

By Senator Torres

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1                                   A bill to be entitled  
2           An act relating to the Department of Labor; creating  
3           s. 20.71, F.S.; creating the Department of Labor as a  
4           new department of state government; providing for the  
5           secretary of the department to be appointed by the  
6           Governor and confirmed by the Senate; authorizing the  
7           secretary to establish divisions and regional offices  
8           of the department; providing the purpose of the  
9           department; authorizing the department to adopt rules;  
10          amending s. 448.109, F.S.; revising requirements for  
11          notifying employees of certain rights; conforming  
12          provisions to changes made by the act; amending s.  
13          448.110, F.S.; designating the Department of Labor as  
14          the state Agency for Workforce Innovation for purposes  
15          of implementing s. 24, Art. X of the State  
16          Constitution; defining terms; revising the protected  
17          rights of employees; creating a rebuttable presumption  
18          and burden of proof for an employer; providing  
19          applicability; prohibiting a person or entity from  
20          entering into certain contracts relating to labor or  
21          services under certain circumstances; authorizing and  
22          providing the department certain powers to conduct  
23          investigations, issue citations, and enforce and  
24          collect judgments by certain means; providing for  
25          appropriate relief, including injunctive relief, under  
26          certain circumstances; providing a process for review  
27          of a citation, levy, or stop-order issued by the  
28          department; providing civil and criminal penalties;  
29          tolling the statute of limitations during an

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30 investigation; providing liability; requiring and  
31 authorizing the department to take certain actions  
32 relating to judgments against employers; requiring all  
33 employers, client employers, and labor contractors to  
34 create certain records documenting their compliance  
35 with specified laws and maintain the records for a  
36 specified length of time; requiring employers, client  
37 employers, and labor contractors to allow the  
38 department reasonable access to the records;  
39 authorizing the department to partner with other  
40 entities for administration and enforcement purposes;  
41 requiring the department to establish an outreach and  
42 education partnership program, subject to an  
43 appropriation by the Legislature; providing duties and  
44 powers of such program; creating s. 448.111, F.S.;

45 creating the Department of Labor Community Advisory  
46 Board within the department; providing for membership,  
47 meetings, and duties of the advisory board; requiring  
48 an annual report to the Secretary of Labor, the  
49 Governor, and the Legislature; providing an effective  
50 date.

51  
52 Be It Enacted by the Legislature of the State of Florida:

53  
54 Section 1. Section 20.71, Florida Statutes, is created to  
55 read:

56 20.71 Department of Labor; creation; powers and duties.-  
57 (1) There is created the Department of Labor.  
58 (2) The head of the department is the Secretary of Labor,

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59 who shall be appointed by the Governor, subject to confirmation  
60 by the Senate. The secretary shall serve at the pleasure of and  
61 report to the Governor.

62 (3) The secretary may create divisions within the  
63 department and allocate various functions of the department  
64 among such divisions.

65 (4) (a) The headquarters of the department shall be located  
66 in Tallahassee. However, the department may establish regional  
67 offices throughout the state as the secretary deems necessary  
68 for the efficient operation of the department in accomplishing  
69 its purpose.

70 (b) The purpose of the department is to enforce s. 24, Art.  
71 X of the State Constitution, s. 448.110, and any other law that  
72 the department has enforcement authority over as designated by  
73 the Legislature.

74 (5) The department may adopt rules as necessary to carry  
75 out the functions and purposes of the department.

76 Section 2. Paragraph (a) of subsection (3) of section  
77 448.109, Florida Statutes, is amended to read:

78 448.109 Notification of the state minimum wage.-

79 (3) (a) Each year the Department of Labor ~~Department of~~  
80 ~~Economic Opportunity~~ shall, on or before December 1, create and  
81 make available to employers a poster in English, and in Spanish,  
82 and any other languages, as necessary, which gives notice of all  
83 of the following:

84 1. The right to the minimum wage as provided by s. 24, Art.  
85 X of the State Constitution and s. 448.110.

86 2. The right to be protected from retaliation for  
87 exercising in good faith any right protected under s. 24, Art. X

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88 of the State Constitution and s. 448.110.

89 3. The right to file a complaint with the Department of  
90 Labor or bring a civil action for a violation of s. 24, Art. X  
91 of the State Constitution or s. 448.110. which reads  
92 substantially as follows:

93 NOTICE TO EMPLOYEES

94 The Florida minimum wage is \$ ... (amount) ... per hour, with a  
95 minimum wage of at least \$ ... (amount) ... per hour for tipped  
96 employees, in addition to tips, for January 1, ... (year) ... ,  
97 through December 31, ... (year) ... .

