

Agenda Report

February 1, 2016

TO: Honorable Mayor and City Council

THROUGH: Economic Development and Technology Committee (January 27, 2016)

FROM: City Manager

**SUBJECT: DIRECT THE CITY ATTORNEY TO PREPARE AN ORDINANCE
REQUIRING THE PAYMENT OF A CITY-WIDE MINIMUM WAGE**

RECOMMENDATION:

1. Find the actions proposed herein are exempt from environmental review pursuant to State CEQA Guidelines Section 15061 (b)(3) ("general rule"), Section 15378(b)(4) (definition of project excludes government fiscal activities which do not involve any commitment to any specific project);
2. Direct the City Attorney to prepare an ordinance and return within 30 days requiring the payment of a city-wide minimum wage as follows:
 - a. July 1, 2016 the hourly wage shall be \$10.50
 - b. July 1, 2017 the hourly wage shall be \$12.00
 - c. July 1, 2018 the hourly wage shall be \$13.25
3. Direct staff: a) to return to the City Council no later than February 18, 2019 with a report assessing the impact of the local minimum wage on reducing poverty, unemployment, job creation, and the overall local business climate as further described in the background section of this report; and, b) request direction from the City Council regarding an amendment to the Pasadena Minimum Wage ordinance to increase the wage as follows:
 - a. July 1, 2019 the hourly wage shall be \$14.25
 - b. July 1, 2020 the hourly wage shall be \$15.00
 - c. Beginning July 1, 2021 and each July 1 thereafter the hourly wage shall adjust by an amount equal to the change in the Los Angeles-Riverside-Orange County consumer price index for Urban Wage Earners and Clerical Workers

4. Provide policy direction on elements of the proposed ordinance as outlined in the background section of this report.
5. Direct staff to take appropriate actions and return as necessary to the City Council to increase compensation rates for City employees earning less than the City-wide minimum wage except those employed in job-training and youth employment programs as discussed in the body of this report.

BACKGROUND:

To date, fifteen cities in California and the County of Los Angeles have adopted minimum wage ordinances. Of these, eight will ultimately reach \$15 per hour by 2020, while others set a more modest rate. Further, all fifteen include provisions for annual increases based on changes in the Consumer Price Index once they reach their target level.

City	Final Hourly Rate \$	Target Level Effective
Berkeley	\$15.00	10-1-18
County of L.A.	\$15.00	7-1-20
City of L.A.	\$15.00	7-1-20
El Cerrito	\$15.00	1-1-19
Emeryville	\$15.00	7-1-18
Mountain View	\$15.00	7-1-18
Oakland	\$12.55	1-1-16
Palo Alto	\$11.00	1-1-16
Richmond	\$13.00	1-1-18
San Diego	\$11.50	1-1-17
Sacramento	\$12.50	1-1-20
San Francisco	\$15.00**	7-1-18
San Jose	\$10.30**	1-1-15
Santa Monica	\$15.00	7-1-20
Sunnyvale	\$10.30	1-1-15

**Voter approved

Municipal minimum wage ordinances seek to address the problems caused by incomes that are inadequate to sustain workers and their families particularly in areas with a high cost of living. Traditionally, public policy decisions of this nature were left to the federal or state governments which have available a variety of tools in the form of taxation and income redistribution. While it may be that there are more effective macroeconomic ways to address the issues of poverty and growing income inequality, as a municipal government the City of Pasadena, like those others who have established local minimum wages, has limited options. And in the absence of meaningful action at the state or federal level consideration of establishing a local minimum wage may be appropriate.

Accordingly, on July 27 2015, a few weeks after the City of Los Angeles took formal steps to create a local minimum wage, the Pasadena City Council considered the placement of a future agenda item regarding potential City action to establish a local minimum wage. Following discussion, the matter was referred to the Economic Development and Technology (Edtech) Committee for further review and consideration.

As part of its charge to carefully consider the issue, the Edtech Committee held four meetings at various locations throughout the City: August 27th and December 10th at City Hall; October 21st at Villa Parke Community Center and November 19th at Caltech. The Committee reviewed a variety of information including recently adopted minimum wage ordinances from other cities, and economic studies and articles related to potential impacts of raising the minimum wage. At each meeting the Committee heard considerable public testimony, both for and against establishing a local minimum wage. The predominant number of speakers at each meeting was in favor of establishing a local minimum wage.

The Pasadena Chamber of Commerce and other business representatives, citing potential negative impacts on local businesses, have cautioned against establishing a local minimum wage ordinance. Recently, the Chamber put forth an alternative proposal (Attachment A). The Pasadena Chamber of Commerce and Civic Association Alternative would increase the minimum wage to \$12.50 per hour by January 1, 2020 as follows:

Effective Date	Minimum Hourly Rate
January 1, 2017	\$10.50
January 1, 2018	\$11.00
January 1, 2019	\$11.75
January 1, 2020	\$12.50

Additionally, as proposed by the Chamber of Commerce:

- Businesses with fewer than 100 employees would be given one additional year to implement the increased minimum hourly rates.
- Community-based non-profits would be given two additional years to implement the increased minimum hourly rates.
- Programs for Youth Workers and those with significant barriers to employment such as, recently released felons, formerly homeless, recovering substance abusers would be exempt.
- Future increases to the minimum wage would not to be tied to changes in CPI.
- Separate, presumably annual, actions by the City Council for each increase in minimum wage rate would be required.
- A total earnings formula would be employed that would take into account taxable earnings from commissions, tips or other sources employees may receive.

