

INITIATIVE FINANCIAL INFORMATION STATEMENT

Florida Minimum Wage Amendment

SUMMARY OF INITIATIVE FINANCIAL INFORMATION STATEMENT

Florida has no minimum wage law. Employers in the state are covered by the Fair Labor Standards Act, a federal law that establishes a minimum wage of \$5.15 for most employers and employees. Certain employees are exempt from the minimum wage requirement, and these include farm workers employed on small farms, employees of certain seasonal amusement or recreational establishments, and casual babysitters and persons employed as companions, among others. The federal minimum wage for tipped employees is \$2.13 per hour, if the employee receives at least \$5.15 when the direct wages and the employee's tips are combined. The proposed amendment creates a Florida minimum wage of \$6.15 per hour. This analysis assumes that the amendment applies to all employees covered by the federal minimum wage. Each year the minimum wage will be adjusted for inflation.

Based on the information provided through public workshops and staff research, the Financial Impact Estimating Conference expects that the proposed amendment will have the following financial effects:

- State and local government costs will increase, as wages paid by state and local governments to employees currently earning less than \$6.15 per hour are increased to that amount. In addition, wages paid to employees earning at or slightly above \$6.15 are likely to increase, as the impact of the higher minimum wage ripples upward on prevailing wage rates. Compared to the total employee compensation paid by state and local governments, the impact of this amendment is very small, approximately three-hundredths of one percent (0.03%).
- The impact of this amendment on state and local government revenues is also expected to be small. The costs of goods and services sold in Florida may rise as wages paid by private-sector employers to low-wage employees increase. Consequently, state sales tax revenues may increase slightly. However, if businesses react to the higher minimum wage by hiring fewer workers, the increased tax revenue may not materialize.

FINANCIAL IMPACT STATEMENT

The impact of this amendment on costs and revenue of state and local governments is expected to be minimal.

I. SUBSTANTIVE ANALYSIS

A. Proposed Amendment

Ballot Title:

Florida Minimum Wage Amendment

Ballot Summary:

This amendment creates a Florida minimum wage covering all employees in the state covered by the federal minimum wage. The state minimum wage will start at \$6.15 per hour six months after enactment, and thereafter be indexed to inflation each year. It provides for enforcement, including double damages for unpaid wages, attorney's fees, and fines by the state. It forbids retaliation against employees for exercising this right.

A new section for Article X. is created
Florida Minimum Wage Amendment

Text of Amendment

Full Text:

(a) Public Policy. All working Floridians are entitled to be paid a minimum wage that is sufficient to provide a decent and healthy life for them and their families, that protects their employers from unfair low-wage competition, and that does not force them to rely on taxpayer-funded public services in order to avoid economic hardship.

(b) Definitions. As used in this amendment, the terms "Employer," "Employee" and "Wage" shall have the meanings established under the federal Fair Labor Standards Act (FLSA) and its implementing regulations.

(c) Minimum Wage. Employers shall pay Employees Wages no less than the Minimum Wage for all hours worked in Florida. Six months after enactment, the Minimum Wage shall be established at an hourly rate of \$6.15. On September 30th of that year and on each following September 30th, the state Agency for Workforce Innovation shall calculate an adjusted Minimum Wage rate by increasing the current Minimum Wage rate by the rate of inflation during the twelve months prior to each September 1st using the consumer price index for urban wage earners and clerical workers, CPI-W, or a successor index as calculated by the United States Department of Labor. Each adjusted Minimum Wage rate calculated shall be published and take effect on the following January 1st. For tipped Employees meeting eligibility requirements for the tip credit under the FLSA, Employers may credit towards satisfaction of the Minimum Wage tips up to the amount of the allowable FLSA tip credit in 2003.

(d) Retaliation Prohibited. It shall be unlawful for an Employer or any other party to discriminate in any manner or take adverse action against any person in retaliation for exercising rights protected under this amendment. Rights protected under this amendment include, but are not limited to, the right to file a complaint or inform any person about any party's alleged noncompliance with this amendment, and the right to inform any person of his or her potential rights under this amendment and to assist him or her in asserting such rights.

(e) Enforcement. Persons aggrieved by a violation of this amendment may bring a civil action in a court of competent jurisdiction against an Employer or person violating this amendment and, upon prevailing, shall recover the full amount of any back wages unlawfully withheld plus the

same amount as liquidated damages, and shall be awarded reasonable attorney's fees and costs. In addition, they shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, reinstatement in employment and/or injunctive relief. Any Employer or other person found liable for willfully violating this amendment shall also be subject to a fine payable to the state in the amount of \$1000.00 for each violation. The state attorney general or other official designated by the state legislature may also bring a civil action to enforce this amendment. Actions to enforce this amendment shall be subject to a statute of limitations of four years or, in the case of willful violations, five years. Such actions may be brought as a class action pursuant to Rule 1.220 of the Florida Rules of Civil Procedure.

