

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; providing definitions; revising the
17 protected rights of an employee; creating a rebuttable
18 presumption and burden of proof for an employer;
19 prohibiting a person or entity from entering into
20 certain contracts; revising the process for filing a
21 complaint for a violation of protected rights;
22 authorizing and providing the department certain
23 powers to conduct investigations, issue citations,
24 enforce and collect judgments by certain means, and
25 partner with other entities for enforcement and

26 education outreach; providing for injunctive relief
 27 under certain circumstances; providing a process for
 28 review of a citation, levy, or stop-order issued by
 29 the department; providing penalties; tolling the
 30 statute of limitations during an investigation;
 31 providing liability; requiring certain records be
 32 maintained for a specified length of time; creating s.
 33 448.111, F.S.; creating the Department of Labor
 34 Community Advisory Board within the Department of
 35 Labor; providing for membership, meetings, and duties
 36 of the advisory board; requiring an annual report to
 37 the Secretary of the Department of Labor, the
 38 Governor, and the Legislature by a specified date;
 39 providing an effective date.

41 Be It Enacted by the Legislature of the State of Florida:

42
 43 Section 1. Section 20.71, Florida Statutes, is created to
 44 read:

45 20.71 Department of Labor; creation; powers and duties.-

46 (1) There is created the Department of Labor.

47 (2) The head of the department is the Secretary of Labor,
 48 who shall be appointed by the Governor, subject to confirmation
 49 by the Senate. The secretary shall serve at the pleasure of and
 50 report to the Governor.

51 (3) The secretary may create divisions within the
 52 department and allocate various functions of the department
 53 among such divisions.

54 (4) (a) The headquarters of the department shall be located
 55 in Tallahassee. However, the department may establish regional
 56 offices throughout the state as the secretary deems necessary
 57 for the efficient operation of the department in accomplishing
 58 its purpose.

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

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

65 Section 2. Paragraph (a) of subsection (3) of section
 66 448.109, Florida Statutes, is amended to read:

67 448.109 Notification of the state minimum wage.—

68 (3) (a) Each year the Department of Labor ~~Department of~~
 69 ~~Economic Opportunity~~ shall, on or before December 1, create and
 70 make available to employers a poster in English, and in Spanish,
 71 and any other languages, as necessary. The poster must give
 72 notice of all of the following:

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

75 2. The right to be protected from retaliation for

76 exercising in good faith any right protected under s. 24, Art. X
77 of the State Constitution and s. 448.110.

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

82 ~~NOTICE TO EMPLOYEES~~

83 ~~The Florida minimum wage is \$... (amount) ... per hour, with a~~
84 ~~minimum wage of at least \$... (amount) ... per hour for tipped~~
85 ~~employees, in addition to tips, for January 1, ... (year) ... ,~~
86 ~~through December 31, ... (year)~~

87 ~~The rate of the minimum wage is recalculated yearly on September~~
88 ~~30, based on the Consumer Price Index. Every year on January 1~~
89 ~~the new Florida minimum wage takes effect.~~

90 ~~An employer may not retaliate against an employee for exercising~~
91 ~~his or her right to receive the minimum wage. Rights protected~~
92 ~~by the State Constitution include the right to:~~

- 93 ~~1. File a complaint about an employer's alleged~~
94 ~~noncompliance with lawful minimum wage requirements.~~
- 95 ~~2. Inform any person about an employer's alleged~~
96 ~~noncompliance with lawful minimum wage requirements.~~
- 97 ~~3. Inform any person of his or her potential rights under~~
98 ~~Section 24, Article X of the State Constitution and to~~
99 ~~assist him or her in asserting such rights.~~

100 ~~An employee who has not received the lawful minimum wage after~~

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101 ~~notifying his or her employer and giving the employer 15 days to~~
102 ~~resolve any claims for unpaid wages may bring a civil action in~~
103 ~~a court of law against an employer to recover back wages plus~~
104 ~~damages and attorney's fees.~~

105 ~~An employer found liable for intentionally violating minimum~~
106 ~~wage requirements is subject to a fine of \$1,000 per violation,~~
107 ~~payable to the state.~~

108 ~~The Attorney General or other official designated by the~~
109 ~~Legislature may bring a civil action to enforce the minimum~~
110 ~~wage.~~

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

112 Section 3. Section 448.110, Florida Statutes, is amended
113 to read:

114 448.110 State minimum wage; annual wage adjustment;
115 enforcement.—

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

118 (2) The purpose of this section is to provide measures
119 appropriate for the implementation of s. 24, Art. X of the State
120 Constitution, in accordance with authority granted to the
121 Legislature under ~~pursuant to~~ s. 24(f), Art. X of the State
122 Constitution. To implement s. 24, Art. X of the State
123 Constitution, the Department of Labor ~~Department of Economic~~
124 ~~Opportunity~~ is designated as the state Agency for Workforce
125 Innovation.

