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CITY ADMINISTRATOR'S OFFICE MEMO
cityadmin@hiawatha-iowa.com
319-393-1515 ext.523

To: Mayor and City Council

From: City Administrator, Kim Downs

Date: June 30, 2016

RE: Minimum wage discussions

Wednesday night you will find a minimum wage items on the agenda for discussion. If you have been listing to the news or reading in the Gazette for the past few months you have noticed several articles and reports that are focusing on the need to raise minimum wage in Linn County. Last spring the County formed a Linn County Minimum Wage Study Group with Council member Wichtendahl being in attendance. Mayor Bennett also attended two of the meetings that were held in the last four months.

Last week during the Study Groups meeting Cedar Rapids Mayor Corbett who has been urging Governor Terry Branstad and the Iowa General Assembly to raise the state's minimum wage according to the Corridor Business Journal made a pitch to the study group to recommend to the Linn County Board of Supervisors to set minimum wage at $8.25. Mayor Bennett and Council Member Wichtendahl can add more detail to this statement on Wednesday night.

To aid you in your discussions we have included several documents regarding the Linn County minimum wage increase potential. You will find minutes from the Linn County Minimum Wage Study Group, CBJ article based on the study groups meeting in June. Also articles and documents provided by Johnson County regarding their decision and a time line of those discussions.

We have also included HEDCO's February meeting comments regarding minimum wage increases and research documents from the Iowa Policy Project and Pew Research Center. The Iowa Policy Project (IPP) is a nonprofit, nonpartisan organization founded in 2001 to produce research and analysis to engage Iowans in state policy decisions. IPP focuses on tax and budget issues, economic opportunity and family prosperity, and energy and environmental policy. Pew Research Center is a nonpartisan fact tank that informs the public about the issues, attitudes and trends shaping America and the world. They conduct public opinion polling, demographic research, content analysis and other data-driven social science research.

It is my understanding the Linn County Supervisors will not take action on this item till fall giving you a little more time to discuss and complete your research as you talk with other individuals about this matter. I have also spoken with the City of Marion's city manager and at this point there has not been a lot of discussion or action at council level.

LINN COUNTY MINIMUM WAGE STUDY GROUP
Thursday, March 31, 2016 8:30 a.m.

Members in attendance: Nick AbouAssaly; Jill Ackerman; Aaron Anderson; Ron Corbett; Kim Etzel; Karla Goettel; Don Gray; Jim Houser; Pat Loeffler; Sofia Mehaffey; Rick Moyle; Ben Rogers; Kirsten Running-Marquardt (via phone); Susie Weinacht

Members absent: Aime Wichtendahl

Supervisor Rogers called the meeting to order at 8:30 a.m. The group, along with interested members of the public in attendance, introduced themselves. Rogers noted that the group was appointed by the Board of Supervisors and that it is a recommending body, not a policy-making body. He asked if members had any input regarding the group's goals and objectives.

Mayor Corbett advised that he would be interested in a presentation on why Johnson County believed they had jurisdictional authority over setting a minimum wage. Ms. Goettel agreed and mentioned that Paul Iversen, an attorney with the University of Iowa Labor Center, is an expert in labor law and might be willing to make himself available to the group. Rogers asked that she speak to him about attending the next meeting and mentioned that we could include one of the assistant county attorneys as well.

Mayor Gray remarked that he believes this is an issue that should be left to the state; Rogers noted, however, that action by counties has in the past motivated the state to take its own action. He asked Rep. Running-Marquardt to comment on the possibility of the state acting on this issue. She advised the group that a minimum wage bill has been introduced in the legislature for the last several years and that this year the governor's office indicated they have some interest in it; however, nothing will come of it during this session. She believes the convening of this group is a good opportunity to allow the community to have input.

Mr. Moyle indicated that he agreed with the suggestion to have Paul Iversen make a presentation to the group; he also suggested inviting Peter Fisher of the Iowa Policy Project. Rogers distributed to the group a paper authored by Mr. Fisher regarding the minimum wage. He also advised that while the group's purpose is to analyze the issue, it is also an opportunity to help educate the public on the issue and dispel myths. He noted the many exemptions to the minimum wage provided for by the state and in the federal Fair Labor Standards Act. Ms. Goettel remarked that she has a list of the exemptions and will provide them to Rogers via email, which he can then forward to the entire group.

With regard to future meetings, the group agreed to a standard 8:30 a.m. meeting time; Rogers advised that a doodle poll will be sent for purposes of scheduling the next meeting. Upon motion and second, Ben Rogers was unanimously voted Chair of the Study Group. Rogers invited public comment from those in attendance.

Madeline Cano advised that she is with Iowa Citizens for Community Improvement, and she expressed her interest in learning how the Supervisors made the decision to form this study group. She also noted her belief that minimum wage workers in Linn County should have a seat at the table.

Scott Smith of the Cedar Rapids/Iowa City Building Trades Council remarked that extensive legal research was done in Johnson County prior to the passage of its minimum wage ordinance and noted that Johnson County follows all state and federal exemptions.

Hannah Kustes of Abode Construction expressed her hope that unbiased comprehensive analysis is done throughout this process.

In response to Ms. Cano's question, Rogers advised that the impetus for forming the study group was Johnson County's action. Linn County wanted to get out in front of the issue and not repeat Johnson County's process, which many felt was rushed.

Ms. Mehaffey also responded to Ms. Cano with regard to minimum wage workers having a place at the table; she reported that while she is no longer a part of that group, as a Horizons employee she works every day with people in the community who struggle to raise their families on minimum wage, so she feels she is at the table to represent them.

Mr. Moyle announced to the group that the Hawkeye Labor Council is sponsoring a workshop on the minimum wage on April 7 at 6 p.m. Mr. Iversen of the University of Iowa Labor Center will be making a presentation, and anyone interested is invited to attend.

The meeting adjourned at 9:05 a.m.

DRAFT

LINN COUNTY MINIMUM WAGE STUDY GROUP
Thursday, May 12, 2016 8:30 a.m.

Members in attendance:	Nick AbouAssaly; Jill Ackerman; Aaron Anderson; Kim Etzel; Karla Goettel; Don Gray; Sofia Mehaffey; Rick Moyle; Ben Rogers; Kirsten Running-Marquardt (via phone); Justin Shields (representing Ron Corbett); Chris Wheeler; Aime Wichtendahl
Members absent:	Jim Houser; Pat Loeffler; Susie Weinacht
Guests:	Peter Fisher (Iowa Policy Project); Paul Iversen (University of Iowa Labor Center); Rod Sullivan (Johnson County Supervisor)

Supervisor Rogers called the meeting to order at 8:30 a.m., and the members of the group introduced themselves.

Upon motion and second, the minutes of the meeting of March 31, 2016, were approved.

Rogers noted that at the first meeting of this group, Mayor Corbett had suggested that the group be given a presentation on the jurisdictional authority of a county on setting a minimum wage. To that end, Mr. Paul Iversen of the University of Iowa Labor Center had agreed to attend today's meeting to brief the members on county home rule authority. Iversen reviewed his written findings, a copy of which is attached and made a part of these minutes. His major points included:

- The Fair Labor Standards Act explicitly permits local minimum wage laws, and the Iowa Constitution grants broad authority for county home rule.
- Cities are not able to "opt out" of a county's minimum wage ordinance if they disagree with it; rather, they must pass an ordinance setting a different wage.
- Organizations in Iowa with annual revenues of less than $300,000 are not covered by minimum wage laws.
- The City Attorney of Iowa City has indicated that, based on the private law exception, she does not believe counties have the authority to legislate on the minimum wage.
- Restaurants are not exempt from paying minimum wage but are allowed to use tips as credit against it.
- Johnson County's minimum wage ordinance has not been challenged in court.

- There are many exemptions to the minimum wage provided for in the federal Fair Labor Standards Act; they can be found at www.dol.gov.

Mr. Peter Fisher of the Iowa Policy Project reviewed the Linn County minimum wage study which had been provided to the Linn County Minimum Wage Study Group at its last meeting. He noted that about 18% of the workforce in Linn County would be impacted by an increase in the minimum wage. Of those, only 20 percent are workers under the age of 20. He noted that studies have shown that increases in the minimum wage have no significant effect on employment, and that adjustments made by businesses usually result in a 3-5% rise in prices.

Discussion ensued with both members of the study group and members of the public on other effects of a rise in the minimum wage, including the provision of social services, the impact on businesses and business owners, and the effect on the poverty rate in the community, especially with regard to children.

Supervisor Sullivan of Johnson County gave a brief report on Johnson County's experience with raising the minimum wage. He reported that the impetus for the increase stemmed from the realization that the county was spending more on social services and many recipients of those services were minimum wage workers. Johnson County established 3 separate incremental increases:

- A raise to $8.20 on November 1, 2015
- A raise to $9.15 on May 1, 2016
- A raise to $10.10 on January 1, 2017

After 2017 increases are tied to the Consumer Price Index for the Midwest region

The group discussed future agenda items; Lee Belfield of Cedar Rapids remarked that all of the presentations on the agenda today seemed to favor an increase in the minimum wage. Rogers noted that this is only the second meeting of the group and these presentations were agreed upon at the first meeting. He indicated that he looks forward to presentations from business owners at subsequent meetings.

Mr. Wheeler, who is representing the Cedar Rapids Metro Economic Alliance, indicated that he believed more business people should be included as members of the study group. Other suggestions included a worker currently making less than $10.10/hour and an owner of a very small business. Rogers advised that he would be happy to take any recommendations for additional appointees; the Board of Supervisors has the authority to make those appointments.

The meeting adjourned at 10:27 a.m.

Minimum wage increase recommended for Linn County

Linn County could have a decision on a study committee's recommendation to create a new county minimum wage of $8.25 an hour before fall.

Cedar Rapids Mayor Ron Corbett speaking during the 2015 State of the City address

The study committee recommended the minimum wage be set $1 above the current federal and state minimum wage of $7.25 on a strong majority vote at its meeting on June 21.

Linn County Board of Supervisors Chairman Ben Rogers, who also chaired the committee, said the matter of setting a schedule for public input and a decision on the recommendation will be considered at the board's June 27 meeting. He would like to see that happen before September, so that businesses can prepare their budgets for next year accordingly.

With no change in the state minimum wage since 2008, members of the Linn County Minimum Wage Study Group want Linn County to follow Johnson County's example by enacting a local minimum wage ordinance.

"Our group has repeatedly heard from individuals and business owners that the state should take up this issue," Mr. Rogers said in an email explaining the vote. "Our study group agreed with that sentiment, but were unwilling to wait for the state to take action."

Johnson County became the first in the state to adopt a local minimum wage ordinance. The ordinance took effect April 30, 2015, raising the minimum wage to $8.20 on Nov. 1, 2015, $9.15 on May 1, 2016, and $10.10 on Jan. 1, 2017.

Cedar Rapids Mayor Ron Corbett has been among those urging Gov. Terry Branstad and the Iowa General Assembly to raise the state's minimum wage. He repeated after voting with the committee to recommend the $8.25 Linn County rate that unless the state takes action, Polk and other metropolitan counties in the state are likely to adopt their own minimum wage ordinances.

The proposal appeared to avoid a phased approach to more than $10 per hour that some committee members supported. Mr. Corbett said he views the issue from the perspective of a former business owner, and his concern is greatest for independent businesses who can't spread the local wage increase in one area over multiple locations.

