

House Resolution 2187

By: Representatives Taylor of the 55th, Abrams of the 84th, Brooks of the 63rd, and Long of the 61st

A RESOLUTION

1 Proposing an amendment to the Constitution so as to establish a minimum wage for certain
 2 employees in Georgia; to require that notice of such minimum wage be given to employees;
 3 to prohibit retaliation against employees for exercising their rights to receive a minimum
 4 wage; to provide for a civil action for violations; to provide for repeal of amendment; to
 5 provide for the submission of this amendment for ratification or rejection; and for other
 6 purposes.

7 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 SECTION 1.

9 The Constitution is amended by adding a new article to read as follows:

10 "ARTICLE XII. 11 WAGES AND LABOR

12 SECTION I. 13 EMPLOYEE WAGES

14 Paragraph I. *Minimum wage.* (a) All working Georgians are entitled to be paid a
 15 minimum wage that is sufficient to provide a decent and healthy life for them and their
 16 families, that protects their employers from unfair low-wage competition, and that does not
 17 force them to rely on taxpayer funded public services in order to avoid economic hardship.

18 (b) As used in this Paragraph, the terms 'employer,' 'employee,' and 'wage' shall have the
 19 meanings established under the federal Fair Labor Standards Act (FLSA) and its
 20 implementing regulations; except that the term 'employee' shall also include any person
 21 over the age of 17 regardless of whether he or she is enrolled in educational courses.

22 (c) Employers shall pay all employees wages no less than the minimum wage for all
 23 hours worked in Georgia. As of June 1, 2013, the minimum wage shall be established at

24 an hourly rate of \$7.25. On June 1, 2014, the minimum wage shall be increased to an
25 hourly rate of \$8.25.

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

32 (e) Persons aggrieved by a violation of this Paragraph may bring a civil action in a court
33 of competent jurisdiction against an employer or person violating this Paragraph and, upon
34 prevailing, shall recover the full amount of any back wages unlawfully withheld plus the
35 same amount as liquidated damages and shall be awarded reasonable attorney's fees and
36 costs. In addition, they shall be entitled to such legal or equitable relief as may be
37 appropriate to remedy the violation including, without limitation, reinstatement in
38 employment or injunctive relief, or both. Any employer or other person found liable for
39 willfully violating this Paragraph shall also be subject to a fine payable to the state in the
40 amount of \$1,000.00 for each violation. The state attorney general or other official
41 designated by the General Assembly may also bring a civil action to enforce this
42 Paragraph. Actions to enforce this Paragraph shall be subject to a statute of limitations of
43 four years or, in the case of willful violations, five years. Such actions may be brought as
44 a class action.

45 (f) Implementing legislation is not required in order to enforce this Paragraph. The
46 General Assembly may by statutory law establish additional remedies or fines for
47 violations of this Paragraph, raise the applicable minimum wage rate, extend the tip credit,
48 or extend coverage of the minimum wage to employers or employees not covered by this
49 Paragraph. The General Assembly may by statutory law adopt any measures appropriate
50 for the implementation of this Paragraph. This Paragraph provides for payment of a
51 minimum wage and shall not be construed to preempt or otherwise limit the authority of
52 the state legislature or any other public body to adopt or enforce any other law, regulation,
53 requirement, policy, or standard that provides for payment of higher or supplemental wages
54 or benefits, or that extends such protections to employers or employees not covered by this
55 Paragraph. It is intended that case law, administrative interpretations, and other guiding
56 standards developed under the federal FLSA shall guide the construction of this Paragraph
57 and any implementing statutes or regulations.

58 (g) Employers shall be required to provide notice to employees of their minimum wage
59 rights pursuant to this Paragraph.

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

64 (i) In a referendum to be held every four years beginning with the November, 2014,
 65 general election and quadrennially thereafter, the qualified electors of this state shall vote
 66 on whether to continue this Paragraph of this Constitution in force and effect. All persons
 67 desiring to vote in favor of continuing this Paragraph shall vote 'Yes.' All persons desiring
 68 to vote against continuing this Paragraph shall vote 'No.' If a majority of the qualified
 69 electors of this state approve continuing this Paragraph in force and effect, then it shall
 70 continue in force and effect as part of this Constitution. If this Paragraph is not so
 71 continued at any referendum held pursuant to this Paragraph, it shall stand repealed on
 72 January 1 immediately following the date of such referendum."

73 **SECTION 2.**

74 The above proposed amendment to the Constitution shall be published and submitted as
 75 provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the
 76 above proposed amendment shall have written or printed thereon the following:

77 "() YES Shall the Constitution of Georgia be amended so as to establish a minimum
 78 wage for certain employees in Georgia, to require that notice of such
 79 () NO minimum wage be given to employees, to prohibit retaliation against
 80 employees for exercising their rights to receive a minimum wage, and to
 81 provide for a civil action for violations?"

82 All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."
 83 All persons desiring to vote against ratifying the proposed amendment shall vote "No." If
 84 such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall
 85 become a part of the Constitution of this state.