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OFFICE OF THE
VILLAGE MANAGER

Date: June 19, 2017

To: Village President and Board of Trustees

From: Timothy J. Frenzer, Village Manager

Subject: **Supplemental Materials Concerning Village of Wilmette Proposed Ord. No. 2017-O-36; Opting Out of Cook County Paid Sick Leave and Minimum Wage Ordinances**

President Bielinski asked the staff to prepare a set of supplemental materials for you that expand upon the materials circulated with the June 13, 2017 Village Board agenda. This includes a memo from the Village President to other Board members with additional information on minimum wage issues, requests for input from Cook County Board Commissioners, and other material.

The staff will be working today to set up a news item on the front page of our web site that links to a dedicated page with all of our informational material available for public review. We hope to have that ready by this afternoon.

The following materials are attached:

1. Memorandum from Village President with attachments (the memo will also have links to additional sources)
2. Letters from Village President to Cook County Commissioners Suffredin and Morrison seeking additional information and inviting them to attend Village Board meeting on June 27, 2017 (responses will be shared on receipt)
3. Letters from Village President the Executive Directors of the United Food and Commercial Workers (UCFW), Local 881 and the Illinois Restaurant Association inviting attendance at the June 2017, 2017 Village Board meeting, along with any additional information
4. Cook County Minimum Wage and Paid Sick Leave Ordinances (2)

5. Memo from Corporation Counsel (with County regulations covering both Cook County Ordinances attached)
6. Letter received from Wilmette/Kenilworth Chamber of Commerce
7. Letter received from UCFW, Local 881
8. Questions sent to Chamber of Commerce and the Chamber's response (emails)
9. City of Chicago Report and Ordinance on Minimum Wage
10. Wilmette Jobs & Wage Data (Bureau of Labor Statistics graphics)
11. Staff report memo on Ordinance No. 2017-O-36 from June 13, 2017 Village Board meeting.

TJF/



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OFFICE OF THE
VILLAGE PRESIDENT

Date: June 19, 2017
To: Village Board of Trustees
From: Bob Bielinski, Village President
Subject: **Minimum Wage**

As you know, on June 27, 2017, the Village Board will consider an ordinance to “opt out” of the 2016 Cook County Ordinances concerning minimum wage and mandatory paid sick leave, both of which take effect on July 1, 2017.

As directed by the Board, the Village Staff is working to provide additional information to help Board members make informed decisions at the meeting on the 27th.

The Staff has requested additional information from the Wilmette/Kenilworth Chamber of Commerce, and the Chamber is reaching out to its members to help the Board better understand our business community’s point of view.

I’ve also asked four individuals to submit additional information for the Board’s consideration, as well as extending an invitation to each to speak at the meeting.

- Larry Suffredin, Cook County Commissioner (D-Evanston), sponsor of the County ordinances
- Sean Morrison, Cook County Commissioner (R-Orland Park), an opponent of the County ordinances
- Sam Toia, President and CEO of the Illinois Restaurant Association
- Ron Powell, President, Local 881 United Food and Commercial Workers union

In addition, I’ve asked Wilmette’s Corporation Counsel to draft a memo addressing legal issues related to the County ordinances and Wilmette’s legal authority in this area.

As requested by a number of Trustees, I am also sharing some of the background materials which I’ve reviewed and which you may find helpful to your research of the issues surrounding an increase in the minimum wage.

Chicago Working Group Report

“A Fair Deal for Chicago’s Working Families: A Proposal to Increase the Minimum Wage” contains the recommendations of Mayor Rahm Emanuel’s Minimum Wage Working Group. In May 2014, Mayor Emanuel appointed a working group of community, labor and business leaders to evaluate options for developing a balanced proposal to raise the minimum wage in Chicago. The Working Group held five public meetings and consulted with experts and stakeholders. In December 2014, the Chicago City Council approved an increase to the minimum wage.

In addition to background information and the Group’s recommendations, the report includes a list of academic research studies on minimum wage along with bullet points of summary findings for each study. I noted that a couple of the studies on the list were specific to Chicago, and not just general minimum wage research.

A comparable document does not exist for the Cook County Ordinances because a similar evaluation and study process was not undertaken by the County Board prior to adoption of the Ordinances.

Academic Research on the Minimum Wage

The minimum wage is among the most studied economic topics, and a review of academic research finds mixed opinions on the impacts of increasing the minimum wage. Much of the literature over the years suggests that a 10% increase in the minimum wage leads to a 1-3% reduction for teenage or low-skilled employment. More recently, some economists have called into question those conclusions and published studies that show minimal negative impacts from increasing the minimum wage.

David Neumark (economics professor and director of the Center for Economics and Public Policy at the University of California, Irvine) is one of the leading economists who promotes the traditional view of the impact of minimum wage increase. Michael Reich (professor of economics and chair of the Center on Wage and Employment Dynamics at the Institute for Research on Labor and Employment (IRLE) of the University of California at Berkeley) leads the group of economists which has presented research which shows minimal impact of minimum wage increases. Much of the recent literature is a back and forth between these two groups of economists, questioning the others research methodologies and data, as well as condemning their conclusions.

While their academic studies can be technical, lengthy and difficult to read, some of these economists have authored articles and opinion pieces which summarize their work and provides history and context of the minimum wage debate. For your convenience, I’ve attached a number of these articles. Of course, simply googling variations on phrases including “minimum wage” will yield many additional results.

Specifically, attached you will find the following articles:

“The Minimum Wage and Employment Dynamics.” Center for Economic Policy and Research. by Jonathan Meer and Jeremy West. September 10, 2013. <http://voxeu.org/article/minimum-wage-and-employment-dynamics>

“The Minimum We Can Do.” The New York Times. by Arindrajit Dube. November 30, 2013. <https://opinionator.blogs.nytimes.com/2013/11/30/the-minimum-we-can-do/>

“No, a Minimum-Wage Boost Won’t Kill Jobs.” Politico Magazine. by Michael Reich. February 21, 2014. <http://www.politico.com/magazine/story/2014/02/minimum-wage-boost-wont-kill-jobs-103769?o=1>

“Minimum Wage Debate Goes Local.” San Francisco Chronicle. by Ken Jacobs and Annette Bernhardt. April 18, 2014. <http://www.sfgate.com/default/article/Minimum-wage-debate-goes-local-5413650.php>

“The Unappetizing Effect of Minimum-Wage Hikes.” The Wall Street Journal. by Michael Saltsman. March 24, 2015. <https://www.wsj.com/articles/michael-saltsman-the-unappetizing-effect-of-minimum-wage-hikes-1427240817>

“The Minimum Wage: How Much is Too Much?” The New York Times. by Alan Krueger. October 9, 2015. <https://www.nytimes.com/2015/10/11/opinion/sunday/the-minimum-wage-how-much-is-too-much.html>

“A \$15 Wage Won’t Cost New York Jobs.” New York Daily News. by Michael Reich. March 11, 2016. <http://www.nydailynews.com/opinion/michael-reich-15-wage-won-cost-new-york-jobs-article-1.2560449>

“The Evidence is Piling Up That Higher Minimum Wages Kill Jobs.” The Wall Street Journal. by David Neumark. December 15, 2015. <https://www.wsj.com/articles/the-evidence-is-piling-up-that-higher-minimum-wages-kill-jobs-1450220824>

“A Minimum Wage Hike is the Wrong Fix.” Los Angeles Times. by David Neumark. March 18, 2016. <http://www.latimes.com/opinion/op-ed/la-oe-0318-neumark-fair-wage-act-problems-20160318-story.html>

News Coverage of Chicago Minimum Wage Increase and Cook County Minimum Wage Increase

I’ve also attached local new stories relating to the December 2014 minimum wage increase in Chicago and the Cook County Ordinances. Specifically:

“City Council Raises Chicago Minimum Wage to \$13 by 2019.” Chicago Tribune. December 2, 2014. <http://www.chicagotribune.com/news/local/politics/chi-chicago-minimum-wage-increase-13-20141202-story.html>

“Business Owners Cope as Chicago’s Minimum Wage Creeps Higher.” Chicago Tribune. July 5, 2016. <http://www.chicagotribune.com/business/ct-minimum-wage-update-0705-biz-20160701-story.html>

“Cook County Approves \$13 Hourly Minimum Wage Affecting Suburbs.” Chicago Tribune. October 26, 2016. <http://www.chicagotribune.com/business/ct-cook-county-minimum-wage-hike-1026-biz-20161025-story.html>

“Evanston Officials, Businesses Mixed on Proposed Minimum Wage Hike.” The Daily Northwestern. April 30, 2017. <https://dailynorthwestern.com/2017/04/30/city/evanston-officials-businesses-mixed-on-proposed-minimum-wage-hike/>

Recent Harvard Business School Study

Given the restaurant renaissance that downtown Wilmette has undergone since 2013, I found a recently published (April 2017) study from the Harvard Business School to be interesting and relevant to Wilmette. In “Survival of the Fittest: The Impact of Minimum Wage on Firm Exit,” the authors study the impact of the minimum wage on restaurant closures from 2008 – 2016 in the San Francisco Bay Area, where there have been 21 local minimum wage changes over the past decade.

The authors conclude that the evidence suggests that higher minimum wages increase overall exit rates for restaurants, but lower quality restaurants (as determined by Yelp ratings) are disproportionately impacted by increases to the minimum wage. They estimate that a \$1 increase in the minimum wage leads to a 14% increase in the likelihood of exit for a median rated restaurant (3.5 stars on Yelp), but no discernable impact on the best restaurants (5 stars on Yelp).

I’ve attached the study for your review.

I encourage each of you to review all the materials provided by the Staff.

If you have any questions, please feel free to reach out to Tim, Mike, Jeff or me.

RTB/



A Fair Deal for Chicago's Working Families

A Proposal To Increase the Minimum Wage



Recommendations of Mayor Rahm Emanuel's
Minimum Wage Working Group



Background on the Minimum Wage Working Group

On May 20th, 2014, Mayor Emanuel appointed a diverse group of community, labor and business leaders and tasked them with evaluating options for developing a balanced proposal to raise the minimum wage for Chicago's workers.

Working Group Members:

- **John Bouman, President, Sargent Shriver Center on Poverty Law (co-chair)**
- **Will Burns, Alderman of the 4th Ward (co-chair)**
- Deborah Bennett, Senior Program Officer, Polk Bros. Foundation
- Matt Brandon, Service Employees International Union Local 73
- Carrie Austin, Alderman, Alderman of the 34th Ward and Chairman of the City Council Committee on the Budget and Government Operations
- Walter Burnett, Alderman of the 27th Ward and Chairman of the City Council Committee on Pedestrian and Traffic Safety
- Sol Flores, Executive Director, La Casa Norte
- Theresa Mintle, CEO, Chicagoland Chamber of Commerce
- Emma Mitts, Alderman of the 37th Ward and Chairman of the City Council Committee on License and Consumer Protection
- Joe Moore, Alderman of the 49th Ward and Chairman of the City Council Committee on Special Events, Cultural Affairs and Recreation
- Ameya Pawar, Alderman of the 47th Ward
- Maria Pesqueira, President and CEO, Mujeres Latinas en Accion
- Ariel Reboyras, Alderman of the 30th Ward and Chairman of the City Council Committee on Human Relations
- JoAnn Thompson, Alderman of the 16th Ward
- Sam Toia, President, Illinois Restaurant Association
- Tanya Triche, Vice President and General Counsel, Illinois Retail Merchants Association
- Andrea Zopp, President and CEO, Chicago Urban League

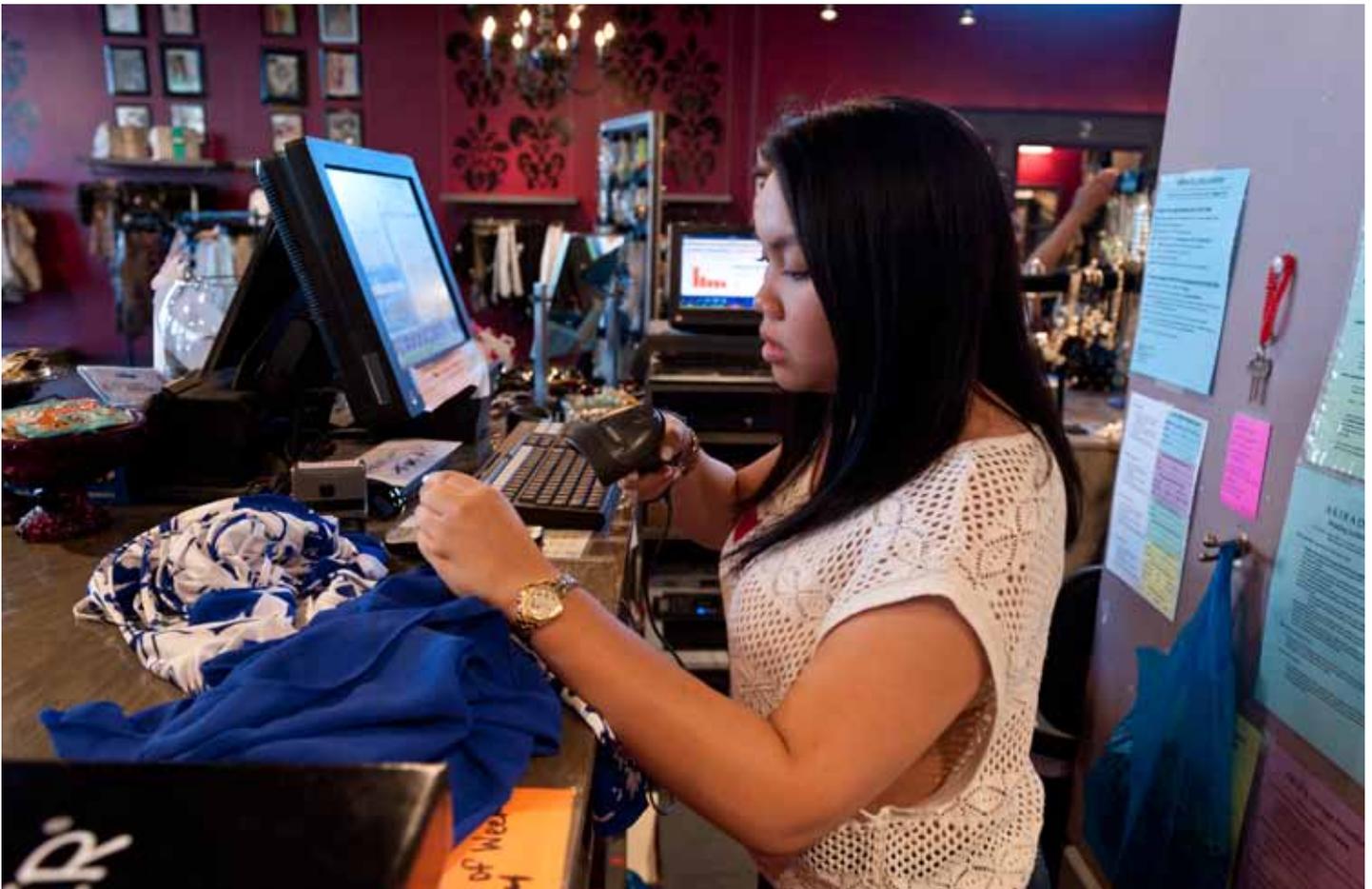


Public Engagement Process:

To ensure that its recommendations reflected the broadest range of input, the Working Group held five public meetings attended by hundreds of residents from across the city and consulted an array of experts and stakeholders. In addition, the Group received more than 200 comments via its online portal at www.cityofchicago.org/MinimumWage.