"My position is to ... not place an undue burden on the business community by too aggressively raising the minimum wage," Mr. Corbett said. "Also, we set it at a point where they [local governments] would probably go along with it. Above $8.25, I would have encouraged the city council to opt out."

Read the full story at www.corridorbusiness.com.

Thursday, June 23, 2016

REGULATIONS

Linn Co. weighs $8.25 minimu

By Dave DeWitte
dave@corridorbusiness.com

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The study committee recommended the minimum wage be set $1 above the current federal and state minimum wage of $7.25 on a strong majority vote at its meeting on June 21. Linn County Board of Supervisors Chairman Ben Rogers, who also chaired the committee, said the matter of setting a schedule for public input and a decision on the recommendation will be considered at the board's June 27 meeting. He would like to see that happen before September, so that businesses can prepare their budgets for next year accordingly.

With no change in the state minimum wage since 2008, members of the Linn County Minimum Wage Study Group want Linn County to follow Johnson County's example by enacting a local minimum wage ordinance.

"Our group has repeatedly heard from individuals and business owners that the state should take up this issue," Mr. Rogers said in an email explaining the vote. "Our study group agreed with that sentiment, but were unwilling to wait for the state to take action. We felt that if counties were having minimum wage discussions that could potentially create a patchwork of different rates, this would incentivize the state to take up the issue in the next several legislative sessions."

Johnson County became the first in the state to adopt a local minimum wage ordinance. The ordinance took effect April 30, 2015, raising the minimum wage to $8.20 on Nov. 1, 2015, $9.15 on May 1, 2016, and $10.10 on Jan. 1, 2017. After July 1, 2018, the wage rate will be increased annually by an amount corresponding to the prior year's increase in the Consumer Price Index for the Midwest.

Cedar Rapids Mayor Ron Corbett has been among those urging Gov. Terry Branstad and the Iowa General Assembly to raise the state's minimum wage. He repeated after voting with the committee to recommend the $8.25 Linn County rate that unless the state takes action, Polk and other metropolitan counties in the state are likely to adopt their own minimum wage ordinances. That, he said, would create patchwork of different wage rates across Iowa as metropolitan counties approve raises, and smaller communities in the counties opt out, as they have in Johnson County.

"That would be a disaster," Mr. Corbett said.

At the June 20 committee meeting, Mr. Corbett made the first motion to create a county minimum wage, proposing $8 an hour. When other members ob-

Cedar Rapids Mayor Ron Corbett, pictured delivering his 2015 State of the City address, took a l of Supervisors' minimum wage study committee by moving to set an $8 per hour county minimur ing to an additional 25 cents. He believes the Iowa General Assembly and Gov. Terry Branstad s what could become a patchwork of local ordinances. PHOTO/ADAM MOORE

jected that the increase was insufficient, a proposal to create a $8.25 minimum effective Jan. 1, 2017, went to a vote. Mr. Corbett joined in supporting the extra 25-cent increase.

The proposal appeared to avoid a phased approach to more than $10 per hour that some committee members supported. Mr. Corbett said he views the issue from the perspective of a former business owner, and his concern is greatest for independent businesses who can't spread the local wage increase in one area over multiple locations.

"My position is to ... not place an undue burden on the business community by too aggressively raising the minimum wage," Mr. Corbett said. "Also, we set it at a point where they [local governments] would probably go along with it. Above $8.25, I would have encouraged the city council to opt out."

Some of the committee members who supported the $8.25 Linn County minimum wage viewed it simply as a stop-gap measure.

"We know that $8.25 is not enough, but if it is a starting amount that we can build on and perhaps come up with an escalator, then we are willing to look at the $8.25 for a short period of time," Rick Moyle, executive director of the Hawkeye Labor Council, the regional AFL-CIO alliance of labor unions, said in an email. "The bottom line here is that low-wage workers have not received a raise in years, and for that matter, wages have been stagnant for all workers when considering inflation for over 40 years."

Both Mr. Rogers and Jim Houser of the Linn County Board of Supervisors voted against the increase, favoring a series of gradual increases. Four business representatives who attended the meeting of about 20 committee members abstained from voting on the increase.

In support of his original $8 proposal, Mr. Corbett said that if the minimum wage had gone up by the same percentages as Social Security payments since 2008, it would be at about $7.90. The percentage raises the Cedar Rapids City Council and mayor have received over the same period would bring it to $8 per hour, he said.

Mr. Moyle sees the minimum wage as a way to address growing wage inequality in the United States.

"If the minimum wage had gone up with worker productivity in the United States since 1968, it would be $18 per hour," Mr. Moyle wrote. "If it had gone up at the same rate CEO pay went up, minimum wage would be around $28."

In addition to voting for the minimum wage, the committee voted to reconvene near the end of the next session of the Iowa General Assembly to consider whether further increases are needed. That could

m wage

> My position is to... not place an undue burden on the business community by too aggressively raising the minimum wage.
>
> - Cedar Rapids Mayor Ron Corbett

dership position on the Linn County Board
vage effective Jan. 1, 2017, and later agree-
ıld raise the state minimum wage to avoid

llow the group to evaluate the minimum vage hike in light of any actions taken by he Iowa General Assembly, and changes n the cost of living.

To Mr. Rogers, the prospect of the Iowa General Assembly breaking out of partian gridlock to pass a minimum wage increase isn't strong enough to warrant waiting for state action. He frequently cites the xample of Iowa's motor fuel tax.

"It took almost 30 years for the state to ncrease the gas tax, despite the condition f our roads deteriorating in front of our yes," Mr. Rogers wrote. "It took multile counties to have different smoking rdinances for the state to take action. If eople want to wait for the state to take ction, they should be prepared to wait a ong time."

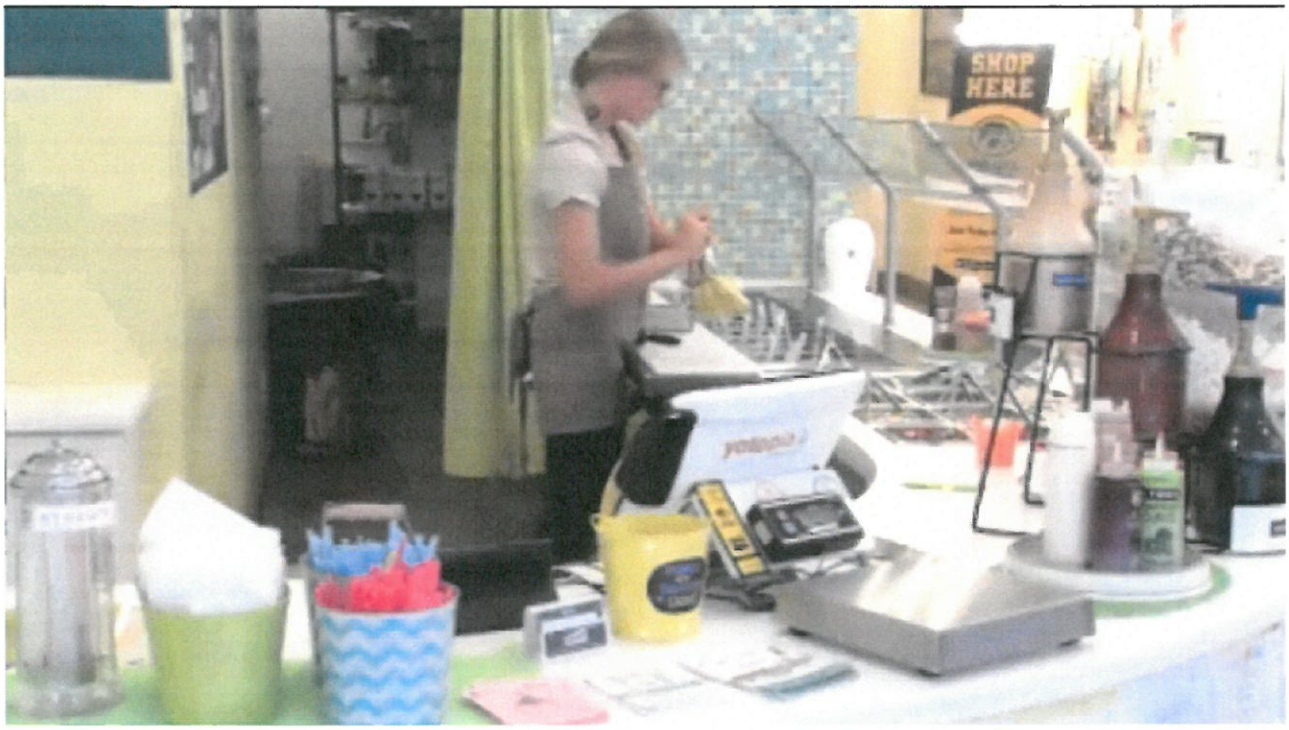
Marion Mayor Nick AbouAssaly was urprised that the committee took the ote after just a few meetings.

"Even as of the meeting Tuesday, it 'as still trying to figure out what its role 'as – to make a recommendation or be a ıct-finding body," Mr. AbouAssaly said. I don't think many people were expectıg we would reach that point in the third ıeeting."

Still, Mr. AbouAssaly was not overly oncerned, noting that the recommendaon is not binding on the Board of Superisors. He said it's likely that many people ill support it. CBJ

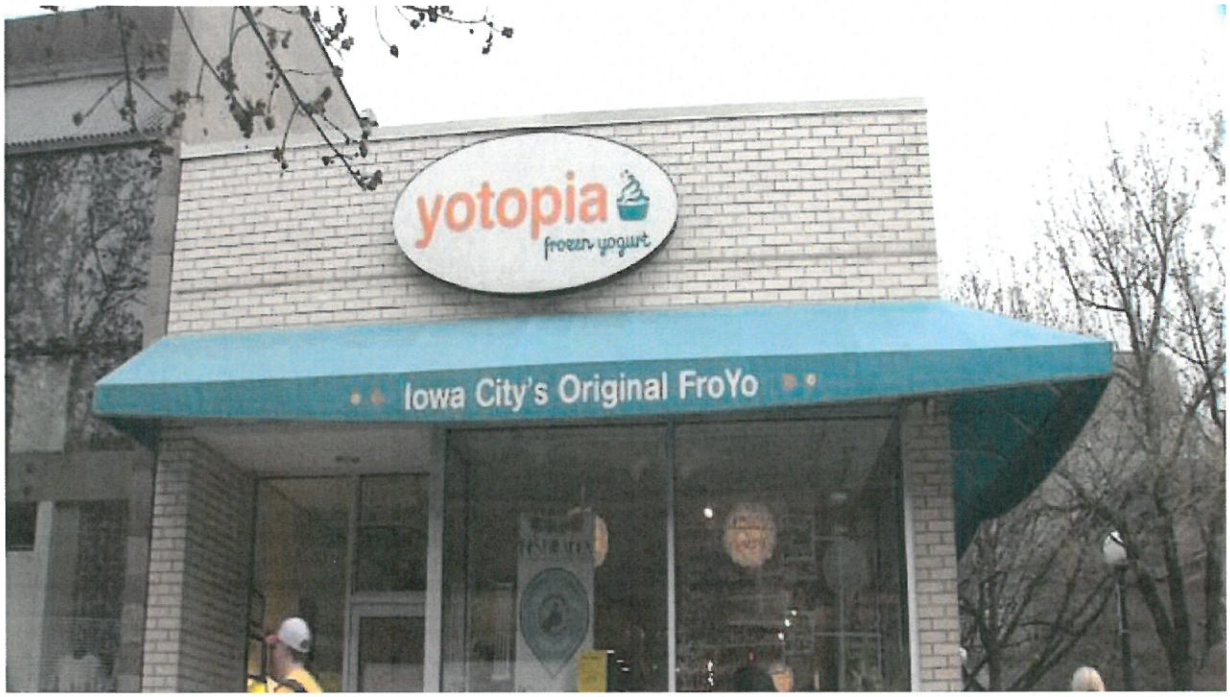
http://www.kcrg.com/content/news/Minimum-wage-increases-mean-trade-offs-in-Johnston-county-377491831.html

Minimum wage increases mean trade-offs in Johnson County



By Sarah McCarthy (KCRG-TV9) | Posted: Thu 4:29 PM, Apr 28, 2016 | Updated: Thu 10:13 PM, Apr 28, 2016

JOHNSON COUNTY, Iowa (KCRG-TV9) - A Johnson County commission will study the effects of a series of minimum wage increases that began in September 2015 and will continue indefinitely.



