STATE OF NEW YORK

6867

2025-2026 Regular Sessions

IN ASSEMBLY

March 14, 2025

Introduced by M. of A. HYNDMAN -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to prevailing wage for covered airport workers

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article 19-D of the labor law, as added by chapter 88 of the laws of 2021, is amended to read as follows:

ARTICLE 19-D

[~~MINIMUM~~] **PREVAILING** WAGE RATES FOR COVERED AIRPORT WORKERS

Section 696-a. Definitions.
696-b. [~~Certification to the commissioner~~] **Prevailing wage for covered airport workers**.
696-c. [~~Minimum wage rate for covered airport workers~~] **Overtime**.
696-d. [~~Commissioner's powers of investigation~~] **Powers of the fiscal officer**.
696-e. Records of employers.
696-f. Penalties.
696-g. Civil action.
696-h. Regulations.
696-i. **Enforcement of article.**
696-j. Savings clause.

§ 696-a. Definitions. As used in this article: 1. "Covered airport location" means [~~John F. Kennedy International Airport and LaGuardia Airport~~] **any airport operating under the jurisdiction of the Port Authority of New York and New Jersey within the state** or any location used to perform [~~airline catering~~] work [~~as such work is described in subparagraph (iv) of paragraph (a) of subdivision two of this section~~] **related to the preparation or delivery of food for consumption on**

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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airplanes departing from any airport operating under the jurisdiction of the Port Authority of New York and New Jersey within the state.

2. [~~(a)~~] "Covered airport worker" means any person employed to perform work at a covered airport location provided at least one-half of the employee's time during any workweek is performed at a covered airport location [~~and who works in one of the following covered categories:~~

~~(i) Cleaning and related services, which shall mean:~~

~~(1) building cleaning, including warehouse, kitchen, and terminal cleaning, including common areas, gateways, gates, lounges, clubs, concession areas, terminal entryways from ramp and where planes park at the gate, and other nearby facilities used for the preparation, packaging, and storage of inflight meals and supplies; and~~

~~(2) aircraft and cabin cleaning, including lavatory and water disposal and replenishment, lift truck driving and helping, dispatching, cleaning crew driving, and sorting and packing of inflight materials, such as blankets, pillows, and magazines;~~

~~(ii) Security related services, including catering security, escorting, escort security, passenger aircraft security, fire guarding, terminal security, baggage security, traffic security, cargo screening, including guarding, warehouse security, concessions and airport lounge security, security dispatch, and security at nearby facilities used for the preparation, packaging, and storage of inflight meals; or~~

~~(iii) In terminal and passenger handling services, including baggage handling, sky cap services, wheelchair attending, wheelchair dispatching, customer and passenger services, line queue, identification checking, porter services for baggage, and passenger and employee shuttle driving.~~

~~(iv) Airline catering, including work related to the preparation or delivery of food or beverage for consumption on airplanes departing from a covered airport location or related location; or~~

~~(v) Airport lounge services, including food and retail services.~~

~~(b) "Covered airport worker" shall not include anyone who works in one of the following non-covered categories:~~

~~(i) Non-cleaning and security related cargo and ramp services, including ramp baggage and cargo handling, load control and ramp communication, aircraft mechanics and fueling of aircraft, provision of cooling, heating, and power, passenger aircraft servicing, cabin equipment maintenance, guiding aircraft in and out of gates, and gate side aircraft maintenance;~~

~~(ii) Ramp and tarmac maintenance services, including operation of snow plows, ramp cleaning vehicles, and tarmac sweepers;~~

~~(iii) Concession services, including food service, which includes food and beverage service, wait service, and cashiers, and retail service, which includes news, and gifts, and duty-free;~~

~~(c) "Covered airport worker" shall not include direct employees of the Port Authority of New York and New Jersey, or any workers hired by companies contracted by the Port Authority of New York and New Jersey, that are performing work under such contract.~~

~~(d) Covered airport worker shall include only:~~

~~(i) Employees employed at a covered airport location on December thirtieth, two thousand twenty and who are working an average of at least thirty hours per week; and~~

~~(ii) Employees employed at a covered airport location on or after January first, two thousand twenty-three and who are working for an average of thirty hours per week.~~

~~(c) "Covered airport worker" shall also not include persons employed in an executive, administrative, or professional capacity as defined in subparagraph one of paragraph (a) of section thirteen of the Fair Labor Standards Act of 1938~~]. "Covered airport worker" shall not include any person employed in an executive, administrative, or professional capacity as defined in 29 U.S.C. 213 (a)(1). "Covered airport worker" does not include any employee to whom the provisions of article eight or eight-A of this chapter are applicable.