Following years of inaction by the Congress, it is long past time for cities and states to raise the minimum wage to lift more families out of poverty and stimulate the economy. Cities like Seattle and Washington DC have already acted, while a coalition of advocates and elected officials including Governor Pat Quinn are leading an effort in Springfield to raise the Illinois minimum wage. Raising the Illinois wage is critical, but due to Chicago's higher cost of living a state increase alone is not enough. The Raise Chicago coalition has helped shape the public debate in Chicago, creating an opening for establishing a Chicago minimum wage higher than the rest of the state.

Mayor Rahm Emanuel created the Minimum Wage Working Group to develop a balanced proposal to establish a Chicago minimum wage that will help the city's working families keep up with rising costs of living. Following a comprehensive review of data and research, and after an extensive public engagement process in public meetings held across the city, the Minimum Wage Working Group recommends that the Mayor introduce an ordinance that would raise the minimum wage for workers in the City to \$13 by 2018. Our proposal will increase the earnings for approximately 410,000 Chicagoans and inject nearly \$800 million into the local economy over four years. The proposal would also help the minimum wage keep up with cost of living by indexing it to inflation.



- \$13 by 2018
- 45% Increase in the Minimum Wage
- 410,000 workers to benefit
- Nearly \$800 million in economic stimulus

The Working Group recommends that this increase phase in over four years to ensure the City's business owners have time to adjust. By phasing the increase over this time period, the proposal would ensure that the impact on overall business expenses during the phase in would be an increase ranging from 1-2 percent each year depending on the industry. Our analysis focused on the industries that typically employ low-wage workers: food service and hospitality, health care, and retail.

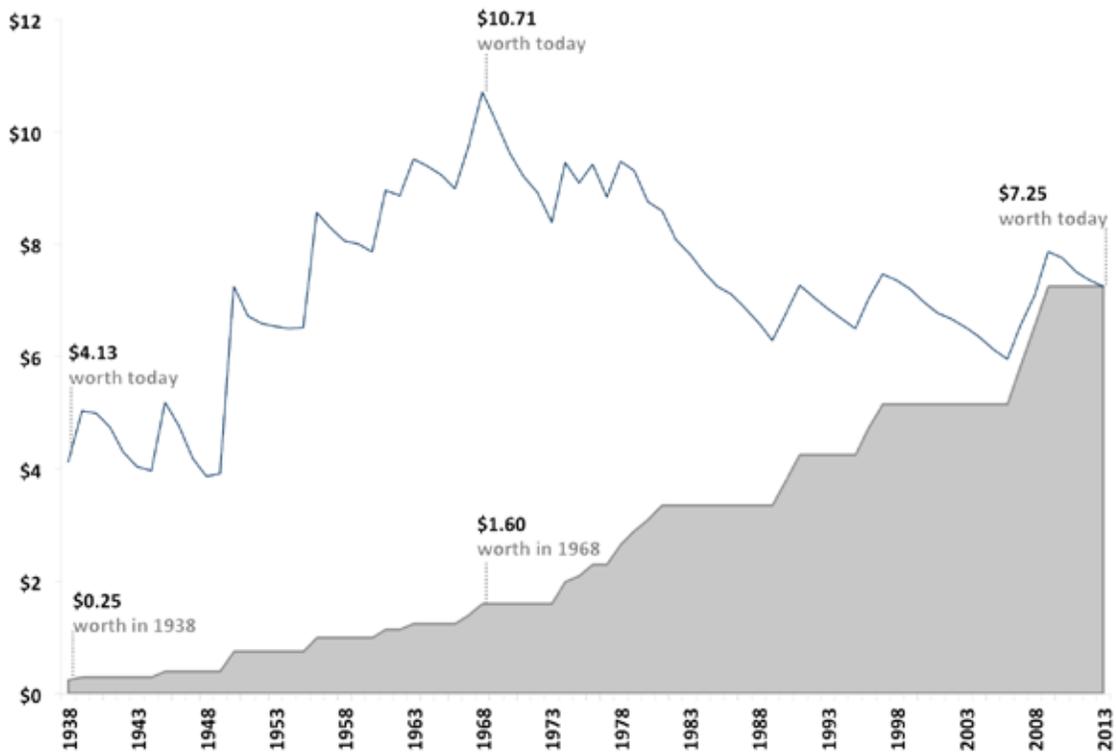
Furthermore, the Working Group recommends that the Mayor and City Council not pass an ordinance that implements its recommendation until the Illinois General Assembly has had the opportunity to raise the statewide minimum wage during the next veto session at the end of 2014.



Why a Minimum Wage Increase is Needed

By historical standards, the value of the current minimum wage is fairly low. Rising inflation has outpaced the growth in the minimum wage, leaving its true value at 32 percent below the 1968 level of \$10.71 in 2013 dollars. Additionally, the value of the minimum wage has declined by 21.5% from its 20-year average between 1960 and 1980 of \$9.23 in 2013 dollars with comparatively small increases in the 1990s and in 2007 failing to keep up.

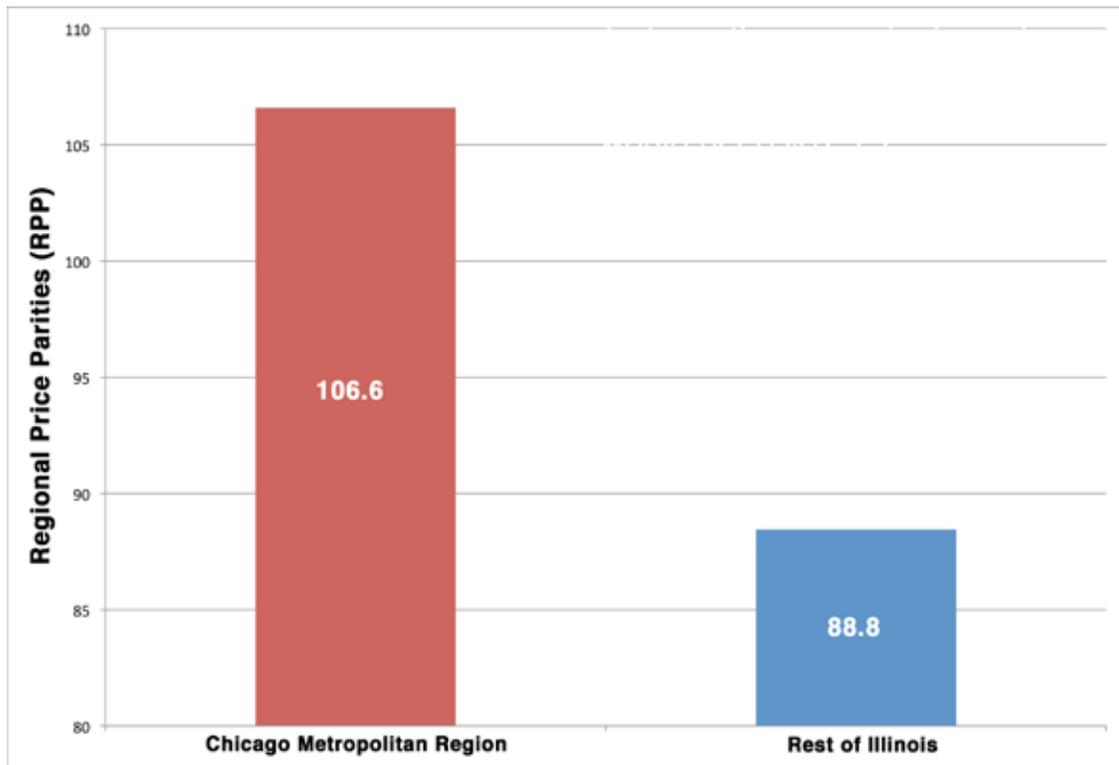
FEDERAL MINIMUM WAGE 1938 TO 2013



As the value of the minimum wage declines, the Great Recession has brought more families to the brink. According to the US Census, 22.1 percent of Chicagoans live below the poverty level. By comparison, 13.7 percent of the overall Illinois population and 14.9 percent of the national population lives below the federal poverty level.

This decline in wealth is taking place as cost of living is going up. In Chicago, rent as a percentage of income has risen to 31 percent, from a historical average of 21 percent. In addition, according to federal Commerce Department data, the Chicago metro region has the highest cost-of-living of any other city in the Midwest, and is also the only metropolitan region in Illinois that ranks above the national average in cost-of-living expenses.

The same data also reveal that the Chicago metro region's cost of living is 20.1 percent higher than the rest of Illinois:



A significant percentage of Chicago workers earn low wages. Nearly 31 percent of the Chicago workforce makes \$13 per hour or less. The median age of a worker making \$13 per hour is 33, and two-thirds of these workers are over the age of 25.

Additionally, women and minorities make up a disproportionate share of low-wage workers in Chicago.

CHICAGOANS MAKING UNDER \$13 AN HOUR

Race		Gender		Age	
Asian	7%	Female	55%	Under 18	2%
Black	27%	Male	45%	18-25	28%
Hispanic	38%			25-40	35%
White	27%			40-65	32%
Other	1%			65+	3%



These data demonstrate the importance of a Chicago minimum wage above the Illinois minimum that accounts for the City's higher costs of living and larger concentrations of low-wage workers.

It is important to be clear that none of the minimum wage increases under public consideration – including the \$15 increase passed by the Seattle City Council – represent a living wage. According to a recent report by the National Low Income Housing Coalition, a worker in the Chicago metro region must make \$18.83 an hour to afford a two-bedroom apartment at Fair Market Rent (FMR) values. This reality heightens the importance of income supports like the Earned Income Tax Credit (EITC), which lifts millions out of poverty each year.

The Working Group's Recommendation

A Minimum Wage of \$13 by 2018

The Working Group recommends that the City establish a Chicago minimum wage of \$13, phase in the increase over four years, and index it to inflation going forward. We also recommend that the City increase the minimum wage for tipped employees by \$1 above the tipped minimum set by state law – currently \$4.95 – over two years and index it to inflation.

Proposed Minimum Wage Increase Over Time

Year	Non-Tipped	Tipped
2014	\$8.25	\$4.95
2015	\$9.50	\$5.45
2016	\$10.75	\$5.95
2017	\$12.00	\$6.08*
2018	\$13.00	\$6.23*
2019	\$13.31*	\$6.38*
2020	\$13.63*	\$6.53*

*Increase due to inflation

What is the Tipped Minimum Wage?

Under Illinois law, employers are allowed to pay tipped employees a minimum wage equivalent to 60 percent of the state minimum. The current tipped minimum wage is \$4.95 an hour, but on average tipped employees in the Chicago region earn \$10.50 an hour once tips are factored into their income. State law mandates that employers ensure that all employees take home at least the state minimum of \$8.25, requiring businesses to compensate employees who failed to reach \$8.25 in tips during a given pay period.



Why \$13?

A minimum wage of \$13 takes into account higher costs of living in Chicago as compared to the rest of the state and would increase the earnings for 31% of Chicago workers. The Working Group anticipates that a \$13 minimum wage would boost the local economy by \$800 million. By setting the Chicago minimum wage at \$13 following a statewide increase to \$10.65, the City would be accounting for the fact that the metro region's cost of living is 20 percent higher than the rest of the state. In fact, a Chicago minimum wage of \$13 is roughly equivalent to a wage of \$10.65 in the rest of the state when costs of living are factored into the amount.

Exemptions

Our proposal includes a number of exemptions to prevent the minimum wage increase from having unintended negative consequences on other important policy priorities. In most cases, we recommend simplifying the compliance process for businesses by adopting existing exemptions in Illinois state law. We recommend that the language adopting state exemptions be drafted to incorporate any future changes to state law.

The Working Group discussed other issues that appear to be best handled at the state or federal level, there being no compelling reason to differentiate Chicago from other parts of the state and nation. One example of this was the question of whether to repeal the exception to the Federal Labor Standards Act that allows a sub-minimum wage for supported work for people with disabilities. While there was substantial support for recommending such a change amongst Working Group members, we recommend that the decision be left to state or federal government.

Youth and Transitional Employment Programs

We recommend that the Mayor's proposal include an exemption from the Chicago minimum wage for (i) transitional subsidized employment programs and (ii) nonprofit programs that employ youth under the age of 25 as part of a youth employment program. These programs are designed to provide youth and hard-to-employ individuals with the training, experience, and other support to help them develop emotionally and professionally. The exemption should not apply to youth that are employed by private or nonprofit employers in permanent or temporary positions outside of the scope of a youth employment program.

Youth Wage

The Working Group also recommends that the Chicago minimum wage ordinance adopt the existing state exemption for youth under the age of 18. Under state law, youth under 18 can be paid a wage that is 50 cents below the state minimum wage. We believe this exemption is appropriate because employees under 18 are not yet adults and unlikely to be heads of household with families to support. To prevent the Chicago minimum wage increase from having a negative impact on youth employment, we believe it is necessary to adopt the state exemption.

Training Wage

To continue to allow employers to train workers during a limited probationary period, the Working Group recommends that the City maintain the current state exemption that allows employers to pay learners a wage no less than 70 percent of the state minimum. Employers must apply to the Illinois Department of Labor (DOL) for authorization to pay a learner's wage for a period not to exceed six months.

Disabled Workers

We recommend that the City minimum wage ordinance retain the existing state authorization for employers to provide a subminimum wage to disabled workers when authorized by the DOL.

Other State Exclusions

The Working Group recommends that the City retain the exclusions from the definition of "employee" in 820 ILCS 205/3(d). These exclusions include:

- An exclusion for small businesses that allows the employer to pay a subminimum wage where the business has less than 4 employees not counting the employer's parent, spouse, child, or other members of immediate family. This exemption exists to allow the smallest businesses that rely upon family to get off of the ground and make ends meet.
- An exclusion for members of religious organizations or corporations. Under state law, this exemption applies to individuals who perform religious or spiritual functions such as priests, rabbis, nuns, imams, and pastors, but does not include laypersons who otherwise work for these entities.
- Authorization for students in work-study programs to be paid a sub-minimum wage.



Impact on Business

In evaluating options for potential minimum wage increases, the Working Group analyzed the potential impact on different types of businesses. Our analysis indicated that a minimum wage of \$13 phased in over four years would result in increases in overall costs ranging from 1-2 percent each year. Overall, our proposal, when adjusted for inflation, will increase the minimum wage by 45 percent over four years - a proportion on par with the most recent federal minimum wage increase of 34.1 percent over three years from 2007-09.

How Will Businesses Respond

While each business will respond to increased personnel costs in its own way, the Working Group reviewed a wide range of studies that suggest that the impact on jobs and costs from prior minimum wage increases has been small. Generally, the studies reviewed found small impacts on employment generally under 1 percent with a few outliers. In addition, some studies showed a heightened, though small, impact on young workers with associated price increases of less than 10 percent. It is important to note that these studies reviewed minimum wage increases of the past few decades, which resulted in real value wage increases ranging from 34.1 percent over three years from 2007 to 2009 to 19 percent over two years from 1990 to 1991. Our proposed increase is on par with the 2007 increase in that it would increase the value of the wage by 45 percent over four years, leading us to believe that these studies provide a reasonable predictor of how businesses would respond. The Working Group anticipates that the anticipated \$800 million in economic activity will blunt or reverse potential job losses. For example, a study performed on San Francisco's minimum wage increase showed an overall growth in private employment during the same period as the increase.

We have included a listing and summary of the studies in Appendix B.

Other Recommendations

Cracking Down on Wage Theft

Although a minimum wage is crucial for securing the economic future of Chicago's workers, the Working Group acknowledges that much can still be done to ensure that Chicagoans are receiving the wage they have rightfully earned. A recent study by the University of Illinois-Chicago's Center for Urban Economic Development found that approximately \$7.3 million in employee wages are stolen in Cook County each week. In response to this issue, City Council and Mayor Emanuel worked together in January of 2013 to pass an ordinance that made Chicago a national leader in the protection of employee wages. Co-sponsored by Aldermen. Ameya Pawar (47), Danny Solis (25) and Ald. Emma Mitts (37), along with Mayor Emanuel, the ordinance enabled the City to ensure that businesses convicted of violating state and federal consumer protection or labor laws such as wage theft will come into compliance with the law, or risk City license denial or revocation. However, the Group urges that the State join the City by taking more action to address this urgent issue for Chicago's workers and ensure that Chicagoans are safeguarded from wage theft.

