

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: RAISSA DE LA ROSA,
ECONOMIC DEVELOPMENT MANAGER
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
SUBJECT: MINIMUM WAGE STUDY SESSION

AGENDA ACTION: NONE

RECOMMENDATION

It is recommended by the Planning and Economic Development Department that the Council, review this minimum wage study session report and provide direction.

EXECUTIVE SUMMARY

California Senate Bill 3 (Leno) was signed into law on April 4, 2016, setting the stage to raise the state minimum wage by set amounts each year to reach \$15.00 per hour by January 1, 2022, for employers with 26 or more employees, and by January 1, 2023, for employers with 25 or fewer employees. After the \$15.00 per hour threshold is reached, the state minimum wage will increase annually based on the Consumer Price Index up to 3.5% per year. SB 3 maintains existing exemptions in the State's minimum wage law. Labor, environmental, and community organizations, led by North Bay Jobs with Justice (NBJJ) and the North Bay Labor Council have proposed expediting the State timeline to 2020, and removing certain employer exemptions allowed by state law. Under their proposal, the minimum wage would set to \$15.00 on January 1, 2020. A cost of living adjustment would automatically be applied annually beginning January 1, 2021. The NBJJ proposal allows for a possible extra year for phase-in for small employers.

BACKGROUND

On April 4, 2016, California Senate Bill 3 (Leno) was signed into law setting the stage to raise the state minimum wage by set amounts each year to reach \$15.00 per hour by January 1, 2022, for employers with 26 or more employees, and by January 1, 2023, for employers with 25 or fewer employees. After the \$15.00 per hour threshold is reached, the state minimum wage will increase annually based on the Consumer Price Index up to 3.5% per year. SB 3 maintains existing exemptions in the State's minimum wage law and provides for the Governor to allow a suspension of the wage increase schedule during economic downturns (see **Attachment 1**, SB 3 Phase-in / FAQ).

Labor, environmental, and community organizations, led by North Bay Jobs with Justice (NBJJ) and the North Bay Labor Council have proposed expediting the State timeline to 2020. Under their proposal, the minimum wage would be raised to \$15.00 on January 1, 2020. From 2021 on, the minimum wage would increase annually based on the Consumer Price Index. As with SB 3, this would apply to workers who work two hours per week or more in the city. Federal, State, and County employees would be excluded by law, as would public higher education and school districts, learners for the first 160 hours of employment, and certain disabled workers in accordance with Federal laws. Employers would be subject to this ordinance regardless of their industry, organizational structure (i.e. nonprofits would not be exempted), or number of employees (see **Attachment 2**, Summary of NBJJ Proposed Minimum Wage Ordinance). The NBJJ proposal allows for a possible extra year for phase-in for small employers with less than 25 employees.

An analysis of the NBJJ proposal and its estimated impact on four North Bay counties – Marin, Sonoma, Napa and Solano – was conducted by the UC Berkeley Labor Center, which released a report on their findings in October 2018 (see **Attachment 3**, Estimated Impact of a Proposed Minimum Wage Law for the North Bay). In addition, the Center for Economic Forecasting and Development at UC Riverside released an analysis in April 2019, of the impact of minimum wage specific to the restaurant industry (see **Attachment 4**, The Minimum Wage: An analysis of the Impact on the Restaurant Industry).

Thus far, the North Bay cities of Novato, Sonoma, Petaluma, Sebastopol, Cotati, and Santa Rosa have been approached by NBJJ with their proposal. Of these, Petaluma held a Council workshop on April 8, 2019, to discuss and receive direction on a potential minimum wage ordinance. It is anticipated a proposed local minimum wage ordinance will be presented to the Petaluma City Council for a first reading on July 15, 2019, that aligns, for the most part, with the NBJJ proposal. The City of Sonoma adopted Ordinance #02-2019 on June 10, 2019, effective on July 10, 2019, 30 days after adoption. This ordinance surpasses both SB 3 and the NBJJ proposal in that for large employers they anticipate reaching \$13.50/hour on January 1, 2020; \$15.00/hour on January 1, 2021; \$16.00/hour on January 1, 2022; \$17.00/hour on January 1, 2023; and an annual CPI increase thereafter at a rate to be determined. Similarly, small employers follow this per-hour wage increase starting at \$12.50/hour on January 1, 2020, and increasing by \$1.00/hour annually on the same timeline as the large employers, reaching \$16.00/hour on January 1, 2023. The Sonoma City Council will determine which CPI index to use at a future date.

