

By Senator Hill

1-1399A-05

1 A bill to be entitled

2 An act relating to the Florida minimum wage;

3 amending s. 95.11, F.S.; providing limitations

4 on actions alleging violations of s. 24, Art. X

5 of the State Constitution; creating s. 448.065,

6 F.S.; creating the Florida Minimum Wage Act;

7 providing that the purpose of the act is to

8 implement s. 24, Art. X of the State

9 Constitution, which establishes a state minimum

10 wage; requiring payment of the minimum wage to

11 certain employees by a specified date;

12 requiring the Agency for Workforce Innovation

13 to annually calculate an adjusted state minimum

14 wage; requiring that the agency and the

15 Department of Revenue notify employers of the

16 amount of the minimum wage; prohibiting an

17 employer or other party from discriminating

18 against a person who exercises rights protected

19 under s. 24, Art. X of the State Constitution;

20 authorizing a person to bring a civil action

21 against an employer or person in violation of

22 the act; providing for the recovery of unpaid

23 back wages, liquidated damages, and attorney's

24 fees and costs; providing for legal or

25 equitable relief; authorizing the Attorney

26 General to bring a civil action to enforce the

27 act and seek injunctive relief; authorizing a

28 fine; specifying the statute of limitations for

29 actions brought under the act; authorizing

30 class actions; providing that the act is the

31 exclusive remedy available for a violation of

1 s. 24, Art. X of the State Constitution;
2 limiting the authority of the Agency for
3 Workforce Innovation; providing an effective
4 date.

5
6 Be It Enacted by the Legislature of the State of Florida:

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8 Section 1. Paragraph (d) is added to subsection (2) of
9 section 95.11, Florida Statutes, present paragraph (p) of
10 subsection (3) of that section is redesignated as paragraph
11 (q), and a new paragraph (p) is added to that subsection, to
12 read:

13 95.11 Limitations other than for the recovery of real
14 property.--Actions other than for recovery of real property
15 shall be commenced as follows:

16 (2) WITHIN FIVE YEARS.--

17 (d) An action alleging a willful violation of s.
18 448.065.

19 (3) WITHIN FOUR YEARS.--

20 (p) An action alleging a violation of s. 448.065,
21 other than a willful violation.

22 Section 2. Section 448.065, Florida Statutes, is
23 created to read:

24 448.065 State minimum wage; annual wage adjustment;
25 enforcement.--

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

28 (2) The purpose of this section is to implement s. 24,
29 Art. X of the State Constitution, in accordance with authority
30 granted to the Legislature under s. 24(f), Art. X of the State
31 Constitution.

1 (3) Effective May 2, 2005, an employer shall pay to
2 each employee who receives minimum wage an hourly pay rate of
3 \$6.15. Only those individuals who are entitled to receive the
4 federal minimum wage under the federal Fair Labor Standards
5 Act and implementing regulations are eligible to receive the
6 state minimum wage under s. 24, Art. X of the State
7 Constitution and this section.

8 (4)(a) Beginning September 30, 2005, and annually on
9 September 30 thereafter, the Agency for Workforce Innovation
10 shall calculate an adjusted state minimum wage rate by
11 increasing the state minimum wage by the rate of inflation for
12 the 12 months prior to September 1. In calculating the
13 adjusted state minimum wage, the agency shall use the Consumer
14 Price Index for Urban Wage Earners and Clerical Workers,
15 CPI-W, for the south region, or a successor index as
16 calculated by the United States Department of Labor. Each
17 adjusted state minimum wage rate shall take effect on the
18 following January 1, with the initial adjusted minimum wage
19 rate to take effect on January 1, 2006.

20 (b) The Agency for Workforce Innovation and the
21 Department of Revenue shall annually notify employers of the
22 amount of the state minimum wage through the most
23 cost-effective means of publication available. The Agency for
24 Workforce Innovation shall direct its tax services collection
25 provider, by contract, to notify employers annually of the
26 amount of the initial and adjusted state minimum wage, as
27 applicable, and the effective date, either separately, or as
28 part of an annual tax notice or other mailing to employers. In
29 addition, the Agency for Workforce Innovation and the
30 Department of Revenue shall post the applicable state minimum
31 wage rate and the effective date on an Internet website by

1 September 30 of each year. The Agency for Workforce Innovation
2 shall provide the Department of Revenue with the rate
3 information for the state minimum wage and the effective date
4 in a timely manner.

5 (5) An employer or any other party may not
6 discriminate in any manner or take adverse action against any
7 person in retaliation for exercising rights protected under s.
8 24, Art. X of the State Constitution. Protected rights
9 include, but are not limited to, the right to file a complaint
10 or inform any person of his or her potential rights under s.
11 24, Art. X of the State Constitution and the right to assist
12 another in asserting such rights.

13 (6) A person aggrieved by a violation of this section
14 may bring a civil action in a court of competent jurisdiction
15 against an employer or person in violation of this section.

16 (a) Upon prevailing in an action brought under this
17 section, an aggrieved person shall recover the full amount of
18 any unpaid back wages unlawfully withheld plus the same amount
19 as liquidated damages, and shall be awarded reasonable
20 attorney's fees and costs.

21 (b) Upon prevailing in an action brought under this
22 section, an aggrieved person is also entitled to the legal or
23 equitable relief that is appropriate to remedy the violation,
24 including, without limitation, reinstatement in employment and
25 injunctive relief.

26 (7) The Attorney General may bring a civil action to
27 enforce this section. The Attorney General may seek injunctive
28 relief. In addition to injunctive relief, or in lieu thereof,
29 for any employer or other person found to have willfully
30 violated this section, the Attorney General may seek to impose
31 a fine of \$1,000 per violation, payable to the state, against

1 any employer or other person found to have willfully violated
2 this section. A determination of a second violation of this
3 section shall be considered willful.

4 (8) The statute of limitations for an action brought
5 under this section is 4 years following the date the alleged
6 violation occurred, except that the statute of limitations for
7 an action alleging a willful violation of this section is 5
8 years following the date the alleged violation occurred.

9 (9) Actions brought under this section may be brought
10 as a class action.

11 (10) This section constitutes the exclusive remedy
12 under state law for a violation of s. 24, Art. X of the State
13 Constitution.

14 (11) Except for calculating the adjusted state minimum
15 wage and publishing the initial state minimum wage and any
16 annual adjustment thereto, the authority of the Agency for
17 Workforce Innovation in implementing s. 24, Art. X of the
18 State Constitution is limited to that authority expressly
19 granted by the Legislature.

20 Section 3. This act shall take effect July 1, 2005.

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23 SENATE SUMMARY

24 Creates the Florida Minimum Wage Act to implement s. 24,
25 Art. X of the State Constitution. Provides for the Agency
26 for Workforce Innovation to annually calculate the
27 adjusted state minimum wage. Provides for a person
28 aggrieved by a violation of the minimum-wage law to bring
29 an action for unpaid back wages, liquidated damages, and
30 attorney's fees and costs. Authorizes the Attorney
31 General to bring a civil action to enforce the act.
Authorizes a fine for a violation of the act. Provides a
4-year statute of limitations for bringing an action for
an alleged violation and a 5-year statute of limitations
for bringing an action for an alleged willful violation.
Authorizes class actions for violations of the
minimum-wage law. (See bill for details.)