November 30, 2020

Florida Votes to Increase Minimum Wage to $15 per Hour Over Six Years

On November 3, a super-majority of over 60 percent of Florida's voters passed a constitutional amendment that increases the minimum wage to reach $15 per hour over six years. The minimum wage was already set to increase from $8.56 to $8.65 as of January 1, 2021. The constitutional amendment provides that the minimum wage will increase to $10 per hour on September 30, 2021, and by $1 on September 30 of each subsequent year until 2026, when it will reach $15 per hour. Starting in 2027, the minimum wage will be adjusted annually for inflation based on the U.S. Department of Labor's consumer price index for urban wage earners and clerical workers. As previously required, employers must keep sufficient records to demonstrate that they properly paid their employees and complied with the minimum wage.

The constitutional amendment does not prevent an employer from taking a "tip credit" against the minimum wage for employees customarily receiving tips from customers. The federal Fair Labor Standards Act sets the applicable eligibility requirements for a tip credit. Employers qualifying for a tip credit may pay "tipped employees" a cash wage below the minimum wage, as long as employers provide advance oral or written notice (written notice is the better practice) and employees actually earn at least the minimum wage through the combination of the cash wage and tips. Florida employers are permitted to take a tip credit of $3.02. Thus, starting January 1, 2021, employers qualifying for a tip credit must pay a cash wage of at least $5.63, and must continue to adjust the cash wage each year as the minimum wage increases.

Florida employers should begin planning now for these changes that will phase in over the next several years. Many national retailers had already increased their wages, however, in anticipation of the amendment and to remain competitive in hiring.

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