

SENATE BILL 962

K3, P4

7lr1273
CF 7lr0984

By: **Senators Madaleno, Manno, and Pinsky**

Introduced and read first time: February 3, 2017

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Payment of Minimum Wage Required**
3 **(Fight for Fifteen)**

4 FOR the purpose of specifying the State minimum wage rate that is in effect for certain
5 time periods for certain employers; increasing, except under certain circumstances,
6 the State minimum wage rate in effect for certain periods of time based on annual
7 growth in the Consumer Price Index; requiring the Commissioner of Labor and
8 Industry, beginning at a certain time, to annually determine and announce the
9 growth in the Consumer Price Index, if any, and the new State minimum wage rate;
10 requiring the Board of Revenue Estimates, during a certain time period, to conduct
11 a certain analysis, report its findings and recommendations, certify certain
12 information to the Governor and the Commissioner, and publish its findings and
13 recommendations on a certain Web site; authorizing, under certain circumstances,
14 the Governor to temporarily suspend an increase in the minimum wage; requiring
15 the Governor and the Commissioner to take certain action based on whether the
16 Governor temporarily suspends a minimum wage rate increase; providing that
17 certain minimum wage rate increases are postponed under certain circumstances for
18 a certain period of time; specifying the tip credit amount that is in effect for certain
19 time periods; prohibiting an employer, beginning on a certain date, from including a
20 tip credit amount as part of the wage of certain employees; requiring an employer,
21 beginning at a certain time, to pay certain employees a wage that is at least equal to
22 the State minimum wage rate; requiring the Governor, in certain fiscal years, to
23 include in a certain budget proposal certain funding increases to reimburse
24 community service providers; defining certain terms; and generally relating to the
25 payment of wages.

26 BY repealing and reenacting, with amendments,
27 Article – Health – General
28 Section 7–307
29 Annotated Code of Maryland
30 (2015 Replacement Volume and 2016 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Labor and Employment
3 Section 3–413
4 Annotated Code of Maryland
5 (2016 Replacement Volume)

6 BY adding to
7 Article – Labor and Employment
8 Section 3–413.1
9 Annotated Code of Maryland
10 (2016 Replacement Volume)

11 BY repealing and reenacting, with amendments,
12 Article – Labor and Employment
13 Section 3–419
14 Annotated Code of Maryland
15 (2016 Replacement Volume)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
17 That the Laws of Maryland read as follows:

18 **Article – Health – General**

19 7–307.

20 (a) (1) In this section the following words have the meanings indicated.

21 (2) “Community direct service worker” means an employee of a community
22 provider that provides treatment or services to developmentally disabled individuals.

23 (3) “Community provider” means a community–based agency or program
24 funded by the Administration to serve individuals with developmental disabilities.

25 (4) “Rate” means the reimbursement rate paid by the Department to a
26 community provider from the State General Fund, Maryland Medical Assistance Program
27 funds, other State or federal funds, or a combination of funds.

28 (b) Notwithstanding the provisions of this title or any other provision of law, the
29 Department shall reimburse community providers as provided in this section.

30 (c) Subject to subsection (d) of this section, the Department shall increase the rate
31 of reimbursement for community services providers each fiscal year by the amount of rate
32 increase included in the State budget for that fiscal year.

33 (d) (1) The Governor’s proposed budget for fiscal year 2016 shall include a
34 3.5% rate increase for community service providers over the funding provided in the

1 legislative appropriation for Object 08 Contractual Services in Program M00M01.02
2 Community Services for fiscal year 2015.

3 (2) The Governor's proposed budget for fiscal year 2017 shall include a
4 3.5% rate increase for community service providers over the funding provided in the
5 legislative appropriation for Object 08 Contractual Services in Program M00M01.02
6 Community Services for fiscal year 2016.

7 (3) The Governor's proposed budget for fiscal year 2018 shall include a
8 3.5% rate increase for community service providers over the funding provided in the
9 legislative appropriation for Object 08 Contractual Services in Program M00M01.02
10 Community Services for fiscal year 2017.