"We have to weigh how challenging it is for someone earning a very low wage versus the difficulty some businesses will have in paying that wage," said county supervisor Rod Sullivan.

On May 1, the minimum wage will increase to $9.15 per hour, the second of three set increases. On January 1, the county's minimum wage will go up to $10.10 per hour. After June 30, 2018 increases tied to the consumer price index are set to happen annually.

Some small businesses have brought concerns to the supervisors, including Yotopia owner Veronica Tessler.

"We sell yogurt for approximately $4 a cup," Tessler said. "My business requires a lot of volume to succeed and stay in business."

Tessler said she supports a livable wage, but a higher minimum wage is not a one-size-fits-all solution.

"I am the only full time employee at my shop," Tessler said. "All of my employees are full time students and part time workers."

Tessler said her ten employees do rely on paychecks to help pay tuition and bills, but are still dependent on their parents.

"It's different than an employee with dependents or children, that are looking to make a living wage and really support themselves," Tessler said. "The difference being they're still on their parents' health care."

It's a problem a minimum wage commission will study, while also looking at short and long term effects of the increases, which University of Iowa economics professor John Solow said will likely include some price increases and job loss.

Solow said those effects are part of a trade-off.

"The ones who get to keep their minimum wage job and see their wage rise will be better off," Solow said. "Their standard of living will rise somewhat."

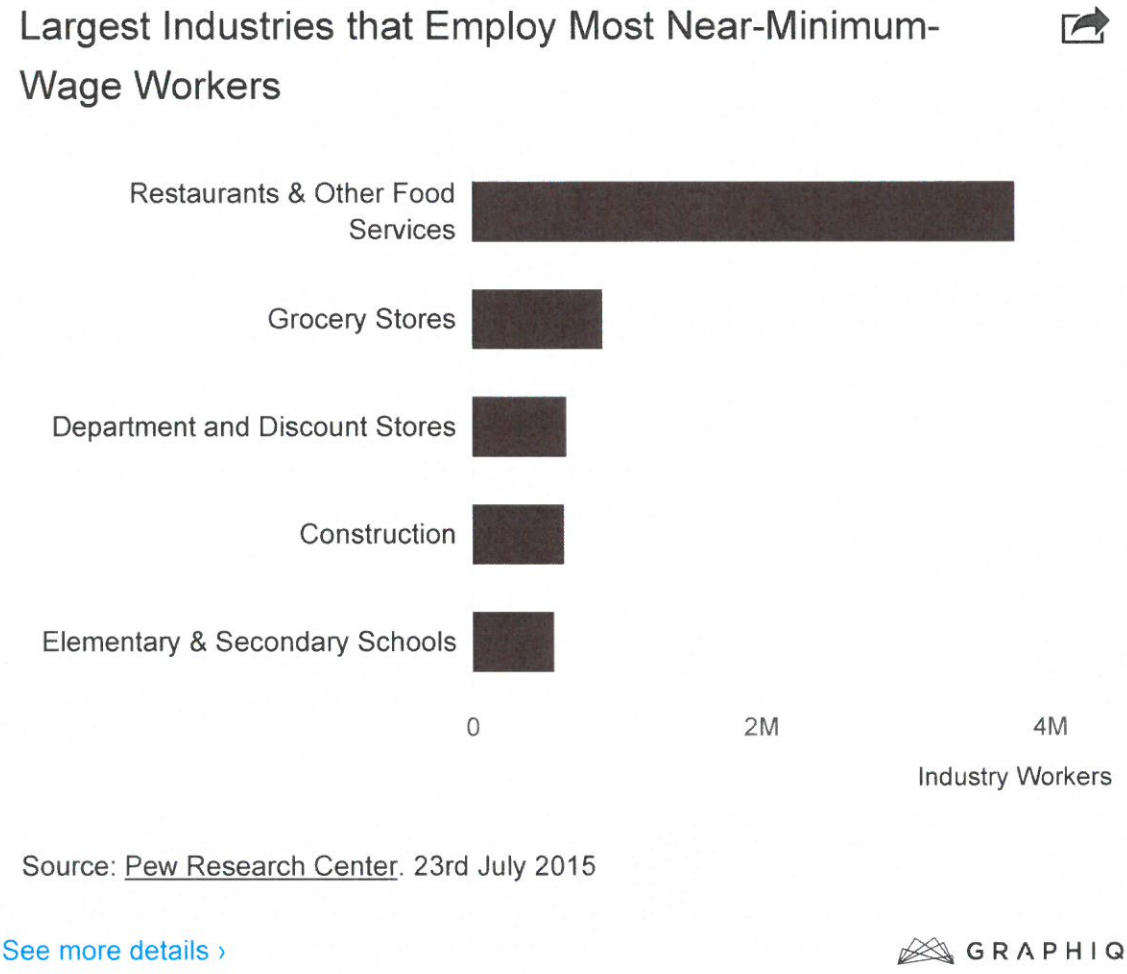
But Solow said a minimum wage increase will not have a significant impact on middle class incomes or expanding income inequality.

"Minimum wage workers are a relatively small, not trivial, not unimportant, but a relatively small fraction of the population," Solow said. "What's really going on with the bigger picture of income distribution is the increase in incomes of the super wealthy, and the decline of the middle class, who are not minimum wage workers."

Solow is a member of the county's minimum wage commission, who recently held their first meeting. He said the group is still working to understand their goals and mission.

Tessler said she is in contact with the supervisors as they work to find solutions for businesses like hers, but a short term solution will likely mean a small price increase at Yotopia.

"A small increase in price is something I think we're all going to have to do," Tessler said. "I think the community is going to have to come out and support small independent businesses."



Largest Industries that Employ Most Near-Minimum-Wage Workers | InsideGov

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Mission Statement
To enhance the quality of life for people of Johnson County by providing exceptional public services in a collaborative, responsive, and fiscally accountable manner.

Minimum Wage In Johnson County

Next Increase takes effect January 1, 2017

On September 10, 2015, the Johnson County Board of Supervisors unanimously passed an Ordinance Establishing a Johnson County Minimum Wage, which will take effect November 1, 2015.

This page includes information for workers, employers and residents. More information will be added as questions arise.

County Attorney Memo Regarding Legality of Local Minimum Wage

Ordinance Establishing Local Minimum Wage

Applicability Of The Johnson County Minimum Wage Law - Employer Poster

Board of Supervisors Seeks Applicants for Minimum Wage Advisory Committee - Expires: 11/30

Resolution Establishing A Johnson County Minimum Wage Advisory Committee

Organizational Guidelines of the Minimum Wage Advisory Committee

Minimum Wage FAQ's

Click here to get a copy of the following FAQs

How does the Johnson County minimum wage relate to federal and state minimum wage requirements?

Covered employers are required to pay the higher of the current federal minimum wage (29 U.S.C. Section 206), the current state minimum (Iowa Code Chapter 91D) or the Johnson County wage. Currently, the wage set forth in the Johnson County ordinance is the highest of those three, but this may not always be the case.

When does the ordinance take effect?

The ordinance is scheduled to take effect on November 1, 2015, along with the first of several, gradual wage increases.

What will the minimum wage be in Johnson County when the ordinance takes effect?

November 1, 2015 – April 30, 2016: $ 8.20 per hour
May 1, 2016 – December 31, 2016 $ 9.15 per hour
January 1, 2017 – June 30, 2018 $10.10 per hour

What happens after June 30, 2018?

On July 1, 2018, and each July 1 thereafter, the Johnson County hourly wage will be increased by an amount corresponding to the previous calendar year's increase, if any, in the Consumer Price Index for the Midwest region as published by the Bureau of Labor Statistics, U.S. Department of Labor. The Board of Supervisors will announce the adjusted hourly wage by April 1 of each year.

What employers are covered by the ordinance?

Johnson County's ordinance applies to the same employers covered by the state minimum wage law, set forth in Iowa Code Chapter 91D. Generally, employers that gross at least $300,000 in sales or business per year must comply with the ordinance. In addition some employers may be covered regardless of business volume. This includes:

- Public agencies
- Hospitals and residential care facilities for the sick, elderly, mentally or physically handicapped or gifted children
- Schools and preschools
- Most daycares
- Employers engaged in construction, reconstruction, laundry or dry cleaning.

Certain employers in agriculture, certain summer camps and others are exempt from the minimum wage requirements of the federal Fair Labor Standards Act of 1938, as amended to January 1, 2007 and thus exempt from the Johnson County ordinance.

What employees are covered by the ordinance?

Employees who have worked 90 days or more for a covered employer and who perform more than two hours of work within Johnson County or an applicable municipality within a two week time period must be paid the county minimum hourly wage. An employee who has not completed ninety calendar days of employment with the employer must be paid an hourly wage of at least $6.35, which is the same as current state law

What about tipped employees?

Johnson County's ordinance mirrors state law and provides that, for purposes of determining whether employees of restaurants, hotels, motels, inns or cabins who customarily and regularly receive more than thirty dollars a month in tips, are receiving the minimum wage, the wage may be deemed to be increased by the amount of tips received as long as that amount does not exceed 40% of the applicable minimum wage. This means that for qualifying tipped employees, the employer must pay at least the following hourly wage:

November 1, 2015 – April 30, 2016 $4.92/hour
May 1, 2016 – December 31, 2016 $5.49/hour
January 1, 2017 – June 30, 2018 $6.06/hour

If in any work week the wage paid and the tips received do not equal the applicable minimum wage, the employer is required to pay the difference.

What about employees who work occasionally in Johnson County?

If, during a two week period, an employee performs two hours of work in Johnson County or a municipality that has not enacted a conflicting ordinance, the employee must be paid the Johnson County minimum wage for the hours worked here during that two week period.

How will the ordinance be enforced?

The ordinance can be enforced as a county infraction pursuant to Iowa Code Section 331.307. County infractions are punishable by a civil penalty of not more than $750 for each violation or not more than $1,000 for each repeat offense.

In addition, the ordinance is enforceable through the state's wage payment collection law, set forth in Iowa Code Chapter 91A, which gives an employee a cause of action against the employer and also authorizes the State Labor Commissioner to enforce wage claims on behalf of employees. Chapter 91A allows the employee to recover unpaid wages as well as applicable attorneys fees.

Can the ordinance be amended?

A majority of the Board of Supervisors can amend the ordinance at any time. The amendment would require three public considerations.

