

California Creates Unelected Council to Set Minimum Wages/Working Conditions of 500,000 Fast Food Workers

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On September 5, 2022, Governor Gavin Newsom signed the Fast Food Accountability and Standards Recovery Act or FAST Recovery Act ([AB-257](#)). In a breathtaking move, the state government, which is dominated at all levels by union-friendly politicians, will appoint a 10-member Council composed of employees, employers and “union activists” to set the minimum wages and working conditions of fast food workers in the state – however, the new Council will only have jurisdiction over *non-unionized* fast food restaurants.

Since unionized restaurants will be exempted from the law, they will be free to pay their employees *lower* wages and benefits than those set by the Council. In short, the law is nothing but a blunt instrument designed to punish non-unionized workplaces.

The new legislation applies to “fast food chains” with 100 or more restaurants nationwide. It defines a “fast food restaurant” as establishments that provide food for “immediate consumption either on or off the premises” for customers who select and pay for items before eating, and where the restaurant prepares items in advance. The law does not apply to restaurants with table service. In addition, certain bakeries and grocery establishments are exempted from the FAST Recovery Act.

The 10-member Council will be empowered “to establish sectorwide minimum standards on wages, working hours, and other working conditions adequate to ensure and maintain the health, safety, and welfare of, and to supply the necessary cost of proper living to, fast food restaurant workers and to ensure and effect interagency coordination and prompt agency responses regarding issues affecting the health, safety, and employment of fast food restaurant workers.”

California's minimum wage (already the highest in the nation) is currently \$15/hour. The newly constituted Council has authority to raise the minimum wage of fast food workers by 47% next year to \$22/hour. Starting in 2024, the Council can increase the minimum wage by up to the lesser of 3.5% or the adjusted Consumer Price Index for Urban Wage earners. Further, the FAST Recovery Act creates a cause of action for discrimination or retaliation against any fast food worker and establishes the right to reinstatement.

It's worth noting that the FAST Recovery Act was originally authored by the once and future AFL-CIO labor leader Lorena Gonzalez who briefly served in the California legislature long enough to sponsor the deeply unpopular AB 5 on behalf of the unions, which essentially eliminated independent contractors in the state; she also sent out a controversial "F*ck Elon Musk" tweet not long before Musk moved Tesla's headquarters from California to Texas. The FAST Recovery Act was heavily supported by the Service Employees International Union (the SEIU) and is obviously designed to induce fast food establishments to unionize or pay the price. The bill exempts fast food establishments where the workers are covered by a valid collective bargaining agreement and the regular hourly rate of pay is not less than "30 percent more than the state minimum" for such workers.

Restaurant owners have already mobilized in opposition to the FAST Recovery Act and, on September 6, 2022, filed a "[Request for Title and Summary for Proposed Referendum](#)" with the California Attorney General. Once a request for title and summary has been submitted, the Attorney General's Office will facilitate a 30-day public review process and then prepare a circulating title and summary. When the official circulating title and summary is complete, the Senate and Assembly may conduct public hearings on the proposed initiative measure but cannot amend it or prevent it from appearing on the ballot. The next step will be preparing the petition then, finally, circulating the petition and gathering signatures. If enough signatures are obtained, the FAST Recovery Act will be stayed until it is decided by California voters either this November or in the 2024 election. The total number of signatures required to qualify a referendum is [623,212](#).

We will continue to monitor the FAST Recovery Act and provide updates.

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