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The City of New York
Community Board 8 Manhattan
Social Justice Committee
Monday, April 25, 2022 – 6:30PM
Conducted Remotely on Zoom

Minutes

Board Members Present: Erica Bersin (Public Member), Lori Bores, Sarah Chu, Saundrea I. Coleman, Wendy Machaver (Public Member), Peter Patch, and Rita Popper.

1. **Announcement:** CB8 Social Justice Committee welcomes our new public member, Erica Bersin!
2. **Discussion of A3103/S1826, a bill related to minimum wage for people living with disabilities**

- a. Link to the bill can be found here: <https://www.nysenate.gov/legislation/bills/2021/s1828>
- b. NYS Minimum Wage information can be found here: <https://www.ny.gov/new-york-states-minimum-wage>
- c. This bill would amend the state labor law to remove people living with disabilities from the categories of workers for whom there is an exception to the minimum wage law and to whom “subminimum wage” can be paid. Many of these subminimum wage employment opportunities for people living with disabilities are offered through federally supported “workshop” programs intended to provide employment opportunities to that group of workers. The bill removes people living with disabilities from the categories of workers for whom the Department of Labor may regulate subminimum wages.
- d. Assembly Member Seawright is a cosponsor of A3103 and Kevin Rogers, her legislative director, presented to the committee. His presentation provided a summary of the bill, a description of its current status, and how CB8 and community members can help encourage its passage. The bill removes provisions in the labor law that permit the payment of subminimum wage. The bill is currently in the Labor committees of both the Assembly and the Senate.
- e. Ryan DuBois, an associate human rights specialist at the NYC Commission on Human Rights, also attended the meeting to provide support for people experiencing bias in the workplace based on their disability status.
- f. Zach Borodkin, a disability rights activist, shared how the bill has impacted him and the disability community overall and has been exacerbated by the pandemic. The Century Foundation released a report called *Economic Justice is Disability Justice*¹ which revealed the following:

Meanwhile, hiring discrimination keeps many disabled workers out of jobs altogether; one recent experimental study found that resumes that were identical, other than listing either a spinal cord injury or autism as a disability, received 26 percent fewer responses for accounting jobs. Furthermore, disabled people of color face multiple layers of discrimination in the workplace, with ableism and racism conspiring to create even more

¹ The Century Foundation report, *Economic Justice is Disability Justice* can be found here: <https://tcf.org/content/report/economic-justice-disability-justice/?session=1>

significant barriers to employment as well as bias and poor workplace treatment that can be even more substantial when experienced intersectionally.

The minimum wage gap for people living with disabilities has a negative economic impact on everyone, as it prevents us from benefiting from the contributions of an entire talent pool. The passage of this bill can make a world of difference, especially for community members in lower socioeconomic brackets and breaks another barrier into another part of our culture into which people living with disabilities have been steadily integrating.

g. Committee discussion:

