



SB-525 Minimum wage: health care workers. (2023-2024)

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CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

SENATE BILL

NO. 525

Introduced by Senator Durazo

(Coauthors: Senators Gonzalez, Smallwood-Cuevas, Stern, and Wahab)

(Coauthors: Assembly Members Addis, Arambula, Bonta, Connolly, Haney, Jones-Sawyer, Lee, McKinnor, Ortega, and Santiago)

February 14, 2023

An act to add Section 1182.14 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 525, as amended, Durazo. Minimum wage: health care workers.

Existing law generally requires the minimum wage for all industries to not be less than specified amounts to be increased until it is \$15 per hour commencing January 1, 2022, for employers employing 26 or more employees and commencing January 1, 2023, for employers employing 25 or fewer employees. Existing law makes a violation of minimum wage requirements a misdemeanor.

This bill would require a health care worker minimum wage of \$25 per hour for hours worked in covered health care employment, as defined, subject to adjustment, as prescribed. The bill would provide that the health care worker minimum wage constitutes the state minimum wage for covered health care employment for all purposes under the Labor Code and the Wage Orders of the Industrial Welfare Commission. The health care worker minimum wage would be enforceable by the Labor Commissioner or by a covered worker through a civil action, through the same means and with the same relief available for violation of any other state minimum wage requirement. By establishing a new minimum wage, the violation of which would be a crime, the bill would impose a state-mandated local program.

This bill would require, for covered health care employment where the employee is paid on a salary basis, that the employee earn a monthly salary equivalent to no less than 2 times the health care worker minimum wage for full-time employment in order to qualify as exempt from the payment of minimum wage and overtime.

This bill would make legislative findings and declarations as to the necessity of a special statute for health care workers.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1182.14 is added to the Labor Code, to read:

1182.14. (a) The Legislature finds and declares as follows:

(1) Workers in the health care industry, including workers at general acute care hospitals, acute psychiatric hospitals, medical offices and clinics, behavioral health centers, and residential care centers provide vital health care services to California residents, including emergency care, labor and delivery, cancer treatments, and primary and specialty care. Similarly, dialysis clinics provide life-preserving care to patients with end-stage renal disease and are part of the continuum of kidney care that also includes hospitals and health systems. Residents and visitors to the state rely on access to this high-quality health care.

(2) Higher wages are an important means of retaining an experienced workforce and attracting new workers. A stable workforce benefits patients and improves quality of care.

(3) Employers across multiple industries are raising wages. The health care sector in California must offer higher wages to remain competitive.

(4) Members of the health care team such as certified nursing assistants, patient aides, technicians, and food service workers, among many others, are essential to both routine medical care and emergency response efforts.

(5) Even before the COVID pandemic, California was facing an urgent and immediate shortage of health care workers, adversely impacting the health and well-being of Californians, especially economically disadvantaged Californians. The pandemic has worsened these shortages. Higher wages are needed to attract and retain health care workers to treat patients, including being prepared to provide necessary care in an emergency.

(b) As used in this section:

(1) (A) "Covered health care employment" means any of the following:

(i) All paid work performed on the premises of any covered health care facility, regardless of the identity of the employer.

(ii) All paid work providing health care services performed for any person that owns, controls, or operates a covered health care facility, regardless of work location.

(B) Notwithstanding subparagraph (A), "covered health care employment" does not include:

(i) Employment as an outside salesperson.

(ii) Any work performed in the public sector where the primary duties performed are not health care services.

(iii) Delivery work on the premises of a covered health care facility, provided that the delivery worker is not an employee of any person that owns, controls, or operates a covered health care facility.

(2) "Covered health care facility" means any of the following:

(A) A facility or other work site that is part of an integrated health care delivery system.

(B) A licensed general acute care hospital, as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

(C) A licensed acute psychiatric hospital, as defined in subdivision (b) of Section 1250 of the Health and Safety Code.

(D) A special hospital, as defined in subdivision (f) of Section 1250 of the Health and Safety Code.

(E) A licensed skilled nursing facility, as defined in subdivision (c) of Section 1250 of the Health and Safety Code.

(F) A public health jurisdiction described in Section 101185 of the Health and Safety Code.

(G) A patient's home when health care services are delivered by an entity owned or operated by a general acute care hospital or acute psychiatric hospital.

(H) A licensed home health agency, as defined in subdivision (a) of Section 1727 of the Health and Safety Code.

(I) A clinic, as defined in Section 1204 of the Health and Safety Code, including a primary care clinic, specialty care clinic, or a dialysis clinic.

(J) A psychology clinic, as defined in Section 1204.1 of the Health and Safety Code.

(K) A clinic as defined in subdivision (d), (g), (h) or (l) of Section 1206 of the Health and Safety Code.

(L) A licensed residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, if affiliated with an acute care provider or owned, operated or controlled by a general acute care hospital, acute psychiatric hospital, or the parent entity of a general acute care hospital or acute psychiatric hospital.

(M) A psychiatric health facility, as defined in Section 1250.2 of the Health and Safety Code.

