

ASSEMBLY, No. 740

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblyman GREGORY P. MCGUCKIN

District 10 (Ocean)

SYNOPSIS

Prohibits local units of government from adopting increased minimum wage and mandatory paid sick leave for private employers.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT prohibiting local governments from increasing the
2 minimum wage and from adopting mandatory paid sick leave
3 requirements for private employers, amending P.L.1966, c.113,
4 and supplementing chapter 48 of Title 40 of the Revised Statutes.

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

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9 1. (New section) The Legislature finds and declares that, if
10 necessary, uniform Statewide policies shall be used to regulate the
11 conditions of employment within the State. It is contrary to the
12 interest of the State and its residents for a patchwork of local
13 policies to exist in this area. Rather, the Legislature should
14 determine which of the conditions of employment are in need of
15 regulation by the State, and the appropriate remedies.

16
17 2. (New section) a. A local unit shall not adopt an ordinance,
18 resolution, or rule or regulation, or take any other action, setting
19 forth the terms and conditions of employment offered by any
20 private employer, including, but not limited to, imposing sick leave
21 or minimum wage requirements. Any ordinance, resolution, rule, or
22 regulation, or other action taken setting forth the terms and
23 conditions of employment offered by private employers shall be
24 against public policy and shall be null and void. This subsection
25 shall not be construed to supersede any statute under which a local
26 unit may include labor requirements in the specifications for a
27 public contract.

28 b. As used in this section:

29 "local unit" means a political subdivision of the State that is a
30 municipality or county, or any agency or instrumentality of a
31 municipality or county, but shall not include a school district or
32 regional school district; and

33 "private employer" means any private employer, including a
34 vendor, contractor or subcontractor of a local unit.

35
36 3. Section 5 of P.L.1966, c.113 (C.34:11-56a4) is amended to
37 read as follows:

38 5. Every employer shall pay to each of his employees wages at
39 a rate of not less than \$5.05 per hour as of April 1, 1992 and, after
40 January 1, 1999 the federal minimum hourly wage rate set by
41 section 6(a)(1) of the federal "Fair Labor Standards Act of 1938"
42 (29 U.S.C.s.206(a)(1)), and, as of October 1, 2005, \$6.15 per hour,
43 and as of October 1, 2006, \$7.15 per hour for 40 hours of working
44 time in any week and 1 1/2 times such employee's regular hourly
45 wage for each hour of working time in excess of 40 hours in any

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 week, except this overtime rate shall not include any individual
2 employed in a bona fide executive, administrative, or professional
3 capacity or, if an applicable wage order has been issued by the
4 commissioner under section 17 (C.34:11-56a16) of this act, not less
5 than the wages prescribed in said order. The wage rates fixed in
6 this section shall not be applicable to part-time employees primarily
7 engaged in the care and tending of children in the home of the
8 employer, to persons under the age of 18 not possessing a special
9 vocational school graduate permit issued pursuant to section 15 of
10 P.L.1940, c.153 (C.34:2-21.15), or to persons employed as
11 salesmen of motor vehicles, or to persons employed as outside
12 salesmen as such terms shall be defined and delimited in regulations
13 adopted by the commissioner, or to persons employed in a volunteer
14 capacity and receiving only incidental benefits at a county or other
15 agricultural fair by a nonprofit or religious corporation or a
16 nonprofit or religious association which conducts or participates in
17 that fair.

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

26 Employees engaged on a piece-rate or regular hourly rate basis to
27 labor on a farm shall be paid for each day worked not less than the
28 minimum hourly wage rate multiplied by the total number of hours
29 worked.

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

33 Notwithstanding the provisions of this section to the contrary,
34 every trucking industry employer shall pay to all drivers, helpers,
35 loaders and mechanics for whom the Secretary of Transportation
36 may prescribe maximum hours of work for the safe operation of
37 vehicles, pursuant to section 31502(b) of the federal Motor Carrier
38 Act, 49 U.S.C.s.31502(b), an overtime rate not less than 1 1/2 times
39 the minimum wage required pursuant to this section and N.J.A.C.
40 12:56-3.1. Employees engaged in the trucking industry shall be
41 paid no less than the minimum wage rate as provided in this section
42 and N.J.A.C. 12:56-3.1. As used in this section, "trucking industry
43 employer" means any business or establishment primarily operating
44 for the purpose of conveying property from one place to another by
45 road or highway, including the storage and warehousing of goods
46 and property. Such an employer shall also be subject to the
47 jurisdiction of the Secretary of Transportation pursuant to the
48 federal Motor Carrier Act, 49 U.S.C.s.31501 et seq., whose

1 employees are exempt under section 213(b)(1) of the federal "Fair
2 Labor Standards Act of 1938," 29 U.S.C.s.213(b)(1), which
3 provides an exemption to employees regulated by section 207 of the
4 federal "Fair Labor Standards Act of 1938," 29 U.S.C.s.207, and the
5 Interstate Commerce Act, 49 U.S.C.s.501 et al.

6 【The provisions of this section shall not be construed as
7 prohibiting any political subdivision of the State from adopting an
8 ordinance, resolution, regulation or rule, or entering into any
9 agreement, establishing any standard for vendors, contractors and
10 subcontractors of the subdivision regarding wage rates or overtime
11 compensation which is higher than the standards provided for in
12 this section, and no provision of any other State or federal law
13 establishing a minimum standard regarding wages or other terms
14 and conditions of employment shall be construed as preventing a
15 political subdivision of the State from adopting an ordinance,
16 resolution, regulation or rule, or entering into any agreement,
17 establishing a standard for vendors, contractors and subcontractors
18 of the subdivision which is higher than the State or federal law or
19 which otherwise provides greater protections or rights to employees
20 of the vendors, contractors and subcontractors of the subdivision,
21 unless the State or federal law expressly prohibits the subdivision
22 from adopting the ordinance, resolution, regulation or rule, or
23 entering into the agreement.】

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

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26 4. This act shall take effect immediately.

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STATEMENT

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31 This bill would prohibit a local unit from adopting an ordinance,
32 resolution, or rule or regulation, or taking any other action, setting
33 forth the terms and conditions of employment offered by any
34 private employer, including, but not limited to, imposing sick leave
35 or minimum wage requirements. Under the bill, any ordinance,
36 resolution, rule, or regulation, or other action taken setting forth the
37 terms and conditions of employment offered by private employers
38 would be against public policy and would be null and void.

39 The bill defines "local unit" as a political subdivision of the State
40 that is a municipality or county, or any agency or instrumentality of
41 a municipality or county, but not a school district or regional school
42 district.

43 The bill would also remove all provisions of section 5 of
44 P.L.1966, c.113 (C.34:11-56a4) regarding what actions a political
45 subdivision may or may not take with respect to terms and
46 conditions of employees of private sector employers who are
47 vendors, contractors, and subcontractors of a political subdivision.