

ASSEMBLY, No. 15

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED DECEMBER 6, 2018

Sponsored by:

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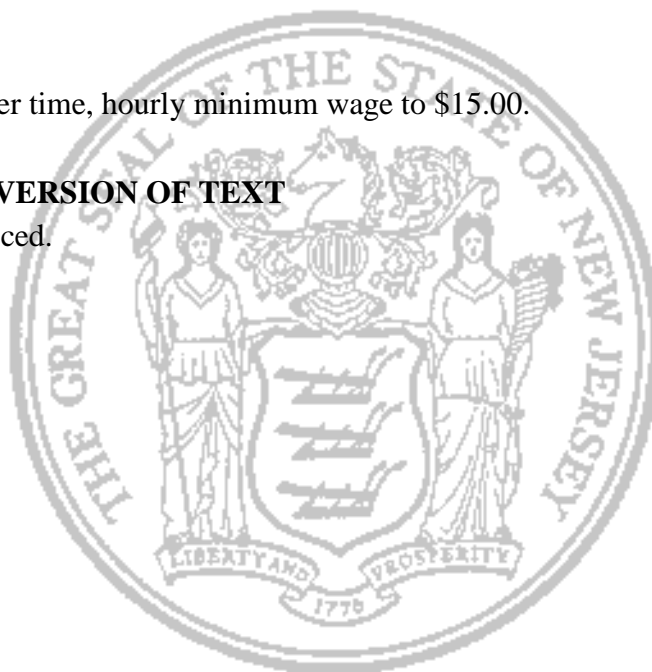
Assemblyman Moriarty

SYNOPSIS

Raises, over time, hourly minimum wage to \$15.00.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/18/2018)

1 AN ACT raising the minimum wage and supplementing and
2 amending P.L.1966, c.113.

3

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

6

7 1. Section 2 of P.L.1966, c.113 (C.34:11-56a1) is amended to
8 read as follows:

9 2. As used in this act:

10 (a) "Commissioner" means the Commissioner of Labor and
11 Workforce Development.

12 (b) "Director" means the director in charge of the bureau
13 referred to in section 3 of this act.

14 (c) "Wage board" means a board created as provided in section
15 10 of this act.

16 (d) "Wages" means any moneys due an employee from an
17 employer for services rendered or made available by the employee
18 to the employer as a result of their employment relationship
19 including commissions, bonus and piecework compensation and
20 including **any gratuities received by an employee for services**
21 **rendered for an employer or a customer of an employer and** the
22 fair value of any food or lodgings supplied by an employer to an
23 employee, and, until December 31, 2018, "wages" includes any
24 gratuities received by an employee for services rendered for an
25 employer or a customer of an employer. The commissioner may, by
26 regulation, establish the average value of gratuities received by an
27 employee in any occupation and the fair value of food and lodging
28 provided to employees in any occupation, which average values
29 shall be acceptable for the purposes of determining compliance with
30 this act in the absence of evidence of the actual value of such items.

31 (e) "Regular hourly wage" means the amount that an employee
32 is regularly paid for each hour of work as determined by dividing
33 the total hours of work during the week into the employee's total
34 earnings for the week, exclusive of overtime premium pay.

35 (f) "Employ" includes to suffer or to permit to work.

36 (g) "Employer" includes any individual, partnership,
37 association, corporation or any person or group of persons acting
38 directly or indirectly in the interest of an employer in relation to an
39 employee.

40 (h) "Employee" includes any individual employed by an
41 employer.

42 (i) "Occupation" means any occupation, service, trade,
43 business, industry or branch or group of industries or employment
44 or class of employment in which employees are gainfully employed.

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 (j) "Minimum fair wage order" means a wage order
2 promulgated pursuant to this act.

3 (k) "Fair wage" means a wage fairly and reasonably
4 commensurate with the value of the service or class of service
5 rendered and sufficient to meet the minimum cost of living
6 necessary for health.

7 (l) "Oppressive and unreasonable wage" means a wage which is
8 both less than the fair and reasonable value of the service rendered
9 and less than sufficient to meet the minimum cost of living
10 necessary for health.

