

Memorandum

PREPARED FOR: Rep. Valderrama
DATE: November 18, 2024
BY: Tyler Larson, Research Analyst
RE: Data on Oregon's Agriculture Workforce and
Background on State and Local Wage Boards



LPRO
LEGISLATIVE POLICY
AND RESEARCH OFFICE

This memorandum responds to your request for 1) potential data sources to inform discussion of wages, hours, and working conditions for agricultural workers, and 2) background on wage boards used by state or local government to establish wages or work conditions for an industry sector.

Regarding potential sources of data to inform discussion of wages, hours, and working conditions for agricultural workers, LPRO staff noted the lack of relevant data during discussion of [House Bill 4002 \(2022; enacted\)](#) which established maximum hour and overtime requirements for Oregon agricultural workers.

The Colorado Agricultural Work Advisory Committee recently reported a similar challenge: “The current sparsity of data related to agricultural workers in Colorado limits the findings and recommendations contained in the 2023 Committee Report....[Therefore] [n]o recommendations related to the agriculture industry can be made at this time.”¹

However, limited data regarding wages, hours, and working conditions relevant to this conversation in Oregon is available from these sources:

- the [Oregon Employment Department](#)
- the [Oregon Department of Agriculture](#)
- the [U.S. Department of Agriculture](#)
- the [U.S. Census Bureau](#)

Wage Boards by State or City

This section describes the use of wage boards by seven states (Arizona, California, Colorado, Minnesota, New Jersey, New York, Nevada) and the City of Seattle. Table 1 (page 16) summarizes selected elements of the various wage boards.

Of the 13 wage boards examined, only three are policymaking bodies authorized to establish industry wages, hours, or working conditions by rule:

- the California Industrial Welfare Commission
- the California Fast Food Council
- the Minnesota Nursing Home Workforce Standards Board

¹ Colorado Agricultural Work Advisory Committee, *2023 Annual Report and Recommendations*, [https://www.leg.state.co.us/library/reports.nsf/xsp/.ibmmodres/domino/OpenAttachment/library/reports.nsf/EFD2CA168EFA09EE87258980005F5535/AttachReport/2023 Colorado Agricultural Work Advisory Committee Report.pdf](https://www.leg.state.co.us/library/reports.nsf/xsp/.ibmmodres/domino/OpenAttachment/library/reports.nsf/EFD2CA168EFA09EE87258980005F5535/AttachReport/2023%20Colorado%20Agricultural%20Work%20Advisory%20Committee%20Report.pdf) (undated).

All other bodies are authorized only to recommend wages, hours, or working conditions to policymakers.

Arizona

Overview

Arizona's wage board statute requires the state industrial commission, upon finding that minors in a given occupation are receiving oppressive and unreasonable wages, to appoint a wage board to recommend minimum fair wage standards. While the authority to establish a wage board exists in statute, it has not been utilized in the last several decades. Arizona's wage board provisions apply only to minors.

Minor Wage Boards (MWB)

Arizona statute requires the state industrial commission, on the petition of 20 or more residents engaged in any particular occupation, to investigate the wages paid to minors in that occupation.² If the commission is of the opinion that a substantial number of minors in an occupation are receiving wages that are both less than the fair and reasonable value of the services rendered and less than sufficient to meet the minimum cost of living necessary for health, it must appoint a MWB as an advisory body to recommend minimum fair wage rates for the occupation.

A MWB must be composed of

- up to three representatives of the employees in the occupation,
- an equal number of representatives from employers in the occupation, and
- one industrial commissioner who is the chairperson.³

MWB members are selected by the commission from nominees submitted by employers and employees. Any recommendations or report of the wage board must be approved by a majority of members. A MWB must operate quickly, as it has no more than 10 days after its organization to submit a report recommending minimum fair wage standards for minors in the occupation.⁴ If a report from the MWB is not submitted within 10 days, the commission must appoint a new MWB.

Once the commission receives a report from the MWB, it has 10 days to accept or reject the report. A rejected report must be returned to the same or a new MWB with a statement of reasons for resubmission. If the commission approves of a MWB report, it must adopt the minimum wage for the occupation along with any required administrative regulations.⁵ The commission may reconsider any minor wage order that has been in

² [Ariz. Rev. Stat. Ann. 23-313.](#)

³ [Ariz. Rev. Stat. Ann. 23-314.](#)

⁴ [Ariz. Rev. Stat. Ann. 23-321.](#)

⁵ [Ariz. Rev. Stat. Ann. 23-322.](#)



effect for one year or more and may reconvene a new or the same MWB to recommend whether or not wage rates should be revised.⁶

Review of Arizona's statutes, legislative history, caselaw, and publications including local news and law reviews suggests that while the authority to establish a MWB exists in statute, it has not been utilized in the last several decades. Statutes related to MWBs were last amended in 1973. LPRO is not able to locate caselaw interpreting the MWB statutes.

California

Overview

California law grants the Industrial Welfare Commission (IWC) broad authority to establish wages, hours, and working conditions for California's various occupations, but the body has not been active since it was defunded in 2004. The California Legislature recently established the Fast Food Council to address working conditions in that industry.

Industrial Welfare Commission (IWC)

California law establishes the IWC as a policymaking body within the Department of Industrial Relations (DIR) and grants the IWC broad authority to establish wages, hours, and working conditions for California's various occupations.⁷ The IWC has existed since 1913 but was defunded in 2004 at the request of the [California Federation of Labor Unions](#), which stated members believed the commission no longer served the interests of workers.⁸

The [IWC's wage orders for 17 California industries](#) remain in effect and subject to enforcement by the Labor Commissioner, but any updates to the wage, hour, or working conditions established in those orders have been enacted by legislation since the IWC was defunded in 2004. For example, [Assembly Bill 1066 \(2016\)](#) amended the California Labor Code to remove an exemption for agricultural employees regarding hour, meal breaks, and other working conditions as well as phased in overtime requirements for agricultural workers. Those changes are reflected in the current version of the [IWC's Wage Order for Agricultural Occupations](#).

⁶ [Ariz. Rev. Stat. Ann. 23-324](#).

⁷ [Cal Labor Code sects. 70 to 74 and 1173](#).

⁸ ["Is California Using an Old Labor Board to Get Around a Fast Food Industry Referendum?"](#) CapRadio, June 28, 2023.



