

AMENDED IN ASSEMBLY MARCH 28, 2016

AMENDED IN SENATE MARCH 11, 2015

SENATE BILL

No. 3

**Introduced by Senators ~~Leno and~~ Leno, De León, and Leyva
(Principal coauthor: Senator De León)**

*(Principal coauthors: Assembly Members Bonta, Gomez, Gonzalez,
Roger Hernández, McCarty, Rendon, and Ting)*

**(Coauthors: Senators ~~Hancock and McGuire~~ Beall, Block, Hall,
Hancock, Hertzberg, Hill, Hueso, Jackson, Lara, Liu, McGuire,
Mendoza, Mitchell, Monning, Pan, Wieckowski, and Wolk)**

(Coauthors: Assembly Members Atkins and Mark Stone)

December 1, 2014

~~An act to amend Section 1182.12 of the Labor Code, relating to wages.~~ *An act to amend Sections 245.5, 246, and 1182.12 of the Labor Code, relating to labor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 3, as amended, Leno. ~~Minimum wage: adjustment. Minimum wage: in-home supportive services: paid sick days.~~

(1) Under existing law, the Healthy Workplaces, Healthy Families Act of 2014, an employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days, as specified. Existing law requires an employee to accrue paid sick days at the rate of not less than one hour per every 30 hours worked subject to specified use and accrual limitations. For the purposes of the act, an "employee" does not include a provider of in-home supportive services, as described.

This bill, on and after July 1, 2018, would entitle a provider of in-home supportive services who works in California for 30 or more days within a year from the commencement of employment to paid sick days, subject to specified full amount of leave time amounts and that rate of accrual. The bill would require the State Department of Social Services, in consultation with stakeholders, to convene a workgroup to implement paid sick leave for in-home supportive services providers and to issue guidance in that regard by December 1, 2017. The bill would authorize the department to implement that paid sick leave without complying with the Administrative Procedure Act.

(2) On and after July 1, 2014, existing law requires the minimum wage for all industries to be not less than \$9 per hour. On and after January 1, 2016, existing law requires the minimum wage for all industries to be not less than \$10 per hour.

This bill would require the minimum wage for all industries to not be less than specified amounts to be increased from January 1, 2017 to January 1, 2022, inclusive, for employers employing 26 or more employees and from January 1, 2018 to January 1, 2023, inclusive, for employers employing 25 or fewer employees, except when the scheduled increases are temporarily suspended by the Governor, based on certain determinations. This bill would also require the Director of Finance, after the last scheduled minimum wage increase, to annually adjust the minimum wage under a specified formula.

On or before July 28, 2017, and on or before every July 28 thereafter until the minimum wage is a specified amount for employers employing 26 or more employees, the bill would require the Director of Finance to annually determine, based on certain factors, whether economic conditions can support a scheduled minimum wage increase and certify that determination to the Governor and the Legislature. The bill would also require the State Board of Equalization to publish specified retail sales and use tax information on its Internet Web site to be used by the Director of Finance in making that determination.

On or before July 28, 2017, and on or before every July 28 thereafter until the minimum wage is a specified amount for employers employing 26 or more employees, in order to ensure that the state General Fund can support the next scheduled minimum wage increase, the bill would also require the Director of Finance to annually determine and certify to the Governor and the Legislature whether the state General Fund would be in a deficit in the current fiscal year, or in either of the following 2 fiscal years.

~~Existing law provides that it is the continuing duty of the Industrial Welfare Commission to ascertain the wages paid to all employees in this state, to ascertain the hours and conditions of labor and employment in the various occupations, trades, and industries in which employees are employed in this state, and to investigate the health, safety, and welfare of those employees. Existing law establishes the Division of Labor Standards Enforcement in the Department of Industrial Relations for the enforcement of labor laws, including minimum wage fixed by statute and the wage orders of the Industrial Welfare Commission. Existing law requires that, on and after July 1, 2014, the minimum wage for all industries be not less than \$9 per hour. Existing law further increases the minimum wage, on and after January 1, 2016, to not less than \$10 per hour.~~

~~This bill would increase the minimum wage, on and after January 1, 2016, to not less than \$11 per hour, and on and after July 1, 2017, to not less than \$13 per hour. The bill would require, commencing January 1, 2019, the annual automatic adjustment of the minimum wage to maintain employee purchasing power diminished by the rate of inflation during the previous year. The adjustment would be calculated using the California Consumer Price Index, as specified. The bill would prohibit the commission from reducing the minimum wage and from adjusting the minimum wage if the average percentage of inflation for the previous year was negative. The bill would require the Division of Labor Standards Enforcement to publicize the automatically adjusted minimum wage.~~

