



Interpretive Notice & Formal Opinion (“INFO”) #19: Local Government Authority to Set Local Minimum Wages

Overview

Any local government (“LG”) in Colorado may adopt a local minimum wage (“LMW”) for individuals performing work within its jurisdiction under Colorado [H.B. 19-1210](#), C.R.S. 29-1-1401(1). This INFO explains how an LMW works: where and how it can be adopted and implemented, whom it can cover, and what amounts it can be.

WHERE Can a Local Minimum Wage Be Adopted? (C.R.S. 29-1-1401(2))

An LMW can be adopted by an LG that is any one of the following:

- **City** (including a **home rule** or **territorial charter** city); or
- **County**¹ (including a **home rule** county); or
- **Combined** city and county; or
- **Town**.

WHAT Can an LMW Be? (C.R.S. 8-6-101(3)(a)(I), (7))

Amount. LMWs may exceed other applicable minimum wages, **federal** (as of the date of this INFO, \$7.25) or **Colorado** (as of this INFO, **\$12.56 in 2022**, and scheduled to be **\$13.65 in 2023**).

Annual increases can’t be more than 15% of the prior year’s minimum wage. If an LG had no LMW the prior year, then the 15% is from the prior year’s applicable *Colorado* minimum wage.²

Example 1: In 2022 Gotham City, Colorado, enacts an LMW effective as soon, and rising as high, as possible. Its highest possible LMW is \$14.44 in 2023 (15% above the 2022 Colorado minimum, \$12.56), \$16.61 in 2024 (15% above its 2023 LMW, \$14.44), \$19.10 in 2025. If enacted in 2023, its highest possible LMW is \$15.70 in 2024 (15% above the 2023 Colorado minimum, \$13.65), \$18.06 in 2025.

- **Inflation adjustment.** The state minimum wage adjusts by the [Consumer Price Index \(“CPI”\) from the federal Bureau of Labor Statistics](#) for the Denver-Aurora-Lakewood region, except deflation can’t yield a decrease. To calculate the adjustment early enough for advance notice of the new minimum effective each January 1st, Colorado applies the CPI from July 1 through June 30. The most recent CPIs were 2.7% (through mid-2020, for the 2021 minimum), 1.9% (mid-2021, for the 2021 minimum), and 8.6% (mid-2022, for the 2023 minimum).³ But an LG is free to choose whether and how to adjust its LMW.

Example 2: To limit employer and employee uncertainty, Gotham City requires adjustment by the CPI for Colorado, but with a minimum of 2% and maximum of 6%. For the three years leading up to this INFO, the adjustments would’ve been 2.7% for 2021, 2.0% for 2022 (up from the 1.9% CPI), and 6.0% for 2023 (down from the 8.6% CPI). That is permissible, given LG discretion on annual adjusting.

Overtime. Any minimum wage becomes 50% higher for hours beyond 40 per week, or 12 per day, under state law overtime requirements, except for employers or employees who are exempt from overtime rules.⁴

Tip Offset or Credit. An LMW **must** allow a tip offset — often called a tip credit — “equal to” what the Colorado Constitution requires for the statewide minimum wage, which is **\$3.02 per hour**, but:

- only for an **employer** that “prepares and offers for sale **food or beverages for consumption**”; and
- at such employers, only for “employees who **regularly receive tips**,” and
- only in situations where **state law allows** a tip credit.⁵

¹ A county LMW covers only its unincorporated areas, unless the county reaches an intergovernmental agreement, with one or more municipalities within it, to apply the LMW in those municipalities as well. (C.R.S. 8-6-101(3)(c)(I).)

² State law allows the greater of a 15% or \$1.75 increase — but 15% is always higher, making that the relevant limit.

³ For years before 2021, minimum wages rose by not CPI, but larger fixed increases yielding 8.1%-11.9% increases.

⁴ See [INFO #1: Colorado Overtime & Minimum Pay Standards Order \(COMPS Order\) #38](#) (overtime rules).