Fast Food Council (FFC)

The California Legislature has enacted a state FFC twice. Shortly after the FFC was first established in 2022, opponents gathered enough signatures to hold a vote referendum. In 2023, the Legislature enacted a negotiated version of the FFC with a narrower scope.

The FFC was first established in [Assembly Bill 257 \(2022\)](#), the Fast Food Accountability and Standards (FAST) Recovery Act. The original FFC was authorized to adopt wage, hour, and working condition standards for the industry, but only after the Director of Industrial Relations receives a petition approving the creation of the FFC signed by at least 10,000 fast food restaurant employees.⁹ The minimum wage was to be no greater than \$22 for 2023, and increase “by no more than the lesser of” 3.5 percent or the rate of change for the last year for the U.S. Bureau of Labor Statistics Consumer Price Index for Urban Wage Earners and Clerical Workers (U.S. CPI-W). Counties and cities with a population greater than 200,000 were authorized to establish local fast food councils to hear from the public, including fast food restaurant employees, about issues of local fast food restaurant health, safety, and employment conditions, and to make recommendations to the FFC.

Assembly Bill 257 was signed by the California Governor September 5, 2022. On January 24, 2023, the Secretary of State certified that opponents had gathered enough signatures to refer the measure to voters for their approval or rejection at the November 5, 2024, General Election.¹⁰ On September 11, 2023, the Save Our Local Restaurants PAC announced it had reached a compromise with lawmakers.¹¹ On December 29, 2023, the PAC withdrew its veto referendum for Assembly Bill 257.¹²

The compromise between industry and lawmakers was [Assembly Bill 1228 \(2023\)](#), which repealed all provisions related to the FFC and enacted a more streamlined version of the council, which is still charged with establishing wages, hours, and working conditions for the fast food industry. AB 1228 no longer includes the petition requirement or local councils, and it also established a \$20 per hour minimum wage for the fast food industry which became effective April 1, 2024.¹³ The FFC is authorized to increase the minimum wage for the industry annually beginning January 1, 2025, by the lesser of 3.5 percent or the rate of change for the last year for the U.S. CPI-W.

⁹ [Sect. 4, 1471\(c\)\(2\), Cal. Assembly Bill No. 257 \(2022\)](#).

¹⁰ [Memo from Shirley Weber, California Secretary of State, to County Clerks dated January 24, 2023](#).

¹¹ [“California Campaign Withdraws Veto Referendum on Fast-Food Employment Law From 2024 Ballot Under New Process”](#), Ballotpedia News, January 3, 2024.

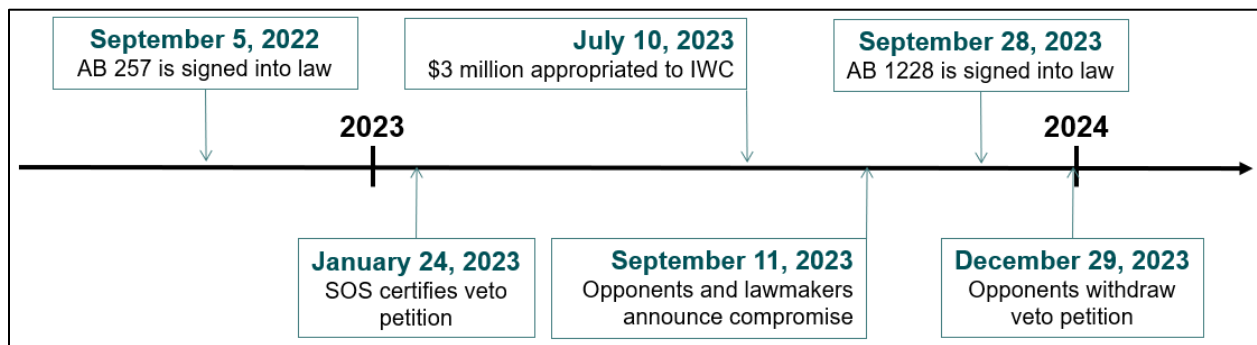
¹² California Secretary of State, Initiatives and Referendum, footnote 1, <https://www.sos.ca.gov/elections/ballot-measures/referendum#1> (last visited November 18, 2024).

¹³ State of California Department of Industrial Relations (Cal. DIR), *Fast Food Minimum Wage Frequently Asked Questions*, <https://www.dir.ca.gov/dlse/Fast-Food-Minimum-Wage-FAQ.htm> (last visited November 18, 2024).



The FFC sunsets January 1, 2029, but any standards adopted by the FFC are not impacted by the sunset. The [FFC webpage](#) shows the council has been meeting since March 2024. Review of the FFC’s public meeting agendas for [March 15](#), [July 31](#), [August 22](#), [September 11](#), and [October 22](#) shows the council has largely focused on hiring an Executive Officer. [Restaurant owners](#) and the [California Fast Food Union](#) have submitted written testimony to the FFC regarding the impact of the \$20 per hour industry minimum wage and identifying their priorities.

Figure 1: Timeline of Events Related to the Establishment of the FFC



Source: LPRO

Colorado

Overview

Colorado law grants the Director of the Division of Labor Standards and Statistics (Director) broad authority to establish minimum wages and conditions of employment in consultation with advisory bodies known as wage boards. While the authority to establish a wage board exists in statute, it has not been utilized in the last several decades.

Legislation has recently established advisory groups to recommend wages and working conditions for the agriculture and direct care sectors. While the direct care advisory group was able to make recommendations, the agricultural worker advisory group reported that it was unable to make industry recommendations due to a lack of relevant data and worker input in 2023.

Wage Boards

Colorado statute requires the Director to establish minimum wages adequate “to supply the necessary costs of living and to maintain the workers in health” and conditions of employment which are not “detrimental to the health or morals.”¹⁴ The Director may

¹⁴ [Colo. Rev. Stat. 8-6-109.](#)



establish minimum wages and conditions of employment either directly or by establishing a wage board as an advisory body and appointing equal members representing employers and employees in the occupation. At the request of the Director, a wage board must determine for the occupation

- conditions of employment,
- the minimum wage adequate to maintain an employee of ordinary ability “in health and to supply the necessary cost of living,” and
- wage scales for learners and apprentices.¹⁵

Any conditions or wages agreed upon by a majority of wage board members are reported to the Director for approval, disapproval, or referral to a new or the same wage board.¹⁶ If the Director approves, a public meeting must be noticed and held to allow for public comment on the recommendations. After the meeting, the Director may adopt the recommendations via order which becomes effective 30 days after it is made. The Director must mail a copy of any order to every affected employer. Affected employers must keep a copy of any relevant orders posted conspicuously in their establishment. Existing wage orders may be amended by the same process. The Director must “survey and review for adequacy established wage orders.”

