STATE OF NEW YORK

5086

2017-2018 Regular Sessions

IN SENATE

March 7, 2017

Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to requiring an expert analysis and public hearings before wage orders shall take effect

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

Section 1. Subdivision 2 of section 652 of the labor law, as amended by chapter 38 of the laws of 1990, is amended to read as follows:

2. Existing wage orders. **(a)** The minimum wage orders in effect on the effective date of this act shall remain in full force and effect, except as modified in accordance with the provisions of this article.

(b) Such minimum wage orders shall be modified by the commissioner to increase all monetary amounts specified therein in the same proportion as the increase in the hourly minimum wage as provided in subdivision one of this section, including the amounts specified in such minimum wage orders as allowances for gratuities, and when furnished by the employer to its employees, for meals, lodging, apparel and other such items, services and facilities. All amounts so modified shall be rounded off to the nearest five cents. The modified orders shall be promulgated by the commissioner without a public hearing, and without reference to a wage board, and shall become effective on the effective date of such increases in the minimum wage except as otherwise provided in this subdivision, notwithstanding any other provision of this article.

(c) Notwithstanding any provision of law to the contrary and except as provided for in section three of the chapter of laws of two thousand seventeen that added this paragraph, any minimum wage order adopted on or after the effective date of the chapter of laws of two thousand seventeen that added this paragraph, including any wage order establishing or modifying overtime thresholds for employees paid a salary for services, shall only be adopted if the commissioner conducts an analysis of the effect of the increase in such order including, but not limited

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

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to, the impact upon employers, employees and the economy of the state and the affected regions within the state and following at least two public hearings, with at least one such hearing being held outside of New York city. In conducting the analysis, the commissioner shall consult with the department's division of research and statistics, the United States department of labor, the federal reserve bank of New York and other economic experts. The commissioner shall reference well-established economic indexes and accepted economic factors in determining whether a modification to the minimum wage order is justified and the extent of any such modification. Any analysis shall be separate and distinct from an investigation by the commissioner and a report and recommendation by a wage board related to an increase in the minimum wage, as provided for in this article.

§ 2. Subdivision 5 of section 652 of the labor law, as amended by section 2 of part K of chapter 54 of the laws of 2016, is amended to read as follows:

5. Notwithstanding subdivisions one and two of this section, meal and lodging allowances for a food service worker receiving a cash wage pursuant to subdivision four of this section shall not increase more than two-thirds of the increase [~~required~~] authorized by subdivision two of this section as applied to state wage orders in effect pursuant to subdivision one of this section.

§ 3. Notwithstanding any law to the contrary, any increase or increases in a minimum wage pursuant to a wage order adopted by rule on December 28, 2016 but not yet applicable on the effective date of this act shall not apply unless and until such wage order complies with the requirements of this act.

§ 4. This act shall take effect immediately and apply to any wage orders adopted on or after such date.