- i. A community member expressed not being in favor of minimum wage as a concept because increases in minimum wage could incentivize companies to cut jobs. However, the community member asked if there might be a way for companies to bypass the minimum wage requirement if the employee was an intern or otherwise willing to accept a subminimum wage. A concern was raised that such an arrangement could lead to employers' coercion of workers to take a lower wage.
- ii. There was widespread agreement that a minimum wage means that it is the absolute floor and great concern that the subminimum wage disproportionately impacts vulnerable communities. When a question regarding who could possibly oppose this bill was raised, Mr. Rogers shared that some of the Workshop program members opposed this bill because they were worried it would lead to a termination of the program or the jobs offered through the program. The committee discussants felt that fear is a recurring refrain in response to changes in the minimum wage and only benefits employers and never the workers. Mr. Rogers also shared that the Workshop program providers are given state and federal grants to participate in the program. While the government grant isn't meant to close the gap between minimum and subminimum wage, these organizations do receive a benefit from taxpayers.
- iii. The committee also discussed how it could most effectively impact change. There were questions of whether a letter or a resolution would be more impactful. Based on the discussion, it seems that identifying the right people to share CB8's voice with was the important issue. Importantly, reaching the chairs of the Labor Committees in both the Assembly and the Senate to encourage the legislators to move the bills out of committee would be effective. There was also a suggestion of placing a letter or resolution in a local newspaper in the community where the Labor Committee Chairs reside and concerns were raised regarding CB8's status as a city agency and the appropriateness of direct advocacy outside of our jurisdiction. Since CB8 sends our resolutions packaged as a letter to relevant agency leaders and elected officials, the committee plans to pass a resolution that would be sent to Labor Committee Chairs of both houses as well as other elected officials.
- iv. In response to a concern expressed by a member of the public that requiring minimum wage to be paid to workers with disabilities would (a) harm small businesses that might not be able to afford the higher wage expense, and (b) remove training/internship opportunities, a committee member shared that, under NYS labor law, businesses that garner less than \$500K in gross sales or business done are exempt from minimum wage requirements, so that no further expense would be levied on such qualifying businesses, and that, under a recently settled case, *Glatt v. Fox Searchlight Pictures*, businesses were already required to pay interns (under most circumstances), so that no unanticipated expenses would accrue to an employer.
- v. Nine states — including Alaska, Maine, Maryland, New Hampshire, Oregon, Washington, Hawaii, Colorado, California, and Delaware — have passed laws

eliminating subminimum wage for people living with disabilities based on information from the Association of People Supporting Employment First (APSE). APSE is the only national membership organization focused exclusively on Employment First to facilitate the full inclusion of people with disabilities in the workplace and community. APSE has posted information regarding subminimum wage elimination through state legislation at <https://apse.org/state-legislation/>.

- vi. Mr. Rogers shared that there is strong support for this bill and support from constituents would be helpful for moving these bills.
- vii. Ryan DuBois from the NYC Human Right Commission told the committee that any individual experiencing these disparities should call the office directly at (212) 416-0197.
- viii. Mr. Borodkin suggested sending the letter to nursing homes, jails, prisons, and colleges encouraging them to have their voices heard. He also shared that [Gov. Hochul established the Office of the Chief Disability Officer](#) and appointed Kimberly T. Hill as Chief Disability Officer to whom we can also send the resolution.
- h. The following Resolution to support this bill and elimination of a subminimum wage for people living with disabilities was moved by Lori Bores and seconded by Saundrea I. Coleman.

WHEREAS, New York State labor law contains exceptions that permit certain institutions to pay people living with disabilities a subminimum wage,

WHEREAS, the law was codified in 1938 and has the impact of preventing New York State businesses and organizations from realizing the full contribution and richness of perspectives from an entire community of people in the workplace,

WHEREAS, nine states — including Alaska, Maine, Maryland, New Hampshire, Oregon, Washington, Hawaii, Colorado, California, and Delaware — have passed laws eliminating subminimum wage for people living with disabilities,

WHEREAS, the New York State Assembly and Senate are currently contemplating bill A3103/S1826 to end subminimum wage for people living with disabilities,

THEREFORE BE IT RESOLVED, that Community Board 8 Manhattan urges the chairs of the Labor Committees of both houses to move these bills out of committee, for the Assembly and Senate to pass the bill, and for the Governor to sign it into law.

Called to question by Rita Popper and seconded by Sarah Chu.

Vote: 7-0-0 [Lori Bores, Sarah Chu, Saundrea I. Coleman, Peter Patch, Rita Popper, Erica Bersin (public member) and Wendy Machaver (public member)]

3. Old Business

- a. None

4. New Business

Rita Popper made a suggestion that a future Social Justice meeting feature companies that have programs to employ people who were formerly incarcerated. Former CB8 member Sara Solomon brought this issue to the community board years ago.