Agricultural Work Advisory Committee (AWAC)

Legislation enacted in 2021 required the Director to establish the AWAC as an advisory body to analyze the wages and working conditions of agricultural workers and report findings and recommendations to the Legislature.¹⁷ The AWAC is composed of nine members, four appointed by the Director:

- two members who have worked as agricultural workers
- two members who are advocates of workers' rights

Five members are appointed by the Commissioner of Agriculture:

- three members who represent agricultural employers
- two representatives from the Migrant Farm Worker Division of Colorado Legal Services, or its successor organization

The AWAC must annually report its progress, findings, and legislative recommendations to the appropriate legislative committees. Since January of 2023, the AWAC or a subcommittee has met at least monthly.¹⁸ The AWAC’s first report to the Legislature dated December 6, 2022, noted that members were chosen and that the AWAC

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ [Colo. Rev. Stat. 8-13.5-205](#).

¹⁸ Colo. Dept. of Labor and Employment, *Agricultural Labor Rights and Responsibilities*, <https://cdle.colorado.gov/dlss/agricultural-labor-rights-and-responsibilities> (last visited November 18, 2024).



planned to develop areas of focus and decision-making procedures.¹⁹ The AWAC's most recent report indicates that further data is needed to inform the committee's work:

In general, the work of the Committee was built on consensus. Given the lack of data and the varying perspectives of Committee members, it has been a challenge to reach consensus on certain issues. Additionally, direct worker engagement has been challenging and efforts should be made for broad direct worker participation. The Committee also notes that the majority of the discussions have focused on the highly seasonal workforce based on the perspectives of representatives on the Committee and the data presented and discussed. The current sparsity of data related to agricultural workers in Colorado limits the findings and recommendations contained in the 2023 Committee Report....[Therefore] [n]o recommendations related to the agriculture industry can be made at this time.²⁰

The committee sunsets September 1, 2031.

Direct Care Workforce Stabilization Board (DCWSB)

Established by legislation in 2023 with equal representation from employers, employees, and consumers, the DCWSB is an advisory body required to develop and recommend employment standards for the direct care industry. The term “direct care services” describes the following types:

- personal care services, including assistance with activities of daily living, housekeeping, personal laundry, medication reminders, and companionship services furnished to a home care consumer
- home- and community-based long-term care services that do not require the provider to be licensed or certified²¹

The DCWSB's recommendations must consider both the health and safety of direct workers and the dignity and independence of direct care consumers.²² The DCWSB's

¹⁹ Colo. Agricultural Work Advisory Committee, *2022 Colorado Agricultural Work Advisory Committee Report* (Dec 6, 2022) available at <https://www.leg.state.co.us/library/reports.nsf/xsp/.ibmmodres/domino/OpenAttachment/library/reports.nsf/EFD2CA168EFA09EE87258980005F5535/AttachReport/2022%20Colorado%20Agricultural%20Work%20Advisory%20Committee%20Report.002.pdf>.

²⁰ Colo. Agricultural Work Advisory Committee, *Colorado Agricultural Work Advisory Committee: 2023 Annual Report and Recommendations* (Undated) available at <https://www.leg.state.co.us/library/reports.nsf/xsp/.ibmmodres/domino/OpenAttachment/library/reports.nsf/EFD2CA168EFA09EE87258980005F5535/AttachReport/2023%20Colorado%20Agricultural%20Work%20Advisory%20Committee%20Report.pdf>.

²¹ Colo. Rev. Stat. 8-7.5-102(6).

²² Colo. Rev. Stat. 8-7.5-104(1)(a)(I).



first 18 recommendations were released in September 2024.²³ Recommendations include the following:

- Increasing awareness of direct care worker rights, including posted notice of worker rights, mandatory paid “Know Your Rights” training, and a direct care worker website where materials relevant to the industry are posted.
- Identifying and addressing systemic racism and economic injustice in the direct care industry including guidelines for equitable and responsible interactions between clients and caregivers and policies and procedures for identifying consumers who repeatedly and knowingly violate the civil rights of direct care workers.
- Ensuring workers receive a living wage by allocating sufficient funds to Colorado’s Medicaid program to reach a \$25 per hour base wage requirement for direct care workers by 2026 and escalate the base wage annually with a cost of living adjustment.
- Improving worker benefits, including paid time off, more affordable health care, and adult care reimbursement for direct care workers.
- Identifying, funding, and implementing improved methods for enforcing industry regulations.

Minnesota

Overview

Established by legislation in 2023, the Minnesota Nursing Home Workforce Standards Board is a policymaking body empowered to adopt wages, hours, and working conditions for the industry. Proposed industry wages do not become effective until they are approved by the federal government and funded by the state legislature.

Nursing Home Workforce Standards Board (NHWSB)

Established by legislation in 2023, the NHWSB is a policymaking body that “must adopt rules establishing minimum nursing home employment standards that are reasonably necessary and appropriate to protect the health and welfare of nursing home workers” and “to ensure that nursing home workers are properly trained about and fully informed of their rights.”²⁴

The NHWSB is specifically authorized to adopt standards by rule through the commissioner of labor and industry, unless the rules fall under the scope of Minnesota’s

²³ Colo. Dept. of Labor and Employment, *Direct Care Workforce Stabilization Board Recommendations - FINAL 09.09.24*, available at https://docs.google.com/document/d/12HdriGlrWr_BdiE4SL4qz2k_J8objT-gmqREE1tSzOM/edit?usp=sharing.

²⁴ [Art. 3, Ch. 53, 2023 Minn. Session Laws](#).



OSHA-approved workplace safety and health program in which case the NHWSB must recommend, and the commissioner of labor must adopt, nursing home health and safety standards.

The nine-member board is composed of

- the commissioner of human services, commissioner of health, and commissioner of labor and industry or their designees;
- three members who represent nursing home employers or employer organizations; and
- three members who represent nursing home workers or worker organization.

Standards relating to compensation for nursing home workers were to be adopted no later than August 1, 2024. The NHWSB has proposed the following:

- Rules governing holiday pay, certification of worker organizations, notice and posting requirements, which become effective January 1, 2025.²⁵ The [proposed rules](#) establish time-and-one-half the regular hourly wage for holidays.
- Rules governing initial wage standards for nursing home workers which become effective January 1, 2026.²⁶ The [proposed rules](#) establish minimum wages for nursing home workers and certain occupations, but only become effective after both the legislature appropriates funds sufficient to cover the necessary rate increase and the federal approval of the rate increase is obtained.

