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New Jersey joins a growing number of states that have recently increased their minimum wage rates. Effective October 1, 2005, the NJ minimum wage will increase to \$6.15 per hour.

## East Coast Edition

*A Littler Mendelson East Coast-specific Newsletter*

### New Jersey Raises Minimum Wage

By Michael T. Grosso

On April 12, 2005, Acting Governor Richard J. Codey signed a bill into law which will increase New Jersey's minimum hourly wage to \$7.15 over the next two years, \$2.00 higher than the current federally-mandated \$5.15 minimum hourly wage. The New Jersey minimum wage will increase to \$6.15 per hour on October 1, 2005, and then to \$7.15, effective October 1, 2006. The new wage rates apply to all categories of employees currently covered under New Jersey law and do not change an employer's recordkeeping requirements or the method for calculating overtime.

#### Minimum Wage Advisory Committee to Annually Review NJ Minimum Wage

The new law also requires the creation of the "New Jersey Minimum Wage Advisory Commission" ("Commission"). This five-member Commission, which will be a permanent, independent body within the NJ Department of Labor and Workforce Development, must annually evaluate the adequacy of New Jersey's minimum wage relative to the following factors:

- the overall cost of living in the state;
- changes in the components of the cost of living which have the greatest impact on low-income families, including increases in the cost of housing, food, transportation, health care and child care;
- the cost of living in the state compared to that of other states;

- changes in the purchasing power of the minimum wage; and
- changes in the value of the minimum wage relative to the federal poverty guidelines, the federal lower living standard income level guidelines and the self-sufficiency standards established as goals for state and federal employment and training services.

The Commission must then submit a written report of its findings, along with its recommendations for any increases, to the Governor and to the Legislature. The Legislature must consider the Commission's report within 120 days of receiving the report. The Commission's first report is due to the Legislature between October 1, 2007 and December 31, 2007, with subsequent reports submitted in one-year intervals.

#### Impact on "Tipped" Employees

New Jersey-based employers may continue to pay tipped employees less than the minimum wage, provided the tips, in addition to the hourly rate, bring an employee's rate of pay to at least the current minimum wage. For example, an employer paying tipped employees the federal cash wage rate of \$2.13 per hour must demonstrate that the total pay is at least equal to the set minimum hourly rate of pay. In other words, employers must demonstrate that:

- as of October 1, 2005, \$2.13 in wages + tips = \$6.15 minimum rate, and
- as of October 1, 2006, \$2.13 in wages + tips = \$7.15 minimum rate.

## No Prohibition Against Establishing Higher Wage Rate Standards

Any political subdivision in New Jersey may adopt an ordinance, resolution, regulation or rule or enter into any agreement establishing any standard for vendors, contractors and subcontractors of the subdivision regarding wage rates or overtime compensation which is higher than the standards provided under the new state minimum hourly wage rates.

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