

SENATE JOINT RESOLUTION NO. 6—SENATOR HARDY

FEBRUARY 11, 2015

Referred to Committee on Legislative Operations and Elections

SUMMARY—Amends the Nevada Constitution to revise the method for determining the minimum wage. (BDR C-543)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

SENATE JOINT RESOLUTION—Amending the Nevada Constitution to revise the method for determining the minimum wage.

Legislative Counsel's Digest:

1 The Nevada Constitution provides that all employees must be paid a minimum
2 wage. The amount of the minimum wage is dependent on whether or not the
3 employer provides health benefits to the employee. For the purposes of this
4 determination, an employer provides health benefits if the employer offers health
5 insurance for the employee and the employee's dependents and the cost of the
6 health insurance premiums is not more than 10 percent of the employee's gross
7 taxable income from the employer. (Nev. Const. Art. 15, § 16) This resolution
8 proposes to amend the Nevada Constitution to revise the manner in which it is
9 determined whether an employer provides health benefits. Under this amendment,
10 an employer is deemed to provide health benefits if he or she offers health
11 insurance and the cost to the employee of the health insurance premiums is not
12 more than 10 percent of the employee's gross taxable income from the employer or
13 10 percent of the federal poverty level for a family of four, whichever is greater.

1 RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF
2 NEVADA, JOINTLY, That Section 16 of Article 15 of the Nevada
3 Constitution be amended to read as follows:

4 Sec. 16. A. Each employer shall pay a wage to each
5 employee of not less than the hourly rates set forth in this
6 section. The rate shall be five dollars and fifteen cents (\$5.15)
7 per hour worked, if the employer provides health benefits as
8 described herein, or six dollars and fifteen cents (\$6.15) per



hour if the employer does not provide such benefits. Offering health benefits within the meaning of this section shall consist of making health insurance available to the employee for the employee and the employee's dependents at a total cost to the employee for premiums of not more than 10 percent of the employee's gross taxable income from the employer **or not more than 10 percent of the federally designated level signifying poverty for a family of four persons based on the guidelines established in the Federal Register by the United States Department of Health and Human Services in effect on the immediately preceding February 1, whichever is greater.** These rates of wages shall be adjusted by the amount of increases in the federal minimum wage over \$5.15 per hour, or, if greater, by the cumulative increase in the cost of living. The cost of living increase shall be measured by the percentage increase as of December 31 in any year over the level as of December 31, 2004 of the Consumer Price Index (All Urban Consumers, U.S. City Average) as published by the Bureau of Labor Statistics, U.S. Department of Labor or the successor index or federal agency. No CPI adjustment for any one-year period may be greater than 3%. The Governor or the State agency designated by the Governor shall publish a bulletin by April 1 of each year announcing the adjusted rates, which shall take effect the following July 1. Such bulletin will be made available to all employers and to any other person who has filed with the Governor or the designated agency a request to receive such notice but lack of notice shall not excuse noncompliance with this section. An employer shall provide written notification of the rate adjustments to each of its employees and make the necessary payroll adjustments by July 1 following the publication of the bulletin. Tips or gratuities received by employees shall not be credited as being any part of or offset against the wage rates required by this section.

B. The provisions of this section may not be waived by agreement between an individual employee and an employer. All of the provisions of this section, or any part hereof, may be waived in a bona fide collective bargaining agreement, but only if the waiver is explicitly set forth in such agreement in clear and unambiguous terms. Unilateral implementation of terms and conditions of employment by either party to a collective bargaining relationship shall not constitute, or be permitted, as a waiver of all or any part of the provisions of this section. An employer shall not discharge, reduce the compensation of or otherwise discriminate against any



employee for using any civil remedies to enforce this section or otherwise asserting his or her rights under this section. An employee claiming violation of this section may bring an action against his or her employer in the courts of this State to enforce the provisions of this section and shall be entitled to all remedies available under the law or in equity appropriate to remedy any violation of this section, including but not limited to back pay, damages, reinstatement or injunctive relief. An employee who prevails in any action to enforce this section shall be awarded his or her reasonable attorney's fees and costs.

C. As used in this section, "employee" means any person who is employed by an employer as defined herein but does not include an employee who is under eighteen (18) years of age, employed by a nonprofit organization for after school or summer employment or as a trainee for a period not longer than ninety (90) days. "Employer" means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that may employ individuals or enter into contracts of employment.

D. If any provision of this section is declared illegal, invalid or inoperative, in whole or in part, by the final decision of any court of competent jurisdiction, the remaining provisions and all portions not declared illegal, invalid or inoperative shall remain in full force or effect, and no such determination shall invalidate the remaining sections or portions of the sections of this section.