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

127 (a) "Adverse action" means the discharge, suspension,
128 transfer, or demotion of an employee; the withholding of wage,
129 bonuses, benefits, or workable hours; filing, or threatening to
130 file, a false report with a government agency or engaging in
131 unfair immigration-related practices; or any other adverse
132 action taken against an employee within the terms and conditions
133 of employment by an employer.

134 (b) "Client employer" means a business entity, regardless
135 of its form, that obtains or is provided employees to perform
136 labor within its usual course of business from a labor
137 contractor. The term does not include:

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

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

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

145 (c) "Department" means the Department of Labor as created
146 in s. 20.71.

147 (d) "Employee" has the same meaning as established under
148 the federal Fair Labor Standards Act and its implementing
149 regulations in effect on July 1, 2021.

150 (e) "Employer" has the same meaning as established under

151 the federal Fair Labor Standards Act and its implementing
152 regulations in effect on July 1, 2021.

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

156 (g) "Labor contractor" means a person or entity that
157 supplies, with or without a contract, a client employer with
158 employees to perform labor within the client employer's usual
159 course of business. The term does not include a bona fide
160 nonprofit, community-based organization that provides services
161 to employees or a labor organization or apprenticeship program
162 operating under a collective bargaining agreement.

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

166 (4)~~(3)~~ Effective May 2, 2005, employers shall pay
167 employees a minimum wage at an hourly rate of \$6.15 for all
168 hours worked in Florida. Only those individuals entitled to
169 receive the federal minimum wage under the federal Fair Labor
170 Standards Act and its implementing regulations shall be eligible
171 to receive the state minimum wage under ~~pursuant to~~ s. 24, Art.
172 X of the State Constitution and this section. Sections 213 and
173 214 ~~The provisions of ss. 213 and 214~~ of the federal Fair Labor
174 Standards Act, as interpreted by applicable federal regulations
175 and implemented by the Secretary of Labor, are incorporated

176 herein.

177 (5) (a) ~~(4) (a)~~ Beginning September 30, 2005, and annually on
178 September 30 thereafter, the department ~~of Economic Opportunity~~
179 shall calculate an adjusted state minimum wage rate by
180 increasing the state minimum wage by the rate of inflation for
181 the 12 months prior to September 1. In calculating the adjusted
182 state minimum wage, the department ~~of Economic Opportunity~~ shall
183 use the Consumer Price Index for Urban Wage Earners and Clerical
184 Workers, not seasonally adjusted, for the South Region or a
185 successor index as calculated by the United States Department of
186 Labor. Each adjusted state minimum wage rate shall take effect
187 on the following January 1, with the initial adjusted minimum
188 wage rate to take effect on January 1, 2006.

189 (b) The Department of Revenue and the department ~~of~~
190 ~~Economic Opportunity~~ shall annually publish the amount of the
191 adjusted state minimum wage and the effective date. Publication
192 shall occur by posting the adjusted state minimum wage rate and
193 the effective date on the Internet home pages of the department
194 ~~of Economic Opportunity~~ and the Department of Revenue by October
195 15 of each year. In addition, to the extent funded in the
196 General Appropriations Act, the department ~~of Economic~~
197 ~~Opportunity~~ shall provide written notice of the adjusted rate
198 and the effective date of the adjusted state minimum wage to all
199 employers registered in the most current reemployment assistance
200 database. Such notice shall be mailed by November 15 of each

201 year using the addresses included in the database. Employers are
202 responsible for maintaining current address information in the
203 reemployment assistance database. The department ~~of Economic~~
204 ~~Opportunity~~ is not responsible for failure to provide notice due
205 to incorrect or incomplete address information in the database.
206 The department ~~of Economic Opportunity~~ shall provide the
207 Department of Revenue with the adjusted state minimum wage rate
208 information and effective date in a timely manner.

