

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1425 State Minimum Wage
SPONSOR(S): Tobia and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1610

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---------------------------------------------------|-----------------|---------|------------------------------------------|
| 1) Economic Development & Tourism Subcommittee | 9 Y, 5 N, As CS | Kruse | Kruse |
| 2) Finance & Tax Committee | | | |
| 3) Economic Affairs Committee | | | |

SUMMARY ANALYSIS

The Agency for Workforce Innovation (AWI) is required to calculate and publish the state minimum wage. Current law requires employers to pay employees the minimum wage published by AWI for all hours worked in Florida. Only those individuals entitled to receive the federal minimum wage under the federal Fair Labor Standards Act and its implementing regulations are eligible to receive the state minimum wage.

The bill provides greater specificity to AWI as to how to calculate the state minimum wage.

The bill has no fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

ISSUE BACKGROUND

Minimum Wage Calculation

Pursuant to s. 24 of the Florida Constitution and s. 448.110, F.S., the Agency for Workforce Innovation is required to calculate and publish the Florida minimum wage. Section 448.110(4)(a) states in part: “[T]he Agency for Workforce Innovation (AWI) shall calculate an adjusted state minimum wage rate by increasing the state minimum wage by the rate of inflation for the 12 months prior to September 1.” The changes made by the bill provide AWI with more specific direction as to how AWI should calculate the Florida minimum wage.

Current law requires employers to pay employees a minimum wage at an hourly rate published by AWI for all hours worked in Florida. Only those individuals entitled to receive the federal minimum wage under the federal Fair Labor Standards Act and its implementing regulations are eligible to receive the state minimum wage. AWI must calculate an adjusted state minimum wage rate by increasing the state minimum wage by the rate of inflation for the 12 months prior to September 1. In calculating the adjusted state minimum wage, AWI must use the Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for the South Region. If the result of such adjustment by the CPI on the state minimum wage is less than either the previous year’s adjusted state minimum wage or the Federal minimum wage rate, then the greater of those two becomes the adjusted state minimum wage. Each adjusted state minimum wage rate takes effect on the following January 1, unless a new Federal minimum wage rate is issued and that rate is higher than the current adjusted state minimum wage rate. For example, on July 24, 2009, the new Federal minimum wage rate of \$7.25 became the new adjusted state minimum wage rate because it was higher than the adjusted state minimum wage rate at the time of \$7.21.

AWI and the Department of Revenue are required to annually publish the amount of the adjusted state minimum wage and the effective date. Publication is made by posting the adjusted state minimum wage rate and the effective date on the Internet home pages of the agency and the department by October 15 of each year. In addition, if funding is available, AWI must provide written notice of the adjusted rate and the effective date of the adjusted state minimum wage to all employers registered in the most current unemployment compensation database. Such notice must be mailed by November 15 of each year using the addresses included in the database.

AWI’s method for calculating the state minimum wage rate is currently the subject of a lawsuit. Florida Legal Services and the National Employment Law Project recently filed the lawsuit on behalf of four individual workers and three organizations that represent low-wage employees. The plaintiffs claim that AWI should have calculated the 2011 rate based off of the 2009 adjusted state minimum wage. The case is currently pending.

Changes made by the bill

The bill provides greater specificity to AWI as to how to calculate the adjusted state minimum wage rate. The bill provides three new definitions, “Adjusted Real Wage Rate,” which means the wage rate establishing purchasing power parity with the base-period wage rate of \$6.15 set by Florida in 2005, “Federal Minimum Wage Rate,” which means the minimum wage rate set by the federal government, and “CPI-W,” which means the Consumer Price Index, not seasonally adjusted, for the Urban Wage earners and clerical workers for the South Region, or a successor index as calculated by the United States Department of Labor.

The bill specifies AWI’s calculation of the minimum wage using the new terms. The bill replaces adjusted state minimum wage rate with Adjusted Real Wage Rate. The bill provides that in calculating the Adjusted Real Wage Rate, AWI must calculate the rate of inflation by computing the percentage change in the CPI-W. Each year the rate of inflation will be multiplied by the prior year’s computed

Adjusted Real Wage Rate. This provides the amount to be added to, or subtracted from, the previous year's computed Adjusted Real Wage Rate. The computed Adjusted Real Wage Rate becomes the Florida Minimum Wage if both the Federal Minimum Wage Rate and the prior year's Florida Minimum Wage are lower than the Adjusted Minimum Wage Rate. If the Adjusted Real Wage Rate is lower than the prior year's Florida Minimum Wage and lower than the Federal Minimum Wage Rate, then the higher of the two becomes the Florida Minimum Wage for the subsequent year. The bill provides that the Adjusted Real Wage Rate is the only basis for calculating the subsequent year's Adjusted Real Wage Rate.

The bill provides an effective date of July 1, 2011.

B. SECTION DIRECTORY:

Section 1. Amends s. 448.110, F.S., to revise the state minimum wage calculation.

Section 2. Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has no direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 22, 2011, the Economic Development and Tourism Subcommittee adopted an amendment which provided further detail to the Agency for Workforce Innovation as to how to calculate the minimum wage.

The bill was reported favorably as a committee substitute and the analysis has been updated to reflect the adopted amendment.