98 The rate of the minimum wage is recalculated yearly on September  
99 30, based on the Consumer Price Index. Every year on January 1  
100 the new Florida minimum wage takes effect.

101 An employer may not retaliate against an employee for exercising  
102 his or her right to receive the minimum wage. Rights protected  
103 by the State Constitution include the right to:

104 1. File a complaint about an employer's alleged noncompliance  
105 with lawful minimum wage requirements.

106 2. Inform any person about an employer's alleged noncompliance  
107 with lawful minimum wage requirements.

108 3. Inform any person of his or her potential rights under  
109 Section 24, Article X of the State Constitution and to  
110 assist him or her in asserting such rights.

111 An employee who has not received the lawful minimum wage after  
112 notifying his or her employer and giving the employer 15 days to  
113 resolve any claims for unpaid wages may bring a civil action in  
114 a court of law against an employer to recover back wages plus  
115 damages and attorney's fees.

116 An employer found liable for intentionally violating minimum

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117 ~~wage requirements is subject to a fine of \$1,000 per violation,~~  
118 ~~payable to the state.~~

119 ~~The Attorney General or other official designated by the~~  
120 ~~Legislature may bring a civil action to enforce the minimum~~  
121 ~~wage.~~

122 ~~For details see Section 24, Article X of the State Constitution.~~

123 Section 3. Section 448.110, Florida Statutes, is amended to  
124 read:

125 448.110 State minimum wage; annual wage adjustment;  
126 enforcement.—

127 (1) This section may be cited as the "Florida Minimum Wage  
128 Act."

129 (2) The purpose of this section is to provide measures  
130 appropriate for the implementation of s. 24, Art. X of the State  
131 Constitution, in accordance with authority granted to the  
132 Legislature under ~~pursuant to~~ s. 24(f), Art. X of the State  
133 Constitution. To implement s. 24, Art. X of the State  
134 Constitution, the Department of Labor ~~Department of Economic~~  
135 ~~Opportunity~~ is designated as the state Agency for Workforce  
136 Innovation.

137 (3) As used in this section, the term:

138 (a) "Adverse action" means the discharge, suspension,  
139 transfer, or demotion of an employee; the withholding of wages,  
140 bonuses, benefits, or workable hours; filing, or threatening to  
141 file, a false report with a government agency or engaging in  
142 unfair immigration-related practices; or any other adverse  
143 action taken against an employee within the terms and conditions  
144 of employment by an employer.

145 (b) "Client employer" means a business entity, regardless

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146 of its form, that obtains or is provided employees to perform  
147 labor within its usual course of business from a labor  
148 contractor. The term does not include:

149 1. A business entity with a workforce of 25 or fewer  
150 employees, including employees hired directly by the client  
151 employer and those obtained from or provided by a labor  
152 contractor.

153 2. A business entity with a workforce of 5 or fewer  
154 employees supplied by a labor contractor to the client employer  
155 at any given time.

156 3. The state or a political subdivision of the state.

157 (c) "Department" means the Department of Labor as created  
158 in s. 20.71.

159 (d) "Employee" has the same meaning as established under  
160 the federal Fair Labor Standards Act and its implementing  
161 regulations in effect on July 1, 2022.

162 (e) "Employer" has the same meaning as established under  
163 the federal Fair Labor Standards Act and its implementing  
164 regulations in effect on July 1, 2022.

165 (f) "Judgment debtor" means each person who is liable on a  
166 judgment or order to pay a sum of money which remains  
167 unsatisfied.

168 (g) "Labor contractor" means a person or entity that  
169 supplies, with or without a contract, a client employer with  
170 employees to perform labor within the client employer's usual  
171 course of business. The term does not include a bona fide  
172 nonprofit, community-based organization that provides services  
173 to employees or a labor organization or an apprenticeship  
174 program operating under a collective bargaining agreement.

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175       (h) "Usual course of business" means the regular and  
176 customary work of a business performed within or upon the  
177 premises or worksite of the client employer.

178       (4)~~(3)~~ Effective May 2, 2005, employers shall pay employees  
179 a minimum wage at an hourly rate of \$6.15 for all hours worked  
180 in Florida. Only those individuals entitled to receive the  
181 federal minimum wage under the federal Fair Labor Standards Act  
182 and its implementing regulations shall be eligible to receive  
183 the state minimum wage under ~~pursuant to~~ s. 24, Art. X of the  
184 State Constitution and this section. Sections 213 and 214 ~~The~~  
185 ~~provisions of ss. 213 and 214~~ of the federal Fair Labor  
186 Standards Act, as interpreted by applicable federal regulations  
187 and implemented by the Secretary of Labor, are incorporated  
188 herein.