11 (m) "Limousine" means a motor vehicle used in the business of
12 carrying passengers for hire to provide prearranged passenger
13 transportation at a premium fare on a dedicated, nonscheduled,
14 charter basis that is not conducted on a regular route and with a
15 seating capacity in no event of more than 14 passengers, not
16 including the driver, provided, that such a motor vehicle shall not
17 have a seating capacity in excess of four passengers, not including
18 the driver, beyond the maximum passenger seating capacity of the
19 vehicle, not including the driver, at the time of manufacture.
20 "Limousine" shall not include taxicabs, hotel or airport shuttles and
21 buses, buses employed solely in transporting school children or
22 teachers to and from school, vehicles owned and operated directly
23 or indirectly by businesses engaged in the practice of mortuary
24 science when those vehicles are used exclusively for providing
25 transportation related to the provision of funeral services or vehicles
26 owned and operated without charge or remuneration by a business
27 entity for its own purposes.

28 (n) "Seasonal employment" means employment with an
29 employer for which, during the immediately previous calendar year,
30 not less than two thirds of the employer's gross receipts were
31 received in a continuous period of not more than thirteen weeks.

32 (o) "Small employer" means any employer who employed less
33 than 10 employees for every working day during each of a majority
34 of the calendar workweeks in the current calendar year and less than
35 10 employees for every working day during not less than 48
36 calendar workweeks in the preceding calendar year, except that, if
37 the employer was newly established during the preceding calendar
38 year, the employer shall be regarded as a "small employer" if the
39 employer employed less than 10 employees for every working day
40 during all of the weeks of that year, and during a majority of the
41 calendar workweeks in the current calendar year, and, if the
42 employer is newly established during the current calendar year, the
43 employer shall be regarded as a "small employer" if the employer
44 employed less than 10 employees for every working day during a
45 majority of the calendar workweeks in the current calendar year.

46 (cf: P.L.2001, c.416, s.2)

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

3 5. **【Every】** a. Except as provided in subsections c., d., and f.
4 of this section, each employer shall pay to each of his employees
5 wages at a rate of not less than **【\$5.05** per hour as of April 1, 1992
6 and, after January 1, 1999 the federal minimum hourly wage rate set
7 by section 6(a)(1) of the federal "Fair Labor Standards Act of 1938"
8 (29 U.S.C. s.206(a)(1)), and, as of October 1, 2005, \$6.15 per hour,
9 and as of October 1, 2006, \$7.15 per hour for 40 hours of working
10 time in any week and 1 1/2 times such employee's regular hourly
11 wage for each hour of working time in excess of 40 hours in any
12 week, except this overtime rate shall not include any individual
13 employed in a bona fide executive, administrative, or professional
14 capacity or, **if】** \$8.85 per hour as of January 1, 2019 and, on
15 January 1 of 2020 and January 1 of each subsequent year, the
16 minimum wage shall be increased by any increase in the consumer
17 price index for all urban wage earners and clerical workers (CPI-W)
18 as calculated by the federal government for the 12 months prior to
19 the September 30 preceding that January 1, except that, any of the
20 following rates shall apply if they exceed the rate determined in
21 accordance with the applicable increase in the CPI-W for any year:
22 on July 1, 2019, the minimum wage shall be \$9.50 per hour; on
23 January 1, 2020, the minimum wage shall be \$11.00 per hour; on
24 January 1, 2021, the minimum wage shall be \$11.55 per hour; and
25 on January 1 of each year from 2022 to 2024, inclusive, the
26 minimum wage shall be increased from the rate of the preceding
27 year by \$1.15 per hour. If the federal minimum hourly wage rate
28 set by section 6 of the federal "Fair Labor Standards Act of 1938"
29 (29 U.S.C. s.206), or a successor federal law, is raised to a level
30 higher than the State minimum wage rate set by this section, then
31 the State minimum wage rate shall be increased to the level of the
32 federal minimum wage rate and subsequent increases based on
33 increases in the CPI-W pursuant to this section shall be applied to
34 the higher minimum wage rate. If an applicable wage order has
35 been issued by the commissioner under section 17 (C.34:11-56a16)
36 of this act, the employer shall also pay not less than the wages
37 prescribed in said order. The wage rates fixed in this section shall
38 not be applicable to part-time employees primarily engaged in the
39 care and tending of children in the home of the employer, to persons
40 under the age of 18 not possessing a special vocational school
41 graduate permit issued pursuant to section 15 of P.L.1940, c.153
42 (C.34:2-21.15), or to persons employed as salesmen of motor
43 vehicles, or to persons employed as outside salesmen as such terms
44 shall be defined and delimited in regulations adopted by the
45 commissioner, or to persons employed in a volunteer capacity and
46 receiving only incidental benefits at a county or other agricultural
47 fair by a nonprofit or religious corporation or a nonprofit or
48 religious association which conducts or participates in that fair.

