

# EMPLOYMENT UPDATE

## MARTIN CLEARWATER & BELL LLP

### New York State Governor Andrew Cuomo Enacts \$15 Minimum Wage

*April 2016*

On April 4, New York State Governor Andrew Cuomo signed legislation enacting a state-wide \$15 per hour minimum wage law as part of the 2016-17 state budget agreement. This law, enacted hours after California Governor Jerry Brown signed similar legislation approving a \$15 minimum wage, will impact an estimated 2.3 million New York workers as incremental wage increases are scheduled to begin at the end of 2016.

The state minimum wage law will introduce a regional schedule for annual wage increases which will gradually raise the state minimum wage from \$9 per hour to \$15 per hour. On December 31, 2016, New York State minimum wages will increase as follows:

- New York City employers with 11 or more employees will see the minimum wage rise to \$11 per hour with an annual increase of \$2 per hour until reaching \$15 per hour by the end of 2018;
- New York City employers with 10 or fewer employees will see the minimum wage rise to \$10.50 per hour with an annual increase of \$1.50 per hour until reaching \$15 per hour by the end of 2019;
- Employers in Westchester, Nassau, and Suffolk counties will see the minimum wage rise to \$10 per hour with an annual increase of \$1 per hour until reaching \$15 per hour by the end of 2021; and
- Employers in the remainder of New York State will see the minimum wage rise to \$9.70 per hour with an annual increase of 70 cents until reaching \$12.50 by the end of 2020, at which point, the state will continue toward the \$15 minimum wage on a rate schedule to be determined by the state budget director and state labor department commissioner.

To subsidize the above wage increases, businesses may cut jobs and hours and raise prices to pass on increased labor costs to consumers. The impact of this monumental wage hike is expected to be greater on smaller companies. The increased wages are also expected to affect neighboring states where businesses owners may be forced to increase wages to retain their employees or risk losing their workers to New York State.

The hospitality sector, in particular, faces a unique set of concerns. Since the hospitality industry tends to employ a greater proportion of hourly workers than other industries, many of these businesses – and especially restaurants – will be required to increase wages for a majority of their employees. Posing an additional concern for restaurants, the new law also provides a separate wage provision for tipped workers in the food service industry from the current state-wide minimum wage of \$7.50 per hour.

The wage increase for tipped workers subject to the tip credit in the food service industry will be two-thirds of the minimum wage implemented in the region. However, since the regional wage increases are staggered, some of these tipped workers may not see an increase for several years. To avoid potential confusion or pay disparities, many restaurants may soon follow in the footsteps of several well-respected establishments that have eliminated tipping. By paying all workers a flat hourly wage, restaurant owners and operators can ensure their workers are compensated fairly and in compliance with the law.

The legislation includes a “safety valve” to protect the state’s economy against potential harm caused by the wage increases. Beginning in 2019, until each region reaches the \$15 minimum wage, the state budget division will conduct an analysis of each region’s economy and the effect of the minimum wage increases to determine whether the scheduled increases should be continued, delayed, or suspended. The state budget division each year will issue a report and recommendation of its analysis, including economic indexes and other economic factors, to the Department of Labor for the final determination as to whether the wage increases will continue as scheduled.

This article contains highlights of the legislation and is not intended to be legal advice.

If you have any concerns regarding how this ruling may impact your business or any employment law-related questions, please contact Greg Reilly at (212) 916-0920 or [gregory.reilly@mcblaw.com](mailto:gregory.reilly@mcblaw.com), Adam Guttell at (212) 916-0938 or [adam.guttell@mcblaw.com](mailto:adam.guttell@mcblaw.com) or Melanie Ghaw at (212) 916-0954 or [melanie.ghaw@mcblaw.com](mailto:melanie.ghaw@mcblaw.com)