189       (5) (a)~~(4) (a)~~ Beginning September 30, 2005, and annually on  
190 September 30 thereafter, the department ~~of Economic Opportunity~~  
191 shall calculate an adjusted state minimum wage rate by  
192 increasing the state minimum wage by the rate of inflation for  
193 the 12 months prior to September 1. In calculating the adjusted  
194 state minimum wage, the department ~~of Economic Opportunity~~ shall  
195 use the Consumer Price Index for Urban Wage Earners and Clerical  
196 Workers, not seasonally adjusted, for the South Region or a  
197 successor index as calculated by the United States Department of  
198 Labor. Each adjusted state minimum wage rate shall take effect  
199 on the following January 1, with the initial adjusted minimum  
200 wage rate to take effect on January 1, 2006.

201       (b) The Department of Revenue and the department ~~of~~  
202 ~~Economic Opportunity~~ shall annually publish the amount of the  
203 adjusted state minimum wage and the effective date. Publication

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204 shall occur by posting the adjusted state minimum wage rate and  
205 the effective date on the Internet home pages of the department  
206 ~~of Economic Opportunity~~ and the Department of Revenue by October  
207 15 of each year. In addition, to the extent funded in the  
208 General Appropriations Act, the department ~~of Economic~~  
209 ~~Opportunity~~ shall provide written notice of the adjusted rate  
210 and the effective date of the adjusted state minimum wage to all  
211 employers registered in the most current reemployment assistance  
212 database. Such notice shall be mailed by November 15 of each  
213 year using the addresses included in the database. Employers are  
214 responsible for maintaining current address information in the  
215 reemployment assistance database. The department ~~of Economic~~  
216 ~~Opportunity~~ is not responsible for failure to provide notice due  
217 to incorrect or incomplete address information in the database.  
218 The department ~~of Economic Opportunity~~ shall provide the  
219 Department of Revenue with the adjusted state minimum wage rate  
220 information and effective date in a timely manner.

221 (6) (a) ~~(5)~~ It is ~~shall be~~ unlawful for an employer or any  
222 other party to discriminate in any manner or take adverse action  
223 against any person in retaliation for exercising rights  
224 protected under ~~pursuant to~~ s. 24, Art. X of the State  
225 Constitution or this section.

226 (b) Rights protected under s. 24, Art. X of the State  
227 Constitution and this section include, but are not limited to:7

228 1. The right to ~~file a complaint or~~ inform any person of  
229 his or her potential rights under ~~pursuant to~~ s. 24, Art. X of  
230 the State Constitution or this section and to assist such person  
231 ~~him or her~~ in asserting his or her ~~such~~ rights.

232 2. The right to inform a person's employer, union or other



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233 similar organization, legal counsel, or any other person about  
234 an alleged violation of s. 24, Art. X of the State Constitution  
235 or this section.

236 3. The right to file a complaint with the department or  
237 file a civil action for an alleged violation of s. 24, Art. X of  
238 the State Constitution or this section.

239 4. The right to cooperate with any investigation conducted  
240 under this section and to testify in any proceeding or action  
241 brought under this section.

242 5. The right to refuse to participate in an activity that  
243 violates city, state, or federal law.

244 6. The right to oppose any policy, practice, or act that  
245 violates s. 24, Art. X of the State Constitution or this  
246 section.

247 (c) There is a rebuttable presumption that an employer has  
248 violated s. 24, Art. X of the State Constitution or this section  
249 if the employer takes adverse action against an employee within  
250 90 days after the employee exercises a right under paragraph  
251 (b). If an employee is a seasonal worker and his or her work  
252 ended before the end of the 90-day period, the rebuttable  
253 presumption applies if the employer fails to rehire the seasonal  
254 worker in the same position at the next opportunity. The  
255 rebuttable presumption may be overcome by clear and convincing  
256 evidence.

257 (d) The protections provided under this section apply to  
258 any employee who alleges a violation of s. 24, Art. X of the  
259 State Constitution or this section in good faith. Any complaint  
260 or other communication by an employee alleging a violation of s.  
261 24, Art. X of the State Constitution or this section triggers

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262 the protections under this section even if the complaint or  
263 communication does not specifically reference this section.

264 (e) An employee who believes he or she has been  
265 discriminated or retaliated against for exercising a right under  
266 s. 24, Art. X of the State Constitution or this section may file  
267 a complaint with the department or a civil action within 4 years  
268 after the alleged violation or, in the case of a willful  
269 violation, within 5 years after the alleged violation.

270 (7) An employer has the burden of proving that a person is  
271 an independent contractor and not an employee. A person who  
272 receives remuneration for services provided is considered an  
273 employee unless the employer proves all of the following:

274 (a) The person is free from control or direction by the  
275 employer over the performance of such service.

