

WAGE MANDATE LEGISLATION

New York City & New York State

New York City	
PREVAILING WAGE	<p>Int. 018-A-2010 (Mark-Viverito): Requires payment of prevailing wage to building service workers in buildings where the City leases space or in developments that receive discretionary financial assistance.</p> <p>Service Workers: guards, building cleaners, porters, janitors, gardeners, elevator operators, window cleaners and others whose majority of employment relate to the care and maintenance of buildings and property.</p> <p>City Leases: Any building where an agency occupies 10,000 s/f or more of commercial space; aggregate city leases that are at least 51% total s/f if the building is located within the 421-a exclusion area; 80% of total s/f in buildings outside that exclusion area; or anywhere in Staten Island.</p> <p>Financial assistance: cash payments, grants, bond financing, tax abatements or exemptions, tax increment financing, filing fee waivers, energy cost reductions, environmental remediation costs, a write-down in the market value of a building, land or leases, or the cost of capital improvement in the amount of at least \$1 million given to an entity for the purpose of improvement/development of real property, economic development, job retention/ growth or other similar purposes if the project is larger than 100,000 s/f or 100 residential units.</p> <p>Exemptions: NFP; manufacturers, small businesses (less than \$5 million in annual gross revenue), BIDs, affordable housing projects, and ICAP/421-a projects (those that receive as-of-right benefits)</p> <p>City Action: City Council passed bill 44-5. Mayor vetoed arguing that it is a job-killing mandate. More than 34 votes exist to override the veto. If override results, Mayor has vowed to sue to block the law.</p> <p>Company Position: Con Edison is part of a 5 borough coalition of business organizations established to defeat this legislation as a job-killing mandate.</p>
PREVAILING WAGE – NYC COMPTROLLER’S AUTHORITY TO ESTABLISH PREVAILING WAGE	<p>Executive Order 2012/2: Eliminates the New York City Comptroller’s authority to set prevailing wages for city-employed plumbers, carpenters and other maintenance workers.</p> <p>Impact: It would end a 118-year-old rule that empowers the Comptroller to set prevailing wages for about 3% of the city's workforce. Effectively, salaries would be negotiated via collective bargaining without any input from the Comptroller.</p> <p>Rationale: The Mayor argues that the vast majority of city workers have their wages set through collective bargaining and that wages set by the Comptroller have been exceeding those in the private sector.</p>

Opposition: The unions vehemently oppose the Executive Order and were successful in obtaining a temporary restraining order to temporarily prevent the Order’s implementation until its legality can be fully assessed by the Courts.

Company Position: Con Edison has not taken a position on this issue.

LIVING WAGE

Int.0251-A-2010 (Koppell): Requires business owners (“covered employers”) in future city-aided projects to pay \$11.50 an hour, or \$10 with health benefits, in projects that get at least \$1 million in financial assistance from a city economic development entity.

Economic Development Entity: any entity that provides or administers economic development benefits (focus on IDA and EDC).

Covered Employer: financial assistance recipient; tenant/subtenant of financial assistance recipient in which the financial assistance recipient owns 50% or more who occupies property developed/improved with financial assistance; contractors/subcontractors that perform work for more than 90 days on property developed/improved with assistance – including service contractors such as temp services, staffing agencies, and food service contractors; concessionaires operating in any stadium, arena or sports facility developed pursuant to a PLA.

Employee: f/t, p/t, seasonal, contractors, and temps. However, if financial assistance is targeted to particular real property, then *only* persons employed at the real property qualify.

Financial Assistance: The financial assistance must be provided for economic development-related purposes; and the assistance may be awarded either directly by a city agency, or indirectly through a city-affiliated entity such as the EDC or the IDA. The types of economic development subsidies covered include discretionary subsidies (tax abatements, credits) that are conferred as part of development deals negotiated for the city by EDC, as well as other subsidies such as capital improvements and transfer of city-owned land, which flow more directly from the city.

Exemptions: Workers in manufacturing, affordable housing, NFP, and small businesses; Hudson Yards; participants of FRESH program.

City Action: City Council passed bill 44-5. Mayor vetoed. More than 34 votes exist to override the veto. If override occurs, Mayor has vowed to sue to block the law.

Note: A previous agreement provided the city with the flexibility to exempt important projects if the project benefits justified such exemption. The agreement prompted the Partnership to pull its opposition. However, the provision was dropped amidst pressure from labor unions and, in turn, the Partnership renewed its opposition.