There is a local company named Greystone Bakery that has such a program, and we may want to support other organizations doing their part to provide employment opportunities for people who were formerly incarcerated. Peter Patch also supported this suggestion

This meeting was adjourned at 7:52p

Sarah Chu and Saundrea I. Coleman, Co-Chairs

STATE OF NEW YORK

3103

2021-2022 Regular Sessions

IN ASSEMBLY

January 22, 2021

Introduced by M. of A. STECK -- Multi-Sponsored by -- M. of A. BARRON, COLTON, COOK, CRUZ, DE LA ROSA, DeSTEFANO, DICKENS, ENGLEBRIGHT, FRONTUS, GOTTFRIED, HYNDMAN, JACOBSON, M. MILLER, NIOU, J. RIVERA, SANTA-BARBARA, SEAWRIGHT, SIMON, STERN, WEPRIN -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to the minimum wage for employees with disabilities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The opening paragraph of subdivision 5 of section 651 of
2 the labor law, as amended by chapter 105 of the laws of 2019, is amended
3 to read as follows:

4 "Employee" includes any individual employed or permitted to work by an
5 employer in any occupation, but shall not include any individual who is
6 employed or permitted to work: (a) on a casual basis in service as a
7 part time baby sitter in the home of the employer; (b) in a bona fide
8 executive, administrative, or professional capacity; (c) as an outside
9 salesman; (d) as a driver engaged in operating a taxicab; (e) as a
10 volunteer, learner or apprentice by a corporation, unincorporated asso-
11 ciation, community chest, fund or foundation organized and operated
12 exclusively for religious, charitable or educational purposes, no part
13 of the net earnings of which inures to the benefit of any private share-
14 holder or individual; (f) as a member of a religious order, or as a duly
15 ordained, commissioned or licensed minister, priest or rabbi, or as a
16 sexton, or as a christian science reader; (g) in or for such a religious
17 or charitable institution, which work is incidental to or in return for
18 charitable aid conferred upon such individual and not under any express
19 contract of hire; (h) in or for such a religious, educational or chari-
20 table institution if such individual is a student; (i) [~~in or for such a~~
21 ~~religious, educational or charitable institution if the earning capacity~~
22 ~~of such individual is impaired by age or by physical or mental deficien-~~

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 ~~by or injury, (j)~~ in or for a summer camp or conference of such a reli-
2 gious, educational or charitable institution for not more than three
3 months annually; [~~(k)~~] (j) as a staff counselor in a children's camp;
4 [~~(l)~~] (k) in or for a college or university fraternity, sorority,
5 student association or faculty association, no part of the net earnings
6 of which inures to the benefit of any private shareholder or individual,
7 and which is recognized by such college or university, if such individ-
8 ual is a student; [~~(m)~~] (l) by a federal, state or municipal government
9 or political subdivision thereof; [~~(n)~~] (m) as a volunteer at a recre-
10 ational or amusement event run by a business that operates such events,
11 provided that no single such event lasts longer than eight consecutive
12 days and no more than one such event concerning substantially the same
13 subject matter occurs in any calendar year, where (1) any such volunteer
14 shall be at least eighteen years of age, (2) a business seeking coverage
15 under this paragraph shall notify every volunteer in writing, in
16 language acceptable to the commissioner, that by volunteering his or her
17 services, such volunteer is waiving his or her right to receive the
18 minimum wage pursuant to this article, and (3) such notice shall be
19 signed and dated by a representative of the business and the volunteer
20 and kept on file by the business for thirty-six months; or [~~(o)~~] (n) in
21 the delivery of newspapers or shopping news to the consumer by a person
22 who is not performing commercial goods transportation services for a
23 commercial goods transportation contractor within the meaning of article
24 twenty-five-C of this chapter. The exclusions from the term "employee"
25 contained in this subdivision shall be as defined by regulations of the
26 commissioner.