A number of these additional points are discussed later in this report.

At its November 19th meeting the Committee hosted a panel discussion whereby each panel member provided a brief presentation and responded to questions from the Committee. The meeting included four noted experts:

Dr. Christine Cooper, Vice President for the Institute for Applied Economics at the Los Angeles Economic Development Corporation, an expert in development economics, environmental economics, regional analysis, and urban sustainability;

Dr. Michael Reich, Professor of Economics and Director of the Institute for Research on Labor and Employment at the University of California at Berkeley, specializing in areas of labor economics and political economy, including the economics of racial inequality, the analysis of labor market segmentation;

Dr. Christopher Thornberg, founding Partner of Beacon Economics, an expert in economic forecasting, regional economics, employment and labor markets, economic policy, and industry and real estate analysis, and

Dan Flaming, President of Economic Roundtable, a nonprofit urban research organization working on social, economic and environmental problems facing communities.

At the December 10th meeting there was consensus among the members of the Edtech Committee to forward a recommendation to establish a local minimum wage ordinance, based on the version established by the County of Los Angeles, to the full City Council for its consideration. However, based on the discussion, there were some areas where the Committee felt policy direction from the full City Council was necessary. The following is a brief discussion of each of these issues along with a staff recommendation. The City Council is asked to provide appropriate direction to staff.

1. *Small Business Exemption* – The minimum wage ordinances for both the City and County of Los Angeles provide a one-year delay for employers with twenty-five or fewer employees. By way of example, while employers with twenty-six employees must pay their employees \$10.50 on July 1, 2016 and \$12.00 on July 1, 2017, those with twenty-five or fewer have until July 1, 2017 to pay \$10.50 and July 1, 2018 to pay \$12.00. The Chamber of Commerce has proposed that employers with fewer than 100 employees be considered small business and that they be given an additional year to comply. Staff is recommending that the Council adopt the same approach as the City and Council of Los Angeles. The Council could elect to go further by providing an exemption for small business altogether; for example, those with twenty-five or perhaps ten employees.

As part of this consideration at the Edtech Committee, there was discussion regarding new, start-up businesses. In considering exemptions for new, start-up businesses, staff considered the challenge associated with determining whether a business is in fact, a new business, as often sales tax and business license permits

are re-registered under a new name to what is essentially an on-going enterprise. Consequently, staff believes that to the extent any exemption is applied it should be based on workforce size not duration in business.

2. *Total Earnings Exemption* – As mentioned earlier, the Chamber of Commerce has recommended that any local ordinance include a provision whereby employees who receive taxable earnings, such as tips for those working in the restaurant industry, be exempted from the minimum wage requirement so long as the employee's overall income (tips included) meets the local minimum wage. The example provided by the Chamber is the ordinance adopted by Seattle, Washington, which factors in tips.

The California Labor Code specifies that gratuities are the sole property of the employee or employees to whom they are provided. Nevertheless, persons receiving tips, commissions and other forms of earnings are required by law to report such earnings. In cases where restaurant patrons provide tips via credit or debit card, such earnings are captured and reported by the restaurant. When receiving tips in the form of cash, employees are obligated to self-report.

As proposed by the Chamber, the minimum wage would not apply to any employee whose "Total Earnings" for a given pay period (typically two weeks) were at least the amount specified in the City's ordinance. The definition of "Total Earnings" would include all taxable earnings by every description received directly or indirectly as a result of services and labor performed by the employee, e.g. commissions or tips.

To date, none of the cities in California that have adopted minimum wage ordinances have included total earnings exemptions. Recently, however, the City of Long Beach, which on January 19th directed the preparation of a minimum wage ordinance, signaled its intention to seek changes in state law regarding tips. Nevertheless, the adoption of a total earnings exemption is likely to invite litigation as even its proponents acknowledge there is no legal authority which specifically addresses this issue.

Locally, such an exemption would have its greatest impact on the food service industry. Based on data from the American Communities survey, which was presented at the November 19th Edtech meeting, it is estimated that restaurant and bar workers comprise 12% of low-wage workers in Pasadena. Of the roughly 4,000 persons estimated to work in restaurants and bars locally, nearly 2/3rds earn less than \$15 per hour. Keeping in mind the underlying policy objective, coupled with the desire not to make Pasadena the test case for litigation, staff does not recommend pursuing the Chambers proposal in regard to a total earnings exemption.

3. *"Learners" exemption* – The California Labor Code defines a "Learner" as an employee during their first 160 hours of employment in a new career field, regardless of age. Many local businesses employ interns and new personnel requiring on-the-job training. Typically, internships/training programs are short-term in nature but provide important entry opportunities for those entering the labor force or those embarking on a new career. In addition, youth programs are typically

designed to provide young people an opportunity to gain needed work experience, without having to compete with adults for those entry-level jobs.

