

SENATE JOINT RESOLUTION NO. 6—COMMITTEE
ON COMMERCE, LABOR AND ENERGY

FEBRUARY 27, 2017

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Proposes to amend the Nevada Constitution to provide for certain increases in the minimum wage. (BDR C-867)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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—Proposing to amend the Nevada Constitution to provide for certain increases in the minimum wage.

Legislative Counsel's Digest:

Section 16 of Article 15 of the Nevada Constitution requires each employer to pay a certain minimum wage to each employee. This wage is \$5.15 per hour worked if the employer provides certain health benefits or \$6.15 per hour worked if the employer does not provide such benefits. Each year, the wage must 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 measured by the Consumer Price Index (CPI), except the CPI adjustment for any 1-year period greater than 3 percent. (Nev. Const. Art. 15, § 16)

This joint resolution proposes to amend the Nevada Constitution to increase the minimum wage to \$9.00 per hour. Beginning on January 1, 2022, the minimum wage must be increased by \$0.75 each year until the minimum wage is \$12. However, if, at any time, the federal minimum wage is greater than the amount calculated under this joint resolution, the minimum wage in this State must equal the federal minimum wage. This joint resolution further authorizes the Legislature to increase the minimum wage to an amount higher than the minimum wage calculated under this joint resolution.

This joint resolution also proposes to amend the Nevada Constitution to remove provisions authorizing an employer and an employee to waive the minimum wage requirement in a collective bargaining agreement. Thus, under this joint resolution, a collective bargaining agreement entered into, extended or renewed on or after the effective date of this amendment could not waive the requirement to pay the minimum wage set forth in this joint resolution.

Finally, this joint resolution: (1) authorizes an action against an employer for violating the minimum wage requirement to be brought as a class action; (2)



provides that an employee who prevails in an action for a violation of the minimum wage requirement is entitled to damages in an amount equal to three times the amount which the employee would have been paid if the employer had complied with the minimum wage requirement.

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

Sec. 16. ~~{A. Each}~~

*1. Except as otherwise provided in this section, each employer shall pay a wage to each employee of not less than the hourly ~~{rates}~~ rate set forth in this ~~{section.}~~ subsection. The rate ~~{shall}~~ **must** be ~~{five dollars and fifteen cents (\$5.15) per hour worked, if the employer provides health benefits as 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. These rates of wages shall be adjusted by the amount of increases in}~~ **nine dollars (\$9.00) per hour worked. Beginning on January 1, 2022, this rate must be increased on January 1 of each year by seventy-five cents (\$0.75) per hour worked until the rate is twelve dollars (\$12.00) per hour worked.***

2. If, at any time, 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~~



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~~necessary payroll adjustments by July 1 following the publication of the bulletin.]~~ *is higher than the rate set forth in subsection 1, each employer must pay a wage to each employee of not less than the hourly rate set forth in the federal minimum wage.*

3. *The Legislature may establish by law a minimum wage that an employer must pay to each employee that is higher than the hourly rate set forth in subsection 1 or 2.*

4. Tips or gratuities received by employees shall not be credited as being any part of or offset against the *minimum* wage ~~rates~~ *rate* required by this section.

~~[B-]~~ 5. The provisions of this section may not be waived by agreement between ~~an individual~~ *any* employee and ~~an~~ *his or her* 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 ~~[]~~ *in any manner*. An employee claiming *a* violation of this section ~~may~~ *is entitled to* bring an action against his or her employer in the courts of this State, *either in his or her individual capacity or as a representative of a class of similarly situated individuals*, 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~~ *must* be awarded *damages in an amount equal to three times the amount which the employee would have been paid if his or her employer had complied with the provisions of this section* and his or her reasonable attorney's fees and costs.

~~[C-]~~ 6. 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



1 individual, proprietorship, partnership, joint venture,
2 corporation, limited liability company, trust, association, or
3 other entity that may employ individuals or enter into
4 contracts of employment.

5 ~~10-1~~ 7. If any provision of this section is declared
6 illegal, invalid or inoperative, in whole or in part, by the final
7 decision of any court of competent jurisdiction, the remaining
8 provisions and all portions not declared illegal, invalid or
9 inoperative shall remain in full force or effect, and no such
10 determination shall invalidate the remaining sections or
11 portions of the sections of this section.

12 And be it further

13 RESOLVED, That the provisions of Section 16 of Article 15 of
14 the Nevada Constitution, as amended by this joint resolution:

15 1. Apply to any collective bargaining agreement entered into,
16 extended or renewed on or after the effective date of this
17 amendment.

18 2. Do not apply to any collective bargaining agreement entered
19 into before the effective date of this amendment during the current
20 term of the agreement.

