

Realty Advisory Board on Labor Relations, Incorporated

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BULLETIN

April 19, 2017

No. 145 (General)

To: Representatives of Memberships in the
Realty Advisory Board on Labor Relations, Inc.

SUBJ: 1. Minimum Wage Increases
2. New Paid Family Leave
3. Amendments to N.Y. City Human Rights Law

Dear Member:

1. Minimum Wage to \$15 per Hour in New York City by Dec. 31, 2018

On April 4, 2016, Governor Andrew M. Cuomo signed Assembly Bill Number A09006C, implementing regionally targeted, year-over-year increases of the minimum wage across the State of New York. Employees in employment governed by RAB Agreements largely will be unaffected by the minimum wage increases, but employers need to be conscious of the potential impact on other employment relationships, these increases will have.

In the City of New York, minimum hourly wages for “large businesses” (defined as having 11 or more employees) will increase, until it reaches \$15 per hour by December 31, 2018. “Small businesses” (employing 10 or fewer employees) in New York City will be given an extra year to reach this benchmark, until December 31, 2019. Employers in the suburban counties surrounding New York City, namely: Westchester, Nassau, and Suffolk, will rise to \$15 per hour on December 31, 2021, but employers in the rest of the State of New York (excluding the City of New York and suburban counties) will be required to reach \$12.50 per hour on December 31, 2020. The New York State Department of Labor was authorized to examine the impact of the minimum wage increases on a regional basis and to suggest suspensions of the increases, if applicable, commencing in 2019.

Full schedules of the enacted yearly minimum wage rates are set forth below for employer reference.

**New York City Minimum Wage Schedule
11 or More Employees:**

Date	Minimum Wage
December 31, 2016	\$11.00 per hour
December 31, 2017	\$13.00 per hour
December 31, 2018	\$15.00 per hour

**New York City Minimum Wage Schedule
10 or Fewer Employees:**

Date	Minimum Wage
December 31, 2016	\$10.50 per hour
December 31, 2017	\$12.00 per hour
December 31, 2018	\$13.50 per hour
December 31, 2019	\$15.00 per hour

**Westchester, Nassau, and Suffolk Counties
Minimum Wage Schedule:**

Date	Minimum Wage
December 31, 2016	\$10.00 per hour
December 31, 2017	\$11.00 per hour
December 31, 2018	\$12.00 per hour
December 31, 2019	\$13.00 per hour
December 31, 2020	\$14.00 per hour
December 31, 2021	\$15.00 per hour

**New York State, exclusive of New York City
and Westchester, Nassau, and Suffolk Counties,
Minimum Wage Schedule**

Date	Minimum Wage
December 31, 2016	\$9.70 per hour
December 31, 2017	\$10.40 per hour
December 31, 2018	\$11.10 per hour
December 31, 2019	\$11.80 per hour
December 31, 2020	\$12.50 per hour

2. New York State Enacts Paid Family Leave

By enactment of the same bill (A09006C) that set increases in New York’s minimum wage, the legislature created a landmark paid family leave benefit, scheduled to go into effect on January 1, 2018. While this new leave law will impose burdens on many employers, the RAB does not anticipate that most employers with RAB agreements in place will see significant changes to benefits provided under those agreements.

Completely funded by employee payroll deductions into a family leave insurance fund. The new paid family leave law will require that in 2018 all full-time and part-time employees with at least six months of employment receive up to eight weeks of paid family leave, with benefits paid at 50% of the employee's average weekly wage. The benefits amounts will then increase to 55% of average weekly wage and 10 weeks of benefits in 2019, and to 60% of an employee's average weekly wage and 10 weeks of benefits in 2020. The benefit payment will then be capped at 67% of an employee's average weekly wage for a maximum benefit period of 12 weeks in 2021.

Employees will be eligible to take leave upon the birth or placement of a new child, to provide care to specified family members, or when a specified family member is called into active military service. Like FMLA leave, Employers are obligated to protect the job of an employee taking New York Family Leave and to continue an eligible employee's health care benefits during the leave period. Employers may require that the leave provided under the New York law run concurrently to FMLA leave, if applicable.

The New York paid family leave law, like the FMLA, also prohibits retaliation against any employee exercising their rights under the new law.

3. Amendments to the New York City Human Rights Law

On March 28, 2016, Mayor Bill De Blasio signed three bills amending the New York City Human Rights Law. While none of the bills expressly expanded protections of the broad City Human Rights Law, they did codify several meaningful changes to and interpretations of existing law.

First, the bills codified the narrow interpretation of "exceptions to and exemptions from" provisions of the City Human Rights Law. The bills also expressly approve three judicial decisions—*Albunio v. City of New York*, 16 N.Y.3d 472 (2011), *Williams v. N.Y. City Housing Auth.*, 61 A.D.3d 62 (1st Dep't 2009), and *Bennett v. Health Mgmt. Systems, Inc.*, 92 A.D.3d 29 (1st Dep't 2011)—which clarify the liberal and broadly remedial nature of the City Human Rights Law, narrow the grounds on which a Defendant may escape liability from those available under other similar civil rights laws, and which limit the availability of summary judgment to a defendant under certain circumstances.

Second, the bills expand the availability of attorneys' fees to a party charging an employer with a violation of the City Human Rights Law in an administrative charge before the New York City Commission on Human Rights. Previously, such fees and costs were only available when a complaining party pursued a lawsuit in court. The law permits the City Commission to consider several factors in determining an award of fees, including the complexity of the facts, the experience of the attorney, and the hourly rate of similar attorneys.

Finally, the bills repealed specific language pertaining to sexual orientation protections under the City Human Rights Law to bring it into conformity with modern sensibilities. The bills removed disclaimer language that sought to avoid conflict between sexual orientation protection and previously existing criminal laws targeting specific sexual acts, and which sought to avoid endorsement of any "behavior or way of life."

The March 28, 2016 bills continue to reinforce New York City's increasingly expansive view of protections under the City Human Rights Laws.