The City of Los Angeles' minimum wage ordinance further defines "Learners" as employees who are 14-17 years of age and specifies that the "Learners" shall be paid no less than 85% of the applicable minimum wage for the first 160 hours of employment, thereby creating a lower required minimum wage for youth employment. The County of Los Angeles' ordinance does not address the issue of "Learners" at all. Staff recommends that the City Council adopt an exemption for "Learners" consistent with the State Labor Code whereby persons regardless of age, must be paid not less than 85% of the state minimum wage during their first 160 hours of employment in occupations in which they have no previous similar or related experience.

4. *Phased Implementation* – Pasadena is much smaller than the City of Los Angeles and the unincorporated county areas. During the Edtech Committee's discussions, concerns were raised as to whether adopting a local minimum wage would place Pasadena at a competitive disadvantage relative to other cities, particularly in the San Gabriel Valley or just to the west with whom it may compete for jobs. Conversely, advocates have shared their hope that as more cities adopt higher minimum wages, it will lead others to follow suit.

Taking both views into account, staff is recommending that should the City Council adopt a minimum wage ordinance, that initially it provide for increases only through July 1, 2018. As proposed, staff would return to the City Council no later than February 15, 2019 with a report assessing the impact of the local minimum wage on reducing poverty, unemployment, job creation, and the overall local business climate. Such analysis would be expected to include such data as employment and earnings changes by industry sector, unemployment data for Pasadena and surrounding areas, taxable sales gross receipts, business closures and other relevant information. Upon submission of the report, staff would request direction from the City Council regarding an amendment to the ordinance to increase the minimum wage as follows:

- a. July 1, 2019 the hourly wage shall be \$14.25
 - b. July 1, 2020 the hourly wage shall be \$15.00
 - c. Beginning July 1, 2021 and each July 1 thereafter the hourly wage shall adjust by an amount equal to the change in the Los Angeles-Riverside-Orange County consumer price index for all urban consumers
5. *Enforcement* – As with the City's Living Wage Ordinance, any local minimum wage ordinance would include a provision enabling employees to bring civil action against employers for violation of the City's requirements. At this time staff is recommending that the City further explore the potential for partnering with the County of Los Angeles on enforcement rather than adding new staff positions. The County is currently developing a Wage Enforcement Program that would be based on prevention, complaint investigation, and recovery of unpaid wages. The County has

confirmed that it is interested in contracting its enforcement services. However, in the event collaboration with the County is not possible, staff will report back to the Council.

6. *Application to the City's Workforce* – In prior presentations to the Edtech subcommittee, staff assumed that the Council would wish to effectively apply any local minimum wage to its own workforce, however, it would be appropriate for the Council to provide clarity on this point since the mechanisms to achieve this would be through avenues other than an ordinance, i.e., salary resolutions and amendments to any applicable Memorandums of Understanding with bargaining units. If so directed, staff will return to the City Council requesting the appropriate actions.

Nevertheless, as it relates to this subject, the City operates two youth employment programs; the Summer Rose employment program and the Ambassador program, as well as the MASH job-training program. As noted above, other cities which have adopted minimum wage ordinances, most notable the City of Los Angeles has created exemptions or lower pay scales for youth employment. Staff is recommending that the City's youth employment programs be exempt from any local minimum wage ordinance.

Additionally, the MASH program provides a unique training opportunity for otherwise unskilled adults (18 years and older) to gain those skills and work habits necessary to obtain a permanent job. Some trainees have obtained careers with the City of Pasadena, while others have gone on to other places of employment. In order to maximize the number of program participants staff recommends exempting this job-training program.

The table on the following page summarizes the staff proposal and provides a comparison to the ordinances of the City of Los Angeles and the County of Los Angeles.

Feature	Pasadena - Staff Recommendation	City of Los Angeles	County of Los Angeles
Minimum Wage Rate	July 1, 2016 - \$10.50	July 1, 2016 - \$10.50	July 1, 2016 - \$10.50
	July 1, 2017 - \$12.00	July 1, 2017 - \$12.00	July 1, 2017 - \$12.00
	July 1, 2018 - \$13.25	July 1, 2018 - \$13.25	July 1, 2018 - \$13.25
	Pending Further Council Action: July 1, 2019 - \$14.25	July 1, 2019 - \$14.25	July 1, 2019 - \$14.25
	Pending Further Council Action: July 1, 2020 - \$15.00	July 1, 2020 - \$15.00	July 1, 2020 - \$15.00
	Pending Further Council Action: Annual CPI adjustments thereafter	Annual CPI adjustments thereafter	Annual CPI adjustments thereafter
Exemptions for small business with 25 or fewer employees	One year lag in wage applicability	One year lag in wage applicability	One year lag in wage applicability
Exemption for Learners	Apply State Code: Regardless of age, paid not less than 85% of the state minimum wage during first 160 hours of employment in occupations in which employee has no previous similar or related experience.	Applies only to youths between ages of 14-17: Regardless of age, paid not less than 85% of the state minimum wage during first 160 hours of employment in occupations in which employee has no previous similar or related experience.	No Exemption

COUNCIL POLICY CONSIDERATION:

The City Council's Strategic Plan Goals include Improving Quality of Life and Enhancing the Local Economy. The consideration of establishing a local minimum wage bears a direct nexus to these goals.