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

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

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

220 2. The right to inform a person's employer, union or other
221 similar organization, legal counsel, or any other person about
222 an alleged violation of s. 24, Art. X of the State Constitution
223 or this section.

224 3. The right to file a complaint with the department or
225 file a civil action for an alleged violation of s. 24, Art. X of

226 the State Constitution or this section.

227 4. The right to cooperate with any investigation conducted
228 under this section and to testify in any proceeding or action
229 brought under this section.

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

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

235 (c) There is a rebuttable presumption that an employer has
236 violated s. 24, Art. X of the State Constitution or this section
237 if the employer takes adverse action against an employee within
238 90 days after the employee exercises a right under paragraph
239 (b). If an employee is a seasonal worker and his or her work
240 ended before the end of the 90-day period, the rebuttable
241 presumption applies if the employer fails to rehire the seasonal
242 worker in the same position at the next opportunity. The
243 rebuttable presumption may be overcome by clear and convincing
244 evidence.

245 (d) The protections provided under this section apply to
246 any employee who alleges a violation of s. 24, Art. X of the
247 State Constitution or this section in good faith. Any complaint
248 or other communication by an employee alleging a violation of s.
249 24, Art. X of the State Constitution or this section triggers
250 the protections under this section even if the complaint or

251 communication does not specifically reference this section.

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

258 (7) An employer has the burden of proving that a person is
259 an independent contractor and not an employee. A person who
260 receives remuneration for services provided is considered an
261 employee unless the employer proves:

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

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

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

268 (8) A person or entity may not enter into a contract or
269 agreement with an independent contractor for labor or services
270 if the person or entity knows or should know that the contract
271 or agreement does not include funds sufficient to allow the
272 independent contractor to comply with all applicable local,
273 state, and federal laws or regulations governing the labor or
274 services to be provided.

275 (9) (a) The department may commence investigations,

276 actions, and proceedings necessary to enforce this section. The
277 department has the sole discretion whether to investigate an
278 employer to determine if a violation of this section has
279 occurred.

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

282 1. Shall keep the name and other identifying information
283 about the reporter confidential to the extent permitted by law.
284 The department may disclose the reporter's name or
285 identification with the written consent of the reporter.

286 2. Shall provide a notice form to an employer being
287 investigated, which must be posted in a conspicuous and
288 accessible location at the workplace, notifying the employees
289 that the department is conducting an investigation under this
290 section. The notice form must be in English and any other
291 language that is the primary language of a majority of the
292 employees in the workplace. If display of the notice form is not
293 feasible, the employer must provide it to each employee through
294 electronic means and also provide each employee a physical copy
295 of the notice form.

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

300 (10) (a) During an investigation under this section, the

301 department has the power to:

302 1. Enter and inspect the workplace.

303 2. Inspect and make copies of papers, books, accounts,
304 records, payroll, and other documents necessary to further its
305 investigation.

306 3. Question witnesses under oath and in a private
307 location.

308 4. Issue subpoenas to compel the attendance and testimony
309 of witnesses and the production of papers, books, accounts,
310 records, payroll, and other documents necessary to further its
311 investigation.

312 5. Take depositions and affidavits.

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

316 (b) If an employer fails to comply with a lawfully issued
317 subpoena or if a witness refuses to testify or be questioned,
318 the department may request that the court compel compliance by
319 initiating a proceeding for contempt. The court shall take
320 judicial notice under s. 90.202(13) of the department's seal,
321 "Department of Labor-State of Florida," and shall enforce any
322 subpoena issued by the secretary or his or her representative
323 under such seal.

324 (c) During an administrative or civil proceeding under
325 this section, an employer may not introduce any documentation as

326 evidence that was not provided to the department.

327 (11) (a) During the course of an investigation under this
328 section, the department or the Attorney General may seek
329 injunctive relief upon a finding of reasonable cause that a
330 violation has occurred.

331 (b) When determining whether injunctive relief is
332 appropriate, the court shall consider any direct harm to an
333 employee from a violation of this section and the chilling
334 effect on other employees attempting to assert their rights
335 under this section. Reasonable cause exists for a court to issue
336 an injunction if an employee has faced adverse action for
337 asserting his or her rights under this section.

338 (c) A temporary injunction remains in effect until the
339 department issues a citation to the employer or until the
340 completion of an administrative hearing, whichever is longer, or
341 until a time certain set by the court. A temporary injunction
342 does not prohibit an employer from taking adverse action against
343 an employee for conduct unrelated to an alleged violation of
344 this section.

