
SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2023 - 2024 Regular

Bill No: SB 828 **Hearing Date:** May 29, 2024
Author: Durazo
Version: May 20, 2024
Urgency: Yes **Fiscal:** Yes
Consultant: Alma Perez-Schwab

SUBJECT: Minimum wages: health care workers: delay.

KEY ISSUE

This bill delays by one month the implementation of health care worker minimum wage increases scheduled to take effect June 1, 2024.

ANALYSIS

Existing law:

- 1) Sets California’s minimum wage at \$16.00 an hour for all employers and specifies that after January 1, 2023, the minimum wage rate will be adjusted annually for inflation based on the national consumer price index for urban wage earners and clerical workers (CPI-W), as specified. (Labor Code §1182.12)
- 2) Effective April 1, 2024, requires fast food restaurants, as defined, to pay their employees a minimum wage of \$20.00 per hour. (Labor Code §1474-1477)
- 3) Defines, among others and for purposes of the statewide minimum wage for health care workers provisions described below, the following terms:
 - a. “Covered health care employee” to mean either of the following:
 - i. An employee of a health care facility employer who provides patient care, health care services, or supportive services, which includes but is not limited to nurses, physicians, caregivers, medical residents, interns or fellows, patient care technicians, janitors, housekeeping staff persons, groundskeepers, guards, clerical workers, nonmanagerial administrative staff, food service staff, gift shop staff, technical and ancillary services workers, medical coding and billing personnel, schedulers, call center and warehouse workers, and laundry workers, regardless of formal job title.
 - ii. A contracted or subcontracted employee if all of the following apply:
 1. The employee's employer contracts with the health care facility employer, or with a contractor or subcontractor to the health care facility employer, to provide health care services, or services supporting the provision of health care.
 2. The health care facility employer directly or indirectly, or through an agent or any other person, exercises control over the employee's wages, hours or working conditions. However, “covered health care employee” includes all employees performing contracted or subcontracted work primarily on the premises of a health

care facility to provide health care services or services supporting the provision of health care.

- b. “Covered health care facility” as any of the following:
- i. A facility or work site that is part of an integrated health care delivery system.
 - ii. A licensed general acute care hospital, as defined, including a distinct part of any such hospital.
 - iii. A licensed acute psychiatric hospital, as defined, including a distinct part of any such hospital.
 - iv. A special hospital, as defined.
 - v. A licensed skilled nursing facility, as defined, if owned, operated, or controlled by a hospital or integrated health care delivery system or health care system.
 - vi. A patient’s home when health care services are delivered by an entity owned or operated by a general acute care or psychiatric hospital.
 - vii. A licensed home health agency, as defined.
 - viii. A clinic, as defined, including a specialty care, or dialysis clinic.
 - ix. A psychology clinic, as defined.
 - x. An outpatient clinic of a hospital.
 - xi. A clinic operated by, or affiliated with, any institution of learning that teaches a recognized healing art and is approved by the state board or commission vested with responsibility for regulation of the practice of that healing art.
 - xii. A nonprofit clinic that conducts medical research and health education and provides health care to its patients through a group of 40 or more physicians and surgeons, who are independent contractors representing not less than 10 board-certified specialties, and not less than two-thirds of whom practice on a full-time basis at the clinic.
 - xiii. A licensed residential care facility for the elderly, as defined, 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 such.
 - xiv. A psychiatric health facility, as defined.
 - xv. A mental health rehabilitation center, as defined.
 - xvi. A community clinic, as defined, an intermittent clinic, as specified, or 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, as specified.
 - xvii. A rural health clinic, as defined.
 - xviii. An urgent care clinic.
 - xix. An ambulatory surgical center, as specified.
 - xx. A physician group.
 - xxi. A county correctional facility that provides health care services.
 - xxii. A county mental health facility.
- c. “Health care services” as 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 support patient care.
- d. “Hospital with a high governmental payor mix” means a licensed acute care hospital, as defined, where the combined Medicare and Medi-Cal payor mix is 90% or greater, as

determined by using the adjusted patient days from the Department of Health Care Access and Information (DHCAI) annual financial disclosure report as recorded and calculated as of January 1, 2022, as per the DHCAI guidance. A hospital will qualify pursuant to this paragraph only if the combined payor mix of both the hospital and the health care system to which it belongs, if any, is 90% or greater.