Expanding the Earned Income Tax Credit

The EITC is the nation's largest and most successful bipartisan anti-poverty program that provides critical funds for working families and individuals, particularly those with children. Each year, the EITC lifts more than 6 million families out of poverty by enabling them to receive a tax credit of more than \$6,000, and an Illinois EITC of more than \$600. The average EITC recipient receives a refund of \$2,200. This money often makes a significant difference for the recipients and their ability to meet essential daily expenses.

The Working Group supports efforts to expand the EITC. Currently the EITC is unavailable to childless workers under the age of 25, and for childless workers older than 25, the credit is less than one tenth the average credit for filers with children. The Illinois General Assembly should expand the EITC by lowering the childless eligibility age to 21 and doubling the maximum credit available to childless filers. In addition, the Working Group applauds recent efforts to double the portion of the Illinois state EITC from 5 percent to 10 percent, and calls for the state portion to be doubled again to 20 percent.

Study of Chicago Minimum Wage Impact Going Forward

To inform future policy making of the City of Chicago and other governments, we recommend the impact of the minimum wage increase on Chicago residents and its businesses be studied over the next several years. To that end the Polk Bros. Foundation has graciously offered to contribute \$25,000 to fund such work.

Benefits Credit

The Working Group considered the potential incorporation of a benefits credit for employers that provide health insurance, paid sick leave, child care support, or pension benefits. While we did not include a benefits credit in our final recommendation, we urge the City Council to consider the issue further.

A Progressive Income Tax

A majority of Working Group members also supports implementing a progressive income tax for the state of Illinois. The state remains an outlier nationally by continuing to impose a flat income tax. Reforming the Illinois tax code by making it progressive would help reduce income inequality by reducing taxes for low-income families and increasing them for the highest earners and also ensure that the state generates the revenue needed for programs that support work and a fair opportunity for upward mobility, such as education and an expanded state EITC.

Achieving Pay Equity

A majority of Working Group members also supports efforts to address structural barriers to women's progress that contribute to long-standing gender-based wage gaps nationally and in Illinois. Women today earn only 77 cents for every dollar earned by men, and this is reflected in the finding that women make up 55 percent of all wage earners making \$13 per hour or less in Chicago. In addition, black women earn 69.5 percent, and Hispanic women 60.5 percent, compared to the earnings of their white male counterparts. Tackling this enduring social issue will require several important policy changes, such as efforts to ensure workers have access to paid sick leave, and proposals at the federal level to create paid family and medical leave programs.

Final Vote on the Minimum Wage Proposal

Working Group Member	Vote on Proposal
John Bouman	Yes
Will Burns	Yes
Carrie Austin	Yes
Deborah Bennett	Yes
Matt Brandon	Yes
Walter Burnett	Yes
Sol Flores	Yes
Theresa Mintle	No
Emma Mitts	Yes
Joe Moore	Yes
Ameya Pawar	Yes
Maria Pesqueira	Yes
Ariel Reboyras	Yes
JoAnn Thompson	Yes
Sam Toia	No
Tanya Triche	No
Andrea Zopp	Yes

Appendix A

Methodology



Business Impact

The Working Group developed a series of case studies to quantify the impact of a minimum wage increase on selected industries – primarily restaurants, retail merchants, hotels, and health care providers. The basis of our wage data was the May 2013 Metropolitan and Nonmetropolitan Area Occupational Employment and Wage Estimates for the Chicago-Joliet-Naperville, IL Metropolitan Division. These estimates provided wage rates at the 10th, 25th, 50th 75th, and 90th percentiles.

Using industry reports and interviews with business owners, we constructed wage models for various businesses, detailing the number of employees per business by occupation and assigning a wage percentile to the business depending on its wage structure. We then modeled the estimated increase in wages both with and without a change to the minimum wage beginning in 2015 and continuing through 2025. We then excluded the impact on inflation to show figures in real (2014) dollars.

Importantly, we assumed that not only would wages increase but also that a series of wage-based benefits and taxes would increase as well, including payroll taxes, workers compensation, unemployment insurance, and vacation/sick leave. However, we did not increase payroll costs to account for non-wage based benefits such as health insurance, free food, or uniforms. For all case studies we assumed an additional 19 cents in non-wage costs on top of every dollar a business spent directly on wages.

We increased wages not only for employees whose wages were below the minimum wage but also for those who are slightly above the minimum wage, accounting for a “spillover effect” cited in numerous studies. After a review of the academic research we incorporated into our calculations an assumption that any worker making within 10% of the new minimum wage would see an increase of double the CPI in a given year. We are already assuming every employee receives an increase of the CPI annually, so the spillover effect is added on to the already inflation-adjusted wage. For example, assuming a \$13 minimum wage, an employee in 2018 who would make \$14.00 (7.7% above the minimum wage), would then make \$14.34, or 2.4% above what they normally would have made. This assumption held constant through all of our case studies.

Lastly, we looked at the impact of these increases on both the personnel and overall business expenses. We have more confidence about our projected impact on personnel expenses – the overall expenses estimates are based on commonly reported estimates of the proportion of overall expenses represented by personnel costs. These numbers can vary significantly from business to business, from the 20 percent range in the fast food industry to the 45 percent range in the hotel industry.

Economic Stimulus

To calculate the economic stimulus resulting from a minimum wage increase, the Working Group:

- Used Census Bureau and Bureau of Labor Statistics data to derive the distribution of wages and income for Chicago workers.
- Totaled the increased wages for this distribution of wages and translated them into 2014 dollars
- Assumed no job loss in these figures
- Assumed all workers would receive a wage increase equivalent to CPI and subtracted that increase from the total
- Reduced the stimulus number by anticipated amount of additional taxes paid by individuals – approximately 25 percent – giving us the net wages associated with the proposed minimum wage increase.
- Used a multiplier of 0.38 based upon the work of Mark Zandi of Moody Analytics, with downward adjustments based on changes in the national economy since his original study and assumptions that some of the spending would take place outside of Chicago.

Appendix B

Summary of Academic Research

The Working Group assembled the following listing and summary of the studies on the topic of minimum wage increases and their impacts. Although not an exclusive list, the following has provided useful context to the Group on impacts of minimum wage increases on employment, price pass-throughs, and overall consumer spending.

Study	Authors	Year	Findings
The Effects of a Minimum-Wage Increase on Employment and Family Income	Congressional Budget Office	2014	<ul style="list-style-type: none"> • With minimum wage increase (either \$10.10 option or \$9.00 option), most low-wage workers would see increase in income (16.5 million workers for \$10.10 option and 7.6 million for \$9.00 option) • Employment would fall slightly (\$10.10 option – 0.3% decline, \$9.00 option – >.1% decline)
Local Minimum Wage Laws: Impacts on Workers, Families and Businesses	Michael Reich, Ken Jacobs, Annette Bernhardt	2014	<ul style="list-style-type: none"> • A meta-analysis shows minimum wage laws lead to positive income effects and reduces pay inequality • Costs to businesses are absorbed by reduced turnover costs and by small restaurant price increases • Price increases outside the restaurant industry are largely negligible • 1 to 2 percent increase in restaurants' operating cost and .7% one-time increase in price for every 10 percent increase in minimum wage
The Paychex IHS Small Business Jobs Index	Paychex/IHS	2014	<ul style="list-style-type: none"> • In survey of employment in small businesses, found that the state with the highest percentage of annual job growth was Washington, the state with the highest minimum wage in the nation, \$9.32 an hour • The metropolitan area with the second highest percentage of annual job growth was San Francisco — the city with the highest minimum wage in the nation, at \$10.74
Raise Chicago: How a higher minimum wage would increase the wellbeing of workers, their neighborhoods, and Chicago's economy	The Center for Popular Democracy (CPD)	2014	<ul style="list-style-type: none"> • Report finds that a targeted \$15 minimum wage would: • Increase wages: \$1.47 billion in new gross wages • Stimulate Chicago's economy: \$616 million in new economic activity and 5,350 new jobs • Increase city revenues: Almost \$45 million in new sales tax revenues • Decrease labor turnover: as much as 80% less annual turnover • Slightly increase some consumer prices: 2% price hikes at covered firms and franchises • Evidence shows manufacturing will be the most impacted sector
Raising the Minimum Wage: Reviewing the Evidence on Why Minimum Wage Increases Boost Incomes Without Reducing Employment	National Employment Law Project (NELP)	2014	<ul style="list-style-type: none"> • Reviews research on the impact of raising the minimum wage, drawing three conclusions: • Raising the minimum wage – including at the city-wide level – boosts incomes for low-paid workers without reducing overall employment • Opponents of raising the minimum wage rely on outdated studies that use imprecise methodologies and fail to take advantage of the

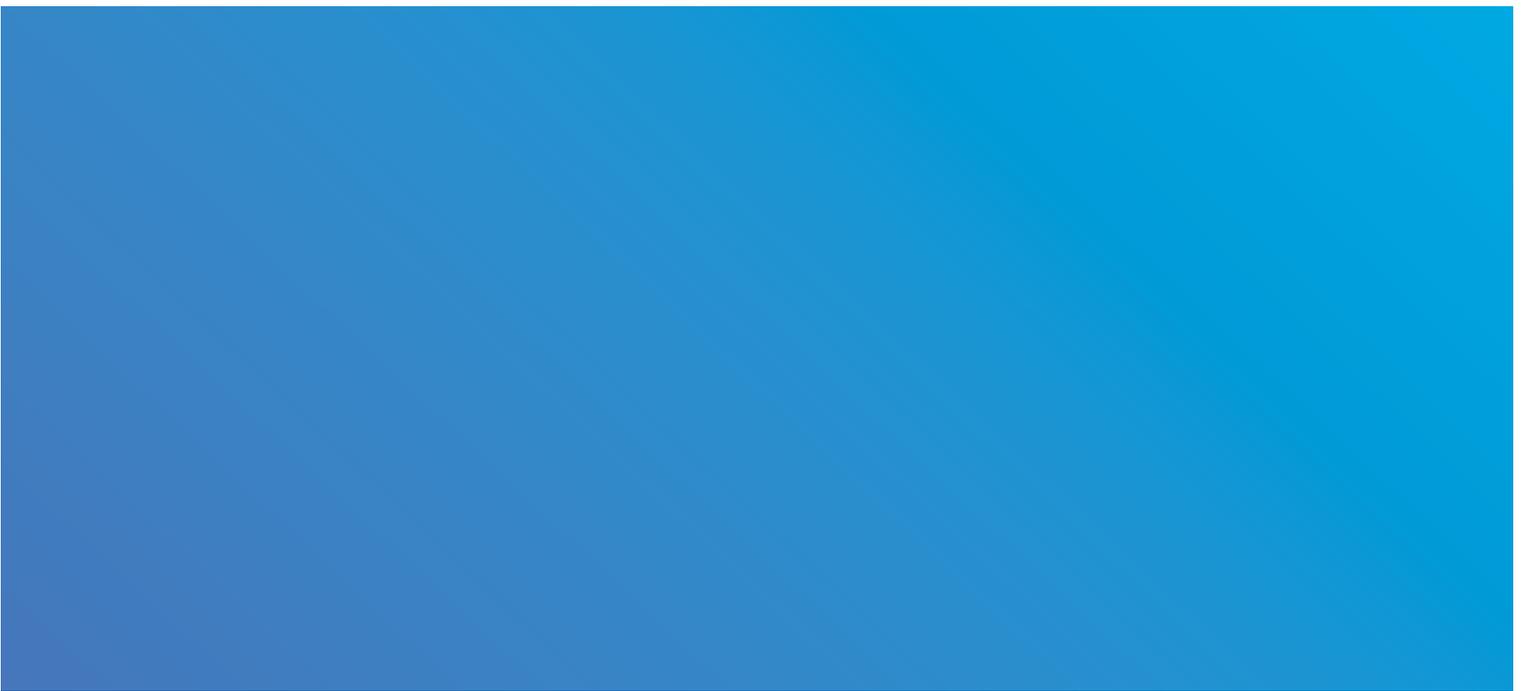
			<p>most recent advancements in economic research</p> <ul style="list-style-type: none"> • Businesses are able to pay higher wages without reducing employment due to a range of factors, including higher productivity and reductions in employee turnover that consistently result from minimum wage increases
Out of Reach 2014	National Low Income Housing Coalition	2014	<ul style="list-style-type: none"> • A full-time worker needs to earn \$18.92 an hour to afford a two-bedroom rental in the U.S., without spending more than 30 percent of income toward rent, according to an annual report by the National Low Incomng Housing Coalition • In Chicago, you'd need to make between \$18.25 and \$19.25 an hour to afford a typical two-bedroom rental
Raising Chicago's Minimum Wage: Background on the Proposal for a \$15 City Minimum Wage for Chicago	National Employment Law Project (NELP)	2014	<ul style="list-style-type: none"> • Provides background on characteristics of Chicago workforce earning less than \$15 an hour and summary of economic evidence on impact of wage increase: • 38% of Chicago's workers earn less than \$15 per hour, including disproportionate numbers of female, black, and Hispanic workers • Over half of workforce earning less than \$15 per hour is estimated to be employed by large companies with annual revenue of \$50 million or more • Research on the impact of other cities' minimum wage increases indicates that they have boosted earnings without reducing employment
Minimum Wage, Maximum Benefit	Illinois Economic Policy Institute (ILEPI); University of Illinois Labor Education Program	2014	<ul style="list-style-type: none"> • Report finds that raising the Illinois minimum wage to \$10 would: • Increase labor income by \$1.9 to \$2.3 billion for intended beneficiaries and by \$5.4 to \$7.2 billion for all workers; • Cause either a small drop or small gain in employment (between -70,000 and 32,000 jobs); • Have no impact or a small impact on weekly hours worked (between -0.7 and 0.0 hours per worker); • Generate \$141.2 to \$192.2 million in new annual state income tax revenue; and • Further raise total labor income by up to \$414.2 million annually if sub-minimum wage workers are actually paid the new minimum wage, increasing ten-year tax revenues by another \$63.0 million for Illinois' state and local governments and \$89.2 million for the federal government
When Mandates Work: Raising Labor Standards at the Local Level	Michael Reich	2014	<ul style="list-style-type: none"> • In San Francisco County, median family income increased from \$63,545 to \$85,778 between 1999 and 2006-2010, during a time when the minimum wage increased • During this same time period, household Income in SF relative to the United States increased from 1.31 to 1.37 and relative to California increased from 1.16 to 1.17 • The 10th percentile wage jumped in 2004, when the new minimum wage went into effect, and has remained constant, despite a decline in 10th percentile wage in surrounding counties