New Jersey

Overview

New Jersey's wage board statute requires the Commissioner of Labor Workforce Development, when of the opinion that a substantial number of employees are receiving less than the fair wage, to appoint a wage board to recommend minimum fair wage rates for employees in that occupation. New Jersey's wage board authority was last utilized in 1995 to recommend an exemption to the state's overtime pay requirements for certain trucking industry employees.

Wage Boards

New Jersey statute requires the Commissioner of Labor and Workforce Development, upon the petition of 50 or more residents of the state, to cause the investigation of any

²⁵ Minn. Dept. of Labor and Industry, *NHWSB Rulemaking: Expedited Rules – Holiday Pay*, <https://www.dli.mn.gov/about-department/rulemaking/nhwsb-rulemaking-expedited-rules-holiday-pay> (last visited November 18, 2024).

²⁶ Minn. Dept. of Labor and Industry, *NHWSB Rulemaking: Expedited Rules – Wages*, <https://www.dli.mn.gov/about-department/rulemaking/nhwsb-rulemaking-expedited-rules-wages> (last visited November 18, 2024).



occupation to ascertain whether a substantial number of employees are receiving less than the fair wage.²⁷ If the commissioner is of the opinion that a substantial number of employees in any occupation are receiving less than a fair wage, the commissioner must appoint a wage board as an advisory body to recommend minimum fair wage rates for employees in that occupation.²⁸ A wage board must include equal representation from employers and employees in the occupation, and three disinterested persons representing the public, one of whom must serve as chairperson.²⁹ Recommendations or reports must receive a majority vote from the wage board members.

From the date of its organization, a wage board has no more 60 days to submit a report recommending minimum fair wages for the occupation in question, including wage scales, hours, and overtime rates.³⁰ If the wage board fails to deliver report within 60 days of organization, the commissioner may constitute a new wage board.

Once the commissioner receives a report from the MWB, they have 10 days to accept or reject the report.³¹ A rejected report must be returned to the same or a new MWB with a statement of reasons for resubmission. If accepted, the commissioner must proceed to notice and public hearing to adopt a wage order for the occupation.³²

The commissioner may reconsider independently, and must reconsider upon petition of 50 or more residents, any wage order that has been in effect for one year or more and may reconvene the same or a new wage board to recommend whether or not wage rates should be modified.³³

Review of New Jersey's statutes, legislative history, caselaw, and publications including local news and law reviews suggests a wage board was last convened in 1995 "because of uncertainty regarding whether trucking industry employees were covered by the overtime provision and in order to ensure that New Jersey trucking companies remained competitive with out-of-state companies that were not covered by their own states' overtime requirements."³⁴ Based on the recommendation of the wage board, the commissioner adopted an exemption from the state's overtime pay requirements for certain trucking industry employees. After an appellate court found the commissioner exceeded his statutory authority in enacting the rule, the legislature adopted the overtime exemption for certain trucking industry employees into statute in 2000.³⁵

²⁷ [N.J. Stat. Ann. 34:11-56a7.](#)

²⁸ [N.J. Stat. Ann. 34:11-56a8.](#)

²⁹ [N.J. Stat. Ann. 34:11-56a9.](#)

³⁰ [N.J. Stat. Ann. 34:11-56a13 to 34:11-56a14.](#)

³¹ [N.J. Stat. Ann. 34:11-56a15.](#)

³² [N.J. Stat. Ann. 34:11-56a16.](#)

³³ [N.J. Stat. Ann. 34:11-56a17.](#)

³⁴ [Keeley v. Loomis Fargo & Co., 183 F.3d 257, 266 \(1999\).](#)

³⁵ [In re Raymour and Flanigan Furniture, 964 A.2d 830, 837 \(2009\).](#)



New York

Overview

New York statute requires the industrial commissioner to convene a wage board to investigate and recommend wages upon request from 50 or more employees in that occupation. The state utilized wage boards to establish wages for fast food workers in 2015 and to phase in overtime hours for farm workers in 2022.

Wage Boards

“[I]t is the declared policy of the state of New York” to establish and maintain minimum wages “sufficient to provide adequate maintenance for [workers] and their families.”³⁶ The industrial commissioner may (*and must when requested by 50 or more residents engaged in an occupation*) cause an investigation of wages paid to employees in an occupation.³⁷

If...the commissioner is of the opinion that any substantial number of persons employed in any occupation or occupations are receiving wages insufficient to provide adequate maintenance and to protect their health, [they] shall appoint a wage board to inquire into and report and recommend adequate minimum wages and regulations for employees in such occupation or occupations.³⁸

A wage board must include equal representation with up to three representatives each from employers, employees, and the general public. Members are appointed by the commissioner, with employers and employees chosen from nominees and a member of the public designated as the chairperson.³⁹ Once convened, a wage board has power to administer oaths, subpoena witnesses and records, and depose witnesses. From the date the wage board is appointed, it has 45 days to submit a report to the commissioner recommending minimum wages and regulations including hours and overtime for employees in the occupation. Recommendations require a majority vote of the wage board members. The commissioner may extend a wage board’s work time to 90 days.

Upon receipt of a wage board report, the commissioner must publish notice of the report and recommendations within 5 days and receive comment for 15 days after publication of notice.⁴⁰ The commissioner has 45 days after giving notice to accept, reject, or modify the board’s report and recommendation, or may remand the matter to the board for further proceedings. Any recommendations or modified recommendations approved by the commissioner are adopted as a wage order, which becomes effective 30 days after publication.

³⁶ [N.Y. Labor Law sect. 650.](#)

³⁷ [N.Y. Labor Law sect. 653.](#)

³⁸ *Id.*

³⁹ [N.Y. Labor Law sect. 655.](#)

⁴⁰ [N.Y. Labor Law sect. 656.](#)



In completing their work, both the wage board and the commissioner must consider the following:

- the amount sufficient to provide adequate maintenance and to protect health
- the wages paid in the state for work of like or comparable character⁴¹

The Commissioner currently has wage orders in place for

- hospitality industry/fast food workers,
- farm workers,
- building service industry,
- miscellaneous industries (all industries not covered by another wage order), and
- non-profit organizations.⁴²

Food Service Workers Wage Board (FSWWB)

New York statute establishes a minimum wage schedule for the state that includes wages by year.⁴³ The Industrial Commissioner must, within six months of any change to the statutory minimum wage, appoint a FSWWB to recommend any changes to wage orders governing “food service workers,” employees in the hotel or restaurant industries primarily engaged in serving food or beverages to customers.⁴⁴ Members of the FSWWB are selected by nominations from the AFL-CIO and the New York State Business Council. The recommendations of this wage board are adopted in [New York’s Hospitality Industry Wage Order](#), which was amended in 2015 to include wages for fast food workers.