~~The bill would provide that its provisions not be construed to preclude an increase in the minimum wage by the commission to an amount greater than the formula would provide, to result in a reduction in the minimum wage, or to preclude or supersede an increase of the minimum wage by any local government or tribal government that is greater than the state minimum wage.~~

~~The bill would apply to all industries, including public and private employment.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.~~

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

1 SECTION 1. Section 245.5 of the Labor Code is amended to
2 read:

1 245.5. As used in this article:

2 (a) “Employee” does not include the following:

3 (1) An employee covered by a valid collective bargaining
4 agreement if the agreement expressly provides for the wages, hours
5 of work, and working conditions of employees, and expressly
6 provides for paid sick days or a paid leave or paid time off policy
7 that permits the use of sick days for those employees, final and
8 binding arbitration of disputes concerning the application of its
9 paid sick days provisions, premium wage rates for all overtime
10 hours worked, and regular hourly rate of pay of not less than 30
11 percent more than the state minimum wage rate.

12 (2) An employee in the construction industry covered by a valid
13 collective bargaining agreement if the agreement expressly provides
14 for the wages, hours of work, and working conditions of
15 employees, premium wage rates for all overtime hours worked,
16 and regular hourly pay of not less than 30 percent more than the
17 state minimum wage rate, and the agreement either (A) was entered
18 into before January 1, 2015, or (B) expressly waives the
19 requirements of this article in clear and unambiguous terms. For
20 purposes of this subparagraph, “employee in the construction
21 industry” means an employee performing work associated with
22 construction, including work involving alteration, demolition,
23 building, excavation, renovation, remodeling, maintenance,
24 improvement, repair work, and any other work as described by
25 Chapter 9 (commencing with Section 7000) of Division 3 of the
26 Business and Professions Code, and other similar or related
27 occupations or trades.

28 ~~(3) A provider of in-home supportive services under Section~~
29 ~~14132.95, 14132.952, or 14132.956 of, or Article 7 (commencing~~
30 ~~with Section 12300) of Chapter 3 of Part 3 of Division 9 of, the~~
31 ~~Welfare and Institutions Code.~~

32 ~~(4)~~

33 (3) An individual employed by an air carrier as a flight deck or
34 cabin crew member that is subject to the provisions of Title II of
35 the federal Railway Labor Act (45 U.S.C. Sec. 151 et seq.),
36 provided that the individual is provided with compensated time
37 off equal to or exceeding the amount established in paragraph (1)
38 of subdivision (b) of Section 246.

39 ~~(5)~~

(4) An employee of the state, city, county, city and county, district, or any other public entity who is a recipient of a retirement allowance and employed without reinstatement into his or her respective retirement system pursuant to either Article 8 (commencing with Section 21220) of Chapter 12 of Part 3 of Division 5 of Title 2 of the Government Code, or Article 8 (commencing with Section 31680) of Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code.

(b) “Employer” means any person employing another under any appointment or contract of hire and includes the state, political subdivisions of the state, and municipalities.

(c) “Family member” means any of the following:

(1) A child, which for purposes of this article means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status.

(2) A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee’s spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.

(3) A spouse.

(4) A registered domestic partner.

(5) A grandparent.

(6) A grandchild.

(7) A sibling.

(d) “Health care provider” has the same meaning as defined in paragraph (6) of subdivision (c) of Section 12945.2 of the Government Code.

(e) “Paid sick days” means time that is compensated at the same wage as the employee normally earns during regular work hours and is provided by an employer to an employee for the purposes described in Section 246.5.

SEC. 2. Section 246 of the Labor Code is amended to read:

246. (a) (1) An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.

(2) *On and after July 1, 2018, a provider of in-home supportive services under Section 14132.95, 14132.952, or 14132.956 of, or Article 7 (commencing with Section 12300) of Chapter 3 of Part*

1 3 of Division 9 of, the Welfare and Institutions Code, who works
2 in California for 30 or more days within a year from the
3 commencement of employment is entitled to paid sick days as
4 specified in subdivision (e) and subject to the rate of accrual in
5 paragraph (1) of subdivision (b).

