

To: Cities Association Board of Directors
From: Cities Association Subcommittee on Minimum Wage: Jim Griffith, Rod Sinks, John McAlister
Re: Report/Recommendation on the Minimum Wage
Date: June 7, 2015

Introduction

Income inequality in America is an increasing problem that is encouraging elected officials to take a hard look at the minimum wage as one tool to bring relief to the problem. With Congress currently unwilling to examine the issue at the federal level, many states and local jurisdictions have already approved or are considering local minimum wage increases. In August 2014, the US Conference of Mayors' "Cities of Opportunity Task Force" endorsed higher minimum wages as a key tool for addressing income inequality.

Santa Clara County is no exception to the challenges of income inequality, with the San Jose-Sunnyvale-Santa Clara metropolitan area having the second highest cost of living index in the state of California. Already, the cities of San Jose, Sunnyvale, and Mountain View have approved minimum wage increases. The cities of Palo Alto, Santa Clara, Morgan Hill, and Campbell are additionally considering a minimum wage increase.

The legal and policy issues with a minimum wage increase are lengthy. Rather than repeating those issues in its report, the subcommittee provides the Sunnyvale Report To Council (RTC) on the topic as an overview.

The state is considering the issue, and CA Senate Bill 3 (Leno) proposes an increase to \$11/hour in 2016 and \$13 in 2017, with CPI adjustments starting in 2019.

San Jose and Sunnyvale have already established a \$10.30/hour minimum wage with annual CPI adjustments. Mountain View has adopted an identical ordinance that takes effect July 1, 2015. Mountain View and Sunnyvale have additionally established a policy goal of a \$15/hour minimum wage by 2018. Mountain View is currently discussing a possible phased increase to \$15 by 2018, and Sunnyvale is monitoring Mountain View's efforts with an expressed interest in adopting Mountain View's schedule.

However, Palo Alto is now proposing a minimum wage that matches none of the other three increases initially, although it is likewise targeting \$15 by 2018. Santa Clara has proposed a minimum wage increases that matches the other three jurisdictions with \$10.30 and a CPI-based increase, but Santa Clara has not yet expressed an opinion regarding the \$15 by 2018 goal. In light of this, Mountain View and Sunnyvale have sent a joint letter to the other cities in Santa Clara County

encouraging regional consistency in any schedules and degrees of a minimum wage increase.

Priority Consideration

In looking at this issue, the subcommittee asserts that **regional consistency is a paramount consideration** for jurisdictions that are considering adopting a higher minimum wage. A lack of regional consistency in minimum wage rates creates serious problems for jurisdictions, locations, and employers. A parallel can be drawn with local jurisdictions' efforts to adopt single-use bag policies, and the confusion and competitiveness issues caused when jurisdictions' requirements vary.

Jurisdictions suffer from a lack of consistency, in that differences in minimum wage requirements can affect a city's economic competitiveness. Additionally, jurisdictions have already received reports from employers in Santa Clara County stating that cities without an increased minimum wage are losing quality employees to opportunities in cities with higher minimum wages.

A lack of consistency can even impact specific locations that span jurisdictions, such as Valley Fair. A business in the lower-wage portion of the location has a competitive advantage over a related business in the higher-wage portion of the location. Similar behavior was observed in Valley Fair when San Jose adopted a plastic bag ban well in advance of any effort by Santa Clara to do the same.

Employers who operate locations in different jurisdictions encounter payroll and employment challenges when the locations have different minimum wage rates.

The issue of regional consistency argues strongly for either a national or state minimum wage increase. While Congress has demonstrated no willingness to examine this issue, CA Senate Bill 3 (Leno) proposes an increase to \$11/hour in 2016 and \$13 in 2017, with CPI adjustments starting in 2019. The subcommittee considered this but instead suggests the Sunnyvale-Mountain View goals as a starting point for discussion, since they surpass SB 3 in timing and degree. The considerably higher cost of living in Silicon Valley was an additional factor in recommending efforts beyond those that might be achieved by SB 3, should it eventually be approved. In general, significant differences in regional economies argue for minimum wages based on regions smaller than the State of California.

At the last Silicon Valley Leadership CEO Economic Outlook Conference, the attendees were asked "would you support a minimum wage of \$15/hour, phased in through 2020" 85% of respondents answered in the affirmative.

Accordingly, the subcommittee recommends that the Cities Association encourage jurisdictions to place particular emphasis and value on establishing minimum wage ordinances that promote regional consistency within Silicon Valley. While not willing to endorse a specific minimum wage

requirement or timeline, the subcommittee points to the Sunnyvale/Mountain View efforts as the only existing effort towards regional consistency, and the subcommittee encourages jurisdictions to take a close look at these efforts.