11 (4) The Governor's proposed budget for fiscal year 2019 shall include a
12 3.5% rate increase for community service providers over the funding provided in the
13 legislative appropriation for Object 08 Contractual Services in Program M00M01.02
14 Community Services for fiscal year 2018.

15 **(5) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2020**
16 **SHALL INCLUDE A 3.5% RATE INCREASE FOR COMMUNITY SERVICE PROVIDERS**
17 **OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR OBJECT**
18 **08 CONTRACTUAL SERVICES IN PROGRAM M00M01.02 COMMUNITY SERVICES FOR**
19 **FISCAL YEAR 2019.**

20 **(6) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2021**
21 **SHALL INCLUDE A 3.5% RATE INCREASE FOR COMMUNITY SERVICE PROVIDERS**
22 **OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR OBJECT**
23 **08 CONTRACTUAL SERVICES IN PROGRAM M00M01.02 COMMUNITY SERVICES FOR**
24 **FISCAL YEAR 2020.**

25 **(7) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2022**
26 **SHALL INCLUDE A 3.5% RATE INCREASE FOR COMMUNITY SERVICE PROVIDERS**
27 **OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR OBJECT**
28 **08 CONTRACTUAL SERVICES IN PROGRAM M00M01.02 COMMUNITY SERVICES FOR**
29 **FISCAL YEAR 2021.**

30 **(8) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2023**
31 **SHALL INCLUDE A 3.5% RATE INCREASE FOR COMMUNITY SERVICE PROVIDERS**
32 **OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR OBJECT**
33 **08 CONTRACTUAL SERVICES IN PROGRAM M00M01.02 COMMUNITY SERVICES FOR**
34 **FISCAL YEAR 2022.**

35 (e) The Governor's proposed budget for fiscal year 2016 and thereafter for
36 community service providers shall be presented in the same manner, including object and
37 program information, as provided for in the fiscal year 2015 budget.

(f) A portion of the funds in subsection (e) of this section may be allocated to address the impact of an increase in the State minimum wage on wages and benefits of direct support workers employed by community providers licensed by the Developmental Disabilities Administration.

Article – Labor and Employment

3–413.

(a) **(1)** [In this section, “employer”] **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) “CONSUMER PRICE INDEX” MEANS THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS FOR THE WASHINGTON–BALTIMORE METROPOLITAN AREA OR A SUCCESSOR INDEX PUBLISHED BY THE FEDERAL BUREAU OF LABOR STATISTICS.

(3) “EMPLOYER” includes a governmental unit.

(b) Except as provided in subsection (d) of this section and [§ 3–414] **§§ 3–413.1 AND 3–414** of this subtitle, each employer shall pay:

(1) to each employee who is subject to both the federal Act and this subtitle, at least the greater of:

(i) the minimum wage for that employee under the federal Act; or

(ii) the State minimum wage rate set under subsection (c) of this section; and

(2) each other employee who is subject to this subtitle, at least:

(i) the greater of:

1. the highest minimum wage under the federal Act; or

2. the State minimum wage rate set under subsection (c) of this section; or

(ii) a training wage under regulations that the Commissioner adopts that include the conditions and limitations authorized under the federal Fair Labor Standards Amendments of 1989.

(c) **(1)** [The] **SUBJECT TO § 3–413.1 OF THIS SUBTITLE, THE** State minimum wage rate **FOR ANY EMPLOYER THAT EMPLOYS 26 OR MORE EMPLOYEES** is:

1 [(1) for the 6-month period beginning January 1, 2015, \$8.00 per hour;

2 (2) for the 12-month period beginning July 1, 2015, \$8.25 per hour;

3 (3) for the 12-month period beginning July 1, 2016, \$8.75 per hour;

4 (4)] (I) for the 12-month period beginning July 1, 2017, \$9.25 per hour;

5 [and

6 (5)] (II) FOR THE 12-MONTH PERIOD beginning July 1, 2018, \$10.10
7 per hour;

8 (III) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2019,
9 \$12.00 PER HOUR;

10 (IV) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2020,
11 \$13.00 PER HOUR;

12 (V) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2021,
13 \$14.00 PER HOUR;

14 (VI) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2022,
15 \$15.00 PER HOUR;

16 (VII) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2023,
17 \$15.00 PER HOUR; AND

18 (VIII) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2024, AND
19 EACH JULY 1 THEREAFTER, THE RATE DETERMINED BY THE COMMISSIONER UNDER
20 PARAGRAPH (3)(II) OF THIS SUBSECTION.