(f) Additional Legislation, Implementation & Construction. Implementing legislation is not required in order to enforce this amendment. The state legislature may by statute establish additional remedies or fines for violations of this amendment, raise the applicable Minimum Wage rate, reduce the tip credit, or extend coverage of the Minimum Wage to employers or employees not covered by this amendment. The state legislature may by statute or the state Agency for Workforce Innovation may by regulation adopt any measures appropriate for the implementation of this amendment. This amendment provides for payment of a minimum wage and shall not be construed to preempt or otherwise limit the authority of the state legislature or any other public body to adopt or enforce any other law, regulation, requirement, policy or standard that provides for payment of higher or supplemental wages or benefits, or that extends such protections to employers or employees not covered by this amendment. It is intended that case law, administrative interpretations, and other guiding standards developed under the federal FLSA shall guide the construction of this amendment and any implementing statutes or regulations.

(g) Severability. If any part of this amendment, or the application of this amendment to any person or circumstance, is held invalid, the remainder of this amendment, including the application of such part to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the parts of this amendment are severable.

B. Effect of Proposed Amendment

Currently Florida has no minimum wage law. Employers in the state are covered by the Fair Labor Standards Act, a federal law that establishes a minimum wage of \$5.15 per hour for most employers and employees. Certain employees are exempt from the minimum wage requirement, and these include farm workers employed on small farms, employees of certain seasonal amusement or recreational establishments, and casual babysitters and persons employed as companions, among others. The federal minimum wage for tipped employees is \$2.13 per hour, if the employee receives at least \$5.15 when the direct wages and the employee's tips are combined.

If the proposed amendment is adopted by the voters, Florida will have a minimum wage of \$6.15 per hour. The minimum wage paid by the employer for tipped employees would increase from \$2.13 per hour to \$3.13 per hour. Each year the minimum wage will be adjusted for inflation, based on the consumer price index for urban wage earners and clerical workers.

Background

Floridians for All, a coalition of labor and community groups, sponsored the petition drive to place the minimum wage amendment on the ballot. This organization argues that the current federal minimum wage has not been raised in six years, and that a person working full-time for the minimum wage cannot support a family in a decent way.¹

¹ Jeff Chapman, "Time to Repair the Florida Wage Floor," Economic Policy Institute, Washington, D.C.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

Section 100.371, Florida Statutes, requires that the Financial Estimating Conference "...complete an analysis and financial impact statement to be placed on the ballot of the estimated increase or decrease in any revenue or costs to state or local governments resulting from the proposed initiative."

As part of determining the fiscal impact of this proposed amendment, the Financial Impact Estimating Conference held several public workshops over the month of June 2004. The Conference heard testimony on the fiscal effects of this amendment. Dr. Robert Pollin, a professor of economics at the University of Massachusetts and co-director of the Political Economy Research Institute, spoke as a proponent. Speaking in opposition was Mr. Stephen Birtman, representing the National Federation of Independent Business. Additionally, a questionnaire was sent to state and local governments, requesting information regarding the costs associated with the minimum wage increase. Finally, state and national data were analyzed to determine the likely impact of a minimum wage increase on state and local government labor costs and on sales tax revenues.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENTS:

The fiscal impact summary for this proposed amendment is based on independent research; oral and written statements from proponents (no opponents submitted written information); and discussions among the Financial Estimating Conference and professional staff. Three separate analyses of increasing the Florida minimum wage were considered, using different methodologies and data sources. All conclude that the impact on state and local government costs and revenue is likely to be very small. Based on this information, the Financial Impact Estimating Conference concluded that the proposed amendment to increase the minimum wage to \$6.15 per hour would have a minimal impact on the budgets of state and local governments. Following is a description of data and analyses on which the conclusion is based.

Survey of State and Local Governments The Department of Management Services states that there are no full-time state employees who earn less than \$6.15 per hour. There are about 351 part-time employees who earn less than \$6.15. The total cost to bring their wages to \$6.15 per hour is \$7,639 per year.

The Department of Education surveyed the state's universities. Their results reveal that there are 27,020 employees earning less than \$6.15 per hour. The cost to bring their wages to \$6.15 per hour is estimated to be \$1.8 million per year. However, most of the employees earning below \$6.15 per hour are students and the net effect of an increase in the wage rate may be that universities, due to budget constraints, hire fewer students or reduce the hours that students work.

The Legislative Committee on Intergovernmental Relations surveyed counties and municipalities. Thirty-four out of 67 counties and 184 out of 405 municipalities responded to the survey. The counties that responded to the survey represent about 58 percent of the population and their results show that there are 224 employees that earn less than \$6.15 per hour. The estimated cost to bring their wages to \$6.15 per hour is roughly \$88,000 per year. The municipalities that responded to the survey represent about 19 percent of the population and their results show that

there are 179 employees that earn less than \$6.15 per hour. The estimated cost to bring their wages to \$6.15 per hour is roughly \$93,000 per year.