Upon reaching the effective dates of increases, are employers obligated to pay the new wage for the entire pay period which includes the effective date of the increase?

No. The higher rate applies for hours worked on or after the effective date.

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Sending an Encrypted e-mail to a Johnson County Employee
If you experience problems finding the information you need, please let us know here.

Minimum wage will increase in Iowa City starting May 1

The minimum wage in Iowa City will soon increase to $9.15 per hour.

Last year, the Johnson County Board of Supervisors passed an ordinance that set a county minimum wage that included several gradual increases.

The second of the three changes will go into effect Sunday, May 1, 2016.

- November 1, 2015: $8.20 per hour
- May 1, 2016: $9.15 per hour
- January 1, 2017: $10.10 per hour

According to County representatives, covered employers are required to pay the highest wage between the federal, state and county rate. The current federal and state minimum wage is $7.25 per hour. The wage enacted by the supervisors is the highest of the three wages and will be used in Iowa City.

More details about the Johnson County minimum wage can be found by visiting www.johnson-county.com/wage.

Questions about the wage change can be directed to the Johnson County Board of Supervisors at 319-356-6000 or sups@co.johnson.ia.us.

Select Language

Winning Iowa's First Local Minimum Wage Increase in Johnson County

The campaign to increase in Johnson County's minimum wage was based on organizational strengths and relationships built over a series of years, the commitment of multiple groups to working in coalition, and effective linking of local conditions to the momentum of national campaigns to raise wages.

National Context:

- Federal minimum wage has been frozen at $7.25 since 2008.
- In response to organized pressure, including "Fight for $15 and union" strikes and protests, in recent years dozens of states, cities, and counties across the country have raised the wage. By 2015, every state surrounding Iowa except Wisconsin had increased its minimum wage above $7.25.
- Polls show strong support for increasing the minimum wage at the federal level, but despite numerous proposals, Congress has failed to act.
- President Obama's 2014 State of the Union speech focused on need to raise minimum wage and called on people to "make it happen" despite Congress' inaction.

State Context:

- Iowa's minimum wage has been frozen at $7.25 since 2007.
- A 2015 bill to raise Iowa's minimum wage to $8.75 passed the Senate but never reached the floor of the Iowa House.
- Statewide polls show strong support for increasing the minimum wage.

Local Context:

- Local progressive groups built strength, new relationships, and a track record of victory over the past 3-5 years. Since 2012, low-wage workers had been organizing to identify shared issues and take action to improve their lives via the Center for Worker Justice (CWJ), with the support of Iowa City Federation of Labor (City Fed), local unions, and university, faith and community partners. City Fed during this time period increased its attention to local elections, engaged more affiliate volunteers in political action, deepened relationships with elected officials, and collaborated with CWJ on campaigns focused on wage theft, a new community ID program, and improvements to law enforcement and school district policies.
- Following fall 2014 elections, a progressive majority gained seats on the County Board of Supervisors (though not on most city councils within the county), and some supervisors had actively initiated inquiries into whether minimum wage could be increased locally.
- Johnson County is a high cost of living area with a "college town" economy that includes many professionals but also creates large numbers of low-wage jobs. The county is home to a growing number of low-income families and has a poverty rate of 18% (above the state average). Concerns about poverty, unaffordable housing, and school district inequities have become coming themes in local political debates in recent years.

Timeline of key campaign events and activities

- **September 2014: Low-wage workers identify raising wages as a priority issue**

Through a series of surveys and meetings, CWJ members developed a platform for "Jobs with Dignity" that identified livable wages as one of five priorities: 1) Right to form a union without fear or intimidation, 2) Livable wages, 3) Getting paid on-time with a paystub, 4) Secure schedules, not day-to-day uncertainty, and 5) Workplaces free from discrimination and racism.

Workers presented the full "Jobs with Dignity" platform at a public "Workers Speak Out" forum (co-sponsored by CWJ and the Iowa City Federation of Labor). Before a packed audience of union members, faith leaders, elected officials, policy experts, and reporters, workers told stories about how low wages and other workplace challenges affected their lives and families.

- **October-December 2014: Legal research**

UI Labor Center staff researched Iowa's statutes and the legality of local minimum wage ordinances, and conferred with local law professors, Iowa labor and employment lawyers, and national experts from National Employment Law Project (NELP). Research indicated that, while no Iowa court had ruled on the question, there was a strong basis for predicting that Iowa's state law would allow for local minimum wage ordinances. NELP subsequently developed its own legal memo, which was later provided to county and city attorneys.

- **November, 2014: Following county elections, City Fed delegates agree to focus on minimum wage**

Due in part to community organizing, a third labor-friendly candidate was elected to the Johnson County Board of Supervisors, giving progressives a majority for the first time in recent memory. Some Supervisors has already been analyzing the impact of social service funding and equating it with Johnson County's high cost of living. Around this time, a local attorney had been contacting elected officials to ask them about the prospect of a local minimum wage. At their November meeting, City Fed delegates analyzed the results of mid-term elections, and agreed to make raising the minimum wage a priority in the coming year.

- **Winter-Spring 2015: Discussions with elected officials**

City Fed facilitated several meetings with leaders of unions, CWJ, and Johnson County officials about the impact of rising poverty on social service budgets and residents, and the need for a minimum wage increase. The majority of County Supervisors verbally expressed support for the idea of raising the wage to $10.10 by 2017. Leaders and elected officials agreed to postpone a public campaign until after the 2015 Iowa legislative session, in order

to see whether the legislature would act on the minimum wage, and to avoid possible attempts by legislators to preempt local action on the issue.

- **Spring-Summer 2015: Several public "Fight for $15" actions, media coverage**

  Example: April 15 National day of action. In conjunction with "Fight for $15" actions across the U.S., CWJ, Iowa City Federation of Labor, and SEIU Local 199 co-sponsored a press conference where workers, affordable housing and social service advocates, labor and faith leaders highlighted the destructive local impact of low wages. Then participants marched to a local temporary agency and delivered a letter demanding that the company raise its wages to meet workers' basic needs.

  Example: Friday "Fight for $15" actions at low-wage employers. On several Friday afternoons, workers and allies of CWJ rallied in front of low-wage employers (McDonalds, Jimmy Johns, etc.) with signs, chants, and testimonials from workers to draw public visibility to the need to raise wages.

- **July-September 2015: Editorials, letters to editor, and campaign literature**

  Coalition volunteers recruited dozens of workers and community members to write editorials or letters to the editor in support of a higher minimum wage. After Supervisors announced their proposed ordinance, letters shifted to focus on the need for a local increase. Authors included low-wage workers, a state legislator, a local restaurant owner, an affordable housing advocate, a small retail owner, and many union members. Coalition members developed and distributed two literature pieces explaining the urgent need to raise the wage locally and a "Frequently Asked Questions" explaining how a local ordinance would work and, based on available research, what its impact would be.

- **July 22, 2015: Supervisors announce intent to raise minimum wage at work session**

  At their July 22 work session, the County Board of Supervisors agreed to move forward on an ordinance that would increase the county minimum wage to $10.10 by 2017. At this meeting, supervisors also debated whether to tie increases after 2017 to the cost of living; the idea was initially rejected because of opposition, but was restored in later meetings.

- **July 23, 2015: Rally in support of supervisors' proposed ordinance**

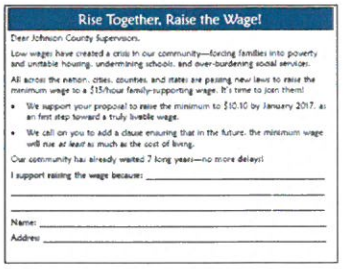
  The day after County officials announced their intent to increase the wage, Iowa City Federation of Labor and CWJ rallied with dozens of workers, allies, and elected officials in support of the proposal, in front of the County human

Marcela Hurtado, Center for Worker Justice

services building. Speakers included CWJ members, IC Federation of Labor President, state legislators, supervisors, an affordable housing advocate, a pastor, and a local business owner.

- **August, 2015: Postcard drive in support of increase**

  Iowa City Federation of Labor and CWJ gathered hundreds of postcards to deliver to County Supervisors in support of the ordinance. The postcards specifically advocated that the cost of living increase after 2017 be restored to the proposed ordinance. Supporters were also asked to e-mail supervisors.



Rise Together, Raise the Wage!

Dear Johnson County Supervisors,

Low wages have created a crisis in our community—forcing families into poverty and unstable housing, undermining schools, and over-burdening social services.

All across the nation, cities, counties, and states are passing new laws to raise the minimum wage to a $15/hour family-supporting wage. It's time to join them!

- We support your proposal to raise the minimum to $10.10 by January 2017, as an first step toward a truly livable wage.
- We call on you to add a clause ensuring that in the future, the minimum wage will rise at least as much as the cost of living.

Our community has already waited 7 long years—no more delays!

I support raising the wage because: _____

_____

_____

Name: _____

Address: _____

- **August 11, 2015: Policy report and media coverage of impact of county minimum wage**

  Iowa Policy Project released a research report by Peter Fisher entitled "The Case for a County Minimum Wage," which analyzed the potential economic impact of increasing minimum wage to $15 in Johnson and Linn counties and provided an overview of the track record of local minimum wage increases already in effect in other parts of the country. The report was covered in the press and used by supporters and Supervisors to advocate for the ordinance. (IPP had also issued shorter briefs starting early in 2015, showing impact of increases to $8.75, $10.10, and other numbers proposed at the state or federal level).

- **August 12, 2015: County Attorney issues legal opinion on local ordinance**

  After several months of discussions and additional legal research, County Attorney Janet Lyness issued her legal opinion that a county minimum wage ordinance was not prohibited under Iowa law.

- **August 12, 2015: Public forum on raising the wage**

  CWJ and Iowa City Federation of Labor actively turned out members and allies to attend a public forum hosted by the Board of Supervisors as part of the process of considering their ordinance. Approximately 150 people packed the room, and over 50 people gave testimony about the impact the increase would have on the community (only about five spoke against the increase). Speakers described the ways the increase would benefit workers, schools, housing, social service programs, the economy, and the community as a whole.

- **August-September, 2015: Ordinance read and voted on at three meetings**

  Iowa law requires counties and cities to hold three votes on a proposed ordinance, though the votes can be collapsed with super-majority support. Despite having unanimous support, Supervisors chose to hold three separate votes on the minimum wage ordinance, to give several opportunities for public input. CWJ and City Fed representatives spoke at each of these meetings. A large delegation attended and celebrated the final vote on September 10th.

- **September, 2015- present: City councils debate whether to lower the wage**
  Once passed, the new county ordinance automatically applied to all cities within the county, unless a city passed its own ordinance setting a different wage. During debate on the county ordinance, local business groups declared themselves neutral. But when it became clear the county ordinance would pass, some business owners turned their attention to the cities. Less than one week after the county ordinance passed, the City of Solon unanimously passed an ordinance lowering its city minimum wage to $7.25 (by collapsing three required votes on an ordinance into one). Swisher, Shueyville, and Oxford also lowered their cities' wages. Hills and Coralville took no action, allowing the raise to go into effect. Iowa City, North Liberty, and Tiffin debated the issue, but let the raise go into effect. City Fed and CWJ recruited members from each city to contact council members and attend meetings to defend the raise. Approximately 95% of low-wage workers in the county work in Iowa City, Coralville, or North Liberty—all cities where the county wage increase is no in effect.

