

Becker

INITIATIVE PETITION

To the Attorney General of Ohio: Pursuant to Ohio Revised Code § 3519.01(A), the undersigned electors of the State of Ohio, numbering in excess of one thousand, hereby submit to you the full text of a proposed Amendment to the Ohio Constitution and a summary of the same.

TITLE

Raise the Wage Ohio

SUMMARY

The Amendment would amend Article II, Section 34a of the Ohio Constitution to increase the state minimum wage rate. Specifically, the Amendment would:

- Increase the state minimum wage rate specified in Section 34a that was effective January 1, 2007 to \$10.50 per hour on January 1, 2025.
- After 2025, increase the state minimum wage rate in equal increments annually for three years to reach \$15 per hour on January 1, 2028.
- Effective January 1, 2025, change the date January 1, 2008 in Section 34a to January 1, 2029 for annually increasing in accordance with language in the section the state minimum wage rate for inflation. The amendment would replace inflation adjusted annual increases in 2025, 2026, 2027, and 2028 with fixed dollar amounts. Inflation adjusted annual increases would then begin again January 1, 2029.
- Require that beginning January 1, 2029, an employer shall pay an employee who receives tips the full minimum wage rate required by this section with tips on top.
- For tipped employees, Section 34a currently provides that an employer may pay an employee less than, but not less than half, the minimum wage rate. The amendment repeals this language and provides that the employer may pay no less than the minimum wage rate required by this section minus four dollars beginning January 1, 2025, the minimum wage rate required by this section minus three dollars beginning January 1, 2026, the minimum wage rate required by this section minus two dollars beginning January 1, 2027, and the minimum wage rate required by this section minus one dollar beginning January 1, 2028, if the employer is able to demonstrate that the employee receives tips that combined with the wages paid by the employer are equal to or greater than the minimum wage rate for all hours worked, with tips on top of this hourly wage.
- Provide that in all cases where an employee is permitted by their employer to accept tips, the employee is entitled to the amount of the tips in full or in accordance with a pooled tip policy for non-management employees in compliance with federal law.
- Repeal the current provision in Section 34a that the State may issue licenses to employers authorizing payment of a wage rate below the minimum required by the section to individuals with mental or physical disabilities that may otherwise adversely affect their opportunity for employment.
- Repeal the current provision in Section 34a that individuals under the age of 16 shall be paid a wage rate of not less than that established under the federal Fair Labor Standards Act.
- Amend the existing definition of "employee" in Section 34a to include every instance in which an employer suffers or permits an individual to work but maintain the current exclusions for individuals employed in or about the property of the employer or individual's residence on a casual basis and for employees of a solely owned and operated family business who are family members of an owner.
- Maintain an existing provision that employees of businesses with annual gross receipts under an annually adjusted amount shall be paid a wage rate not less than that established under the federal Fair Labor Standards Act.
- Provide that the amendments to the section shall take effect January 1, 2025.

COMMITTEE TO REPRESENT THE PETITIONERS

The following persons are designated as a committee to represent the petitioners in all matters relating to the petition or its circulation:

Prentiss Haney, 918 Windsor St, Apt. 2 Cincinnati, OH 45206
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FULL TEXT OF PROPOSED AMENDMENT

Be it Resolved by the People of the State of Ohio that Article II of the Ohio Constitution is hereby amended to add the following language to Section 34a shown underlined and in all capital letters below, and repeals the existing language shown by strikethrough. Current language that is not changed appears without underline or strikethrough:

Article II, Section 34a

Except as provided in this section, every employer shall pay their employees a wage rate of not less than ~~six dollars and eighty-five cents~~ TEN DOLLARS AND FIFTY CENTS per hour beginning January 1, ~~2007~~ 2025. THEREAFTER, THIS STATE MINIMUM WAGE RATE SHALL BE INCREASED IN EQUAL INCREMENTS ANNUALLY FOR THREE YEARS TO REACH FIFTEEN DOLLARS PER HOUR BY JANUARY 1, 2028. On the thirtieth day of each September, beginning in ~~2007~~ 2028, this state minimum wage rate shall be increased effective the first day of the following January by the rate of inflation for the twelve month period prior to that September according to the consumer price index or its successor index for all urban wage earners and clerical workers for all items as calculated by the federal government rounded to the nearest five cents. Employees ~~under the age of sixteen and employees of businesses with annual gross receipts of two hundred fifty thousand dollars or less for the preceding calendar year shall be paid a wage rate of not less than that established under the federal Fair Labor Standards Act or its successor law. This gross revenue figure shall be increased each year beginning January 1, 2008 by the change in the consumer price index or its successor index in the same manner as the required annual adjustment in the minimum wage rate set forth above rounded to the nearest one thousand dollars.~~ EMPLOYERS SHALL PAY TIPPED EMPLOYEES THE FULL MINIMUM WAGE RATE REQUIRED BY THIS SECTION IN ADDITION TO TIPS THE EMPLOYEE RECEIVES SUBJECT TO THE FOLLOWING: BEGINNING JANUARY 1, 2025, THE EMPLOYER MAY PAY A RATE NO LESS THAN THE MINIMUM WAGE RATE REQUIRED BY THIS SECTION MINUS FOUR DOLLARS, BEGINNING JANUARY 1, 2026 NO LESS THAN THE MINIMUM RATE REQUIRED BY THIS SECTION MINUS THREE DOLLARS, BEGINNING JANUARY 1, 2027 NO LESS THAN THE MINIMUM WAGE RATE REQUIRED BY THIS SECTION MINUS TWO DOLLARS, AND BEGINNING JANUARY 1, 2028 NO LESS THAN THE MINIMUM WAGE RATE REQUIRED BY THIS SECTION MINUS ONE DOLLAR. ~~An employer may pay an employee less than, but not less than half, the minimum wage rate required by this section if the employer is able to demonstrate that the employee receives tips that combined with the wages paid by the employer are equal to or greater than the minimum wage rate for all hours worked.~~ BEGINNING JANUARY 1, 2029, AN EMPLOYER SHALL PAY AN EMPLOYEE WHO RECEIVES TIPS THE FULL MINIMUM WAGE RATE REQUIRED BY THIS SECTION WITH TIPS ON TOP. IN ALL CASES WHERE AN EMPLOYEE IS PERMITTED BY THEIR EMPLOYER TO ACCEPT TIPS, THEY SHALL