Farm Laborers Wage Board (FLWB)

Legislation enacted in 2019 granted farm laborers collective bargaining rights, entitled farm laborers to at least 24 hours of consecutive rest each week, established overtime rates for work in excess of 60 hours per week, and required the commissioner to establish a FLWB to recommend successively lower overtime work thresholds and phase-in dates.⁴⁵

The FLWB is composed of three members appointed by the commissioner:

- one representative of the farm bureau
- one representative of the N.Y. AFL-CIO
- one member of the general public who is the chairperson⁴⁶

⁴¹ [N.Y. Labor Law sect. 654.](#)

⁴² N.Y. Dept. of Labor, *Wage Orders*, <https://dol.ny.gov/wage-orders> (last visited November 18, 2024).

⁴³ [N.Y. Labor Law sect. 652.](#)

⁴⁴ [N.Y. Labor Law sect. 653.](#)

⁴⁵ [N.Y. Assembly Bill A8419 \(2019-2020\).](#)

⁴⁶ [N.Y. Labor Law sect. 674-A.](#)



The FLWB met over two years and finally voted 2-1 (the farm bureau representative voted against) to adopt a 10-year overtime phase-in schedule reducing the overtime threshold from 60 hours in 2022 to 40 hours in 2023.⁴⁷ The Commissioner approved those recommendations, which are adopted in [New York's Wage Order for Farm Workers](#).⁴⁸

Nevada

Overview

Authorized by legislation in 2021, the Home Care Employment Standards Board must investigate and recommend minimum wages and working conditions for Nevada's home care industry. The board approved 15 recommendations in 2022, including a Medicaid reimbursement rate of \$25 per hour for home care services and minimum wage of \$15 per hour for home care employees.

Home Care Employment Standards Board (HCESB)

Legislation enacted in 2021 requires the Director of the Department of Health and Human Services, upon their own judgment or petition of 50 or home care employees, to establish a HBESB to investigate and recommend minimum wages and working conditions for the home care industry.⁴⁹ The HCESB consists of the director who serves as chair and nonvoting member, the Labor Commissioner, and 9 members appointed by the director:

- three representatives of home care employers
- three representatives of home care employees
- three persons who receive or are representatives of persons who receive services from a home care employee

A majority of voting members constitutes a quorum to transact business, and a majority of the quorum present at any meeting is sufficient to approve any recommendation of the board.

If the HCESB is established upon the petition of 50 or more home care employees, the director must meet with representatives of petitioners to discuss matters related to working conditions and compliance with laws within 30 days of receiving the petition, and hold the first meeting of the HCESB within 60 days of meeting with representatives

⁴⁷ N.Y. Farm Bureau, *Wage Board Report Approved 2-1*, <https://www.nyfb.org/news/news-articles/wage-board-report-approved-2-1> (undated; last visited November 18, 2024).

⁴⁸ Cornell University, *New York Farm Laborer Overtime Threshold to Decline*, <https://agworkforce.cals.cornell.edu/2022/10/03/new-york-farm-laborer-overtime-threshold-to-decline/> (October 3, 2022).

⁴⁹ [Nev. Rev. Stat. 608.610](#).



of petitioners.⁵⁰ The HCESB must investigate and develop recommendations regarding minimum wages as well as safe and healthful working conditions for home care employees, and may administer oaths, take testimony, and subpoena witnesses and materials relevant to the investigation.⁵¹ The scope of the investigation may include the impact of the state's long-term care policy goals and the adequacy of state reimbursement rates for home care employers. The HCESB has one year from the date of its first meeting to submit a report of its findings and recommendations.

The director must make the report available to the public on the department's website and review the findings and recommendations.⁵² The director may approve or disapprove any recommendations or recommit the issue to the same or a new HCESB to conduct a new investigation and develop new recommendations. The director must adopt regulations to establish any recommendations of which the director approves.⁵³

The HCESB was established in 2021 and submitted a report to the director in December 2022.⁵⁴ The HCESB approved 15 recommendations, including the following:

- Adopting a Medicaid reimbursement rate of \$25 per hour for home care services and minimum wage of \$15 per hour for home care employees.
- Requiring that certain trainings are paid for home care employees, including know your rights and essential medical trainings like CPR and First Aid.
- Requiring home care providers to use only employees as opposed to independent contractors who are not entitled to benefits.
- Commissioning a study on the savings to Nevada Medicaid due to home and community-based services.

City of Seattle

Overview

Established by city ordinance in 2018, the Domestic Workers Standards Board makes recommendations to the city on legal protections, benefits, and working conditions for the domestic worker industry.

Domestic Workers Standards Board (DCWSB)

Established by city ordinance in 2018, the DCWSB “provide[s] a forum for hiring entities, domestic workers, worker organizations, and the public to consider, analyze, and make recommendations to the City on the legal protections, benefits, and working conditions

⁵⁰ [Nev. Rev. Stat. 608.620 to 608.630.](#)

⁵¹ [Nev. Rev. Stat. 608.640.](#)

⁵² [Nev. Rev. Stat. 608.650 to 608.660.](#)

⁵³ [Nev. Rev. Stat. 608.640.](#)

⁵⁴ Nev. Dept. of Health and Human Svcs., *Home Care Employment Standards Board*, https://dhhs.nv.gov/Programs/HCESB/HCESB_Home/ (last visited November 18, 2024).



for domestic worker industry standards.”⁵⁵ “Domestic worker” means “any worker who 1) is paid by one or more hiring entities; and 2) provides domestic services to an individual or household in or about a private home as a nanny, house cleaner, home care worker, gardener, cook, or household manager.”⁵⁶

The board consists of 13 members who are appointed by the mayor and city council:

- six must be domestic workers, four of whom may be worker organization representatives
- four representatives of hiring entities
- two individuals who contract with or hire domestic workers
- one community representative

The board must submit an updated workplan to the Mayor and City Council every two years. Pursuant to its workplan, the board must provide commendations to the City Council on an established set of subjects including wage standards for the industry including overtime and pay differentials and training, outreach, and enforcement strategies to ensure compliance with applicable labor standards.

