

**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.)

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

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BILL: SB 1672

INTRODUCER: Senator Truenow

SUBJECT: Labor Pool Act

DATE: March 28, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McMillan</u>	<u>McKay</u>	<u>CM</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 1672 repeals Florida’s Labor Pool Act.

The bill takes effect July 1, 2025.

**II. Present Situation:**

**Labor Pool Act**

Part II of ch. 448, F.S., also known as the Labor Pool Act (Act),<sup>1</sup> provides for the health, safety, and well-being of day laborers throughout the state and outlines uniform standards of conduct and practice for labor pools. The Act defines “labor pool” as a business entity that operates a labor hall<sup>2</sup> by one or more of the following methods:<sup>3</sup>

- Contracting with third-party users to supply day laborers on a temporary basis;
- Hiring, employing, recruiting, or contracting with workers to fulfill contracts for temporary labor; or
- Fulfilling any contracts for day labor in accordance with the Labor Pool Act, even if the entity also conducts other business.

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<sup>1</sup> Ch. 95-332, Laws of Fla.

<sup>2</sup> Section 448.22(3), F.S., defines a “labor hall” as a central location maintained by a labor pool where day laborers assemble and are dispatched to work for a third-party user.

<sup>3</sup> Section 448.22(1), F.S. The act also specifically excludes certain businesses from its provisions: businesses registered as farm labor contractors; employee leasing companies; temporary help services that solely provide white collar employees, secretarial employees, clerical employees, or skilled laborers; labor union hiring halls; or labor bureau or employment offices operated by a business entity for the sole purpose of employing an individual for its own use. *See* s. 448.23, F.S.

### ***Exceptions***

The Labor Pool Act does not apply to the following types of businesses:<sup>4</sup>

- Business entities duly registered as farm labor contractors pursuant to part III of ch. 450, F.S.;
- Employee leasing companies,<sup>5</sup> as defined in s. 468.520, F.S.;
- Temporary help services engaged in supplying solely white collar employees, secretarial employees, clerical employees, or skilled laborers;
- Labor union hiring halls; or
- Labor bureau or employment offices operated by a business entity for the sole purpose of employing an individual for its own use.

### ***Prohibitions***

The Act prohibits labor pools from:<sup>6</sup>

- Charging a day laborer:<sup>7</sup>
  - For safety equipment, clothing, accessories, or any other items required by the nature of the work;
  - More than a reasonable amount to transport a worker to or from the designated worksite; or
  - For directly or indirectly cashing a worker's check.
- Requesting or requiring that any day laborer sign any document waiving statutory protections.
- Charging more than the actual cost of providing lunch, if the labor pool provides lunch at the worksite.<sup>8</sup>
- Restricting a day laborer's right to accept a permanent position with a third-party user to whom the laborer is referred for temporary work, or to restrict the right of a third-party user to offer employment to an employee of the labor pool.<sup>9</sup>

### ***Requirements***

The Act requires labor pools to:

- If operating a labor hall, provide the following facilities for a worker waiting at the hall for a job assignment:<sup>10</sup>
  - Restroom facilities;
  - Drinking water; and
  - Sufficient seating.
- Select one of the following methods to pay a day laborer for work performed:<sup>11</sup>
  - Cash;

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<sup>4</sup> Section 448.23, F.S.

<sup>5</sup> "Employee Leasing Company" means a sole proprietorship, partnership, corporation, or other form of business entity engaged in employee leasing.

<sup>6</sup> Section 448.24(1), F.S.

<sup>7</sup> "Day labor" means temporary labor or employment that is occasional or irregular for which the worker is employed for not longer than the time period required to complete the temporary assignment for which the individual worker was hired, although an individual may be eligible for additional temporary assignments when available. *See* s. 448.22(2), F.S.

<sup>8</sup> Section 448.24(4), F.S.

<sup>9</sup> Section 448.24(6), F.S.

<sup>10</sup> Section 448.24(5), F.S.

<sup>11</sup> Section 448.24(2), F.S.

- Commonly accepted negotiable instruments that are payable in cash, on demand at a financial institution, and without discount;
- Payroll debit card; or
- Electronic fund transfer.
- Notify a day laborer of the payment method that the labor pool intends to use and the day laborer's options to elect a different payment method.<sup>12</sup>
- If selecting to pay a day laborer by payroll debit card:<sup>13</sup>
  - Offer the day laborer the option to elect payment by electronic fund transfer; and
  - Provide the day laborer with a list, including the address, of a nearby business that does not charge a fee to withdraw the debit card's contents.
- Compensate day laborers at or above the minimum wage.<sup>14</sup>
- Comply with the Workers' Compensation Law in ch. 440, F.S.<sup>15</sup>
- Insure any motor vehicle owned or operated by the labor pool and used for worker transportation.<sup>16</sup>
- Furnish each worker with a written itemized statement showing in detail each wage deduction.
- Give each worker an annual earnings statement summary.<sup>17</sup>

### ***Remedies***

Under the Act, any worker affected by a violation of the provisions relating to labor pool duties and obligations may file a lawsuit against the labor pool. In any such lawsuit, the worker is required to give the labor pool a reasonable opportunity to cure the alleged violation within 60 days. Workers are authorized to recover actual and consequential damages, or \$1,000, whichever is greater, for each violation, and costs. The legal remedy:

- Must be filed within 1 year after the date the notice of an alleged violation is served; and
- Is exclusive and prohibits the worker from pursuing any other available legal remedy.<sup>18</sup>

### **The Fair Labor Standards Act and Minimum Wage**

The federal Fair Labor Standards Act (FLSA), enacted in 1938, provides covered workers with minimum wage, overtime pay, and child labor protections.<sup>19</sup> In 1938, the FLSA established a minimum wage of \$.25 an hour. The current federal minimum wage rate is \$7.25 an hour, which went into effect July 24, 2009. The FLSA applies to employment within any state in the U.S., the District of Columbia, or any territory or possession of the U.S.<sup>20</sup>

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<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> Section 448.25, F.S.