21 (2) SUBJECT TO § 3-413.1 OF THIS SUBTITLE, THE STATE MINIMUM
22 WAGE RATE FOR ANY EMPLOYER THAT EMPLOYS 25 OR FEWER EMPLOYEES IS:

23 (I) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2017,
24 \$9.25 PER HOUR;

25 (II) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2018,
26 \$10.10 PER HOUR;

27 (III) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2019,
28 \$11.00 PER HOUR;

(IV) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2020,
\$12.00 PER HOUR;

(V) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2021,
\$13.00 PER HOUR;

(VI) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2022,
\$14.00 PER HOUR;

(VII) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2023,
\$15.00 PER HOUR; AND

(VIII) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2024, AND
EACH JULY 1 THEREAFTER, THE RATE DETERMINED BY THE COMMISSIONER UNDER
PARAGRAPH (3)(II) OF THIS SUBSECTION.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS
PARAGRAPH, BEGINNING JULY 1 OF THE YEAR AFTER THE STATE MINIMUM WAGE
RATE BECOMES \$15 PER HOUR FOR ALL EMPLOYERS SUBJECT TO PARAGRAPHS (1)
OR (2) OF THIS SUBSECTION, AND EACH JULY 1 THEREAFTER, THE STATE MINIMUM
WAGE RATE SHALL BE INCREASED BY THE AMOUNT, ROUNDED TO THE NEAREST
CENT, THAT EQUALS THE PRODUCT OF:

1. THE STATE MINIMUM WAGE RATE IN EFFECT FOR THE
IMMEDIATELY PRECEDING 12-MONTH PERIOD; AND

2. THE AVERAGE PERCENT GROWTH IN THE CONSUMER
PRICE INDEX FOR THE IMMEDIATELY PRECEDING 12-MONTH PERIOD, AS
DETERMINED BY THE COMMISSIONER UNDER SUBPARAGRAPH (II)1 OF THIS
PARAGRAPH.

(II) BEGINNING OCTOBER 1 OF THE YEAR IN WHICH THE STATE
MINIMUM WAGE RATE BECOMES \$15 PER HOUR FOR ALL EMPLOYERS SUBJECT TO
PARAGRAPHS (1) OR (2) OF THIS SUBSECTION, AND EACH OCTOBER 1 THEREAFTER,
THE COMMISSIONER SHALL DETERMINE AND ANNOUNCE:

1. THE AVERAGE PERCENT GROWTH, IF ANY, IN THE
CONSUMER PRICE INDEX BASED ON THE IMMEDIATELY PRECEDING 12-MONTH
PERIOD FOR WHICH DATA IS AVAILABLE ON OCTOBER 1; AND

2. THE STATE MINIMUM WAGE RATE THAT WOULD BE
EFFECTIVE FOR THE 12-MONTH PERIOD BEGINNING THE FOLLOWING JULY 1.

(III) IF THE COMMISSIONER DETERMINES THERE IS A DECLINE OR NO GROWTH IN THE CONSUMER PRICE INDEX, THE STATE MINIMUM WAGE RATE SHALL REMAIN THE SAME AS THE RATE THAT WAS IN EFFECT FOR THE IMMEDIATELY PRECEDING 12-MONTH PERIOD.

(d) (1) (i) Except as provided in paragraph (2) of this subsection and subject to subparagraph (ii) of this paragraph, an employer may pay an employee a wage that equals a rate of 85% of the State minimum wage established under this section if the employee is under the age of 20 years.

