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Philadelphia Local Minimum Wage Increase for City Contractors: Continuing Trend of Municipal Action on Workplace Law

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By Christopher P. Stief

Yesterday Philadelphia Mayor Michael A. Nutter, acting by Executive Order, raised the minimum wage that must be paid by firms working on City contracts, receiving City financial assistance or operating under a City lease or franchise. The Order raises minimum wages for subcontractors beginning in a couple of weeks, and then it will move to \$12 per hour in 2015.

What Employers Are Covered?

The new requirements apply to a wide array of employers doing business with or receiving economic aid from the City of Philadelphia, including:

- Private for-profit firms with annual gross receipts over \$1 million who receive at least \$10,000 in City contract work in a year
- Public agencies receiving at least \$10,000 in City work in a year
- Non-profit firms receiving more than \$100,000 in City work in a year
- Firms with City leases, concessions or franchises
- Any firm receiving "City financial aid" (applies for 5 years following receipt of the aid)

Order, sec. 3. A firm receiving "City financial aid" includes any person or entity receiving grants, loans, loan guarantees, tax incentives, in-kind services, waivers of City fees, or real property in an amount exceeding \$100,000 per year. This is a broad definition, but the Order does clarify that it does not include anyone receiving an economic benefit merely as an incidental effect of City policies or laws. Order, sec. 2(B).

The Order requires direct City contractors or recipients to impose these wage requirements by contract on any subcontractor working on such a City contract, if the subcontractor meets the annual revenue requirements. Order, sec. 4. Finally, if a firm receives "City financial aid" as broadly defined in the Order, it must require any subcontractors who work on the franchise or leased property to pay their workers working on it the requisite minimum wage, provided specific revenue and size requirements are met. Order, sec. 4.

What Workers Are Covered?


Almost all workers are covered, with a few notable exceptions. Covered workers include full-time, temporary and seasonal employees, as well as workers "made available to work through the services of a temporary services, staffing or employment agency or similar entity," but it specifically excludes: those employed on a construction project already governed by state, federal or local prevailing wage rules; those employed in summer jobs in a program designed to create summer jobs for teens and students; those engaged in "a bona fide" training program (not to exceed 60 days) under which the worker will advance into permanent employment; and students engaged in "a bona fide student internship program." Order, sec. 2(A).

Why Are We Seeing this Local Activity?

Mayor Nutter's Executive Order actually is part of two trends for employers and workplace regulation. Most specifically, **Mayor Nutter stated** that he issued his Executive Order in response to a call put out by President Barack Obama for cities and states to act in whatever way they can to raise minimum wages, in the wake of Congress's refusal to enact the President's proposed national minimum wage increase ([a White House blog](#)) tracks state level action on minimum wage changes, including legislation signed into law by Maryland Governor Martin O'Malley earlier this week. On a broader level, the Executive Order in Philadelphia is part of a trend toward local governmental actions designed to impact workplace policies. Last year, Mayor Nutter vetoed a bill passed by the City Council that would have mandated paid sick leave for many workers in Philadelphia. But similar ordinances are in effect in a variety of locations around the country, including recently enacted laws in New York City, Portland (Oregon) and Jersey City. Likewise, many cities – **including Philadelphia** – have enacted "ban the box" laws, placing limits on how and when employers can ask about criminal records in their interviewing and hiring processes. The ongoing proliferation of varying local and state level workplace laws and regulations creates challenges for employers who operate in multiple states and municipalities.

Chris Stief is Regional Managing Partner of the Philadelphia office of Fisher & Phillips LLP. To receive notice of future blog posts either follow Chris Stief on [Twitter](#) or on [LinkedIn](#) or subscribe to this blog's RSS feed.

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