

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 832

Short Title: Constitutional Amendment/Up Minimum Wage. (Public)

Sponsors: Representatives Cunningham, Black, and Meyer (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

April 18, 2019

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE NORTH CAROLINA CONSTITUTION TO SET THE STATE
3 MINIMUM WAGE AND PROVIDE FOR AUTOMATIC COST-OF-LIVING
4 ADJUSTMENTS.

5 The General Assembly of North Carolina enacts:

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7 **PART I. SET MINIMUM WAGE/PROVIDE FOR AUTOMATIC COST-OF-LIVING**
8 **ADJUSTMENT**

9 **SECTION 1.1.** Article I of the North Carolina Constitution is amended by adding a
10 new section to read:

11 **"Sec. 38. Minimum Wage.**

12 (1) All working North Carolinians are entitled to be paid a minimum wage that is
13 sufficient to provide a decent and healthy life for them and their families, that protects their
14 employers from unfair low-wage competition, and that does not force them to rely on
15 taxpayer-funded public services in order to avoid economic hardship. Employers shall pay
16 employees wages no less than the minimum wage for all hours worked in North Carolina.

17 (2) Effective January 1, 2021, the State minimum wage shall be established at an hourly
18 rate of twelve dollars (\$12.00). On September 30 of that year and on each following September
19 30, the Commissioner of Labor shall calculate an adjusted minimum wage rate using the
20 consumer price index (all urban consumers, U.S. city average for all items), CPI-U, or its
21 successor index, as calculated by the U.S. Department of Labor for the 12-month period
22 preceding the previous September 1. Each adjusted minimum wage rate calculated shall be
23 published on September 30 and take effect on the following January 1.

24 (3) It shall be unlawful for an employer or any other party to discriminate in any manner
25 or take adverse action against any person in retaliation for exercising rights protected under this
26 amendment. Rights protected under this amendment include, but are not limited to, the right to
27 file a complaint or inform any person about any party's alleged noncompliance with this
28 amendment and the right to inform any person of his or her potential rights under this amendment
29 and to assist him or her in asserting such rights. Any person aggrieved by a violation of this
30 amendment may bring a civil action in a court of competent jurisdiction against an employer or
31 person violating this amendment and, upon prevailing, shall recover the full amount of any back
32 wages unlawfully withheld, plus the same amount as liquidated damages, and shall be awarded
33 reasonable attorneys' fees and costs. In addition, they shall be entitled to such legal or equitable
34 relief as may be appropriate to remedy the violation including, without limitation, reinstatement
35 in employment and/or injunctive relief. Any employer or other person found liable for willfully



1 violating this amendment shall also be subject to a fine payable to the State in the amount of one
2 thousand dollars (\$1,000) for each violation. The Attorney General or other official designated
3 by the General Assembly may also bring a civil action to enforce this amendment. Actions to
4 enforce this amendment shall be subject to a statute of limitations of four years or, in the case of
5 willful violations, five years. Such actions may be brought as a class action pursuant to the North
6 Carolina Rules of Civil Procedure. Implementing legislation is not required in order to enforce
7 this section. The General Assembly may by statute or the North Carolina Department of Labor
8 may by rule adopt any measures appropriate for the implementation of this section. The General
9 Assembly may by statute establish additional remedies or fines for violations of this section, raise
10 the applicable minimum wage rate, reduce the tip credit, or extend coverage of the minimum
11 wage to employers or employees not covered by this section.

12 (4) This section provides for payment of a minimum wage and shall not be construed to
13 preempt or otherwise limit the authority of the General Assembly or any other public body to
14 adopt or enforce any other law, rule, regulation, requirement, policy, or standard that provides
15 for payment of higher or supplemental wages or benefits, or that extends such protections to
16 employers or employees not covered by this section.

17 (5) It is intended that case law, administrative interpretations, and other guiding standards
18 developed under the federal Fair Labor Standards Act (FLSA) shall guide the construction of this
19 section and any implementing statutes or regulations.

20 (6) The terms "employer," "employee," and "wage" as used in this section shall have the
21 meanings established under the federal Fair Labor Standards Act (FLSA) and its implementing
22 regulations."

23 **SECTION 1.2.** The amendment set out in Section 1.1 of this act shall be submitted
24 to the qualified voters of the State at a statewide general election to be held on November 3, 2020,
25 which election shall be conducted under the laws then governing elections in the State. Ballots,
26 voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The
27 question to be used in the voting systems and ballots shall be:

28 " [] FOR [] AGAINST

29 Constitutional amendment that employers shall pay employees wages no less than the
30 minimum wage for all hours worked in North Carolina. Six months after enactment, the minimum
31 wage shall be established at an hourly rate of twelve dollars (\$12.00) and shall be increased on
32 January 1 of successive years by the increase in cost of living."

33 **SECTION 1.3.** If a majority of votes cast on the question are in favor of the
34 amendment set out in Section 1.1 of this act, the State Board of Elections shall certify the
35 amendment to the Secretary of State. The Secretary of State shall enroll the amendment so
36 certified among the permanent records of that office. The amendment is effective upon
37 certification.

38 **PART II. CONFORMING STATUTORY CHANGE**

39 **SECTION 2.1.** If the qualified voters approve the constitutional amendment set forth
40 in Part I of this act, then G.S. 95-25.3(a) reads as rewritten:

41 "(a) Every Effective January 1, 2021, and subject to the other provisions in this section,
42 every employer shall pay to each employee who in any workweek performs any work, wages of
43 at least six dollars and fifteen cents (\$6.15) per hour or the minimum wage set forth in paragraph
44 1 of section 6(a) of the Fair Labor Standards Act, 29 U.S.C. 206(a)(1), as that wage may change
45 from time to time, whichever is higher, except as otherwise provided in this section twelve dollars
46 (\$12.00) per hour. On September 30, 2021, and on each following September 30, the
47 Commissioner of Labor shall calculate an adjusted minimum wage rate using the consumer price
48 index (all urban consumers, U.S. city average for all items), CPI-U, or its successor index, as
49 calculated by the U.S. Department of Labor for the 12-month period preceding the previous
50 September 1. Each adjusted minimum wage rate calculated shall be published on September 30
51 September 1. Each adjusted minimum wage rate calculated shall be published on September 30

1 and take effect on the following January 1. For tipped employees meeting eligibility requirements
2 for the tip credit under the FLSA, employers may credit toward satisfaction of the minimum wage
3 tips up to the amount of the allowable FLSA tip credit in 2003."
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5 **PART III. EFFECTIVE DATE**

6 **SECTION 3.** This act is effective when it becomes law.