1 **b.** **【The provisions of this section for the payment to an】**

2 (1) An employer shall also pay each employee 【of】 not less than
3 1 1/2 times such employee's regular hourly rate for each hour of
4 working time in excess of 40 hours in any week, except that this
5 overtime rate shall not apply; to any individual employed in a bona
6 fide executive, administrative, or professional capacity; or to
7 employees engaged to labor on a farm or employed in a hotel; or to
8 an employee of a common carrier of passengers by motor bus; or to
9 a limousine driver who is an employee of an employer engaged in
10 the business of operating limousines; or to employees engaged in
11 labor relative to the raising or care of livestock.

12 (2) Employees engaged on a piece-rate or regular hourly rate
13 basis to labor on a farm shall be paid for each day worked not less
14 than the applicable minimum hourly wage rate multiplied by the
15 total number of hours worked.

16 (3) Full-time students may be employed by the college or
17 university at which they are enrolled at not less than 85% of the
18 effective applicable minimum wage rate.

19 **c.** Employees of a small employer, employees less than 18
20 years of age, employees engaged on a piece-rate or regular hourly
21 rate basis to labor on a farm, and employees who are engaged in
22 seasonal employment, except for employees who customarily and
23 regularly receive gratuities or tips who shall be subject to the
24 provisions of subsections a. and d. of this section, shall be paid
25 \$8.85 per hour as of January 1, 2019 and, on January 1 of 2020 and
26 January 1 of each subsequent year, that minimum wage rate shall be
27 increased by any increase in the consumer price index for all urban
28 wage earners and clerical workers (CPI-W) as calculated by the
29 federal government for the 12 months prior to the September 30
30 preceding that January 1, except that, any of the following rates
31 shall apply if they exceed when the rate determined in accordance
32 with the applicable increase in the CPI-W for any year: on January
33 1, 2020, the minimum wage shall be \$10.10 per hour; on January 1,
34 2022, the minimum wage shall be \$10.35 per hour; on January 1,
35 2023, the minimum wage shall be \$10.70 per hour; on January 1,
36 2024, the minimum wage shall be \$11.10 per hour; on January 1,
37 2025, the minimum wage shall be \$11.70 per hour; on January 1,
38 2026, the minimum wage shall be \$12.45 per hour; on January 1,
39 2027, the minimum wage shall be \$13.20 per hour; on January 1,
40 2028, the minimum wage shall be \$14.10 per hour; and on January
41 1, 2029, the minimum wage shall be \$15.00 per hour. If the federal
42 minimum hourly wage rate set by section 6 of the federal "Fair
43 Labor Standards Act of 1938" (29 U.S.C. s.206), or a successor
44 federal law, is raised to a level higher than the State minimum wage
45 rate set by this subsection, then the State minimum wage rate shall
46 be increased to the level of the federal minimum wage rate and
47 subsequent increases based on increases in the CPI-W pursuant to
48 this subsection shall be applied to the higher minimum wage rate.

A15 COUGHLIN, TUCKER

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1 d. With respect to an employee who customarily and regularly
2 receives gratuities or tips, every employer is entitled to a credit of
3 for the gratuities or tips received by the employee against the hourly
4 wage rate that would otherwise be paid to the employee pursuant to
5 subsection a. of this section of the following amounts: after
6 December 31, 2018 and before July 1, 2019, \$6.72 per hour; after
7 June 30, 2019 and before January 1, 2020, \$7.37 per hour; during
8 calendar year 2020, \$7.87 per hour; during calendar year 2021,
9 \$7.42 per hour; during calendar year 2022, \$7.57 per hour; during
10 calendar year 2023, \$8.72 per hour; during calendar year 2024 and
11 subsequent calendar years, \$9.87 per hour.