FISCAL AND ECONOMIC IMPACT:

The proposed actions will have an undetermined direct and indirect impact on the City and the local economy. The precise impact will be a function of many factors. As proposed staff will return after three years of application with an assessment of the impacts on the local economy.

As it relates to the cost of applying the minimum wage to the City's own workforce, and based on the staff recommendations above, the estimated annual budget impact is expected to range between \$500,000-\$700,000 spread across various City funds, with the majority impact in the General Fund. If so directed, as the various amendments to the salary resolution and memorandums of understanding come forward, staff will include more precise estimates.

Additionally, increasing the pay to select classifications, however, could potentially create pay compaction issues and lead to a larger trickle-up effect on a wider range of City positions. As a result, further analysis would need to be performed to determine whether additional pay changes would be recommended to ensure pay differentials between levels of positions are paid and fairness in compensation provided to employees performing higher level work and which requires more years of experience, education, or training to perform. Such assessment would also be part of any recommended actions.

Respectfully submitted,



STEVE MERMELL
Assistant City Manager

Approved by:



MICHAEL J. BECK
City Manager

Attachment A - Pasadena Chamber of Commerce and Civic Association Alternative
Attachment B - City of Los Angeles Minimum Wage Ordinance
Attachment C - County of Los Angeles Minimum Wage Ordinance

MINIMUM WAGE PROPOSAL

Pasadena Chamber of Commerce and Civic Association Alternative

The Pasadena Chamber of Commerce and our local business community recognize there is momentum among local political leadership to raise the minimum wage in Pasadena.

While raising the minimum wage to \$15 per hour by 2020 may seem to be a simple solution to many concerns expressed by some in the community, the Chamber and our businesses also recognize doing so could have significantly negative impacts on our local economy, employment and our local business community, especially our small businesses. We would like to propose an increase to \$12.50 per hour by 2020. We are convinced this increase would prove to have fewer potentially negative impacts on our local workforce, local small business and our Pasadena economy.

Background

Our research and analysis seriously questions implementation of the Los Angeles minimum wage proposal here in Pasadena. We are a very different city, with a very different population and a significantly different economy. All our analysis shows that the Los Angeles minimum wage increase will not have the impact desired or anticipated by the advocates and could negatively impact our local small businesses, employment opportunities in Pasadena and our economy. (Analysis that was done for the Chamber is attached for your reference.)

The Pasadena Chamber research data also shows that very few Pasadena residents would benefit from any local increase in the minimum wage. According to U.S. Census data, only 13,700 persons who live in Pasadena work here. Of those, 2,372 are home based workers. Of those 11,328 resident workers remaining, a much smaller subset, likely fewer than 1,000, are minimum wage earners. (The U.S. average for minimum wage earners is 3.7%.) Many of those minimum wage earners in Pasadena are part-time, student workers or workers whose primary income is significantly enhanced by gratuities, tips, commissions or other income. In all likelihood, based on census and other data, fewer than 500 resident Pasadena workers would benefit from any increase in the minimum wage.

Based on surveys and research done by the Pasadena Chamber of Commerce, there will likely be several negative impacts resulting from any increase in the minimum wage. As outlined in our presentation to the Economic Development and Technology Committee in November, local businesses, especially small businesses, would react to any increase in the minimum wage in any combination of these ways:

- Raise prices (59%)
- Reduce workforce (52%)

- Reduce hours for existing workers (46.4%)
- Reduce operating hours (17.6%)
- Stop hiring entry-level, unskilled workers (21.6%)
- As we have experienced with closures and impending closures of restaurants such as Dona Rosa (which could not absorb additional expenses or increase prices to meet additional costs resulting from rent increases, material costs and the January 1, 2016, minimum wage increase to \$10 per hour) and Stats (which is heavily dependent on seasonal, part-time minimum wage employees) and others, some businesses will not survive the combined increases in costs, including minimum wage.

Research done for the Pasadena Chamber of Commerce clearly shows that imposition of the Los Angeles/Los Angeles County \$15 per hour minimum wage scheme could have significant negative impacts on Pasadena, our local businesses and our local economy.

Further, research by respected economists throughout the world shows that workers who are most negatively impacted by minimum wage increases are exactly the workers it is intended to assist. According to one study by David Neumark (UC Irvine) and William Wascher (Federal Reserve) research *“still shows that minimum wages pose a tradeoff of higher wages for some against job losses for others, and that policymakers need to bear this tradeoff in mind when making decisions about increasing the minimum wage.”* Low paid, low skilled and under-educated workers, the very people intended to benefit from minimum wage increases, are the same people who find it more difficult to find and maintain employment.

