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Auditor

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'Denver Labor' in the Auditor's Office Will Help Employers, Employees Navigate New Minimum Wage

DENVER – Doing business in Denver is going to look different in 2020, and Denver Auditor Timothy M. O'Brien, CPA, and his office are ready to help both employers and employees get used to the city's new minimum wage ordinance.

"The new minimum wage is going to impact thousands of people's lives," Auditor O'Brien said. "My team and I are working to make the process as accessible and user-friendly as possible to both employees and employers."

City Council passed the new local minimum wage ordinance Monday night. The ordinance sets the hourly citywide minimum wage at \$12.85 in 2020, starting Jan. 1. The minimum wage will go up again to \$14.77 an hour on Jan. 1, 2021 and to \$15.87 on Jan. 1, 2022. After that, the minimum wage will increase each year based on the regional consumer price index.

The separate minimum wage for city contractors and the prevailing wage rate will still apply as determined by law. The prevailing wage varies by type of work and largely applies to construction work done on City of Denver property or using Denver dollars. The contractor minimum wage is \$13 per hour and goes up in July of each year. The contractor minimum wage started in July of this year and applies to most jobs not covered by prevailing wage on Denver property or to jobs funded with city dollars.

All three of these areas of wage law will now be under one roof known as "Denver Labor" in the Auditor's Office.

"We've put a lot of thought into making enforcement and outreach as efficient as possible," Executive Director of Denver Labor Jeffrey Garcia said. "We don't want to penalize people for making an honest mistake, but we do want to make sure the hard-working people of Denver are paid according to the law."

Denver Labor will continue efforts for both education and enforcement of all wage law through payroll auditing, wage investigations and outreach. This year, we developed a complaint-based system for the contractor minimum wage, and we'll use that groundwork to develop our citywide minimum wage enforcement program. The contractor minimum wage applies to contracts with the city and some

contracts are still in the process of being updated. However, our office has a system in place to receive and respond to complaints and start investigations for any credible reports of companies paying less than the required minimum.

Anyone will be able to submit a minimum wage complaint under the new citywide law starting Jan. 1, and complaints can be anonymous. At the start of the year, complaints can be sent to Denver Labor via email at wagecomplaints@denvergov.org or submitted using the forms in English or Spanish that will be posted on our website at denverauditor.org/denverlabor. Anyone will also be able to call our analysts at 720-913-5039.

“We are going to investigate every credible complaint,” Garcia said. “We will be tracking data from all complaints, and in the future, use our research and trends to identify areas in need of further investigation based on the Auditor’s discretion.”

Denver’s local minimum wage will not apply when work is performed outside Denver, when an employee works fewer than four hours within Denver in a week or when the employee is only traveling through Denver while working.

An employer will be able to pay employees less than the minimum wage by claiming \$3.02 an hour in “tip credits.” This tip credit is based on state law. During an investigation by Denver Labor minimum wage analysts, an employer may be asked to produce evidence their employees received tips equal to or greater than this amount. If an employer can’t provide documentation, the employer will not be able to take the tip credit.

When an employer is found to be underpaying employees, fines or penalties may be applied at the Auditor’s discretion. Denver Labor will collect restitution checks from employers on behalf of workers and try to reach those workers to give them the money they are owed. Recovered back pay will be held in a special fund for three years. If the money is uncollected after that time, the funds will revert to the city’s general fund.

“I am concerned with the setup of this trust fund for money management,” Auditor O’Brien said. “As the ordinance is written, the city is put in the position of a fiduciary for the beneficiaries of the trust. The beneficiaries — the people receiving the money held in this fund — should be the workers, but with a three-year expiration date, the biggest beneficiary seems to be the city’s general fund.”

Our office will enforce the law, as written. However, Auditor O’Brien suggests the city should consider a change in the future to ensure ethical management of recovered minimum wage pay. The Auditor believes this money belongs to workers, not taxpayers, and should not be treated the same way as other money in the city’s general fund. He notes that the State of Colorado has an established system to handle outstanding money owed to the people in our state over long periods of time.

In 2019, the Prevailing Wage Division has already recovered more than \$665,000 on behalf of underpaid workers. We track who is owed money and workers can check for their name on the “Are You Owed Money?” page on our website.

The Auditor’s Office has been enforcing the prevailing wage since the 1950s, and Auditor O’Brien oversaw an update to bring the prevailing wage ordinance into the 21st century, effective in 2017. Since then, our team has grown and works to help contractors understand the system and stay in compliance with the law. We use a payroll auditing system called LCPtracker to process certified payrolls. We also do work site visits to engage directly with employees to confirm contractors are complying with prevailing wage requirements.

“We are the one-stop shop to help both employers and employees through this new minimum wage process,” Auditor O’Brien said. “We want to help employees get paid for their hard work, and we want to help businesses easily comply with the law.”

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About the Auditor’s Office

Denver’s Auditor is publicly elected and answers to the voters. The role of the Auditor is to help minimize risks, improve internal controls, maximize efficiencies and strengthen accountability.

About Auditor O’Brien

Denver Auditor Timothy M. O’Brien, CPA, has more than 40 years of auditing and accounting [experience](#). Auditor O’Brien strives to bring greater clarity, transparency and accountability to Denver’s city government for its residents. Elected in 2015, Timothy O’Brien is distinguished from his predecessors by being an actual professional auditor. Auditor O’Brien and his office won a national [Knighton Distinguished Award](#) from the Association of Local Government Auditors in 2019 for the Affordable Housing Audit. Auditor O’Brien also received the [ADA Access Award](#) from the Colorado Cross-Disability Coalition in 2018 for his work on behalf of people with disabilities of all kinds. Auditor O’Brien also received the [2017 Outstanding CPA in Government Impact Award](#) from the [American Institute of CPAs](#). He was honored with the [2016 Jonathan Holtzinger Award of Excellence](#) by the Colorado Chartered Financial Analyst Society for demonstrating the highest standards as a financial and investment professional.

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