276 (b) The service provided by the person is outside the usual  
277 course of business of the employer.

278 (c) The person is customarily engaged in an independently  
279 established trade, occupation, profession, or business.

280 (8) A person or entity may not enter into a contract or  
281 agreement with an independent contractor for labor or services  
282 if the person or entity knows or should know that the contract  
283 or agreement does not include funds sufficient to allow the  
284 independent contractor to comply with all applicable local,  
285 state, and federal laws or regulations governing the labor or  
286 services to be provided.

287 (9) (a) The department may commence investigations, actions,  
288 and proceedings necessary to enforce this section. The  
289 department has the sole discretion whether to investigate an  
290 employer to determine if a violation of this section has

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291 occurred.

292 (b) In order to encourage a person or organization to  
293 report a suspected violation of this section, the department:

294 1. Shall keep the name and other identifying information  
295 about the reporter confidential to the extent permitted by law.  
296 The department may disclose the reporter's name or  
297 identification with the written consent of the reporter.

298 2. Shall provide a notice form to an employer being  
299 investigated, which must be posted in a conspicuous and  
300 accessible location at the workplace, notifying the employees  
301 that the department is conducting an investigation under this  
302 section. The notice form must be in English and any other  
303 language that is the primary language of a majority of the  
304 employees in the workplace. If displaying the notice form is not  
305 feasible, the employer must provide the notice form to each  
306 employee through electronic means and also provide each employee  
307 a physical copy of the notice form.

308 3. May certify the eligibility of a person for a visa under  
309 8 U.S.C. s. 1184(p) and 8 U.S.C. s. 1101(a)(15)(U), subject to  
310 applicable federal law and regulations, and other rules issued  
311 by the department.

312 (10) (a) During an investigation under this section, the  
313 department has the power to:

314 1. Enter and inspect the workplace.

315 2. Inspect and make copies of papers, books, accounts,  
316 records, payroll, and other documents necessary to further its  
317 investigation.

318 3. Question witnesses under oath and in a private location.

319 4. Issue subpoenas to compel the attendance and testimony

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320 of witnesses and the production of papers, books, accounts,  
321 records, payroll, and other documents necessary to further its  
322 investigation.

323 5. Take depositions and affidavits.

324 6. Investigate any facts, conditions, practices, or matters  
325 as the department deems appropriate to determine whether a  
326 violation of this section has occurred.

327 (b) If an employer fails to comply with a lawfully issued  
328 subpoena or if a witness refuses to testify or be questioned,  
329 the department may request that the court compel compliance by  
330 initiating a proceeding for contempt. The court shall take  
331 judicial notice under s. 90.202(13) of the department's seal,  
332 "Department of Labor-State of Florida," and shall enforce any  
333 subpoena issued by the Secretary of Labor or his or her  
334 representative under such seal.

335 (c) During an administrative or civil proceeding under this  
336 section, an employer may not introduce any documentation as  
337 evidence that was not provided to the department.

338 (11)(a) During the course of an investigation under this  
339 section, the department or the Attorney General may seek  
340 injunctive relief upon a finding of reasonable cause that a  
341 violation has occurred.

342 (b) When determining whether injunctive relief is  
343 appropriate, the court shall consider any direct harm to an  
344 employee from a violation of this section and the chilling  
345 effect on other employees attempting to assert their rights  
346 under this section. Reasonable cause exists for a court to issue  
347 an injunction if an employee has faced adverse action for  
348 asserting his or her rights under this section.

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349 (c) A temporary injunction remains in effect until the  
350 department issues a citation to the employer or until the  
351 completion of an administrative hearing, whichever is longer, or  
352 until a time certain set by the court. A temporary injunction  
353 does not prohibit an employer from taking adverse action against  
354 an employee for conduct unrelated to an alleged violation of  
355 this section.

356 (d) The court may issue a preliminary or permanent  
357 injunction if it determines such injunction is just and proper.

358 (12) (a) If a violation of this section is found during an  
359 investigation and the violation has not been remedied by the end  
360 of the investigation, the department shall issue a citation to  
361 the employer. The citation must be in writing and describe the  
362 nature of the violation and include any and all appropriate  
363 relief. Appropriate relief includes requiring an employer to  
364 cease and desist; to take any action necessary to remedy the  
365 violation, such as rehiring or reinstating an employee,  
366 reimbursing lost wages, or paying liquidated damages or other  
367 finances and penalties; to take training classes relating to  
368 compliance with this section; or to submit to compliance  
369 monitoring by the department. The department shall serve the  
370 citation in a manner provided by the Florida Rules of Civil  
371 Procedure. The citation must advise the employer of his or her  
372 right to an administrative hearing to have the citation  
373 reviewed.