Raising The Federal Minimum Wage To \$10.10 Would Lift Wages For Millions And Provide A Modest Economic Boost	David Cooper (Economic Policy Institute (EPI))	2013	<ul style="list-style-type: none"> • Key findings include raising the federal minimum wage to \$10.10 by 2016 would return the federal minimum wage to roughly the same inflation-adjusted value it had in the late 1960s • An increase to \$10.10 would either directly or indirectly raise the wages of 27.8 million workers, who would receive about \$35 billion in additional wages over the phase-in period • Across the phase-in period of the increase, GDP would grow by about \$22 billion, creating roughly 85,000 net new jobs over that period • Among affected workers, the average age is 35 years old, nearly 88 percent are at least 20 years old, and more than a third (34.5 percent) are at least 40 years old • Of affected workers, about 54 percent work full time, about 69 percent come from families with family incomes less than \$60,000, and more than a quarter have children • The average affected worker earns half of his or her family's total income
How does a federal minimum wage hike affect aggregate household spending?	Federal Reserve Bank of Chicago	2013	<ul style="list-style-type: none"> • Article finds that a federal minimum wage hike would boost the real income and spending of minimum wage households • The impact could be sufficient to offset increasing consumer prices and declining real spending by most non-minimum-wage households and lead to an increase in aggregate household spending • The authors calculate that a \$1.75 hike in the hourly federal minimum wage could increase the level of real gross domestic product (GDP) by up to 0.3 percentage points in the near term, but with virtually no effect in the long term
Why Does Minimum Wage Have No Discernable Effect on Employment?	John Schmitt	2013	<ul style="list-style-type: none"> • In study of over hundred minimum wage studies, most since 1990s conclude that minimum wage has little/no discernable effect on employment prospects of low-wage workers • Most likely reason is cost shock of minimum wage is small relative to firms' costs
Minimum Wage Channels of Adjustment	Barry T. Hirsch, Bruce E. Kaufman, Tetyana Zelenska	2013	<ul style="list-style-type: none"> • Some evidence that minimum wage increases compress wages for higher paid workers • Following a federal wage increase, found that nearly half of employers interviewed would limit pay increases or bonuses for more experienced employees • No evidence of employment or hours effects
Minimum Wages: Evaluating New Evidence on Employment Effects	David Neumark and J.M. Ian Salas	2013	<ul style="list-style-type: none"> • Strongly condemns the work of Dube et al. 2010 and Allegretto et al. 2011 as having flawed methods • Invalidates their findings that there are no employment losses from minimum wage increases
Minimum Wage Effects on Employment, Substitution, and the Teenage Labor Supply: Evidence from Personnel Data	Laura Giuliano	2013	<ul style="list-style-type: none"> • Examining large US retail firm's response to 1996 federal minimum wage increase, found increase in average wage had negative (but statistically insignificant) effects on employment (-.01% to -.09%) • Found increase in relative employment of

			teenagers, especially among younger, more affluent teens
Effects of the Minimum Wage on Employment Dynamics	Jonathan Meer and Jeremy West	2013	<ul style="list-style-type: none"> Using state panel data, found that minimum wage reduces net job growth by about 0.5 percentage points while employment level remains unchanged Effects are most pronounced for younger workers and industries with a higher proportion of low-wage workers
Minimum Wage Channels of Adjustment	Barry Hirsch, Bruce Kaufman, Tetyana Zelenska	2013	<ul style="list-style-type: none"> Small to no statistically significant impact of the federal minimum wage increase on restaurant employment and employee hours in Georgia and Alabama
Are the Effects of Minimum Wage Increases Always Small?: New Evidence from a Case Study of New York State	Joseph Sabia, Richard V. Burkhauser, Benjamin Hansen	2012	<ul style="list-style-type: none"> Using Current Population Survey data for 16-to-29-year-olds without a high school diploma found evidence that minimum wage increase from \$5.15 to \$6.75 was associated with 20.2 to 21.8% reduction in employment
Revisiting the Minimum Wage-Employment Debate: Throwing Out the Baby with the Bathwater?	David Neumark and J.M. Ian Salas	2012	<ul style="list-style-type: none"> Reviewing recent minimum wage research, concludes research showing positive employment effects flawed Concludes evidence still shows minimum wages pose tradeoff of higher wage for some against job losses for others 4.2% decline in youth employment
Do Minimum Wages Really Reduce Teen Employment?	Sylvia Allegretto, Arindrajit Dube, and Michael Reich	2011	<ul style="list-style-type: none"> Using Current Population Survey data on teens for 1990-2009, find no statistically significant employment effects of minimum wage Finds that employment effects do not vary by business cycle
Using Federal Minimum Wages to Identify the Impact of Minimum Wages on Employment and Earnings Across the U.S. States	Yusef Soner Baskaya and Yona Rubinstein	2011	<ul style="list-style-type: none"> Using CPS data for 1977-2007, found notable wage impacts and large corresponding disemployment effects (-1%), yet only when utilizing the differential influences of federal minimum wages to instrument for state wage floors
Minimum Wage Effects Across State Borders: Estimates Using Contiguous Counties	Arindrajit Dube, T. William Lester, and Michael Reich	2010	<ul style="list-style-type: none"> Among contiguous county-pairs over 10 years, there are no adverse employment effects to minimum wage There are strong positive earnings effects
The Teen Employment Crisis: The Effects of the 2007-2009 Federal Wage Increases on Teen Employment	William E. Even and David A. Macpherson	2010	<ul style="list-style-type: none"> Using state-level data for 2007 federal wage hike, there was a 6.9% decline in employment for teens and 12.4% decline in employment for teens with less than 12 years of education
Using Local Labor Market Data to Re-Examine the Employment Effects of the Minimum Wage	Jeffrey P. Thompson	2009	<ul style="list-style-type: none"> Using quarterly Census data for 1996-2000 on county level, no evidence of employment effects In counties where minimum wage increase was binding, some evidence for negative impact Suggests regional variation in minimum wage effects

The Effects of Minimum Wage Increases on Retail Employment and Hours: New Evidence from Monthly CPS Data	Joseph J. Sabia	2008	<ul style="list-style-type: none"> Monthly CPS data from 1979-2004 shows 10% increase in minimum wage associated with 1% decline in retail trade employment and weekly hours worked Larger negative employment and hours effects for least experienced workers in retail sector
The Economic Effects of a Citywide Minimum Wage	Arindrajit Dube, Suresh Naidu, Michael Reich	2007	<ul style="list-style-type: none"> San Francisco's indexed minimum wage increased worker pay and compressed wage inequality Did not create any detectable employment loss among affected restaurants 6.2% increase (statistically significant) in fast-food restaurant prices compared to neighboring area that did not raise minimum wage 2.8% increase (not statistically significant) in overall restaurant prices compared to neighboring area that did not raise minimum wage
The Minimum Wage, Restaurant Prices, and Labor Market Structure	Daniel Aaronson, Eric French, and James MacDonald	2007	<ul style="list-style-type: none"> No evidence that prices fall in response to a minimum wage increase Price increase effects more pronounced among fast food restaurants
Minimum Wages and Employment: A Review of Evidence from the New Minimum Wage Research	David Neumark, William Wascher	2006	<ul style="list-style-type: none"> In study of 90 minimum wage studies from 1996-2006, majority points to slight negative employment effects Concludes no consensus on overall effects of minimum wage
The Dissipation of Minimum Wage Gains for Workers Through Labor-Labor Substitution	David Fairris and Leon Fernandez Bujanda	2005	<ul style="list-style-type: none"> Find evidence of labor-labor substitution by city contractors in response to the Los Angeles living wage ordinance – substitution for workers with more years of schooling, prior formal training, etc. Intended wage gain for workers is dissipated by roughly 40% through labor-labor substitution
The Effects of Minimum Wages Throughout the Wage Distribution	David Neumark, Mark Schweitzer and William Wascher	2004	<ul style="list-style-type: none"> Evidence for low-wage workers experiencing wage gains and high-wage workers experience little effects Low-wage workers experience hours and employment decline - "adverse consequences, on net, for low-wage workers"
Living Wages and Economic Performances	Michael Reich, Peter Hall, Ken Jacobs	2003	<ul style="list-style-type: none"> Study of San Francisco airport workers showed turnover dramatically fell after pay rose from \$5.75 to \$10 No evidence of significant reduction in employment Turnover rate dropped by a statistically significant amount
Minimum Wage Effects on Hours, Employment, and Number of Firms: The Iowa Case	Peter F. Orezem and J. Peter Mattila	2002	<ul style="list-style-type: none"> Analysis of county-level data of Iowa minimum wage changes in 1990, 1991, and 1992 suggests negative employment elasticities (-.3 to -.85) and reduced number of firms
The effect of the minimum wage on employment and hours	Madeline Zavodny	2000	<ul style="list-style-type: none"> Using state and individual level panel data, found evidence of some potential employment loss among teens No evidence for negative effect on hours worked in teens
Employment and the	Donald Deere, Kevin	1995	<ul style="list-style-type: none"> Comparing the year before and after a federal minimum wage hike in 1990, employment of men

1990-1991 Minimum Wage Hike	M. Murphy, Finis Welch		<ul style="list-style-type: none"> 25-64 fell 2.5% while women fell 0.3% Reduction among low wage workers is greater than expected in the period after a minimum wage increase (4.8% for teenagers, 6.6% for teenage black females 7.5% for teenage black males)
Minimum Wage Laws and the Distribution of Employment	Kevin Lang	1995	<ul style="list-style-type: none"> Found evidence of increase in employment but displacement of low-skill workers in favor of higher-skill workers
The Employment Effect in Retail Trade of California's 1988 Minimum Wage Increase	Taeil Kim and Lowell J. Taylor	1995	<ul style="list-style-type: none"> Evaluating California's 1988 minimum wage increase in retail trade industry, found evidence suggesting that employment growth may have been tempered by wage increase
Minimum Wages and Employment: A Case Study of the Fast-Food Industry in New Jersey and Pennsylvania	David Card and Alan B. Krueger	1994	<ul style="list-style-type: none"> No indication that the 1992 NJ rise in minimum wage reduced employment
Comment on David Neumark and William Wascher, 'Employment Effects of Minimum and Subminimum Wages: Panel Data on State Minimum Wage Laws.'	David Card, Lawrence F. Katz, Alan B. Krueger	1994	<ul style="list-style-type: none"> Argues that Neumark and Wascher's findings are invalid due to flaws in empirical analysis and that their data does not support negative employment effects
Employment Effects of Minimum and Subminimum Wages	David Neumark and William Wascher	1992	<ul style="list-style-type: none"> Using panel data of state minimum wage laws, a 10% increase in minimum wage causes a decline of 1-2% in teenage employment and 1.5-2% decline for young adults
Using Regional Variation in Wages to Measure the Effects of the Federal Minimum Wage	David Card	1992	<ul style="list-style-type: none"> Evaluating 1990 increase in federal minimum wage, found evidence for increase in teenagers' wages Found no corresponding losses in teenage employment or in teenage school enrollment





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The minimum wage and employment dynamics

Jonathan Meer, Jeremy West 10 September 2013

The recent proposal by President Obama to raise the federal minimum wage has brought this issue back into the limelight. This column presents new research suggesting minimum-wage policies may not cause an immediate shock to employment, as is often feared, but do cause a reduction in the rate of net job growth. The long-run prospects for individuals are damaged, as they are delayed the opportunity to develop skills and work experience – that crucial first rung on the career ladder.

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The minimum wage remains one of the most controversial policies in both the public discourse and labour economics. The recent proposal by President Obama to raise the federal minimum wage has brought this issue to the fore once again (see Aaronson and French 2013). The reaction was predictable: some argued that this would cause serious unemployment problems, while others pointed to opposing research showing that the minimum wage has little, if any, effect on employment.

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New research

In recent research, we revisit the question of the effects of the minimum wage using an alternative approach (Meer and West 2013). We directly examine employment dynamics – namely, the rate of net job growth – rather than the total number of jobs. The minimum wage is more likely to impact employment dynamics for a number of reasons, and we estimate the effects on net job growth using data from the US Census Bureau, finding that the minimum wage reduces net job growth, primarily through its effect on job creation by expanding establishments.

Minimum wage and fast food, a classic but contentious study

The most commonly cited economics research on the minimum wage is a 1994 paper by David Card and Alan Krueger. The authors surveyed about 400 fast food restaurants in New Jersey and Pennsylvania immediately before and about nine months after New Jersey increased its minimum wage. They compared employment at these restaurants before and after the increase, between the state with and the state without an increase, and found no impact of the minimum wage. There have been numerous papers in the two decades following the publication of Card and Krueger's work, some of which criticised their methodology and found negative effects of the minimum wage on employment. Others, using increasingly sophisticated econometric techniques and broader data, have also found no effects. It would be safe to characterise the state of the literature on the subject as 'contentious'.

While nearly every paper in the long literature on minimum wages and employment has focused on the number of people employed, there are several reasons, grounded both in theory and data, to expect the effects to be reflected in the rate of net job growth (see, e.g., Sorkin 2013). Despite the predictions of neoclassical economics, a near-instantaneous adjustment to a new level of employment in response to higher labour costs is unlikely (Hamermesh 1989). These transitions



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may be slow due to adjustment costs or even an aversion to firing existing employees, so it is more likely that minimum wage increases result in a change in the rate at which employment grows.

This phenomenon becomes more clear when one considers the composition of the minimum-wage work force. Using the Current Population Survey's Merged Outgoing Rotation Groups from 1979 to 2011, we found that, although only about 3.3% of all employees are paid the minimum wage, nearly 12% of those who enter the workforce are paid that amount. Indeed, nearly a third of minimum-wage workers are recent workforce entrants. Minimum-wage workers are also likely to transition to higher pay quickly: of those who remain employed after one year, about 60% are paid in excess of the minimum wage the following year. As such, it seems likely that any effects of the minimum wage are more likely to be reflected among new workers and in new job openings than on the existing stock of employment.

Dynamics

Yet, the previous literature has not focused on dynamics. This is particularly worrisome because, unlike many of the other policies that economists study, the minimum wage is characterised by frequent, relatively small increases. This means that slow adjustments in response to these increases are difficult to detect. Moreover, in Meer and West (2013), we use a simulation to show that a common practice in regression analysis in this literature – including state-specific time trends – leads to incorrect estimation of the effect of the minimum wage on the level of employment when the true effect is on the rate of employment growth. Essentially, the deck is often stacked against finding any effect.

The data for our study are drawn from the Business Dynamics Statistics, which covers the population of non-agricultural private employer businesses between 1977 and 2011. The underlying data are sourced from mandatory employer tax filings and aggregated by state in each year. The Business Dynamics Statistics includes not only the number of jobs in each state for every year, but the number of jobs created by expanding establishments and the number of jobs destroyed by contracting establishments. These numbers are used to calculate the rate of net job growth.

We combine the Business Dynamics Statistics with data on state minimum wages and other state attributes, like the state economic environment, to estimate how the minimum wage affects the rate of net job growth. We also account for annual shocks to the outcome variables occurring at the regional level, to account for any conditions that lead a state to see both a change in the minimum wage and job growth. This would be a concern if, for instance, a state legislature responded to lower job growth with a minimum-wage increase. We also conduct a number of robustness checks to ensure that our results are not driven by spurious correlation. For instance, we show that future increases in the minimum wage do not predict current job growth outcomes. If they did, we would be concerned that other factors are driving the correlation.

Results

Our findings are unequivocal: higher minimum wages lead to lower rates of job growth. Indeed, a ten percent increase in the minimum wage causes roughly half a percentage point reduction in the rate of job growth, a very large effect. The effect of this hypothetical increase is not permanent, though, since it is eroded by inflation and increases in the state's comparison group. Our calculations show that this ten percent increase in a state's real minimum wage, relative to its regional neighbours, causes a 1.2% reduction in total employment relative to what it would have been. We further find that this appears to be driven primarily by reductions in job creation by expanding establishments, not by increases in job destruction by contracting establishments. Essentially, then, the intuition is that employers respond to the minimum wage by growing more slowly.

Judging whether the effect we find is large or small is not necessarily simple. Some might point to a 1.2% reduction in the level of employment after five years and argue that is relatively small – it represents about 23,000 fewer jobs for the average state – and that those who earn the minimum wage and remain in the labour force would earn more. But that argument seems coldly indifferent to those who remain outside of the labour market, unable to take advantage of the relatively rapid transitions out of minimum-wage jobs. At a broader level, it is important to note that, in contrast to

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much of the previous literature and the dismissiveness of some advocates, we document that the minimum wage does, in fact, affect employment.

