New York Wage Boards Shaped Policy for Decades

Panel is a lightning rod under Gov. Andrew Cuomo, but its power is rooted in laws dating back to 1930s

By MIKE VILENSKY
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Since the Depression era, New York state has routinely convened wage boards to review pay and conditions for workers in industries from beauty shops to summer camps.

But the use of the panels has fallen under fresh scrutiny since the state’s latest wage board recommended a $15 minimum hourly rate for fast-food workers against the backdrop of a national debate over the minimum wage.

“This is one of the most significant uses of wage-board power in quite a number of years,” said Paul Sonn, general counsel for the National Employment Law Project, a research and advocacy group focused on low-wage work. “And it’s a turn in the governor’s use of his powers in addressing this issue.”

Convened by the labor commissioner, the state’s wage boards are made up of representatives from labor, business and the general public. Their recommendations become law if approved by the commissioner. The commissioner, Mario J. Musolino, is appointed by the governor.

When Mr. Musolino convened the board earlier this year, he said his decision “was based on data and studies that indicate that 60% of fast-food workers in New York are in families enrolled in at least one public-assistance program.”

The boards’ powers stems from a series of state laws that date to 1933. A statute reads: “The wage board and the commissioner shall consider the amount to provide adequate maintenance and to protect health and... the wages paid.”

More than 30 wage boards have been established in the state’s history, according to the New York State Department of Labor. They have been appointed under
Republican and Democratic governors.

The most recent board’s move came as the minimum-wage issue rippled across the U.S., with street demonstrations in some places and as Democratic lawmakers, including Sen. Elizabeth Warren of Massachusetts, criticized the big players in the fast-food industry. Seattle and San Francisco both passed laws last year, raising the minimum wage to $15. The issue is also figuring in early stages of the presidential campaign.

In New York, labor activists, who have had friction at times with Mr. Cuomo, had been calling on the governor to boost the state’s minimum wages, but the Republican-led Senate has blocked efforts to do so, saying it could reduce entry-level jobs, burden business and needed more study.

By calling for the wage board, Mr. Cuomo bypassed the Legislature on an issue of deep importance to his Democratic base, and that hasn’t sat well with conservative legislators.

A spokesman for Senate President John Flanagan, a Long Island Republican, said this week that “the creation of the fast-food wage board was an end-around the state Legislature... On an issue as important as this one, the Legislature should have been consulted.”

Mr. Cuomo has also faced questions about the extent of his involvement in the wage board. Though the board is convened and overseen by the labor commissioner, the governor hasn’t sought to distance himself from it. At a rally in May, he announced he would ask the commissioner to convene the panel, and few believed the commissioner could say no.

“When it’s a commissioner whose board he controls, it ultimately equals him,” said E.J. McMahon, president of the conservative think tank the Empire Center for Public Policy.

A spokeswoman for the governor said the governor “did not interact with any members of the panel and his views were publicly known.”

Labor activists have said the wage board is a mechanism Mr. Cuomo should use more often, but its recommendations have chafed industry executives.

Ken Pokalsky, vice president of government affairs for the Business Council of New York State Inc., a business advocacy organization, said the industry being singled out “is a hard thing to define... There is no legal definition of fast food. They’re making some fundamentally arbitrary choices.”

Mr. Pokalsky said “there’s no doubt” that the statute allows for the convening of a wage board, but “whether the wage board followed the statute’s rule is a question people may challenge.”
Gerald Benjamin, a political scientist at the State University of New York at New Paltz, said litigation was likely but that Mr. Cuomo had been “on solid ground.”

Many wage boards in the past have also made waves. Labor historians recalled pushback from the industry of single-room hotels, or lodging houses, that in the 1950s fought against being grouped in with the rest of the hotel industry and having to pay the same wages.

The panel’s recommendations for fast-food workers’ pay are expected to be approved by the commissioner this month following a public comment period. Mr. Cuomo said he would take the fight for an across-the-board minimum-wage increase back to the Legislature when it reconvenes in January.

A Quinnipiac University poll released Thursday showed New York City voters support raising the fast food wage to $15 by a margin of 73% to 24%, but New York City Republicans oppose the idea 53% to 45%.

Write to Mike Vilensky at mike.vilensky@dowjones.com