27 § 2. Paragraph (c) of subdivision 5 of section 655 of the labor law,
28 as amended by chapter 747 of the laws of 1978, is amended to read as
29 follows:

30 (c) The wage board may also recommend, to the extent necessary in
31 order to prevent curtailment of opportunities for employment, regu-
32 lations for (1) the employment of learners and apprentices, under
33 special certificates issued by the commissioner, at such wages lower
34 than the minimum wage established by this article and subject to such
35 limitations as to time, number, proportion and length of service as
36 shall be prescribed in such regulation, (2) [~~the employment of individ-~~
37 ~~uals whose earning capacity is affected or impaired by youth or age or~~
38 ~~by physical or mental deficiency or injury, under special certificates~~
39 ~~issued by the commissioner, at such wages lower than the minimum wage~~
40 ~~established by this article and for such period as shall be prescribed~~
41 ~~in such regulation, (3)] the establishment of a period not extending
42 beyond seventeen consecutive weeks during which a resort hotel or camp
43 may employ students under special certificates issued by the commission-
44 er, at such wages lower than the minimum wage established by this arti-
45 cle as shall be prescribed in such regulation, and [~~(4)~~] (3) the employ-
46 ment of residential employees in a non-profit making religious,
47 charitable or educational organization or in a non-profit making college
48 or university sorority or fraternity under special certificates issued
49 by the commissioner at such weekly wage as shall be prescribed in such
50 regulation.~~

51 § 3. This act shall take effect on the thirty-first of December next
52 succeeding the date upon which it shall have become a law. Effective
53 immediately, the addition, amendment and/or repeal of any rule or regu-
54 lation by the department of labor necessary for the implementation of
55 this act on its effective date are authorized to be made on or before
56 such effective date.

STATE OF NEW YORK

1828

2021-2022 Regular Sessions

IN SENATE

January 16, 2021

Introduced by Sens. SKOUFIS, BIAGGI, GOUNARDES, SALAZAR, STAVISKY --
read twice and ordered printed, and when printed to be committed to
the Committee on Labor

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6 employed or permitted to work: (a) on a casual basis in service as a
7 part time baby sitter in the home of the employer; (b) in a bona fide
8 executive, administrative, or professional capacity; (c) as an outside
9 salesman; (d) as a driver engaged in operating a taxicab; (e) as a
10 volunteer, learner or apprentice by a corporation, unincorporated asso-
11 ciation, community chest, fund or foundation organized and operated
12 exclusively for religious, charitable or educational purposes, no part
13 of the net earnings of which inures to the benefit of any private share-
14 holder or individual; (f) as a member of a religious order, or as a duly
15 ordained, commissioned or licensed minister, priest or rabbi, or as a
16 sexton, or as a christian science reader; (g) in or for such a religious
17 or charitable institution, which work is incidental to or in return for
18 charitable aid conferred upon such individual and not under any express
19 contract of hire; (h) in or for such a religious, educational or chari-
20 table institution if such individual is a student; (i) [~~in or for such a
21 religious, educational or charitable institution if the earning capacity
22 of such individual is impaired by age or by physical or mental deficien-
23 cy or injury; (j)~~] in or for a summer camp or conference of such a reli-
24 gious, educational or charitable institution for not more than three

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1 months annually; [~~(k)~~] (j) as a staff counselor in a children's camp;
2 [~~(l)~~] (k) in or for a college or university fraternity, sorority,
3 student association or faculty association, no part of the net earnings
4 of which inures to the benefit of any private shareholder or individual,
5 and which is recognized by such college or university, if such individ-
6 ual is a student; [~~(m)~~] (l) by a federal, state or municipal government
7 or political subdivision thereof; [~~(n)~~] (m) as a volunteer at a recre-
8 ational or amusement event run by a business that operates such events,
9 provided that no single such event lasts longer than eight consecutive
10 days and no more than one such event concerning substantially the same
11 subject matter occurs in any calendar year, where (1) any such volunteer
12 shall be at least eighteen years of age, (2) a business seeking coverage
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16 minimum wage pursuant to this article, and (3) such notice shall be
17 signed and dated by a representative of the business and the volunteer
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33 limitations as to time, number, proportion and length of service as
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