3. [~~"Successor airport employer" means any person who furnishes cleaning and related services, security related services, in terminal and passenger handling services, airline catering, or airport lounge services at a covered airport location that are substantially similar to those that were provided by covered airport workers previously employed by another employer at such covered airport location.~~

~~4.~~] "Employer" means any person, corporation, limited liability company, or association employing any individual in an occupation, industry, trade, business or service. The term "employer" shall not include a governmental agency.

[~~5. The "standard wage rate" means the greater of:~~

~~(a) any minimum wage rate that would be otherwise applicable to covered airport workers established by article nineteen of this chapter; or~~

~~(b) any otherwise applicable minimum wage rate established through a policy of the Port Authority of New York and New Jersey.~~

~~6. The "standard benefits supplement rate" means an hourly supplement of four dollars and fifty-four cents furnished to an employee by providing at least four dollars and fifty-four cents per hour toward the cost of minimum essential coverage under an eligible employer-sponsored plan as defined in treasury regulation section 1.5000A-2(c)(1) beginning on July first, two thousand twenty-one. The standard benefits supplement rate shall apply only to the first forty hours worked by each covered airport worker in each week and shall not apply to any overtime hours worked by any covered airport worker. The standard benefits supplement rate shall apply to any paid leave taken by a covered airport worker that does not exceed forty hours in a week.~~

~~7. The "applicable standard rate" shall mean a combination of (a) the standard wage rate; and (b) the standard benefits supplemental rate~~]

4. "Fiscal officer" means the industrial commissioner, except for work involving the employment of covered airport workers at a covered airport location located in a city with a population of one million or more, in which case "fiscal officer" means the comptroller or other analogous officer of such city.

§ 696-b. [~~Certification to the commissioner. 1. No later than March thirty-first, two thousand twenty-one, each employer of a covered airport worker shall submit to the commissioner a sworn statement certifying the total number of workers employed by such employer at a covered airport location to perform cleaning and related services, security related services, in terminal and passenger handling services, airline catering, or airport lounge services, at a covered airport location on December thirtieth, two thousand twenty, and identifying the number that is equal to eighty percent of such total number of employees, which shall be the December thirtieth, two thousand twenty benchmark for the purposes of this section. Such statement shall further include an affirmation that such employer will ensure that the number of covered airport workers it employs at a covered airport location between July first, two thousand twenty-one and December thirty-first, two thousand twenty-two~~

~~is no less than the December thirtieth, two thousand twenty benchmark. Such sworn statement shall be provided by the commissioner upon request by any airport worker performing cleaning and related services, security related services, in terminal and passenger handling services, airline catering, or airport lounge services, at a covered airport location or any representative of such airport workers. Prior to employing any airport workers to perform cleaning and related services, security related services, in terminal and passenger handling services, airline catering, or airport lounge services, at a covered airport location, any successor airport employer shall obtain the applicable December thirtieth, two thousand twenty benchmark from the commissioner and submit to the commissioner an affirmation that such employer will ensure that the number of covered airport workers it employs at a covered airport location between July first, two thousand twenty-one and December thirty-first, two thousand twenty-two is no less than the December thirtieth, two thousand twenty benchmark.~~

~~2. Each employer of any covered airport worker employed at a covered airport location on or after January first, two thousand twenty-three shall submit to the commissioner, in a form and manner proscribed by the commissioner, a sworn statement affirming that such employer will ensure, where applicable, that the proportion of covered airport workers in each classification it employs to work an average of at least thirty hours per week at a covered airport location is the same as such proportion was compared to all workers in the same classification working at such covered airport location in the calendar year two thousand nineteen workforce. The commissioner shall publish a list of all covered classifications with the corresponding proportions of all workers employed to work an average of at least thirty hours a week compared to all workers in the same classification employed to work at each covered airport location in the calendar year two thousand nineteen. The commissioner shall be empowered to promulgate rules or regulations to determine the method and accounting for such information and to verify its accuracy, including the ability to establish a presumed proportion where records are missing or unavailable and provided further that such full-time levels shall be no less than such December thirtieth, two thousand twenty benchmark. If such proportion is not maintained, consistent with such rules or regulations promulgated by the commissioner, then the hours worked by such part time workers, which are outside of such proportion, shall be subject to the provisions of this section as if they worked an average of at least thirty hours per week at a covered airport location and were otherwise a covered airport worker.~~