374 (b) Within 30 days after service of a citation, an employer  
375 must comply with all appropriate relief specified in the  
376 citation or may obtain review of the citation by providing a  
377 written request for review to the office of the Secretary of

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378 Labor. Upon receipt of a written request for review, the  
379 Secretary of Labor shall assign the citation to an  
380 administrative law judge to conduct a hearing and issue a  
381 written decision. Hearings conducted under this subsection are  
382 governed by the department and the rules of practice and  
383 procedure adopted by the department.

384 (c) An administrative hearing must commence within 90 days  
385 after receipt of a timely submitted request for review. The  
386 administrative law judge must render a written decision within  
387 90 days after the conclusion of the hearing. The decision must  
388 include a statement of findings, conclusions of law, and a  
389 recommended order that specifies all appropriate relief as  
390 authorized under paragraph (a), including the amount required  
391 for an appeal bond should the employer choose to obtain review  
392 of the order issued under paragraph (d). The decision must be  
393 served on all parties in a manner provided by the Florida Rules  
394 of Civil Procedure. If the recommended order includes a monetary  
395 remedy, the amount is due 45 days after the written decision is  
396 properly served on the employer.

397 (d)1. An employer may obtain review of the written decision  
398 and order issued under paragraph (c) by filing a petition for a  
399 writ of mandamus to a court having jurisdiction within 45 days  
400 after service of the decision. If a petition for a writ of  
401 mandamus is not filed within the appropriate time, the  
402 recommended order in the written decision becomes final.

403 2. Before an employer may obtain review of the decision, he  
404 or she must post an appeal bond, in the amount specified in the  
405 recommended order, issued by a licensed surety or as a cash  
406 deposit with the court. The employer shall provide written

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407 notice to the department and any other parties of the posting of  
408 the appeal bond.

409 3. A court may overturn a decision based on abuse of  
410 discretion. An employer establishes an abuse of discretion if he  
411 or she alleges that the findings are not supported by the  
412 evidence and the court determines that the findings are not  
413 supported by substantial evidence when looking at the entire  
414 record.

415 4. If the court issues an order in favor of the aggrieved  
416 party or if the appeal is withdrawn or dismissed without entry  
417 of judgment, the employer is liable for the relief specified in  
418 the written decision from the administrative hearing, unless the  
419 parties execute a settlement agreement, in which case the  
420 employer is liable for the relief specified in the settlement  
421 agreement. If the written decision from the administrative  
422 hearing or the settlement agreement provides for monetary  
423 relief, and the employer fails to pay the amount owed within 10  
424 days after entry of a judgment, dismissal or withdrawal of the  
425 appeal, or the execution of a settlement agreement, a portion of  
426 the appeal bond equal to the amount owed, or the entire appeal  
427 bond if the amount owed exceeds the amount of the bond, shall be  
428 paid to the aggrieved party.

429 5. If the employer does not request review of the citation  
430 under paragraph (b), file a writ of mandamus under subparagraph  
431 1., or post the appeal bond as required in subparagraph 2., and  
432 the time to do so has expired, or if the petition for a writ of  
433 mandamus is dismissed or withdrawn without entry of judgment,  
434 the clerk of the court shall certify a copy of the citation or  
435 written decision and order issued by the department or by the

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436 administrative law judge, respectively, and enter judgment for  
437 the state or aggrieved party. The judgment has the same force  
438 and effect as a judgment entered in a civil action and may be  
439 enforced in the same manner as any other judgment of the court.  
440 The court must give priority to petitions to enforce a judgment  
441 entered under this section.

442 6. If an employer fails to comply with a citation or final  
443 order, whether issued by the department, administrative law  
444 judge, or court, and has exhausted all reviews or appeals or the  
445 time to file a review or appeal has expired, the department or  
446 the Attorney General may commence and prosecute a civil action  
447 to recover unpaid wages, including interest, fines, or  
448 penalties; equitable relief; or liquidated damages owed to an  
449 aggrieved person. The prevailing party is entitled to applicable  
450 fines or civil penalties and reasonable attorney fees and costs.