Likewise, minimum wage increases do not impact poverty rates. In Santa Fe, New Mexico, rate of families living in poverty in 1999, five years before the city enacted its living wage ordinance, was 9.5%. In 2010, six years after the increase, the family poverty rate had risen to 10.6% for all households in the City of Santa Fe. Some evidence suggests that minimum wage increases can push some families into poverty as a result of fewer employment opportunities and loss of existing opportunities. Neumark and Wascher, in an earlier study found minimum wage increases made *“it more likely that previously non-poor families may fall into poverty.”* Rather than lift people out of poverty, there is a slight increase in poverty among families and individuals as a result of minimum wage increases. *“The estimated increase in the number of non-poor families who fall into poverty is larger than the estimated increase in the number of poor families that escape poverty.”* Their research, published as *Do Minimum Wages Fight Poverty* by the National Bureau of Economic Research, shows that there is a net increase in the number of families living in poverty after minimum wages are increased.

For reference, we are including analysis done for the Pasadena Chamber by independent, unpaid volunteer graduate students, and a peer review of that work done by a retired economics Ph.D., as well as the PowerPoint presentation the Chamber made for the Economic Development and Technology Committee in December. Further information can be provided as requested, including economic studies related to impacts of minimum wage increases.

Pasadena Chamber of Commerce Alternative Minimum Wage Proposal

The Pasadena Chamber of Commerce would like to propose an alternative that would increase minimum wages in Pasadena, but at a rate that would be less risky for our local small businesses, employment opportunities and our local economy.

The Chamber proposes a gradual increase in minimum wages to \$12.50 per hour by 2020.

Under our proposal, wages would be raised on this timetable:

- January 1, 2016: \$10.00 per hour (State of California new minimum wage)
- January 1, 2017: \$10.50 per hour
- January 1, 2018: \$11.00 per hour
- January 1, 2019: \$11.75 per hour
- January 1, 2020: \$12.50 per hour

Further, the Pasadena Chamber would like to recommend the following:

- Allow small businesses with fewer than 100 employees an additional year to begin implementation.
- Allow community-based non-profits an additional two years to begin implementation.
- Exempt youth workers and workers with significant barriers to employment, such as recently released felons, formerly homeless, recovering substance abusers.
- Do not tie future increases to the Consumer Products Index, or any other artificial indicator.
- Require City Council approval of minimum wage increases at every step to ensure goals are being met without adverse impacts to Pasadena, its economy or local small businesses.
- Following the model set by Seattle, Washington, the Chamber also recommends that the City of Pasadena implement the total earnings/total compensation model for all workers (not just union members, but including union members). Minimum wage would remain at state mandated level for those earning more than the city minimum due to commissions, tips or other earnings and other benefits earned through their workplace.

In addition, the Pasadena Chamber would like the City of Pasadena and City Council to consider implementation of tax and fee offsets, possibly including:

- 1.) Reduce Utility User Tax to 4% for all. This will help companies cope with wage increases. Will also reduce regressive tax that places a higher burden on low-income people (and will put more spending money in their pocket). Utility User Tax averages about 8%. Reducing UUT by half could save an individual with a cell phone bill of \$50 per month and average utility bills approximately \$12 per month. For families, homeowners, businesses and those with multiple phones and cable TV savings would be higher.
- 2.) Reduce the transfer from Pasadena Water and power to the General Fund to 5% and reduce utility rates accordingly. This will save businesses, but also put money back into the pockets of low-income persons who pay a proportionally higher percentage of their income on utilities. The 5% savings could mean about \$5 per month for an individual apartment dweller and more for families in larger, older, less efficient dwellings.
- 3.) Eliminate business license fees for any small business paying minimum wages to five or more employees.

The Pasadena Chamber has studied minimum wage extensively and drew our recommendation from examples of actions taken by other cities in circumstances similar to Pasadena, including:

- 1.) Tacoma, Washington, citizens voted in support of a \$12 per hour minimum wage (by more than 70%) over a \$15 per hour alternative. Tacoma, like Pasadena, is a relatively small economy adjacent to Seattle, Washington. (Seattle is a regional economic powerhouse, similar to Los Angeles, that is raising minimum wage to \$15 per hour by 2020 using a total earnings model that includes benefits, commissions, tips and other compensation in the minimum wage calculation.)
- 2.) Sacramento, California, enacted a proposal to raise minimum wage to \$12.50 per hour by 2020, following an inclusive process that had a stakeholder group make a recommendation to the City Council.
- 3.) Long Beach, California, recommendation from the Economic Development Committee empowered by the City Council, is to raise minimum wage to \$13 per hour by 2019. They also recommend City Council consider the total earnings model.
- 4.) San Jose and surrounding communities raised minimum wage to \$10.30 per hour January 1, 2016. Wages will rise by CPI each year thereafter. Some surrounding cities are at \$10 per hour, except Mountain View and Palo Alto, which are at \$11 per hour.
- 5.) San Diego approved a minimum wage increase to \$11.50 per hour in 2017. Minimum wage will rise by CPI beginning in 2019.