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

347 (12) (a) If a violation of this section is found during an
348 investigation and the violation has not been remedied by the end
349 of the investigation, the department shall issue a citation to
350 the employer. The citation must be in writing and describe the

351 nature of the violation and include any and all appropriate
352 relief. Appropriate relief includes requiring an employer to
353 cease and desist; to take any action necessary to remedy the
354 violation, such as rehiring or reinstating an employee,
355 reimbursing lost wages, or paying liquidated damages or other
356 finances and penalties; to take training classes relating to
357 compliance with this section; or to submit to compliance
358 monitoring by the department. The department shall serve the
359 citation in a manner provided by the Florida Rules of Civil
360 Procedure. The citation must advise the employer of his or her
361 right to an administrative hearing to have the citation
362 reviewed.

363 (b) Within 30 days after service of a citation, an
364 employer must comply with all appropriate relief specified in
365 the citation or may obtain review of the citation by providing a
366 written request for review to the office of the secretary. Upon
367 receipt of a written request for review, the secretary shall
368 assign the citation to an administrative law judge to conduct a
369 hearing and issue a written decision. Hearings conducted under
370 this subsection are governed by the department and the rules of
371 practice and procedure adopted by the department.

372 (c) An administrative hearing must commence within 90 days
373 after receipt of a timely submitted request for review. The
374 administrative law judge must render a written decision within
375 90 days after the conclusion of the hearing. The decision must

376 include a statement of findings, conclusions of law, and a
377 recommended order that specifies all appropriate relief as
378 authorized under paragraph (a), including the amount required
379 for an appeal bond should the employer choose to obtain review
380 of the order issued under this paragraph. The decision must be
381 served on all parties in a manner provided by the Florida Rules
382 of Civil Procedure. If the recommended order includes a monetary
383 remedy, the amount is due 45 days after the written decision is
384 properly served on the employer.

385 (d)1. An employer may obtain review of the written
386 decision and order issued under paragraph (c) by filing a
387 petition for a writ of mandamus to a court having jurisdiction
388 within 45 days after service of the decision. If a petition for
389 a writ of mandamus is not filed within the appropriate time, the
390 recommended order in the written decision becomes final.

391 2. Before an employer may obtain review of the decision,
392 he or she must post an appeal bond, in the amount specified in
393 the recommended order, issued by a licensed surety or as a cash
394 deposit with the court. The employer shall provide written
395 notice to the department and any other parties of the posting of
396 the appeal bond.

397 3. A court may overturn a decision based on abuse of
398 discretion. An employer establishes an abuse of discretion if he
399 or she alleges that the findings are not supported by the
400 evidence and the court determines that the findings are not

401 supported by substantial evidence when looking at the entire
402 record.

403 4. If the court issues an order in favor of the aggrieved
404 party or if the appeal is withdrawn or dismissed without entry
405 of judgment, the employer is liable for the relief specified in
406 the written decision from the administrative hearing, unless the
407 parties execute a settlement agreement, in which case the
408 employer is liable for the relief specified in the settlement
409 agreement. If the written decision from the administrative
410 hearing or the settlement agreement provide for monetary relief,
411 and the employer fails to pay the amount owed within 10 days
412 after entry of a judgment, dismissal or withdrawal of the
413 appeal, or the execution of a settlement agreement, a portion of
414 the appeal bond equal to the amount owed, or the entire appeal
415 bond if the amount owed exceeds the amount of the bond, shall be
416 paid to the aggrieved party.

417 5. If the employer does not request review of the citation
418 under paragraph (b), file a writ of mandamus under subparagraph
419 1., or post the appeal bond as required in subparagraph 2., and
420 the time to do so has expired, or if the petition for a writ of
421 mandamus is dismissed or withdrawn without entry of judgment,
422 the clerk of the court shall certify a copy of the citation or
423 written decision and order issued by the department or by the
424 administrative law judge, respectively, and enter judgment for
425 the state or aggrieved party. The judgment has the same force

426 and effect as a judgment entered in a civil action and may be
427 enforced in the same manner as any other judgment of the court.
428 The court must give priority to petitions to enforce a judgment
429 entered under this section.