12 e. Notwithstanding the provisions of this section to the
13 contrary, every trucking industry employer shall pay to all drivers,
14 helpers, loaders and mechanics for whom the Secretary of
15 Transportation may prescribe maximum hours of work for the safe
16 operation of vehicles, pursuant to section 31502(b) of the federal
17 Motor Carrier Act, 49 U.S.C.s.31502(b), an overtime rate not less
18 than 1 1/2 times the minimum wage required pursuant to this
19 section and N.J.A.C. 12:56-3.1. Employees engaged in the trucking
20 industry shall be paid no less than the minimum wage rate as
21 provided in this section and N.J.A.C. 12:56-3.1. As used in this
22 section, "trucking industry employer" means any business or
23 establishment primarily operating for the purpose of conveying
24 property from one place to another by road or highway, including
25 the storage and warehousing of goods and property. Such an
26 employer shall also be subject to the jurisdiction of the Secretary of
27 Transportation pursuant to the federal Motor Carrier Act, 49
28 U.S.C.s.31501 et seq., whose employees are exempt under section
29 213(b)(1) of the federal "Fair Labor Standards Act of 1938," 29
30 U.S.C. s.213(b)(1), which provides an exemption to employees
31 regulated by section 207 of the federal "Fair Labor Standards Act of
32 1938," 29 U.S.C. s.207, and the Interstate Commerce Act, 49
33 U.S.C. s.501 et al.

34 f. Commencing on January 1, 2020, a training wage of not less
35 than 90 percent of the minimum wage rate otherwise set pursuant to
36 subsection a. of this section may be paid to an employee who is
37 enrolled in an established employer on-the-job or other training
38 program which meets standards set by regulations adopted by the
39 commissioner. The period during which an employer may pay the
40 training wage to the employee shall be the first 80 hours of work
41 after hiring the employee in employment in an occupation in which
42 the employee has no previous similar or related experience. An
43 employer shall not utilize any employee paid the training wage in a
44 manner which causes, induces, encourages or assists any
45 displacement or partial displacement of any currently employed
46 worker, including any previous recipient of the training wage, by
47 reducing hours of a currently employed worker, replacing a current
48 or laid off employee with a trainee, or by relocating operations

1 resulting in a loss of employment at a previous workplace, or in a
2 manner which replaces, supplants, competes with or duplicates any
3 approved apprenticeship program. An employer who pays an
4 employee a training wage shall make a good faith effort to continue
5 to employ the employee after the period of the training wage
6 expires and shall not hire the employee at the training wage unless
7 there is a reasonable expectation that there will be regular
8 employment, paying at or above the effective minimum wage, for
9 the trainee upon the successful completion of the period of the
10 training wage. If the commissioner determines that an employer
11 has made repeated, knowing violations of the provisions of this
12 subsection regarding the payment of a training wage, the
13 commissioner shall suspend the employer's right to pay a training
14 wage for a period set pursuant to regulations adopted by the
15 commissioner, but not less than three years.

16 g. The provisions of this section shall not be construed as
17 prohibiting any political subdivision of the State from adopting an
18 ordinance, resolution, regulation or rule, or entering into any
19 agreement, establishing any standard for vendors, contractors and
20 subcontractors of the subdivision regarding wage rates or overtime
21 compensation which is higher than the standards provided for in
22 this section, and no provision of any other State or federal law
23 establishing a minimum standard regarding wages or other terms
24 and conditions of employment shall be construed as preventing a
25 political subdivision of the State from adopting an ordinance,
26 resolution, regulation or rule, or entering into any agreement,
27 establishing a standard for vendors, contractors and subcontractors
28 of the subdivision which is higher than the State or federal law or
29 which otherwise provides greater protections or rights to employees
30 of the vendors, contractors and subcontractors of the subdivision,
31 unless the State or federal law expressly prohibits the subdivision
32 from adopting the ordinance, resolution, regulation or rule, or
33 entering into the agreement.

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

35
36 3. (New section) a. There is established, in but not of the
37 Department of Labor and Workforce Development, the "Task Force
38 on Wages and State Benefits." The task force shall consist of 10
39 members, including the Commissioners of Health, Human Services,
40 Education, Community Affairs, and Labor and Workforce
41 Development, and the State Treasurer, or their designees, all who
42 shall serve ex officio, and four public members appointed by the
43 Governor with the advice and consent of the Senate as follows: one
44 person nominated by an organization which represents the interests
45 of the business community in this State, one person nominated by
46 the New Jersey State AFL-CIO, and two persons nominated by
47 organizations representing the interests of low-income individuals,
48 and other disadvantaged individuals, who rely on services and

1 benefits provided or administered by the State or its
2 instrumentalities. Public members shall be appointed for four-year
3 terms and may be re-appointed for any number of terms. Any
4 public member of the task force may be removed from office by the
5 Governor, for cause, upon notice and opportunity to be heard.
6 Vacancies shall be filled in the same manner as the original
7 appointment for the balance of the unexpired term. A member shall
8 continue to serve upon the expiration of the member's term until a
9 successor is appointed and qualified, unless the member is removed
10 by the Governor.

