

Client Alert **Employment & Labor**

New York Raises Minimum Wage Rate; New Jersey May Not Be Far Behind

In his State of the Union Address on February 12, 2013, President Obama called on Congress to raise the federal minimum wage to \$9.00 per hour, from its current hourly rate of \$7.25. Although it remains unclear whether Congress will heed the President's call, various states, including New York and New Jersey, have already enacted or are actively considering new minimum wage rates that exceed the existing federal minimum wage rate "floor."

New York's newly passed budget provides for incremental minimum wage rate increases at the end of 2013, 2014 and 2015, culminating in a \$9.00 per hour rate. This Fall, following Governor Christie's conditional veto of a wage rate increase bill, NJ voters will be asked to vote on a proposed Constitutional amendment, which would initially raise the minimum rate to \$8.25 and thereafter would potentially raise it further every year based on the Consumer Price Index ("CPI"). Details on both of these developments follow.

New York

On March 28, 2013, the New York Legislature passed a budget for fiscal year 2013-14 which includes a measure to incrementally increase the state's minimum wage from \$7.25 per hour to \$9.00 per hour over a period of three years. Pursuant to this

A p r i l
2013

This Client Alert has been prepared by Sills Cummis & Gross P.C. for informational purposes only and does not constitute advertising or solicitation and should not be used or taken as legal advice. Those seeking legal advice should contact a member of the Firm or legal counsel licensed in their state. Transmission of this information is not intended to create, and receipt does not constitute, an attorney-client relationship. Confidential information should not be sent to Sills Cummis & Gross without first communicating directly with a member of the Firm about establishing an attorney-client relationship.

measure, the minimum wage will hold at \$7.25 per hour until December 31, 2013, when it will increase to \$8.00 per hour. On December 31, 2014, the minimum hourly rate will again increase to \$8.75 per hour, and on December 31, 2015, the rate will further increase to \$9.00 per hour.

The budget measure, in contrast to a March 5, 2013 bill passed by the State Assembly but never signed into law, does not index future increases in the minimum wage to inflation. Additionally, it does not cover “tipped” employees, a category which includes, among others, waiters and waitresses, nail salon employees, car wash employees, and certain airport employees.

New Jersey

On January 28, 2013, Governor Christie conditionally vetoed a bill passed by the New Jersey General Assembly on December 17, 2012, which would have increased New Jersey’s minimum wage to \$8.50 per hour from its current rate of \$7.25 per hour, while also tying future increases to the CPI.

The determination of whether minimum wage earners in New Jersey will earn more beginning in 2014 will now be left to the ballot box. On November 5, 2013, the New Jersey Minimum Wage Increase Amendment (the “Amendment”) will appear on the general election ballot. This ballot measure will ask voters if they “approve [of] amending the State Constitution to set a minimum wage rate of at least \$8.25 per hour,” while informing voters that “[t]he [A]mendment also requires annual increases in that rate if there are annual increases in the cost of living.” If a majority of voters supports the Amendment, New Jersey’s minimum wage will, effective January 1, 2014, increase to \$8.25 per hour. Thereafter, on September 30 of every year, whenever triggered by a rise in the CPI, future minimum wage rate increases will follow.

The Amendment, unlike the vetoed bill, does not require gubernatorial approval and automatically will become law if approved by a majority of the voters.

Companies employing individuals in either New York or New Jersey should evaluate whether any of those employees are, or may be, subject to an hourly wage hike based on either of these initiatives.

Client Alert Employment & Labor

If you have any questions regarding any of the foregoing developments or would like assistance or guidance on implementing changes to policies, notices, forms or employment contracts impacted by same, please contact any of the following Sills Cummis & Gross attorneys.

David I. Rosen, Esq.

Chair, Employment and Labor Practice Group

drosen@sillscummis.com | (973) 643-5558

Galit Kierkut, Esq.

Client Alert Editor

Member, Employment and Labor Practice Group

gkierkut@sillscummis.com | (973) 643-5896

Damon W. Silver, Esq.

Client Alert Author

Associate, Employment and Labor Practice Group

dsilver@sillscummis.com | (973) 643-6197