

ASSEMBLY, No. 3912

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED DECEMBER 4, 2014

Sponsored by:

Assemblyman REED GUSCIORA

District 15 (Hunterdon and Mercer)

Assemblywoman SHEILA Y. OLIVER

District 34 (Essex and Passaic)

SYNOPSIS

Concerns establishment of wage standards by political subdivisions.

CURRENT VERSION OF TEXT

As introduced.



A3912 GUSCIORA, OLIVER

2

1 AN ACT concerning the establishment of wage standards by
2 political subdivisions and amending P.L.1966, c.113.

3

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

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

9 5. Every employer shall pay to each of his employees wages at
10 a rate of not less than \$5.05 per hour as of April 1, 1992 and, after
11 January 1, 1999 the federal minimum hourly wage rate set by
12 section 6(a)(1) of the federal "Fair Labor Standards Act of 1938"
13 (29 U.S.C. s.206(a)(1)), and, as of October 1, 2005, \$6.15 per hour,
14 and as of October 1, 2006, \$7.15 per hour for 40 hours of working
15 time in any week and 1 1/2 times such employee's regular hourly
16 wage for each hour of working time in excess of 40 hours in any
17 week, except this overtime rate shall not include any individual
18 employed in a bona fide executive, administrative, or professional
19 capacity or, if an applicable wage order has been issued by the
20 commissioner under section 17 of P.L.1966, c.113 (C.34:11-56a16)
21 **[of this act]**, not less than the wages prescribed in said order. The
22 wage rates fixed in this section shall not be applicable to part-time
23 employees primarily engaged in the care and tending of children in
24 the home of the employer, to persons under the age of 18 not
25 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
31 benefits at a county or other agricultural fair by a nonprofit or
32 religious corporation or a nonprofit or religious association which
33 conducts or 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
36 each hour of working time in excess of 40 hours in any week shall
37 not apply to employees engaged to labor on a farm or employed in a
38 hotel or to an employee of a common carrier of passengers by motor
39 bus or to a limousine driver who is an employee of an employer
40 engaged in the business of operating limousines or to employees
41 engaged in labor 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
44 minimum hourly wage rate multiplied by the total number of hours
45 worked.

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

Matter underlined thus is new matter.

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

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

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

46 (cf: P.L.2005, c.70, s.1)

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48 2. This act shall take effect immediately.

STATEMENT

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3 This bill amends the "New Jersey State Wage and Hour Law,"
4 P.L.1966, c.113 (C.34:11-56a et seq.), to provide that no State or
5 federal law establishing a minimum standard regarding wages or
6 other terms and conditions of employment, including the "New
7 Jersey State Wage and Hour Law" itself, shall be construed as
8 preventing a political subdivision of the State from adopting an
9 ordinance, resolution, regulation, rule, requirement or policy
10 establishing and enforcing a wage or other standard which is higher
11 than any minimum standard set by the State or federal law or
12 otherwise provides greater protections or rights to employees,
13 unless the State or federal law expressly prohibits the subdivision
14 from adopting the ordinance, resolution, regulation, rule,
15 requirement or policy.

16 The bill affirms longstanding home rule powers of political
17 subdivisions to set standards regulating labor conditions in a
18 manner consistent with local circumstances and needs, in the
19 absence of any explicit intent expressed by the Legislature to
20 preempt such standards.

21 The "New Jersey State Wage and Hour Law," in its current form,
22 expressly protects the right of a political subdivision to set higher
23 wage standards for employees of vendors and contractors of the
24 subdivision, but does not address, one way or the other, whether
25 subdivisions may set higher standards for employees other than the
26 employees of the vendors and contractors. The bill clarifies that a
27 political subdivision may set higher standards for workers in a
28 subdivision, whether or not the workers are employed by vendors or
29 contractors of the subdivision.