Conclusions

The District of Columbia City Council recently passed an ordinance that would raise the District's minimum wage to \$12.50 per hour, but that would apply only to large retailers. In response, Wal-Mart announced that it would no longer build three of the stores it had planned to open in the city. This sort of response is precisely the type of effect that we found in our study: a reduction of job creation, not a loss of existing jobs. Minimum-wage policies may not cause an immediate shock to employment, as is often feared, but a reduction in the rate of net job growth. This effect is all the more insidious for being difficult to detect. Employment growth is slowed, but more importantly, the long-run prospects for individuals are damaged, as they are delayed in the opportunity to develop skills and work experience – to grasp that crucial first rung on the career ladder.

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The Minimum We Can Do

By **Arindrajit Dube** November 30, 2013 2:25 pm

The Great Divide is a series about inequality.

During most of the 20th century, wages in the United States were set not just by employers but by a mix of market and institutional mechanisms. Supply and demand were important factors; collective bargaining and minimum wage laws also played a key role. Under Presidents Franklin D. Roosevelt and Richard M. Nixon, we even implemented more direct forms of wage controls.

These direct interventions, however, were temporary, and unions have become rare in most parts of the United States — virtually disappearing from the private sector. This leaves minimum wage policies as one of the few institutional levers for setting a wage standard. But while we can set a wage floor using policy, should we? Or should we leave it to the market and deal with any adverse consequences, like poverty and inequality, using other policies, like tax credits and transfers? These longstanding questions take on a particular urgency as wage inequality continues to grow, and as we consider specific proposals to raise the federal minimum wage — currently near a record low — and to index future increases to the cost of living.

The idea of fairness has been at the heart of wage standards since their inception. This is evident in the very name of the legislation that established the minimum wage in 1938, the Fair Labor Standards Act. When Roosevelt sent the bill to Congress, he sent along a message declaring that America should be able to provide its working men and women “a fair day’s pay for a fair day’s work.” And he tapped into a popular sentiment years earlier when he declared, “No business which depends for existence on paying less than living wages to its workers has any right to continue in this country.”

This type of concern for fairness actually runs deep in the human psyche. There is a widespread sense that it is unfair of employers to take advantage of workers who may have little recourse but to work at very low wages. For example, the economists Colin F. Camerer and Ernst Fehr have documented in numerous experimental studies that the preference for fairness in transactions is strong: individuals are often willing to sacrifice their own payoffs to punish those who are seen as acting unfairly, and such punishments activate reward-related neural circuits. People also strongly support banning transactions they see as exploitative of others — even if they think such a ban would entail some economic costs.

Of course, if most minimum wage workers were middle-class teenagers, many of us might shrug off concerns about their wages, since they are taken care of in other ways. But in reality, the low-wage work force has become older and more educated over time. In 1979, among low-wage workers earning no more than \$10 an hour (adjusted for inflation), 26 percent were teenagers between 16 and 19, and 25 percent had at least some college experience. By 2011, the teenage composition had fallen to 12 percent, while over 43 percent of low-wage workers had spent at least some time in college. Even among those earning no more than the federal minimum wage of \$7.25 in 2011, less than a quarter were teenagers.

Support for increasing the minimum wage stretches across the political spectrum. As Larry M. Bartels, a political scientist at Vanderbilt, shows in his book “Unequal Democracy,” support in surveys for increasing the minimum wage averaged between 60 and 70 percent between 1965 and 1975. As the minimum wage eroded relative to other wages and the cost of living, and inequality soared, Mr. Bartels found that the level of support rose to about 80 percent. He also demonstrates that reminding the respondents about possible negative consequences like job losses or price increases does not substantially diminish their support.

These patterns show up in recent survey data as well, as over three-quarters of Americans, including a solid majority of Republicans, say they support raising the minimum wage to either \$9 or \$10.10 an hour. It is therefore not a surprise that when they have been given a choice, voters in red and blue states alike have consistently supported, by wide margins, initiatives to raise the minimum wage. In

2004, 71 percent of Florida voters opted to raise and inflation-index the minimum wage, which today stands at \$7.79 per hour. That same year, 68 percent of Nevadans voted to raise and index their minimum wage, which is now \$8.25 for employees without health benefits. Since 1998, 10 states have put minimum wage increases on the ballot; voters have approved them every time.

But the popularity of minimum wages has not translated into legislative success on the federal level. Interest group pressure — especially from the restaurant lobby — has been one factor. Ironically, the very popularity of minimum wages may also have contributed to the failure to automatically index the minimum wage to inflation: Democratic legislators often prefer to increase the wage themselves since it allows them to win more political points. While 11 states currently index the minimum wage, only one, Vermont, did so legislatively; the rest were through ballot measures.

As a result of legislative inaction, inflation-adjusted minimum wages in the United States have declined in both absolute and relative terms for most of the past four decades. The high-water mark for the minimum wage was 1968, when it stood at \$10.60 an hour in today's dollars, or 55 percent of the median full-time wage. In contrast, the current federal minimum wage is \$7.25 an hour, constituting 37 percent of the median full-time wage. In other words, if we want to get the minimum wage back to 55 percent of the median full-time wage, we would need to raise it to \$10.78 an hour.

International comparisons also show how out of line our current policy is: the United States has the third lowest minimum wage relative to the median of all Organization for Economic Cooperation and Development countries. This erosion of the minimum wage has been an important contributor to wage inequality, especially for women. While there is some disagreement about exact magnitudes, the evidence suggests that around half of the increase in inequality in the bottom half of the wage distribution since 1979 was a result of falling real minimum wages. And unlike inequality that stems from factors like technological change, this growth in inequality was clearly avoidable. All we had to do to prevent it was index the minimum wage to the cost of living.

The social benefits of minimum wages from reduced inequality have to be weighed against possible costs. When it comes to minimum wages, the primary concern is about jobs. The worry comes from basic supply and demand: When labor is made more costly, employers will hire less of it. It's a valid concern, but what does the evidence show?

For the type of minimum wage increases we have implemented in the United States, the best evidence shows that the impact on jobs is small, although there is still a debate in the literature. There are estimates that do suggest job losses — most prominently associated with work by the economists David Neumark and William Wascher. Since the early 1990s, they have consistently argued that minimum wage increases lead to substantial job losses for low-wage workers: a 10 percent increase in the minimum wage can be expected to reduce jobs among a group like teenagers by between 1 and 3 percent. The methodology pioneered by Mr. Neumark and Mr. Wascher has a critical problem, however: it does not properly account for differences between high- and low-minimum-wage states. Essentially, they make the unrealistic assumption that low-wage employment trajectories are similar in states as diverse as Texas and Massachusetts.

As my colleagues and I show in our research, the states raising minimum wages have had very different trajectories when it comes to trends in demand conditions and business cycle variability. In fact, low-wage employment was often already falling (or growing more slowly) in the states raising the minimum wage — sometimes years before the actual wage increase. Such divergence in trends between the “treatment” and “control” groups is a telltale sign that the control group is being constructed improperly — a major issue for evaluating policies using nonexperimental evidence, otherwise known as real life.

The good news is that today we have much better tools in our toolbox. A particularly reliable methodology compares adjacent counties that are right across the state border but that experience different minimum wage shocks. Originally performed for a single case study of Pennsylvania and New Jersey by the economists David Card and Alan B. Krueger in 1994 and then again in 2000, this methodology has been substantially refined and expanded.

In my work with T. William Lester and Michael Reich, we use nearly two decades' worth of data and compare all bordering areas in the United States to show that while higher minimum wages raise earnings of low-wage workers, they do not have a detectable impact on employment. Our estimates — published in 2010 in the *Review of Economics and Statistics* — suggest that a hypothetical 10 percent increase in the minimum wage affects employment in the restaurant or retail industries, by much less than 1 percent; the change is in fact statistically indistinguishable from zero.

In my most recent work with Sylvia Allegretto, Ben Zipperer and Michael Reich, we confirm these results using four data sets covering over two decades, other low-wage groups like teenagers, and five different statistical techniques, including an increasingly popular method that uses past economic trends to construct a “synthetic” control group. And other researchers have independently reached the same conclusion: minimum wage effects on employment are small.

While the evidence may not convince the most strident of critics, it has shifted views among economists. A panel of 41 leading economists was asked recently by the University of Chicago's Booth School of Business to weigh in on President Obama's proposal to increase the minimum wage and automatically index it to inflation. A plurality, 47 percent, supported the policy, and only 11 percent opposed it, while the rest were uncertain or had no opinion. Only a third thought that the raise “would make it noticeably harder for low-skilled workers to find employment.”

But how can minimum wages rise without causing job losses? For starters, if the demand for burgers is not price sensitive, some of the cost increase can be passed on to customers without substantially reducing demand or jobs. Existing research suggests that if you raise the minimum wage by 10 percent, you can expect the price of a \$3 burger to rise by a few cents, which is enough to absorb a sizable part of the wage increase.

Going beyond simple supply and demand, economic models are getting better at incorporating frictions caused by the costs of finding jobs and filling vacancies, which turn out to be quite important when analyzing labor markets. There are good jobs and bad jobs at the low end of the labor market, and movements between these

lead to vacancies and turnover. If McDonald's is required to pay a higher wage, fewer of its workers will leave to take other jobs. This means fewer vacancies at McDonald's, and it means other employers are more likely to fill their job openings from the ranks of the unemployed — both of which can help keep unemployment down. So while higher costs may dissuade some employers from creating new positions, it also helps other employers recruit and retain workers. Moderate increases in the minimum wage, in other words, can reduce vacancies and turnover instead of killing jobs. In a follow-up study using our bordering areas methodology, we provide empirical evidence for this argument: while overall employment in low-wage sectors does not change much following a minimum-wage increase, worker turnover falls sharply as workers stay with their jobs longer.

But even if minimum wage policies reduce inequality and improve the functioning of low-wage labor markets, are there better alternatives when it comes to helping low-income families?

In a forthcoming study commissioned by the Department of Labor, I review the evidence using data from the past two decades and find clear evidence that minimum wage raises have helped lift family incomes at the bottom: a 10 percent increase in the minimum wage reduces poverty by around 2 percent.

The minimum wage can also increase the efficacy of a policy that is sometimes pushed as a substitute: the earned-income tax credit. This encourages more people to seek work, but can push wages down; a minimum wage ameliorates this. Of course, many families under the poverty line simply have no workers, making any work-based policy of limited help. This is why raising and indexing the minimum wage is just a part of the portfolio of policies we need to enact to ensure a decent living standard.

What are actual policy options when it comes to raising the minimum wage? At the federal level, the legislation proposed by Senator Tom Harkin, Democrat of Iowa, and Representative George Miller, Democrat of California, would raise the minimum wage to \$10.10 an hour, and index it to future cost of living increases. This is a sensible target that would be likely to put the minimum wage right around 50 percent of the median wage for full-time workers — close to the international

standard and our own norm during the 1960s and '70s. Indexation is critical — it replaces politics with economics as the adjustment mechanism and makes changes predictable. This is why even economists opposed to higher minimum wages support indexation.

Other policies can complement the federal minimum wage in building higher wage standards. City and state minimum wages play an important role in ensuring that places with higher costs of living have similarly higher wage standards. A number of cities have instituted “living wage” ordinances covering public sector workers and private city contractors. The most expansive of these ordinances cover major airports, like in the metropolitan areas of San Francisco, Los Angeles and most recently Seattle. Fast food workers in urban centers are beginning to organize and push for substantially higher voluntary wage standards at major chains. Together with a sensible federal minimum wage, these local initiatives can help rebuild wage standards and reduce inequality in a way that reflects our internal sense of fairness.

Arindrajit Dube is an associate professor of economics at the University of Massachusetts, Amherst, and a research fellow at IZA.

A version of this article appears in print on 12/01/2013, on page SR5 of the New York edition with the headline: The Minimum We Can Do.

POLITICO



IN THE ARENA

No, a Minimum-Wage Boost Won't Kill Jobs

By MICHAEL REICH | February 21, 2014

On Tuesday, the Congressional Budget Office, one of the last nonpartisan arbiters in a town where the trench lines are deep and getting deeper, dropped a political bombshell on Democrats.

The bombshell came in the form of a new report with an innocuous title, “The Effects of a Minimum-Wage Increase on Employment and Family Income.” In it, the CBO examines the effects of a bill to raise the federal minimum wage from its current \$7.25 to \$10.10 by 2016, an increase of 39 percent.

Based on its own research, the CBO report estimates some stunning benefits: about 23 million people would receive pay increases and 900,000 people would be lifted above the federal poverty level. Pretty good news for a White House that has been touting the virtues of a minimum-wage increase.

Then came the bad news. The CBO also reported a definite cost: Employment would fall by 500,000—a number immediately seized upon by opponents of a wage increase, including House Speaker John Boehner, who said, “This report confirms what we’ve long known: while helping some, mandating higher wages has real costs, including fewer people working.”

These estimated employment losses have become the subject of considerable disagreement among wonks and economists. Jason Furman, chair of the White House’s Council of Economic Advisers, and his colleague Betsey Stevenson argue that the CBO could easily have picked a much lower job-loss number, including one that would be so small as to be negligible. Conservative groups, such as the Heritage Institute and the Employment Policies Institute, which channels the views of the restaurant and other low-wage industries, have said that the CBO’s job loss figures are consistent with their own estimates.

So who’s right?

We’re not in the simple world of Econ 101 here, in which a higher price, i.e. a higher minimum wage, automatically means less demand for workers. Labor supply can also respond, for example, making it easier for employers to recruit workers and retain them longer. Those more experienced workers are then more productive workers. Firms can also raise their prices rather than reduce the number of employees. So economists regard the employment effect of a minimum-wage hike as a question to be decided by empirical testing.

ADVERTISING

The CBO report's appendix describes, but not very clearly, how it estimated the likely job losses. Remarkably, the CBO did not do its own research on the potential employment effects. Instead, it reviewed a number of recent research papers on this subject, including several of my own. Since these studies contain a range of estimates, CBO constructed its own "synthesis" estimate.

Most of the CBO's discussion of job losses focuses on the effects on teens. (Who, along with restaurant workers, make up the two groups most affected by minimum wages.) According to the CBO's "synthesis" estimate, a 1 percent increase in the minimum wage reduces teen employment by 0.075 percent in the first year and by 0.1 percent in later years. (The 0.1 figure comes from left field; CBO expects the effects to increase over time, but there is no evidence for this assumption.) The bill's proposed 39 percent minimum wage increase would therefore reduce teen employment by 3-4 percent. Furman and Stevenson responded that CBO's chosen estimate is much too high and does not reflect the consensus of the research literature. Douglas Elmendorf, the CBO's director, has replied that it does.

SFGATE <http://www.sfgate.com/opinion/article/Minimum-wage-debate-goes-local-5413650.php>

Opinion

Minimum wage debate goes local

Ken Jacobs and Annette Bernhardt Updated 4:39 pm, Friday, April 18, 2014



IMAGE 1 OF 2

Fast food workers and their supporters take part in a nationwide strike outside a McDonald's fastfood outlet demanding higher wages and the right to form a union on August 29, 2013 in Los Angeles, California. ... more

Judging by the past three months, 2014 is on track to become the year of local minimum wage laws. Campaigns are under way in Richmond, Berkeley and Oakland to join San Francisco and San Jose in setting a minimum wage higher than state law. These are echoed by similar initiatives in Los Angeles and San Diego. The trendsetter, San Francisco, is itself looking to go higher, with a new proposal to raise its minimum wage to \$15 an hour. And state Sen. **Mark Leno**, D-San Francisco, has a proposal to raise the state minimum wage to \$13 by 2017. (see Page E7)

California is not unique.

LATEST NEWS VIDEOS

Kevin Durant's mom talks at Warriors parade

by SFGATE



Cities and states across the country, like Seattle, South Dakota and even Arkansas (the home of **Walmart**), are looking to either establish or raise their local wage floors, with three states acting just in the last three weeks alone.

