

Family Matters: Governor Cuomo Unveils an Ambitious Plan for Paid Family Leave and a Higher Minimum Wage in New York

On April 4, 2016, Governor Andrew Cuomo signed into law paid family leave and statewide increases to the minimum wage, making New York the fourth state to guarantee paid family leave and one of a number of states gradually increasing the minimum wage. The paid family leave law will be funded by additional employee-side payroll deductions and will go into effect in 2018. The minimum wage law will increase New York's minimum wage beginning at the end of 2016, with increases each year thereafter until the minimum wage reaches \$15 across the state.

Paid Family Leave

Beginning in 2018, employees who have been working for their employer for at least the previous six months will be entitled to up to eight weeks of paid family leave each year, increasing to ten weeks of paid leave in 2019 and twelve weeks of paid leave in 2021. The amount received by the employee during this leave will vary based on the year and the employee's salary, with the maximum entitlement set to equal 67% of the average state wage in 2021.

Employees will be able to use paid family leave (1) to care for a family member that has a serious health condition, including children, parents, grandparents, grandchildren, spouses, or domestic partners; (2) to bond with an employee's child during the first twelve months after either the child's birth or the placement of the child for adoption or foster care with the employee; or (3) under certain circumstances if a family member of the employee is on active duty in the Armed Forces of the United States.

Employers are barred from retaliating against any employee who exercises his or her right to paid family leave under the new law. Any employee who takes paid family leave must be restored to either (1) the position he or she held when the leave commenced; or (2) "a comparable position with comparable employment benefits, pay and other terms and conditions of employment."

Virtually all New York employers, regardless of size, are covered by the paid family leave law. Employers may allow employees to use accrued, unused vacation time or personal leave as part of the paid family leave, providing employees with their full salary during the leave period. Employers may also require paid family leave to run concurrently with unpaid leave provided by the Family and Medical Leave Act.

Importantly, employers will not be required to pay for this leave. The law states that the leave will be funded by a payroll tax on employees, and that "no employer shall be required to fund any portion of the family leave benefit."

Minimum Wage Increase

The minimum wage will be gradually raised to \$15 per hour for workers across New York. The timing for the increases varies based on the employer's location and size.

In New York City, the minimum wage for large businesses (those with at least 11 employees) will increase to \$11 at the end of 2016, \$13 at the end of 2017, and \$15 at the end of 2018. For small businesses (those with 10 or fewer employees), the minimum wage will increase to \$10.50 by the end of 2016, and then by another \$1.50 each year thereafter, reaching \$15 at the end of 2019.

In Nassau, Suffolk, and Westchester counties, the minimum wage will increase to \$10 at the end of 2016, and then another \$1 each year thereafter, reaching \$15 at the end of 2021.

In the rest of the state, the minimum wage will increase to \$9.70 at the end of 2016, and then by another 70 cents each year thereafter, reaching \$12.50 by the end of 2020. The minimum wage will then continue to increase to \$15 on an indexed schedule to be set by the Director of the Division of Budget in consultation with the state Department of Labor.

The bill provides a safety valve for the increases to the minimum wage, allowing the Director of the Division of Budget to conduct an annual analysis of the economy in each region of the state beginning in 2019. As part of that analysis, the Director will consider the effect of the minimum wage increases statewide. If deemed necessary, the increases to the minimum wage can be temporarily suspended.

This bill comes months after New York increased the minimum wage for fast food workers; those employees' wages are set to reach \$15 at the end of 2018 in New York City and will reach \$15 on July 1, 2021 in the rest of the state.

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