<sup>19</sup> 29 U.S.C. § 201-219 and 29 C.F.R. ch. V.

<sup>20</sup> Congressional Research Service, CRS Report R42713, *The Fair Labor Standards Act (FLSA): An Overview*, available at <https://crsreports.congress.gov/product/pdf/R/R42713>, (last visited Mar. 28, 2025). (The main FLSA provisions and accompanying Department of Labor (DOL) regulations constitute what is commonly known as federal wage and hour laws and federal child labor law.).

The FLSA covers most private and public sector employees. However, certain employers and employees are exempt from coverage, including individuals with disabilities, youth workers, tipped workers, and executive, administrative, and professional workers. The FLSA covers businesses if the business has annual sales of at least \$500,000.<sup>21</sup> It also covers certain individual employees if such employee is engaged in interstate commerce.

The FLSA provides that if states enact worker protections, including minimum wage rates, that are more protective of employees than what is provided by the FLSA, the state law applies.<sup>22</sup> Consequently, no state law may weaken the worker protections in the FLSA. However, state laws that impose greater worker protections will supersede those in the FLSA.<sup>23</sup>

Thirty states plus Washington DC, Guam, Puerto Rico, and the Virgin Islands provide a minimum wage greater than the federal minimum wage. Thirteen states provide a minimum wage that is equal to the federal minimum wage. Five states have not adopted a minimum wage and two states have a minimum wage that is below the federal minimum wage.<sup>24</sup> For those seven states, the federal minimum wage applies, but only to those workers covered by the FLSA.

On November 3, 2020, citizens voted to amend the Florida Constitution to gradually increase the state minimum wage each year, starting at \$10.00 per hour and rising until it reaches \$15.00 per hour on September 30, 2026.<sup>25</sup> Currently, the Florida minimum wage is \$13.00 per hour.<sup>26</sup> Pursuant to the amendment, on September 30, 2027, and each following year on that date, Florida's Department of Commerce must increase the minimum wage using a specified inflation calculation.<sup>27</sup>

The US Department of Labor, Wage and Hour Division provides the following information regarding the application of the minimum wage, overtime pay and recordkeeping requirements of the FLSA to low-wage employees earning wages by the day, commonly known as day laborers:

- **Minimum Wage:** FLSA covered employers must pay day laborers at least the applicable minimum wage for all hours worked regardless of whether the worker is paid by the hour, the day, or at a piece rate. The minimum wage for covered nonexempt employees is \$7.25 an hour effective July 24, 2009. (Certain State rates may be higher.)
- **Hours Worked:** Employers must pay day laborers for all work performed whether or not the employer approves the work in advance. In general, "hours worked" includes all time an

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<sup>21</sup> The size of an enterprise is measured by its "annual sales or business done." Annual sales or business done includes all business activities that can be measured in dollars. Thus, retailers are covered by the FLSA if their annual sales are at least \$500,000. Owners of rental properties are covered if they collect at least \$500,000 annually in rent. 29 C.F.R. §§ 779.258-779.259.

<sup>22</sup> 29 U.S.C. § 218.

<sup>23</sup> Congressional Research Service, CRS Report R42713, The Fair Labor Standards Act (FLSA): An Overview, Updated March 8, 2023, available at <https://crsreports.congress.gov/product/pdf/R/R42713>, (last visited Mar. 28, 2025).

<sup>24</sup> U.S. Department of Labor, *Consolidated Minimum Wage Table*, available at <https://www.dol.gov/agencies/whd/mw-consolidated> (last visited Mar. 28, 2025).

<sup>25</sup> See Fla. Const. art. X, § 24.

<sup>26</sup> U.S. DEPT. OF LABOR, *State Minimum Wage Laws*, available at <https://www.dol.gov/agencies/whd/minimum-wage/state> (last visited Mar. 28, 2025).

<sup>27</sup> Fla. Const. art. X, § 24.

employee must be on duty, or at the place of work. Normally, time spent in training, traveling from site to site during the day and doing repair work must be paid.

- **Overtime:** Normally, employers must pay time and one-half of the worker's regular rate of pay after 40 hours of work in a 7-day workweek.
- **Recordkeeping:** Records must be kept by employers of all wages paid and of all hours worked, regardless of where the work is performed. Workers should keep a record of their employer's name, address, phone number, the hours they worked, and any payments received.<sup>28</sup>

### III. Effect of Proposed Changes:

The bill repeals Florida's Labor Pool Act, which governs the day labor industry in Florida.

The bill makes conforming changes in ss. 443.101 and 448.111, F.S.

The bill takes effect July 1, 2025.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

None.

#### E. Other Constitutional Issues:

None.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

None.

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<sup>28</sup> United States Department of Labor Wage and Hour Division, *Digital Reference Guide to the Fair Labor Standards Act*, available at [https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/Digital\\_Reference\\_Guide\\_FLSA.pdf](https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/Digital_Reference_Guide_FLSA.pdf) (last visited Mar. 28, 2025).

**B. Private Sector Impact:**

There may be a reduction in litigation expenses for labor pools due to the removal of the prohibitions and remedies for violations under the Labor Pool Act.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 443.101, 448.111.

This bill repeals the following sections of the Florida Statutes: 448.20, 448.21, 448.22, 448.23, 448.24, 448.25, 448.26.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.