



# House of Representatives

General Assembly

**File No. 141**

February Session, 2012

Substitute House Bill No. 5291

*House of Representatives, March 27, 2012*

The Committee on Labor and Public Employees reported through REP. ZALASKI of the 81st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING THE MINIMUM WAGE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (j) of section 31-58 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *January 1, 2013*):

4 (j) "Minimum fair wage" in any industry or occupation in this state  
5 means a wage of not less than six dollars and seventy cents per hour,  
6 and effective January 1, 2003, not less than six dollars and ninety cents  
7 per hour, and effective January 1, 2004, not less than seven dollars and  
8 ten cents per hour, and effective January 1, 2006, not less than seven  
9 dollars and forty cents per hour, and effective January 1, 2007, not less  
10 than seven dollars and sixty-five cents per hour, and effective January  
11 1, 2009, not less than eight dollars per hour, and effective January 1,  
12 2010, not less than eight dollars and twenty-five cents per hour, and  
13 effective January 1, 2013, not less than eight dollars and seventy-five  
14 cents per hour, and effective January 1, 2014, not less than nine dollars

15 and twenty-five cents per hour or one-half of one per cent rounded to  
16 the nearest whole cent more than the highest federal minimum wage,  
17 whichever is greater, except as may otherwise be established in  
18 accordance with the provisions of this part. Effective July 1, 2014, and  
19 not later than each July fifteenth thereafter, the Labor Commissioner  
20 shall announce an adjustment in the minimum fair wage which shall  
21 be equal to the percentage increase between the last complete calendar  
22 year and the previous calendar year in the consumer price index for  
23 urban wage earners and clerical workers in the northeast urban area of  
24 New York-Northern New Jersey-Long Island, NY-NJ-CT-PA, with no  
25 seasonal adjustment, as calculated by the United States Department of  
26 Labor's Bureau of Labor Statistics, with the amount of the minimum  
27 fair wage increase rounded to the nearest five cents. The minimum fair  
28 wage plus the adjustment announced by the Labor Commissioner on  
29 July fifteenth shall become the new minimum fair wage and shall be  
30 effective on the January first immediately following. All wage orders  
31 in effect on October 1, 1971, wherein a lower minimum fair wage has  
32 been established, are amended to provide for the payment of the  
33 minimum fair wage herein established except as hereinafter provided.  
34 Whenever the highest federal minimum wage is increased, the  
35 minimum fair wage established under this part shall be increased to  
36 the amount of said federal minimum wage plus one-half of one per  
37 cent more than said federal rate, rounded to the nearest whole cent,  
38 effective on the same date as the increase in the highest federal  
39 minimum wage, and shall apply to all wage orders and administrative  
40 regulations then in force. The rates for learners, beginners, and persons  
41 under the age of eighteen years shall be not less than eighty-five per  
42 cent of the minimum fair wage for the first two hundred hours of such  
43 employment and equal to the minimum fair wage thereafter, except  
44 institutional training programs specifically exempted by the  
45 commissioner.

46 Sec. 2. Subsection (b) of section 31-60 of the general statutes is  
47 repealed and the following is substituted in lieu thereof (*Effective*  
48 *January 1, 2013*):