⁵ See [INFO #3: Tips \(Gratuities\) and Tipped Employees Under Colorado Wage Law](#) (how and when tip credits apply).

Example 3: Gotham Pizza pays servers \$14.98 per hour in direct wages, \$3.02 below Gotham City's \$18.00 LMW. That is permissible *unless* the situation fails any state law tip offset requirement, such as: (a) servers receiving insufficient tips to raise total pay to the full LMW, or (b) part of servers' tips being diverted (e.g., in required tip sharing or pooling) to non-tipped employees, or to the employer itself.

Example 4: Gotham City adopts a \$4.00 tip offset to its \$18.00 LMW, allowing \$14.00 in direct wages for tipped employees. That is *not* permissible: while \$14.00 direct wages exceed the state minimum wage, state law requires that LGs "*shall* provide a tip offset ... *equal to* the tip offset ... [in] the state constitution": \$3.02.

WHO Is Subject to an LMW? (C.R.S. 8-6-101(3)(a), 29-1-1401(1))

Employees covered: An LMW "shall" cover "**all adult employees and emancipated minors**, whether employed on an hourly, piecework, commission, time, task, or other basis" — as long as they work (or are expected to work) at least **four hours in a week** in the jurisdiction.

Time covered: LMWs cover time "while **physically within**" an LG's jurisdiction, but *not* time in jurisdictions "**solely for ... traveling through ...** from a point of origin ... [and] to a destination outside" the jurisdiction, without work-related stops in it (refueling, meals, or personal errands don't count as such stops).

Unemancipated minors are covered by the state minimum wage, with permission for a 15% reduction, and hours limits. But LGs have discretion on what rate, if any, to apply for unemancipated minors. For example, Denver allows 15% reduction for only unemancipated minors in "city-certified youth employment programs."

HOW Is an LMW Adopted, Enforced, and Reported?

Adoption (C.R.S. 8-6-101(3), (6), (10)):

- Before enactment, an LG **must consult** surrounding LGs and stakeholders as state law requires.⁶
- An LG then can adopt an LMW through its **governing body**, or by **initiative** or **referendum**.
- **New** LMWs must take effect **January 1st**, the day of each year's state minimum wage adjustment.
- Once **10% of LGs** enact an LMW, others require Colorado General Assembly authorization.⁷

Enforcement (C.R.S. 8-6-101(3)(b)):

- **An LG may enforce its LMW** (but *does not need to*, as noted below) in various ways, such as:
 - writing into the LMW a **private right to sue** to enforce the minimum wage;
 - writing into the LMW a list of, or permitted categories of, **remedies for violations**;⁸ or
 - authorizing LG officials to **investigate and issue orders** to remedy violations.
- **An LG is not required to enforce its LMW.** It can **just set an LMW, without other provisions** that — like enforcement or remedies — are **already covered by state law**.

Enforcement: Colorado allows "**state law complaints by employees who claim entitlement to ... local minimum ... wages**" — because state law covers failure to pay *any* amount required by *any* source. For example, if an agreement, state law, or local law requires a \$15 rate, then paying less violates state wage payment law, so a state law wage complaint can be filed, in court or this Division.⁹

Remedies: The [Colorado Wage Act](#), Article 4 of C.R.S. Title 8, details remedies for wage violations.¹⁰

⁶ Specifically: chambers of commerce; businesses — small, large, and with tipped workers; workers; unions; and community groups. By way of example: the Division consults stakeholders by inviting all known key stakeholders, and selected individual businesses and workers, to a public meeting (which may be combined with another regularly scheduled public meeting), leaving enough time for comments or questions from all interested in participating.

⁷ **In applying the 10% requirement:** (1) An LG enacting an LMW *before* 10% of LGs do so *can* amend it without this authorization. (2) The 10% limit counts it as only *one* LMW if: (a) a county *and* any other LG(s) within it enact LMWs ("only the county's ... counts toward" the 10%); or (b) LGs enter an intergovernmental agreement on "enforcement or administration of local minimum wage policies," such as to adopt and identically adjust joint LMWs.