- e. “Independent hospital with an elevated governmental payor mix” means all of the following:
 - i. A hospital, as specified, where the combined Medicare and Medi-Cal payor mix is 75% or greater as determined by using the adjusted patient days from the DHCAI annual financial disclosure report as recorded and calculated as of January 1, 2022, as per the DHCAI guidance.
 - ii. The hospital is not owned, controlled, or operated by any parent entity with two or more separately licensed hospitals. Labor Code §1182.14(b)(12).
 - f. Defines "rural independent covered health care facility" to mean a hospital that is not part of an integrated health care delivery system and is not owned, controlled, or operated by any parent entity with two or more separately licensed hospitals and any of the following:
 - i. A hospital that is located in a county that is not designated as a metropolitan core-based statistical area.
 - ii. A small and rural hospital, as defined.
 - iii. A rural general acute care hospital, as described in the Health and Safety Code. (Labor Code §1182.14(b))
- 4) Effective June 1, 2024, requires specified healthcare facility employers to pay their employees on a phased in multi-tiered a statewide minimum wage schedule as follows:
- a. For a covered health care facility employer with 10,000 or more full-time equivalent (FTE) employees, any covered health care facility employer that is part of an integrated health care delivery system, a health care system with 10,000 or more FTE employees, a dialysis clinic, as defined, or a covered health care facility owned, affiliated, or operated by a county with a population of more than five million people as of January 1, 2023, the minimum wage for covered health care employees shall be:
 - i. \$23 per hour from June 1, 2024, to May 31, 2025;
 - ii. \$24 per hour from June 1, 2025, to May 31, 2026; and
 - iii. \$25 per hour from June 1, 2026, until adjusted, as specified. (Labor Code §1182.14(c) (1))
 - g. For a hospital with a governmental payor mix, as defined, an independent hospital with an elevated government payor mix, as defined, a rural independent covered health care facility, or a covered health care facility that is owned, affiliated, or operated by a county with a population of less than 250,000 as of January 1, 2023, the minimum wage for covered health care employees shall be:
 - i. \$18 per hour from June 1, 2024, to May 31, 2033, with 3.5 percent annual increases;
 - ii. \$25 per hour from June 1, 2033, until adjusted as specified. (Labor Code §1182.14(c) (2))

- h. For a health care facility that is a specified free clinic that is not directly conducted or maintained by a governmental entity, a community clinic and associated intermittent clinic, as defined, a rural health clinic, as defined, and an urgent care clinic, all as defined, the minimum wage for covered health care employees shall be:
 - i. \$21 per hour from June 1, 2024, to May 31, 2026;
 - ii. \$22 per hour from June 1, 2026, to May 31, 2027; and
 - iii. \$25 from June 1, 2027, until adjusted as specified.
(Labor Code §1182.14(c) (3))
 - i. For a health care facility that is a licensed skilled nursing facility, as defined, the minimum wage for all covered health care employees shall be:
 - i. \$21 per hour from June 1, 2024, to May 31, 2026;
 - ii. \$23 per hour from June 1, 2026, to May 31, 2028; and
 - iii. \$25 per hour from June 1, 2028, until adjusted as specified.
(Labor Code §1182.15(c))
 - j. For all other covered health care facility employers, the minimum wage for all covered health care employees shall be:
 - i. \$21 per hour from June 1, 2024, to May 31, 2026;
 - ii. \$23 per hour from June 1, 2026, to May 31, 2028; and
 - iii. \$25 per hour from June 1, 2028, until adjusted as specified.
(Labor Code §1182.14(c) (4))
- 5) Provides a delayed implementation date of January 1, 2025, for any covered health care facility that is county-owned, affiliated, or operated to implement the applicable wage schedule as set forth above. (Labor Code §1182.14(c) (5))
- 6) Provides that, following the implementation of the minimum wage increases, on or before August 1 of the following year, and on or before each August 1 thereafter, the Director of Finance shall calculate an adjusted minimum wage. The calculation shall increase the health care minimum wage by the lesser of 3.5% 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). Each adjusted minimum wage increase shall take effect on the following January 1. If the rate of change in the averages is negative, there shall be no increase or decrease in the health care worker minimum wage, as specified. (Labor Code §1182.14(d))
- 7) Requires, by March 1, 2024, the Department of Industrial Relations, in consultation with the State Department of Health Care Services and the Department of Health Care Access and Information, to develop a waiver that would authorize a covered health care facility, as specified, to apply for a one-year temporary pause or alternative phase-in schedule of the minimum wage requirements. In order to obtain a waiver, a covered health care facility shall demonstrate that compliance with the minimum wage requirements would raise doubts regarding its ability to continue operations, as specified. (Labor Code §1182.14(i))

- 8) Provides a 10-year moratorium, beginning September 6, 2023 and expiring January 1, 2034, on an ordinance, regulation, or administrative action applicable to a covered health care facility that establishes, requires, imposes, or otherwise relates to wages or compensation for covered health care facility employees, as specified. (Labor Code §1182.14(j))
- 9) Provides that the health care worker minimum wage shall be enforceable by the Labor Commissioner or by a covered worker through a civil action, through the same means and relief available for violation of any other state minimum wage requirement. (Labor Code §1182.14(f))

This bill:

- 1) Delays by one month the implementation of the health care worker minimum wage increases by changing from June 1, 2024 to July 1, 2024, the effective date of its provisions.
- 2) Includes an urgency statute necessary to ensure employers are able to accurately implement the act's minimum wage requirements.

COMMENTS**1. Background:**

California's current minimum wage is \$16 per hour. Some cities in California have established minimum wages that are higher than the current statewide minimum wage. Since the start of 2022, spearheaded by SEIU-United Health Workers, several California cities have passed or introduced ordinances for a \$25 per hour minimum wage for healthcare workers. Some of these ordinances have been challenged and put on hold after petitions for referendum were submitted to put the matter before city voters. An initiative cleared for the November 2024 ballot, The Living Wage Act, would increase the state minimum wage to \$18 an hour over several years for employers in all industries.

