

Treatment of Small Businesses & Non-Profits Under City Minimum Wage Laws

Introduction

As Los Angeles hammers out a likely agreement to adopt its first citywide minimum wage, some have suggested that small businesses or non-profit organizations should be exempted from the city minimum wage. This brief surveys how other major cities have addressed these issues under their minimum wage laws. It concludes that:

1. No major city has exempted small businesses or non-profits from minimum wage increases, and in only very limited instances have major cities provided any sort of delayed or gradual phase-in for such employers;
2. Exempting small businesses would be counter-productive and is unnecessary, as higher minimum wages have proven workable for small businesses

in other cities and, where exemptions have been attempted, they have proven ineffective as small businesses face competitive pressure to match large employers' wages in order to retain their employees; and

3. Exempting non-profits would be bad policy and would permanently strand non-profit caregivers in poverty; instead, because raising the minimum wage in Los Angeles will generate substantial MediCal savings for the state – savings that will likely total well over \$100 million a year -- the better approach is for non-profit providers and the city to negotiate with the state to allocate a portion of those savings to help cushion the minimum wage costs of non-profits such as providers of subsidized child care and services for persons with developmental disabilities.

1. No Major City Has Excluded Small Businesses or Non-Profits from Minimum Wage Increases

Review of the minimum wage laws that major U.S. cities have adopted in recent years shows that, after assessing the issues posed by covering small businesses and non-profits, not one major city has decided to exempt such employers from coverage:

- Currently six major U.S. cities have minimum wage laws: San Francisco, Seattle, Chicago, Washington, D.C., San Jose and Oakland. None of them exempt small businesses and non-profits. See Table 1. (Three of the cities have targeted exemptions for programs such as publicly subsidized after school and summer youth employment, but those are very narrow. See Table 1.)
- The policy considerations that have led cities to choose to cover small businesses and non-profits, as discussed

below in Sections 2 and 3 of this brief, are generally that (1) it would be counter-productive to exclude small businesses and that covering them with higher minimum wages have proven manageable in other cities; and (2) that exempting non-profits providing social services would similarly be counter-productive, despite the challenges for them in paying a higher minimum wage.

- Among the cities, only Seattle has a delayed, more gradual phase-in of the minimum wage for smaller businesses. However, the other five cities do not have such small business phase-ins and, as discussed in Section 2 below, the evidence shows that the higher minimum wages have been manageable for small businesses in these cities.
- It is true that a couple of very small cities such as Santa Fe, New Mexico in the past exempted non-profits and

small businesses. However, as detailed in Section 2 below, Santa Fe in 2007 eliminated the small business exemption, with the support of the local small business trade association. And the exemption for certain non-profits was a result of New Mexico’s minimum wage

law, which similarly exempted them from coverage and which Santa Fe felt it was legally required to follow – a consideration that does not apply in California.

Table 1. Minimum Wage Laws in Major U.S. Cities

City	Wage	Small Business Exemption	General Non-Profit	Very Limited Exemption
San Francisco (2014)	\$15 (2018)	No	No – in fact, IHSS home care workers are expressly covered	Yes – for certain publicly funded programs employing youth under 18 or persons over 55
Seattle (2014)	\$15 (2017-2021)	No – but slower phase-in for businesses with fewer than 500 employees	No	Yes – for students employed under work-study programs
Chicago (2014)	\$13 (2019)	No – except tracks IL minimum wage law, which exempts very small employers with 3 or fewer employees, except that household employers are covered	No	Yes – for publicly subsidized temporary youth employment or transitional jobs programs
Washington, D.C. (2013)	\$11.50 (2016)	No	No	No
San Jose (2012)	\$10.30 (2015)	No	No	No
Oakland (2014)	\$12.25 (2015)	No	No	No

2. Exempting Small Businesses Would Be Counter-Productive and Is Unnecessary as Higher Minimum Wages Have Proven Manageable for Small Businesses in Other Cities

The suggestion that small businesses should be excluded from the Los Angeles minimum wage increase would not only be unprecedented, but it would be counter-productive and unnecessary:

- While the majority of Los Angeles workers who would be helped by a city minimum wage work for large businesses, 41% of workers earning less than \$15 – a total of 247,000 Angelenos – work for businesses with fewer than 50 employees. They would be left behind if small businesses were exempted from paying the higher minimum wage
- Excluding small businesses would also slash by 41% the consumer spending boost resulting from a minimum wage increase – spending that otherwise would

benefit small businesses across Los Angeles County, as workers spend their higher pay checks at neighborhood businesses.

- Major cities that have adopted minimum wages have found that they have been manageable for small businesses. For example, in both San Jose and San Francisco, jobs in the restaurant industry – which has a disproportionate share of small businesses – grew faster after the minimum wage hike, than they did in surrounding cities and counties that did not raise the minimum wage. In San Jose, the Wall Street Journal reported that “Fast-food hiring in the region accelerated once the higher wage was in place. By early this year, the pace of employment gains in the San Jose area beat the improvement in the entire state of California.”