(ii) An employer may pay to an employee the wage provided under subparagraph (i) of this paragraph only for the first 6 months that the employee is employed.

(2) (i) This paragraph applies only to an employer that is an amusement or a recreational establishment, including a swimming pool, if the employer:

1. operates for no more than 7 months in a calendar year; or
2. for any 6 months during the preceding calendar year, has average receipts that do not exceed one-third of the average receipts for the other 6 months.

(ii) An employer may pay an employee a wage that equals the greater of:

1. 85% of the State minimum wage established under this section; or
2. \$7.25.

3-413.1.

(A) IN THIS SECTION, "BOARD" MEANS THE BOARD OF REVENUE ESTIMATES.

(B) (1) ON OR BEFORE MARCH 1, 2018, AND EACH MARCH 1 THEREAFTER UNTIL THE MINIMUM WAGE RATE IS \$15 PER HOUR FOR ALL EMPLOYERS SUBJECT TO § 3-413(C)(1) OR (2) OF THIS SUBTITLE, THE BOARD SHALL CONDUCT AN ANALYSIS TO DETERMINE WHETHER THERE SHOULD BE A TEMPORARY SUSPENSION OF AN INCREASE TO THE MINIMUM WAGE RATE UNDER § 3-413(C)(1) AND (2) OF THIS SUBTITLE.

(2) THE BOARD SHALL CONDUCT AN ANALYSIS OF:

(I) THE ECONOMY OF THE STATE; AND

(II) THE EFFECT ON THE ECONOMY THAT THE IMPLEMENTATION OF A MINIMUM WAGE RATE INCREASE WOULD HAVE BASED ON:

1. THE MINIMUM WAGE RATE INCREASE SPECIFIED IN § 3-413(C)(1) AND (2) OF THIS SUBTITLE; OR

2. IF THE GOVERNOR TEMPORARILY SUSPENDED A MINIMUM WAGE RATE INCREASE UNDER SUBSECTION (E) OF THIS SECTION, THE MINIMUM WAGE RATE USED BY THE BOARD IN THE MOST RECENT ANALYSIS.

(C) THE BOARD SHALL:

(1) REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR;

(2) CERTIFY TO THE GOVERNOR AND THE COMMISSIONER WHETHER THERE IS A NEED TO TEMPORARILY SUSPEND THE MINIMUM WAGE RATE INCREASE FOR THE 12-MONTH PERIOD BEGINNING THE FOLLOWING JULY 1; AND

(3) PUBLISH ITS FINDINGS AND RECOMMENDATIONS ON A PUBLICLY ACCESSIBLE WEB SITE.

(D) IF THE BOARD CERTIFIES UNDER SUBSECTION (C)(2) OF THIS SECTION THAT THERE IS NO NEED TO TEMPORARILY SUSPEND THE MINIMUM WAGE RATE INCREASE, THE COMMISSIONER SHALL ANNOUNCE THE STATE MINIMUM WAGE RATE THAT WILL BE IN EFFECT FOR THE 12-MONTH PERIOD BEGINNING THE FOLLOWING JULY 1 BASED ON § 3-413(C) OF THIS SUBTITLE AND SUBSECTION (F)(4) OF THIS SECTION.

(E) IF THE BOARD CERTIFIES UNDER SUBSECTION (C)(2) OF THIS SECTION THAT THERE IS A NEED TO TEMPORARILY SUSPEND THE MINIMUM WAGE RATE INCREASE, ON OR BEFORE MAY 1 OF THE YEAR THE CERTIFICATION IS MADE, THE GOVERNOR MAY TEMPORARILY SUSPEND THE MINIMUM WAGE RATE INCREASE FOR THE 12-MONTH PERIOD BEGINNING THE FOLLOWING JULY 1.

