

By Senator Brandes

24-00897B-21

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Senate Joint Resolution

A joint resolution proposing an amendment to Section 24 of Article X of the State Constitution to authorize the Legislature to provide a reduced minimum wage rate for prisoners in the state correctional system, for employees convicted of a felony, for employees under 21 years of age, and for other hard-to-hire employees.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 24 of Article X of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE X

MISCELLANEOUS

SECTION 24. Florida minimum wage.—

(a) PUBLIC POLICY. All working Floridians are entitled to be paid a minimum wage that is sufficient to provide a decent and healthy life for them and their families, that protects their employers from unfair low-wage competition, and that does not force them to rely on taxpayer-funded public services in order to avoid economic hardship.

(b) DEFINITIONS. As used in this amendment, the terms "Employer," "Employee" and "Wage" shall have the meanings established under the federal Fair Labor Standards Act (FLSA) and its implementing regulations.

(c) MINIMUM WAGE. Employers shall pay Employees Wages no

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30 less than the Minimum Wage for all hours worked in Florida. Six
31 months after enactment, the Minimum Wage shall be established at
32 an hourly rate of \$6.15. Effective September 30th, 2021, the
33 existing state Minimum Wage shall increase to \$10.00 per hour,
34 and then increase each September 30th thereafter by \$1.00 per
35 hour, until the Minimum Wage reaches \$15.00 per hour on
36 September 30th, 2026. On September 30th of 2027 and on each
37 following September 30th, the state Agency for Workforce
38 Innovation shall calculate an adjusted Minimum Wage rate by
39 increasing the current Minimum Wage rate by the rate of
40 inflation during the twelve months prior to each September 1st
41 using the consumer price index for urban wage earners and
42 clerical workers, CPI-W, or a successor index as calculated by
43 the United States Department of Labor. Each adjusted Minimum
44 Wage rate calculated shall be published and take effect on the
45 following January 1st. For tipped Employees meeting eligibility
46 requirements for the tip credit under the FLSA, Employers may
47 credit towards satisfaction of the Minimum Wage tips up to the
48 amount of the allowable FLSA tip credit in 2003.

49 (d) RETALIATION PROHIBITED. It shall be unlawful for an
50 Employer or any other party to discriminate in any manner or
51 take adverse action against any person in retaliation for
52 exercising rights protected under this amendment. Rights
53 protected under this amendment include, but are not limited to,
54 the right to file a complaint or inform any person about any
55 party's alleged noncompliance with this amendment, and the right
56 to inform any person of his or her potential rights under this
57 amendment and to assist him or her in asserting such rights.

58 (e) ENFORCEMENT. Persons aggrieved by a violation of this

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59 amendment may bring a civil action in a court of competent
60 jurisdiction against an Employer or person violating this
61 amendment and, upon prevailing, shall recover the full amount of
62 any back wages unlawfully withheld plus the same amount as
63 liquidated damages, and shall be awarded reasonable attorney's
64 fees and costs. In addition, they shall be entitled to such
65 legal or equitable relief as may be appropriate to remedy the
66 violation including, without limitation, reinstatement in
67 employment and/or injunctive relief. Any Employer or other
68 person found liable for willfully violating this amendment shall
69 also be subject to a fine payable to the state in the amount of
70 \$1000.00 for each violation. The state attorney general or other
71 official designated by the state legislature may also bring a
72 civil action to enforce this amendment. Actions to enforce this
73 amendment shall be subject to a statute of limitations of four
74 years or, in the case of willful violations, five years. Such
75 actions may be brought as a class action pursuant to Rule 1.220
76 of the Florida Rules of Civil Procedure.

77 (f) ADDITIONAL LEGISLATION, IMPLEMENTATION AND
78 CONSTRUCTION. Implementing legislation is not required in order
79 to enforce this amendment. The state legislature may by statute
80 establish additional remedies or fines for violations of this
81 amendment, raise the applicable Minimum Wage rate, reduce the
82 Minimum Wage rate for prisoners in the state correctional
83 system, reduce the Minimum Wage rate for employees convicted of
84 a felony, reduce the Minimum Wage rate for employees younger
85 than 21 years of age, reduce the Minimum Wage rate for other
86 hard-to-hire employees, reduce the tip credit, or extend
87 coverage of the Minimum Wage to employers or employees not

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88 covered by this amendment. The state legislature may by statute
89 or the state Agency for Workforce Innovation may by regulation
90 adopt any measures appropriate for the implementation of this
91 amendment. This amendment provides for payment of a minimum wage
92 and shall not be construed to preempt or otherwise limit the
93 authority of the state legislature or any other public body to
94 adopt or enforce any other law, regulation, requirement, policy
95 or standard that provides for payment of higher or supplemental
96 wages or benefits, or that extends such protections to employers
97 or employees not covered by this amendment. It is intended that
98 case law, administrative interpretations, and other guiding
99 standards developed under the federal FLSA shall guide the
100 construction of this amendment and any implementing statutes or
101 regulations.

102 (g) SEVERABILITY. If any part of this amendment, or the
103 application of this amendment to any person or circumstance, is
104 held invalid, the remainder of this amendment, including the
105 application of such part to other persons or circumstances,
106 shall not be affected by such a holding and shall continue in
107 full force and effect. To this end, the parts of this amendment
108 are severable.

109 BE IT FURTHER RESOLVED that the following statement be
110 placed on the ballot:

111 CONSTITUTIONAL AMENDMENT

112 ARTICLE X, SECTION 24

113 Article XII, SECTION 42

114 GRANTING THE LEGISLATURE AUTHORITY TO PROVIDE A REDUCED
115 MINIMUM WAGE RATE TO CERTAIN EMPLOYEES.—Proposing an amendment
116 to the State Constitution to grant the Legislature authority to

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117 provide a reduced minimum wage rate for prisoners in the state
118 correctional system, for employees convicted of a felony, for
119 employees younger than 21 years of age, and for other hard-to-
120 hire employees.