ASSEMBLY, No. 4464

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED SEPTEMBER 24, 2018

Sponsored by:
Assemblyman HAROLD "HAL" J. WIRTHS
District 24 (Morris, Sussex and Warren)

Co-Sponsored by:
Assemblywomen B.DeCroce, N.Munoz, Assemblyman A.M.Bucco,
Assemblywoman Schepisi, Assemblyman DePhillips, Assemblywoman
DiMaso and Assemblyman Thomson

SYNOPSIS
Raises minimum wage to $13, with certain exceptions.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning the minimum wage and amending and supplementing P.L.1966, c.113.

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

1. (New section) a. (1) Except as provided in subsections b. and c. of this section, beginning on January 1, 2019, every employer shall pay to each of its employees wages at an hourly rate of not less than $9. The minimum wage shall increase by $1 on January 1 of 2020 and each subsequent year, until the minimum wage is equal to or greater than $13, except as provided in paragraph (2) of this subsection.

(2) If there is a decline in seasonally adjusted nonfarm employment for either the three-month period ending June or the six-month period ending in June, 2019 and each subsequent year until the minimum wage is equal to or greater than $13, the minimum wage increases provided for in subsection a. of this section shall be suspended for a period of 18 months. During the suspension, the minimum wage shall increase at a rate adjusted annually for inflation as described in paragraph 23 of Article I of the State Constitution.

(3) After the minimum wage is equal to or greater than $13, on January 1 of each subsequent year, the minimum wages established pursuant to subsection a. of this section shall be increased at a rate adjusted annually for inflation as described in paragraph 23 of Article I of the State Constitution.

b. Any employer shall pay to each of its exempted employees the greater of 67 percent of the current minimum wage, as provided in subsection a. of this section, or the minimum wage as provided pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) and paragraph 23 of Article I of the State Constitution.

c. As used in this section, “exempted employee” means an individual who is:

(1) employed by a nonprofit organization that is exempt from federal taxation pursuant to Section 501(c)(3) of the federal Internal Revenue Code (26 U.S.C. s. 501(c)(3)) or section 501(c)(6) of the federal Internal Revenue Code (26 U.S.C. s.501(c)(6));

(2) an agricultural employee, who is exempt from the provisions of the “Fair Labor Standards Act of 1938” (29 U.S.C. 201 et seq.) pursuant to 29 U.S.C. 213;

(3) a seasonal or recreational employee, who is exempt from the provisions of the “Fair Labor Standards Act of 1938” (29 U.S.C. 201 et seq.) pursuant to 29 U.S.C. 213;

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.
(4) a newly hired employee who is less than 18 years old, who is
exempt from the provisions of the “Fair Labor Standards Act of
1938” (29 U.S.C. 201 et seq.) pursuant to 29 U.S.C. 206(g); or
(5) exempted from the provisions of section 5 of P.L.1966,
c.113 (C.34:11-56a4) pursuant to N.J.A.C.12:56-3.2.

2. Section 5 of P.L.1966, c.113 (C.34:11-56a4) is amended to
read as follows:
5. Every employer shall pay to each of his employees wages at
a rate of not less than $5.05 per hour as of April 1, 1992 and, after
January 1, 1999 the federal minimum hourly wage rate set by
section 6(a)(1) of the federal "Fair Labor Standards Act of 1938"
(29 U.S.C. s.206(a)(1)), and, as of October 1, 2005, $6.15 per hour,
and as of October 1, 2006, $7.15 per hour] the rates specified
pursuant to section 1 of P.L., c. (C.****) (pending before the
Legislature as this bill) as of January 1, 2019 for 40 hours of
working time in any week and 1 1/2 times such employee's regular
hourly wage for each hour of working time in excess of 40 hours in
any week, except this overtime rate shall not include any individual
employed in a bona fide executive, administrative, or professional
capacity or, if an applicable wage order has been issued by the
commissioner under section 17 of P.L.1966, c.113 (C.34:11-56a16)
of this act], not less than the wages prescribed in said order. The
wage rates fixed in this section shall not be applicable to part-time
employees primarily engaged in the care and tending of children in
the home of the employer, to persons under the age of 18 not
possessing a special vocational school graduate permit issued
pursuant to section 15 of P.L.1940, c.153 (C.34:2-21.15), or to
persons employed as salesmen of motor vehicles, or to persons
employed as outside salesmen as such terms shall be defined and
delimited in regulations adopted by the commissioner, or to persons
employed in a volunteer capacity and receiving only incidental
benefits at a county or other agricultural fair by a nonprofit or
religious corporation or a nonprofit or religious association which
conducts or participates in that fair.

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

Employees engaged on a piece-rate or regular hourly rate basis to
labor on a farm shall be paid for each day worked not less than the
minimum hourly wage rate multiplied by the total number of hours
worked.
Full-time students may be employed by the college or university at which they are enrolled at not less than 85% of the effective minimum wage rate.

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

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

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

3. This act shall take effect immediately.
This bill raises the minimum wage to $13, with certain exceptions.

Specifically, the bill provides that beginning on January 1, 2019, every employer shall pay to each of its employees wages at an hourly rate of not less than $9. Under the bill, the minimum wage rate then increases by $1 on January 1 of 2020 and each subsequent year, until the minimum wage is equal to or greater than $13.

The bill also provides that if there is a decline in seasonally adjusted nonfarm employment for either the three-month period ending June or the six-month period ending in June, 2019 and each subsequent June until the minimum wage is equal to or greater than $13, the $1 minimum wage increase is suspended for a period of 18 months. During the suspension, the minimum wage increases at a rate adjusted annually for inflation as described in paragraph 23 of Article I of the State Constitution.

The bill provides that certain employers are not required to pay the minimum wage to certain exempted employees. Employers must pay to each of their exempted employees the greater of 67 percent of the current minimum wage, as provided in the bill, or the minimum wage as provided pursuant to the “New Jersey State Wage and Hour Law” and the State Constitution.

As used in the bill, an “exempted employee” means an individual who is:

(1) employed by a nonprofit organization that is exempt from federal taxation pursuant to the federal Internal Revenue Code;

(2) an agricultural employee, who is exempt from the provisions of the “Fair Labor Standards Act of 1938”;

(3) a seasonal or recreational employee, who is exempt from the provisions of the “Fair Labor Standards Act of 1938”;

(4) a newly hired employee who is less than 18 years old, who is exempt from the provisions of the “Fair Labor Standards Act of 1938”; or

(5) exempted from the provisions of section 5 of the “New Jersey State Wage and Hour Law”, including certain salespersons, full time college students, certain part time child care workers, minors, and employees of certain summer camps, conferences, and retreats during the months of June, July, August, and September.