requirements of this 71
section and send a copy to the purchasing agent. 72

(ii) The purchasing agent shall enforce this section, perform random audits and any other 73
audit necessary to do so, and investigate any complaint of a violation. 74

(iii) An employer shall not discharge or otherwise retaliate against an employee for asserting any right under this section or filing a complaint for a violation. Any retaliation is subject to all sanctions for noncompliance with this section.

(iv) Each contract shall specify that liquidated damages for any noncompliance with this section includes the amount of any unpaid wages, with interest, and that the contractor is jointly and severally liable for any noncompliance by a subcontractor. In addition, each contract shall specify that an aggrieved employee, as a third-party beneficiary, may by civil action enforce payment of wages due under this section and recover any unpaid wages with interest, a reasonable attorney's fee, and damages for any retaliation for asserting any right under this section.

(G) Employees of the government of the District of Columbia shall be paid at an hourly rate of no less than \$10.50. The Department of Employment Services shall adjust the wage rate required under this paragraph, effective July 1 of each year, by the annual average increase, if any, in the Consumer Price Index for all urban consumers for the Washington-Baltimore metropolitan area, or any successor index, for the previous calendar year. The Department of Employment Services shall calculate the adjustment to the nearest multiple of \$.05, and shall publish the amount of this adjustment not later than March 1 of each year.

Sec. 3. The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (84 Stat. 813; D.C. Official Code 1-206.02 (c)(3)).

Sec. 4. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional

review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved	97
December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02 (c)(1)), and publication in the	98
District of Columbia Register.	99