



Adam Lid <adam.lid@lacity.org>

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## Economic Development Committee - 4/12/16 - 1:00 PM - Item No. 1 - Council File 14-1371

1 message

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Sat, Apr 9, 2016 at 2:20 PM

To: Adam.Lid@lacity.org

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Via Email

[Adam.Lid@lacity.org](mailto:Adam.Lid@lacity.org)

Los Angeles City Council  
Economic Development Committee  
Room 1010, City Hall  
200 North Spring Street  
Los Angeles, CA 90012

Re: Committee Meeting - Tuesday, April 12, 2016 - 1:00 PM  
Item No. 1 - Council File 14-1371

I write to OPPOSE the suggestion that the current Citywide Living Wage Ordinance, LAMC Ch. XVIII, Art. 6, §§187.00-187.11, provide for an "opt-out" provision for collective bargaining agreements, similar to that in the Hotel Worker Minimum Wage Ordinance, at § 186.08. I believe that such an opt-out provision would both be bad policy, and threaten the entire Living Wage Ordinance as preempted by federal law.

I am an attorney who has represented unions and workers for over three decades, in particular enforcing wage and hour laws. This is my personal position, as a citizen of the City, and not that of my firm or clients.

I have submitted in Amicus brief to the Ninth Circuit, regarding the pending challenge to the Hotel Worker Minimum Wage Ordinance. I have attached my brief here, and ask that it be added to my public comments in the record of Council File 14-1371. In it, I argue that this opt-out provision may be preempted by federal law, and thus threaten the viability of the entire living wage ordinance.

Instead, I would recommend that the Council allow the minimum wage to be met, in part, by employer payments for health insurance. This is the approach used in prevailing wage law, applicable to public works by the City. See Labor Code § 1773.1. This method has been upheld against court challenges based on preemption. See *WSB Elec., Inc. v. Cumy*, 88 F.3d 788 (9th Cir. 1996), *cert. denied*, 519 U.S. 1109 (1997). This fulfills the policy of allowing flexibility in meeting the minimum wage, but avoids preemption problems since it applies equally to union and non-union contracts, as explained by the Ninth Circuit in its *WSB* decision. This would also provide an economic incentive for employers to contribute to the health insurance costs of their employees, which would improve the overall health of City residents.

I hope you will take my comments, including this brief, into consideration, before making a decision on this important issue.

Sincerely,

J. David Sackman

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