~~3. Each employer of a covered airport worker employed at a covered airport location on December thirtieth, two thousand twenty and who is working an average of at least thirty hours per week shall provide such covered airport worker the ability to begin or change enrollment in an eligible employer-sponsored plan as defined in treasury regulation section 1.5000A-2(c)(1) for coverage beginning on July first, two thousand twenty-one.~~

~~4. Each employer of any other covered airport worker at a covered airport location shall provide such covered airport worker the ability to begin or change enrollment in an eligible employer-sponsored plan as defined in treasury regulation section 1.5000A-2(c)(1) for coverage beginning no later than thirty days after becoming a covered airport worker~~] Prevailing wage for covered airport workers. 1. Notwithstanding any other provision of law, rule, or regulation to the contrary, as used in this section, the term "wage" shall mean: (a) basic hourly cash rate

of pay; and (b) supplements. The term "supplements" shall mean fringe benefits including medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, unemployment benefits, life insurance, disability and sickness insurance, accident insurance, and other bona fide fringe benefits not otherwise required by federal, state or local law to be provided by a covered airport employer.

2. Not earlier than July first, two thousand twenty-five, every covered airport employer shall pay a covered airport worker working at a covered airport location a wage of not less than the prevailing wage in the locality for the craft, trade, or occupation of such covered airport worker.

3. The obligation of a covered airport employer to pay prevailing supplements may be discharged by furnishing any equivalent combinations of fringe benefits or by making equivalent or differential payments in cash under rules and regulations established by the fiscal officer.

4. Notwithstanding any other provisions of law, rule, or regulation to the contrary, for the purposes of this article "prevailing wage" shall mean the wage determined by the fiscal officer to be prevailing for the various classes of covered airport workers in the locality; provided, however, that in no event shall the prevailing wage applicable to a covered airport worker on and after June first, two thousand twenty-five and every year thereafter be less than the following:

(a) any otherwise applicable minimum wage rate established through a policy of the Port Authority of New York and New Jersey; and

(b) an amount of wages or supplements equal to the rates for health and welfare and additionally paid leave equal to the paid leave requirements designated by the fiscal officer based on the determinations made by the federal department of labor pursuant to the McNamara-O'Hara Service Contract Act of 1965 (41 U.S.C. 6701 et seq.) for the geographic region in which the covered airport location is located and in effect on the date of the designation by the fiscal officer.

5. On or before June first, two thousand twenty-five and each subsequent June first, the fiscal officer shall designate the wage and supplemental benefits rates required under this section by classification and region in which each covered airport is located. The fiscal officer shall publicly post such designated wage rate.

6. Nothing in this article shall be deemed to alter or limit any employer's obligation to pay any otherwise applicable prevailing wage under article eight of this chapter.

§ 696-c. [~~Minimum wage rate for covered airport workers. All covered employers shall ensure that every covered airport worker is compensated at a rate that is no less than the applicable standard rate. Nothing in this article shall alter or limit any employer's obligation to pay any otherwise applicable prevailing wage under article eight or nine of this chapter~~] Overtime. A covered airport worker who works more than eight hours in any one day or more than forty hours in any workweek shall be paid wages for such overtime at a rate not less than one and one-half times their prevailing basic cash hourly rate.

§ 696-d. [~~Commissioner's powers of investigation. The commissioner or his or her authorized representative shall have the power to:~~

~~1. investigate the compensation of covered airport workers in the state;~~

~~2. enter the place of business or employment of any employer for the purpose of (a) examining and inspecting any and all books, registers,~~

~~payrolls, and other records that in any way relate to or have a bearing upon the compensation provided to, or the hours worked by any employees, and (b) ascertaining whether the provisions of this article and the rules and regulations promulgated hereunder are being complied with; and~~

~~3. require from any employer full and correct statements and reports in writing, at such times as the commissioner may deem necessary, of the compensation provided to and the hours by such employer's employees.~~]

Powers of the fiscal officer. 1. In addition to the powers enumerated elsewhere in this article, the fiscal officer shall have the power:

(a) to cause an investigation to be made to determine the wages prevailing in any locality in all crafts, trades and occupations involved in work involving the employment of covered airport workers; in making such investigation, the fiscal officer may utilize wage and fringe benefit data from various sources including, but not limited to, data and determinations of federal, state or other governmental agencies;

(b) to institute and conduct inspections at the site of the work or elsewhere in aid of the effective administration and enforcement of the provisions of this article;

(c) to examine the books, documents and records pertaining to the wages paid to, and the hours of work performed by covered airport workers;

(d) to hold the hearings provided for in this article, and in connection therewith to issue subpoenas, administer oaths and examine witnesses. The enforcement of a subpoena issued under this section shall be regulated by the civil practice law and rules;