451 ~~(6) (a) Any person aggrieved by a violation of this section~~  
452 ~~may bring a civil action in a court of competent jurisdiction~~  
453 ~~against an employer violating this section or a party violating~~  
454 ~~subsection (5). However, prior to bringing any claim for unpaid~~  
455 ~~minimum wages pursuant to this section, the person aggrieved~~  
456 ~~shall notify the employer alleged to have violated this section,~~  
457 ~~in writing, of an intent to initiate such an action. The notice~~  
458 ~~must identify the minimum wage to which the person aggrieved~~  
459 ~~claims entitlement, the actual or estimated work dates and hours~~  
460 ~~for which payment is sought, and the total amount of alleged~~  
461 ~~unpaid wages through the date of the notice.~~

462 ~~(b) The employer shall have 15 calendar days after receipt~~  
463 ~~of the notice to pay the total amount of unpaid wages or~~  
464 ~~otherwise resolve the claim to the satisfaction of the person~~



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465 ~~aggrieved. The statute of limitations for bringing an action~~  
466 ~~pursuant to this section shall be tolled during this 15-day~~  
467 ~~period. If the employer fails to pay the total amount of unpaid~~  
468 ~~wages or otherwise resolve the claim to the satisfaction of the~~  
469 ~~person aggrieved, then the person aggrieved may bring a claim~~  
470 ~~for unpaid minimum wages, the terms of which must be consistent~~  
471 ~~with the contents of the notice.~~

472 (13) (a) (e) 1. Upon prevailing in a civil ~~an~~ action brought  
473 under paragraph (6) (e) ~~pursuant to this section~~, aggrieved  
474 persons shall recover the full amount of any unpaid back wages,  
475 plus interest, unlawfully withheld plus up to two times the  
476 unpaid wages ~~the same amount~~ as liquidated damages and shall be  
477 awarded reasonable attorney ~~attorney's~~ fees and costs.  
478 Additionally, As provided under the federal Fair Labor Standards  
479 Act, pursuant to s. 11 of the Portal-to-Portal Act of 1947, 29  
480 U.S.C. s. 260, if the employer proves by a preponderance of the  
481 evidence that the act or omission giving rise to such action was  
482 in good faith and that the employer had reasonable grounds for  
483 believing that his or her act or omission was not a violation of  
484 s. 24, Art. X of the State Constitution, the court may, in its  
485 sound discretion, award no liquidated damages or award any  
486 amount thereof not to exceed an amount equal to the amount of  
487 unpaid minimum wages. The court shall not award any economic  
488 damages on a claim for unpaid minimum wages not expressly  
489 authorized in this section.

490 ~~2. Upon prevailing in an action brought pursuant to this~~  
491 ~~section, aggrieved persons~~ are ~~shall also be~~ entitled to such  
492 legal or equitable relief as may be appropriate to remedy the  
493 violation, including, without limitation, reinstatement in

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494 employment and injunctive relief. However, any entitlement to  
495 legal or equitable relief in an action brought under s. 24, Art.  
496 X of the State Constitution or this section may ~~shall~~ not  
497 include punitive damages.

498 (b) If an employer is found to have willfully violated s.  
499 24, Art. X of the State Constitution or this section, the  
500 department, administrative law judge, or court may impose a fine  
501 of \$1,000 per violation payable to the state.

502 (c) Any employer or other person found to have hindered,  
503 prevented, impeded, or interfered with the department or  
504 administrative hearing body in the performance of their duties  
505 is subject to a civil penalty of not less than \$1,000 and not  
506 more than \$5,000, which may be assessed by the department,  
507 administrative law judge, or court.

508 (d) If the department, administrative law judge, or court  
509 finds that an employer took adverse action or retaliated against  
510 an employee in violation of subsection (6):

511 1. The department, administrative law judge, or court may  
512 order reinstatement of the aggrieved party, front pay in lieu of  
513 reinstatement, back pay, liquidated damages up to two times the  
514 amount of the unpaid wages, and other compensatory damages as  
515 appropriate.

516 2. The department, administrative law judge, or court may  
517 impose an administrative penalty not to exceed \$5,000 payable to  
518 the aggrieved party.

519 (e) ~~(d)~~ Any civil action brought under s. 24, Art. X of the  
520 State Constitution and this section is ~~shall be~~ subject to s.  
521 768.79.

522 ~~(7) The Attorney General may bring a civil action to~~

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523 ~~enforce this section. The Attorney General may seek injunctive~~  
524 ~~relief. In addition to injunctive relief, or in lieu thereof,~~  
525 ~~for any employer or other person found to have willfully~~  
526 ~~violated this section, the Attorney General may seek to impose a~~  
527 ~~fine of \$1,000 per violation, payable to the state.~~

528 (14) ~~(8)~~ The statute of limitations for an action brought  
529 under pursuant to this section is shall be for the period of  
530 time specified in s. 95.11 beginning on the date the alleged  
531 violation occurred. The statute of limitations applicable to an  
532 action under this section is tolled during the department's  
533 investigation and any administrative enforcement under this  
534 section.

535 (15) ~~(9)~~ Actions brought under pursuant to this section may  
536 be brought as a class action pursuant to Rule 1.220, Florida  
537 Rules of Civil Procedure. In any class action brought under  
538 ~~pursuant to~~ this section, the plaintiffs must shall prove, by a  
539 preponderance of the evidence, the individual identity of each  
540 class member and the individual damages of each class member.

