

FLORIDA HOUSE OF REPRESENTATIVES BILL ANALYSIS

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BILL #: [HB 541](#)

TITLE: Minimum Wage Requirements

SPONSOR(S): Chamberlin

COMPANION BILL: [SB 676](#) (Martin)

LINKED BILLS: None

RELATED BILLS: None

Committee References

[Industries & Professional
Activities](#)

[Careers & Workforce](#)

[Commerce](#)

SUMMARY

Effect of the Bill:

The bill amends the Florida Minimum Wage Act (Act) to allow employees to opt out of receiving the minimum wage for work-study, internship, preapprenticeship, apprenticeship program, or other similar work-based learning opportunities.

Fiscal or Economic Impact:

The bill does not appear to have a fiscal impact on state or local government.

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ANALYSIS

EFFECT OF THE BILL:

The bill amends the [Act](#) to provide specific [exemptions](#) from [minimum wage requirements](#) for certain [employees](#). The bill provides that [employers](#) are not required to pay the minimum wage to employees in a [structured work-study, internship, preapprenticeship, or apprenticeship program](#), or other similar work-based learning opportunity, provided these employees choose to opt out of receiving the minimum wage. The bill outlines two methods for employees to opt out, which include checking a box on an application form or by providing a written acknowledgment to the employer that is signed by the employee. (Section [1](#))

The effective date of the bill is July 1, 2025. (Section [2](#))

FISCAL OR ECONOMIC IMPACT:

PRIVATE SECTOR:

Indeterminate. The bill allows certain private sector employees to opt out of receiving minimum wage.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Fair Labor Standards Act

The federal Fair Labor Standards Act (FLSA), enacted in 1938, provides covered workers with minimum wage, overtime pay, and child labor protections.¹ In 1938, the FLSA established a minimum wage of \$.25 an hour. The

¹ 29 U.S.C. § 201-219 and 29 C.F.R. ch. V.

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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.²

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 \$500,000.³ It also covers certain individual employees if such employee is engaged in interstate commerce.

The FLSA applies to all:⁴

- **Governments:** Federal, state, or local government agencies.
- **Hospitals:** Hospitals, or institutions primarily engaged in the care of the sick, the aged, or the mentally ill or disabled who live on the premises. It does not matter if the hospital or institution is public or private or is operated for profit or not-for-profit.
- **Schools:** Pre-schools, elementary or secondary schools or institutions of higher learning (e.g., college), or a school for mentally or physically handicapped or gifted children. It does not matter if the school or institution is public or private or operated for profit or not-for-profit.

The FLSA includes several [exemptions](#) from the federal minimum wage provisions, including:⁵

- Executive, administrative, and professional employees.
- Employees in certain seasonal amusement or recreational establishments, employees in certain small newspapers, seamen employed on foreign vessels, employees engaged in fishing operations, and employees engaged in newspaper delivery.
- Farm workers employed by certain employers.
- Casual babysitters and persons employed as companions for the elderly or infirm.
- Border patrol agents.⁶
- **Tipped employees**, as long as their tips, combined with the employer's cash wage, equal at least the federal minimum wage (\$7.25). The minimum cash wage for tipped employees is \$2.13 per hour, with the employer able to claim a tip credit of up to \$5.12 per hour.⁷
- **Learners, apprentices, and messengers employed primarily in delivering letters and messages, under special certificates issued by the Department of Labor.**⁸

The FLSA was amended in 2014, concerning border patrol agents, and again in 2018, to exempt minor league baseball players who are paid at least \$290 per week during the 2018 championship season from the federal minimum wage rate and overtime pay. These two amendments were the only amendments made to the minimum wage exemptions provisions of the FLSA since Florida passed its minimum wage law in 2005.⁹

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.¹⁰ **Consequently, no state law may weaken**

² Congressional Research Service, CRS Report R42713, *The Fair Labor Standards Act (FLSA): An Overview*, <https://crsreports.congress.gov/product/pdf/R/R42713>, (last visited March 7, 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.)

³ 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.

