

New York's Governor Can Raise the State Minimum Wage Through a Wage Order

New York's Governor does not need the legislature's consent to deliver a long-overdue increase in the minimum wage. This is because decades ago the legislature authorized the Governor and his or her Labor Commissioner to raise the minimum wage administratively through a wage order issued after a series of hearings by a special board appointed by the commissioner. Using such a wage order, the Governor may raise the wage for specific occupations or regions of the state, or state-wide for all regions and occupations. This fact sheet provides background on the wage order power and process – and examples of how it has been used in recent years by Governors in New York and other states to deliver minimum wage increases when the legislature is unable to act.

Authority for Raising New York's Minimum Wage Through a Wage Order

New York Labor Law sets the state's minimum wage rates through a combination of statutory minimum rates established by the legislature, and "wage orders" issued by the Governor's Labor Commissioner.

Under New York Labor Law, Sections 653-655, the Labor Commissioner has the administrative authority to issue a "wage order" establishing minimum wage rates that are higher than the minimums mandated by the legislature. Wage orders may raise the wage for specific occupations, or for all occupations in the state, and may also establish wages that vary by locality, if the Governor determines that conditions so warrant.

Process for Raising New York's Minimum Wage Through a Wage Order

- If the Governor's Labor Commissioner believes that the current level of the minimum wage is inadequate – or if he or she receives a petition from 50 residents complaining that the current minimum wage is not adequate – the Commissioner can adopt a higher minimum wage through a wage order.
- The first step for doing so is for the Labor Commissioner to appoint a "wage board" to investigate and recommend changes to the minimum wage. This wage board is comprised of equal numbers of representatives of employees, employers, and the general public.
- The wage board then conducts public hearings, consults with employers and employees, reviews testimony, and submits a report and recommendation to the

Labor Commissioner proposing how much (if at all) the minimum wage should be increased.

- The Labor Commissioner may then approve or modify the wage board's recommended changes in the minimum wage. The Commissioner then issues his or her final recommendation for the new minimum wage as a "wage order," which under the New York Labor law then becomes effective as the state's new minimum wage.

Precedent: New York's 2009, 2015 and 1986 Wage Orders

While in earlier decades wage orders were issued by New York Labor Commissioners with some regularity, the power has been used less frequently in recent years:

- In 2009, Governor David Paterson's Labor Commissioner issued a [wage order](#) raising New York's minimum wage for tipped food service workers. (The wage order also made a variety of other technical changes in the state's wage rules for hospitality workers.) The new minimum wage rate [took effect](#) on January 1, 2011.
- More recently, in 2015, Governor Andrew Cuomo's Labor Commissioner issued another [wage order](#) very significantly raised pay for tipped food service workers, which will take effect later this year.
- Other wages orders have revised wage rules more broadly for all workers in the state. For example, in 1986, Governor Mario Cuomo's Labor Commissioner issued a comprehensive wage order that updated wages rules for all occupations in the state. The 1986 wage order eliminated sub-minimum wage rates for youth workers, apprentices and learners. It also extended time-and-a-half overtime protections to all workers in the state.

Precedents: Wage Orders in Other States

- Governors in several other states including California, Massachusetts, New Jersey and Wisconsin have similar authority to raise the minimum wage on their own without need for action by the legislature.
- In California, Governor George Deukmejian used this authority to raise the state minimum wage in 1987, and Governor Gray Davis did the same in 2000.
- In Wisconsin, Governor Jim Doyle used this authority in 2004 to start the process of raising the state minimum wage when the state legislature refused to act. Ultimately, Doyle's action to begin raising the minimum wage led the legislature to drop its opposition and agree to an increase.

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