

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 935

Introduced by Bostar, 29.

Read first time January 10, 2022

Committee: Business and Labor

- 1 A BILL FOR AN ACT relating to counties; to amend section 23-192, Reissue
- 2 Revised Statutes of Nebraska, and section 23-187, Revised Statutes
- 3 Cumulative Supplement, 2020; to adopt the County Minimum Wage Option
- 4 Act; to change provisions relating to county ordinances; and to
- 5 repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 7 of this act shall be known and may be
2 cited as the County Minimum Wage Option Act.

3 Sec. 2. For purposes of the County Minimum Wage Option Act:

4 (1) Employ has the same meaning as in section 48-1202;

5 (2) Employee has the same meaning as in section 48-1202;

6 (3) Employer has the same meaning as in section 48-1202; and

7 (4) Wages has the same meaning as in section 48-1202.

8 Sec. 3. (1) A county may by ordinance enact a county minimum wage
9 pursuant to the County Minimum Wage Option Act that is higher than the
10 minimum wage provided for in the Wage and Hour Act, including different
11 rates for persons compensated by way of gratuities and student-learner
12 employees as described in section 48-1203 and training wages as described
13 in section 48-1203.01.

14 (2) The county minimum wage ordinance shall be adopted and enforced
15 as provided in sections 23-187 to 23-193, except as otherwise provided in
16 the County Minimum Wage Option Act.

17 (3) A county minimum wage ordinance shall apply throughout the
18 entire county, including within the boundaries of any city or village
19 regardless of any home rule charter.

20 (4) A county minimum wage ordinance shall be limited to work
21 performed while physically within the county.

22 Sec. 4. If an employer can demonstrate that paying the county
23 minimum wage to certain employees would be unduly burdensome because such
24 employees perform work in multiple counties, the employer may apply to
25 the county board to be exempted from the ordinance. The ordinance may
26 provide criteria and procedures for applying for and granting such an
27 exemption.

28 Sec. 5. A county minimum wage ordinance may require an employer
29 subject to the ordinance to keep a summary of the County Minimum Wage
30 Option Act and the ordinance posted in a conspicuous place on or about
31 the premises wherein any person subject to the ordinance is employed. The

1 summary shall be furnished without charge by the county.

2 Sec. 6. (1) The county attorney shall have the authority to
3 subpoena records and witnesses related to the enforcement of a county
4 minimum wage ordinance. The county attorney or the county attorney's
5 agent may inspect all related records and gather testimony on any matter
6 relative to the enforcement of the ordinance.

7 (2) An employer who fails to pay the minimum wage required by an
8 ordinance enacted in compliance with the County Minimum Wage Option Act
9 shall be guilty of a Class IV misdemeanor.

10 (3) It shall be the duty of the county attorney for the county in
11 which any violation of the county minimum wage ordinance occurs to
12 prosecute the same in the county court in the county where the offense
13 occurred.

14 (4) An employer who fails to pay the minimum wage required by an
15 ordinance enacted in compliance with the County Minimum Wage Option Act
16 shall be liable to the employees affected in the amount of their unpaid
17 minimum wages.

18 (5) An action to recover unpaid minimum wages as provided in
19 subsection (4) of this section may be maintained in the same manner as an
20 action under subsection (5) of section 48-1206.

21 Sec. 7. Nothing in the County Minimum Wage Option Act shall be
22 deemed to interfere with, impede, or in any way diminish the right of
23 employees to bargain collectively with their employers through
24 representatives of their own choosing in order to establish wages or
25 other conditions of work in excess of the applicable minimum under a
26 minimum wage ordinance enacted under the act.

27 Sec. 8. Section 23-187, Revised Statutes Cumulative Supplement,
28 2020, is amended to read:

29 23-187 (1) In addition to the powers granted by section 23-104, a
30 county may, in the manner specified by sections 23-187 to 23-193,
31 regulate the following subjects by ordinance:

1 (a) Parking of motor vehicles on public roads, highways, and rights-
2 of-way as it pertains to snow removal for and access by emergency
3 vehicles to areas within the county;

4 (b) Motor vehicles as defined in section 60-339 that are abandoned
5 on public or private property;

6 (c) Low-speed vehicles as described and operated pursuant to section
7 60-6,380;

8 (d) Golf car vehicles as described and operated pursuant to section
9 60-6,381;

10 (e) Graffiti on public or private property;

11 (f) False alarms from electronic security systems that result in
12 requests for emergency response from law enforcement or other emergency
13 responders;

