



# Living Wage NYC

Our City. Our Lives. Our Future.

## NEW YORK CITY COUNCIL SUMMARY OF LEGISLATION

October 2011

**TITLE OF BILL:** The Fair Wages for New Yorkers Act

**PURPOSE:** This bill will ensure that when New York City extends substantial amounts of taxpayer funds to developers or major employers to promote economic development, the recipients guarantee that the jobs created will pay at least a living wage. Together with Intro. 18, which would guarantee prevailing wages for building service workers on economic development projects, this new law will ensure that as New York's economy recovers, we invest in rebuilding the middle class jobs that our city needs to thrive in the 21<sup>st</sup> century.

### **SUMMARY OF PROVISIONS:**

#### **Section a – Title.**

**Section b – Definitions.** Here are summaries of the bill's key definitions. Some of the definitions are drawn from either New York City's 2002 living wage law for service contractors, N.Y.C. Admin. Code section 6-109.

"City economic development entity." This definition encompasses the New York City Economic Development Corporation (EDC) and the New York City Industrial Development Agency (IDA) – the two key entities that administer much of the city's economic development program and that award substantial amounts of taxpayer-funded subsidies for development.

"Financial assistance." Defines the types of taxpayer-funded financial assistance that will be covered by the new law. Key criteria for coverage include: (1) the project must receive a discretionary grant of financial assistance in the amount of \$1 million or more; (2) the financial assistance must be provided for economic development-related purposes; and (3) the assistance may be awarded either directly by a city agency, or

indirectly through the EDC or the IDA. The bill's focus is on the large mixed use development projects such as Hudson Yards, Willets Point, Coney Island and Atlantic Yards, that receive millions in taxpayer-funded subsidies, but nonetheless are threatening to create poverty wage jobs. Note that as of right subsidies such as those under the Industrial and Commercial Abatement Program, and the J-51 Program are not covered.

**“Covered employer.”** Defines the employers on subsidized development projects that must pay a living wage. The chief categories are: (a) employers that directly receive financial assistance; (b) tenants operating on property developed with financial assistance; and (d) on-site service contractors such as staffing agencies or food service contractors operating on property developed with financial assistance.

**“Employee.”** Defines those employees that are covered by the living wage. Specifies that where financial assistance is targeted as specific real property, then only employees employed at that property are covered.

**“Living wage.”** Defines the living wage as a \$10.00 per hour base wage plus an additional supplement of \$1.50 per hour, which may in the form of either health benefits or supplemental wages. This is the current level of the New York City living wage under the 2002 service contractor living wage law, N.Y.C. Admin. Code section 6-109. The definition provides that the living wage and the supplemental benefits rate will both be adjusted annually based on the Consumer Price Index so that they keep pace with the cost of living.

**Section c – Living Wage Required.** This section sets out the new law's core requirements for employers and developers. Some of the key ones are: (1) establishing that it is the policy of the city that jobs supported with financial assistance, whether conferred directly by the city or indirectly by a city economic development entity, should pay a living wage; (2) requiring covered employers to pay the living wage; and (3) requiring financial assistance recipients, such as developers, to ensure that all covered employers such as tenants and service contractors on their subsidized projects pay the living wage.

**Small Business, Not-for-Profit, Manufacturing and Affordable Housing Exemptions.** Exempts small businesses with less than \$5 million in annual revenue, not-for-profits, manufacturers, and affordable housing projects from the living wage requirement.

**Section d –Notice, Posting, Recordkeeping and Retaliation.** This section requires that covered employers: (1) post notice of the new law's requirements in their workplaces; (2) maintain payroll records for a period of six years; and (3) refrain from retaliating against employees that assert their rights under the law. These provisions are largely

drawn from New York City's 2002 service contractor living wage law, N.Y.C. Admin. Code section 6-109.

**Section e – Implementation and Reporting.** This section instructs the city regarding implementation of the law's requirements. It directs: (1) that city agencies should use their authority to ensure that living wage requirements are included as terms of all subsidized development projects, and should refuse to approve any project that does not include such requirements; (2) that the city should include in its contracts with city economic development entities, such as EDC, a requirement that such entities do the same; and (3) that the city not convey Payments in Lieu of Taxes (PILOT's) or other city appropriated funds to any city economic development entity that has not agreed to do the same. It also (1) requires that financial assistance agreements include clawback provisions, and (2) requires financial assistance recipients to submit annual certifications attesting that covered employees on the subsidized project are being paid the living wage, together with copies of certified payroll records. This latter requirement is drawn from the parallel prevailing wages for building service workers bill, Intro. 18.

**Section f – Monitoring, Investigation and Enforcement.** This section authorizes the Comptroller to monitor, investigate and bring enforcement proceedings where employers fail to pay the living wage. It also authorizes individual workers to bring private enforcement actions over violations. These provisions are largely drawn from New York City's 2002 service contractor living wage law, N.Y.C. Admin. Code section 6-109.

**Section g – Miscellaneous.** This section specifies that the law applies prospectively to new subsidized projects only, and include other technical provisions such as a severability clause.