[April 2021 recommendations from the DWSB to the City Council and Mayor](#) established a vision and values, identified barriers to achieving that vision, and made recommendations in four areas:

- Invest in community expertise and building trust.
- Provide more materials and resources to domestic workers and hiring entities.
- Implement policy changes to improve the Domestic Workers Ordinance.
- Mandate portable benefits for domestic workers.⁵⁷

The DWSB website also identifies as [accomplishments](#):

- A May 4, 2020, letter calling on Governor Jay Inslee to immediately address the impact of the COVID-19 pandemic on domestic workers.
- A June 10, 2020, letter condemning the violence against Black people by police and calling for the immediate defunding of the Seattle Police Department.
- An October 5, 2020, budget request to the City Council for \$150,000 for outreach and enforcement.⁵⁸

⁵⁵ [City of Seattle Washington Municipal Code 14.23.030](#).

⁵⁶ [City of Seattle Washington Municipal Code 14.23.010](#).

⁵⁷ City of Seattle Domestic Workers Standards Board, *Report and Recommendations to City Council & Mayor*,

https://www.seattle.gov/documents/Departments/LaborStandards/DWSB%20Recs_FINAL_040621.pdf (April 2021).

⁵⁸ City of Seattle Domestic Workers Standards Board, *What We Do: Accomplishments*, <https://www.seattle.gov/domestic-workers-standards-board/what-we-do/accomplishments> (last visited November 18, 2024).



Table 1: Summary of Wage Board Elements

Entity, Statutory References, and Brief Description	Advisory or Policymaking Duties and Authority	Outcomes	How Workers Participate
<p>Arizona Minor Wage Boards (MWB) Az. Stat. 23-311 et seq Established when the state industrial commission believes a substantial number of minors in an occupation are receiving wages less than sufficient to meet the minimum cost of living necessary for health. Wage board must be composed of</p> <ul style="list-style-type: none"> • up to 3 representatives of employees in the occupation • an equal number of representatives from employers in the occupation • 1 industrial commissioner who is the chairperson <p>Once organized, a wage board has no more than 10 days to submit a report recommending minimum fair wages for minors in the occupation.</p>	<p>Advisory Body A MWB must Submit to the state industrial commission a report approved by a majority of members recommending minimum fair wages for minors in the occupation within 10 days of organization. Recommendations must consider</p> <ul style="list-style-type: none"> • wages paid for comparable work • the minimum cost of living <p>A MWB may</p> <ul style="list-style-type: none"> • Differentiate and classify employment in any occupation according to the nature of the service rendered and recommend appropriate minimum fair wage rates for different employments • Recommend a suitable scale of wage rates for learners and apprentices in any occupation 	<p>Inactive Review of Arizona’s statutes, legislative history, caselaw, and publications including local news and law reviews suggests that while the authority to establish a wage board exists in statute, it has not been utilized in the last several decades. Statutes related to wage boards were last amended in 1973. LPRO is not able to locate caselaw interpreting the wage board statutes.</p>	<p>MWB Representation Each MWB must contain equal representation from occupation employers and employees. It is a petty crime for an employer to discriminate against an employee for participating in any part of the wage board process.</p>



Entity, Statutory References, and Brief Description	Advisory or Policymaking Duties and Authority	Outcomes	How Workers Participate
<p>California Industrial Welfare Commission (IWC) Cal Labor Code sects. 70 to 74 and 1173 Established in the Dept. of Industrial Relations. Consists of 5 members appointed by the Governor with the consent of the Senate:</p> <ul style="list-style-type: none"> • 2 representatives of organized labor who are members of recognized labor organizations • 2 representatives of employers • 1 representative of the general public 	<p>Policymaking Body The IWC must</p> <ul style="list-style-type: none"> • Review the wages, hours, and working conditions of the various occupations. • Investigate the health, safety, and welfare of employees. • Review the adequacy of the minimum wage at least once every two years. • Consult with and defer to California's OSHA-approved workplace safety and health program. <p>The IWC may Adopt, amend, or rescind orders covering any occupation, trade, or industry.</p>	<p>Standards Established for 17 Industries; Inactive since 2004 While active, the IWC adopted standards for 17 California industries. The IWC was defunded in 2004 at the request of the California Federation of Labor Unions, which stated that members felt the IWC no longer represented the interests of workers. A proposal to re-fund the IWC was made before the fast food industry agreed on a renegotiated Fast Food Council.</p>	<p>IWC representation 2 of the 5 IWC members must be representatives of organized labor.</p>



Entity, Statutory References, and Brief Description	Advisory or Policymaking Duties and Authority	Outcomes	How Workers Participate
<p><u>California Fast Food Council (FFC)</u> <u>Cal. Labor Code sects. 1474 to 1777</u> Established in the Dept. of Industrial Relations. 9 voting members:</p> <ul style="list-style-type: none"> • 2 representatives of the fast food industry • 2 representatives of fast food restaurant franchisees or owners • 2 representatives of fast food restaurant employees • 2 representatives of advocates for fast food restaurant employees • 1 unaffiliated member of the public <p>Voting members are appointed by the Governor, except the advocates for fast food employees who are appointed by the Speaker of the Assembly and the Senate Committee on Rules.</p>	<p>Policymaking Body The FFC must</p> <ul style="list-style-type: none"> • Develop and adopt by rule minimum employment standards to protect and ensure the welfare of fast food restaurant workers. • Provide direction to, and coordinate with, state agencies regarding the health, safety, and employment of fast food restaurant workers. <p>The FFC may</p> <ul style="list-style-type: none"> • Annually adopt a minimum wage for the industry for 2026 through 2029. 	<p>Began meeting in 2024 Since first convening in March, the council has largely focused on hiring an Executive Officer. Restaurant owners and the California Fast Food Union have submitted written testimony to the FFC regarding the impact of the \$20 per hour industry minimum wage established by legislation and identifying regulatory priorities.</p>	<p>FFC Representation 4 of the 9 voting FFC members must represent the interests of workers. It is unlawful to discriminate against workers who participate with the FFC.</p>