14 (g) Violation of the public peace and good order of the county by
15 disorderly conduct, lewd or lascivious behavior, or public nudity;

16 (h) Peddlers, hawkers, or solicitors operating for commercial
17 purposes. If a county adopts an ordinance under this subdivision, the
18 ordinance shall provide for registration of any such peddler, hawker, or
19 solicitor without any fee and allow the operation or conduct of any
20 registered peddler, hawker, or solicitor in all areas of the county where
21 the county has jurisdiction and where a city or village has not otherwise
22 regulated such operation or conduct;~~and~~

23 (i) Operation of vehicles on any highway or restrictions on the
24 weight of vehicles pursuant to section 60-681; and -

25 (j) Minimum wages as provided in the County Minimum Wage Option Act.

26 (2) For the enforcement of any ordinance authorized by this section,
27 a county may impose fines, forfeitures, or penalties and provide for the
28 recovery, collection, and enforcement of such fines, forfeitures, or
29 penalties. A county may also authorize such other measures for the
30 enforcement of ordinances as may be necessary and proper. A fine enacted
31 pursuant to this section shall not exceed five hundred dollars for each

1 offense.

2 Sec. 9. Section 23-192, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 23-192 (1) This section does not apply to a county minimum wage
5 ordinance adopted under the County Minimum Wage Option Act.

6 (2) No ordinance adopted pursuant to sections 23-187 to 23-193 shall
7 be effective within the corporate boundaries of any incorporated city or
8 village located in whole or in part within the county. No ordinance
9 adopted pursuant to sections 23-187 to 23-193 shall be effective within
10 the area outside of the corporate boundaries of any city or village in
11 which such city or village has been granted and is exercising powers by
12 ordinance on a similar subject matter. Every county ordinance adopted
13 pursuant to sections 23-187 to 23-193 shall include one section defining
14 the area of the county within which the county ordinance is effective.
15 The ordinance shall be amended to reflect any changes in the area of the
16 county's jurisdiction resulting from (a) annexation by a city or village,
17 (b) action by a city or village to adopt an ordinance regarding similar
18 subject matter to that of the county ordinance if the city or village
19 ordinance is to be effective in areas beyond its corporate boundary, or
20 (c) any changes in the area of jurisdiction of the city or village
21 regarding such city or village ordinance.

22 (3) ~~(2)~~ Before a county adopts an ordinance under sections 23-187 to
23 23-193, the county clerk shall provide a copy of the text of the
24 ordinance to the clerk of each city and village within the county no
25 later than seven days after the first reading of the ordinance or the
26 public hearing on the ordinance, whichever occurs first. Within seven
27 days after receiving a copy of the ordinance, the city or village shall
28 respond to the county and provide a copy of any ordinance specifying
29 where the city or village is enforcing an ordinance on similar subject
30 matter outside its corporate boundaries. Any ordinance adopted by the
31 county shall not be effective in the area in which the city or village is

1 exercising jurisdiction. Prior to the adoption of the county ordinance,
2 the section of the ordinance that defines the area of county jurisdiction
3 shall be amended to show the removal of the area of the jurisdiction of
4 such city or village as indicated in the city or village ordinance
5 provided to the county from the description of the area within which the
6 county ordinance will be effective. An ordinance adopted under sections
7 23-187 to 23-193 shall not be effective until fifteen days after its
8 adoption.

9 (4) ~~(3)~~ Any city or village located in whole or in part within a
10 county that has adopted an ordinance pursuant to sections 23-187 to
11 23-193 which (a) annexes any territory, (b) adopts an ordinance on
12 similar subject matter to that of the county ordinance and extends the
13 jurisdiction of the city or village under such ordinance to areas beyond
14 its corporate boundaries, or (c) changes the area beyond the corporate
15 boundaries of the city or village within which the city or village
16 exercises jurisdiction by ordinance on similar subject matter to that of
17 the county ordinance shall provide to the county clerk a copy of the
18 ordinance establishing and delineating its jurisdiction or any change to
19 that jurisdiction within seven days after the adoption of the relevant
20 city or village ordinance. Upon the effective date of the city or village
21 ordinance, the county ordinance shall cease to be effective within the
22 area in which the city or village has assumed jurisdiction. The county
23 board shall promptly amend its ordinance to reflect the change in the
24 area within which the county ordinance is effective.

25 Sec. 10. Original section 23-192, Reissue Revised Statutes of
26 Nebraska, and section 23-187, Revised Statutes Cumulative Supplement,
27 2020, are repealed.