

STATE OF NEW YORK

2204--A

2023-2024 Regular Sessions

IN ASSEMBLY

January 24, 2023

Introduced by M. of A. JOYNER, BRONSON, DINOWITZ, HEVESI, COLTON, GIBBS, L. ROSENTHAL, DICKENS, ARDILA, BORES, EPSTEIN, GONZALEZ-ROJAS, KELLES, MAMDANI, RAGA, SHRESTHA, REYES, SIMON, DARLING, THIELE, SEAWRIGHT, BURGOS, CRUZ, GLICK, STECK, ALVAREZ, LUNSFORD, BENEDETTO -- read once and referred to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, in relation to raising the minimum wage annually by a percentage which is based on inflation and providing for the enforcement of such minimum wage; and to repeal subdivision 6 of section 652 of the labor law relating thereto

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

1 Section 1. This act shall be known and may be cited as the "raise the
2 wage act".

3 § 2. Legislative findings. As New Yorkers struggle with the rapidly
4 rising cost of living, their paychecks are not keeping up. The state
5 minimum wage has been flat at \$15 in New York city since 2019. In the
6 New York city suburbs it is also stalled at \$15 and under current law
7 will not increase further. And in the rest of the state, years after the
8 legislature last acted to raise the minimum wage it is still gradually
9 inching up to \$15, but will not increase further until the legislature
10 acts.

11 At the same time, record inflation is causing the real value of the
12 minimum wage to plummet across the state as consumers struggle with the
13 rapidly rising cost of necessities. In New York city, its value has
14 already fallen more than 15%, and is projected to fall a further 15% by
15 2027, or even more if consumer price inflation does not moderate in 2023
16 and 2024 as expected. This steep decline in the minimum wage is revers-
17 ing the historic reductions in poverty and earnings inequality that the
18 state achieved with the \$15 minimum wage. And even once inflation

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

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1 returns to more typical levels, workers will continue to lose real wages
2 as long as our minimum wage remains stagnant.

3 While in 2016 New York led the nation as the first state to adopt a
4 \$15 minimum wage, today it has fallen behind the many other cities and
5 states that are raising their minimum wages well beyond \$15. About fifty
6 cities and counties and two states will have minimum wages above \$15 an
7 hour as of January 2023, and a growing group will have minimum wages of
8 more than \$17 or \$18 an hour. The fact that Yakima, Washington, Fresno,
9 California, and Denver, Colorado will all have higher minimum wages than
10 New York shows how far pay has fallen in the state.

11 To fix this, first, the value of New York city's minimum wage needs to
12 be restored by "catching it up" to where it would have been if it had
13 been adjusted steadily each year since 2019 to keep pace with rising
14 prices and workforce productivity. That translates to raising the mini-
15 mum wage to \$21.25 an hour by 2026.

16 Second, because the state minimum wage in New York city's suburbs,
17 including Nassau, Suffolk, and Westchester counties, is also stalled at
18 \$15 and those regions have housing and living costs that are almost as
19 high as New York city, the minimum wage there should increase at the
20 same rate.

21 Third, the minimum wage in the remainder of the state should also
22 eventually catch up with the state-wide rate, but at a slower pace since
23 wages and costs are lower there.

24 Finally, once the minimum wage across the state catches up, it must be
25 automatically adjusted or "indexed" each year so that it doesn't fall
26 behind again. That is the approach that 18 states and Washington, D.C.
27 are already using to keep their minimum wages up to date. For adjusting
28 the minimum wage each year, the legislature should adopt the same formu-
29 la that the department of labor and the division of the budget used
30 successfully to increase New York's upstate minimum wage in 2022 and
31 2023. They have been adjusting the minimum wage so that it keeps up both
32 with rising prices and also with any increases in worker productivity.
33 This best practice ensures that underpaid workers' paychecks maintain
34 their purchasing power and, that when there are gains in worker produc-
35 tivity, that workers too share in those benefits. This approach has
36 resulted in steady, moderate increases in the upstate wage of 70 cents
37 in 2022, and \$1.00 in 2023. It should be made permanent and expanded
38 state-wide.

39 Many of our lowest paid jobs across the state are publicly-funded
40 human services jobs, in fields such as home care, childcare, and mental
41 health care, where workers provide essential services on which we all
42 rely. But the eroded minimum wage is holding down pay for these vital
43 caregivers and making it impossible to fill these demanding jobs at the
44 same time that demand for services has exploded as the state's popu-
45 lation ages and the pandemic has stressed families and communities. To
46 address this critical worker shortage, we need to not just raise the
47 minimum wage significantly, but also to provide the state funding neces-
48 sary to finance those raises in the state and city-contracted programs
49 that employ these essential workers.