BE ENTITLED TO THE TIPS IN FULL OR IN ACCORDANCE WITH A POOLED TIP POLICY FOR NON-MANAGEMENT EMPLOYEES IN COMPLIANCE WITH FEDERAL LAW. The provisions of this section shall not apply to employees of a solely family owned and operated business who are family members of an owner. ~~The state may issue licenses to employers authorizing payment of a wage rate below that required by this section to individuals with mental or physical disabilities that may otherwise adversely affect their opportunity for employment.~~

As used in this section: "employer," "employee," "employ," "person" and "independent contractor" have the same meanings as under the federal Fair Labor Standards Act or its successor law, except that "employer" shall also include the state and every political subdivision and "employee" SHALL INCLUDE EVERY INSTANCE IN WHICH AN EMPLOYER SUFFERS OR PERMITS AN INDIVIDUAL TO WORK, BUT shall not include an individual employed in or about the property of the employer or individual's residence on a casual basis. Only the exemptions set forth in this section shall apply to this section.

An employer shall at the time of hire provide an employee the employer's name, address, telephone number, and other contact information and update such information when it changes. An employer shall maintain a record of the name, address, occupation, pay rate, hours worked for each day worked and each amount paid an employee for a period of not less than three years following the last date the employee was employed. Such information shall be provided without charge to an employee or person acting on behalf of an employee upon request. An employee, person acting on behalf of one or more employees and/or any other interested party may file a complaint with the state for a violation of any provision of this section or any law or regulation implementing its provisions. Such complaint shall be promptly investigated and resolved by the state. The employee's name shall be kept confidential unless disclosure is necessary to resolution of a complaint and the employee consents to disclosure. The state may on its own initiative investigate an employer's compliance with this section and any law or regulation implementing its provisions. The employer shall make available to the state any records related to such investigation and other information required for enforcement of this section or any law or regulation implementing its provisions. No employer shall discharge or in any other manner discriminate or retaliate against an employee for exercising any right under this section or any law or regulation implementing its provisions or against any person for providing assistance to an employee or information regarding the same.

An action for equitable and monetary relief may be brought against an employer by the attorney general and/or an employee or person acting on behalf of an employee or all similarly situated employees in any court of competent jurisdiction, including the common pleas court of an employee's county of residence, for any violation of this section or any

law or regulation implementing its provisions within three years of the violation or of when the violation ceased if it was of a continuing nature, or within one year after notification to the employee of final disposition by the state of a complaint for the same violation, whichever is later. There shall be no exhaustion requirement, no procedural, pleading or burden of proof requirements beyond those that apply generally to civil suits in order to maintain such action and no liability for costs or attorney's fees on an employee except upon a finding that such action was frivolous in accordance with the same standards that apply generally in civil suits. Where an employer is found by the state or a court to have violated any provision of this section, the employer shall within thirty days of the finding pay the employee back wages, damages, and the employee's costs and reasonable attorney's fees. Damages shall be calculated as an additional two times the amount of the back wages and in the case of a violation of an anti-retaliation provision an amount set by the state or court sufficient to compensate the employee and deter future violations, but not less than one hundred fifty dollars for each day that the violation continued. Payment under this paragraph shall not be stayed pending any appeal.

This section shall be liberally construed in favor of its purposes. Laws may be passed to implement its provisions and create additional remedies, increase the minimum wage rate and extend the coverage of the section, but in no manner restricting any provision of the section or the power of municipalities under Article XVIII of this constitution with respect to the same.

If any part of this section is held invalid, the remainder of the section shall not be affected by such holding and shall continue in full force and effect.

THE ABOVE AMENDMENTS TO THIS SECTION SHALL TAKE EFFECT JANUARY 1, 2025.