- **October-November, 2015: Wage increase becomes key issue in city council elections**
  The community focus on the minimum wage debates and controversy over some cities lowering the wage polarized the community and contributed momentum to a grass-roots movement which could immediately shift its focus to city elections, especially in contested council races in Iowa City. CWJ members questioned candidates at public forums, and City Fed included questions about minimum wage in its candidate endorsement and education process. City Fed endorsed four Iowa City candidates (including three non-incumbents) who, unlike their opponents, strongly supported the county ordinance. All four labor-endorsed candidates won, creating the first progressive majority on the council in 40 years.

- **October, 2015-present: Interfaith support for the wage increase**

  As cities continue to debate whether to lower their workers' pay, local clergy have agreed to stand with low-wage workers in defense of the increase. Clergy from dozens of local faith communities signed onto a letter drafted by a local priest and held a well-publicized press conference the day before Thanksgiving. Small delegations of clergy then delivered the letter to several city councils in December and January.

- **November 2, 2015-present: First step of increase in effect, work remains to ensure effective enforcement, educate workers about rights, defend the wage going forward**
  Workers, CWJ, and City Fed celebrated the first step of the county wage increase on November 2nd, but are also continuing to work with county officials to determine how the process of enforcing the local ordinance will work, and educating workers about their rights under the new ordinance. Coalition partners are remaining prepared for possible attacks on the ordinance via lawsuits, potential state legislation preempting local wage ordinances, and city councils who may still decide to pass their own ordinances.

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1-(888) 229-9223

To: Board of Supervisors
From: Janet Lyness, Johnson County Attorney
RE: Legality of Minimum Wage Ordinance
Date: August 14, 2015

Below is the research on the legality of Johnson County adopting its own Minimum Wage Ordinance setting a minimum wage in excess of the one set by state law. The review included, among other things, the federal and state minimum wage laws, the legislative history of the state minimum wage law, portions of the Iowa Code setting forth various county powers, Iowa cases and secondary sources addressing traditional state law preemption in the context of home rule, and cases and secondary sources addressing the private law exception to home rule.

FEDERAL LAW PREEMPTION

The federal minimum wage, as set forth in the Fair Labor Standards Act, does not preempt local minimum wage laws. In fact, the federal law specifically reserves for local governmental bodies, as well as states, the ability to adopt their own, higher, minimum wages, stating that "[n]o provision of this chapter or of any order thereunder shall excuse noncompliance with any Federal or State law or municipal ordinance establishing a minimum wage higher than the minimum wage established under this chapter . . . ." 29 U.S.C. § 218(a) (2015). Thus, if preemption is to be had, it will come from state law.

TRADITIONAL STATE LAW PREEMPTION

In Iowa, cities and counties are given home rule authority pursuant to an amendment to the Iowa Constitution. The home rule authority granted to each is largely identical. With respect to counties, Article III, § 39A of the Iowa Constitution sets forth the County Home Rule Amendment, adopted in 1978. It provides:

> Counties or joint county-municipal corporation governments are granted home rule power and authority, not inconsistent with the laws of the general assembly, to determine their local affairs and government, except that they shall not have power to levy any tax unless expressly authorized by the general assembly. The general assembly may provide for the creation and dissolution of joint county-municipal corporation governments. The

> general assembly may provide for the establishment of charters in county or joint county-municipal corporation governments.
>
> If the power or authority of a county conflicts with the power and authority of a municipal corporation, the power and authority exercised by a municipal corporation shall prevail within its jurisdiction.
>
> The proposition or rule of law that a county or joint county-municipal corporation government possesses and can exercise only those powers granted in express words is not a part of the law of this state.

Iowa Const. art. III, § 39A.

After being formally adopted, this constitutional amendment was "implemented" by the legislature when it readopted and amended several portions of Iowa Code Chapter 331. Specifically, Iowa Code § 331.301 provides, in relevant part:

> 331.301 General powers and limitations.
> 1. A county may, except as expressly limited by the Constitution of the State of Iowa, and if not inconsistent with the laws of the general assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the county or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents. This grant of home rule powers does not include the power to enact private or civil law governing civil relationships, except as incident to an exercise of an independent county power.
> 2. A power of a county is vested in the board, and a duty of a county shall be performed by or under the direction of the board except as otherwise provided by law.
> 3. The enumeration of a specific power of a county, the repeal of a grant of power, or the failure to state a specific power does not limit or restrict the general grant of home rule power conferred by the Constitution and this section. A county may exercise its general powers subject only to limitations expressly imposed by a state law.
> 4. An exercise of a county power is not inconsistent with a state law unless it is irreconcilable with the state law.
> 5. A county shall substantially comply with a procedure established by a state law for exercising a county power unless a state law provides otherwise. If a procedure is not established by state law, a county may determine its own procedure for exercising the power.
> 6. a. A county shall not set standards and requirements which are lower or less stringent than those imposed by state law, but may set standards and requirements which are higher or more stringent than those imposed by state law, unless a state law provides otherwise.
> b. A county shall not impose any fee or charge on any individual or business licensed by the plumbing and mechanical systems board for the right to perform plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems work within the scope of the license. This paragraph does not prohibit a county from charging fees for the issuance of permits for, and inspections of, work performed in its jurisdiction.

7. A county shall not levy a tax unless specifically authorized by a state statute.

Iowa Code § 331.301 (2015).

Under this Constitutional/statutory scheme, often referred to as legislative home rule, "the legislature retains the unfettered power to prohibit a municipality from exercising police powers, even over matters traditionally thought to involve local affairs. Conversely, as long as an exercise of police power over local affairs is not 'inconsistent with the laws of the general assembly,' municipalities may act without express legislative approval or authorization." *City of Davenport v. Seymour*, 755 N.W.2d 533, 538 (Iowa 2008) (quoting Iowa Const. art. III, § 38A)). Thus, a municipality or county may not act on a matter if the legislature has directed otherwise because, when exercised, the state's legislative power 'trumps" the local power. *See id.*

Since the adoption of Municipal and County Home Rule, Iowa appellate courts have been called upon to determine whether local legislation is inconsistent with state law or otherwise exceeds a county's home rule authority. Generally, local ordinance is inconsistent with state law only when it is irreconcilable with state law. Iowa Code §§ 331.301(4), 364.2(3). This irreconcilability is often explained as when an ordinance "prohibits an act permitted by statute, or permits an act prohibited by statute." *Baker v. City of Iowa City*, 750 N.W.2d 93, 99-100 (Iowa 2008) (internal citations omitted). And when determining just what the legislature has permitted or prohibited, the courts "look to the legislative intent in enacting the state statutes and [] require that any local ordinance remain faithful to this legislative intent, as well as to the legislative scheme established in the relevant state statutes." *Id.* at 100 (quoting *Goodell v. Humboldt County*, 575 N.W.2d 486, 500 (Iowa 1998)).

In applying these concepts, the Iowa Supreme Court has recognized three distinct types of preemption—express preemption, implied conflict preemption and implied field preemption. Express preemption "applies where the legislature has specifically prohibited local action in a given area." *Seymour*, 755 N.W.2d at 538. The Supreme Court recognizes that express preemption "is most consistent with the notion that 'limitations on a municipality's power over local affairs are not implied; they must be imposed by statute.'" *Id.* (quoting *City of Des Moines v. Gruen*, 457 N.W.2d 340, 343 (Iowa 1990)). Still, the Court has gone well beyond the bounds of express preemption in determining whether local ordinances are irreconcilable with state law. "In order to ensure maximum loyalty to legislative intent, [the Supreme Court] has developed the residual doctrine of implied preemption, notwithstanding language in [Supreme Court] cases disapproving of implied limitations on municipal power." *Id.*

As noted above, implied preemption comes in two forms. Implied conflict preemption occurs when, "although there is no express preemption, the statute on its face contains a mandate that by its very nature is preemptory." *Id.* Put another way, "even though an ordinance may not be expressly preempted by the legislature, the ordinance cannot exist harmoniously with a state statute because the ordinance is diametrically on opposition to it." *Id.* The Supreme Court describes the legal standard for conflict preemption as "demanding." *Id.* at 539. The Court has ruled that a local law must be irreconcilable with the state law in order to be preempted by it; that the Court presumes that the municipal ordinance is valid; and, if possible, the Court must "interpret the state law in such a manner as to render it harmonious with the ordinance." *Id.* "In

order to be irreconcilable, the conflict [between the state and local law] must be obvious, unavoidable, and not a matter of reasonable debate." *Madden v. City of Iowa City*, 848 N.W.2d 40, 49 (Iowa 2014) (internal citations omitted). "When a state law merely sets a standard, a local law setting a higher standard would not conflict with the state law and would be authorized under section 331.301(6)." *Goodell*, 575 N.W.2d at 500. Moreover, legislative silence on a matter cannot "be interpreted as a prohibition of local action under home rule in light of [the Supreme Court's] obligation to harmonize and reconcile a statute with an ordinance whenever possible." *Id.* at 50.

Implied field preemption, on the other hand, "occurs when the legislature has so covered a subject by statute as to demonstrate a legislative intent that regulation in the field is preempted by state law." *Seymour*, 755 N.W.2d at 539. Similar to conflict preemption, the test for field preemption is stringent. *Id.* "Extensive regulation of [an] area alone is not sufficient. In order to invoke the doctrine of field preemption, there must be some clear expression of legislative intent to preempt a field from regulation by local authorities, or a statement of the legislature's desire to have uniform regulations statewide." *Id.* (citations omitted). Even though there are no "magic words" that must be used by the legislature, "[t]here must be persuasive concrete evidence of an intent to preempt the field in the language that the legislature actually chose to employ." *Id.* The Supreme Court describes field preemption as "a narrow doctrine that cannot be enlarged by judicial policy preferences." *Id.* As such, arguments that statewide regulation of an area is preferable to local regulation, alone, carry no weight. *See Goodell*, 575 N.W.2d at 498 ("It would be inconsistent with Iowa's county home rule amendment, our home rule statutes and this court's prior cases to imply preemption based on an argument that statewide regulation of an area is preferable to local regulation, in the absence of an expression of legislative intent to completely regulate the area in question.")

In applying these rules of law to the issue at hand, whether the state's minimum wage law preempts the County from adopting a local minimum wage law that sets a higher minimum wage, it is clear there is no express preemption. The state minimum wage law, Iowa Code Chapter 91D, is silent on whether a county or city may also adopt its own minimum wage law. The administrative rules also reference no limitations on local ordinances.

Regarding implied conflict preemption, given the presumption of validity, the requirement that an interpreting court harmonize the state and local statutes, and the fact that any conflict cannot be reasonably subject to any debate, it would appear a local minimum wage is not irreconcilable with the state minimum wage. The state minimum wage act arguably does little more than set a minimum standard that must be met with respect to the wages to be paid in the state. Allowing a city or county to adopt a higher standard would not seem to create the level of conflict necessary to find implied conflict preemption.

Regarding implied field preemption, the doctrine is also to be very narrowly interpreted. As for the state minimum wage statute, it contains relatively little regulation overall. In fact, it can be contained on a single page. Additionally, there is no language in the statute (or the legislative history) that expresses the legislature's intent to preempt the field or even that there should be uniformity throughout the state. As such, it would also appear that a local minimum wage ordinance would not be subject to implied field preemption.