49 (b) The Labor Commissioner shall adopt such regulations, in  
50 accordance with the provisions of chapter 54, as may be appropriate to  
51 carry out the purposes of this part. Such regulations may include, but  
52 are not limited to, regulations defining and governing an executive,  
53 administrative or professional employee and outside salesperson;  
54 learners and apprentices, their number, proportion and length of  
55 service; and piece rates in relation to time rates; and shall recognize, as  
56 part of the minimum fair wage, gratuities in an amount (1) equal to  
57 twenty-nine and three-tenths per cent, and effective January 1, 2009,  
58 equal to thirty-one per cent, and effective January 1, 2013, equal to  
59 thirty-three and seven-tenths per cent, and effective January 1, 2014,  
60 equal to thirty-seven and three-tenths per cent of the minimum fair  
61 wage per hour for persons, other than bartenders, who are employed  
62 in the hotel and restaurant industry, including a hotel restaurant, who  
63 customarily and regularly receive gratuities, (2) equal to eight and  
64 two-tenths per cent, and effective January 1, 2009, equal to eleven per  
65 cent, and effective January 1, 2013, equal to sixteen and one-tenth per  
66 cent, and effective January 1, 2014, equal to twenty and seven-tenths  
67 per cent of the minimum fair wage per hour for persons employed as  
68 bartenders who customarily and regularly receive gratuities, and (3)  
69 not to exceed thirty-five cents per hour in any other industry, and shall  
70 also recognize deductions and allowances for the value of board, in the  
71 amount of eighty-five cents for a full meal and forty-five cents for a  
72 light meal, lodging, apparel or other items or services supplied by the  
73 employer; and other special conditions or circumstances which may be  
74 usual in a particular employer-employee relationship. The  
75 commissioner may provide, in such regulations, modifications of the  
76 minimum fair wage herein established for learners and apprentices;  
77 persons under the age of eighteen years; and for such special cases or  
78 classes of cases as the commissioner finds appropriate to prevent  
79 curtailment of employment opportunities, avoid undue hardship and  
80 safeguard the minimum fair wage herein established. Regulations in  
81 effect on July 1, 1973, providing for a board deduction and allowance  
82 in an amount differing from that provided in this section shall be  
83 construed to be amended consistent with this section without the

84 necessity of convening a wage board or amending such regulations.

85 Sec. 3. Subsection (a) of section 31-68 of the general statutes is  
86 repealed and the following is substituted in lieu thereof (*Effective*  
87 *January 1, 2013*):

88 (a) If any employee is paid by his or her employer less than the  
89 minimum fair wage or overtime wage to which he or she is entitled  
90 under sections 31-58, as amended by this act, 31-59 and 31-60, as  
91 amended by this act, or by virtue of a minimum fair wage order he  
92 [may] or she shall recover, in a civil action, [twice the full amount of  
93 such minimum wage less any amount actually paid to him by the  
94 employer, with] three times the amount of unpaid minimum fair  
95 wages, including interest thereon calculated in accordance with the  
96 provisions of section 31-265 from the date the wages should have been  
97 received, had they been paid in a timely manner, and costs and such  
98 reasonable attorney's fees as may be allowed by the court, and any  
99 agreement between him and his employer to work for less than such  
100 minimum fair wage or overtime wage shall be no defense to such  
101 action. The commissioner may collect [the full] three times the amount  
102 of unpaid minimum fair wages or unpaid overtime wages to which an  
103 employee is entitled under said sections or order, as well as interest  
104 calculated in accordance with the provisions of section 31-265 from the  
105 date the wages should have been received, had they been paid in a  
106 timely manner. In addition, the commissioner may bring any legal  
107 action necessary to recover [twice] three times the full amount of the  
108 unpaid minimum fair wages or unpaid overtime wages to which the  
109 employee is entitled under said sections or under an order, plus  
110 interest thereon, and the employer shall be required to pay the costs  
111 and such reasonable attorney's fees as may be allowed by the court.  
112 The commissioner shall distribute any wages or interest collected  
113 pursuant to this section to the employee or in accordance with the  
114 provisions of subsection (b) of this section.

This act shall take effect as follows and shall amend the following sections:

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Section 1	<i>January 1, 2013</i>	31-58(j)
Sec. 2	<i>January 1, 2013</i>	31-60(b)
Sec. 3	<i>January 1, 2013</i>	31-68(a)

**LAB**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

### **OFA Fiscal Note**

#### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 13 \$</b>	<b>FY 14 \$</b>
Various State Agencies	Various Appropriated Funds - Cost	Less than \$260,000	Less than \$550,000

#### **Municipal Impact:**

<b>Municipalities</b>	<b>Effect</b>	<b>FY 13 \$</b>	<b>FY 14 \$</b>
Various Municipalities	STATE MANDATE - Cost	See Below	See Below

### **Explanation**

The bill results in increased payroll and contract costs to the state and municipalities. The bill raises the state minimum hourly wage from \$8.25 to \$8.75 on January 1, 2013, and from \$8.75 to \$9.25 on January 1, 2014. As of 2015, it requires annual minimum wage adjustments based on increases in the Consumer Price Index (CPI).