6 (b) (1) An employee shall accrue paid sick days at the rate of
7 not less than one hour per every 30 hours worked, beginning at
8 the commencement of employment or the operative date of this
9 article, whichever is later, subject to the use and accrual limitations
10 set forth in this section.

11 (2) An employee who is exempt from overtime requirements
12 as an administrative, executive, or professional employee under a
13 wage order of the Industrial Welfare Commission is deemed to
14 work 40 hours per workweek for the purposes of this section,
15 unless the employee's normal workweek is less than 40 hours, in
16 which case the employee shall accrue paid sick days based upon
17 that normal workweek.

18 (3) An employer may use a different accrual method, other than
19 providing one hour per every 30 hours worked, provided that the
20 accrual is on a regular basis so that an employee has no less than
21 24 hours of accrued sick leave or paid time off by the 120th
22 calendar day of employment or each calendar year, or in each
23 12-month period.

24 (4) An employer may satisfy the accrual requirements of this
25 section by providing not less than 24 hours or three days of paid
26 sick leave that is available to the employee to use by the completion
27 of his or her 120th calendar day of employment.

28 (c) An employee shall be entitled to use accrued paid sick days
29 beginning on the 90th day of employment, after which day the
30 employee may use paid sick days as they are accrued.

31 (d) Accrued paid sick days shall carry over to the following
32 year of employment. However, an employer may limit an
33 employee's use of accrued paid sick days to 24 hours or three days
34 in each year of employment, calendar year, or 12-month period.
35 This section shall be satisfied and no accrual or carryover is
36 required if the full amount of leave is received at the beginning of
37 each year of employment, calendar year, or 12-month period. The
38 term "full amount of leave" means three days or 24 hours.

39 (e) For a provider of in-home supportive services under Section
40 14132.95, 14132.952, or 14132.956 of, or Article 7 (commencing

1 with Section 12300) of Chapter 3 of Part 3 of Division 9 of, the
2 Welfare and Institutions Code, the term “full amount of leave” is
3 defined as follows:

4 (1) Eight hours or one day in each year of employment, calendar
5 year, or 12-month period beginning July 1, 2018.

6 (2) Sixteen hours or two days in each year of employment,
7 calendar year, or 12-month period beginning when the minimum
8 wage, as set forth in paragraph (1) of subdivision (b) of Section
9 1182.12 and accounting for any years postponed under
10 subparagraph (D) of paragraph (3) of subdivision (d) of Section
11 1182.12, has reached \$13.00 per hour.

12 (3) Twenty-four hours or three days in each year of employment,
13 calendar year, or 12-month period beginning when the minimum
14 wage, as set forth in paragraph (1) of subdivision (b) of Section
15 1182.12 and accounting for any years postponed under
16 subparagraph (D) of paragraph (3) of subdivision (d) of Section
17 1182.12, has reached \$15.00 per hour.

18 (e)

19 (f) An employer is not required to provide additional paid sick
20 days pursuant to this section if the employer has a paid leave policy
21 or paid time off policy, the employer makes available an amount
22 of leave applicable to employees that may be used for the same
23 purposes and under the same conditions as specified in this section,
24 and the policy satisfies one of the following:

25 (1) Satisfies the accrual, carryover, and use requirements of this
26 section.

27 (2) Provided paid sick leave or paid time off to a class of
28 employees before January 1, 2015, pursuant to a sick leave policy
29 or paid time off policy that used an accrual method different than
30 providing one hour per 30 hours worked, provided that the accrual
31 is on a regular basis so that an employee, including an employee
32 hired into that class after January 1, 2015, has no less than one day
33 or eight hours of accrued sick leave or paid time off within three
34 months of employment of each calendar year, or each 12-month
35 period, and the employee was eligible to earn at least three days
36 or 24 hours of sick leave or paid time off within nine months of
37 employment. If an employer modifies the accrual method used in
38 the policy it had in place prior to January 1, 2015, the employer
39 shall comply with any accrual method set forth in subdivision (b)
40 or provide the full amount of leave at the beginning of each year

1 of employment, calendar year, or 12-month period. This section
2 does not prohibit the employer from increasing the accrual amount
3 or rate for a class of employees covered by this subdivision.

