

SENATE BILL 543

K3, P4

8lr0459
CF HB 664

By: **Senators Madaleno, Benson, Conway, Currie, Feldman, Ferguson, Kagan, King, Lee, Manno, McFadden, Muse, Oaks, Peters, Pinsky, Ramirez, Robinson, Rosapepe, Smith, Young, and Zucker**

Introduced and read first time: January 31, 2018

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Payment of the 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; increasing, except under certain circumstances, the State minimum
6 wage rate in effect for certain periods of time based on annual growth in a certain
7 consumer price index; requiring the Commissioner of Labor and Industry, beginning
8 at a certain time, to annually determine and announce the growth in the consumer
9 price index, if any, and the new State minimum wage rate; repealing certain
10 provisions of law that authorize certain employers to pay certain employees a certain
11 wage that is less than the State minimum wage under certain circumstances;
12 specifying the tip credit amount that is in effect for certain time periods; prohibiting
13 an employer, beginning on a certain date, from including a tip credit amount as part
14 of the wage of certain employees; requiring an employer, beginning at a certain time,
15 to pay certain employees a wage that is at least equal to the State minimum wage
16 rate; requiring the Governor, in certain fiscal years, to include in a certain budget
17 proposal certain funding increases to reimburse community services; defining
18 certain terms; and generally relating to the payment of wages.

19 BY repealing and reenacting, with amendments,
20 Article – Health – General
21 Section 7–307
22 Annotated Code of Maryland
23 (2015 Replacement Volume and 2017 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article – Labor and Employment
26 Section 3–413 and 3–419
27 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2016 Replacement Volume and 2017 Supplement)

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

Article – Health – General

7–307.

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

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

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

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

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

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

(d) (1) The Governor’s proposed budget for fiscal year 2016 shall include a 3.5% rate increase for community service providers over the funding provided in the legislative appropriation for Object 08 Contractual Services in Program M00M01.02 Community Services for fiscal year 2015.

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

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

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

1 **(5) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2020**
2 **SHALL INCLUDE A 7% RATE INCREASE FOR COMMUNITY SERVICES OVER THE**
3 **FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR OBJECT 08**
4 **CONTRACTUAL SERVICES IN PROGRAM M00M01.02 COMMUNITY SERVICES FOR**
5 **FISCAL YEAR 2019.**

6 **(6) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2021**
7 **SHALL INCLUDE A 5.5% RATE INCREASE FOR COMMUNITY SERVICES OVER THE**
8 **FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR OBJECT 08**
9 **CONTRACTUAL SERVICES IN PROGRAM M00M01.02 COMMUNITY SERVICES FOR**
10 **FISCAL YEAR 2020.**

11 **(7) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2022**
12 **SHALL INCLUDE A 5.5% RATE INCREASE FOR COMMUNITY SERVICES OVER THE**
13 **FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR OBJECT 08**
14 **CONTRACTUAL SERVICES IN PROGRAM M00M01.02 COMMUNITY SERVICES FOR**
15 **FISCAL YEAR 2021.**

16 **(8) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2023**
17 **SHALL INCLUDE A 5.5% RATE INCREASE FOR COMMUNITY SERVICES OVER THE**
18 **FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR OBJECT 08**
19 **CONTRACTUAL SERVICES IN PROGRAM M00M01.02 COMMUNITY SERVICES FOR**
20 **FISCAL YEAR 2022.**

21 **(9) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2024**
22 **SHALL INCLUDE A 5.5% RATE INCREASE FOR COMMUNITY SERVICES OVER THE**
23 **FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR OBJECT 08**
24 **CONTRACTUAL SERVICES IN PROGRAM M00M01.02 COMMUNITY SERVICES FOR**
25 **FISCAL YEAR 2023.**

26 **(10) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2025,**
27 **AND FOR EACH FISCAL YEAR THEREAFTER, SHALL INCLUDE A PERCENTAGE RATE**
28 **INCREASE THAT IS NOT LESS THAN THE PERCENTAGE INDEXED INCREASE IN THE**
29 **STATE MINIMUM WAGE RATE UNDER § 3-413 OF THE LABOR AND EMPLOYMENT**
30 **ARTICLE FOR COMMUNITY SERVICES OVER THE FUNDING PROVIDED IN THE**
31 **LEGISLATIVE APPROPRIATION FOR OBJECT 08 CONTRACTUAL SERVICES IN**
32 **PROGRAM M00M01.02 COMMUNITY SERVICES FOR THE IMMEDIATELY PRECEDING**
33 **FISCAL YEAR.**

34 (e) The Governor's proposed budget for fiscal year 2016 and thereafter for
35 community service providers shall be presented in the same manner, including object and
36 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”] **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 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 State minimum wage rate is:

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

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

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

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

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

7 (III) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2019,
8 \$11.00 PER HOUR;

9 (IV) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2020,
10 \$12.00 PER HOUR;

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

13 (VI) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2022,
14 \$14.00 PER HOUR;

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

17 (VIII) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2024, AND
18 EACH JULY 1 THEREAFTER, THE RATE DETERMINED BY THE COMMISSIONER UNDER
19 PARAGRAPH (2)(II) OF THIS SUBSECTION.

20 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS
21 PARAGRAPH, FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2024, AND EACH
22 SUBSEQUENT 12-MONTH PERIOD, THE STATE MINIMUM WAGE RATE SHALL BE
23 INCREASED BY THE AMOUNT, ROUNDED TO THE NEAREST MULTIPLE OF 5 CENTS,
24 THAT EQUALS THE PRODUCT OF:

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

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

1 **(II) BEGINNING OCTOBER 1, 2023, AND EACH OCTOBER 1**
 2 **THEREAFTER, THE COMMISSIONER SHALL DETERMINE AND ANNOUNCE:**

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

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

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

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

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

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

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

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

- 26 1. 85% of the State minimum wage established under this
 27 section; or
 28 2. \$7.25.]

29 3-419.

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

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

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

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

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

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

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

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

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

15 (I) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2018,
16 \$3.63;

17 (II) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2019,
18 \$5.25;

19 (III) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2020,
20 \$7.50;

21 (IV) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2021,
22 \$9.00;

23 (V) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2022,
24 \$10.50;

25 (VI) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2023,
26 \$12.00;

27 (VII) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2024,
28 \$13.50; AND

29 (VIII) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2025,
30 \$15.00.

1 **(2) BEGINNING JULY 1, 2026, AN EMPLOYER:**

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

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

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2018.