### **Payroll Impact**

An increase in the state minimum wage will have a fiscal impact on the payroll of state and municipal employees (primarily general workers, summer workers, DEEP seasonal workers, student and senior workers). There would also be a direct increase<sup>1</sup> in social security fringe benefit costs. These state payroll and fringe costs are not anticipated to be significant, (estimated at \$10,000 in FY 13 and \$50,000

<sup>1</sup> Employers are liable for 6.2% Social Security and 1.45% Medicare taxes.

in FY 14<sup>2</sup>) but could have an impact on a limited number of programs (such as recreational programs) that largely utilize these types of positions.

The bill also increases costs to municipalities that employ minimum wage workers. For example, the city of New Haven parks and recreation department expects to hire 2,000 student workers at \$8.25 an hour for an 8 week summer program. The total student worker cost for this program is currently \$3.3 million. Under the bill, the student workers pay will increase to \$8.75 an hour in FY 13. Due to timing of the impact, the FY 13 cost would be \$66,000 and the FY 14 cost would be \$200,000. This increase represents less than 1% of New Haven's total budget.

Another example is the town of Manchester which currently employs 43 part time employees at \$8.25 an hour and 35 part time employees at \$8.50 an hour. It is estimated these employees work 20 hours a week for 26 weeks for a total current cost of \$339,170. Under the bill, these workers pay will increase to \$8.75 an hour in FY 13. Due to timing of the impact, the FY 13 cost would be \$7,865 and the FY 14 cost would be \$17,005. This increase represents less than 1% of Manchester's total budget.

The impact to municipalities will vary depending on the number of minimum wage workers they employ and the extent of the services they provide.

### ***Contract Impact***

In addition, the bill will increase certain state contract costs. All state service contracts exceeding \$50,000 require the state to pay standard wage (which is higher than the bill's proposed minimum wage increase) and therefore would not be impacted. Service contracts (such as custodial) below the \$50,000 threshold are exempt from this requirement, however, and would be impacted. In addition,

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<sup>2</sup> Estimate does not include costs to non-appropriated funds, such as the operating funds of the constituent units of higher education, which would also be impacted.

numerous non-service contracts in which vendors employ staff at minimum wage would also be impacted. Many contracts entered into since 2008 have a provision that allows the contractor to seek a price adjustment if the minimum wage is increased, whereas some contracts do not. As a result, the timing of these impacts is uncertain.

In general, labor costs comprise approximately 80% of the cost of these contracts. Assuming 50% of covered employees earn minimum wage, there would be an overall annualized increase of 3% in FY 13 and an additional increase of 2.9%, for a total increase of nearly 6% in FY 14. The full impact to state contract costs is difficult to quantify. The Department of Administrative Services has identified approximately 150 contracts worth an estimated \$3 million that would be potentially impacted, resulting in increased annual costs estimated at \$72,000 in FY 13 and \$144,000 in FY 14. The Department of Transportation has similarly identified several contracts which would be impacted, resulting in increased annual costs up to \$100,000. In total, it is estimated that state contracts could be impacted by as much as \$250,000 in FY 13 and \$500,000 in FY 14.

### ***Other***

There is no fiscal impact anticipated to the Department of Labor due to any of the provisions of the bill.

The bill also adjusts the minimum wage “tip credit” and increases the amount that may be recovered from violations of minimum wage and overtime wage laws. These provisions are not anticipated to result in a fiscal impact to the state or municipalities.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation, as measured by the Consumer Price Index.

