

SENATE JOINT RESOLUTION NO. 2—SENATOR HARDY

PREFILED FEBRUARY 1, 2013

Referred to Committee on Legislative Operations and Elections

SUMMARY—Proposes to amend the Nevada Constitution to abolish the requirement that an employer who does not provide health benefits pay a higher minimum wage. (BDR C-473)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

SENATE JOINT RESOLUTION—Proposing to amend the Nevada Constitution to abolish the requirement that an employer who does not provide health benefits pay a minimum wage that is \$1 per hour higher than the minimum wage to be paid by an employer who provides health benefits.

Legislative Counsel’s Digest:

1 The Nevada Constitution requires each employer who does not provide health
2 benefits to pay a minimum wage that is \$1 per hour higher than an employer who
3 does provide health benefits. (Nev. Const. Art. 15, § 16) This resolution proposes to
4 amend the Nevada Constitution to require all employers to pay the same hourly
5 minimum wage regardless of whether such employers provide health benefits.

1 RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF
2 NEVADA, JOINTLY, That Section 16 of Article 15 of the Nevada
3 Constitution be amended to read as follows:

4 Sec. 16. A. Each employer shall pay a wage to each
5 employee of not less than the hourly ~~rates~~ *rate* set forth in
6 this section. The rate shall be five dollars and fifteen cents
7 (\$5.15) per hour worked . ~~if the employer provides health~~
8 ~~benefits as described herein, or six dollars and fifteen cents~~
9 ~~(\$6.15) per hour if the employer does not provide such~~
10 ~~benefits. Offering health benefits within the meaning of this~~
11 ~~section shall consist of making health insurance available to~~
12 ~~the employee for the employee and the employee’s~~



1 ~~dependents at a total cost to the employee for premiums of~~
2 ~~not more than 10 percent of the employee's gross taxable~~
3 ~~income from the employer. These rates.] This rate~~ of wages
4 shall be adjusted by the amount of increases in the federal
5 minimum wage over \$5.15 per hour, or, if greater, by the
6 cumulative increase in the cost of living. The cost of living
7 increase shall be measured by the percentage increase as of
8 December 31 in any year over the level as of December 31,
9 2004 of the Consumer Price Index (All Urban Consumers,
10 U.S. City Average) as published by the Bureau of Labor
11 Statistics, U.S. Department of Labor or the successor index or
12 federal agency. No CPI adjustment for any one-year period
13 may be greater than 3%. The Governor or the State agency
14 designated by the Governor shall publish a bulletin by April 1
15 of each year announcing the adjusted ~~[rates,] rate~~, which shall
16 take effect the following July 1. Such bulletin will be made
17 available to all employers and to any other person who has
18 filed with the Governor or the designated agency a request to
19 receive such notice but lack of notice shall not excuse
20 noncompliance with this section. An employer shall provide
21 written notification of the rate ~~[adjustments] adjustment~~
22 to each of its employees and make the necessary payroll
23 adjustments by July 1 following the publication of the
24 bulletin. Tips or gratuities received by employees shall not be
25 credited as being any part of or offset against the wage ~~[rates]~~
26 ~~rate~~ required by this section.

27 B. The provisions of this section may not be waived by
28 agreement between an individual employee and an employer.
29 All of the provisions of this section, or any part hereof, may
30 be waived in a bona fide collective bargaining agreement, but
31 only if the waiver is explicitly set forth in such agreement in
32 clear and unambiguous terms. Unilateral implementation of
33 terms and conditions of employment by either party to a
34 collective bargaining relationship shall not constitute, or be
35 permitted, as a waiver of all or any part of the provisions of
36 this section. An employer shall not discharge, reduce the
37 compensation of or otherwise discriminate against any
38 employee for using any civil remedies to enforce this section
39 or otherwise asserting his or her rights under this section. An
40 employee claiming violation of this section may bring an
41 action against his or her employer in the courts of this State to
42 enforce the provisions of this section and shall be entitled to
43 all remedies available under the law or in equity appropriate
44 to remedy any violation of this section, including but not
45 limited to back pay, damages, reinstatement or injunctive



1 relief. An employee who prevails in any action to enforce this
2 section shall be awarded his or her reasonable attorney's fees
3 and costs.

4 C. As used in this section, "employee" means any
5 person who is employed by an employer as defined herein but
6 does not include an employee who is under eighteen (18)
7 years of age, employed by a nonprofit organization for after
8 school or summer employment or as a trainee for a period not
9 longer than ninety (90) days. "Employer" means any
10 individual, proprietorship, partnership, joint venture,
11 corporation, limited liability company, trust, association, or
12 other entity that may employ individuals or enter into
13 contracts of employment.

14 D. If any provision of this section is declared illegal,
15 invalid or inoperative, in whole or in part, by the final
16 decision of any court of competent jurisdiction, the remaining
17 provisions and all portions not declared illegal, invalid or
18 inoperative shall remain in full force or effect, and no such
19 determination shall invalidate the remaining sections or
20 portions of the sections of this section.