Eric Morath, “What Happened to Fast-Food Workers When San Jose Raised the Minimum Wage? Hold the Layoffs”, *Wall Street Journal* (April 9, 2014).¹ Similarly, in San Francisco, University of California researchers found that restaurant employment grew 17.7 percent in San Francisco, faster than in the other Bay Area counties. “When Mandates Work: Raising Labor Standards at the Local Level” (2014).² See also “Once controversial \$15-an-hour minimum wage now a shoulder shrug in SeaTac,” *Puget Sound Business Journal* (Dec. 22, 2014).

- Moreover, evidence suggests exempting small businesses would be ineffectual since they would still face

competitive pressure to match the higher minimum wage in order to compete for workers. This dynamic is illustrated by the experiences of Santa Fe, New Mexico. Santa Fe exempted small businesses from its minimum wage from 2004 to 2007 but then abolished the exemption with the backing of the city’s small business trade association. The executive director of the Santa Fe Alliance, the city’s small business group, reported that “many smaller businesses ha[d] been paying the minimum wage to keep good employees.”³ This fact led the Santa Fe Alliance to ultimately endorse eliminating the small business exemption altogether.⁴

3. Exempting Non-Profits Would Relegate Their Vital Workforces to a Low Wage Future; the Better Approach Is to Negotiate with the State to Use a Portion of the More Than \$100 Million in MediCal Savings That a Los Angeles Minimum Wage Will Generate to Cushion the Cost for Non-Profits Such as Subsidized Child Care and Developmental Disabilities Service Providers

It has also been suggested in some quarters that non-profit organizations cannot afford to pay a higher minimum wage and so should be exempted.

- But as with small businesses, no major city has broadly exempted non-profits from their minimum wage laws. A few have provided very narrow exemptions for publicly subsidized summer or after school youth employment programs or the like – but none broadly exempt most or all non-profits. In fact, far from exempting them, San Francisco’s minimum wage expressly provides that Medicaid-funded home care workers (the In-Home Supportive Services program) are covered.
- Moreover, many non-profits are large institutions such as hospitals, universities or cultural institutions that should surely be treated no differently than any other large employer.
- It is true that some non-profit agencies – such as those providing subsidized child care services and services for people with developmental disabilities (DD) – are funded by state and/or federal grants that will not necessarily increase as the minimum wage rises. These providers and the city will need to raise additional funds in order to pay the higher minimum wage.
- However, a minimum wage increase may provide a potential revenue source for such subsidies. This is because a minimum wage increase generates substantial budgetary savings for the state’s MediCal program

as workers are shifted from 50%-state-funded regular MediCal, onto 100% federally funded ACA expansion MediCal.⁵

- A University of California analysis found that a \$13 state minimum wage increase would generate more than \$1.5 billion in MediCal savings each year.⁶ Correspondingly, a Los Angeles minimum wage increase, which could raise pay for as many as 609,000 Angelenos, would likely generate well over \$100 million in MediCal savings.⁷
- We recommend that the city help the subsidized child care and DD providers negotiate with the state to use a small portion of those MediCal savings to provide them subsidies to ease the transition to the higher city minimum wage.
- Exempting non-profits – which again no major city has done – would be harmful policy that would permanently strand these non-profit workers at poverty wages, impoverishing this vital caregiving workforce. It would also exacerbate the serious employee recruitment and retention problem that already plagues non-profit caregiving and undermine the ability to provide stable, quality care, as even more workers would leave the field to seek higher paid jobs in fields like retail and restaurants that were covered by the minimum wage.

Endnotes

1. Available at: <http://blogs.wsj.com/economics/2014/04/09/what-happened-to-fast-food-workers-when-san-jose-raised-the-minimum-wage/>
2. Michael Reich, Ken Jacobs and Miranda Dietz (eds.), *When Mandates Work: Raising Labor Standards at the Local Level*, University of California Press (2014), available at <http://irle.berkeley.edu/publications/when-mandates-work/>; "San Francisco's Higher Minimum Wage Hasn't Hurt the Economy," *Business Week* (January 22, 2014), available at <http://www.businessweek.com/articles/2014-01-22/san-franciscos-higher-minimum-wage-hasnt-hurt-the-economy>; "S.F. praised as model for U.S. on increasing minimum wage," *SF Gate* (January 28, 2014), available at <http://www.sfgate.com/politics/article/S-F-praised-as-model-for-U-S-on-increasing-5183378.php>
3. "Santa Fe could delay minimum wage increase but widen coverage," *Associated Press* (July 13, 2007).
4. *Id.*
5. Sylvia A. Allegretto, Michael Reich and Rachel West, "Ten Dollars or Thirteen Dollars? Comparing the Effects of State Minimum Wage Increases in California" (June 2014), pp.16-18, available at <http://www.irle.berkeley.edu/cwed/briefs/2014-02.pdf>
6. *Ibid.*, p.22, Table 2.
7. Basis for estimate: University of California study estimates that a \$13 state-wide wage raises pay for 5.4 million Californians, generating \$1.5 billion in MediCal savings. A \$15 Los Angeles wage is projected to raise pay for 609,000 Angelenos (11% of the California workforce), and so could generate MediCal savings as high as 11% of \$1.5 billion, which is \$170 million. So savings are likely to be well over \$100 million.