430 6. If an employer fails to comply with a citation or final
431 order, whether issued by the department, administrative law
432 judge, or court, and has exhausted all reviews or appeals or the
433 time to file a review or appeal has expired, the department or
434 the Attorney General may commence and prosecute a civil action
435 to recover unpaid wages, including interest, fines, or
436 penalties; equitable relief; or liquidated damages owed to an
437 aggrieved person. The prevailing party is entitled to applicable
438 fines or civil penalties and reasonable attorney fees and costs.

439 ~~(6) (a) Any person aggrieved by a violation of this section~~
440 ~~may bring a civil action in a court of competent jurisdiction~~
441 ~~against an employer violating this section or a party violating~~
442 ~~subsection (5). However, prior to bringing any claim for unpaid~~
443 ~~minimum wages pursuant to this section, the person aggrieved~~
444 ~~shall notify the employer alleged to have violated this section,~~
445 ~~in writing, of an intent to initiate such an action. The notice~~
446 ~~must identify the minimum wage to which the person aggrieved~~
447 ~~claims entitlement, the actual or estimated work dates and hours~~
448 ~~for which payment is sought, and the total amount of alleged~~
449 ~~unpaid wages through the date of the notice.~~

450 ~~(b) The employer shall have 15 calendar days after receipt~~

451 ~~of the notice to pay the total amount of unpaid wages or~~
452 ~~otherwise resolve the claim to the satisfaction of the person~~
453 ~~aggrieved. The statute of limitations for bringing an action~~
454 ~~pursuant to this section shall be tolled during this 15-day~~
455 ~~period. If the employer fails to pay the total amount of unpaid~~
456 ~~wages or otherwise resolve the claim to the satisfaction of the~~
457 ~~person aggrieved, then the person aggrieved may bring a claim~~
458 ~~for unpaid minimum wages, the terms of which must be consistent~~
459 ~~with the contents of the notice.~~

460 (13) (a) (e) 1. Upon prevailing in a civil ~~an~~ action brought
461 under paragraph (6) (e) ~~pursuant to this section,~~ aggrieved
462 persons shall recover the full amount of any unpaid back wages,
463 plus interest, unlawfully withheld plus up to two times the
464 unpaid wages ~~the same amount~~ as liquidated damages and shall be
465 awarded reasonable attorney ~~attorney's~~ fees and costs.
466 Additionally, ~~As provided under the federal Fair Labor Standards~~
467 ~~Act, pursuant to s. 11 of the Portal-to-Portal Act of 1947, 29~~
468 ~~U.S.C. s. 260, if the employer proves by a preponderance of the~~
469 ~~evidence that the act or omission giving rise to such action was~~
470 ~~in good faith and that the employer had reasonable grounds for~~
471 ~~believing that his or her act or omission was not a violation of~~
472 ~~s. 24, Art. X of the State Constitution, the court may, in its~~
473 ~~sound discretion, award no liquidated damages or award any~~
474 ~~amount thereof not to exceed an amount equal to the amount of~~
475 ~~unpaid minimum wages. The court shall not award any economic~~

476 ~~damages on a claim for unpaid minimum wages not expressly~~
477 ~~authorized in this section.~~

478 ~~2. Upon prevailing in an action brought pursuant to this~~
479 ~~section,~~ aggrieved persons are ~~shall also be~~ entitled to such
480 legal or equitable relief as may be appropriate to remedy the
481 violation, including, without limitation, reinstatement in
482 employment and injunctive relief. However, any entitlement to
483 legal or equitable relief in an action brought under s. 24, Art.
484 X of the State Constitution or this section may ~~shall~~ not
485 include punitive damages.

486 (b) If an employer is found to have willfully violated
487 this section, the department, administrative law judge, or court
488 may impose a fine of \$1,000 per violation payable to the state.

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

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

498 1. The department, administrative law judge, or court may
499 order reinstatement of the aggrieved party, front pay in lieu of
500 reinstatement, backpay, liquidated damages up to two times the

501 amount of the unpaid wages, and other compensatory damages as
502 appropriate.

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

506 (e) ~~(d)~~ Any civil action brought under s. 24, Art. X of the
507 State Constitution and this section is ~~shall be~~ subject to s.
508 768.79.

