



2 of 202 DOCUMENTS

NEW JERSEY REGISTER

Copyright © 2016 by the New Jersey Office of Administrative Law

VOLUME 48, ISSUE 21

ISSUE DATE: NOVEMBER 7, 2016

RULE ADOPTIONS**LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF WAGE AND HOUR COMPLIANCE***48 N.J.R. 2371(a)**N.J.A.C. 12:56-3.1***Notice of Administrative Changes****Minimum Wage**

Take notice that the Department of Labor and Workforce Development has requested, and the Office of Administrative Law has agreed to permit, an administrative change to *N.J.A.C. 12:56-3.1(a)*. In pertinent part, that subsection states that "except as provided in *N.J.A.C. 12:56-3.2*, every employee shall, effective January 1, 2015, be paid not less than \$ 8.38 per hour, the minimum hourly wage rate set by section 6(a)(1) of the Federal 'Fair Labor Standards Act of 1938' (29 U.S.C. § 206(a)(1)), or the rate provided under *N.J.S.A. 34:11-56a4*, whichever is greatest." Pursuant to *N.J.A.C. 12:56-3.1(b)*, on an annual basis, on or about September 30, the Department shall revise the minimum hourly wage rate, "based on any percentage increase during the one-year period of August of the prior year through August of the current year of the consumer price index (CPI) for all urban wage earners and clerical workers (CPI-W, U.S. City Average), as released by the United States Department of Labor, Bureau of Labor Statistics." *N.J.A.C. 12:56-3.1* indicates further that the Department shall annually, (1) through a public notice published in the New Jersey Register, provide the new CPI-adjusted minimum hourly wage rate, and (2) no later than September 30 of each year, publish the afore-mentioned public notice on the Department's website. The percent increase in the CPI-W, U.S. City Average, for the one-year period, August 2015 through August 2016, is 0.66 percent. That is, the CPI-W, U.S. City Average, in August 2015, was 233.366, and in August 2016, it was 234.909.

Consequently, the change in the index over the one-year period equals 1.543, or an increase of 0.66 percent (1.543/233.366x100). Using as a base for the calculation the current New Jersey minimum hourly wage rate of \$ 8.38 (since as of this date, \$ 8.38 is greater than both the minimum hourly wage rate set by section 6(a)(1) of the Federal Fair Labor Standards Act and the rate provided under *N.J.S.A. 34:11-56a4*), a 0.66 percent increase (rounded to the nearest penny) is \$ 0.06, yielding an adjusted State minimum hourly wage rate, effective January 1, 2017, of \$ 8.44. Therefore, pursuant to *Article 1, Paragraph 23, of the New Jersey Constitution*, and *N.J.A.C. 12:56-3.1(b)*, the State minimum hourly wage rate, effective January 1, 2017, must be changed from \$ 8.38 to \$ 8.44. This requires making two administrative changes to *N.J.A.C. 12:56-3.1(a)*: (1) the date, January 1, 2015, must be replaced by the date, January 1, 2017, and (2) the amount, \$ 8.38, must be replaced by the amount, \$ 8.44.

Full text of the changed rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 3. MINIMUM WAGE RATES

12:56-3.1 Statutory minimum wage rates for specific years

(a) Except as provided in *N.J.A.C. 12:56-3.2*, every employee shall, effective January 1, [2015] **2017**, be paid not less than [\$ 8.38] **\$ 8.44** per hour, the minimum hourly wage rate set by section 6(a)(1) of the Federal "Fair Labor Standards Act of 1938" (*29 U.S.C. § 206(a)(1)*), or the rate provided under *N.J.S.A. 34:11-56a4*, whichever is greatest.

(b)-(c) (No change.)