(F) IF THE GOVERNOR TEMPORARILY SUSPENDS THE MINIMUM WAGE RATE INCREASE UNDER SUBSECTION (E) OF THIS SECTION:

(1) THE GOVERNOR SHALL NOTIFY THE GENERAL ASSEMBLY AND THE COMMISSIONER;

1 **(2) THE STATE MINIMUM WAGE RATE SHALL REMAIN THE SAME AS**
2 **THE RATE THAT WAS IN EFFECT FOR THE IMMEDIATELY PRECEDING 12-MONTH**
3 **PERIOD;**

4 **(3) THE COMMISSIONER SHALL ANNOUNCE THAT THE STATE**
5 **MINIMUM WAGE RATE SHALL REMAIN THE SAME AS THE RATE THAT WAS IN EFFECT**
6 **FOR THE IMMEDIATELY PRECEDING 12-MONTH PERIOD; AND**

7 **(4) ALL SUBSEQUENT MINIMUM WAGE RATE INCREASES SPECIFIED IN**
8 **§ 3-413(C)(1) AND (2) OF THIS SUBTITLE SHALL BE POSTPONED BY AN ADDITIONAL**
9 **YEAR.**

10 **(G) IF THE GOVERNOR DOES NOT TEMPORARILY SUSPEND THE MINIMUM**
11 **WAGE RATE INCREASE UNDER SUBSECTION (E) OF THIS SECTION:**

12 **(1) THE GOVERNOR SHALL NOTIFY THE GENERAL ASSEMBLY AND**
13 **THE COMMISSIONER; AND**

14 **(2) THE COMMISSIONER SHALL ANNOUNCE THE STATE MINIMUM**
15 **WAGE RATE THAT WILL BE IN EFFECT FOR THE 12-MONTH PERIOD BEGINNING THE**
16 **FOLLOWING JULY 1 BASED ON § 3-413(C) OF THIS SUBTITLE AND SUBSECTION (F)(4)**
17 **OF THIS SECTION.**

18 3-419.

19 (a) (1) This section applies to each employee who:

20 (i) is engaged in an occupation in which the employee customarily
21 and regularly receives more than \$30 each month in tips;

22 (ii) has been informed by the employer about the provisions of this
23 section; and

24 (iii) has kept all of the tips that the employee received.

25 (2) Notwithstanding paragraph (1)(iii) of this subsection, this section does
26 not prohibit the pooling of tips.

27 (b) Subject to the limitations in this section, an employer may include, as part of
28 the wage of an employee to whom this section applies:

29 (1) an amount that the employer sets to represent the tips of the employee;
30 or

31 (2) if the employee or representative of the employee satisfies the
32 Commissioner that the employee received a lesser amount in tips, the lesser amount.

(c) **(1)** The tip credit amount that the employer may include under subsection (b) of this section may not exceed the minimum wage established under § 3–413 of this subtitle for the employee less:

(I) FOR THE 12–MONTH PERIOD BEGINNING JULY 1, 2017, \$3.63;

(II) FOR THE 12–MONTH PERIOD BEGINNING JULY 1, 2018, \$5.25;

(III) FOR THE 12–MONTH PERIOD BEGINNING JULY 1, 2019, \$7.50;

(IV) FOR THE 12–MONTH PERIOD BEGINNING JULY 1, 2020, \$9.00;

(V) FOR THE 12–MONTH PERIOD BEGINNING JULY 1, 2021, \$10.50;

(VI) FOR THE 12–MONTH PERIOD BEGINNING JULY 1, 2022, \$12.00;

(VII) FOR THE 12–MONTH PERIOD BEGINNING JULY 1, 2023, \$13.50; AND

(VIII) FOR THE 12–MONTH PERIOD BEGINNING JULY 1, 2024, \$15.00.

(2) BEGINNING JULY 1, 2025, AN EMPLOYER:

(I) MAY NOT INCLUDE A TIP CREDIT AMOUNT AS PART OF THE WAGE OF AN EMPLOYEE TO WHOM THIS SECTION APPLIES; AND

(II) SHALL PAY AN EMPLOYEE A WAGE THAT IS AT LEAST EQUAL TO THE STATE MINIMUM WAGE ESTABLISHED UNDER § 3–413 OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.