50 New York's experience phasing in the \$15 minimum wage showed that
51 significant wage increases have been manageable for employers and that
52 higher paychecks have put money back into local communities, boosting
53 consumer spending at neighborhood businesses. Studies by the federal
54 reserve bank of New York of the impact in upstate counties, and by the
55 New York city-based new school both found that New York's last minimum
56 wage increase raised pay significantly without hurting employment - even

1 in counties along the New York-Pennsylvania border where the minimum
2 wage in our neighboring state is just \$7.25.

3 With the value of New York's minimum wage plummeting and rising prices
4 squeezing New York's working families, we cannot afford to wait to
5 restore a strong minimum wage for all New Yorkers.

6 § 3. Subdivision 1 of section 652 of the labor law, as amended by
7 section 1 of part K of chapter 54 of the laws of 2016, is amended to
8 read as follows:

9 1. Statutory. Every employer shall pay to each of its employees for
10 each hour worked a wage of not less than:

11 \$4.25 on and after April 1, 1991,

12 \$5.15 on and after March 31, 2000,

13 \$6.00 on and after January 1, 2005,

14 \$6.75 on and after January 1, 2006,

15 \$7.15 on and after January 1, 2007,

16 \$8.00 on and after December 31, 2013,

17 \$8.75 on and after December 31, 2014,

18 \$9.00 on and after December 31, 2015, and until December 31, 2016, or,
19 if greater, such other wage as may be established by federal law pursu-
20 ant to 29 U.S.C. section 206 or its successors or such other wage as may
21 be established in accordance with the provisions of this article.

22 (a) New York City. [~~(i) Large employers.~~] Every employer [~~of eleven or~~
23 ~~more employees~~] shall pay to each of its employees for each hour worked
24 in the city of New York a wage of not less than:

25 \$11.00 per hour on and after December 31, 2016,

26 \$13.00 per hour on and after December 31, 2017,

27 \$15.00 per hour on and after December 31, 2018,

28 \$17.25 on and after January 1, 2024,

29 \$19.25 on and after January 1, 2025,

30 \$21.25 on and after January 1, 2026, or, if greater, such other wage
31 as may be established by federal law pursuant to 29 U.S.C. section 206
32 or its successors or such other wage as may be established in accordance
33 with the provisions of this article.

34 [~~(ii) Small employers. Every employer of ten or less employees shall~~
35 ~~pay to each of its employees for each hour worked in the city of New~~
36 ~~York a wage of not less than:~~

37 ~~\$10.50 per hour on and after December 31, 2016,~~

38 ~~\$12.00 per hour on and after December 31, 2017,~~

39 ~~\$13.50 per hour on and after December 31, 2018,~~

40 ~~\$15.00 per hour on and after December 31, 2019,~~

41 ~~or, if greater, such other wage as may be established by federal law~~
42 ~~pursuant to 29 U.S.C. section 206 or its successors or such other wage~~
43 ~~as may be established in accordance with the provisions of this arti-~~
44 ~~cle.]~~

45 (b) Remainder of downstate. Every employer shall pay to each of its
46 employees for each hour worked in the counties of Nassau, Suffolk and
47 Westchester a wage not less than:

48 \$10.00 per hour on and after December 31, 2016,

49 \$11.00 per hour on and after December 31, 2017,

50 \$12.00 per hour on and after December 31, 2018,

51 \$13.00 per hour on and after December 31, 2019,

52 \$14.00 per hour on and after December 31, 2020,

53 \$15.00 per hour on and after December 31, 2021,

54 \$17.25 on and after January 1, 2024,

55 \$19.25 on and after January 1, 2025,

56 \$21.25 on and after January 1, 2026,

1 or, if greater, such other wage as may be established by federal law
2 pursuant to 29 U.S.C. section 206 or its successors or such other wage
3 as may be established in accordance with the provisions of this article.

4 (c) Remainder of state. Every employer shall pay to each of its
5 employees for each hour worked outside of the city of New York and the
6 counties of Nassau, Suffolk, and Westchester, a wage of not less than:

7 \$9.70 on and after December 31, 2016,

8 \$10.40 on and after December 31, 2017,

9 \$11.10 on and after December 31, 2018,

10 \$11.80 on and after December 31, 2019,

11 \$12.50 on and after December 31, 2020,

12 ~~[and on each following December thirty first, a wage published by the~~
13 ~~commissioner on or before October first, based on the then current mini-~~
14 ~~mum wage increased by a percentage determined by the director of the~~
15 ~~budget in consultation with the commissioner, with the result rounded to~~
16 ~~the nearest five cents, totaling no more than fifteen dollars, where the~~
17 ~~percentage increase shall be based on indices including, but not limited~~
18 ~~to, (i) the rate of inflation for the most recent twelve month period~~
19 ~~ending June of that year based on the consumer price index for all urban~~
20 ~~consumers on a national and seasonally unadjusted basis (CPI-U), or a~~
21 ~~successor index as calculated by the United States department of labor,~~
22 ~~(ii) the rate of state personal income growth for the prior calendar~~
23 ~~year, or a successor index, published by the bureau of economic analysis~~
24 ~~of the United States department of commerce, or (iii) wage growth,]~~