Issues

The subcommittee identified three specific issues that jurisdictions should consider in their discussion of a minimum wage increase, namely possible exemptions for youths, for restaurant wait staff, and for non-profit organizations.

Exemption for Youths

One frequent concern is the impact on youth hiring, particularly as it affects summer and holiday hiring. When contemplating a minimum wage increase, jurisdictions often consider making an exception for youth hiring. The argument in favor of such an exemption asserts that without such an exemption, employers tend to reduce youth hiring. Early employment opportunities can have a significant impact on future job prospects, so cities are strongly motivated to encourage youth employment. The argument against such an exemption asserts that such an exception encourages employers to hire younger workers at the expense of older workers.

All three County jurisdictions that have adopted a higher minimum wage considered this issue, and none of the jurisdictions have adopted a youth exemption.

It is the opinion of the subcommittee that a youth exemption has no regional impact, since youths are most likely to work in close to home regardless of employment conditions. Such an exemption is unlikely to create issues of regional competitiveness. Therefore, **the subcommittee makes no recommendation about a youth exemption other than to encourage the general concept of regional consistency.**

Exemption for Restaurant Wait Staff

One concern is the disparity that exists when a minimum wage is applied to both wait staff and behind-the-counter employees in restaurants, since wait staff can receive tips and other restaurant employees do not. Restaurant employers argue that minimum wage wait staff receives considerably more than minimum wage once tip income is taken into account. They further assert that applying a minimum wage increase to

California state law prohibits employers from crediting tip income towards an employer's minimum wage requirements.

All three County jurisdictions that have adopted a higher minimum wage considered this issue, and none of the jurisdictions have adopted a wait staff exemption.

It is the opinion of the subcommittee that a wait staff exemption would have significant and direct regional impact, given the multiple existing ordinances that do not make such an exemption. When minimum wages vary from jurisdiction to jurisdiction, employees and customers are willing to look to restaurants in other jurisdictions when employment terms or prices differ. Maintaining an environment where Silicon Valley restaurants are equally attractive to potential employees and customers regardless of jurisdiction is of significant value. Additionally, wait staff is often required to work during hours when little or no income from tips can be realized. The State of California does not permit employers to credit tips towards the state legal minimum wage requirement. It is difficult to justify a wait staff exemption for local minimum wage requirements when state minimum wage requirements make no such distinction. Therefore, **the subcommittee recommends against cities creating an exception for restaurant wait staff.**

Exemption for non-profit employees

Concerns have been raised about applying an increased minimum wage to non-profits and to organizations reimbursed by the state, since such entities tend to provide services for the most at-risk community members. A higher minimum wage may decrease a non-profit's ability to provide those services.

All three County jurisdictions that have adopted a higher minimum wage considered this issue, and none of the jurisdictions have adopted a non-profit exemption.

It is the opinion of the subcommittee that a non-profit exemption has no regional impact, since non-profits tend not to suffer from issues of regional competitiveness. Therefore, **the subcommittee makes no recommendation about a non-profit exemption other than to encourage the general concept of regional consistency.**

Other Issues

The subcommittee discussed the pros and cons of **a total compensation approach** rather than a minimum wage specific approach. As a matter of best practices, there is considerable merit to a total compensation approach. Terms of employment vary from profession to profession, with some professions placing greater value on considerations such as leave or medical benefits than others. A total compensation approach may provide more robust and equitable requirements for both employers and employees, and such an approach may be a more effective way to address issues of income inequality. However, existing state and local laws invariably deal with compensation issues on a benefit-by-benefit basis, with one law addressing health insurance, another addressing wages, a third addressing sick leave, and so on. Given existing legislation addressing specific benefits, applying an additional total compensation requirement is unlikely to achieve the desired level of flexibility or

effectiveness. The subcommittee is additionally unaware of any jurisdictions taking a total compensation approach to this issue.

Attachments:

1. Sunnyvale Report to Council of 5/20/2014
2. Sunnyvale Report to Council of 10/14/2014
3. Campbell Staff Report on Minimum Wage Study Session of 05/19/15
4. Campbell Staff Report Attachments: Cost of Living and Demographic Charts, Campbell Minimum Wage Survey, Campbell Minimum Wage Survey Results, Addendum to Staff Memo
5. California Restaurant Association Letter to Campbell City Council re: Minimum Wage Study Session
6. Sunnyvale/Mountain View Letter to Mayor Cristina of Campbell (and all Mayors in Santa Clara County) re: minimum wage increase approach