

S.J.R. 6 of the 79th Session

SENATE JOINT RESOLUTION NO. 6 OF THE 79TH SESSION—
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:

1 Section 16 of Article 15 of the Nevada Constitution requires each employer to
2 pay a certain minimum wage to each employee. This wage is \$5.15 per hour
3 worked if the employer provides certain health benefits or \$6.15 per hour worked if
4 the employer does not provide such benefits. Each year, the wage must be adjusted
5 by the amount of increases in the federal minimum wage over \$5.15 per hour or, if
6 greater, by the cumulative increase in the cost of living measured by the Consumer
7 Price Index (CPI), except the CPI adjustment for any 1-year period greater than 3
8 percent. (Nev. Const. Art. 15, § 16) Because of increases in the federal minimum
9 wage, the minimum wage in Nevada is currently \$7.25 if the employer provides
10 certain health benefits and \$8.25 if the employer does not provide such benefits.
11 This joint resolution proposes to amend the Nevada Constitution to provide for
12 certain annual increases in the minimum wage. Under this joint resolution,
13 beginning on January 1, 2021, the minimum wage would be \$9.40 per hour.
14 Beginning on January 1, 2022, the minimum wage must be increased by \$1.15 each
15 year until the minimum wage is \$14. However, if, at any time, the federal minimum
16 wage is greater than the amount calculated under this joint resolution, the minimum
17 wage in this State must equal the federal minimum wage. This joint resolution
18 further authorizes the Legislature to increase the minimum wage to an amount
19 higher than the minimum wage calculated under this joint resolution.
20 Finally, this joint resolution: (1) authorizes an action against an employer for
21 violating the minimum wage requirement to be brought as a class action; and (2)
22 provides that an employee who prevails in an action for a violation of the minimum
23 wage requirement is entitled to damages in an amount equal to three times the



24 amount which the employee would have been paid if the employer had complied
25 with the minimum wage requirement.

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 as follows:

4 Sec. 16. ~~[A.—Each]~~

5 *1. Except as otherwise provided in this section, each*
6 *employer shall pay a wage to each employee of not less than*
7 *the hourly ~~[rates]~~ rate set forth in this ~~[section.—The]~~*
8 *subsection. Beginning on January 1, 2021, the rate ~~[shall]~~*
9 *must be ~~[five dollars and fifteen cents (\$5.15) per hour~~*
10 *worked, if the employer provides health benefits as described*
11 *herein, or six dollars and fifteen cents (\$6.15) per hour if the*
12 *employer does not provide such benefits. Offering health*
13 *benefits within the meaning of this section shall consist of*
14 *making health insurance available to the employee for the*
15 *employee and the employee's dependents at a total cost to*
16 *the employee for premiums of not more than 10 percent of*
17 *the employee's gross taxable income from the employer.*
18 *These rates of wages shall be adjusted by the amount of*
19 *increases in] nine dollars and forty cents (\$9.40) per hour*
20 *worked. Beginning on January 1, 2022, this rate must be*
21 *increased on January 1 of each year by one dollar and*
22 *fifteen cents (\$1.15) per hour worked until the rate is*
23 *fourteen dollars (\$14.00) per hour worked.*

24 *2. If, at any time, the federal minimum wage ~~[over~~*
25 *\$5.15 per hour, or, if greater, by the cumulative increase in*
26 *the cost of living. The cost of living increase shall be*
27 *measured by the percentage increase as of December 31 in*
28 *any year over the level as of December 31, 2004 of the*
29 *Consumer Price Index (All Urban Consumers, U.S. City*
30 *Average) as published by the Bureau of Labor Statistics, U.S.*
31 *Department of Labor or the successor index or federal*
32 *agency. No CPI adjustment for any one-year period may be*
33 *greater than 3%. The Governor or the State agency designated*
34 *by the Governor shall publish a bulletin by April 1 of each*
35 *year announcing the adjusted rates, which shall take effect the*
36 *following July 1. Such bulletin will be made available to all*
37 *employers and to any other person who has filed with the*
38 *Governor or the designated agency a request to receive such*
39 *notice but lack of notice shall not excuse noncompliance with*
40 *this section. An employer shall provide written notification of*
41 *the rate adjustments to each of its employees and make the*



~~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.—The]~~

5. *Except as otherwise provided in this subsection, 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.*

6. 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.]~~ 7. 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



1 school or summer employment or as a trainee for a period not
2 longer than ninety (90) days. "Employer" means any
3 individual, proprietorship, partnership, joint venture,
4 corporation, limited liability company, trust, association, or
5 other entity that may employ individuals or enter into
6 contracts of employment.

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