Definitions:

1. Total earnings (as defined in the Seattle minimum wage ordinance): *Small employers can pay an hourly minimum wage and make up the minimum compensation balance with employee tips and/or payments toward an employee's medical benefits plan. To use tips to make up the balance of minimum compensation, the tips must be (a) actually received by the employee and (b) reported to the Internal Revenue Service. Note: employers must provide employees notice of tip policy at the time of hire (as required by the City of Seattle's Administrative Wage Theft Ordinance). Seattle defines small employer as anyone with 500 or fewer employees.*

ORDINANCE NO. 183612

An ordinance adding Article 7 to Chapter XVIII of the Los Angeles Municipal Code requiring a minimum wage for employees and amending the title of Chapter XVIII of the Los Angeles Municipal Code.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. A new Article 7 is added to Chapter XVIII of the Los Angeles Municipal Code to read as follows:

ARTICLE 7

LOS ANGELES MINIMUM WAGE ORDINANCE

SEC. 187.00. PURPOSE.

According to consultants retained by the City and studies submitted to the City for its consideration, Los Angeles is a low-wage city with a high cost of living. Without action to raise the wage floor, the problems caused by incomes that are inadequate to sustain working families will become more acute. The cost of living is continuing to rise in Los Angeles and labor market projections by the California Employment Development Department show that the number of low-wage jobs will grow faster than the number of mid- and high-wage jobs. Inaction will mean that the share of the labor force that does not receive sustaining pay will grow and the gap between stagnating low wages and the cost of a basic standard of living in Los Angeles will continue to widen.

Contrary to popular perception, the large majority of affected workers are adults, with a median age of 33 (only three percent are teens). The proposed minimum wage increase will greatly benefit workers of color, who represent over 80% of affected workers. Workers of all education levels will benefit from the proposed law, with less educated workers benefitting the most.

Los Angeles also ranks highest in California in child poverty rates. In short, although the City is experiencing strong economic growth which has spurred employment, poverty and inequality remain high and wages continue to stagnate. Affected workers disproportionately live in low-income families; on average, affected workers bring home more than half of their family's income. Affected workers live disproportionately in the lower-income areas of the City. These areas will experience greater earnings gains than the City as a whole due to a higher minimum wage. The research literature suggests that downstream benefits will result from the proposed wage increase, such as improved health outcomes for both workers and their children, and increases in children's academic achievements and cognitive and behavioral outcomes.

Studies show that minimum wage increases reduce worker turnover. Turnover creates financial costs for employers. Reduced worker turnover means that workers will have more tenure with the same employer, which creates incentives for both employers and workers to increase training and worker productivity.

The City has recognized that income inequality is one of the most pressing economic and social issues facing Los Angeles. Workers, who must live paycheck to paycheck, are frequently forced to work two or three jobs to provide food and shelter for their families. These workers often rely on the public sector as a provider of social support services and, therefore, the City has an interest in promoting an employment environment that protects government resources. Therefore, by paying a higher than state-mandated minimum wage, the City seeks to promote the health, safety and welfare of thousands of workers by ensuring they receive a decent wage for the work they perform.

SEC. 187.01. DEFINITIONS.

The following definitions shall apply to this article:

- A. **"City"** means the City of Los Angeles.
- B. **"Designated Administrative Agency (DAA)"** means the Department of Public Works, Bureau of Contract Administration, which shall bear administrative responsibilities under this article.
- C. **"Employee"** means any individual who:
 - 1. In a particular week performs at least two hours of work within the geographic boundaries of the City for an Employer; and
 - 2. Qualifies as an Employee entitled to payment of a minimum wage from any Employer under the California minimum wage law, as provided under Section 1197 of the California Labor Code and wage orders published by the California Industrial Welfare Commission.
- D. **"Employer"** means any person, as defined in Section 18 of the California Labor Code, including a corporate officer or executive, who directly or indirectly or through an agent or any other person, including through the services of a temporary service or staffing agency or similar entity, employs or exercises control over the wages, hours or working conditions of any employee.
- E. **"Non-Profit Corporation"** means a non-profit corporation, duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and, if a foreign corporation, in good standing under the laws of the State of California, which corporation has established and maintains valid non-profit status under Section 501(c)(3) of the United States Internal Revenue

Code of 1986, as amended, and all rules and regulations promulgated thereunder.

F. "Person" means any person, association, organization, partnership, business trust, limited liability company or corporation.

SEC. 187.02. PAYMENT OF MINIMUM WAGE TO EMPLOYEES.

A. An Employer shall pay an Employee a wage of no less than the hourly rates set under the authority of this article.

B. Employers with 26 or more Employees shall pay a wage of no less than the hourly rates set forth:

1. On July 1, 2016, the hourly wage shall be \$10.50.
2. On July 1, 2017, the hourly wage shall be \$12.00.
3. On July 1, 2018, the hourly wage shall be \$13.25.
4. On July 1, 2019, the hourly wage shall be \$14.25.
5. On July 1, 2020, the hourly wage shall be \$15.00.

C. Employers with 25 or fewer Employees shall pay a wage of no less than the hourly rates set forth:

1. On July 1, 2017, the hourly wage shall be \$10.50.
2. On July 1, 2018, the hourly wage shall be \$12.00.
3. On July 1, 2019, the hourly wage shall be \$13.25.
4. On July 1, 2020, the hourly wage shall be \$14.25.
5. On July 1, 2021, the hourly wage shall be \$15.00.