(e) to make a classification by craft, trade or other generally recognized occupational category of the covered airport workers and to determine whether such work has been performed by the employees in such classification;

(f) to require an employer to file with the fiscal officer a record of the wages actually paid by such employer to the covered airport workers and of their hours of work;

(g) to delegate any of the foregoing powers to their deputy or other authorized representative;

(h) to provide such reasonable limitations from any or all provisions of this article as the fiscal officer may find necessary and proper in the public interest or to avoid serious impairment of the conduct of government business; and

(i) to propose, and after public hearing held before the fiscal officer or their designee, to promulgate such rules as the fiscal officer shall consider necessary for the proper execution of the duties, responsibilities and powers conferred upon them by the provisions of this article. Such rules may allow such reasonable variations, tolerances and exemptions to and from any or all provisions of this article as the fiscal officer may find necessary and proper in the public interest, or to avoid serious impairment of the conduct of government business.

2. For all work for which the industrial commissioner is the fiscal officer, the industrial commissioner shall additionally have all the powers granted to them elsewhere in this chapter.

§ 696-e. Records of employers. For every employee covered by this article, every employer shall establish, maintain, and preserve for not less than six years contemporaneous, true, and accurate payroll records showing for each week worked the hours worked, the compensation provided, plus such other information as the [~~commissioner~~] fiscal officer deems material and necessary. For all covered airport workers who

are not exempt from overtime compensation as established in the [~~commissioner's~~] fiscal officer's minimum wage orders or otherwise provided by law, rule, or regulation, the payroll records shall include the compensation provided and the regular hourly rate or rates of pay, the overtime rate or rates of pay, the number of regular hours worked, the number of overtime hours worked and the cost of benefits and/or benefit supplements. On demand, the employer shall furnish to the [~~commissioner~~] fiscal officer or [~~his or her~~] their duly authorized representative a sworn statement of the hours worked, rate or rates of compensation, for each covered airport worker, plus such other information as the [~~commissioner~~] fiscal officer deems material and necessary. Every employer shall keep such records open to inspection by the [~~commissioner~~] fiscal officer or [~~his or her~~] their duly authorized representative at any reasonable time. Every employer of a covered airport worker shall keep a digest and summary of this article which shall be prepared by the [~~commissioner~~] fiscal officer, posted in a conspicuous place in [~~his or her~~] their establishment and shall also keep posted such additional copies of said digest and summary as the [~~commissioner~~] fiscal officer prescribes. Employers shall, on request, be furnished with copies of this article and of orders, and of digests and summaries thereof, without charge. Employers shall permit the [~~commissioner~~] fiscal officer or [~~his or her~~] their duly authorized representative to question without interference any employee of such employer in a private location at the place of employment and during working hours in respect to the wages paid to and the hours worked by such employee or other employees.

§ 696-f. Penalties. 1. If the [~~commissioner~~] fiscal officer finds that any employer has violated any provision of this article or of a rule or regulation promulgated thereunder, the [~~commissioner~~] fiscal officer may, after an opportunity for a hearing, and by an order which shall describe particularly the nature of the violation, assess the employer a civil penalty of not more than ten thousand dollars for the first such violation within six years, not more than twenty thousand dollars for a second violation within six years and not more than fifty thousand dollars for a third or subsequent violation within six years. Such penalty shall be paid to the [~~commissioner~~] fiscal officer for deposit in the treasury of the state. In assessing the amount of the penalty, the [~~commissioner~~] fiscal officer shall give due consideration to the size of the employer's business, the good faith [~~of the employer~~] basis of the employer to believe that its conduct was in compliance with the law, the gravity of the violation, the history of previous violations and the failure to comply with record-keeping or other requirements.

2. Any order issued under subdivision one of this section shall be deemed a final order of the [~~commissioner~~] fiscal officer and not subject to review by any court or agency unless the employer files a petition with the industrial board of appeals for a review of the order, pursuant to section one hundred one of this chapter.

3. The civil penalty provided for in this section shall be in addition to and may be imposed concurrently with any other remedy or penalty provided for in this chapter.