509 ~~(7) The Attorney General may bring a civil action to~~
510 ~~enforce this section. The Attorney General may seek injunctive~~
511 ~~relief. In addition to injunctive relief, or in lieu thereof,~~
512 ~~for any employer or other person found to have willfully~~
513 ~~violated this section, the Attorney General may seek to impose a~~
514 ~~fine of \$1,000 per violation, payable to the state.~~

515 (14) ~~(8)~~ The statute of limitations for an action brought
516 under ~~pursuant to~~ this section is ~~shall be for~~ the period of
517 time specified in s. 95.11 beginning on the date the alleged
518 violation occurred. The statute of limitations applicable to an
519 action under this section is tolled during the department's
520 investigation and any administrative enforcement under this
521 section.

522 (15) ~~(9)~~ Actions brought under ~~pursuant to~~ this section may
523 be brought as a class action pursuant to Rule 1.220, Florida
524 Rules of Civil Procedure. In any class action brought under
525 ~~pursuant to~~ this section, the plaintiffs must ~~shall~~ prove, by a

526 | preponderance of the evidence, the individual identity of each
 527 | class member and the individual damages of each class member.

528 | (16)~~(10)~~ This section is ~~shall constitute~~ the exclusive
 529 | remedy under state law for violations of s. 24, Art. X of the
 530 | State Constitution.

531 | (17) The department shall make reasonable efforts to
 532 | ensure that judgments against an employer are satisfied and may
 533 | use any remedy that is available to a judgment creditor to
 534 | collect an unsatisfied judgment. The department may collect
 535 | wages, damages, and other monetary remedies on behalf of an
 536 | employee. The department acts as the trustee of any unsatisfied
 537 | judgment it collects and shall deposit such wages, damages, or
 538 | other monetary remedy in the appropriate fund as provided by
 539 | rule. The department shall conduct a diligent search for any
 540 | employee for whom it collects an unsatisfied judgment.

541 | (18) (a) Beginning on the 20th day after a judgment is
 542 | entered by the clerk of the court under paragraph (12) (d) or
 543 | otherwise by a court of competent jurisdiction in favor of the
 544 | department, the department may issue a notice of levy on all
 545 | persons having in their possession or under their control any
 546 | credits, money, or property belonging to the judgment debtor. If
 547 | the levy is made on credits, money, or property in the
 548 | possession or under the control of a bank, savings and loan
 549 | association, or other financial institution as defined in 42
 550 | U.S.C. s. 669a(d) (1), the notice of levy may be mailed or hand-

551 delivered to a centralized location designated by the bank,
552 savings and loan association, or other financial institution.

553 (b) Any person who receives a notice of levy shall
554 surrender the credits, money, or property to the department or
555 pay to the department the amount of any debt owed within 10 days
556 after service of the levy. Any person who surrenders to the
557 department any credits, money, or property of the judgment
558 debtor is discharged from any obligation or liability to the
559 judgment debtor relating to the amount paid to the department.

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

564 (d) Any fees, commissions, expenses, or costs associated
565 with the sale of property levied under this subsection are the
566 obligation of the judgment debtor and may be collected by virtue
567 of the levy or in any other manner as though the fees,
568 commissions, expenses, or costs were part of the judgment.

569 (e) The department may create a lien on any real or
570 personal property of an employer found in violation of s. 24,
571 Art. X of the State Constitution or this section. The department
572 shall release the lien upon final satisfaction of any judgment
573 entered in favor of an aggrieved party or the department, or
574 upon adjudication of the claim in favor of the employer. A lien
575 created under this paragraph lasts 10 years after the date it is

576 created unless the lien is satisfied or released. A lien created
577 under this paragraph is in addition to any other rights
578 available to an aggrieved party or the department.

579 (19) (a) If a citation issued by the department, written
580 decision and order issued by an administrative law judge, or
581 final judgment awarded under this section remains unsatisfied 30
582 days after all reviews and appeals have been exhausted or the
583 time to request a review or file an appeal has expired, the
584 department may issue a stop-order prohibiting the employer from
585 conducting business in the state using employee labor, including
586 conducting business using the labor of another business,
587 contractor, or subcontractor instead of the labor of an
588 employee, until the judgment is satisfied. The stop-order is
589 effective upon receipt of the order and the employer must pay
590 employees up to 10 days of lost wages due to the stop-order.

591 (b) An employer may appeal the stop-order by filing,
592 within 20 days after receipt of the stop-order, a written
593 request with the department for an administrative hearing. The
594 hearing must be held within 5 days after receipt of the written
595 request, at which time the stop-order shall be affirmed or
596 dismissed and the department shall serve a written notice of
597 findings on all parties within 24 hours after the conclusion of
598 the hearing. A party may appeal the written notice of findings
599 to a court of competent jurisdiction within 45 days after the
600 notice is mailed. The department may seek injunctive or other

601 appropriate relief to enforce the stop-order and is entitled to
602 attorney fees and costs if the department prevails.