D. On July 1, 2022, and annually thereafter, the minimum wage will increase based on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the Los Angeles metropolitan area (Los Angeles-Riverside-Orange County, CA), which is published by the Bureau of Labor Statistics. The DAA shall announce the adjusted rates on January 1st and publish a bulletin announcing the adjusted rates, which shall take effect on July 1 of each year.

E. Employees, who are "Learners" as defined in Labor Code Section 1192 and consistent with wage orders published by the California Industrial Welfare

Commission and are 14-17 years of age, shall be paid not less than 85% of the minimum wage rounded to the nearest nickel during their first 160 hours of employment. After more than 160 hours of employment, Learners shall be paid the applicable minimum wage pursuant to this section.

F. For purposes of this article, the size of an Employer's business or Non-Profit Corporation shall be determined by the average number of Employees employed during the previous calendar year.

SEC. 187.03. DEFERRAL APPLICATION FOR CERTAIN NON-PROFIT EMPLOYERS.

The DAA shall establish a procedure to allow an Employer that is a Non-Profit Corporation with 26 or more Employees to qualify for the deferral rate schedule specified in Section 187.02.C. A Non-Profit Employer seeking the deferral must establish by compelling evidence that:

A. The chief executive officer earns a salary which, when calculated on an hourly basis, is less than five times the lowest wage paid by the corporation; or

B. It is a Transitional Employer as defined in Section 10.31.1(h) of the Los Angeles Administrative Code; or

C. It serves as a child care provider; or

D. It is funded primarily by City, County, State or Federal grants or reimbursements.

SEC. 187.04. NOTIFYING EMPLOYEES OF THEIR POTENTIAL RIGHT TO THE FEDERAL EARNED INCOME CREDIT.

Employers shall inform Employees of their possible right to the federal Earned Income Credit (EIC) under Section 32 of the Internal Revenue Code of 1954, 26 U.S.C. Section 32.

SEC. 187.05. RETALIATORY ACTION PROHIBITED.

No Employer shall discharge, reduce in compensation or otherwise discriminate against any Employee for opposing any practice proscribed by this article, for participating in proceedings related to this article, for seeking to enforce his or her rights under this article by any lawful means, or for otherwise asserting rights under this article.

SEC. 187.06. IMPLEMENTATION.

The DAA may promulgate guidelines and rules consistent with this article for the implementation of the provisions of this article. Any guidelines or rules shall have the force and effect of law, and may be relied upon by Employers, Employees and other parties to determine their rights and responsibilities under this article.

SEC. 187.07. NO WAIVER OF RIGHTS.

Any waiver by an Employee of any or all of the provisions of this article shall be deemed contrary to public policy and shall be void and unenforceable.

SEC. 187.08. COEXISTENCE WITH OTHER AVAILABLE RELIEF FOR SPECIFIC DEPRIVATIONS OF PROTECTED RIGHTS.

The provisions of this article shall not be construed as limiting any Employee's right to obtain relief to which he or she may be entitled at law or in equity.

SEC. 187.09. CONFLICTS.

Nothing in this article shall be interpreted or applied so as to create any power or duty in conflict with any federal or State law.

SEC. 187.10. REPORTS.

Every three years after July 1, 2016, the Chief Legislative Analyst (CLA) with the assistance of the City Administrative Officer (CAO) shall commission a study to review the state of the City's economy; minimum wage impacts; textile and apparel manufacturing impacts; temporary workers, guards and janitors impacts; home health care services impacts; residential care and nursing facilities impacts; child day care services impacts; restaurants and bars impacts; personal and repair services impacts; transitional jobs programs impacts; service charges, commissions and guaranteed gratuities impacts; and wage theft enforcement. On an annual basis, the CLA and CAO shall collect economic data, including jobs, earnings and sales tax.

SEC. 187.11. SEVERABILITY.

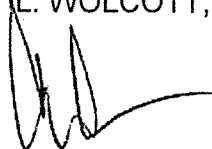
If any subsection, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this section, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Sec. 2. CHAPTER XVIII of the Municipal Code is retitled EMPLOYEE WAGES AND PROTECTIONS.


Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of JUN 10 2015.

HOLLY L. WOLCOTT, City Clerk

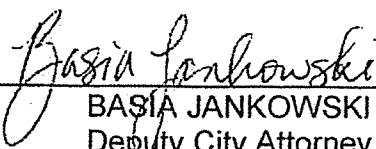
By  Deputy

Approved 6/13/15


Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 
BASIA JANKOWSKI
Deputy City Attorney

Date 5-22-15

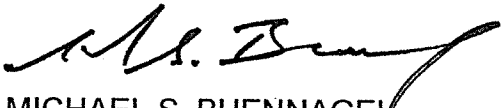
File No. 14-1371

ANALYSIS

This Ordinance amends Title 8 – Consumer Protection and Business Regulations, of the Los Angeles County Code, relating to the minimum wage to be paid for work performed within the unincorporated areas of the County of Los Angeles by:

- Amending the title of Title 8 to read Consumer Protection, Business and Wage Regulations;
- Adding Division 4 to Title 8 for wage regulations;
- Adding Chapter 8.100 to Division 4 to establish a minimum wage for the County of Los Angeles; and
- Adding Sections 8.100.010 through 8.100.100 to: (1) provide findings of the Board of Supervisors relating to the need for a minimum wage; (2) define employees and employers that are subject to the Minimum Wage Ordinance; and (3) establish the minimum wage rate employers are to pay to qualifying employees.