In 2023, SB 525 (Durazo) was enacted to, starting on June 1, 2024, (1) phase in a multi-tiered statewide minimum wage increase schedule (reaching up to \$25 an hour) for health care workers employed by covered healthcare facilities, as defined; (2) require, following the phased-in wage increases, the minimum wage for health care workers to be adjusted, as specified; (3) provide a temporary waiver of wage increases under specified circumstances; and (4) establish a 10-year moratorium on wage ordinances, regulations, or administrative actions for covered health care facility employees, as specified.

Governor Newsom is seeking some changes to SB 525 provisions as part of the 2024-25 state budget. As noted in the Governor's budget summary, "Given the overall economic and General Fund revenue outlook and the significant fiscal impact of SB 525 on the state, the Administration is seeking early action in January by the Legislature to add an annual "trigger" to make the minimum wage increases subject to General Fund revenue availability, clarify the exemption for state facilities, and make other implementation clarifications."¹ This

¹ Governor's Budget Summary, 2024-25. <https://ebudget.ca.gov/2024-25/pdf/BudgetSummary/FullBudgetSummary.pdf>

bill, SB 828, would align the healthcare worker minimum wage provisions with the state budget timeline and allows the Legislature and the Governor to continue these discussions.

2. Need for this bill?

According to a UC Berkeley Labor Center report, “*California health care minimum wage: New estimates for impacts on workers, patients, and the state budget*,” upon implementation of the health care worker minimum wage increase, nearly half a million health care workers in California will enjoy higher pay with an average annual earnings increase of \$6,400 in the first year.² Additionally, they note that studies show that the majority of workers who will benefit from this increase are women and workers of color.³ Furthermore, half of the lowest paid health care workers currently rely on state safety net programs such as Medi-Cal, CalFresh and CalWORKS, so raising their wages will lead to lower enrollment in Medi-Cal.⁴

According to the author, “SB 525 provided a historic wage increase to more than 450,000 health care workers mainly women and people of color, who take care of us and keep our health care system functioning. It is clear that these workers need this to help support their families and I appreciate health care employers that recognized this and have begun to increase wages.

SB 828 is an urgency measure that moves the start date of the health care minimum wage by one month to July 1, 2024. This aligns SB 525 with the budget year and allows the Legislature to continue discussions with the Administration and technical changes to ensure health care workers get their raises.”

3. Proponent Arguments:

According to SEIU California, “Quality patient care requires strong staffing levels. Setting a pathway for workers to earn a \$25 hour minimum wage will bolster efforts to fill the more than 500,000 person shortage of healthcare workers our state is facing by ensuring that health care workers are fairly compensated. This legislation reaffirms the goals of SB 525 while aligning the implementation date with our state’s fiscal calendar.”

4. Opponent Arguments:

None received.

5. Prior/Related Legislation:

SB 525 (Durazo, Chapter 890, Statutes of 2023) enacted the phased in multi-tiered statewide minimum wage increase schedule for health care workers employed by covered healthcare facilities, as specified above under existing law.

AB 610 (Holden, Chapter 4, Statutes of 2024) amended existing fast food worker provisions requiring a \$20 an hour minimum wage for fast food workers to exempt specified

² Lucia, Laurel, Lopezlira, Enrique, and Jacobs, Ken, “California health care minimum wage: New estimates for impacts on workers, patients, and the state budget,” UC Berkeley Center for Labor Research and Education. February 2024. P. 2.

³ *Ibid.*

⁴ *Ibid.*

restaurants from the definition of “fast food restaurant,” including restaurants in airports, hotels, event centers, theme parks, museums and other locations, as prescribed.

AB 1228 (Holden, Chapter 262, Statutes of 2023) requires, among other things, the hourly minimum wage for fast food restaurant employees to be twenty dollars (\$20) per hour, effective April 1, 2024. AB 1228 repealed, revised and recast provisions of the Fast Food Accountability and Standards Recovery Act (FAST Act) to codify changes that were negotiated and agreed to by both proponents and opponents (seeking a referendum) of AB 257 (Holden, 2022) but only if the referendum was withdrawn by January 1, 2024.

AB 257 (Holden, Chapter 246, Statutes of 2022) enacted the Fast Food Accountability and Standards Recovery Act to, among other things, establish the Fast Food Council within the Department of Industrial Relations, with a sunset date of January 1, 2029, for the purpose of establishing sectorwide minimum standards on wages, working hours, and other working conditions related to the health, safety, and welfare of, and supplying the necessary cost of proper living to, fast food restaurant workers.

SB 3 (Leno, Chapter 4, Statutes of 2016), among other things, increased the state minimum wage to \$15 per hour, in an incremental timeline from \$10 to \$15, and indexed the minimum wage to inflation thereafter, as specified.

SUPPORT

California Association of Rural Health Clinics
California Hospital Association
SEIU California

OPPOSITION

None received

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