What's driving this groundswell of local policymaking? At root, it is a response to the profound growth in economic inequality over the past four decades, combined with an equally profound political failure to respond at the federal level. The inequality story has, of course, dominated national headlines, especially the astounding gains of the top 1 percent. But it's worth reviewing the flip side of the coin, namely the growing economic insecurity of working families. Here are three trends that best illustrate their struggles.

First, real wages for low- and middle-income workers have stagnated or declined while incomes at the top have skyrocketed. In California, inflation-adjusted wages for the bottom two-thirds of the workforce were lower in 2012 than they were 12 years before. According to the National Employment Law Project, while mid-wage occupations accounted for 60 percent of the jobs lost during the great recession, low-wage occupations accounted for 58 percent of net job creation during the first three years of the recovery.

A second trend is that as housing costs spike in response to greater demand, more and more people cannot meet their basic needs. Rental costs are escalating everywhere, and acutely so in the Bay Area. Between 2005 and 2013, median rents in San Francisco rose 35 percent while the minimum wage increased just 19 percent. In 2005, it would have taken 130 hours working at the minimum wage just to pay median monthly rent; by 2012 that figure was 148 hours. And note that calculation includes long-occupied units under rent control; rents for new tenants have risen even more.

Finally, as the economy has changed, so have the demographics of low-wage workers. According to the **Center for Economic and Policy Research**, in 1979, 26 percent of low-wage workers were teenagers and 39.5 percent had less than a high school education. By 2011, only 12 percent of low-wage workers were teenagers and more than 80 percent had a high school education or more. In fact, more than a third had attended at least some college. The upshot is that we can't educate our way out of the low-wage jobs problem; since 2000, real wages have actually fallen for those with a bachelor's degree.

This is a grim story, and multiple failures in our national public policy helped bring it about.

Exhibit No. 1 is the eroding value of the minimum wage. If the federal minimum wage had kept up with the cost of living since 1968, it would be \$10.60 an hour today, not \$7.25. If it had kept pace with growth in productivity, it would be an astounding \$22.62. It's no surprise then that the inequality debate has moved to states and cities - where it is finding fertile ground in low-wage worker organizations, the growing power of immigrant workers, and labor and community coalitions advocating to ensure that economic development creates quality jobs. Today, 25 states and nine cities and counties have set minimum wages higher than the federal minimum wage.

We want to be clear: To truly fight inequality we need the scale of federal resources, the breadth of federal labor standards and the coordination that only a national good-jobs agenda can deliver. But even when the federal government finally acts, there are good

reasons for local governments to set their own minimum wage levels that reflect their higher cost of living. And there is considerable evidence that they can do so without harming economic growth or employment.

In the new campaigns to raise the local wage floor, we see a return to a long and proud history in the United States where states and cities are laboratories of policy innovation and grassroots organizing that then build momentum for national change. As a result, an innovative new way of thinking about inequality is emerging, where urban centers and regions like the Bay Area with higher costs of living use a range of tools, including robust minimum wage laws, to ensure that growth and prosperity are broadly shared.

Ken Jacobs is the chair of the **UC Berkeley Center for Labor Research** and Education. **Annette Bernhardt** is a visiting professor of sociology and researcher at the **UC Berkeley Institute for Research on Labor** and Employment. She is also a fellow at the **Roosevelt Institute**.

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<http://www.wsj.com/articles/michael-saltsman-the-unappetizing-effect-of-minimum-wage-hikes-1427240817>

COMMENTARY

The Unappetizing Effect of Minimum-Wage Hikes

In San Francisco and Oakland, restaurants are already shutting down.

By *Michael Saltsman*

March 24, 2015 7:46 p.m. ET

Last fall, voters in the Bay Area cities of San Francisco and Oakland followed Seattle's lead and approved costly new minimum-wage mandates (\$15 an hour and \$12.25 an hour, respectively) for most businesses in the city boundaries. Now the bills have begun arriving, and some businesses can't pay them.

The consequences of minimum-wage increases, at the historical levels studied in the U.S., are well known to labor economists. A summary of the research published last year by the Institute for the Study of Labor, and authored by University of California-Irvine economist David Neumark, found that each 10% hike in the minimum wage on the state and federal level has caused a 1% to 2% drop in youth employment. Similarly, researchers at the Federal Reserve Bank of Chicago found an increase in fast-food prices associated with the same wage change.

Given the scope and schedule of these new minimum-wage increases, the impact on prices and employment may be even steeper this time. The current federal minimum wage is \$7.25, half of what San Francisco's wage floor will be set at by 2018 after a series of increases that begin in May. Nationally, Congress phased in the last 40% increase to \$7.25 over a three-year period; in Oakland, an almost-identical 36% increase happened overnight on March 1.



PHOTO: GETTY IMAGES

Businesses' first line of defense against these labor-cost increases is an offsetting increase in prices. The magnitude is staggering: In Oakland, local restaurants are raising prices by as much as 20%, with the San Francisco Chronicle reporting that "some of the city's top restaurateurs fear they will lose customers to higher prices." Thanks to a quirk in California law that prohibits full-service restaurants from counting tips as income, other operators—who were forced to give their best-paid employees a raise—are rethinking their business model by eliminating tips as they raise prices.

Ironically, this change in compensation practices has reduced the take-home pay for some of the employees it was supposed to help: At the Oakland restaurant Homestead, the East Bay Express reported that servers are taking "a substantial pay cut," earning a



flat wage of \$18 to \$24 an hour and no tips instead of the \$35 to \$55 an hour they were accustomed to earning when tips were included.

Though higher prices are a risk that some businesses were able to take, others haven't had the option. The San Francisco retailer Borderlands Books made national news in February when the owner announced that the city's \$15 minimum wage would put him out of business, in part because the prices of his products were already printed on the covers. (A unique customer fundraiser gave Borderlands a stay of execution until at least March of 2016.)

One block away from Borderlands, a fine-dining establishment called The Abbot's Cellar—twice selected as one of the city's top-100 restaurants—wasn't so lucky. The forthcoming \$15 minimum wage, combined with a series of factors like the city's soaring rents, put the business over the edge and compelled its owners to close. One of the partners told me the restaurant had no ability to absorb the added cost, and neither a miraculous increase in sales volume nor higher prices were viable options.

These aren't isolated anecdotes. In the city's popular SoMa neighborhood, a vegetarian diner called The Source closed in January, again citing the higher minimum wage as a factor. Back across the Bay in Oakland, the Chronicle reported that some of the city's businesses have been similarly affected. According to a board member of the Oakland Chinatown Chamber of Commerce, 10 restaurants or grocery stores opted to permanently close this year alone as a partial consequence of the wage hike. Even the Salvation Army's child-care facility is "scrambling to find ways to keep the doors open" in response to labor cost increases, according to the organization's county coordinator.

Faced with convincing evidence of the policy's failures, you'd think advocates would be chastened or apologetic. You'd be wrong: Ken Jacobs, who runs the University of California-Berkeley's labor-backed Center for Labor Research and Education, chalked up possible consequences of new mandates to labor-market "churn." Research that Mr. Jacobs co-authored predicted that the Bay Area hikes would be mostly cost-free. At a forum earlier this month where dozens of Oakland business owners fretted about their viability, representatives of Lift Up Oakland—the labor union-backed coalition that advocated for the wage hike—were not in attendance.

It's probably too late to save other Oakland and San Francisco businesses. But it's not too late for cities like New York and Los Angeles to heed the evidence before following their footsteps.

Mr. Saltzman is research director at the Employment Policies Institute, which receives support from restaurants, foundations and individuals.

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SundayReview | OPINION

The Minimum Wage: How Much Is Too Much?

By ALAN B. KRUEGER OCT. 9, 2015

THE federal minimum wage has been stuck at \$7.25 an hour since 2009. While Congress has refused to take action, Democratic politicians have been engaged in something of a bidding war to propose raising the minimum wage ever higher: first to \$10.10, then to \$12, and now some are pushing for \$15 an hour.

Research suggests that a minimum wage set as high as \$12 an hour will do more good than harm for low-wage workers, but a \$15-an-hour national minimum wage would put us in uncharted waters, and risk undesirable and unintended consequences.

When Congress delays raising the minimum wage, states and cities typically step in and raise their own minimum wages. That is exactly what is happening now.

More than half of the states, representing 60 percent of the United States population, now have minimum wages that exceed the federal level. The fact that voters in four “red” states — Alaska, Arkansas, Nebraska and South Dakota — voted overwhelmingly last year to raise their states’ minimum wages to as high as \$9.75 an hour is a testament to the support the minimum wage enjoys among the population at large.

Some cities plan to raise their wage floors to \$15 an hour. And Gov. Andrew M. Cuomo declared last month that “every working man and woman in the state of New York deserves \$15 an hour as a minimum wage.”

When I started studying the minimum wage 25 years ago, like most economists at that time I expected that the wage floor reduced employment for some groups of workers. But research that I and others have conducted convinced me that if the minimum wage is set at a moderate level it does not necessarily reduce employment. While some employers cut jobs in response to a minimum-wage increase, others find that a higher wage floor enables them to fill their vacancies and reduce turnover, which raises employment, even though it eats into their profits. The net effect of all this, as has been found in most studies of the minimum wage over the last quarter-century, is that when it is set at a moderate level, the minimum wage has little or no effect on employment.

For example, David Card of the University of California, Berkeley, and I found that when New Jersey raised its minimum wage from \$4.25 to \$5.05 an hour in 1992 (or from about \$7.25 to \$8.60 in today's dollars), job growth at fast-food restaurants in the state was just as strong as it was at restaurants across the border in Pennsylvania, where the minimum wage remained \$4.25 an hour. Equally important — but less well known — within New Jersey, job growth was just as strong at low-wage restaurants that were constrained by the law to raise pay as it was at higher-wage restaurants that were not directly affected by the increase since their workers already earned more than the new minimum.

I am frequently asked, “How high can the minimum wage go without jeopardizing employment of low-wage workers? And at what level would further minimum wage increases result in more job losses than wage gains, lowering the earnings of low-wage workers as a whole?”

Although available research cannot precisely answer these questions, I am confident that a federal minimum wage that rises to around \$12 an hour over the next five years or so would not have a meaningful negative effect on United States employment. One reason for this judgment is that around 140 research projects commissioned by Britain's independent Low Pay Commission have found that the minimum wage “has led to higher than average wage increases for the lowest paid, with little evidence of adverse effects on employment or the economy.” A \$12-per-hour minimum wage in the United States phased in over several years would be in the same ballpark as Britain's minimum wage today.

But \$15 an hour is beyond international experience, and could well be counterproductive. Although some high-wage cities and states could probably absorb a \$15-an-hour minimum wage with little or no job loss, it is far from clear that the same could be said for every state, city and town in the United States.

More logical is the proposed legislation from Senator Patty Murray, Democrat of Washington, and Robert C. Scott, Democrat of Virginia, calling for raising the federal minimum wage to \$12 an hour by 2020. Their bill is co-sponsored by 32 senators, and supported by President Obama and Hillary Clinton. High-wage cities and states could raise their minimums to \$15.

Although the plight of low-wage workers is a national tragedy, the push for a nationwide \$15 minimum wage strikes me as a risk not worth taking, especially because other tools, such as the earned-income tax credit, can be used in combination with a higher minimum wage to improve the livelihoods of low-wage workers.

Economics is all about understanding trade-offs and risks. The trade-off is likely to become more severe, and the risk greater, if the minimum wage is set beyond the range studied in past research.

Alan B. Krueger is a professor of economics and public affairs at Princeton University and former chairman of President Obama's Council of Economic Advisers.

A version of this op-ed appears in print on October 11, 2015, on Page SR5 of the New York edition with the headline: How Much Is Too Much?.

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<http://www.wsj.com/articles/the-evidence-is-piling-up-that-higher-minimum-wages-kill-jobs-1450220824>

COMMENTARY

The Evidence Is Piling Up That Higher Minimum Wages Kill Jobs

President Obama says there is 'no solid evidence.' Yes there is—lots of it.



A rally in New York City in July supporting a \$15 minimum wage for fast-food workers. PHOTO: BRENDAN MCDERMID/REUTERS

By *David Neumark*

Dec. 15, 2015 6:07 p.m. ET

The movement to raise the federal minimum wage has become ever more ambitious. In 2013 proponents deemed \$9 an hour acceptable; today the demand is for \$15.

Economists point to a crucial question: Will a higher minimum wage reduce the number of jobs for the country's least skilled workers? President Obama says "there is no solid evidence that a higher minimum wage costs jobs." On the contrary, a full and fair reading of the evidence shows the opposite. Raising the minimum wage will cost jobs, particularly those held by the least-skilled.

Economists have written scores of papers on the topic dating back 100 years, and the vast majority of these studies point to job losses for the least-skilled. They are based on fundamental economic reasoning—that when you raise the price of something, in this case labor, less of it will be demanded, or in this case hired.

Among the many studies supporting this conclusion is one completed earlier this year by Texas A&M's Jonathan Meer and MIT's Jeremy West, which reaffirmed that "the minimum wage reduces job growth over a period of several years" and that "industries that tend to have a higher concentration of low-wage jobs show more deleterious effects on job growth from higher minimum wages."

The broader research confirms this. An extensive survey of decades of minimum-wage research, published by William Wascher of the Federal Reserve Board and me in a 2008 book titled "Minimum Wages," generally found a 1% or 2% reduction for teenage or very low-skill employment for each 10% minimum-wage increase.

That has long been the view of most economists, although there are some outliers. In 1994 two Princeton economists, David Card (now at Berkeley) and Alan Krueger, published a study of changes in employment in fast-food restaurants in New Jersey and Pennsylvania after the minimum wage went up in New Jersey. The study not only failed to find employment losses in New Jersey, it reported sharp employment gains. The study has been widely cited by proponents of a higher minimum wage, even though further scrutiny showed that it was flawed. My work with William Wascher showed that the survey data collected were so inaccurate that they badly skewed the study's findings.

More recently, a 2010 study by Arindrajit Dube of the University of Massachusetts-Amherst, T. William Lester of the University of North Carolina at Chapel Hill, and Michael Reich of the University of California, Berkeley, found "no detectable employment losses from the kind of minimum wage increases we have seen in the United States."

This study and others by the same research team, all of whom support a higher minimum wage, strongly contest the conclusion that minimum wages reduce low-skill employment. The problem, they say, is that state policy makers raise minimum wages in periods that happen to coincide with other negative shocks to low-skill labor markets like, for instance, an economic downturn.

They argue that the only way to accurately discover whether minimum wages cause job losses is by limiting control groups to bordering states and counties because they're most likely to have experienced similar economic conditions. This approach led to estimates of job losses from minimum wages that are effectively zero.

But as Ian Salas of Johns Hopkins, William Wascher and I pointed out in a 2014 paper, there are serious problems with the research designs and control groups of the Dube et al. study. When we let the data determine the appropriate control states, rather than just assuming—as Dube et al. do—that the bordering states are the best controls, it leads to lower teen employment. A new study by David Powell of Rand, taking the same approach but with more elegant solutions to some of the statistical challenges, yields similar results.

Another recent study by Shanshan Liu and Thomas Hyclak of Lehigh University, and Krishna Regmi of Georgia College & State University most directly mimics the Dube et al. approach. But crucially it only uses as control areas parts of states that are classified by the Bureau of Economic Analysis as subject to the same economic shocks as the areas where minimum wages have increased. The resulting estimates point to job loss for the least-skilled workers studied, as do a number of other recent studies that address the Dube et al. criticisms.

Some proponents defend a higher wage on other grounds, such as fairness, or compensating for the low bargaining power of low-skill workers. But let's not pretend that a higher minimum wage doesn't come with costs, and let's not ignore that some of the low-skill workers the policy is intended to help will bear some of these costs.

Mr. Neumark is an economics professor and director of the Center for Economics and Public Policy at the University of California, Irvine.