11 b. Action may be taken by the task force by an affirmative vote
12 of a majority of its members and a majority of the task force shall
13 constitute a quorum for the transaction of any business, for the
14 performance of any duty, or for the exercise of any power of the
15 task force. Members of the task force shall serve without
16 compensation, but may be reimbursed for the actual and necessary
17 expenses incurred in the performance of their duties as members of
18 the task force within the limits of funds appropriated or otherwise
19 made available for that purpose.

20 c. The purpose of the task force is to evaluate how changes in
21 required minimum wage levels pursuant to by P.L. , c. (C.)
22 (pending before the Legislature as this bill) may affect the
23 eligibility of low-income individuals, and other disadvantaged
24 individuals, for a variety of services and benefits provided or
25 administered by the State or its instrumentalities, including, but not
26 limited to, health, human service, childcare, education, housing and
27 tax benefits, and how the combination of changes in minimum wage
28 and eligibility standards may impact the living standards of the
29 individuals and their families. The Task Force shall produce annual
30 reports of its findings, which shall include any recommendations
31 the task force deems appropriate for adjustments in eligibility
32 standards for the benefits, changes in benefit subsidy rates, and
33 other relevant reforms, to ensure that the combination of minimum
34 wage increases and State services and benefits are coordinated
35 effectively so as to further advance the overall goal of raising the
36 living standards of working families.

37 d. In furtherance of its evaluation, the task force may hold
38 public meetings or hearings within the State and call to its
39 assistance and avail itself of the services of the employees of any
40 other State department, board, or agency which the task force
41 determines possesses relevant data, analytical and professional
42 expertise or other resources which may assist the task force in
43 discharging its duties under this section. Each department, board,
44 or agency of this State is hereby directed, to the extent not
45 inconsistent with law, to cooperate fully with the task force and to
46 furnish such information and assistance as is necessary to
47 accomplish the purposes of this section.

1 e. The task force shall issues its first annual report to the
2 Governor and Legislature not later than September 30, 2019, and
3 make the report available to the public by means including the
4 posting of the report on the web sites of all of the State agencies
5 represented on the task force. Each subsequent annual report shall
6 be issued and made available to the public not later than September
7 30 of the respective year and shall include a review of any
8 administrative and legislative actions taken in response to
9 recommendations of previous reports of the task force, together
10 with an evaluation of the effectiveness of the actions in facilitating
11 the overall goal of raising the living standards of working families,
12 and any further recommendation deemed appropriate by the task
13 force.

14

15 4. The Commissioner of Labor and Workforce Development
16 shall, not later than September 30, 2024, issue and post on the
17 Department of Labor and Workforce Development website a report
18 which evaluates the impacts on employers and employees of:

19 a. the increases of the minimum wage provided in calendar
20 years 2020 through 2023 for employees engaged on a piece-rate or
21 regular hourly rate basis to labor on a farm pursuant to subsection c.
22 of section 5 of P.L 1966, c.113 (C.34:11-56a4); and

23 b. the credits provided in calendar years 2019 through 2023 to
24 employers for gratuities and tips pursuant to subsection d. of section
25 5 of P.L 1966, c.113 (C.34:11-56a4).

26

27 5. This act shall take effect immediately.

28

29

30 STATEMENT

31

32 This bill amends and supplements the “New Jersey State Wage
33 and Hour Law”, P.L.1966, c.113 (C.34:11-56a et seq.), to
34 incorporate into that law the provisions of Article I, paragraph 23 of
35 the State Constitution approved by ballot initiative in 2013 to
36 increase the State minimum wage, and provide further increases in
37 the minimum wage beyond what is required by the Constitution.

38 The bill incorporates into the minimum wage law the
39 constitutional provision which has resulted in the increase of the
40 minimum wage rate to \$8.85 per hour on January 1, 2018, and
41 which increases the rate on January 1 of each subsequent year by
42 any increase which occurs in the consumer price index for all urban
43 wage earners and clerical workers (CPI-W) during the 12 months
44 prior to the September 30 before that January 1. The bill also
45 incorporates into the law the provision of the Constitution that
46 whenever the federal minimum wage exceeds the State minimum
47 wage, the federal minimum wage will be adopted as the State
48 minimum wage and the increases based on increases in the CPI-W

1 will be applied to the federal minimum wage rate, except that if in a
2 subsequent year the rate set by this bill exceeds the federal rate, the
3 rate shall again be the rate set by the bill.