⁴ U.S. Department of Labor, Fair Labor Standards Act Advisor, <https://webapps.dol.gov/elaws/whd/flsa/scope/screen10.asp>, (last visited March 7, 2025).

⁵ 29 U.S.C. § 213. (It also includes separate exemptions from overtime pay.)

⁶ See Border Patrol Agent Pay Reform Act of 2014, S.1691, 113th Cong. (2014).

⁷ 29 U.S.C. § 203(m)(2)(A).

⁸ 29 U.S.C. § 214.

⁹ [s. 448.110, F.S.](#), expressly references ss. 213 and 214 of the FLSA, which address minimum wage exemptions and employment under special certificates, respectively. However, s. 214 has not been amended since 1989. (See Pub. L. 101–157, § 4(d), Nov. 17, 1989, 103 Stat. 941).

¹⁰ 29 U.S.C. §218.

the worker protections in the FLSA. However, state laws that impose greater worker protections will supersede those in the FLSA.¹¹

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.¹² For those seven states, the federal minimum wage applies, but only to those workers covered by the FLSA.

Florida law does not indicate or allow for wage exceptions for learners, apprentices, or messengers. Thus, the FLSA provisions apply.

Florida’s Minimum Wage Contained in Article X, Section 24 of the Florida Constitution

On November 2, 2004, Floridians voted to amend the Florida Constitution by adding a minimum wage provision (Section 24) that established the state minimum wage.¹³ Prior to this date, Florida did not have a state minimum wage so the FLSA applied for covered workers. Section 24 provides the amount of the minimum wage and the procedure for calculating increases in the minimum wage.¹⁴ The amendment also provides that “all working Floridians are entitled to be paid a minimum wage sufficient to provide a decent and healthy life, that protects their employers from unfair low wage competition, and that does not force them to rely on taxpayer-funded public services.”¹⁵

On November 3, 2020, Florida voters again approved a constitutional amendment related to the state’s minimum wage, Amendment 2, to gradually increase the state’s minimum wage to \$15 an hour by the year 2026.¹⁶ Pursuant to the passage of Amendment 2, on September 30, 2021, Florida’s minimum wage increased to \$10 per hour. Each year, thereafter, Florida’s minimum wage will increase by \$1 until the minimum wage reaches **\$15 per hour on September 30, 2026**. Beginning in 2027, the minimum wage will be adjusted annually for inflation, as it had been done from 2004 to 2021.

The Florida Constitution references the FLSA and specifically ties the meaning¹⁷ of “[employer](#),” “[employee](#),” and “wage,” to the meanings established under the FLSA and its implementing regulations.¹⁸ It also indicates that case law, administrative interpretations, and other guiding standards developed under the federal FLSA must guide the construction of Florida’s Constitution related to Section 24 and any implementing statutes or regulations.¹⁹

The FLSA defines:²⁰

- “Employer” as “any person acting directly or indirectly in the interest of an employer in relation to an employee and includes a public agency, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization.”
- “Employee” as “any individual employed by an employer.”

¹¹ Congressional Research Service, CRS Report R42713, *The Fair Labor Standards Act (FLSA): An Overview, Updated March 8, 2023*, <https://crsreports.congress.gov/product/pdf/R/R42713>, (last visited March 7, 2025).

¹² U.S. Department of Labor, Consolidated Minimum Wage Table, <https://www.dol.gov/agencies/whd/mw-consolidated> (last visited March 7, 2025).

¹³ Art. X, s. 24, Fla. Const.

¹⁴ Art. X, s. 24(c), Fla. Const.

¹⁵ Art. X, s. 24(a), Fla. Const.

¹⁶ U.S. Department of State, *Notice of Increase to State of Florida’s Minimum Wage*, <https://www.state.gov/wp-content/uploads/2021/01/2021-01-29-Notice-FL-Minimum-Wage-Increase.pdf> (last visited March 7, 2025).

¹⁷ *In re Advisory Opinion to the Atty. Gen. re Fla. Minimum Wage Amend.*, 880 So. 2d 636, 641–42 (Fla. 2004). (“The proposed amendment does not state that it is adopting the FLSA’s definition of the term “employee,” but provides that it is adopting the meaning of the term “employee,” which is a much broader concept.”)

