

SENATE, No. 287

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator JOSEPH PENNACCHIO

District 26 (Essex, Morris and Passaic)

SYNOPSIS

Allows public contractors paying benefits under collective bargaining agreements to count benefit costs toward compliance with local “living wage” ordinances.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning benefit costs and certain local ordinances
2 pertaining to wage rates and other quantifiable *terms and*
3 *conditions of employment* and amending P.L.1966, c.113.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. Section 5 of P.L.1966, c.113 (C.34:11-56a4) is amended to
9 read as follows:

10 5. Every employer shall pay to each of his employees wages at
11 a rate of not less than \$5.05 per hour as of April 1, 1992 and, after
12 January 1, 1999, the federal minimum hourly wage rate set by
13 section 6(a)(1) of the federal "Fair Labor Standards Act of 1938"
14 (29 U.S.C. s.206(a)(1)), and, as of October 1, 2005, \$6.15 per hour,
15 and as of October 1, 2006, \$7.15 per hour for 40 hours of working
16 time in any week and 1 1/2 times such employee's regular hourly
17 wage for each hour of working time in excess of 40 hours in any
18 week, except this overtime rate shall not include any individual
19 employed in a bona fide executive, administrative, or professional
20 capacity or, if an applicable wage order has been issued by the
21 commissioner under section 17 (C.34:11-56a16) of this act, not less
22 than the wages prescribed in said order. The wage rates fixed in
23 this section shall not be applicable to part-time employees primarily
24 engaged in the care and tending of children in the home of the
25 employer, to persons under the age of 18 not possessing a special
26 vocational school graduate permit issued pursuant to section 15 of
27 P.L.1940, c.153 (C.34:2-21.15), or to persons employed as
28 salesmen of motor vehicles, or to persons employed as outside
29 salesmen as such terms shall be defined and delimited in regulations
30 adopted by the commissioner, or to persons employed in a volunteer
31 capacity and receiving only incidental benefits at a county or other
32 agricultural fair by a nonprofit or religious corporation or a
33 nonprofit or religious association which conducts or participates in
34 that fair.

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

43 Employees engaged on a piece-rate or regular hourly rate basis to
44 labor on a farm shall be paid for each day worked not less than the

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.

1 minimum hourly wage rate multiplied by the total number of hours
2 worked.

3 Full-time students may be employed by the college or university
4 at which they are enrolled at not less than 85% of the effective
5 minimum wage rate.

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

27 The provisions of this section shall not be construed as
28 prohibiting any political subdivision of the State from adopting an
29 ordinance, resolution, regulation or rule, or entering into any
30 agreement, establishing any standard for vendors, contractors and
31 subcontractors of the subdivision regarding wage rates or overtime
32 compensation which is higher than the standards provided for in
33 this section, 【and no】 provided that any vendor, contractor and
34 subcontractor paying benefits pursuant to a collective bargaining
35 agreement shall be permitted to count the cost of paying those
36 benefits toward compliance with the higher wage rates set under the
37 ordinance, resolution, regulation or rule. No provision of any other
38 State or federal law establishing a minimum standard regarding
39 wages or other terms and conditions of employment shall be
40 construed as preventing a political subdivision of the State from
41 adopting an ordinance, resolution, regulation or rule, or entering
42 into any agreement, establishing a standard for vendors, contractors
43 and subcontractors of the subdivision which is higher than the State
44 or federal law or which otherwise provides greater protections or
45 rights to employees of the vendors, contractors and subcontractors
46 of the subdivision, unless the State or federal law expressly
47 prohibits the subdivision from adopting the ordinance, resolution,
48 regulation or rule, or entering into the agreement, provided that any

1 vendor, contractor and subcontractor paying benefits pursuant to a
2 collective bargaining agreement shall be permitted to count the cost
3 of paying those benefits toward compliance with the higher wage
4 rates or other quantifiable terms and conditions of employment set
5 under the ordinance, resolution, regulation or rule.

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

7

8 2. This act shall take effect immediately.

9

10

11

STATEMENT

12

13 This bill provides that any vendor, contractor and subcontractor
14 paying benefits pursuant to an collective bargaining agreement shall
15 be permitted to count the cost of paying those benefits toward
16 compliance with any local ordinance, resolution, regulation or rule
17 setting wage rates or other quantifiable conditions or terms or
18 employment for contractors which are higher than standards set by
19 State or federal law.