Entity, Statutory References, and Brief Description	Advisory or Policymaking Duties and Authority	Outcomes	How Workers Participate
<p>Colorado Wage Boards Colo. Rev. Stat. 8-6-109 to 8-6-115 Established at the discretion of the Director of the Division of Labor Standards and Statistics with equal representation from employers and employees in the occupation to review and make recommendations to the director regarding wages and working conditions for the occupation.</p>	<p>Advisory Body Each wage board must</p> <ul style="list-style-type: none"> • Determine minimum wages and working conditions for the occupation when asked by the director. • Report to the director any conditions of employment or wages agreed upon by a majority of members. Recommendations are adopted at the discretion of the Director. 	<p>Inactive Review of Colorado's statutes, legislative history, caselaw, and publications including local news and law reviews suggests that while the authority to establish a wage board exists in statute, it has not been utilized in the last several decades. Statutes related to wage boards were last amended in 1969. LPRO is not able to locate caselaw interpreting the wage board statutes.</p>	<p>Wage Board Representation Each wage board must contain equal representation from employers and employees. It is a Class 2 misdemeanor to discriminate or retaliate against a worker for encouraging the formation of or participating in any way with a wage board.</p>



Entity, Statutory References, and Brief Description	Advisory or Policymaking Duties and Authority	Outcomes	How Workers Participate
<p><u>Colorado Agricultural Work Advisory Committee (AWAC)</u> <u>Colo. Rev. Stat. 8-13.5-205</u></p> <p>Established in the Division of Labor Standards and Statistics with 9 members who are appointed either by the Director or the Commissioner of Agriculture and who serve 4-year terms:</p> <ul style="list-style-type: none"> • 2 members who have worked as agricultural workers • 2 members who are advocates of workers' rights • 3 members who represent agricultural employers • 2 representatives from the Migrant Farm Worker Division of Colorado Legal Services <p>AWAC sunsets September 1, 2031.</p>	<p>Advisory Body The AWAC must</p> <ul style="list-style-type: none"> • Analyze the wages and working conditions of agricultural workers and report its findings and any legislative recommendations to the legislature. • Annually report its progress, findings, and legislative recommendations to specified legislative committees. 	<p>“No recommendations related to the agriculture industry can be made at this time.” <u>AWAC reported to the legislature at the end of 2023</u> that “[t]he current sparsity of data related to agricultural workers in Colorado limits the findings and recommendations contained in the 2023 Committee Report....[Therefore] [n]o recommendations related to the agriculture industry can be made at this time.”</p>	<p>AWAC Representation 4 of the 9 AWAC members must either have worked as agricultural workers or be advocates for workers' rights</p>



Entity, Statutory References, and Brief Description	Advisory or Policymaking Duties and Authority	Outcomes	How Workers Participate
<p><u>Colorado Direct Care Workforce Stabilization Board (DCWSB)</u> <u>Colo. Rev. Stat. 8-7.5-101 et seq</u></p> <p>Established in the Division of Labor Standards and Statistics with 15 members:</p> <ul style="list-style-type: none"> • 1 representative of the Department of Labor and Employment • 4 members representing direct care employers or employer organizations • 4 members representing direct care workers or worker organizations • 4 members representing direct care consumers, including <ul style="list-style-type: none"> ○ 1 member from an organization representing individuals with disabilities ○ 1 member from an organization representing older adults ○ at least 1 member from a rural or frontier area of the state 	<p>Advisory Body The DCWSB must</p> <ul style="list-style-type: none"> • Develop and report to specified legislative committees and the governor recommendations for minimum direct care employment standards by September 1, 2024, and every 2 years thereafter. • In developing recommendations, investigate direct care market conditions, industry models, the impacts of racial and economic injustice on both workers and consumers, and the adequacy of the reimbursement rates. <p>The DCWSB may</p> <ul style="list-style-type: none"> • If deemed appropriate by the members, extend any recommendations for minimum direct care employment standards to additional types of workers who provide services which are direct care in nature. 	<p>September 2024 Recommendations DCWSB approved <u>18 recommendations</u> including the following:</p> <ul style="list-style-type: none"> • Paid “Know Your Rights” training and a direct care worker website where materials relevant to the industry are posted. • Guidelines for equitable and responsible interactions between clients and caregivers and policies and procedures for identifying consumers who repeatedly and knowingly violate the civil rights of direct care workers. • Allocating sufficient funds to Colorado’s Medicaid program to reach a \$25 per hour base wage requirement for direct care workers by 2026. 	<p>DCWSB Participation 4 of the 15 DCWSB members must represent direct care workers or worker organizations. It is unlawful for a direct care employer to retaliate against a direct care worker for participating in any DCWSB process or proceeding.</p>



Entity, Statutory References, and Brief Description	Advisory or Policymaking Duties and Authority	Outcomes	How Workers Participate
<p><u>Minnesota Nursing Home Workforce Standards Board (NHWSB)</u> <u>Art. 3, Ch. 53, 2023 Minn. Session Laws</u></p> <p>Established by legislation with equal representation from nursing home employers, nursing home workers, and state officials. Members representing employer and employees are appointed by the Governor. A majority vote of the members is required to take any action, including establishing minimum nursing home employment standards.</p>	<p>Policymaking Body The NHWSB must</p> <ul style="list-style-type: none"> • Investigate market conditions and existing wages, benefits, and working conditions for nursing home workers. • Adopt rules establishing minimum nursing home employment standards. • When considering wage or benefit increases, evaluate the impact on nursing home operating payment rates and report to the legislature the increase in funding needed to increase payment rates to comply with employment standards. • Conduct a full review of the adequacy of the minimum nursing home employment standards at least every two years. • Establish and annually review worker training curriculum requirements as well as certify worker organizations to provide training to nursing home workers. • Establish minimum content and posting requirements for nursing home workers' rights. 	<p>Proposed Rulemaking The NHWSB has proposed the following:</p> <ul style="list-style-type: none"> • <u>Rules governing holiday pay, certification of worker organizations, notice and posting requirements</u>, which become effective January 1, 2025. The <u>proposed rules</u> establish time-and-one-half the regular hourly wage for holidays. • <u>Rules governing initial wage standards for nursing home workers</u> which become effective January 1, 2026. The <u>proposed rules</u> establish minimum wages for nursing home workers and certain occupations, but only become effective after both the legislature appropriates funds sufficient to cover the necessary rate increase and the federal approval of the rate increase is obtained. 	<p>NHWSB Representation 3 of the 9 members must represent nursing home workers or worker organizations</p>



