

ASSEMBLY, No. 3781

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED FEBRUARY 7, 2005

Sponsored by:

Assemblyman ALBIO SIRES

District 33 (Hudson)

Assemblyman MICHAEL PANTER

District 12 (Mercer and Monmouth)

Assemblyman ROBERT GORDON

District 38 (Bergen)

Assemblywoman LINDA R. GREENSTEIN

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District 29 (Essex and Union)

Assemblyman CRAIG A. STANLEY

District 28 (Essex)

Assemblyman JOSEPH VAS

District 19 (Middlesex)

Co-Sponsored by:

Assemblymen McKeon, Manzo, Johnson, Wisniewski, Assemblywoman Weinberg, Assemblyman Conaway, Assemblywoman Watson Coleman and Assemblyman Gusciora

SYNOPSIS

Increases the minimum wage; creates New Jersey Minimum Wage Advisory Commission.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 3/15/2005)

A3781 SIRES, PANTER

2

1 AN ACT increasing the minimum wage, establishing the New Jersey
2 Minimum Wage Advisory Commission and amending and
3 supplementing P.L.1966, c.113.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. Section 5 of P.L.1966, c.113 (C.34:11-56a4) is amended to read
9 as follows:

10 5. Every employer shall pay to each of his employees wages at a
11 rate of not less than \$5.05 per hour as of April 1, 1992 and, after
12 January 1, 1999 the federal minimum hourly wage rate set by section
13 6(a)(1) of the federal "Fair Labor Standards Act of 1938" (29 U.S.C.
14 s.206(a)(1)), and, as of October 1, 2005, \$6.15 per hour, and as of
15 October 1, 2006, \$7.15 per hour for 40 hours of working time in any
16 week and 1 1/2 times such employee's regular hourly wage for each
17 hour of working time in excess of 40 hours in any week, except this
18 overtime rate shall not include any individual employed in a bona fide
19 executive, administrative, or professional capacity or, if an applicable
20 wage order has been issued by the commissioner under section 17
21 (C.34:11-56a16) of this act, not less than the wages prescribed in said
22 order. The wage rates fixed in this section shall not be applicable to
23 part-time employees primarily engaged in the care and tending of
24 children in the home of the employer, to persons under the age of 18
25 not possessing a special vocational school graduate permit issued
26 pursuant to section 15 of P.L.1940, c.153 (C.34:2-21.15), or to
27 persons employed as salesmen of motor vehicles, or to persons
28 employed as outside salesmen as such terms shall be defined and
29 delimited in regulations adopted by the commissioner, or to persons
30 employed in a volunteer capacity and receiving only incidental benefits
31 at a county or other agricultural fair by a nonprofit or religious
32 corporation or a nonprofit or religious association which conducts or
33 participates in that fair.

34 The provisions of this section for the payment to an employee of
35 not less than 1 1/2 times such employee's regular hourly rate for each
36 hour of working time in excess of 40 hours in any week shall not apply
37 to employees engaged to labor on a farm or employed in a hotel or to
38 an employee of a common carrier of passengers by motor bus or to a
39 limousine driver who is an employee of an employer engaged in the
40 business of operating limousines or to employees engaged in labor
41 relative to the raising or care of livestock.

42 Employees engaged on a piece-rate or regular hourly rate basis to
43 labor on a farm shall be paid for each day worked not less than the

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 minimum hourly wage rate multiplied by the total number of hours
2 worked.

3 Full-time students may be employed by the college or university at
4 which they are enrolled at not less than 85% of the effective minimum
5 wage rate.

6 Notwithstanding the provisions of this section to the contrary,
7 every trucking industry employer shall pay to all drivers, helpers,
8 loaders and mechanics for whom the Secretary of Transportation may
9 prescribe maximum hours of work for the safe operation of vehicles,
10 pursuant to section 31502(b) of the federal Motor Carrier Act, 49
11 U.S.C.s.31502(b), an overtime rate not less than 1 1/2 times the
12 minimum wage required pursuant to this section and N.J.A.C.
13 12:56-3.1. Employees engaged in the trucking industry shall be paid
14 no less than the minimum wage rate as provided in this section and
15 N.J.A.C.12:56-3.1. As used in this section, "trucking industry
16 employer" means any business or establishment primarily operating for
17 the purpose of conveying property from one place to another by road
18 or highway, including the storage and warehousing of goods and
19 property. Such an employer shall also be subject to the jurisdiction of
20 the Secretary of Transportation pursuant to the federal Motor Carrier
21 Act, 49 U.S.C.s.31501 et seq., whose employees are exempt under
22 section 213(b)(1) of the federal [Fair Labor Standards Act,] "Fair
23 Labor Standards Act of 1938." 29 U.S.C. s.213(b)(1), which provides
24 an exemption to employees regulated by section 207 of the federal
25 [Fair Labor Standards Act,] "Fair Labor Standards Act of 1938." 29
26 U.S.C.s.207, and the Interstate Commerce Act, 49 U.S.C.s.501 et al.