¹⁸ Art. X, s. 24(b), Fla. Const.

¹⁹ Art. X, s. 24(f), Fla. Const.

²⁰ 29 U.S.C. §203.

[Florida Minimum Wage Act](#)

The Act implements the minimum wage provisions in the Florida Constitution.²¹ The Act designates the Department of Commerce (DC) as the state agency that implements the minimum wage requirements, establishes procedures with respect to civil actions alleging violations, and provides that it is the exclusive remedy under state law for violations of Section 24.²²

The Act provides that, effective May 2, 2005, employers are required to pay employees a [minimum wage](#) at an hourly rate of \$6.15 for all hours worked in Florida. Only those individuals entitled to receive the federal minimum wage under the FLSA and its implementing regulations are eligible to receive the state minimum wage pursuant to the Florida Constitution and this statute. The provisions of ss. 213 and 214 of the federal FLSA, as interpreted by applicable federal regulations and implemented by the Secretary of Labor, are incorporated by reference.²³

The Act requires DEO to calculate an adjusted state minimum wage rate and requires the Department of Revenue (DOR) and DEO to annually publish the amount of the adjusted state minimum wage and the effective date on their websites. The Act authorizes persons to file a complaint or inform any person of his or her potential rights pursuant to Section 24 regarding unpaid wages.²⁴ The Act also authorizes the Attorney General (AG) to bring a civil action to enforce these provisions. The AG may seek injunctive relief, and for willful violations, may seek to impose a fine of \$1,000 per violation, payable to the state.²⁵

As it relates to the federal minimum wage and the FLSA, the Act specifies that:²⁶

- **Only those individuals entitled to receive the federal minimum wage under the FLSA, and its implementing regulations, are eligible to receive the state minimum wage; and**
- **Provisions related to federal minimum wage exemptions in the FLSA are considered incorporated in the Act.**

[Eleventh Circuit Court of Appeals](#)

When determining whether a person is considered an employee under the FLSA, certain analyses must be used, which is provided for in the FLSA. Recently, the Eleventh Circuit Court of Appeals adopted a "primary beneficiary analysis" to determine if student registered-nurse anesthetists (SRNAs) were employees under the Fair Labor Standards Act (FLSA), focusing on whether the internship primarily benefited the students or the employer. The case involved 25 former SRNAs who claimed they were entitled to unpaid minimum wages and overtime under the FLSA. The core question was whether these SRNAs, who were participating in a clinical program, were employees or interns, with the FLSA applying only to employees. The Eleventh Circuit adopted a modified version of the "primary beneficiary" test, which examines the "economic reality" of the relationship between the intern and employer to determine who benefits most. The Eleventh Circuit found that the SRNAs were primarily benefiting from the internship, as it was a required part of their education and training program, and therefore they were not considered employees under the FLSA.²⁷

²¹ Ch. 2005-353, Laws of Fla., codified in [s. 448.110, F.S.](#)

²² S. [448.110\(10\), F.S.](#) HB 5 (2023) renames the Department of Economic Opportunity as the Department of Commerce; SB 82 (2024), section 220, makes this conforming change in the Florida Minimum Wage Act.

²³ S. [448.110\(3\), F.S.](#)

²⁴ S. [448.110\(6\), F.S.](#)

²⁵ S. [448.110\(7\), F.S.](#)

²⁶ S. [448.110\(3\), F.S.](#)

²⁷ Schumann v. Collier Anesthesia, PA, 803 F.3d 1199 (11th Cir. 2015)

RECENT LEGISLATION:

YEAR	BILL #	HOUSE SPONSOR(S)	SENATE SPONSOR	OTHER INFORMATION
2024	CS/CS/HB 433	Esposito	Trumbull	Became law on July 1, 2024 and implementation began on September 30, 2026.

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Industries & Professional Activities Subcommittee			Anstead	Thompson
Careers & Workforce Subcommittee				
Commerce Committee				