603 (c) An employer, owner, director, officer, or managing
604 agent of an employer who fails to comply with a stop-order
605 issued under this subsection is guilty of a misdemeanor of the
606 second degree, punishable as provided in s. 775.082 or s.
607 775.083.

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

611 (20) If a citation issued by the department, written
612 decision and order issued by an administrative law judge, or
613 final judgment awarded under this section remains unsatisfied 30
614 days after all reviews or appeals have been exhausted or the
615 time to request a review or file an appeal has expired, the
616 department may request that the appropriate state agency, and
617 the state agency is authorized to, deny, suspend, or revoke any
618 license held by the employer until such time as the judgment is
619 satisfied.

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

626 (22) All employers, client employers, and labor
627 contractors shall create records documenting compliance with s.
628 24, Art. X of the State Constitution and this section in
629 accordance with department rules. Records must be maintained for
630 a minimum of 5 years after an employee leaves the employment of
631 the employer or client employer, or is no longer working with a
632 labor contractor. An employer, client employer, or labor
633 contractor must allow the department reasonable access to the
634 records when requested. If an employee, or other authorized
635 person or entity, alleges a violation of s. 24, Art. X of the
636 State Constitution or this section and the employer, client
637 employer, or labor contractor has not created and maintained
638 records as required under this subsection, there is a rebuttable
639 presumption that the he or she is in violation of the law. The
640 employer, client employer, or labor contractor can overcome this
641 presumption with clear and convincing evidence.

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

645 (24) Subject to appropriation of funds by the Legislature,
646 the department shall establish and maintain an outreach and
647 education partnership program to promote awareness of, and
648 compliance with, s. 24, Art. X of the State Constitution and
649 this section. The department shall pursue partnerships with
650 community-based organizations and unions through a competitive

651 request for proposals. Duties of the outreach and education
652 partnership program may include:

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

655 (b) Conducting educational training for employers about
656 their obligations.

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

660 (d) Assisting the department in conducting investigations
661 under this section, including the collection of evidence and
662 enforcement of a judgment.

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

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

667 (g) Producing and disseminating training materials to
668 employers and employees.

669 ~~(25)(11)~~ Except for calculating the adjusted state minimum
670 wage and publishing the initial state minimum wage and any
671 annual adjustments thereto, the authority of the department ~~of~~
672 ~~Economic Opportunity~~ in implementing s. 24, Art. X of the State
673 Constitution, pursuant to this section, ~~is shall be~~ limited to
674 that authority expressly granted by the Legislature.

675 Section 4. Section 448.111, Florida Statutes, is created

676 to read:

677 448.111 Department of Labor Community Advisory Board.—The
678 Department of Labor Community Advisory Board is established
679 within the Department of Labor.

680 (1) The advisory board shall consist of the following
681 members who must be approved by the Secretary of the Department
682 of Labor:

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

684 (b) A representative from the Department of Economic
685 Opportunity.

686 (c) A representative from the Department of Education.

687 (d) A representative from the Florida Chamber of Commerce.

688 (e) A representative from a small business as defined in
689 s. 288.703.

690 (f) Four representatives from labor organizations as
691 defined in s. 447.02(1) throughout the state.

692 (2) Members of the advisory board shall be appointed for
693 2-year terms, which shall be staggered.

694 (3) Members of the advisory board shall serve without
695 compensation and are not entitled to receive reimbursement for
696 per diem or travel expenses.

697 (4) The advisory board shall meet at least three times a
698 year in order to review reports and projects of the Department
699 of Labor. Meetings of the advisory board must be open to the
700 public and provide the opportunity for public comment.

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701 (5) The advisory board shall submit an annual report to
702 the Secretary of the Department of Labor recommending changes to
703 existing state policies and programs to ensure worker safety and
704 equity, with particular emphasis on low-wage workers, migrant
705 workers, and racial equity.

706 (6) By January 1, 2022, and annually thereafter, the
707 Secretary of the Department of Labor shall submit the annual
708 report to the Governor, the President of the Senate, and the
709 Speaker of the House of Representatives.

710 Section 5. This act shall take effect July 1, 2021.