[~~4. Upon a showing by an employee organization, the commissioner may investigate by examining payroll records whether an employer withheld hours of work to employees for the purpose of reducing the employer's obligations under this article. If, after the opportunity for a hearing, the commissioner determines that an employer withheld hours of work to employees for the purpose of reducing the employer's obligations under this article, the commissioner may, in addition to any other penalty~~

~~available, also require that the employer pay the standard benefits supplement rate to all of the employer's employees, regardless of the number of hours worked by the employees.~~]

§ 696-g. Civil action. 1. On behalf of any employee paid less than the [~~applicable standard rate~~] **prevailing wage** to which the employee is entitled under the provisions of this article, the [~~commissioner~~] **fiscal officer** may bring any legal action necessary, including administrative action, to collect such claim, and the employer shall be required to pay the full amount of the underpayment, plus costs, and unless the employer proves a good faith basis to believe that its underpayment was in compliance with the law, an additional amount as liquidated damages. Liquidated damages shall be calculated by the [~~commissioner~~] **fiscal officer** as no more than one hundred percent of the total amount of underpayments found to be due the employee. In any action brought by the [~~commissioner~~] **fiscal officer** in a court of competent jurisdiction, liquidated damages shall be calculated as an amount equal to one hundred percent of underpayments found to be due the employee.

2. Notwithstanding any other provision of law, an action to recover upon a liability imposed by this article must be commenced within six years. The statute of limitations shall be tolled from the date an employee files a complaint with the [~~commissioner~~] **fiscal officer** or the [~~commissioner~~] **fiscal officer** commences an investigation, whichever is earlier, until an order to comply issued by the [~~commissioner~~] **fiscal officer** becomes final, or where the [~~commissioner~~] **fiscal officer** does not issue an order, until the date on which the [~~commissioner~~] **fiscal officer** notifies the complainant that the investigation has concluded.

3. In any civil action by the [~~commissioner~~] **fiscal officer**, the [~~commissioner~~] **fiscal officer** shall have the right to collect attorneys' fees and costs incurred in enforcing any court judgment. Any judgment or court order awarding remedies under this section shall provide that if any amounts remain unpaid upon the expiration of ninety days following issuance of judgment, or ninety days after expiration of the time to appeal and no appeal therefrom is then pending, whichever is later, the total amount of judgment shall automatically increase by fifteen percent.

§ 696-h. Regulations. [~~1.~~] The [~~commissioner~~] **fiscal officer** may promulgate such regulations as [~~he or she deems~~] **they deem** appropriate to carry out the purposes of this article and to safeguard minimum compensation standards.

§ 696-i. **Enforcement of article. If the fiscal officer, as defined herein, finds that any employer of covered airport workers fails to comply with or evades the provisions of this article, it shall be the duty of the fiscal officer to enforce the provisions of this article.**

§ 696-j. Savings clause. 1. If any provision of this article or the application thereof to any person, occupation or circumstance is held invalid, the remainder of the article and the application of such provision to other persons, employees, occupations, or circumstances shall not be affected thereby.

2. If any clause, sentence, paragraph, subdivision, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that

this article would have been enacted even if such invalid provisions had not been included herein.

[~~3. If section six hundred ninety-six-a, section six hundred ninety-six-b, or section six hundred ninety-six-c of this article or any portion thereof shall be adjudged, whether by final judgment, a temporary restraining order, or a preliminary injunction, by any court of competent jurisdiction to be preempted by federal law, then the "standard benefits supplement rate" defined in subdivision six of section six hundred ninety-six-a of this article shall immediately mean the following:~~

~~(a) An hourly supplement of four dollars and fifty-four cents furnished to an employee by providing at least four dollars and fifty-four cents per hour beginning on July first, two thousand twenty-one in one of the following ways: (i) in the form of health and/or other benefits, not including paid leave, that cost the employer the entire required hourly supplemental amount; (ii) by providing a portion of the required hourly supplement in the form of health and/or other benefits, not including paid leave, and the balance in cash; or (iii) by providing the entire supplement in cash.~~

~~(b) The value of such supplement shall be no less than four dollars and fifty-four cents per hour.~~

~~(c) The standard benefits supplement rate shall apply only to the first forty hours worked by each covered airport worker in each week and shall not apply to any overtime hours worked by any covered airport worker.~~

~~(d) The standard benefits supplement rate shall apply to any paid leave taken by a covered airport worker that does not exceed forty hours in a week.~~

~~4. If section six hundred ninety-six-a, section six hundred ninety-six-b, or section six hundred ninety-six-c of this article or any portion thereof shall be adjudged by any preliminary relief, including a temporary restraining order or a preliminary injunction, by any court of competent jurisdiction to be preempted by federal law but is later adjudged by the same court not to be preempted by federal law in a final judgment, then the definition of "standard benefits supplement rate" shall immediately revert to the definition stated in subdivision six of section six hundred ninety-six-a of this article.~~]

§ 2. This act shall take effect June 1, 2025. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.