

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Commerce and Tourism Committee

BILL: SB 1610

INTRODUCER: Senator Detert

SUBJECT: State Minimum Wage

DATE: April 11, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hrdlicka	Cooper	CM	Pre-meeting
2.	_____	_____	GO	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The Agency for Workforce Innovation is required to annually calculate and publish the state minimum wage. SB 1610 provides greater specificity to the Agency for Workforce Innovation to calculate the state minimum wage.

This bill amends ss. 448.109 and 448.110, F.S.

II. Present Situation:

A constitutional amendment to Florida’s Constitution took effect on May 2, 2005, which established the state minimum wage.¹ The Legislature enacted the Florida Minimum Wage Act in 2005 to implement the constitutional provisions.²

The Agency for Workforce Innovation (AWI) is required to annually calculate and publish the state 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.

Minimum Wage Calculation

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

¹ Section 24, Art. X, of the State Constitution.

² Chapter 2005-353, L.O.F.

minimum wage, AWI must use the Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for the South Region.³ Neither the statute nor the Constitution specifically address deflation in the computation of the minimum wage.

In interpreting the intent of the Legislature to calculate a state minimum wage, AWI computes the percentage change in the CPI for the 12 months prior to September 1 and multiplies it times 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 higher of the previous year's state minimum wage, the Adjusted Real Wage Rate, or the Federal minimum wage rate⁴ becomes the state minimum wage for the year. The state minimum wage takes effect on the following January 1, unless a new Federal minimum wage rate is issued and that rate is higher. 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 state minimum wage rate at the time of \$7.21.

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.⁵ The plaintiffs claim that AWI should not have accounted for the decrease in the CPI (deflation) in 2009 when calculating future years' minimum wages. The case is currently pending.

III. Effect of Proposed Changes:

This bill amends the state minimum wage statutes to provide greater specificity to AWI in its calculation of the state minimum wage. The bill clarifies that the state minimum wage cannot drop when there is deflation, but that AWI should account for deflation when computing future rates. Additionally, the bill clarifies the relationship between the Federal minimum wage and the state minimum wage.

Section 2 amends s. 448.110, F.S., to provide greater specificity to AWI as to how to calculate the state minimum wage. AWI is directed to first calculate the difference between the CPI from August of the previous year and then August of the current year. The difference will be the rate of inflation or deflation. The difference is then applied to the previous year's wage rate calculation to create the Adjusted Real Wage Rate. This method allows for parity between the Adjusted Real Wage Rate and the cost of living.

The bill specifies that the Adjusted Real Wage Rate becomes the state minimum wage when both the previous year's state minimum wage and the Federal minimum wage are lower than the Adjusted Real Wage Rate.

Section 1 amends s. 448.109, F.S. to include a cross-reference.

Section 3 provides an effective date of July 1, 2011.

³ Section 448.110(4)(a), F.S.

⁴ 29 U.S.C. 206. See 29 U.S.C. 218(a), which permits a state minimum wage higher than the federal wage.

⁵ Cadet, et. al. v. Florida Agency for Workforce Innovation, 37 2011 CA 000072 (2nd Cir. Fla., 2011).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None. This bill does not change the manner in which the state minimum wage is currently calculated.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The Agency for Workforce Innovation reports that the current bill still does not provide enough clarity to the minimum wage rate calculation.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.