541 (16) ~~(10)~~ This section is shall constitute the exclusive  
542 remedy under state law for violations of s. 24, Art. X of the  
543 State Constitution.

544 (17) The department shall make reasonable efforts to ensure  
545 that judgments against an employer are satisfied and may use any  
546 remedy that is available to a judgment creditor to collect an  
547 unsatisfied judgment. The department may collect wages, damages,  
548 and other monetary remedies on behalf of an employee. The  
549 department acts as the trustee of any unsatisfied judgment it  
550 collects and shall deposit such wages, damages, or other  
551 monetary remedy in the appropriate fund as provided by rule. The

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552 department shall conduct a diligent search for any employee for  
553 whom it collects an unsatisfied judgment.

554 (18) (a) Beginning on the 20th day after a judgment is  
555 entered by the clerk of the court under paragraph (12) (d) or  
556 otherwise by a court of competent jurisdiction in favor of the  
557 department, the department may issue a notice of levy on all  
558 persons having in their possession or under their control any  
559 credits, money, or property belonging to the judgment debtor. If  
560 the levy is made on credits, money, or property in the  
561 possession or under the control of a bank, savings and loan  
562 association, or other financial institution as defined in 42  
563 U.S.C. s. 669a(d) (1), the notice of levy may be mailed or hand-  
564 delivered to a centralized location designated by the bank,  
565 savings and loan association, or other financial institution.

566 (b) Any person who receives a notice of levy shall  
567 surrender the credits, money, or property to the department or  
568 pay to the department the amount of any debt owed within 10 days  
569 after service of the levy. Any person who surrenders to the  
570 department any credits, money, or property of the judgment  
571 debtor is discharged from any obligation or liability to the  
572 judgment debtor relating to the amount paid to the department.

573 (c) Any person who receives a notice of levy from the  
574 department and fails or refuses to surrender any credits, money,  
575 or property of the judgment debtor is liable to the department  
576 for the amount specified in the notice of levy.

577 (d) Any fees, commissions, expenses, or costs associated  
578 with the sale of property levied under this subsection are the  
579 obligation of the judgment debtor and may be collected by virtue  
580 of the levy or in any other manner as though the fees,

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581 commissions, expenses, or costs were part of the judgment.

582 (e) The department may create a lien on any real or  
583 personal property of an employer found in violation of s. 24,  
584 Art. X of the State Constitution or this section. The department  
585 shall release the lien upon final satisfaction of any judgment  
586 entered in favor of an aggrieved party or the department, or  
587 upon adjudication of the claim in favor of the employer. A lien  
588 created under this paragraph lasts 10 years after the date it is  
589 created unless the lien is satisfied or released. A lien created  
590 under this paragraph is in addition to any other rights  
591 available to an aggrieved party or the department.

592 (19) (a) If a citation issued by the department, written  
593 decision and order issued by an administrative law judge, or  
594 final judgment awarded under this section remains unsatisfied 30  
595 days after all reviews and appeals have been exhausted or the  
596 time to request a review or file an appeal has expired, the  
597 department may issue a stop-order prohibiting the employer from  
598 conducting business in the state using employee labor, including  
599 conducting business using the labor of another business,  
600 contractor, or subcontractor instead of the labor of an  
601 employee, until the judgment is satisfied. The stop-order is  
602 effective upon receipt of the order and the employer must pay  
603 employees up to 10 days of lost wages due to the stop-order.

604 (b) An employer may appeal the stop-order by filing, within  
605 20 days after receipt of the stop-order, a written request with  
606 the department for an administrative hearing. The hearing must  
607 be held within 5 days after receipt of the written request, at  
608 which time the stop-order shall be affirmed or dismissed and the  
609 department shall serve a written notice of findings on all

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610 parties within 24 hours after the conclusion of the hearing. A  
611 party may appeal the written notice of findings to a court of  
612 competent jurisdiction within 45 days after the notice is  
613 mailed. The department may seek injunctive or other appropriate  
614 relief to enforce the stop-order and is entitled to attorney  
615 fees and costs if the department prevails.

616 (c) An employer, owner, director, officer, or managing  
617 agent of an employer who fails to comply with a stop-order  
618 issued under this subsection is guilty of a misdemeanor of the  
619 second degree, punishable as provided in s. 775.082 or s.  
620 775.083.

621 (d) This subsection does not apply if the stop-order would  
622 compromise public safety or the life, health, and care of a  
623 vulnerable person.