4 (3) Notwithstanding any other law, sick leave benefits provided
5 pursuant to the provisions of Sections 19859 to 19868.3, inclusive,
6 of the Government Code, or annual leave benefits provided
7 pursuant to the provisions of Sections 19858.3 to 19858.7,
8 inclusive, of the Government Code, or by provisions of a
9 memorandum of understanding reached pursuant to Section 3517.5
10 that incorporate or supersede provisions of Section 19859 to
11 19868.3, inclusive, or Sections 19858.3 to 19858.7, inclusive of
12 the Government Code, meet the requirements of this section.

13 ~~(f)~~

14 (g) (1) Except as specified in paragraph (2), an employer is not
15 required to provide compensation to an employee for accrued,
16 unused paid sick days upon termination, resignation, retirement,
17 or other separation from employment.

18 (2) If an employee separates from an employer and is rehired
19 by the employer within one year from the date of separation,
20 previously accrued and unused paid sick days shall be reinstated.
21 The employee shall be entitled to use those previously accrued
22 and unused paid sick days and to accrue additional paid sick days
23 upon rehiring, subject to the use and accrual limitations set forth
24 in this section. An employer is not required to reinstate accrued
25 paid time off to an employee that was paid out at the time of
26 termination, resignation, or separation of employment.

27 ~~(g)~~

28 (h) An employer may lend paid sick days to an employee in
29 advance of accrual, at the employer's discretion and with proper
30 documentation.

31 ~~(h)~~

32 (i) An employer shall provide an employee with written notice
33 that sets forth the amount of paid sick leave available, or paid time
34 off leave an employer provides in lieu of sick leave, for use on
35 either the employee's itemized wage statement described in Section
36 226 or in a separate writing provided on the designated pay date
37 with the employee's payment of wages. If an employer provides
38 unlimited paid sick leave or unlimited paid time off to an employee,
39 the employer may satisfy this section by indicating on the notice
40 or the employee's itemized wage statement "unlimited." The

1 penalties described in this article for a violation of this subdivision
2 shall be in lieu of the penalties for a violation of Section 226. This
3 subdivision shall apply to employers covered by Wage Order 11
4 or 12 of the Industrial Welfare Commission only on and after
5 January 21, 2016.

6 ~~(i)~~

7 (j) An employer has no obligation under this section to allow
8 an employee's total accrual of paid sick leave to exceed 48 hours
9 or 6 days, provided that an employee's rights to accrue and use
10 paid sick leave are not limited other than as allowed under this
11 section.

12 ~~(j)~~

13 (k) An employee may determine how much paid sick leave he
14 or she needs to use, provided that an employer may set a reasonable
15 minimum increment, not to exceed two hours, for the use of paid
16 sick leave.

17 ~~(k)~~

18 (l) For the purposes of this section, an employer shall calculate
19 paid sick leave using any of the following calculations:

20 (1) Paid sick time for nonexempt employees shall be calculated
21 in the same manner as the regular rate of pay for the workweek in
22 which the employee uses paid sick time, whether or not the
23 employee actually works overtime in that workweek.

24 (2) Paid sick time for nonexempt employees shall be calculated
25 by dividing the employee's total wages, not including overtime
26 premium pay, by the employee's total hours worked in the full pay
27 periods of the prior 90 days of employment.

28 (3) Paid sick time for exempt employees shall be calculated in
29 the same manner as the employer calculates wages for other forms
30 of paid leave time.

31 ~~(l)~~

32 (m) If the need for paid sick leave is foreseeable, the employee
33 shall provide reasonable advance notification. If the need for paid
34 sick leave is unforeseeable, the employee shall provide notice of
35 the need for the leave as soon as practicable.

36 ~~(m)~~

37 (n) An employer shall provide payment for sick leave taken by
38 an employee no later than the payday for the next regular payroll
39 period after the sick leave was taken.

(o) The State Department of Social Services, in consultation with stakeholders, shall convene a workgroup to implement paid sick leave for in-home supportive services providers as specified in this section. This workgroup shall finish its implementation work by November 1, 2017, and the State Department of Social Services shall issue guidance such as an all-county letter or similar instructions by December 1, 2017.

(p) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the State Department of Social Services may implement, interpret, or make specific this section by means of an all-county letter, or similar instructions, without taking any regulatory action.

SEC. 3. Section 1182.12 of the Labor Code is amended to read:

1182.12. (a) Notwithstanding any other provision of this part, on and after July 1, 2014, the minimum wage for all industries shall be not less than nine dollars (\$9) per hour, and on and after January 1, 2016, the minimum wage for all industries shall be not less than ten dollars (\$10) per hour.

