

PROPOSITION 138
[SCR 1040 - 2024]

tipped workers; wages

ANALYSIS BY LEGISLATIVE COUNCIL

1 Current law provides that employers may pay tipped employees up to \$3.00 per hour less
2 than the minimum wage if the employer's records or the employee's declaration for federal
3 insurance contributions act (FICA) establishes that when adding tips or gratuities to wages the
4 tipped employee was paid at least the minimum wage for all hours worked.
5 Proposition 138 would amend the Arizona Constitution to allow an employer, for any
6 employee who customarily and regularly receives tips or gratuities, to pay up to 25% per hour less
7 than the minimum wage, if the employer can establish that the employee is paid at least the
8 minimum wage plus \$2.00 per hour for all hours worked. This calculation is determined by
9 averaging the employee's tips or gratuities received and wages paid over the course of the
10 employer's payroll period or any other period that complies with state law. The employer would
11 be able to use the employer's records of charged tips or gratuities or the employee's FICA
12 declaration to establish compliance.