(N) A mental health rehabilitation center, as defined in Section 5675 of the Welfare and Institutions Code.

(O) A community clinic licensed under subdivision (a) of Section 1204 of the Health and Safety Code, an intermittent clinic exempt from licensure under subdivision (h) of Section 1206 of the Health and Safety Code, a clinic operated by the state or any of its political subdivisions, including, but not limited to, the University of California or a city or county that is exempt from licensure under subdivision (b) of Section 1206 of the Health and Safety Code, a tribal clinic exempt from licensure under subdivision (c) of Section 1206 of the Health and Safety Code, or an outpatient setting conducted, maintained, or operated by a federally recognized Indian tribe, tribal organization, or urban Indian organization, as defined in Section 1603 of Title 25 of the United States Code.

(P) A rural health clinic, as defined in paragraph (1) of subdivision (l) of Section 1396d of Title 42 of the United States Code.

(Q) An urgent care clinic.

(R) An ambulatory surgical center that is certified to participate in the Medicare program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act.

(S) A physician group.

(T) A county correctional facility that provides health care services.

(U) A county mental health facility.

(3) "Employ" means to engage, suffer or permit to work.

(4) "Employee" means any person employed by an employer.

(5) "Employer" means a person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of any person. "Employer" includes the state, political subdivisions of the state, the University of California, and municipalities.

(6) "Health care services" means patient care-related services including nursing; caregiving; services provided by medical residents, interns, or fellows; technical and ancillary services; janitorial work; housekeeping; groundskeeping; guard duties; business office clerical work; food services; laundry; medical coding and billing;

call center and warehouse work; scheduling; and gift shop work; but only where such services directly or indirectly support patient care.

(7) "Health care worker minimum wage" means the minimum wage rate established by this section.

(8) "Integrated health care delivery system" means an entity or group of related entities that includes both of the following: (A) one or more hospitals and (B) one or more physician groups, health care service plans, medical foundation clinics, other health care facilities, or other entities, providing health care or supporting the provision of health care, where the hospital or hospitals and other entities are related through one of the following:

(i) Parent and subsidiary relationships, joint or common ownership or control, common branding, or common boards of directors and shared senior management.

(ii) A contractual relationship in which affiliated covered physician groups or medical foundation clinics contract with a health care service plan, hospital or other part of the system, all operating under a common trade name.

(iii) A contractual relationship in which a nonprofit health care service plan provides medical services to enrollees in a specific geographic region of the state through an affiliated hospital system, and contracts with a single covered physician group in each geographic region of the state to provide medical services to a majority of the plan's enrollees in that region.

(9) "Physician group" means a medical group practice, including a professional medical corporation, as defined in Section 2406 of the Business and Professions Code, another form of corporation controlled by physicians and surgeons, a medical partnership, or an independent practice association, provided that the group includes a total of 25 or more physicians.

(10) "Urgent care clinic" means a facility or clinic that provides immediate, nonemergent ambulatory medical care to patients, including, but not limited to, facilities known as walk-in clinics or centers or urgent care centers.

(c) Notwithstanding any other provision of this chapter, on and after January 1, 2024, the minimum wage for covered health care employment shall be not less than twenty-five dollars (\$25) per hour for all hours worked in covered health care employment. Any portion of any worker's time spent working in covered health care employment shall be compensated at the minimum wage of not less than twenty-five dollars (\$25) an hour.

(d) (1) Following the implementation of the minimum wage increase specified in subdivision (c), on or before August 1 of that year, and on or before each August 1 thereafter, the Director of Finance shall calculate an adjusted minimum wage. The calculation shall increase the minimum wage by the greater of 3.5 percent or the rate of change in the averages of the most recent July 1 to June 30, inclusive, period over the preceding July 1 to June 30, inclusive, period for the United States Bureau of Labor Statistics nonseasonally adjusted United States Consumer Price Index for Urban Wage Earners and Clerical Workers (U.S. CPI-W). The result shall be rounded to the nearest ten cents (\$0.10). Each adjusted minimum wage increase calculated under this subdivision shall take effect on the following January 1.

(2) If the rate of change in the averages of the most recent July 1 to June 30, inclusive, period over the preceding July 1 to June 30, inclusive, period for the United States Bureau of Labor Statistics nonseasonally adjusted U.S. CPI-W is negative, there shall be no increase or decrease in the minimum wage pursuant to this subdivision on the following January 1.

(e) The health care worker minimum wage shall constitute the state minimum wage for covered health care employment for all purposes under this code and the Wage Orders of the Industrial Welfare Commission. It shall be enforceable by the Labor Commissioner or by a covered worker through a civil action, through the same means and with the same relief available for violation of any other state minimum wage requirement.

(f) For covered health care employment where the compensation of the employee is on a salary basis, the employee shall earn a monthly salary equivalent to no less than two times the health care worker minimum wage for full-time employment in order to qualify as exempt from the payment of minimum wage and overtime under the law of this state, including where the employer is the state, a political subdivision of the state, the University of California, or a municipality.

SEC. 2. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or

application.

SEC. 3. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the urgent and immediate shortage of health care workers.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.