

AMENDED IN SENATE APRIL 17, 2023
AMENDED IN SENATE MARCH 28, 2023

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.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1182.14 is added to the Labor Code, to
- 2 read:
- 3 1182.14. (a) The Legislature finds and declares as follows:
- 4 (1) Workers in the health care industry, including workers at
- 5 general acute care hospitals, acute psychiatric hospitals, medical
- 6 offices and clinics, behavioral health centers, and residential care
- 7 centers provide vital health care services to California residents,
- 8 including emergency care, labor and delivery, cancer treatments,
- 9 and primary and specialty care. Similarly, dialysis clinics provide
- 10 life-preserving care to patients with end-stage renal disease and
- 11 are part of the continuum of kidney care that also includes hospitals
- 12 and health systems. Residents and visitors to the state rely on access
- 13 to this high-quality health care.
- 14 (2) Higher wages are an important means of retaining an
- 15 experienced workforce and attracting new workers. A stable
- 16 workforce benefits patients and improves quality of care.
- 17 (3) Employers across multiple industries are raising wages. The
- 18 health care sector in California must offer higher wages to remain
- 19 competitive.

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

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

12 (b) As used in this section:

13 (1) (A) “Covered health care employment” means any of the
14 following:

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

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

20 (B) Notwithstanding subparagraph (A), “covered health care
21 employment” does not include:

22 (i) Employment as an outside salesperson.

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

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

29 (2) “Covered health care facility” means any of the following:

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

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

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

36 (D) A special hospital, as defined in subdivision (f) of Section
37 1250 of the Health and Safety Code.

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

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

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

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

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

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

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

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

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

22 (N) A mental health rehabilitation center, as defined in Section
23 5675 of the Welfare and Institutions Code.

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

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

40 (Q) An urgent care clinic.

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

4 (S) A physician group.

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

7 (U) A county mental health facility.

8 (3) “Employ” means to engage, suffer or permit to work.

9 (4) “Employee” means any person employed by an employer.

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

15 (6) “Health care services” means patient care-related services
16 including nursing; caregiving; services provided by medical
17 residents, interns, or fellows; technical and ancillary services;
18 janitorial work; housekeeping; groundskeeping; guard duties;
19 business office clerical work; food services; laundry; medical
20 coding and billing; call center and warehouse work; scheduling;
21 and gift shop work; but only where such services directly or
22 indirectly support patient care.

23 (7) “Health care worker minimum wage” means the minimum
24 wage rate established by this section.

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

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

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

39 (iii) A contractual relationship in which a nonprofit health care
40 service plan provides medical services to enrollees in a specific

1 geographic region of the state through an affiliated hospital system,
2 and contracts with a single covered physician group in each
3 geographic region of the state to provide medical services to a
4 majority of the plan's enrollees in that region.

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

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

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

22 (d) (1) Following the implementation of the minimum wage
23 increase specified in subdivision (c), on or before August 1 of that
24 year, and on or before each August 1 thereafter, the Director of
25 Finance shall calculate an adjusted minimum wage. The calculation
26 shall increase the minimum wage by the greater of 3.5 percent or
27 the rate of change in the averages of the most recent July 1 to June
28 30, inclusive, period over the preceding July 1 to June 30, inclusive,
29 period for the United States Bureau of Labor Statistics
30 nonseasonally adjusted United States Consumer Price Index for
31 Urban Wage Earners and Clerical Workers (U.S. CPI-W). The
32 result shall be rounded to the nearest ten cents (\$0.10). Each
33 adjusted minimum wage increase calculated under this subdivision
34 shall take effect on the following January 1.

35 (2) If the rate of change in the averages of the most recent July
36 1 to June 30, inclusive, period over the preceding July 1 to June
37 30, inclusive, period for the United States Bureau of Labor
38 Statistics nonseasonally adjusted U.S. CPI-W is negative, there
39 shall be no increase or decrease in the minimum wage pursuant to
40 this subdivision on the following January 1.

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

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

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

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

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