27 The provisions of this section shall not be construed as prohibiting
28 any political subdivision of the State from adopting an ordinance,
29 resolution, regulation or rule, or entering into any agreement,
30 establishing any standard for vendors, contractors and subcontractors
31 of the subdivision regarding wage rates or overtime compensation
32 which is higher than the standards provided for in this section, and no
33 provision of any other State or federal law establishing a minimum
34 standard regarding wages or other terms and conditions of
35 employment shall be construed as preventing a political subdivision of
36 the State from adopting an ordinance, resolution, regulation or rule,
37 or entering into any agreement, establishing a standard for vendors,
38 contractors and subcontractors of the subdivision which is higher than
39 the State or federal law or which otherwise provides greater
40 protections or rights to employees of the vendors, contractors and
41 subcontractors of the subdivision, unless the State or federal law
42 expressly prohibits the subdivision from adopting the ordinance,
43 resolution, regulation or rule, or entering into the agreement.

44 (cf: P.L.1999, c.370, s.1)

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46 2. (New section) a. There is created a commission to be known

1 as the "New Jersey Minimum Wage Advisory Commission," which
2 shall be a permanent, independent body in but not of the Department
3 of Labor and Workforce Development. The commission shall consist
4 of five members as follows: the Commissioner of Labor and
5 Workforce Development, ex officio, who shall serve as chair of the
6 commission, and four members appointed by the Governor as follows:
7 two persons who shall be nominated by organizations who represent
8 the interests of the business community in this State and two persons
9 who shall be nominated by the New Jersey State AFL-CIO.

10 b. Members shall be appointed not later than December 31, 2005.
11 Members shall be appointed for four-year terms and may be re-
12 appointed for any number of terms. Any member of the commission
13 may be removed from office by the Governor, for cause, upon notice
14 and opportunity to be heard. Vacancies shall be filled in the same
15 manner as the original appointment for the balance of the unexpired
16 term. A member shall continue to serve upon the expiration of his
17 term until a successor is appointed and qualified, unless the member
18 is removed by the Governor.

19 c. Action may be taken by the commission by an affirmative vote
20 of a majority of its members and a majority of the commission shall
21 constitute a quorum for the transaction of any business, for the
22 performance of any duty, or for the exercise of any power of the
23 commission.

24 d. Members of the commission shall serve without compensation,
25 but may be reimbursed for the actual and necessary expenses incurred
26 in the performance of their duties as members of the commission
27 within the limits of funds appropriated or otherwise made available for
28 that purpose.

29
30 3. (New section) a. The commission shall annually evaluate the
31 adequacy of the minimum wage relative to the following factors:

- 32 (1) The overall cost of living in the State;
33 (2) Changes in the components of the cost of living which have the
34 greatest impact on low-income families, including increases in the cost
35 of housing, food, transportation, health care and child care;
36 (3) The cost of living in the State compared to that of other states;
37 (4) Changes in the purchasing power of the minimum wage; and
38 (5) Changes in the value of the minimum wage relative to the
39 federal poverty guidelines, the federal lower living standard income
40 level guidelines and the self-sufficiency standards established as goals
41 for State and federal employment and training services pursuant to
42 section 3 of P.L.1992, c.43 (C.34:15D-3) and section 1 of P.L.1992,
43 c.48 (C.34:15B-35).

44 b. In furtherance of its evaluation, the commission may hold public
45 meetings or hearings within the State on any matter or matters related
46 to the provisions of this act, and call to its assistance and avail itself

1 of the services of the John J. Heldrich Center for Workforce
2 Development and the employees of any other State department, board,
3 commission or agency which the commission determines possesses
4 relevant data, analytical and professional expertise or other resources
5 which may assist the commission in discharging its duties under this
6 act. Each department, board, commission or agency of this State is
7 hereby directed, to the extent not inconsistent with law, to cooperate
8 fully with the commission and to furnish such information and
9 assistance as is necessary to accomplish the purposes of this act.

10 c. The commission shall submit a written report of its findings
11 regarding the adequacy of the minimum wage and its recommendations
12 as to whether, or how much, to increase the minimum wage to the
13 Governor and to the Legislature, who shall immediately review the
14 commission report upon its receipt. Each House of the Legislature
15 shall consider the commission report within 120 days of the receipt of
16 the report. The first report shall be submitted to the Legislature no
17 sooner than October 1, 2007 and no later than December 31, 2007,
18 and subsequent reports shall be submitted in one year intervals
19 thereafter.

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21 4. This act shall take effect immediately.

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STATEMENT

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26 This bill increases New Jersey's hourly minimum wage rate to \$6.15
27 on October 1, 2005 and \$7.15 on October 1, 2006, and creates a
28 permanent "New Jersey Minimum Wage Advisory Commission" to
29 study and make recommendations regarding the minimum wage.

30 The commission is comprised of five members, including the
31 Commissioner of Labor and Workforce Development, two members
32 nominated by business organizations and two nominated by the New
33 Jersey State AFL-CIO, and is required to annually evaluate the
34 adequacy of the minimum wage and report its findings and any
35 recommendations it may have regarding increases the minimum wage.

36 The bill provides that no provision of any State or federal law
37 establishing a standard regarding wages or other terms and conditions
38 of employment, including the State minimum wage law, shall be
39 construed as preventing a political subdivision from adopting an
40 ordinance, resolution, rule or regulation, or entering into an
41 agreement, setting a standard for vendors and contractors which
42 provides higher wage requirements than the State or federal law or
43 provides greater protections or rights to employees, unless the State
44 or federal law expressly prohibits the subdivision from adopting the
45 higher or more protective standard.