(b) Notwithstanding subdivision (a), the minimum wage for all industries shall not be less than the amounts set forth in this subdivision, except when the scheduled increases in paragraphs (1) and (2) are temporarily suspended under subdivision (d).

(1) For any employer who employs 26 or more employees, the minimum wage shall be as follows:

(A) From January 1, 2017, to December 31, 2017, inclusive,—ten dollars and fifty cents (\$10.50) per hour.

(B) From January 1, 2018, to December 31, 2018, inclusive,—eleven dollars (\$11) per hour.

(C) From January 1, 2019, to December 31, 2019, inclusive,—twelve dollars (\$12) per hour.

(D) From January 1, 2020, to December 31, 2020, inclusive,—thirteen dollars (\$13) per hour.

(E) From January 1, 2021, to December 31, 2021, inclusive,—fourteen dollars (\$14) per hour.

(F) From January 1, 2022, and until adjusted by subdivision (c)—fifteen dollars (\$15) per hour.

(2) For any employer who employs 25 or fewer employees, the minimum wage shall be as follows:

1 (A) From January 1, 2018, to December 31, 2018,
2 inclusive,—ten dollars and fifty cents (\$10.50) per hour.

3 (B) From January 1, 2019, to December 31, 2019,
4 inclusive,—eleven dollars (\$11) per hour.

5 (C) From January 1, 2020, to December 31, 2020,
6 inclusive,—twelve dollars (\$12) per hour.

7 (D) From January 1, 2021, to December 31, 2021,
8 inclusive,—thirteen dollars (\$13) per hour.

9 (E) From January 1, 2022, to December 31, 2022,
10 inclusive,—fourteen dollars (\$14) per hour.

11 (F) From January 1, 2023, and until adjusted by subdivision
12 (c)—fifteen dollars (\$15) per hour.

13 (3) For purposes of this subdivision, “employer” means any
14 person who directly or indirectly, or through an agent or any other
15 person, employs or exercises control over the wages, hours, or
16 working conditions of any person. For purposes of this subdivision,
17 “employer” includes the state, political subdivisions of the state,
18 and municipalities.

19 (4) Employees who are treated as employed by a single qualified
20 taxpayer under subdivision (h) of Section 23626 of the Revenue
21 and Taxation Code, as it read on the effective date of this section,
22 shall be considered employees of that taxpayer for purposes of
23 this subdivision.

24 (c) (1) Following the implementation of the minimum wage
25 increase specified in subparagraph (F) of paragraph (2) of
26 subdivision (b), on or before August 1 of that year, and on or before
27 each August 1 thereafter, the Director of Finance shall calculate
28 an adjusted minimum wage. The calculation shall increase the
29 minimum wage by the lesser of three and one-half percent (3.5%)
30 and the rate of change in the averages of the most recent July 1
31 to June 30, inclusive, period over the preceding July 1 to June 30,
32 inclusive, period for the United States Bureau of Labor Statistics
33 nonseasonally adjusted United States Consumer Price Index for
34 Urban Wage Earners and Clerical Workers (U.S. CPI-W). The
35 result shall be rounded to the nearest ten cents (\$0.10). Each
36 adjusted minimum wage increase calculated under this subdivision
37 shall take effect on the following January 1.

38 (2) If the rate of change in the averages of the most recent July
39 1 to June 30, inclusive, period over the preceding July 1 to June
40 30, inclusive, period for the United States Bureau of Labor

1 *Statistics nonseasonally adjusted U.S. CPI-W is negative, there*
2 *shall be no increase or decrease in the minimum wage pursuant*
3 *to this subdivision on the following January 1.*

4 (3) (A) *Notwithstanding the implementation timing described*
5 *in paragraph (1) of this subdivision, if the rate of change in the*
6 *averages of the most recent July 1 to June 30, inclusive, period*
7 *over the preceding July 1 to June 30, inclusive, period for the*
8 *United States Bureau of Labor Statistics nonseasonally adjusted*
9 *U.S. CPI-W exceeds 7 percent (7%) in the first year that the*
10 *minimum wage specified in subparagraph (F) of paragraph (1) of*
11 *subdivision (b) is implemented, the indexing provisions described*
12 *in paragraph (1) of this subdivision shall be implemented*
13 *immediately, such that the indexing will be effective on the*
14 *following January 1.*