THE PRIVATE LAW EXCEPTION

As part of the home rule implementing legislation adopted in 1981, the Iowa legislature added language to Section 331.301 that contains what is known as the private law exception to home rule. Specifically, Section 331.301(1) provides that: "A county may, except as expressly limited by the Constitution of the State of Iowa, and if not inconsistent with the laws of the general assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the county or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents. *This grant of home rule powers does not include the power to enact private or civil law governing civil relationships, except as incident to an exercise of an independent county power.*" (emphasis provided). This means that even if a local minimum wage ordinance can withstand traditional state law preemption analysis, it could still be found to be preempted by state law if it (1) constitutes a private or civil law governing civil relationships, and (2) is not adopted incident to an exercise of an independent county power.

There do not appear to be any Iowa Appellate cases interpreting the private law exception to home rule, as it is set out in Section 331.301(1).[1] There are, however, numerous other states that have the private law exception in either their constitutional home rule language or the legislation associated with it. Several of these states have produced appellate decisions interpreting, on some level or another, the private law exception to home rule. Based on these cases, the difficulty in interpreting the private law exception often comes not from determining whether a particular ordinance constitutes a private or civil law governing civil relationships, but, rather, just what it means for such an ordinance to be incident to an exercise of an independent county or city power—or, based on the language found in some of the states' statutes or constitutions, what it means for an ordinance to be *an* incident to an exercise of an independent county or city power. (It appears that in some states the word incident is used as a noun while in others, and apparently in Iowa, it is used as an adjective.) The cases interpreting this language appear to depend heavily on both the nature of the ordinance being considered and the precise language of the exception as found in the state's statutes or constitution. Some examples follow.

One of the cases most often cited in regards to the private law exception comes from Massachusetts. In Massachusetts, the private law exception is contained in the constitution as a specific limitation on the power of local governments. Specifically, Article II, Section 7(5), provides that nothing in the constitution is intended to grant to any city the power to "enact private or civil law governing civil relationships except as an incident to an exercise of an independent municipal power." The Supreme Judicial Court of Massachusetts set out to interpret this language in the 1970 case of *Marshal House, Inc. v. Rent Review and Grievance Board of Brookline*, 260 N.E.2d 200 (Mass. 1970). The local ordinance in question in *Marshal House* was a local rent control ordinance that had been adopted by a city. The Court started by pointing out

[1] I know of one Iowa District Court case interpreting the private law exception, from the context of a Cedar Rapids ordinance requiring certain language be included into residential lease agreements. In *Landlords of Linn County and Rehman Enterprises v. City of Cedar Rapids*, Linn County Case No. EQCV069920, Judge Baumgartner cited many of the cases below in finding that the ordinance at issue was prohibited by the private law exception to home rule.

that the language from Article II, Section 7(5) is ambiguous and that the ambiguity is not substantially clarified by the legislative history. The Court then cites a law review article interpreting similar language from the American Municipal Association's model home rule legislation. "This is a phase of home rule which has not generally been adequately considered. Obviously, we do not wish to give our cities the power to enact a distinctive law of contracts, for example. On the other hand, the exercise of municipal powers is very likely to have important bearings upon private interests and relationships. The approach of the . . . [language now in § 7(5)] is to strike a balance by enabling home rule units to enact private law only as an incident to the exercise of some independent municipal power." *Id.* at 204 (alteration in original) (internal citation omitted). With this balancing in mind, the Court found that the rent control ordinance at issue was indeed a private or civil law governing civil relationships, despite the public objectives that went behind its adoption. *Id.* at 205-06. Regarding whether the ordinance was an incident to a separate city power, the municipal defendant argued that a rent control ordinance would be incident to its police powers. The Court, however, appears to hold that "a municipal civil law regulating a civil relationship is permissible (without prior legislative authorization) only as an incident to the exercise of some independent, individual component of the municipal police power." *Id.* at 206-07. That is, in order to enact a rent control ordinance, doing so would have to be an incident to some other police power rather than an end unto itself. The Court then struck down the ordinance. There are several other cases from Massachusetts which follow this general pattern and cite *Marshal House*. *See, e.g.*, *Bannerman v. City of Fall River*, 461 N.E.2d 793 (Mass. 1984).

A few years after *Marshal House* the Superior Court of Delaware upheld an ordinance that required a seller of real property to have it inspected for housing code violations and created the presumption of a warranty when the seller failed to do so. *Tucker v. Crawford*, 315 A.2d 737 (Del. Sup. 1974). The Court found that the ordinance was adopted as an incident to the city's police powers and, therefore, was adopted as an incident to an independent city power. *Id.* at 740. Like Iowa's, the private law exception is found in Delaware's code as opposed to its constitution. Unlike Iowa's, however, the code section involved does not specifically reference a grant of traditional police powers in addition to home rule power.

In 1975, the Indiana Court of Appeals decided *City of Bloomington v. Chuckney*, 331 N.E.2d 780 (Ind. Ct. App. 1975). At issue in Chuckney was the City of Bloomington's attempt to adopt portions of the Uniform Residential Landlord and Tenant Act as a local ordinance. In Indiana, the private law exception is contained only in its code, as opposed to its constitution, and the phrase "an incident" is used. The Court held that "portions of [the ordinance] so directly affect the landlord-tenant relationship that they cannot be upheld as an incident to the exercise of an independent municipal power." *Id.* at 783. The Indiana Court appears to focus on just how pervasive the ordinance is, with the presumption being that if the ordinance interfered less with the landlord-tenant relationship it may have survived the challenge. *Chuckney* was later distinguished by the Indiana Court of Appeals in a case addressing a City of Bloomington ordinance that required rental properties to be properly registered or permitted. In *Noble v. Alis*, 474 N.E.2d 109 (Ind. Ct. App. 1985), the Court found that, unlike in *Chuckney*, the requirements of the ordinance were directly related to the city's housing code and a valid exercise of the city's power.

There are two more-recent cases related to local minimum wage ordinances in Louisiana and New Mexico. In *New Orleans Campaign for a Living Wage, et al., v. City of New Orleans*, 825 So.2d 1098 (La. 2002), the Louisiana Supreme Court upheld the constitutionality of state legislation explicitly prohibiting local minimum wage ordinances. One of the concurring justices, however, wrote a detailed opinion describing how the judge believed that, even absent the specific state prohibition, the private law exception would have prohibited a local minimum wage ordinance. Specifically, the concurrence expressed agreement with the *Marshal House* court in finding that the phrase private or civil relationship must be "broad enough to include law controlling ordinary and usual relationships between employers and employees." *Id.* at 1117. Under Louisiana law, this finding would have been sufficient to find the local ordinance was improper because the Louisiana legislature had not adopted the language allowing such an ordinance when incident to an independent municipal power.

The New Mexico Court of Appeals considered a local minimum wage ordinance in *New Mexicans for Free Enterprise v. City of Santa Fe*, 126 P.3d 1149 (N.M. 2005). In New Mexico, the private law exception to home rule is contained in the constitution and is written similarly to the wording used in Section 331.301(1). "This grant of powers shall not include the power to enact private or civil laws governing civil relationships except as incident to the exercise of an independent municipal power . . . ." N.M. Const. art. X, § 6(c). The New Mexico court began by going through a traditional preemption analysis, similar to the above, before determining that a local minimum wage act is not expressly denied by the state law. The Court next addressed the private law exception, starting with whether the ordinance was a private or civil law:

> Plaintiffs contend that the ordinance is a private or civil law governing the civil relationship of employer and employee because it seeks to establish legal duties between private businesses and their private employees, and it establishes a new cause of action against private businesses that do not pay the wage. We agree. While there are no bright-line divisions between public law and private law . . . private law has been defined as consisting of the substantive law which establishes legal rights and duties between and among private entities, law that takes effect in lawsuits brought by one private entity against another. That definition certainly applies to this ordinance, which sets a mandatory minimum wage term for labor contracts between private parties that the employee may enforce by bringing a civil action against the employer. The fact that the city administrator may punish violation of the ordinance as a misdemeanor does not convert the ordinance into public law nor does it alter the basic nature of the ordinance, which is to set and enforce a key contract term between private parties. The relationship between private employer and employee has been described as a civil relationship because it is governed by the civil law of contracts. We conclude that the ordinance is a private or civil law governing civil relationships within the meaning of the home rule amendment.

New Mexicans for Free Enterprise, 126 P.3d at 1160 (internal citations omitted). The Court then conducted an analysis of whether, despite being a private law, the ordinance was adopted incident to an independent municipal power. Despite the plaintiffs' urging, the Court declined to follow the reasoning of the *Marshal House* court with respect to what constitutes an independent municipal power, arguing "because New Mexico municipalities have been delegated a generic

police and general welfare power, we think that forcing a municipality to point to an 'individual component' of its police power puts an unduly restrictive gloss on the exception and reads words into the home rule amendment that are not there." *Id.* at 1161. Instead, the Court took a much broader view of the phrase independent municipal power.

> The exemption refers to an "independent municipal power," which we conclude means any power other than home rule. There is no indication in the phrase "independent municipal power" that such a power must be in some way particularized or tailored; as long as there is a power granted by the legislature that is independent from home rule power, that is enough. We take the view that as long as a municipality can point to a power that the legislature has delegated to it, and the regulation of the civil relationship is reasonably incident to, and clearly authorized by that power, the exemption can apply.

Id. at 1161. Additionally, the Court concluded there should be two prerequisites to a municipality's regulation of a civil relationship:

> Where a municipality has been given powers by the legislature to deal with the challenges it faces, those may be sufficiently independent municipal powers to allow regulation of a civil relationship as long as (1) the regulation of the civil relationship is reasonably "incident to" a public purpose that is clearly within the delegated power, and (2) the law in question does not implicate serious concerns about non-uniformity in the law.

Id. at 1161. The Court then applied its reasoning to the municipal minimum wage ordinance at hand. First, the Court found that New Mexico statutes giving municipalities the power to provide for the general welfare of their residents, the police power to generally protect the property of its municipality and its residents, and the police power to preserve peace and order within the municipality, were independent municipal powers for the purposes of the private law exception—that is, independent from the home rule amendment. *Id.* at 1162. The Court also found that the minimum wage ordinance was reasonably incident to the public purpose clearly within that delegated power. The Court then went on to find that the minimum wage ordinance did not seriously implicate concerns about non-uniformity. Here, the Court focused on the limited applicability of the ordinance—it only applied to employers who were registered or licensed in the city, as opposed to for labor provided in the city. *Id.* at 1164. The Court also emphasized that the nature of the ordinance and the circumstances of the case were crucial to its finding.

Given the fact that interpretation of the private law exception would be a matter of first impression for an Iowa Appellate Court, it is not possible to determine whether the Court would adopt the reasoning of the Massachusetts Supreme Court, the New Mexico Court of Appeals, or something different. It appears safe to assume that a local minimum wage ordinance would be considered a private or civil law governing civil relationships. Beyond that, the crucial issue likely would be whether such an ordinance was considered incident to some independent county power. The most obvious "independent power" to rely upon would be the County's police and general welfare powers. If the Court adopted the reasoning of the New Mexico case, such an ordinance may be found constitutional. Another potential "independent power" is found in Iowa

Code Section 331.301(6), which prohibits counties from adopting lower standards than the state but allows counties to adopt higher standards than the state. This subsection gives an Iowa county the independent power to adopt higher standards and a minimum wage ordinance is simply incident to this power.