624 (20) If a citation issued by the department, written  
625 decision and order issued by an administrative law judge, or  
626 final judgment awarded under this section remains unsatisfied 30  
627 days after all reviews or appeals have been exhausted or the  
628 time to request a review or file an appeal has expired, the  
629 department may request that the appropriate state agency, and  
630 the state agency is authorized to, deny, suspend, or revoke any  
631 license held by the employer until such time as the judgment is  
632 satisfied.

633 (21) Any person acting on behalf of an employer may be held  
634 liable as the employer for a violation of s. 24, Art. X of the  
635 State Constitution or this section. A client employer is jointly  
636 and severally liable with a labor contractor for the payment of  
637 unpaid wages, interest, liquidated damages, fines, or penalties  
638 awarded under this section.

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639       (22) All employers, client employers, and labor contractors  
640 shall create records documenting compliance with s. 24, Art. X  
641 of the State Constitution and this section in accordance with  
642 department rules. Records must be maintained for a minimum of 5  
643 years after an employee leaves the employment of the employer or  
644 client employer, or is no longer working with a labor  
645 contractor. An employer, client employer, or labor contractor  
646 must allow the department reasonable access to the records when  
647 requested. If an employee, or other authorized person or entity,  
648 alleges a violation of s. 24, Art. X of the State Constitution  
649 or this section and the employer, client employer, or labor  
650 contractor has not created and maintained records as required  
651 under this subsection, there is a rebuttable presumption that  
652 the he or she is in violation of the law. The employer, client  
653 employer, or labor contractor can overcome this presumption with  
654 clear and convincing evidence.

655       (23) The department may enter into agreements with local,  
656 state, or federal agencies to assist in the administration and  
657 enforcement of this section.

658       (24) Subject to appropriation of funds by the Legislature,  
659 the department shall establish and maintain an outreach and  
660 education partnership program to promote awareness of, and  
661 compliance with, s. 24, Art. X of the State Constitution and  
662 this section. The department shall pursue partnerships with  
663 community-based organizations and unions through a competitive  
664 request for proposals. Duties of the outreach and education  
665 partnership program may include:

666       (a) Disseminating information and conducting outreach and  
667 training to educate employees about their rights.

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668 (b) Conducting educational training for employers about  
669 their obligations.

670 (c) Assisting employees with filing a claim for a violation  
671 under s. 24, Art. X of the State Constitution or this section.

672 (d) Assisting the department in conducting investigations  
673 under this section, including the collection of evidence and  
674 enforcement of a judgment.

675 (e) Monitoring compliance with s. 24, Art. X of the State  
676 Constitution and this section.

677 (f) Establishing networks for education, communication, and  
678 participation in the workplace and community.

679 (g) Producing and disseminating training materials to  
680 employers and employees.

681 (25)(11) Except for calculating the adjusted state minimum  
682 wage and publishing the initial state minimum wage and any  
683 annual adjustments thereto, the authority of the department ~~of~~  
684 ~~Economic Opportunity~~ in implementing s. 24, Art. X of the State  
685 Constitution, pursuant to this section, ~~is shall be~~ limited to  
686 that authority expressly granted by the Legislature.

687 Section 4. Section 448.111, Florida Statutes, is created to  
688 read:

689 448.111 Department of Labor Community Advisory Board.—The  
690 Department of Labor Community Advisory Board is established  
691 within the Department of Labor.

692 (1) The advisory board shall consist of the following  
693 members who must be appointed by the Secretary of Labor:

694 (a) A representative from the Department of Labor.

695 (b) A representative from the Department of Economic  
696 Opportunity.



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- 697       (c) A representative from the Department of Education.
- 698       (d) A representative from the Florida Chamber of Commerce.
- 699       (e) A representative from a small business as defined in s.  
700 288.703.
- 701       (f) Four representatives from labor organizations as  
702 defined in s. 447.02(1) throughout the state.
- 703       (2) Members of the advisory board shall be appointed for 2-  
704 year terms, which shall be staggered.
- 705       (3) Members of the advisory board shall serve without  
706 compensation and are not entitled to receive reimbursement for  
707 per diem or travel expenses.
- 708       (4) The advisory board shall meet at least three times a  
709 year in order to review reports and projects of the Department  
710 of Labor. Meetings of the advisory board must be open to the  
711 public and provide the opportunity for public comment.
- 712       (5) The advisory board shall submit an annual report to the  
713 Secretary of Labor recommending changes to existing state  
714 policies and programs to ensure worker safety and equity, with  
715 particular emphasis on low-wage workers, migrant workers, and  
716 racial equity.
- 717       (6) By January 1, 2023, and annually thereafter, the  
718 Secretary of Labor shall submit the annual report to the  
719 Governor, the President of the Senate, and the Speaker of the  
720 House of Representatives.
- 721       Section 5. This act shall take effect July 1, 2022.