15 (B) *If the rate of change in the averages of the most recent July*
16 *1 to June 30, inclusive, period over the preceding July 1 to June*
17 *30, inclusive, period for the United States Bureau of Labor*
18 *Statistics nonseasonally adjusted U.S. CPI-W exceeds 7 percent*
19 *(7%) in the first year that the minimum wage specified in*
20 *subparagraph (F) of paragraph (1) of subdivision (b) is*
21 *implemented, notwithstanding any other law, for employers with*
22 *25 or fewer employees the minimum wage shall be set equal to the*
23 *minimum wage for employers with 26 or more employees, effective*
24 *on the following January 1, and the minimum wage increase*
25 *specified in subparagraph (F) of paragraph (2) of subdivision (b)*
26 *shall be considered to have been implemented for purposes of this*
27 *subdivision.*

28 (d) (1) *On or before July 28, 2017, and on or before every July*
29 *28 thereafter until the minimum wage is fifteen dollars (\$15) per*
30 *hour pursuant to paragraph (1) of subdivision (b), to ensure that*
31 *economic conditions can support a minimum wage increase, the*
32 *Director of Finance shall annually make a determination and*
33 *certify to the Governor and the Legislature whether each of the*
34 *following conditions is met:*

35 (A) *Total nonfarm employment for California, seasonally*
36 *adjusted, decreased over the three-month period from April to*
37 *June, inclusive, prior to the July 28 determination. This calculation*
38 *shall compare seasonally adjusted total nonfarm employment in*
39 *June to seasonally adjusted total nonfarm employment in March,*
40 *as reported by the Employment Development Department.*

1 (B) Total nonfarm employment for California, seasonally
2 adjusted, decreased over the six-month period from January to
3 June, inclusive, prior to the July 28 determination. This calculation
4 shall compare seasonally adjusted total nonfarm employment in
5 June to seasonally adjusted total nonfarm employment in
6 December, as reported by the Employment Development
7 Department.

8 (C) Retail sales and use tax cash receipts from a 3.9375-percent
9 tax rate for the July 1 to June 30, inclusive, period ending one
10 month prior to the July 28 determination is less than retail sales
11 and use tax cash receipts from a 3.9375-percent tax rate for the
12 July 1 to June 30, inclusive, period ending 13 months prior to the
13 July 28 determination. The calculation for the condition specified
14 in this subparagraph shall be made as follows:

15 (i) The State Board of Equalization shall publish by the 10th of
16 each month on its Internet Web site the total retail sales (sales
17 before adjustments) for the prior month derived from their daily
18 retail sales and use tax reports.

19 (ii) The State Board of Equalization shall publish by the 10th
20 of each month on its Internet Web site the monthly factor required
21 to convert the prior month's retail sales and use tax total from all
22 tax rates to a retail sales and use tax total from a 3.9375-percent
23 tax rate.

24 (iii) The Department of Finance shall multiply the monthly total
25 from clause (i) by the monthly factor from clause (ii) for each
26 month.

27 (iv) The Department of Finance shall sum the monthly totals
28 calculated in clause (iii) to calculate the 12-month July 1 to June
29 30, inclusive, totals needed for the comparison in this
30 subparagraph.

31 (2) (A) On or before July 28, 2017, and on or before every July
32 28 thereafter until the minimum wage is fifteen dollars (\$15) per
33 hour pursuant to paragraph (1) of subdivision (b), to ensure that
34 the state General Fund fiscal condition can support the next
35 scheduled minimum wage increase, the Director of Finance shall
36 annually make a determination and certify to the Governor and
37 the Legislature whether the state General Fund would be in a
38 deficit in the current fiscal year, or in either of the following two
39 fiscal years.

1 (B) For purposes of this subdivision, deficit is defined as a
2 negative balance in the Special Fund for Economic Uncertainties,
3 as provided for in Section 16418 of the Government Code, that
4 exceeds, in absolute value, 1 percent of total state General Fund
5 revenue and transfers, based on the most recent Department of
6 Finance estimates required by Section 12.5 of Article IV of the
7 California Constitution. For purposes of this subdivision, the
8 estimates shall include the assumption that only the minimum wage
9 increases scheduled for the following calendar year pursuant to
10 subdivision (b) will be implemented.