Entity, Statutory References, and Brief Description	Advisory or Policymaking Duties and Authority	Outcomes	How Workers Participate
New Jersey Wage Boards N.J. Stat. Ann. 34:11-56a7 et seq Established when the Commissioner of Labor and Workforce Development believes a substantial number of employees are receiving less than the fair wage. A wage board must include equal representation from employers and employees in the occupation, and 3 disinterested persons representing the public, one of whom must serve as chairperson. Recommendations or reports must receive a majority vote from the wage board members.	Advisory Body A wage board must Submit a report recommending minimum fair wages for the occupation in question, including wage scales, hours, and overtime rates within 60 days of organization.	Inactive Last convened in 1995 to consider an exemption to the state's overtime rules for trucking industry employees.	Wage Board Representation A wage board must include equal representation from employers and employees in the occupation.
New York Wage Boards N.Y. Labor Law sect. 650 et seq Established when the Industrial Commissioner believes any substantial number of persons employed in any occupation are receiving insufficient wages. Members are appointed by the Commissioner and must include equal representation with up to three representatives each from employers, employees, and the general public.	Advisory Body A wage board must Submit a report to the commissioner recommending minimum wages and regulations including hours and overtime for employees in the occupation within 45 days of appointment. Recommendations require a majority vote of the wage board members.	Wage Orders New York has wage orders in place for <ul style="list-style-type: none"> • hospitality industry/fast food workers • farm workers • building service industry • miscellaneous industries (all industries not covered by another wage order) • nonprofit organizations 	Wage Board Representation A wage board must include equal representation from employers, employees, and the general public.



Entity, Statutory References, and Brief Description	Advisory or Policymaking Duties and Authority	Outcomes	How Workers Participate
<p>New York Food Service Workers Wage Board (FSWWB) N.Y. Labor Law sect. 653(2) Appointed by the Industrial Commissioner within 6 months of any change to the statutory minimum wage to recommend any changes to wage orders governing food service workers. Members of the Food Service Workers Wage Board are selected by nominations from the N.Y. AFL-CIO and the N.Y. State Business Council</p>	<p>Advisory Body A FSWWB must Inquire and report and recommend any changes to wage orders governing wages payable to food service workers.</p>	<p>Wage Order The recommendations of this wage board are adopted in New York's Hospitality Industry Wage Order, which was amended in 2015 to include wages for fast food workers.</p>	<p>FSWWB Representation The FSWWB must include equal representation from the AFL-CIO, the New York State Business Council, and the general public.</p>
<p>New York Farm Laborers Wage Board (FLWB) N.Y. Labor Law sect. 670 et seq Legislation enacted in 2019 required the Industrial Commissioner to appoint the FLWB to recommend successively lower overtime work thresholds and phase-in dates. Membership was appointed by the Commissioner and must include</p> <ul style="list-style-type: none"> • 1 representative of the farm bureau • 1 representative of the N.Y. AFL-CIO • 1 member of the general public, who is the chairperson 	<p>Advisory Body The FLWB must Recommend successively lower overtime work thresholds and phase-in dates.</p>	<p>Wage Order The FLWB met over two years and voted 2-1 to adopt a 10-year overtime phase-in schedule reducing the overtime threshold from 60 hours in 2022 to 40 hours in 2023. The commissioner approved those recommendations, which are adopted in New York's Wage Order for Farm Workers.</p>	<p>FLWB Representation 1 of the 3 FLWB members must be a representative of the N.Y. AFL-CIO</p>



Entity, Statutory References, and Brief Description	Advisory or Policymaking Duties and Authority	Outcomes	How Workers Participate
<p><u>Nevada Home Care Employment Standards Board (HCESB)</u> <u>Nev. Rev. Stat. 608.610 et seq</u></p> <p>Established by the Director of the Department of Health and Human Services upon their own judgment or petition of 50 or home care employees. Membership includes the Director who serves as Chair and nonvoting member, the Labor Commissioner, and 9 members appointed by the Director:</p> <ul style="list-style-type: none"> • 3 representatives of home care employers • 3 representatives of home care employees • 3 persons who receive or are representatives of persons who receive services from a home care employee 	<p>Advisory Body</p> <p>The HCESB must Investigate and develop recommendations regarding minimum wages and safe and healthful working conditions for home care employees,</p> <p>The HCESB may Administer oaths, take testimony, and subpoena witnesses and materials relevant to the investigation.</p>	<p>Recommendations</p> <p>The HCESB convened in 2021 and submitted a December 2022 report with 15 board-approved recommendations.</p>	<p>HCESB Representation</p> <p>3 of the 11 HCESB members must be representatives of home care employees.</p> <p>It is a misdemeanor for an employer to discriminate against a home care employee for participating in any part of the HCESB process.</p>



Entity, Statutory References, and Brief Description	Advisory or Policymaking Duties and Authority	Outcomes	How Workers Participate
<p><u>City of Seattle Domestic Workers Standards Board (DWSB)</u> <u>City of Seattle Washington Municipal Code 14.23.005 et seq</u></p> <p>Established by city ordinance in 2018, the DWSB consists of 13 members who are appointed by the mayor and city council:</p> <ul style="list-style-type: none"> • 6 must be domestic workers, four of whom may be worker organization representatives • 4 representatives of hiring entities • 2 individuals who contract with or hire domestic workers • 1 community representative 	<p>Advisory Body The DWSB must</p> <ul style="list-style-type: none"> • Provide a forum for hiring entities, domestic workers, worker organizations, and the public to make recommendations to the City on the legal protections, benefits, and working conditions for domestic worker industry standards. • Submit an updated work to the Mayor and City Council every two years. • Provide commendations to the City Council on an established set of subjects, including wage standards for the industry including overtime and pay differentials and training, outreach, and enforcement strategies to ensure compliance with applicable labor standards. 	<p>Recommendations</p> <p>April 2021 recommendations from the DWSB to the City Council and Mayor establish a vision and values, identify barriers to achieving that vision, and make recommendations in four areas:</p> <ul style="list-style-type: none"> • Invest in community expertise and building trust. • Provide more materials and resources to domestic workers and hiring entities. • Implement policy changes to improve the Domestic Workers Ordinance. • Mandate portable benefits for domestic workers. 	<p>DWSB Representation</p> <p>6 of the 13 DWSB members must be either domestic workers or worker organization representatives.</p> <p>It is unlawful for an employer to retaliate against a domestic worker for participating in any portion of the DWSB process.</p>

Source: LPRO

Data: Various, hyperlinked

