

1 HB42  
2 163640-1  
3 By Representative Melton (Constitutional Amendment)  
4 RFD: Commerce and Small Business  
5 First Read: 03-MAR-15  
6 PFD: 02/23/2015

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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 \$9.80 per hour in three steps ending January 1,  
13 2018.

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

17 The 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 The 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

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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. Wages does not include tips or gratuities of any  
16 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 nine dollars and  
25 eighty cents (\$9.80) per hour or the federal minimum wage,  
26 whichever is larger.

1 (b) The wage increase to nine dollars and eighty  
2 cents (\$9.80) shall occur in three eighty-five cent (\$0.85)  
3 per hour increments: The first increase on January 1, 2017, to  
4 eight dollars and 10 cents (\$8.10) per hour, the second  
5 increase on July 1, 2017, to eight dollars and 95 cents  
6 (\$8.95) per hour and the last increase on January 1, 2018, to  
7 nine dollars and 80 cents (\$9.80) 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 nine  
10 dollars and eighty cents (\$9.80) per hour, increase from the  
11 current rate in three increments by January 1, 2018, and to  
12 provide for an increase in the state minimum wage every  
13 subsequent three years based on the increase in the Consumer  
14 Price Index for Alabama as reported by the United States  
15 Department of Labor.

16 "Proposed by Act \_\_\_\_\_."

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

19 "Yes ( ) No ( )."