11 (3) (A) (i) If, for any year, the condition in either subparagraph
12 (A) or (B) of paragraph (1) is met, and if the condition in
13 subparagraph (C) of paragraph (1) is met, the Governor may, on
14 or before August 1 of that year, notify the Legislature of an initial
15 determination to temporarily suspend the minimum wage increases
16 scheduled pursuant to subdivision (b) for the following year.

17 (ii) If the Director of Finance certifies under paragraph (2) that
18 the state General Fund would be in a deficit in the current fiscal
19 year, or in either of the following two fiscal years, the Governor
20 may, on or before August 1 of that fiscal year, notify the Legislature
21 of an initial determination to temporarily suspend the minimum
22 wage increases scheduled pursuant to subdivision (b) for the
23 following year.

24 (B) If the Governor provides notice to the Legislature pursuant
25 to subparagraph (A), the Governor shall, on September 1 of any
26 such year, make a final determination whether to temporarily
27 suspend the minimum wage increases scheduled pursuant to
28 subdivision (b) for the following year. The determination to
29 temporarily suspend the minimum wage increases scheduled
30 pursuant to subdivision (b) for the following year shall be made
31 by proclamation.

32 (C) The Governor may temporarily suspend scheduled minimum
33 wage increases pursuant to clause (ii) of subparagraph (A) no
34 more than two times.

35 (D) If the Governor makes a final determination to temporarily
36 suspend the scheduled minimum wage increases pursuant to
37 subdivision (b) for the following year, all dates specified in
38 subdivision (b) that are subsequent to the September 1 final
39 determination date shall be postponed by an additional year.

1 ~~SECTION 1. Section 1182.12 of the Labor Code is amended~~
2 ~~to read:~~

3 ~~1182.12. (a) Notwithstanding any other provision of this part,~~
4 ~~on and after July 1, 2014, the minimum wage for all industries~~
5 ~~shall be not less than nine dollars (\$9) per hour, on and after~~
6 ~~January 1, 2016, the minimum wage for all industries shall be not~~
7 ~~less than eleven dollars (\$11) per hour, and on and after July 1,~~
8 ~~2017, the minimum wage for all industries shall be not less than~~
9 ~~thirteen dollars (\$13) per hour.~~

10 ~~(b) (1) Except as provided in paragraph (3), commencing on~~
11 ~~January 1, 2019, the minimum wage shall be automatically adjusted~~
12 ~~on January 1 of each year to maintain employee purchasing power~~
13 ~~diminished by the rate of inflation that occurred during the previous~~
14 ~~year.~~

15 ~~(2) The minimum wage adjustment shall be made by multiplying~~
16 ~~the minimum wage in effect on December 31 of the previous year~~
17 ~~by the percentage rate of inflation that occurred during that year,~~
18 ~~and by adding the product to the wage in effect during that year.~~
19 ~~The resulting total shall be rounded off to the nearest five cents~~
20 ~~(\$0.05). The Division of Labor Standards Enforcement shall~~
21 ~~publicize the automatically adjusted minimum wage.~~

22 ~~(3) The Industrial Welfare Commission shall not adjust the~~
23 ~~minimum wage pursuant to this subdivision if the average~~
24 ~~percentage of inflation for the previous year was negative.~~

25 ~~(4) For purposes of this subdivision:~~

26 ~~(A) "Percentage rate of inflation" means the percentage rate of~~
27 ~~inflation specified in the California Consumer Price Index for All~~
28 ~~Urban Consumers, as published by the Department of Industrial~~
29 ~~Relations, Office of Policy, Research and Legislation, or its~~
30 ~~successor index.~~

31 ~~(B) "Previous year" means the 12-month period that ends on~~
32 ~~August 31 of the calendar year prior to the adjustment.~~

33 ~~(c) The Industrial Welfare Commission shall not reduce the~~
34 ~~minimum wage prescribed by this section.~~

35 ~~(d) This section shall not be construed to preclude an increase~~
36 ~~of the minimum wage by the Industrial Welfare Commission to~~
37 ~~an amount that is greater than the rate calculated pursuant to~~
38 ~~subdivision (b) or to preclude or supersede an increase of the~~
39 ~~minimum wage by any local government or tribal government that~~
40 ~~is greater than the state minimum wage.~~

1 ~~(e) This section applies to all industries, including public and~~
2 ~~private employment.~~

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5 CORRECTIONS:

6 Heading—Lines 3, 7 and 8.

7 Text—Pages 6, 7, 11 and 12.

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