

1 HB70
2 173132-2
3 By Representative Melton (Constitutional Amendment)
4 RFD: State Government
5 First Read: 02-FEB-16

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8 SYNOPSIS: Currently, Alabama does not have a state
9 minimum wage law.

10 This bill would propose a constitutional
11 amendment to increase the state minimum wage to
12 \$10.10 per hour in three steps ending January 1,
13 2018.

14 This bill would provide that tipped
15 employees' wages may not fall below 30 percent of
16 the minimum wage at any time.

17 This bill would provide for an increase
18 commencing on January 1, 2020, and every three
19 years thereafter based on the Consumer Price Index
20 for the July 1st of the year preceding the year of
21 the increase.

22 This bill would require the State Finance
23 Director to notify the Alabama Department of Labor
24 in writing between October 1 and October 15 each
25 year preceding a wage adjustment of the percentage
26 to be used for the cost-of-living adjustment for
27 the next three calendar years.

1 This bill would require the Alabama
2 Department of Labor to post any change in the state
3 minimum wage on its website which shall serve as
4 notice to each employer of this state.

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6 A BILL
7 TO BE ENTITLED
8 AN ACT

9
10 Relating to wages; proposing an amendment to the
11 Constitution of Alabama of 1901, to establish a state minimum
12 wage and to provide for an increase based on the increase in
13 the Consumer Price Index for Alabama as reported by the United
14 States Department of Labor; to provide that the Consumer Price
15 Index for the July 1st preceding the year of the increase; to
16 require the State Finance Director to notify the Alabama
17 Department of Labor in writing between October 1 and October
18 15 every three fiscal years of the percentage to be used for
19 the cost-of-living adjustment for the next three calendar
20 years; and to require the Alabama Department of Labor to post
21 any change in the state minimum wage on its website which
22 shall serve as notice to each employer of this state.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. The following amendment to the
25 Constitution of Alabama of 1901, as amended, is proposed and
26 shall become valid as a part thereof when approved by a
27 majority of the qualified electors voting thereon and in

1 accordance with Sections 284, 285, and 287 of the Constitution
2 of Alabama of 1901, as amended:

3 PROPOSED AMENDMENT

4 Section 1. The following words and phrases shall
5 have the following meanings:

6 (1) EMPLOYEE. An individual employed by an employer.

7 (2) EMPLOYER. An individual, partnership,
8 association, corporation, business trust, legal
9 representative, or any organized group of persons, acting
10 directly or indirectly in the interest of an employer in
11 relation to an employee.

12 (3) WAGES. Compensation paid to an employee in the
13 form of legal tender of the United States or checks or drafts
14 on banks negotiable into cash on demand or upon acceptance at
15 full value. The term does not include tips or gratuities of
16 any kind.

17 (4) TIPPED EMPLOYEE. Any worker who customarily and
18 regularly receives more than thirty dollars (\$30) per month in
19 income from gratuities or voluntary monetary contributions
20 received by an employee from a guest, patron, or customer for
21 services rendered to that guest, patron, or customer and that
22 the employee reports to the employer.

23 Section 2. (a) Each employer shall pay to each
24 employee wages at a rate that is no less than ten dollars and
25 ten cents (\$10.10) per hour or the federal minimum wage,
26 whichever is larger.

1 (b) The wage increase to ten dollars and ten cents
2 (\$10.10) shall occur in three ninety-five cents (\$0.95) per
3 hour increments: The first increase on January 1, 2017, to
4 eight dollars and 20 cents (\$8.20) per hour, the second
5 increase on July 1, 2017, to nine dollars and 15 cents (\$9.15)
6 per hour and the last increase on January 1, 2018, to ten
7 dollars and 10 cents (\$10.10) per hour.

8 (c) The wages paid to tipped employees may not fall
9 below 30 percent of the federal or the state minimum wage
10 rate, whichever is greater, at any time, provided that the
11 employee receives at least 70 percent of the current minimum
12 wage rate in gratuities. If an employee's gratuities combined
13 with the employer's direct wages do not equal the applicable
14 minimum wage rate, the employer must pay the difference in the
15 form of a tip credit.

16 Section 3. An employer may not displace an employee
17 to hire an individual at the hourly wage authorized under this
18 amendment. As used in this section, displace includes
19 termination of employment or any reduction of hours, wages, or
20 employment benefits.

21 Section 4. Each employer subject to this amendment
22 shall keep a summary of this amendment and any applicable wage
23 orders and regulations posted in a conspicuous and accessible
24 place in or about the premises or place of business of the
25 employer.

26 Section 5. An employer who violates the minimum wage
27 requirements of this amendment shall be liable to the employee

1 for the amount of unpaid minimum wages plus interest. The
2 court, in addition to any judgment awarded to an employee,
3 shall require the defendant to pay court costs and reasonable
4 attorney's fees incurred by the employee. An action under this
5 section must be instituted within three years from the date
6 the wages should have been paid.

7 Section 6. Nothing in this amendment shall be deemed
8 to interfere with, impede, or in any way diminish the right of
9 employees to bargain collectively through representatives of
10 their own choosing in order to establish wages in excess of
11 the applicable minimum wage provided for by this amendment.

12 Section 7. Beginning January 1, 2020, and every
13 subsequent three years, the minimum wage provided in Section 2
14 shall be increased by the same amount as the increase in the
15 Consumer Price Index for Alabama as reported by the United
16 States Department of Labor for the previous July 1, or any
17 subsequent equivalent index. The State Finance Director shall
18 notify the Alabama Department of Labor in writing between
19 October 1 and October 15 of each fiscal year of the percentage
20 to be used for the cost-of-living adjustment for the next
21 three calendar years. The Alabama Department of Labor shall
22 post any change in the minimum wage on its website which shall
23 serve as notice to each employer of this state.

24 Section 2. An election upon the proposed amendment
25 shall be held in accordance with Sections 284 and 285 of the
26 Constitution of Alabama of 1901, now appearing as Sections 284
27 and 285 of the Official Recompilation of the Constitution of

1 Alabama of 1901, as amended, and the election laws of this
2 state.

3 Section 3. The appropriate election official shall
4 assign a ballot number for the proposed constitutional
5 amendment on the election ballot and shall set forth the
6 following description of the substance or subject matter of
7 the proposed constitutional amendment:

8 "Proposing an amendment to the Constitution of
9 Alabama of 1901, to establish a state minimum wage at ten
10 dollars and ten cents (\$10.10) per hour, increase from the
11 current rate in three increments commencing January 1, 2017
12 and ending January 1, 2018, and to provide for an increase in
13 the state minimum wage every subsequent three years based on
14 the increase in the Consumer Price Index for Alabama as
15 reported by the United States Department of Labor.

16 "Proposed by Act _____."

17 This description shall be followed by the following
18 language:

19 "Yes () No ()."