CONCLUSION

It would seem there is a good case to be made that a local minimum wage ordinance is not preempted by Iowa's state minimum wage ordinance under the express, implied conflict or implied field preemption doctrines. Moreover, a local minimum wage ordinance should survive the private law exception to home rule if, despite the fact that it is a private or civil law governing civil relationships, it is adopted incident to one or more independent county powers—namely the ability to adopt higher standards than the state's and the County's police power.

Additional comments not noted in the list above:

Tompkins talked about the popularity of first floor retail spaces with condos on the second and third floor.

Next Steps –

Zielinski said she is going to send a survey out to the businesses and asked HEDCO to provide a list of businesses that have recently located to Hiawatha, businesses that have recently moved from Hiawatha and existing businesses. HEDCO Board members came up with the following list:

Businesses recently locating –

- Novak Heating and Air Conditioning (from Czech village) – built bldg owner occupied
- Squaw Creek Millwork – moved from Marion – built own building and own
- Safelite Glass – came from CR – rent existing building
- Auto dealers – Junge is coming, Dave Wright just moved here
- Wolfe Eye Clinic – moving from 2nd Ave. CR to Hiawatha
- Storey Kenworthy – from CR to Hiawatha

Moved recently from Hiawatha -

- Office Elements – moved from Hiawatha to downtown CR
- Northwestern Mutual – from Hiawatha to downtown CR
- Ferguson Plumbing Wholesale (bought Arjay lighting) – moved from Hiawatha to CR (6th Street SW)

Existing possible to interview –

- Dennis Henderson / Ready Wireless
- Mobile Demand
- Crystal Group
- Midwest Microwave

Discussion on Current Issues

Cedar Rapids Gazette reporting on Tower Terrace Road – Dusek said the article in the Gazette was inaccurate; the article said a section of Tower Terrace Road was de-funded when in fact the money was reallocated.

Downs added the money shifted from one section of Tower Terrace Road to another.

Dusek mentioned writing a response to the Gazette article to keep people in the loop. Cobb suggested having Metro Studios push the information out to the people that do not read the paper. Kunz mentioned putting the information in the Hiawatha Newsletter and on Linkedin. Dusek said the Cedar Rapids Metro Economic Alliance has an even larger contact group.

Linn County Minimum Wage Legislation -

Dusek said he is unsure of the momentum of the minimum wage proceedings but Johnson County passed one. Dusek added he does not know what kind of role HEDCO wants to take. Brent Oleson is heading up this movement and the Cedar Rapids Metro Economic Alliance is keeping an eye on the issue.

Gasway suggested staying involved; the common feeling is this is a state issue and not a county one. Gasway said this issue can get messy and wondered if HEDCO should put a board member in the arena.

Dusek asked HEDCO Board members for their thoughts on taking a position. Cobb felt it was still kind of early and minimum wage is not really in the top things HEDCO wants to accomplish.

Gasway questioned what percentage of the workforce will be affected; the question is what does a change in the minimum wage do to wages up the pipeline. Gasway reiterated this matter should be handled at the state level not at the county level.

Dusek said he will call Barbara Soleburg to find out what the state is doing and report back at the next HEDCO meeting.

Other Discussion

Downs noted the date of the State of the City is July 21 at the Kirkwood Regional Center located at 1770 Boyson Road. Downs said Paul Trombino from the Iowa Department of Transportation is confirmed as a speaker for the event. Downs said Amy Reisner is stepping down and it would be great to utilize her.

The next HEDCO meeting is March 15, 2016 at 11:30 a.m. in the City Hall Multi-Purpose Room.

Meeting was adjourned at 1:05 p.m.

_____
Jon Dusek, Chair

ATTEST:

_____
Secretary/Treasurer

The Iowa Policy Project

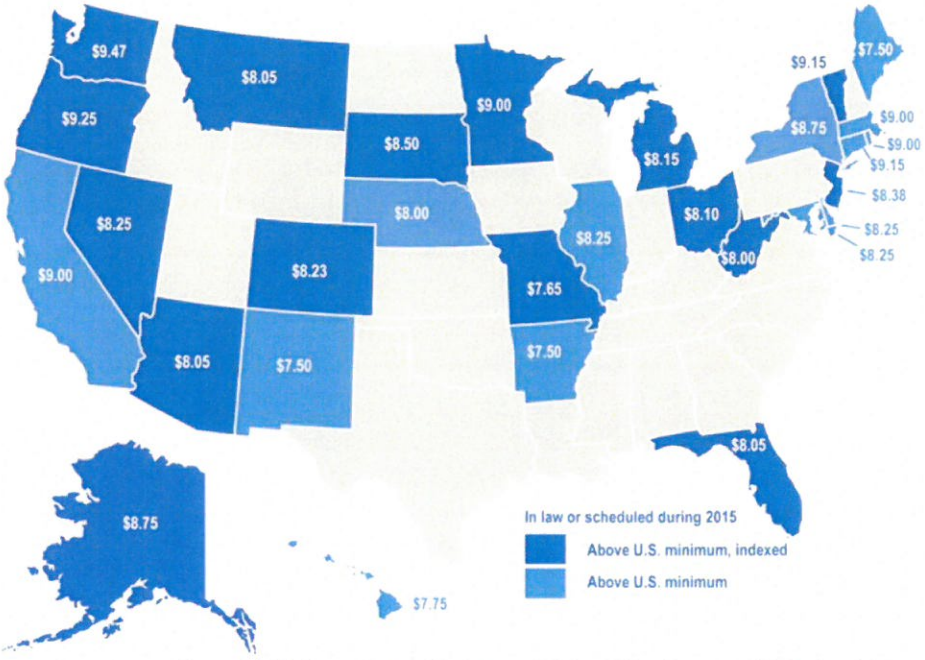
20 E. Market St. • Iowa City, Iowa 52245 • (319) 338-0773
www.iowapolicyproject.org

February 2015

Iowa: Once a Leader, Now a Laggard on Minimum Wage

Iowa's minimum wage has fallen behind.

- Iowa's minimum wage last rose to $7.25 on January 1, 2008, the second step of an increase passed in 2007. The federal minimum wage finally reached $7.25 in late July 2009.
- At the time Iowa moved to $7.25, only Illinois among neighboring states was higher.
- Now, no state minimum wage has lingered at $7.25 longer than Iowa's. Five of the six states bordering Iowa have approved higher minimums.
- Twenty-nine states and Washington, D.C., have minimum wages set above the federal minimum wage.*

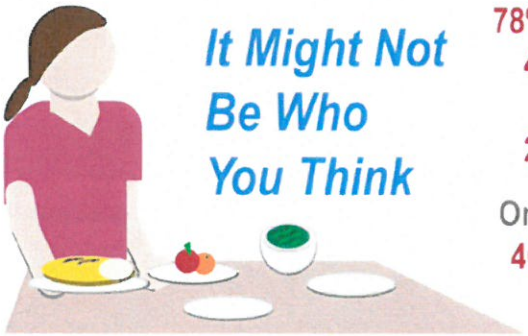


Source: U.S. Department of Labor and National Conference of State Legislatures

About 1 in 10 Iowans — 306,000 — would benefit from a wage increase to at least $10.10.*

An increase would have the biggest impact on low-income households.

Who's Helped in Iowa by Raising the Minimum Wage?



78% are age 20 or over
43% work full time
58% are women
20% have children

On average, they earn 46% of their family's total income

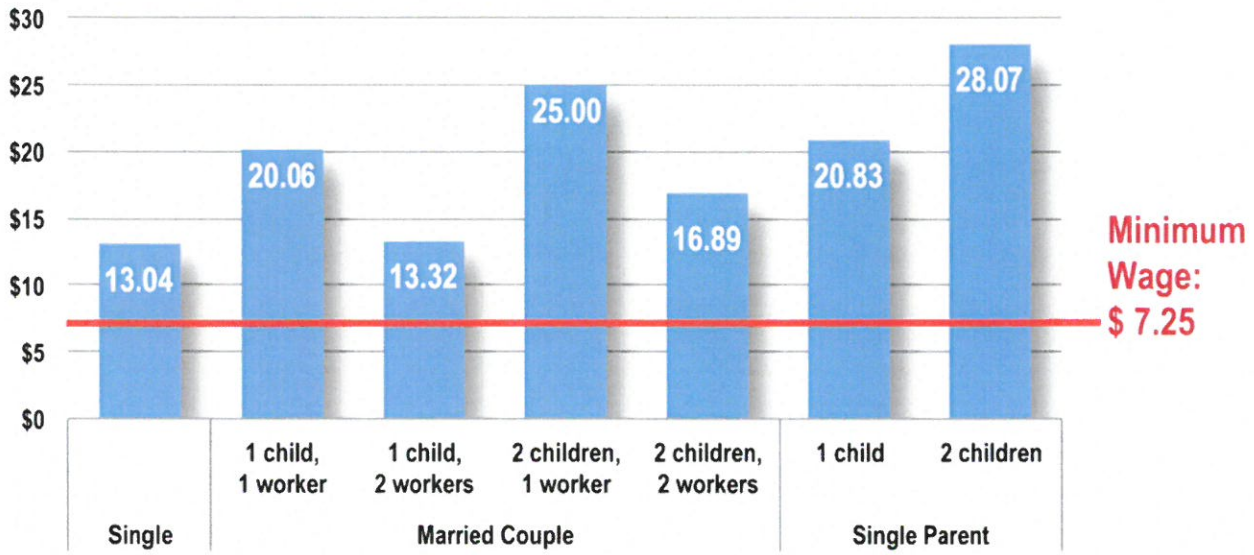
Note: Statistics describe civilian workers age 16+ in Iowa who would be affected by an increase in the federal minimum wage to $10.10 over three years. See epi.org/issues/minimum-wage for more details.

Iowa Policy Project *Source: Economic Policy Institute*

Costs go up, while wages have not.

- *Minimum wage doesn't come close to supporting a family's basic needs budget at Iowa's current cost of living.* (See graph below.)
- A single parent of two children who is working a full-time job would need to make $28.07 per hour just to cover basic, no-frills monthly expenses; $56,135 annually before taxes and credits.*** Minimum wage pays less than $15,000 per year.

Minimum Wage Far Short of Hourly Wage Needed to Meet Basic Needs
Statewide Average, Iowa Family Without Employer-Provided Health Insurance



Source: The Cost of Living in Iowa 2014, The Iowa Policy Project

Studies show a minimum wage increase would boost the overall economy.

- Increasing wages boosts demand for goods and services.
- Low-income workers are more likely than any other demographic to spend new earnings on necessities, funneling money back to businesses in the communities where they live.
- If the federal minimum wage had been increased to $10.10 in 2013, analysts predicted that the increase would have grown the economy by $22 billion.**

Iowans broadly support an increase in the minimum wage.

- 65% of Iowans favor raising minimum wage from its current $7.25 an hour, according to a 2014 *Des Moines Register* poll.****

* U.S. Department of Labor, http://www.dol.gov/whd/minwage/america.htm
** Economic Policy Institute, December 2013, http://www.epi.org/publication/raising-federal-minimum-wage-to-1010/
*** Iowa Policy Project, *The Cost of Living in Iowa 2014*, http://www.iowapolicyproject.org/2014Research/140810-CostOfLiving.html; assumes no work supports such as child care, housing, food or energy assistance.
**** *The Des Moines Register*, "65% favor higher minimum wage," March 1, 2014.

backgrounder
The Iowa Policy Project

January 2016

RAISING THE MINIMUM WAGE

What is the Linn County Impact of a $10.10 Minimum Wage?