4 Finally, the bill provides for certain increases in the State
5 minimum wage which may be greater than the increases resulting
6 from the provisions of the Constitution. The bill provides that,
7 except for certain workers specified by the bill, the minimum wage
8 rate will be increased to \$9.50 per hour on July 1, 2019, to \$11.00
9 per hour on January 1, 2020, to \$11.55 per hour on January 1, 2021,
10 and then increased by \$1.15 per hour on January 1 of each year
11 from 2022 to 2024, reaching a level of \$15.00 per hour in 2024.

12 The exceptions indicated by the bill are:

13 1. That for employees of any employer with less than 10
14 employees, for employees under 18 years of age for farm laborers,
15 and for employees working in seasonal employment, other than
16 employees whose employers are provided credits for tips by the bill,
17 the minimum wage rate will be increased to \$10.10 per hour on
18 January 1, 2020, to \$10.35 per hour on January 1, 2022, to \$10.70
19 per hour on January 1, 2023, to \$11.10 per hour on January 1, 2024,
20 to \$11.70 per hour on January 1, 2025, to \$12.45 per hour on
21 January 1, 2026, to \$13.20 per hour on January 1, 2027, to \$14.10
22 per hour on January 1, 2028, reaching a level of \$15.00 per hour on
23 January 1, 2029; and

24 2. That with respect to tipped workers, every employer who
25 employs a worker who customarily and regularly receives gratuities
26 or tips will be entitled to a credit for the tips received by the worker
27 against the hourly minimum wage rate paid to the worker in the
28 following amounts: after December 31, 2018 and before July 1,
29 2019, \$6.72 per hour; after June 30, 2019 and before January 1,
30 2020, \$7.37 per hour; during calendar year 2020, \$7.87 per hour;
31 during calendar year 2021, \$7.42 per hour; during calendar year
32 2022, \$7.57 per hour; during calendar year 2023, \$8.72 per hour;
33 during calendar year 2024 and subsequent calendar year, \$9.87 per
34 hour.

35 3. That, commencing January 1, 2020, a training wage of not
36 less than 90 percent of the minimum wage may be paid to an
37 employee enrolled in a qualified training program. The training
38 wage may be paid during first 80 hours after hiring the employee
39 for employment in an occupation in which the employee has no
40 previous similar or related experience. The employer may not
41 utilize employees paid the training wage in a way that contributes to
42 any displacement of current employees or existing apprenticeship
43 programs. The employer is required to make a good faith effort to
44 continue to employ the employee after the training wage expires
45 and may not hire an employee at the training wage without a
46 reasonable expectation of subsequent regular employment.

47 Minimum wage increases provided by the Constitution based on
48 CPI-W increases will continue to be applied in all cases in any year

1 in which the increase set by the bill are less than the CPI-W
2 increase, including all years after 2024.

3 The bill defines “seasonal employment” as employment for
4 which, during the previous calendar year, not less than two thirds of
5 the employer’s gross receipts were received in a continuous period
6 of not more than thirteen weeks, and “small employer” as an
7 employer who employed less than 10 employees for every working
8 day during a majority of the calendar workweeks in the current
9 calendar year and the preceding calendar year.

10 The bill also creates a “Task Force on Wages and State Benefits”
11 charged with evaluating how changes in minimum wage levels may
12 affect the eligibility for a variety of State services and benefits, and
13 how the combination of changes in minimum wage and eligibility
14 standards may impact living standards. The task force is directed to
15 produce annual reports of its findings, including any
16 recommendations for adjustments in eligibility standards for the
17 benefits, changes in benefit subsidy rates, and other relevant
18 reforms, to ensure that the combination of minimum wage increases
19 and State services and benefits are coordinated effectively so as to
20 further advance the overall goal of raising the living standards of
21 working families.

22 Finally, the bill directs the Commissioner of Labor and
23 Workforce Development to issue, by September 30, 2024, a report
24 evaluating the impacts on employers and employees of the bill’s
25 increases of the minimum wage rates for farm laborers and the bill’s
26 credits provided to employers for tips received by their employees.