

# Client Alert **Employment & Labor**

## *One-Two Punch for NJ Employers: State Enacts Minimum Wage Rate Increases and Expands Paid Family Leave Insurance Benefits*

New Jersey's minimum wage rates will steadily climb to \$15 per hour, and both the duration and amount of the state's paid family leave insurance benefits will significantly increase, under two recently enacted laws.

### **New Minimum Wage Rates**

On February 4, 2019, Governor Murphy signed a bill that substantially increases the state's minimum wage rate for non-exempt hourly workers.

Prior to the bill's enactment, the state's minimum hourly wage, as of January 1, 2019, was \$8.85. With a few exceptions for seasonal workers (who work between May 1 and September 30), employees employed by a "small business" with fewer than six employees, and agricultural laborers, the minimum hourly wage will rise to \$15.00 by January 1, 2024, in accordance with the following schedule:

- 7/1/19: \$10.00
- 1/1/20: 11.00
- 1/1/21: 12.00
- 1/1/22: 13.00
- 1/1/23: 14.00
- 1/1/24: 15.00

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For seasonal workers and employees of small businesses, the minimum hourly wage rate increases will be more gradual and will not reach the \$15.00 rate until January 1, 2026, based on the following schedule:

- 1/1/20: \$10.30
- 1/1/21: 11.10
- 1/1/22: 11.90
- 1/1/23: 12.70
- 1/1/24: 13.50
- 1/1/25: 14.30
- 1/1/26: 15.00

It will take an even longer period of time for farm laborers to reach a minimum hourly wage rate of \$15, given the following schedule:

- 1/1/20: \$10.30
- 1/1/22: 10.90
- 1/1/23: 11.70
- 1/1/24: 12.50

Any further minimum rate increases for farm laborers would be tied to the Consumer Price Index for Urban Wage Earners and Clerical Workers (“CPI-W”).

New Jersey now joins three other states – California, New York and Massachusetts – as well as the District of Columbia in committing to minimum hourly wage rates that significantly exceed the current federal minimum hourly wage rate of \$7.25.

Business groups in New Jersey have voiced two principal objections to the new minimum rates. First, the numbers threshold for meeting the “small employer” exception is relatively low – employers with six or more employees do not satisfy it. Second, the New Jersey statute, unlike the California and New York laws, makes no provision for suspending scheduled minimum hourly rate increases in the event of deteriorating economic conditions in the state.

### **Family Leave Enhancements**

On February 19, 2019, Governor Murphy signed into law a bill that substantially expands the job-protected family leave requirements applicable to smaller employers under the New Jersey Family Leave Act (“FLA”), as well as expands the monetary benefits available under the paid family leave insurance (“FLI”) and temporary disability insurance (“TDI”) programs for employees employed in New Jersey.

Under the state's leave and benefit programs (which must be coordinated with applicable federal requirements), an eligible employee may take time off from work and receive family insurance benefits during such leave to, among other things, care for a newborn child or a covered family member who is suffering from a serious health condition.

Effective immediately,

- There no longer is a one-week waiting period before FLI benefits may be received.
- Covered family members under the new law now include siblings, grandparents, grandchildren, and parents-in-law, as well as others related to the employee by blood or who have a "close association with the employee" which is equivalent to a family relationship (though evidence of same must be provided by the employee).
- FLI benefits may also be taken by a covered employee while taking time off from work pursuant to the NJ Security and Financial Empowerment Act ("SAFE Act"), to assist a covered family member who is a victim of domestic or sexual violence.
- An employer may not retaliate against an employee with respect to compensation, terms, conditions or privileges of employment because the employee took or requested any TDI or FLI benefits.

Effective June 30, 2019, NJ businesses employing at least 30 employees will be covered by the FLA and may not retaliate against employees returning from family leave by refusing to reinstate them, down from a 50 employee threshold.

Commencing July 1, 2020, the maximum duration of FLI leave benefits will increase from 6 to 12 weeks during any 12-month period; in cases of intermittent leave, the maximum FLI leave will increase from 42 days to 56 days. Further, the dollar amount of weekly FLI benefits will increase from two-thirds of a claimant's average weekly wage to 85% of an employee's average weekly wage, capped at \$859 per week.

Although FLI benefits are funded entirely by employee contributions, NJ-based businesses have raised concerns that the broader eligibility for FLI leave, and the longer duration of such leaves, will increase business costs due to the need to pay more overtime wages to assure adequate staff coverage, or employ more temporary replacement workers, while eligible employees are out on leave. These increases may also lead to greater work load demands placed on regular employees who must cover while co-workers are out on such leave.

### Employer Tips

NJ employers should assure that the wage rates they pay their employees meet the new NJ minimum wage rate thresholds.

Further, NJ employers should review and update their family leave policies to ensure that they comply with the requirements of the new law, which is complicated and substantially amends multiple existing laws.

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Attorneys in our Employment and Labor Law Practice Group can assist employers regarding the issues raised in this alert.

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