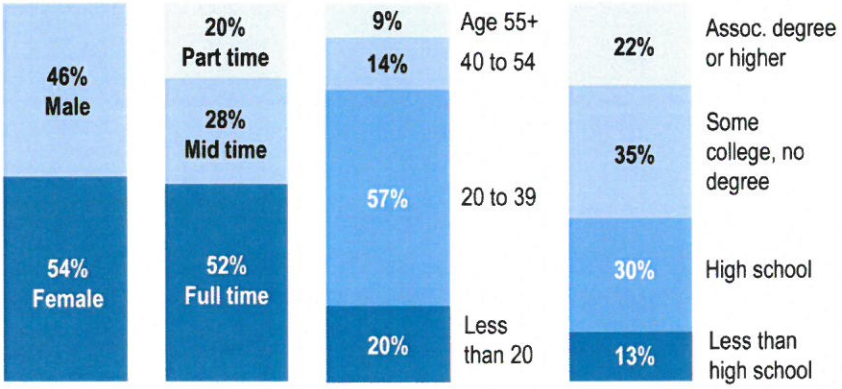
At least 18,400 low-wage workers stand to get a pay raise in Linn County if the county or state were to implement **a $10.10 minimum wage by 2017**. That would translate into millions in additional annual income. Much of that would be spent in Linn County at local retail and service businesses, which in turn would need more work hours to handle the increased business.

About 101,600 wage-earners in Linn County work in the private sector, including nonprofits. **About 18,400 of those workers would stand to benefit directly** from a minimum wage rising to $10.10 by 2017.[1] **This is a conservative estimate**; due to uncertainty that the local wage would apply to state or federal employees, our analysis does not include public employees.

Many workers not covered by the minimum wage would also benefit, in two ways. Employers may increase the wages of **those earning a little above the new minimum wage** in order to maintain wage parity within the firm, or to successfully compete in the labor market. Second, wages of **public-sector workers not covered** by the local minimum wage law may be raised to keep and attract such workers in competition with private sector employers. The percentages below should be taken as a minimum effect.

Women are disproportionately represented in lower-wage jobs, so it is no surprise that 54 percent of those benefiting from the county minimum wage would be women. More surprising, perhaps, is that **nearly a quarter would be age 40 or older**, while only 20 percent would be under age 20. Only about 1 in 5 of the beneficiaries work fewer than 20 hours per week; over half **(52 percent) work full time** (35+ hours per week). Parents are 1 in 5 beneficiaries (20 percent); persons of color are about 13 percent.

Characteristics of Those Benefiting from a $10.10 Minimum Wage in Linn County: Gender, Hours Worked, Age and Education



Source: Analysis of Current Population Survey Data 2012-2014 by the Economic Policy Institute

[1] Estimates based on American Community Survey wage data for 2012-2014; workers benefiting are assumed to be earning a wage less than $10.10 per hour by 2017 if their wages rise by inflation rates projected by the Congressional Budget Office. A local minimum wage would affect all those working in Linn County, regardless of residency, but estimates predict 86 percent would be Linn County residents.

PewResearchCenter

JULY 23, 2015

5 facts about the minimum wage

BY DREW DESILVER (HTTP://WWW.PEWRESEARCH.ORG/AUTHOR/DDESILVER/)

Federal Minimum Wage, 1938-2014

Shown in nominal (not adjusted for inflation) dollars and 2014 (inflation-adjusted) dollars

Note: Wage rates adjusted for inflation using implicit price deflator for personal consumption expenditures.
Sources: Bureau of Labor Statistics, Bureau of Economic Analysis, Pew Research Center analysis

PEW RESEARCH CENTER

(http://www.pewresearch.org/fact-tank/2015/05/20/5-facts-about-the-minimum-wage/ft_15-05-20_minwage_1938_2014/)

As efforts to raise the federal minimum wage from $7.25 an hour have stalled repeatedly, several states and cities – from Los Angeles (http://www.latimes.com/local/lanow/la-me-ln-minimum-wage-hike-20150518-story.html#page=1) to New York state (http://www.nytimes.com/2015/07/23/nyregion/new-york-minimum-wage-fast-food-workers.html?smid=tw-bna&_r=0) to Washington, D.C. (http://www.washingtonpost.com/local/dc-politics/in-nations-capital-15-hour-minimum-wage-expected-to-appear-on-2016-ballot/2015/07/22/bdd9f66a-3086-11e5-97ae-30a30cca95d7_story.html) – are acting on their own to raise minimum pay rates. Although some proposals target fast-food workers specifically, organized labor and anti-poverty groups are pushing for $15 an hour as the new standard for all workers paid hourly.

(http://www.people-press.org/2014/01/23/most-see-inequality-growing-but-partisans-differ-over-solutions/) While the idea of raising the minimum wage is broadly popular, a Pew Research Center survey (http://www.people-press.org/2014/01/23/most-see-inequality-growing-but-partisans-differ-over-solutions/) from January 2014 found clear partisan differences in support. Overall, 73% of people favored an increase in the federal minimum to $10.10 an hour, mirroring a Democratic-backed proposal that failed to move ahead in Congress last year. But while large majorities of Democrats (90%) and independents (71%) said they favored such an increase, Republicans were more evenly split (53% in favor and 43% opposed).

In Jan. 2014, Public Supported Raising Minimum Wage to $10.10

Increasing minimum wage from $7.25 to $10.10 an hour?	Total	Rep	Dem	Ind
	%	%	%	%
Favor	73	53	90	71
Oppose	25	43	9	27
Don't know	3	4	1	2
	100	100	100	100

Survey conducted Jan 15-19, 2014. Figures may not add to 100% because of rounding.

PEW RESEARCH CENTER/USA TODAY

Here are five facts about the minimum wage and the people who earn it:

1 **Adjusted for inflation, the federal minimum wage peaked in 1968** at $8.54 (in 2014 dollars). Since it was last raised in 2009, to the current $7.25 per hour, the federal minimum has lost about 8.1% of its purchasing power to inflation. The Economist (http://www.economist.com/blogs/graphicdetail/2015/05/minimum-wages) recently estimated that, given how rich the U.S. is and the pattern among other advanced economies in the Organization for Economic Cooperation and Development, "one would expect America...to pay a minimum wage around $12 an hour."

2 **Nearly half (48.2%) of the 3 million hourly workers who were at or below the federal minimum in 2014 were ages 16 to 24.** An additional 22.4% are ages 25 to 34, according to the Bureau of Labor Statistics (http://www.bls.gov/opub/reports/cps/characteristics-of-minimum-wage-workers-2014.pdf) ; both shares have stayed more or less constant over the past decade. That 3 million represents about 2.3% of all wage and salary workers. (See more about the demographics of minimum-wage workers (http://www.pewresearch.org/fact-tank/2014/09/08/who-makes-minimum-wage/) .)

3 (http://www.pewresearch.org/fact-tank/2015/05/20/5-facts-about-the-minimum-wage/ft_15-07-23_minwage/) **Twenty-nine states, plus the District of Columbia and nearly two dozen cities and counties, have set their own higher minimums.** State hourly minimums range from $7.50 in Arkansas, Maine and New Mexico to $9.47 in Washington state, according to the National Conference of State Legislatures (http://www.ncsl.org/research/labor-and-employment/state-minimum-wage-chart.aspx) . Together, these states include 61% of the nation's working-age (16 and over) population, according to our analysis of U.S. Census Bureau data. Among the cities that have enacted even higher local minimums are San Francisco ($15 by 2018), Seattle ($15 by 2021), Chicago ($13 by 2019) and San Diego ($11.50 by 2017), according to the National Employment Law Project (http://www.nelp.org/content/uploads/City-Minimum-Wage-Laws-Recent-Trends-Economic-Evidence.pdf) .

About 20.6 million people (or 30% of all hourly, non-self-employed workers 18 and older) are "near-minimum-wage" workers. We analyzed public-use microdata from the Current Population Survey (the same monthly survey that underpins the BLS's wage and employment reports), and came up with that estimate of the total number of "near-minimum" U.S. workers (http://www.pewresearch.org/fact-tank/2014/11/05/making-more-than-minimum-wage-but-less-than-10-10-an-hour/) – those who make more than the minimum wage in their

4 state but less than $10.10 an hour, and therefore also would benefit if the federal minimum is raised to that amount. The near-minimum-wage workers are young (just under half are 30 or younger), mostly white (76%), and more likely to be female (54%) than male (46%). A majority (56%) have no more than a high-school education.

(http://www.pewresearch.org/fact-tank/2014/11/17/where-near-minimum-wage-workers-work-and-how-much-they-make/) **The restaurant/food service industry is the single biggest employer of near-minimum-wage workers.** Our analysis also found (http://www.pewresearch.org/fact-tank/2014/11/17/where-near-minimum-wage-workers-work-and-how-much-they-make/) that 3.75 million people making near-minimum wages (about 18% of the total) worked in that industry. Among near-minimum workers aged 30 and younger, about 2.5 million (or nearly a quarter of all near-minimum workers in that age bracket) work in restaurants or other food-service industries. But because many of those workers presumably are tipped, their actual gross pay may be above $10.10 an hour. (Federal law, as well as wage laws in many states, allow tipped employees (http://www.dol.gov/whd/state/tipped.htm) to be paid less as long as "tip credits" bring their pay up to at least the applicable minimum.)

Note: This is an update of a post originally published in December 2013 and previously updated in May 2015.

States With Minimum Wages Higher Than the $7.25/hr Federal Standard

as of July 2015

Source: National Conference of State Legislatures
Note: The minimum wage in D.C. is $10.50/hr. In Nevada, $8.25 minimum applies if job provides no health benefits; if it does, minimum is $7.25. Minnesota's minimum is scheduled to rise to $9.00 on Aug. 1.

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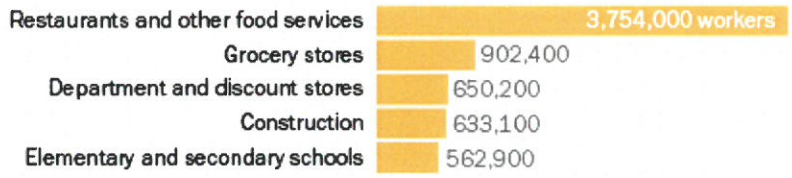
5

Where Near-Minimum-Wage Employees Work and What They Do

Industries that employ the most near-minimum-wage workers



Most common occupations among near-minimum-wage workers

Note: "Near-minimum-wage workers" are defined as non-self-employed workers, 18 and older, who are paid hourly and make more than the applicable minimum wage in their state but less than $10.10 an hour.
Source: Pew Research Center estimates based on 2013 IPUMS-CPS microdata

PEW RESEARCH CENTER

Drew DeSilver (http://www.pewresearch.org/author/ddesilver/) *is a senior writer at Pew Research Center.*

POSTS | EMAIL | @DREWDESILVER

495 Comments

Anonymous • 1 month ago (#comment-669448)

Drew, the things you chose to say or include makes your article pretty much propaganda for the "rich"!!! Too bad dude!!!

Anonymous • 1 month ago (#comment-669382)

Love research that's objective

Anonymous • 1 month ago (#comment-669302)

The job growth doesn't match college grads entering the work force. I know two people with degrees that