Appeared in the December 16, 2015, print edition.

Michael Reich: A \$15 wage won't cost New York jobs

BY MICHAEL REICH

NEW YORK DAILY NEWS Friday, March 11, 2016, 4:20 AM



Decency pays (JAMES KEIVOM/NEW YORK DAILY NEWS)

Gov. Cuomo is pressing legislators to enact a statewide phased-in \$15 minimum wage. Meanwhile, a California campaign seeks to place \$15 on its state's November ballot. Can states absorb a \$15 minimum? A new [comprehensive economic study](#) says yes, they can.

Opponents argue that such a large increase will push employers to cut or automate jobs and raise prices, ultimately driving companies out of business. Proponents claim that it will stimulate the economy and grow jobs by putting more purchasing power in workers' pockets. Who is right?

GOV. CUOMO RV TOUR OF NY IN \$15 MINIMUM WAGE PUSH

Recent minimum wage studies typically use variations in state and federal policies over the past three decades to identify the policy's employment effect. Many of these studies, including my own, find small to nonexistent effects on employment. The minimum wage levels in these studies go up only to \$10, and the increases affect at most 8% of the workforce.

But \$15 would raise pay for over a third of New York's and California's workforces, and similar proportions in other states. Many experts have thrown up their hands, warning that the existing research tells us very little about increases of these magnitudes. The implicit message: Since we don't know, we must be cautious about going to \$15 — even if it is phased in over years, as would be the case in New York.

Fortunately, economics offers another standard tool to assess policy costs and benefits, known as a structural model. My team of economists used this tool to analyze the likely effects of \$15 in New York State. We can incorporate all the factors cited by both proponents and opponents, do the math — and get the net effect.

The factors cited by proponents and opponents each turn out to be important, but they largely offset each other. We estimate that a \$15 wage would increase the number of jobs in the state slightly, by 0.04% over the five-year phase-in.

Our study incorporates the extent to which higher wages induce workers to increase their productivity and employers to automate. We also consider how wage increases reduce employee turnover, thereby saving employers the costs of replacing workers. These effects each offset some of employers' payroll cost increases.

We then calculate how much of the remaining payroll cost increases are likely to be passed on to consumers. Higher prices, which would reduce consumer sales, would exert a negative employment effect. It turns out the price increases would be surprisingly small — only 0.7% over the entire five years of the proposed phase-in to \$15, equivalent to about a nickel for a \$3 box of Cheerios.

CUOMO TAKES PUSH FOR \$15 MINIMUM WAGE DIRECTLY TO VOTERS

The price impact is so low because many businesses already pay above \$15 and many workers now paid under \$15 earn more than the current \$9 minimum wage; moreover, labor costs average about one-fourth of businesses' operating costs.

The final component of our model calculates how much the increased worker pay from the policy — in aggregate, \$14.4 billion by 2021 — will increase consumer sales and generate more jobs. We account here for workers' increased taxes and declines in eligibility for public benefits, such as food stamps and Medicaid, which reduce the increased income available to spend. We also account for varying spending propensities of households at different income levels.

When we put all these considerations into our model, the impact is a very small net gain in jobs in New York State: 0.01% per year over five years.

In other words, a \$15 wage will be paid for by inducing workers and businesses to operate more productively and by slight price increases spread across consumers over the entire income distribution. The adverse effects on businesses of charging slightly higher prices will be largely offset by increased sales generated by the workers who receive raises.

The result: A significant increase in living standards for one-third of New York's workforce, for remarkably small costs.

Reich is a professor at UC Berkeley.

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Op-Ed A minimum wage hike is the wrong fix



California Lieutenant Governor Gavin Newsom and San Francisco Mayor Ed Lee address supporters of a ballot initiative asking voters to raise California's minimum wage to \$15 per hour, on Jan. 19. (Michael Macor / Associated Press)

By **David Neumark**

MARCH 18, 2016, 5:00 AM

Here in California we have a patchwork of minimum wages. The state's \$10-per-hour rate is already much higher than the national \$7.25 rate, but a number of cities have pushed up the baseline even more — such as San Francisco and Los Angeles, where the minimum wage is set to rise to \$15 in the next few years. In November, California voters will have a chance to even things out by voting on the Fair Wage Act, which would establish a statewide minimum of \$15 by 2021.

Although there's something enticing, on the surface, about having the state catch up to its most politically progressive cities, the Fair Wage Act is likely to have negative consequences for many working-class Californians.

Certain parts of the state would feel the effects of the Fair Wage Act more than others, because certain areas have more low-wage workers than others. (Raising the minimum wage will not boost the compensation of a banker earning millions each year, for instance.)

Calculations based on data from the American Community Survey indicate that when fully implemented, in 2021, the Fair Wage Act would affect about 22% of workers in the state's highest-wage counties, such as San Francisco and Santa Clara, and roughly 38% of workers in Los Angeles. In low-wage areas, it would affect a much larger share of workers — nearly 50% in Fresno and Merced.

“Great news!” the Fight for \$15 advocates would argue. “This means the Fair Wage Act will do even more to help workers in the most economically distressed areas.” But this perspective focuses only on the potential benefits of a higher minimum wage, while denying any costs.

Standard economic theory holds that when the costs of low-wage workers are raised by a higher minimum wage, employers reduce employment — for two reasons. First, employers suddenly find it economical to replace, say, two minimum-wage workers with one slightly more expensive, presumably more experienced or efficient worker. (One \$25-an-hour worker may be a better deal than two \$15-an-hour workers.) Second, the rising cost of salaries leads employers to raise prices, which leads to lower demand, meaning they have to lower overhead by reducing head count.

“

Raising the statewide minimum wage to \$15 would also do more to help businesses and workers in high-wage than in low-wage areas.

A great deal of evidence confirms economic theory. Indeed, many recent studies have found that higher minimum wages in the United States have reduced employment among low-skilled workers. Some economists contest this conclusion — most notably Michael Reich of UC Berkeley, who argues that a \$15 minimum could actually increase employment. But the research is simply at odds with the oft-repeated assertion from the likes of economist and New York Times columnist Paul Krugman that “there's just no evidence that raising the minimum wage costs jobs.”

In areas where the \$10 state minimum wage now prevails, the Fair Wage Act would raise the minimum wage by 50% over five years — and, according to standard estimates, reduce employment among the least skilled by 5% to 10%. But those standard estimates are probably low, because they're derived from research based on much smaller wage hikes. Since a 50% jump would touch so many workers, employers might find it difficult to make the sorts of adjustments that could mitigate layoffs — such as cutting health insurance benefits.

Perhaps more important, some evidence suggests that short-term job loss from a higher minimum wage prevents low-skilled workers from getting a foothold in the labor market, and thus keeps them from acquiring the experience that leads to higher wages in the future. A very high minimum wage may therefore condemn some low-skilled workers to prolonged dependency on government benefits. Maybe it is better to have fewer workers employed at higher wages, and more people without jobs reliant on public support. But I've never heard advocates for a \$15 minimum wage make that argument.

Raising the statewide minimum wage to \$15 would also do more to help businesses and workers in high-wage than in low-wage areas. Business owners in cities that have already enacted \$15 minimum wages, for instance, should welcome the Fair Wage Act, because it would reduce their cost disadvantage relative to other areas. Workers in these cities should welcome it too, because the act would reduce employers' incentive to move to or expand in lower-wage parts of the state. I don't hear advocates for the Fair Wage Act making these arguments either.

Higher-minimum-wage activists want to capitalize on their recent political successes in progressive cities by pushing a high compensation baseline across the state. That's rash. A \$15 minimum wage may not make sense anywhere. But it surely makes a lot less sense in Fresno than in San Francisco. Wouldn't it be better to let economists study local minimum wage experiments before expanding them?

David Neumark is chancellor's professor of economics at UC Irvine and director of the Economic Self-Sufficiency Policy Research Institute.

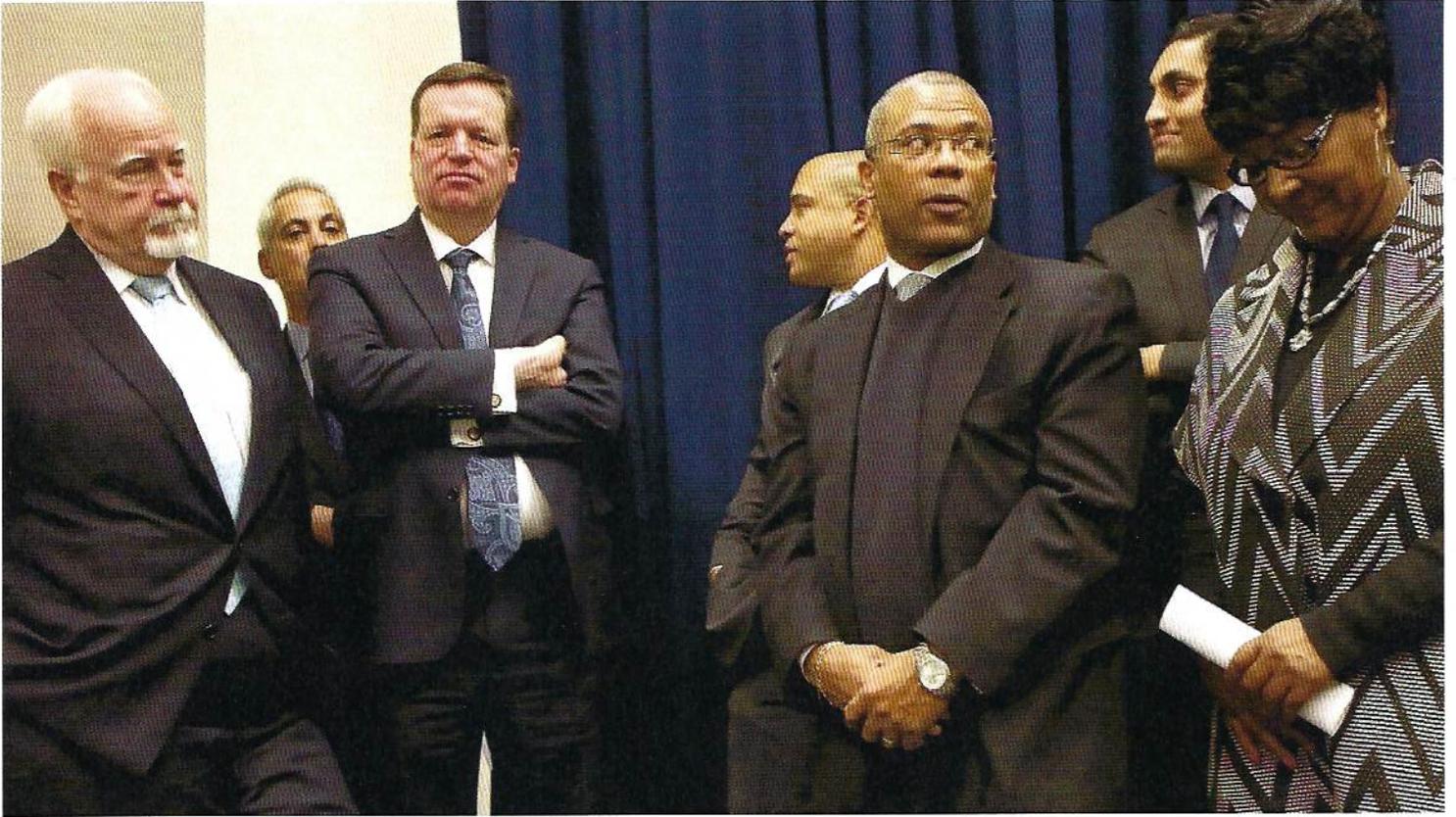
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A version of this article appeared in print on March 18, 2016, in the Opinion section of the Los Angeles Times with the headline "Wage hike is the wrong fix - A statewide \$15 hourly minimum would do more harm than good for working-class residents." — Today's paper | [Subscribe](#)

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City Council raises Chicago minimum wage to \$13 by 2019



Mayor Rahm Emanuel, background, enters City Hall pressroom after the City Council approved a minimum wage hike. Task force members include Aldermen Patrick O'Connor, 40th, from left; Joe Moore, 49th; Will Burns, 4th; Walter Burnett Jr., 27th; Ameya Pawar, 47th; and Emma Mitts, 37th. (Nancy Stone/Chicago Tribune)

By **Hal Dardick, Monique Garcia, Rick Pearson and Ray Long**
Clout Street

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Emanuel plan to raise Chicago minimum wage to \$13 sails through City Council

DECEMBER 2, 2014, 7:30 PM

The City Council on Tuesday approved Mayor Rahm Emanuel's plan to boost Chicago's minimum wage to \$13 an hour by mid-2019, while efforts in Springfield to hike the state's rate and apply some brakes to further city increases fizzled at least until January.

In an overwhelming 44-5 vote steeped in aldermanic and mayoral re-election politics, Emanuel and supportive council members sought to frame their move as a way to lift out of poverty children in thousands of families, many led by single mothers.

“The minimum wage is speaking to making sure that nobody who works raises a child in poverty,” Emanuel said. “The minimum wage...really comes down to making sure that your child does not go to school on an empty stomach (or) making sure that you don’t pick between medicine or school supplies.”

Addressing the council after the vote, Emanuel at times appeared to be delivering a re-election speech. He called the minimum wage only part of his comprehensive economic strategy that includes education, affordable health care and opportunities for people to learn skills to put them on a career path at a well-paying job.

At one point, while boasting that business interest in Chicago remains strong, the mayor went so far to say that the city was tops in gaining foreign investment and corporate relocations and has the No. 1 “Little League team” — a reference to the national champion Jackie Robinson West squad.

At the same time, Emanuel sought to discount his re-election bid in pushing the politically popular wage hike issue, saying if it was only about elections, the rate would increase during each campaign season.

“They’re going to make the decision based on a whole series of things,” Emanuel said of voters in the Feb. 24 election. “They’re going to make a decision on the fact that are we doing the things necessary to grow the economy, create jobs, create also the quality of life we want to see in every neighborhood of the city of Chicago. They’ll evaluate that.”

But Cook County Commissioner Jesus “Chuy” Garcia, a mayoral challenger, contended politics was the motive behind Emanuel’s effort to prod the council to act.

“For a mayor who is fond of saying he makes tough decisions, I think we have a right to ask why he did not make an easy one. Why didn’t he support a minimum wage hike during his first year in office,” Garcia asked in a statement. Garcia promised to boost the wage to \$15 an hour if he is elected.

Ald. Robert Fioretti, 2nd, another mayoral challenger, voted for the Emanuel plan but raised similar questions.

“Emanuel could’ve pushed this legislation earlier, and he could’ve pushed for \$15 an hour today,” Fioretti said, adding, “I will continue to fight until Chicago workers get the living wages they deserve.”

Alds. Matthew O’Shea, 19th; Mary O’Connor, 41st; Brendan Reilly, 42nd; Michele Smith, 43rd; and Tom Tunney, 44th, voted against the measure, saying they believed a higher wage could damage business profits, raise unemployment and put a dent in city tax revenues.

O’Connor, who owns a deli and catering business, noted her Northwest Side ward borders several suburbs.

“Businesses in wards like mine will look to relocate elsewhere, like one block down the street in many instances. That means more vacant storefronts, less revenue for the city and more than likely a permanent freeze on our expansion plans,” she said.

Under the new ordinance, Chicago's minimum-wage workers will see their first increase next July, when the rate increases to \$10 an hour from the current statewide hourly rate of \$8.25.

It then will increase by 50 cents in July 2016 and another 50 cents in July 2017. After that, the minimum wage would go up \$1 in July 2018 and \$1 in July 2019 to reach \$13 an hour. After 2019, yearly increases would be pegged to the local consumer price index, with a limit of 2.5 percent, if the unemployment rate stays below 8.5 percent.