*Sources: Departments of Administrative Services, Labor and Transportation, City of New Haven, Town of Manchester*

**OLR BILL ANALYSIS****sHB 5291*****AN ACT CONCERNING THE MINIMUM WAGE.*****SUMMARY:**

This bill raises the minimum wage from its current \$8.25 to \$8.75 on January 1, 2013, and from \$8.75 to \$9.25 on January 1, 2014. Starting in 2015, it requires annual minimum wage adjustments based on increases in the Consumer Price Index for tri-state area urban wage earners and clerical workers (CPI), as calculated by the U.S. Bureau of Labor Statistics.

The bill adjusts the minimum wage “tip credit,” which allows employers to use the tips certain employees receive to satisfy a portion of their minimum wage requirement. Together with the changes to the minimum wage, the adjustments increase the employer’s share of the hotel and wait staff wage from its current \$5.69 to \$5.80 in 2013, and then keeps it at \$5.80 in 2014. The bill keeps the employer’s share of a bartender’s minimum wage at its current \$7.34 in 2013 and 2014.

The bill also increases the amount that employees or the labor commissioner may recover from employers who violate minimum and overtime wage laws.

EFFECTIVE DATE: January 1, 2013

**ANNUAL CPI BASED ADJUSTMENT**

By July 15, 2014, and every year thereafter, the bill requires the labor commissioner to announce an adjustment, if any, to the minimum wage based on the CPI’s percentage increase during the last complete calendar year. The amount of any corresponding wage increase is rounded to the nearest five cents and the new minimum wage is effective on January 1 of the next calendar year.

**TIP CREDIT**

The law allows the employers of hotel and restaurant staff and bartenders who customarily receive tips to use these employees' tips to meet a portion of their minimum wage requirement. This "tip credit" lowers the employer's share of the minimum wage, as long as the tips make up the difference. Current law allows tips to comprise 31% (\$2.56) of the minimum wage for hotel and restaurant employees, and 11% (\$0.91) of the minimum wage for bartenders, leaving their employers' shares of the wage at \$5.69 and \$7.34, respectively.

The bill increases the hotel and restaurant employees tip credit to 33.7% on January 1, 2013 and 37.3% on January 1, 2014. Together with the bill's minimum wage increases, the hotel and restaurant tip credit increases to \$2.95 in 2013 and \$3.45 in 2014, making the employer's share of the minimum wage for these employees \$5.80 in both years.

The bill increases the bartender tip credit to 16.1% on January 1, 2013, and 20.7% on January 1, 2014. With the bill's minimum wage increases, the bartenders tip credit increases to \$1.41 in 2013, and \$1.91 in 2014, keeping the employer's share of a bartender's minimum wage at its current \$7.34 for both years.

If the tip credit percentages remain the same after CPI indexing begins in 2015, their value would rise at the same rate as the overall minimum wage (i.e., if the minimum wage rose 5%, from \$9.25 to \$9.71, the employer's share of a bartender's minimum wage would increase 5%, from \$7.34 to \$7.70).

**UNPAID MINIMUM AND OVERTIME WAGE RECOVERY**

The bill increases the amount that (1) an employee may recover if he or she is not paid the full minimum or overtime wage and (2) the labor commissioner may recover on such an employee's behalf.

Current law allows an employee who is paid less than the required minimum or overtime wage to bring a civil suit to recover up to twice the amount of unpaid wages, plus costs and reasonable attorney's fees. The bill removes the court's discretion to determine a victorious

employee's award by setting mandatory damages at three times the amount owed by the employer plus interest on the unpaid wages, in addition to the costs and reasonable attorney's fees that the law already allows.

Alternatively, the law allows the labor commissioner to try to recover damages on the employee's behalf. Under current law, the commissioner may (1) collect the full amount of unpaid wages plus interest or (2) bring a legal action to recover up to twice the amount of unpaid wages, plus costs and reasonable attorney's fees. The bill instead allows the commissioner to (1) collect up to three times the amount of unpaid wages or (2) bring a legal action to recover up to three times the amount of unpaid wages plus interest, in addition to costs and reasonable attorney's fees that the law already allows. By law, the commissioner must distribute any wages or interest collected through these processes to the affected employee.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 8      Nay 3      (03/15/2012)