PRIOR CITY COUNCIL REVIEW

There has been no prior City Council review or action on this matter.

ANALYSIS

Overview of Minimum Wage Laws:

See Attachment 1: SB 3 Phase-In/FAQ

- The minimum wage established by Federal, State, and local laws set the lowest wage an employer may pay to workers. Common considerations to the lowest set

wage may include such factors as type of worker and number of hours worked.

- Local jurisdictions have the authority to set a minimum wage that is higher than the federal or state minimum (see **Attachment 5**, Sonoma County Cities and Santa Rosa Comparison Cities Minimum Wage List).
- California's current minimum wage is as follows:
 - < 25 employees: \$11.00 per hour
to increase incrementally to \$15.00/hour by January 1, 2023
 - > 26 employees: \$12.00 per hour
to increase incrementally to \$15.00/hour by January 1, 2022
- Once the minimum wage reaches \$15.00 per hour, it will increase annually based on the Consumer Price Index up to 3.5%.
- Those cities choosing to expedite the State's timeline for a \$15.00/hour minimum wage and the corresponding annual Consumer Price Index based increase as proposed by NBJJ commit themselves to a minimum wage continually set higher than that set by the State.
- There are 26 California jurisdictions that have adopted ordinances establishing a minimum wage higher than the State's.
 - Several cities in particularly high cost areas (e.g. in the San Francisco Bay Area and Los Angeles area) have passed ordinances setting local minimum wages at \$15.00/hour or higher.
 - Some cities, including Emeryville and San Francisco have passed wage ordinances that regulate other labor practices, such as paid sick leave, scheduling requirements, and worker conditions.

Highlights from the UC Berkeley Labor Center Report:

See Attachment 3: Estimated Impact of a Proposed Minimum Wage Law for the North Bay

- Percentage increase of proposed minimum wage policy by year:
 - 2018 - \$10.50 - State minimum wage
 - 2019 - \$12.75 - 21.4% increase
 - 2020 - \$15.00 - 17.6% increase
- An estimated 36% of the North Bay's workforce would receive a pay raise by 2020 under the proposal. This includes workers who earn below the new minimum wage (approximately 79%), as well as those who earn just above the new minimum who would receive wage increases due to a ripple effect.
- Only 6.4% of affected workers are teenagers, and more than half are in their 30's or older.

- Affected workers have a wide range of educational backgrounds, with half having at least some college experience, and 15% holding a bachelor's degree or higher.
- The industries where the most affected workers hold jobs are: retail trade (17.1%), food services (12.9%), and health services (8.4%). Most affected workers are employed in the private, for-profit sector. Non-profit and public employees are less likely to be affected than the overall workforce.
- Average pre-tax margins for retail:
 - Clothes/jewelry/shoes: 2.33%
 - Furniture/hardware: 3.8%
 - Groceries/beer-wine-liquor: 2.25%
- Average margins for average restaurants: 3-5%
 - Fast food restaurant average: 2.4%
 - Fast casual / casual restaurant average: 6%
 - Full service restaurant average: 6.1%

Key Points of the NBJJ Citywide Minimum Wage Proposal:

See Attachment 2: Summary of NBJJ Proposed Minimum Wage Ordinance

- NBJJ proposes for all employers a \$15.00/hour minimum wage by January 1, 2020
 - On January 1, 2012, Bay Area CPI would take effect
- The NBJJ proposal allows for a possible extra year for phase-in for small employers with 25 or less employees as follows:
 - January 1, 2020 - \$14.00/hour
 - January 1, 2021 – Match large employers
- At its base, the NBJJ proposal would accelerate the \$15.00/hour minimum wage timeline for Santa Rosa businesses by 3 years for employers with less than 25 employees, and by 2 years for employers with 26 or more employees, and would continue to set the City's minimum higher than the State's, assuming the annual Consumer Price Index increase is also adopted as stated, starting with Fiscal Year 2021.
- The law would cover all employees performing at least two hours of work per week for an employer within the geographic boundaries of the city.
- Governmental agencies including Federal, State, County, public higher education, and school districts would be exempted. City employees would be included in the ordinance, including those who work from home. Employees classified as "learners" could be paid no less than 85% of the applicable minimum wage for the first 160 hours of employment (employees in occupations in which they have no previous or related experience; any age).

