

New York Department of Labor Wage Board for Fast-Food Workers

New York's Labor Commissioner Is Empowered to Raise the Minimum Wage Through a Wage Board

- Decades ago, when it enacted New York's minimum wage system, the New York State Legislature gave the governor's labor commissioner the power to raise the minimum wage on his or her own through a "wage order" issued after convening a "wage board."
- The purpose was to allow the commissioner to take the minimum wage out of politics and ensure that pay increases can be based on worker needs, not political horse-trading.
- The state law, New York Labor Law, Sections 653-655, is clear: if the commissioner determines that *"any substantial number of persons employed in any occupation or occupations are receiving wages insufficient to provide adequate maintenance and to protect their health, he [or she] shall appoint a wage board to inquire into and report and recommend adequate minimum wages"*
- The commissioner is then empowered to adopt or modify the recommendations of the wage board, and to issue a wage order setting a new state minimum wage for those occupations. The law also specifies that the wage rates may vary by locality, if the commissioner deems that appropriate. In fact, because the law authorizes the commissioner to raise the minimum wage for multiple "occupations," the commissioner can use this authority to raise the wage statewide for all of the state's occupations.
- New York Attorney General Eric Schneiderman (the state's top legal officer) and the state Labor Department (the agency charged with interpreting the law) both confirm that the statute means what it says and that it empowers the commissioner to raise pay where current wages are clearly inadequate.
- In numerous cases from the 1940s through just last year, New York's courts have consistently upheld Labor Department wage orders and rejected employer attempts to challenge them in court.

New York and Other States Have Used Wage Boards to Deliver Needed Raises, Including When Legislatures Fail to Act

- In New York, wage boards have been used for years to supplement action by the legislature on the minimum wage. From the 1930s through the present, wage boards have issued dozens of orders establishing minimum wages, overtime rates, and other wage rules.
- Many of these orders addressed targeted occupations in a single industry. For example, the labor commissioner's [2009 wage order](#) under Governor David Paterson, and the recent [2015 wage order](#) under Governor Cuomo, both raised the minimum wage for tipped food service workers. Both of these governors used the wage orders to deliver badly needed raises after the legislature refused to increase the wage for tipped food service workers.
- Earlier orders addressed conditions for hotel occupations, retail occupations, laundry occupations, and building service occupations. Other orders, such as the labor commissioner's 1986 wage order under Governor Mario Cuomo, updated wage rules for all occupations in the state. The 1986 wage order eliminated subminimum wage rates for youth workers, apprentices, and learners. It also extended time-and-a-half overtime protections to all workers in the state.
- 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. For example, California Governor George Deukmejian used a wage order to raise the state minimum wage in 1987, and [California Governor Gray Davis](#) did the same in 2000. [Wisconsin Governor Jim Doyle](#) used his executive powers in 2004 to push a minimum wage increase when the state legislature refused to act. Ultimately, Doyle's action to begin raising the minimum wage forced the legislature to drop its opposition and agree to an increase.

New York's More Than 180,000 Fast-Food Workers Need \$15 an Hour to Achieve Self-Sufficiency

- New York has approximately [180,000 fast-food workers—the fourth-most nationwide](#)—who are paid unconscionably low wages, with average earnings of [less than \\$16,000 per year](#).
- [Sixty percent](#) of fast-food workers in New York are in families enrolled in at least one public assistance program.
- [New York ranks first in public assistance spending per fast-food worker](#) annually at \$6,800, which amounts to a \$700-million-a-year charge to taxpayers to cover the cost of fast-food companies paying poverty wages.

- In New York, [75 percent of fast-food workers earn wages at the lowest level reported](#) (\$9.25 per hour or less) in Occupational Employment Statistics surveys.
- Fifty-two percent of fast-food workers nationally—more than any other industry—have [at least one immediate family member who is relying on public assistance](#).
- The fast-food industry’s low-wage business model [costs taxpayers \\$7 billion in public assistance](#) nationwide.

Across the Nation, Growing Numbers of Cities and States Are Adopting or Considering \$15 Minimum Wages—the Level Needed to Lift Workers from Poverty to Self-Sufficiency

- Two-and-a-half years ago, striking fast-food workers first called on their employers for a \$15 minimum wage and a union to improve conditions in their jobs.
- In the last two years, five U.S. cities have approved minimum wages of \$15 or more: SeaTac, WA (2013), Seattle (2014), San Francisco (2014), Emeryville, CA (2015), and Los Angeles (2015).
- At least eight more cities are now proposing \$15 minimum wages: [Washington, D.C.](#), [Portland, ME](#), [West Hollywood, CA](#), [Pasadena, CA](#), [Sacramento, CA](#), [Davis, CA](#), [Olympia, WA](#), and [Tacoma, WA](#), with more likely to follow.
- At the state level, in [California](#), [Oregon](#), and [Missouri](#), proposals to put a \$15 minimum wage on the 2016 ballot have been filed. [Massachusetts](#) is considering a \$15 minimum wage for fast food and large retail stores. And in April, the [New York State Assembly](#) approved a \$15 minimum wage for New York City, Long Island, and Westchester.

The Fast-Food Industry Can Afford to Raise Pay to \$15 an Hour

- Fast food is a highly profitable industry that can afford to raise wages, having taken in [\\$551 billion in global revenues in 2014, which is projected to grow to \\$645 billion by 2018](#).
- Economic modeling by University of Massachusetts researchers shows that [the fast-food industry could readily phase in a \\$15 minimum wage](#) without causing reductions in employment levels and with only modest annual price adjustments.
- States and cities that have significantly raised minimum wages have seen no reduction in fast-food jobs. In San Jose, “[f]ast-food hiring in the region

accelerated once the higher wage was in place. By early this year, the pace of employment gains in the San Jose area beat the improvement in the entire state of California.”—[The Wall Street Journal, “What Happened to Fast-Food Workers When San Jose Raised the Minimum Wage? Hold the Layoffs”](#) (Apr. 9, 2014)

- In San Francisco, according to a University of California study, after the city phased in what was at the time the highest minimum wage in the nation, “[a]mong food-service workers, who are more likely to be affected by minimum-wage laws, employment grew 17.7 percent in San Francisco, faster than either of the other [neighboring] Bay Area counties.”—[Bloomberg Business, “San Francisco’s Higher Minimum Wage Hasn’t Hurt the Economy”](#) (Jan. 22, 2014)
- In cities such as SeaTac, WA, San Francisco, and Seattle, where \$15 minimum wages are now beginning to be phased in, the transition has been similarly manageable, and there is no evidence of any reduction in restaurant jobs. In SeaTac, there are no reports of business closures, and a hotel that was a vocal opponent of the minimum wage has instead launched a major expansion.—[Puget Sound Business Journal, “Once Controversial \\$15-an-Hour Minimum Wage Now a Shoulder Shrug in SeaTac”](#) (Dec. 22, 2014). In Seattle, in the first month after the higher minimum wage took effect, [the number of Seattle food service businesses increased, continuing its growth trend of recent years.](#)