	<p>Company Position: Con Edison is part of a 5 borough coalition of business organizations (including the Partnership) established to defeat this legislation as a job-killing mandate.</p>
<p>PAID SICK LEAVE</p>	<p>Int. 0097-2010 (Brewer): Requires employers to provide for paid sick leave.</p> <p>Accrual Rates:</p> <ul style="list-style-type: none"> • Businesses with < 20 employees: 1 hour of paid sick time for every 30 hours worked, up to 40 hours annually (approximately 5 days for a full-time worker) • Businesses with > 20 employees: 1 hour for every 30 hours worked, up to 72 hours annually (approximately 9 days for a full-time worker) <p>Eligible Uses: Employees may use leave to care for their own or a family member’s illness; to seek preventive medical care for themselves or a family member; or in the event that a public health emergency leads to the closure of their workplace or a child's school or daycare.</p> <p>“Family member”: child, spouse, domestic partner, parent, grandchild, grandparent, parent-in-law, or parent of a domestic partner.</p> <p>City Action: Died in committee in 2010. No subsequent action taken.</p> <p>Note: City Council Speaker Christine Quinn was originally opposed to this legislation as a job-killing mandate. Mayor Bloomberg also opposes the legislation and has vowed to veto it if the Council passes it. Amendments that would make the legislation more “business friendly” – particularly small businesses – were proposed in early 2012 but never incorporated.</p> <p>Company Position: Con Edison is part of a 5 borough coalition of business organizations established to defeat this legislation as a job-killing mandate.</p>
<p>MINIMUM WAGE</p>	<p>Mayor Bloomberg: Supports efforts in the state Legislature to raise the minimum wage from \$7.25/hour to \$8.50/hour.</p> <p>City Council Speaker Christine Quinn: Has not publicly expressed support or opposition to this legislation.</p>

New York State

PREVAILING WAGE FOR ELECTRIC & GAS UTILITY SERVICE WORKERS

A.9375 (Camara)/S.7434 (Savino): Requires public agencies (utilities) to pay prevailing wages to an expanded list of service workers.

Public Agencies: Definition expanded to include gas, steam and electric utilities.

Service Workers: Includes all janitorial and security service work under contract in excess of \$2,000 with any public agency (i.e., gas, steam, electric utility).

Penalties: Willful failure to file payroll records with the appropriate public agency becomes a class E felony. Criminal penalties and fines are also significantly increased for failure to pay prevailing wages.

BIDS: Exempt *unless* such work would have been subject to the prevailing wage mandate in effect on January 1, 2011. The exemption is limited b/c of a pending NYC Comptroller determination as to whether or not the prevailing wage mandate should be expanded to BID workers who are providing janitorial and security service work on public sidewalks outside of buildings.

State Action: Introduced to Assembly Labor Committee. Has not otherwise moved. Recently introduced to the Senate Labor Committee by Senator Savino (D-SI), a member of the Senate Independent Democratic Caucus (commonly referred to as the "IDC").

Company Position: Con Edison opposes this legislation because it seeks to establish a dangerous precedent by requiring utilities to pay a prevailing wage rate to a select group of contractors and subcontractors, and, in turn, increase customers' utility costs.

PREVAILING WAGE ON ELECTRIC & GAS UTILITY STREET OPENING PROJECTS

UTILITY "COMPETENT WORKERS" REQUIREMENTS

A.6970 (Wright)/S.3827 (Maziarz): Conditions the issuance of a street use/excavation permit to a utility (applicable to all utilities) on the use of skilled, competent workers and payment of the prevailing wage.

Bonding Requirement: This bill triggers State Finance Law § 137, which requires contractors to obtain payment bonds. Many smaller contractors, including MWBEs, typically cannot afford to purchase those bonds and, as a result, are not able to participate in these jobs.

State Action: Advanced to Assembly Calendar. Pending in Senate Labor Committee.

Company Position: Con Edison opposes this legislation because it imposes costly new labor mandates on utilities that will lead to higher utility rates for customers and because it will significantly delay work by requiring local governments to ensure that the mandates of this bill are met before they can issue permit.

<p style="text-align: center;">PREVAILING WAGE – NYC COMPTROLLER’S AUTHORITY TO ESTABLISH PREVAILING WAGE</p>	<p>A.10036 (Lancman): Restores regulatory authority to NYC Comptroller to set prevailing wages for city-employed plumbers, carpenters and other maintenance workers.</p> <p>Rationale: The sponsor argues that having trade workers engage in collective bargaining with NYC will neither save NYC money nor provide better working conditions for those workers. This legislation would uphold the intent of prevailing wage which is to guarantee good working conditions and fair pay for workers employed on projects funded through taxpayer dollars.</p> <p>Political Landscape: Lancman is running for Congress in Queens. He likely introduced this bill to garner union support for his campaign.</p> <p>State Action: This bill was recently introduced in the Assembly. It does not have a Senate sponsor and it is very unlikely to gain much traction in either House.</p> <p>Company Position: Con Edison has not taken a position on this issue.</p>
<p style="text-align: center;">MINIMUM WAGE</p>	<p>A.9148(Wright)/S.6413(Klein): Raises the minimum wage from \$7.25/hour to \$8.50/hour beginning January 1, 2013. Indexes rate to inflation each January 1st, thereafter. Imposes the new minimum wage requirements on all public entities.</p> <p>State Action: Voted out of committee and is now on the Assembly Calendar. Will be eligible for a vote by the full Assembly next week. Pending in Senate Labor Committee.</p> <p>Assembly Position: Strongly supported by Assembly Speaker Sheldon Silver who made the initial announcement in brief remarks made prior to the State of the State Address.</p> <p>Senate Position: Majority Leader Senator Skelos has said he considers the bill to be a “job killer” and that he doesn’t think the Assembly bill would pass the Senate.</p> <p>Governor: Cuomo has not officially taken a position. However, he publicly commented numerous times that he has supported past increases. Recently, he expressed doubt that the measure would be approved this session.</p> <p>Company Position: Con Edison has not taken a position on this legislation.</p>