- Unionized workers may decide to opt out of the minimum wage law in order to bargain for enhanced benefits in exchange for an hourly cash wage below the new minimum wage.
- Employees have a right of private action in that an employee claiming harm from a violation of the ordinance may bring action against the employer in court to enforce the provisions of the ordinance. An employee prevailing in an action is entitled to reasonable attorney fees, witness fees and costs.
- For employers not complying with the law, the City may assess fines and penalties including liquidated damages and revoking or suspending business licenses, permits, and registration certificates.

Impact on City of Santa Rosa Human Resources and Contracts/Professional Service Agreements:

See Attachment 6: Recreation and Parks Seasonal Employee Minimum Wage Analysis

- There are no compaction issues within the City
 - The lowest hourly wage for a permanent employee is \$17.60
- Recreation and Parks part-time seasonal workers
City recreation and parks services utilize 133,000 hours of seasonal temporary employee hours annually, equivalent to 64 FTEs, utilizing six seasonal temporary employee job classifications. In 2017 the Recreation & Parks Department, in cooperation with Human Resources and approved by the City Manager, prepared a wage scale for each of the six seasonal temporary job classifications that meets the state minimum wage requirements between 2017 and 2022, included on Attachment 6. The schedule also maintains a wage structure for the recruitment and retention of seasonal employees that recognizes the increasingly complex work required by some of the positions in City operations. The City Council adopted the most recent update to the Salary Schedule, which included these temporary classifications, on March 14, 2019.

Adoption of an accelerated minimum wage schedule will have negligible impact in FY 19-20 due to the state minimum wage increasing to \$13.00/hr on January 1, 2020, which was taken into account during budget planning. Impacts for a \$15.00/hr minimum wage in FY 20-21 will exceed \$200,000, as reflected for the various business units on Attachment 6. In FY 20-21, the seasonal job classifications for Recreation Aide and Recreation Leader would be accelerated to the \$15.00/hr while the remaining seasonal job classifications would follow the existing wage scale schedule. (see **Attachment 6**, Recreation and Parks Seasonal Employee Minimum Wage Analysis)

- Contracts/Professional Service Agreements
 - Language may need to be added to agreements
 - Any exemptions and/or exceptions may be possible

Discussion Points:

- **Timing of increases**

- Small businesses (25 or fewer employees)
- Large businesses (26 or more employees)

- **Exceptions and special considerations**

Cities have broad discretion to design a unique ordinance, as long as it does not result in a worker being paid less than the state or federal minimum wage or is otherwise in conflict with state or federal law. Cities may take advantage of the state's developed set of rules by requiring that whenever the Labor Code or Department of Industrial Relations regulations require an employee to be paid using a formula based off the state minimum wage, the local minimum wage be used instead (e.g. the "learners exception" noted above). (See **Attachment 7**, League of California Cities Local Minimum Wage Laws and the Challenge of Balancing Interests)

- **Enforcement**

An individual paid less than the state minimum wage can currently report the violation to the Department of Industrial Relations, which has extensive experience investigating such reports. Consideration includes requiring resources for enforcement, including consultant services or City staff to address enforcement of any adopted ordinance, and training of staff/consultant on wage issues or auditing of business financial records to determine if the legally required amount has been paid to the employee.

- **Cost of Living Adjustments (COLA)**

Options exist to, for example, expedite the local minimum wage as outlined in the NBJJ proposal, including the NBJJ outline for the annual adjustment, committing the City to a minimum wage continually set higher than that set by the State; or to expedite the local minimum wage yet delay implementing the annual COLA until the City is in line with the State.

FISCAL IMPACT

This is a study session report only.

ENVIRONMENTAL IMPACT

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

ATTACHMENTS

MINIMUM WAGE STUDY SESSION

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- Attachment 1: SB 3 Phase-in / FAQ
- Attachment 2: Summary of NBJJ Proposed Minimum Wage Ordinance
- Attachment 3: Estimated Impact of a Proposed Minimum Wage Law for the North Bay
- Attachment 4: UCR - The Minimum Wage: An analysis of the Impact on the Restaurant Industry
- Attachment 5: Sonoma County Cities and Santa Rosa Comparator Cities Minimum Wage Overview
- Attachment 6: Recreation and Parks Seasonal Employee Minimum Wage Analysis
- Attachment 7: League of California Cities Local Minimum Wage Laws and the Challenge of Balancing Interests
- Attachment 8: NBJJ Minimum Wage Fact Sheet
- Attachment 9: NBJJ Minimum Wage Q&A
- Attachment 10: Draft Model Minimum Wage Ordinance From NBJJ

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