25 \$13.20 on and after December 31, 2021,

26 \$14.20 on and after January 1, 2023,

27 \$16.00 on and after January 1, 2024,

28 \$18.00 on and after January 1, 2025,

29 \$20.00 on and after January 1, 2026,

30 or, if greater, such other wage as may be established by federal law
31 pursuant to 29 U.S.C. section 206 or its successors or such other wage
32 as may be established in accordance with the provisions of this article.

33 (d) Annual increases. On January first, two thousand twenty-seven, and
34 on each following January first, the wages set forth in paragraphs (a),
35 (b) and (c) of this subdivision and any other wages established in
36 accordance with the provisions of this chapter and set forth in any
37 minimum wage order, shall be the wages published by the commissioner
38 pursuant to this paragraph. The commissioner shall publish such wages on
39 or before October first, two thousand twenty-six, and on each following
40 October first. The commissioner shall base each such published wage on
41 each then current wage increased by the sum of: (i) the rate of
42 inflation, if greater than zero, as measured by the change in the aver-
43 age for the twelve months through June of the current year divided by
44 the average for the twelve months through June of the preceding year in
45 the consumer price index for all urban wage earners and clerical workers
46 on a national and seasonally unadjusted basis (CPI-W), or a successor
47 index, as calculated by the United States department of labor; and (ii)
48 labor productivity growth, if greater than zero, as measured by the
49 change in the average quarterly index for the four quarters through the
50 second quarter of the current year divided by the average quarterly
51 index for the four quarters through the second quarter of the preceding
52 year in national labor productivity (output per hour) of all employed
53 persons in the nonfarm business sector, or a successor index, as calcu-
54 lated by the United States department of labor, with the sum rounded to
55 the nearest multiple of five cents. The commissioner shall publish such
56 wages on or before October first, two thousand twenty-six, and on or

1 before each following October first. Provided, however, that the wage
2 set forth for paragraph (c) of this subdivision that the commissioner
3 publishes on or before October first, two thousand twenty-six to take
4 effect on January first, two thousand twenty-seven shall be a wage that
5 is equal to the wage that the commissioner publishes to take effect on
6 January first, two thousand twenty-seven for paragraphs (a) and (b) of
7 this subdivision. Thereafter, beginning with the wage that the commis-
8 sioner publishes for paragraph (c) of this subdivision on or before
9 October first, two thousand twenty-seven to take effect on January
10 first, two thousand twenty-eight, and that the commissioner publishes on
11 or before each following October first to take effect on each following
12 January first, the commissioner shall adjust the current wage for para-
13 graph (c) of this subdivision using the formula specified above in this
14 paragraph. For purposes of subdivision two of this section, each
15 published wage that increases each then current minimum wage shall be
16 deemed to be an increase in hourly minimum wage as provided in this
17 subdivision.

18 (e) The rates and schedules established [~~in paragraphs (a) and (b) of~~
19 under this subdivision for New York city and for Nassau, Suffolk, and
20 Westchester counties shall not be deemed to be the minimum wage under
21 this subdivision for purposes of the calculations specified in subdivi-
22 sions one and two of section five hundred twenty-seven of this chapter.

23 § 4. Subdivision 6 of section 652 of the labor law is REPEALED.

24 § 5. Section 665 of the labor law is renumbered section 669 and a new
25 section 665 is added to read as follows:

26 § 665. Local wage enforcement authority. A city with a population of
27 one million or more, acting through its comptroller, may enforce and
28 investigate violations of the state minimum wage, other state wage
29 requirements established pursuant to this article, and any other local
30 law, ordinance, or regulation requiring payment of a minimum wage or
31 compensation, or establishing a labor standard for work performed within
32 the city's geographic boundaries. The comptroller shall be empowered to
33 adopt further enforcement provisions, remedies, penalties, and other
34 implementing regulations. Provided, however, the commissioner of consum-
35 er and worker protection of such a city or any successor to such office
36 may also enforce and investigate violations of the state minimum wage
37 and other state wage requirements established pursuant to this article
38 in the course of enforcing other laws that such commissioner is charged
39 with enforcing and may order any authorized remedies or penalties.
40 Provided, further, nothing in this section shall limit the authority of
41 the department of labor or any other government agency to enforce the
42 state minimum wage and other state wage requirements established pursu-
43 ant to this article or any other law within the geographic boundaries of
44 a city with a population of one million or more or elsewhere.

45 § 6. This act shall take effect immediately.