The Florida School Board Association surveyed local school boards. Seventeen out of 67 school boards responded, representing 29 percent of the population. Their results indicate that there are 355 employees earning less than \$6.15 per hour. The estimated cost to bring their wages to \$6.15 per hour is approximately \$120,000 per year.

Overall, the surveys suggest that the cost to state and local governments will be minimal.

Internal Analysis Based on State and National Data The data underlying the analysis come from two U.S. Bureau of Labor Statistics employment surveys: (1) “Current Employment Situation” (CES)—establishment survey of payroll data; and (2) “Current Population Survey” (CPS)—household survey of labor market participation. All data are for 2003 and come from both published and unpublished tables. The principal assumptions underlying the analysis are (1) all increased labor costs are passed on to consumers in the form of higher prices; (2) there are no adverse employment impacts from the higher labor costs; (3) there are no adverse expenditure impacts on consumers because of higher prices.

The measurement of costs associated with passage of the minimum wage proposal was limited to higher labor costs—wages, taxes, and benefits. The direct costs to state and local governments (defined to be the costs of bringing all employees earning between \$5.15 and \$6.14 per hour to \$6.15 per hour) amount to \$8 million--\$3 million for state government and \$5 million for local governments. This represents less than two hundredths of one percent (0.02%) of the total state and local government labor costs in 2003 (which was \$40.7 billion according to the U.S. Department of Commerce, Bureau of Economic Analysis).

In addition to the direct costs, increased costs are expected as wages rise for those employees whose hourly wages are above, but near, the proposed minimum wage. This effect, known as the ripple effect, is expected to occur as a behavioral response by employers to attempt to maintain a wage scale similar to the one that existed prior to the new minimum wage. After the wage increases are fully phased in across higher earnings classes to account for the ripple effect, the total labor costs are estimated to be \$13.6 million for state and local government or about 0.033% of the total state and local government labor costs in 2003.

These costs are offset by increased sales tax receipts of \$6.3 million associated with the higher costs of taxable goods. When netted against the increased labor costs to state and local government, the proposal is expected to result in a net cost to state and local government of approximately \$7.3 million dollars. This estimate does not include any increase in local option sales taxes received by local governments resulting from higher consumer prices for taxable goods.

Increases in state and local government employment costs and revenues from sales taxes will be reduced to the extent government and business respond to the higher minimum wage by limiting employment.

The Research of Dr. Robert Pollin² According to Dr. Pollin, who conducted research on behalf of the proponents of the amendment, the estimated net fiscal impact of the Florida minimum wage proposal is positive. That is, additional revenues and savings will exceed costs by \$2.9 million. This estimate is derived from an estimated \$13.3 million in higher wage costs, reduced by additional tax revenue and Medicaid savings of about \$16.2 million.

Costs associated with an increase in the minimum wage are higher salaries (\$10.8 million), higher contract costs for state contracts (\$1.8 million), and one-time administrative expenses (\$0.7 million).

² Robert Pollin: “Assessment of the Net Fiscal Impact of the Florida Minimum Wage Proposal,” June 16, 2004

The increase in sales tax revenue is a result of a higher general price increase in taxable goods (\$11.7 million). It is expected that the increase in wage costs to employers (mostly hotels and restaurants) will be passed on to the ultimate consumer in the form of higher prices. Dr. Pollin's analysis assumes that there will be no adverse impacts on employment.

The savings associated with Medicaid and KidCare are expected to be \$4.5 million. The higher wages are expected to push some individuals above the eligibility threshold for Medicaid and KidCare coverage.

ATTACHMENT

**Proposed Constitutional Amendment
Florida Minimum Wage Amendment**

	<u>All Industries</u>	<u>Combined State & Local Government</u>	<u>State Government</u>	<u>Local Government</u>
Direct Effect - Impact on employees earning less than \$6.15 per hour				
Direct Wages Increase	\$144,787,500	\$6,974,773	\$2,656,134	\$4,318,639
Increased Benefits/Taxes	<u>\$14,478,750</u>	<u>\$1,046,216</u>	<u>\$398,420</u>	<u>\$647,796</u>
Direct Total Cost Increase	\$159,266,250	\$8,020,989	\$3,054,554	\$4,966,435
Include Ripple Effect - Extends to \$7.99 per Hour With Die-out of Effect at 33% of Prior Wage Interval				
Wages Increase	\$238,417,843	\$11,828,639	\$4,153,050	\$7,675,588
Increased Benefits/Taxes	<u>\$23,841,784</u>	<u>\$1,774,296</u>	<u>\$622,958</u>	<u>\$1,151,338</u>
Total Cost Increase	\$262,259,628	\$13,602,934	\$4,776,008	\$8,826,926
Sales Tax Impact - 40% of wage increase is spent on taxable goods and services				
Increase in Taxable Sales	\$104,903,851			
Increase in Sales Taxes [1]	\$6,294,231			

[1] The estimate excludes any local option sales taxes.

Financial Impact Estimating Conference
June 23, 2004