MARY C. WICKHAM
Interim County Counsel

By 
MICHAEL S. BUENNAGEL
Senior Associate County Counsel
Government Services Division

MSB:bk

Requested: 8/05/2015
Revised: 9/09/2015

8.100.010 Short Title.

The Ordinance codified in this Chapter shall be known as the "Los Angeles County Minimum Wage Ordinance."

8.100.020 Findings.

The Board of Supervisors finds that, as of 2015, twenty seven percent (27%) of the overall population of the County of Los Angeles is living in poverty, which is defined by the California Poverty Measure as an annual household income of less than \$30,785 for a family of four. Many impoverished residents, despite working full-time, earn too little to cover bare necessities such as safe housing, healthy food, adequate clothing, and basic medical care. With each year, the cost of living in the County rises while real wages for the lowest income County residents stagnate or fail to keep pace.

The Board also finds that income inequality is a substantial economic and social issue facing the County. Low income workers often rely on the County as a provider of social support services. When employees do not receive a sufficient wage for their labor, the community and taxpayers bear associated costs in the form of increased demand for taxpayer-funded services, including emergency medical services, homeless shelters, and other social services and community-based services. Therefore, the County has an interest in promoting an employment environment in unincorporated areas that protects government resources while promoting the health, safety, and welfare of workers by ensuring they receive a reasonable wage for the work they perform.

1. Employers with twenty-six (26) or more Employees shall pay Employees a wage of no less than the following hourly rates:

- a. On July 1, 2016, the hourly wage shall be \$10.50;
- b. On July 1, 2017, the hourly wage shall be \$12.00;
- c. On July 1, 2018, the hourly wage shall be \$13.25;
- d. On July 1, 2019, the hourly wage shall be \$14.25;
- e. On July 1, 2020, the hourly wage shall be \$15.00.

2. Employers with twenty-five (25) or fewer Employees shall pay Employees a wage of no less than the following hourly rates:

- a. On July 1, 2017, the hourly wage shall be \$10.50;
- b. On July 1, 2018, the hourly wage shall be \$12.00;
- c. On July 1, 2019, the hourly wage shall be \$13.25;
- d. On July 1, 2020, the hourly wage shall be \$14.25;
- e. On July 1, 2021, the hourly wage shall be \$15.00.

3. Beginning on July 1, 2022, the minimum wage will increase annually based on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the Los Angeles metropolitan area (Los Angeles-Riverside-Orange County, CA), which is published by the Bureau of Labor Statistics. Beginning in 2022, and continuing each year thereafter, on January 1 the CEO shall determine the adjusted rates which shall take effect on July 1 of that year and publish a bulletin announcing the adjusted rates.

C. This Chapter provides for payment of a local minimum wage and shall not be construed to preempt or otherwise limit or affect the applicability of any other law, regulation, requirement, policy, or standard that provides for payment of higher or supplemental wages or benefits, or that extends other protections.

8.100.080 Implementation.

The Chief Executive Officer, or his or her designee, shall be responsible for administration of this Chapter which may include public education and outreach, promulgating guidelines and rules consistent with the provisions of this Chapter, and enforcing this Chapter consistent with Chapter 1.25 of the County Code. Guidelines and rules promulgated by the Chief Executive Officer, or his or her designee, pursuant to the authority provided under this Chapter shall have the force and effect of law and may be relied upon by employers, employees, and other parties to determine their rights and responsibilities under this Chapter.

8.100.090 Coexistence With Other Available Relief.

The provisions of this Chapter shall not be construed as limiting any Employee's right to obtain relief to which he or she may be entitled at law or in equity.

8.100.100 Exemptions.

The following persons and entities are exempt from the Los Angeles County Minimum Wage Ordinance:

A. Any person not subject to, or exempt from, the State minimum wage, as provided under section 1197 of the California Labor Code and wage orders published by the California Industrial Welfare Commission.

SECTION 4. This ordinance shall be published in The Daily Commerce a newspaper printed and published in the County of Los Angeles.



Mike Antonovich
Mayor

ATTEST:

Patrick Ogawa
Patrick Ogawa
Acting Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that at its meeting of September 29, 2015 the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

Ayes

Supervisors Hilda Solis
Mark Ridley-Thomas
Sheila Kuehl

Noes

Supervisors Don Knabe
Michael D. Antonovich

Effective Date: October 29, 2015

Operative Date: _____

Patrick Ogawa
Patrick Ogawa
Acting Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

PATRICK OGAWA
Acting Executive Officer
Clerk of the Board of Supervisors

By Ant
Deputy



APPROVED AS TO FORM:
MARY C. WICKHAM
Interim County Counsel

By Lester J. Tolra
Lester J. Tolra
Acting Chief Deputy County Counsel