⁸ Wage law remedies may include, but are not limited to: unpaid wage awards; liquidated damages (a percentage, or multiple, of the unpaid wages); fines and penalties; interest; and costs and attorney fees for prevailing employees.

⁹ [Colorado Overtime and Minimum Pay Standards \("COMPS"\) Order](#), 7 CCR 1103-1 (such complaints allowed because "the '**unpaid wages**' recoverable in a state-law claim include '[a]ll amounts for labor or service performed' that is 'earned, vested, and determinable'") (quoting the [Colorado Wage Act](#), C.R.S. 8-4-101(14)).

¹⁰ See [INFO #2: DLSS Wage Claim Investigation Process](#) (how wage claims are filed and decided).

Reporting (C.R.S. 8-6-101(8)). By each July 1st, if any LG adopted an LMW in the past 12 months, the Division must update Colorado’s [Local Minimum Wage Report \(“Report”\)](#), with two categories of data:

- (1) **“The location, nature, and scope of enacted local minimum wage laws.”** Per the [latest Report](#) version, Denver has the only LMW in Colorado, adopting the maximum 15% annual increase from the prior year’s minimum wage through 2022, then adjusting annually for inflation as of 2023:

Year	Minimum Wage Required by Colorado Law:		
	By State Constitution:	By Jurisdictions with an LMW:	
	Statewide, if no higher LMW (& with tip credit ¹¹)	Denver (& with tip credit ¹¹)	[n/a; no other LMW in effect]
2023	\$13.65 (\$10.63)	\$17.29 (\$14.27)	[n/a]
2022	\$12.56 (\$9.54)	\$15.87 (\$12.85)	[n/a]
2021	\$12.32 (\$9.30)	\$14.77 (\$11.75)	[n/a]
2020	\$12.00 (\$8.98)	\$12.85 (\$9.83)	[n/a]

- (2) **“Economic data, including jobs, earnings, and sales tax revenue”** in jurisdictions enacting an LMW, “as well as data for neighboring jurisdictions, relevant regions, and the state,” as feasible. Per the [latest Report](#) version, in Denver, which has the only LMW in Colorado:

“Denver **wages rose**, and also rose more than those of all Comparator Jurisdictions and the state, ... after adopting a local minimum wage.... [Denver] weekly earnings increased compared to the state, from \$302.00 higher than the state average to \$339.00 higher, a 12.3% increase.”

“[Denver’s] January-February 2020 **unemployment rate remained lower** than in ... Comparator Jurisdictions, ... with only Rural Counties ... lower.... [Denver’s] rise in unemployment... [in] early 2020 ... was smaller than the statewide rise.... [Denver] experienced worse unemployment ... not after adopting a local minimum wage, but months later after ... greater impact from COVID-19 than much of... Colorado,” given the “strong correlation between unemployment and higher COVID-19 infection.”

“Denver’s **sales tax revenues did not suffer** relative to other parts of the state ... after it adopted its minimum wage[,] ... only after the impact of COVID-19.... Most Comparator Jurisdictions experienced a larger **sales tax** decrease than Denver in January-February 2020.”

- **Outreach:** After any LG enacts a new LMW, the Division will:
 - update its website and published guidance to include** the new LMW; and
 - inform employers throughout Colorado**, by publicizing all known LMWs along with the new state minimum wage each year.
- **Local government communication of impending new local minimum wages.** To ensure that the Report and the Division’s outreach are accurate and legally compliant, LGs should:
 - consult** the Division before or while drafting any LMW, to avoid inconsistencies with state or federal wage law, or to seek any advice on any relevant matters from Division subject-matter experts; and
 - inform** the Division after any LMW is enacted or amended.

For More Information: Visit the Division [website](#), call 303-318-8441, or email cdle_labor_standards@state.co.us.

¹¹ See [INFO #3: Tips \(Gratuities\) and Tipped Employees Under Colorado Wage Law](#) (how and when tip credits apply).