

**ASSEMBLY, No. 3912**  
**STATE OF NEW JERSEY**  
**216th LEGISLATURE**

INTRODUCED DECEMBER 4, 2014

**Sponsored by:**

**Assemblyman REED GUSCIORA**

**District 15 (Hunterdon and Mercer)**

**Assemblywoman SHEILA Y. OLIVER**

**District 34 (Essex and Passaic)**

**SYNOPSIS**

Concerns establishment of wage standards by political subdivisions.

**CURRENT VERSION OF TEXT**

As introduced.

**AN ACT** concerning the establishment of wage standards by political subdivisions and amending P.L.1966, c.113.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 5 of P.L.1966, c.113 (C.34:11-56a4) is amended to read as follows:

5. Every employer shall pay to each of his employees wages at a rate of not less than \$5.05 per hour as of April 1, 1992 and, after January 1, 1999 the federal minimum hourly wage rate set by section 6(a)(1) of the federal "Fair Labor Standards Act of 1938" (29 U.S.C. s.206(a)(1)), and, as of October 1, 2005, \$6.15 per hour, and as of October 1, 2006, \$7.15 per hour for 40 hours of working time in any week and 1 1/2 times such employee's regular hourly wage for each hour of working time in excess of 40 hours in any week, except this overtime rate shall not include any individual employed in a bona fide executive, administrative, or professional capacity or, if an applicable wage order has been issued by the commissioner under section 17 of P.L.1966, c.113 (C.34:11-56a16) [of this act], not less than the wages prescribed in said order. The wage rates fixed in this section shall not be applicable to part-time employees primarily engaged in the care and tending of children in the home of the employer, to persons under the age of 18 not possessing a special vocational school graduate permit issued pursuant to section 15 of P.L.1940, c.153 (C.34:2-21.15), or to persons employed as salesmen of motor vehicles, or to persons employed as outside salesmen as such terms shall be defined and delimited in regulations adopted by the commissioner, or to persons employed in a volunteer capacity and receiving only incidental benefits at a county or other agricultural fair by a nonprofit or religious corporation or a nonprofit or religious association which conducts or participates in that fair.

The provisions of this section for the payment to an employee of not less than 1 1/2 times such employee's regular hourly rate for each hour of working time in excess of 40 hours in any week shall not apply to employees engaged to labor on a farm or employed in a hotel or to an employee of a common carrier of passengers by motor bus or to a limousine driver who is an employee of an employer engaged in the business of operating limousines or to employees engaged in labor relative to the raising or care of livestock.

Employees engaged on a piece-rate or regular hourly rate basis to labor on a farm shall be paid for each day worked not less than the minimum hourly wage rate multiplied by the total number of hours worked.

Full-time students may be employed by the college or university at which they are enrolled at not less than 85% of the effective minimum wage rate.

Notwithstanding the provisions of this section to the contrary, every trucking industry employer shall pay to all drivers, helpers, loaders and mechanics for whom the Secretary of Transportation may prescribe maximum hours of work for the safe operation of vehicles, pursuant to section 31502(b) of the federal Motor Carrier Act, 49 U.S.C.s.31502(b), an overtime rate not less than 1 1/2 times the minimum wage required pursuant to this section and N.J.A.C. 12:56-3.1. Employees engaged in the trucking industry shall be paid no less than the minimum wage rate as provided in this section and N.J.A.C. 12:56-3.1. As used in this section, "trucking industry employer" means any business or establishment primarily operating for the purpose of conveying property from one place to another by road or highway, including the storage and warehousing of goods and property. Such an employer shall also be subject to the jurisdiction of the Secretary of Transportation pursuant to the federal Motor Carrier Act, 49 U.S.C.s.31501 et seq., whose employees are exempt under section 213(b)(1) of the federal "Fair Labor Standards Act of 1938," 29 U.S.C. s.213(b)(1), which provides an exemption to employees regulated by section 207 of the federal "Fair Labor Standards Act of 1938," 29 U.S.C.s.207, and the Interstate Commerce Act, 49 U.S.C.s.501 et al.

The provisions of this section shall not be construed as prohibiting any political subdivision of the State from adopting an ordinance, resolution, regulation or rule, or entering 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 for in this section, [and no] including any standard for vendors, contractors and subcontractors of the subdivision. No provision of any other State or federal law establishing a minimum standard regarding wages or other terms and conditions of employment, or State law concerning the powers of political subdivisions, shall be construed as preventing a political subdivision of the State from adopting an ordinance, resolution, regulation or rule, or entering into any agreement, establishing a standard [for vendors, contractors and subcontractors of the subdivision] which is higher than the State or federal law or which otherwise provides greater protections or rights to employees, including any standard for employees of the vendors, contractors and subcontractors of the subdivision, unless the State or federal law expressly prohibits the subdivision from adopting the ordinance, resolution, regulation or rule, or entering into the agreement.

(cf: P.L.2005, c.70, s.1)

2. This act shall take effect immediately.

#### STATEMENT

This bill amends the "New Jersey State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.), to provide that no State or federal law establishing a minimum standard regarding wages or other terms and conditions of

employment, including the "New Jersey State Wage and Hour Law" itself, shall be construed as preventing a political subdivision of the State from adopting an ordinance, resolution, regulation, rule, requirement or policy establishing and enforcing a wage or other standard which is higher than any minimum standard set by the State or federal law or otherwise provides greater protections or rights to employees, unless the State or federal law expressly prohibits the subdivision from adopting the ordinance, resolution, regulation, rule, requirement or policy.

The bill affirms longstanding home rule powers of political subdivisions to set standards regulating labor conditions in a manner consistent with local circumstances and needs, in the absence of any explicit intent expressed by the Legislature to preempt such standards.

The "New Jersey State Wage and Hour Law," in its current form, expressly protects the right of a political subdivision to set higher wage standards for employees of vendors and contractors of the subdivision, but does not address, one way or the other, whether subdivisions may set higher standards for employees other than the employees of the vendors and contractors. The bill clarifies that a political subdivision may set higher standards for workers in a subdivision, whether or not the workers are employed by vendors or contractors of the subdivision.