In Springfield, state Sen. Kim Lightford was working with powerful Democratic House Speaker Michael Madigan on a plan that would block any future increases in the city's wage rate after the \$13-an-hour level is reached. But late Tuesday, Madigan pulled the plug on a statewide minimum wage hike bill until at least early January, with a spokesman citing "complications."

"What (Madigan) told the caucus was that he's going to continue to work to raise the minimum wage, but the complications of the last few days, few weeks, has made it difficult to find 60 votes in the House," said Steve Brown, a spokesman for the speaker. "So we'll just continue to work on it."

Earlier, Lightford said the idea was to raise the statewide minimum wage from \$8.25 to \$9 an hour on July 1, then increase it by 50 cents an hour each year until it reached \$11 an hour in 2019.

The Democratic senator from Maywood said the state measure also would have included tax credits to benefit restaurants and retailers, who have opposed the wage hikes.

"This bill would do a little bit of what the House wants and little bit of what we want," Lightford said. "It's taking into consideration everybody. It's one of those that nobody loves, but how can you hate it, right? Because everybody gets some of their concerns addressed."

Brown did not rule out lame-duck lawmakers taking up the minimum wage issue before the new General Assembly takes office in January. Brown also said a statewide minimum wage increase could come up in the spring during the next session, when Republican Gov.-elect Bruce Rauner is in power.

For his part, Rauner voiced his concerns over the city's actions and its affect on Chicago's "competitiveness."

Rauner, who stumbled over the minimum wage issue during his GOP primary campaign, restated his support for an increase in the state rate but only if it was coupled with unspecified pro-business changes in workers' compensation, lawsuit damage awards and business taxes.

"Raising the minimum wage doesn't help somebody (who is) unemployed, and it doesn't help somebody who's employed today and could get unemployed because of the lack of competitiveness that raising the minimum wage could engender," Rauner told reporters at the Capitol.

Business owners cope as Chicago's minimum wage creeps higher



Marissa Crews sweeps up at BJ's Market and Bakery in Chicago's Gresham neighborhood June 29, 2016. (Chris Sweda / Chicago Tribune)

By **Alexia Elejalde-Ruiz**
Chicago Tribune

JULY 5, 2016, 6:08 AM

Aly Udartseva braced for the worst when Chicago announced in 2014 that it would gradually raise its minimum wage to \$13 an hour.

She and a partner had recently opened Bru Chicago, a cafe in Wicker Park, and she worried that even the first phase of the increase would force them out of business, given their slim margins.

A year later, Bru remains, having survived the first jump to \$10, from \$8.25 last July.

But Udartseva's anxiety about rising labor costs remains as well.

"If you look at the expenses on the payroll, it's mind-blowing the difference from what it used to be," Udartseva said. "I understand if I saw the increase in people's happiness and satisfaction, but that's not the result at all."

As Chicago added another 50 cents Friday, bringing the minimum wage to \$10.50, some employers say they are coping, but it's been tough.

Research has offered conflicting findings on how minimum wage hikes affect jobs, prices and spending, and it's too soon to know the impact of a recent wave of local laws. Since 2013, 18 states and 38 cities and counties have approved minimum wage increases, including a dozen that have adopted \$15 wage floors, according to a list on RaisetheMinimumWage.com, a project of the advocacy group National Employment Law Project. Hillary Clinton, the presumptive Democratic nominee, has supported raising the federal minimum to \$12 an hour, from \$7.25.

In Chicago, a handful of businesses say they feel squeezed.

Udartseva, who pays four of her eight employees minimum wage, said she raised prices on some items by as much as 15 percent to absorb last year's wage bump, but lowered them when she noticed a slowdown in customer traffic.

The cafe, which sells crepes and smoothies as well as espresso drinks, has been busy enough to pay the bills. But now rising property taxes are driving up her rent and putting additional pressure on her bottom line, she said.

With a new coffee shop recently opened a block away and another slated to open nearby this fall, Udartseva worries about keeping her prices competitive.

To differentiate, Bru is focusing on product quality and being creative with revenue streams, such as by partnering with social groups to host their events at the cafe, she said.

Udartseva said she would not mind the wage increase if Chicago made it easier to do business, such as by smoothing the permitting processes, or if there was a return on investment with happier employees.

But "their thinking is that it's still a minimum wage job," she said, and she has less money to reward the top performers.

Hank Meyer, co-owner of BJ's Market and Bakery, which has two restaurants on the South Side, also said he hasn't seen improvement in employee retention or satisfaction with the new wage. He's having trouble hiring for open positions.

"There doesn't seem to be an appetite for the jobs," he said. "I get it, we work in a hot environment, seven days a week."

Meyer, who employs about 40 people who earn the minimum wage, said he increased prices on some items by about 10 percent to maintain his margins when wages rose, and feared the move might put his Southern-style food out of reach of customers living in the low-income communities where he operates.

While his restaurant in Calumet Heights has seen a rise in catering business, Meyer said sales have suffered at his restaurant in Gresham, where he suspects customers' average income is lower.

He isn't sure the sales decline is tied to the price bumps, but he wonders if they contributed.

BJ's is now offering aggressive deals — a recent special charged \$5 for rib tips and a drink, down from the regular \$11 — to attract customers who may have been put off by the higher prices. The restaurant also is regularly reviewing the menu to offer meal combinations that soften the sticker shock, and has added items, like jerk chicken, that have proved popular elsewhere, Meyer said.

The slowdown has had a silver lining. Meyer and his partners have grown a new business selling prepared food to Whole Foods and Mariano's for their hot bars, offsetting some of the decline in restaurant sales.

Some business owners cheer the pay raises, saying improving the standard of living for employees boosts sales.

"It stabilizes your workforce, which is just terrific because you have really knowledgeable people," said Tony Dreyfuss, CEO of Metropolis Coffee, a roastery and coffee wholesaler that runs a cafe in Edgewater.

Metropolis, which pays a starting wage of \$11.50 for nontipped employees and offers 15 days of paid time off, intends to keep raising pay to stay above the city minimum so it can attract the best talent, said Chief Operating Officer Dan Miracle. The company, which has 55 workers, is busy and growing, and he thinks they can keep pace without increasing prices.

Research is just beginning to examine the actual impact of wage hikes in cities, which are a relatively new phenomenon. An early analysis of Seattle's move to raise the wage to \$15 an hour, released in April by the University of Washington, found that while most businesses said they planned to raise their prices, there was "little or no evidence" of actual price increases in Seattle relative to other areas in the first year of the gradual phase-in.

The Federal Reserve Bank of San Francisco put out a paper in a December that said the overall body of recent evidence suggests a higher minimum wage results in some job loss for the least-skilled workers. Author David Neumark estimated current minimum wages have directly reduced the number of jobs nationally by about 100,000 to 200,000 compared to the period just before the Great Recession, a small drop that should be weighed against the benefits of increased earnings for workers who kept their jobs.

Reams of research have studied the potential impact of raising the \$7.25 federal minimum wage, with no clear consensus. When the University of Chicago Booth School of Business asked a panel of more than three dozen economic experts last year whether the employment rate for low-wage workers would decline substantially if the federal minimum wage increased to \$15 an hour by 2020, nearly 40 percent said they were uncertain. The rest of the responses were split relatively evenly, with slightly more people saying they agreed employment would be lower.

There was more consensus on whether a hike to \$15 would substantially increase output in the U.S. economy, with more than half saying it wouldn't. Just 2 percent said it would.

The Federal Reserve Bank of Chicago did an analysis in 2013 that found a \$1.75 increase in the federal minimum, to \$9 an hour, would boost prices and spending among low-wage workers and could increase the level of gross domestic product by 0.3 percent in the short term, but would have virtually no effect in the long term.

In another study the same year, Chicago Fed researchers found a large minimum wage increase leads businesses to leave town sooner than they might otherwise, and while other businesses move in to take their place, they tend to be less labor-intensive so there is a net loss of jobs.

The question of whether minimum wage increases lead to automation replacing workers has taken on heightened interest as huge employers like McDonald's test self-service kiosks. In a new working paper, Chicago Fed economists found wage hikes lead to a decline in employment among jobs that involve cognitively routine tasks, such as cashiers, but not among jobs that require intensive manual work, such as maids.

Some research has found that a higher minimum wage is associated with happier people. McDonald's this past spring reported reduced turnover and higher employee satisfaction scores after it raised its lowest wage and offered paid vacation days to workers at its company-owned stores (which are only about 10 percent of the chain's restaurants).

But a year into Chicago's gradual wage increase, McDonald's worker Irma Diaz, who works at a franchise store, is feeling no happier.

Diaz, who said she still earns the minimum wage after working for 15 years at McDonald's, said the city's raise to \$10 hasn't made it easier to make ends meet. The restaurant has cut hours, and her schedule has dropped to four days a week from five. Other costs of living have gone up, so "in the end you're kind of earning the same."

Diaz, a single mom to a 16-year-old son, said she earns about \$500 every two weeks, depending on her hours, and her monthly rent is \$650. She sells Mary Kay cosmetics to supplement her income.

Workers covet jobs in Chicago because the wage is higher than in the suburbs, she said, but ultimately she does not feel more satisfied with her job, and wants a union and benefits.

"We know that they have money to pay us," said Diaz, who is part of the Fight for \$15 campaign, which advocates for a \$15 hourly wage for fast-food workers.

Jay Goltz, owner of Artists Frame Service and Jayson Home on the Clybourn Avenue corridor in Lincoln Park, said Chicago needed to raise its minimum wage to at least \$10, as "it was too cheap in the first place."

But he worries about the accelerating increases. The wage will rise to \$11 a year from now, to \$12 a year after that and finally to \$13 in July 2019. It will then be tied to increases in the consumer price index, capped at 2.5

percent. Tipped employees also got a boost Friday, to a \$5.95 hourly minimum.

"I don't think the problem is going to be now," Goltz said. "The problem is going to be when it hits \$12."

The higher wages are coming as businesses also absorb big increases in health insurance costs, he said, and they could deter employers from offering workers benefits. Goltz said his health insurance costs rose 23 percent between 2012 and 2013, 16 percent the following year and 9 percent the next year. They would have jumped another 15 percent this year if he hadn't changed vendors, he said.

Debates about the minimum wage should take into consideration that some employers already shoulder higher costs to give workers health insurance and paid time off, he said.

"There is a point of no return," Goltz said. "I mean, literally, no return on owning a business."

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A version of this article appeared in print on July 05, 2016, in the News section of the Chicago Tribune with the headline "Minimum wage creeps, businesses cope - Chicago just added 50 cents to rate, affecting struggles to get, stay ahead" — Today's paper | [Subscribe](#)

Cook County approves \$13 hourly minimum wage affecting suburbs



Cook County Board chairman John Daley calls an ordinance that would gradually raise the minimum wage to \$13 in suburban Cook County "the moral and right thing to do." (Phil Velasquez / Chicago Tribune)

By **Alexia Elejalde-Ruiz**
Chicago Tribune

OCTOBER 26, 2016, 3:52 PM

Suburban Cook County has joined Chicago in adopting a \$13 hourly minimum wage, a move critics say is better left to the state but proponents contend is a response to the state's inaction.

The Cook County Board voted Wednesday to gradually raise the minimum wage to \$13 by July 2020, following the legislation's approval Tuesday by the board's Legislative and Intergovernmental Affairs Committee.

The move, which comes more than a year after Chicago implemented the first phase of a minimum wage increase, adds Cook County to the growing list of government bodies seeking to help lift people out of poverty by raising the wages of the lowest-paid workers.

Legislative Committee Chairman **John Daley**, D-Chicago, a sponsor of the legislation, said during Tuesday's committee meeting that the ordinance is "the moral and right thing to do" and questioned whether any of the

commissioners or their families could live on the state's minimum wage of \$8.25 an hour.

The first increase, to \$10 an hour, takes effect July 1, 2017. The wage rises to \$11 a year later and to \$12 in July 2019. It hits \$13 an hour in 2020, and subsequent annual increases will be at the rate of inflation, not to exceed 2.5 percent. The suburbs will be a year behind the city, which will reach \$13 an hour by July 2019.

An amended version of the county bill removed provisions that increased the tipped minimum hourly wage by \$1. According to the updated bill, tipped workers, who make \$4.95 under Illinois law, will see their wages rise with the rate of inflation starting July 1, 2018, not to exceed 2.5 percent.

The law applies to the entire county, including unincorporated areas. Home-rule towns can vote to opt out of the increase, though that could exacerbate the patchwork of laws that critics say creates an uneven playing field between competing businesses in neighboring towns, said Mike Reever, vice president of government relations at the Chicagoland Chamber of Commerce, which opposes the county ordinance.

Several trade groups representing the retail and restaurant industries oppose the measure, saying businesses operating on 3 to 5 percent profit margins already are squeezed by a battery of cost increases. Among them are a federal rule extending overtime pay to millions more Americans that takes effect Dec. 1, and new city and county laws requiring all employers offer paid sick leave, beginning July 1.

Sam Toia, president and CEO of the Illinois Restaurant Association, said he supports a statewide minimum wage increase to \$11 an hour, but worries a county-specific law puts businesses at a disadvantage against their competitors across the county line.

"Our businesses don't operate on an island," Toia said.

Commissioner [Larry Suffredin](#), D-Evanston, lead sponsor of the proposal, said the goal is for the state to pass a minimum wage law, but a proposal put forth by Sen. [Kimberly Lightford](#), D-Maywood, has languished since 2009. The intention is to encourage the state to move forward.

"My hope is that the General Assembly will pass something to negate all this," Suffredin said.

A long line of workers, most of them part of a grass-roots membership organization called People's Lobby that advocates for income and racial equality, told personal stories Tuesday of juggling multiple low-wage jobs to try to make ends meet.

Daniel LaSpata, 35, said he lost his job as a community organizer at a nonprofit during the Great Recession and felt lucky to land a position at Barnes & Noble several weeks later, but the \$8.50-an-hour wage left him unable to afford rent. He slept on a friend's futon, walked miles to work to save on transportation costs and sold his plasma for extra cash.

Shifts in the labor market are increasing the ranks of low-wage service workers who are not moving out of those jobs as they did in the past, said Commissioner [Bridget Gainer](#), D-Chicago, who voted in favor of the measure.

Melissa Hill, head of government relations at Jewel-Osco, said the company already has felt the effects of the city's minimum-wage increase at its 35 Chicago stores, and it worries about the impact on its 92 stores in suburban Cook County.

Wage costs jumped 35 percent in the first year after the city's minimum wage went into effect, and 15 percent in the second year of the phase-in, far higher than anticipated, Hill said. As a result, the company hired 5 percent fewer employees the year after the city's law went into effect compared to the prior year. Despite assertions that better pay leads to better retention, employee turnover has not improved, she said.

Employers from the nonprofit sector also expressed concern.

Steve Manning, executive director of Park Lawn, a nonprofit in Oak Lawn that serves people with developmental disabilities, said his organization "will cease to exist in a couple of years" if it has to increase employees' pay significantly without increased reimbursements from the state.

Commissioner Sean Morrison, R-Palos Park, one of three commissioners to vote against the measure Tuesday, questioned the legality of the county's ordinance and urged his peers to leave the matter to the state. But, knowing that the law had the support of the majority, he asked nonprofits be excluded.

"If we are going to kill the business folks let's at least not kill the nonprofits," Morrison said.

Suffredin expects to address the concerns of nonprofits before the July implementation.

Not all employers are opposed.

David Borris, co-founder of Hel's Kitchen, a catering company in Northbrook with 45 full-time employees and 80 part-time and seasonal workers, said he doesn't pay anyone less than \$11 an hour and expects to pay them even more to stay well above the county minimum.

Raising wages may require bumping up prices but it is good for broad economic growth because the money circulates, he said.

"We're business owners, we're supposed to adapt and react and respond and come up with creative thinking of how we deal with this," Borris said.

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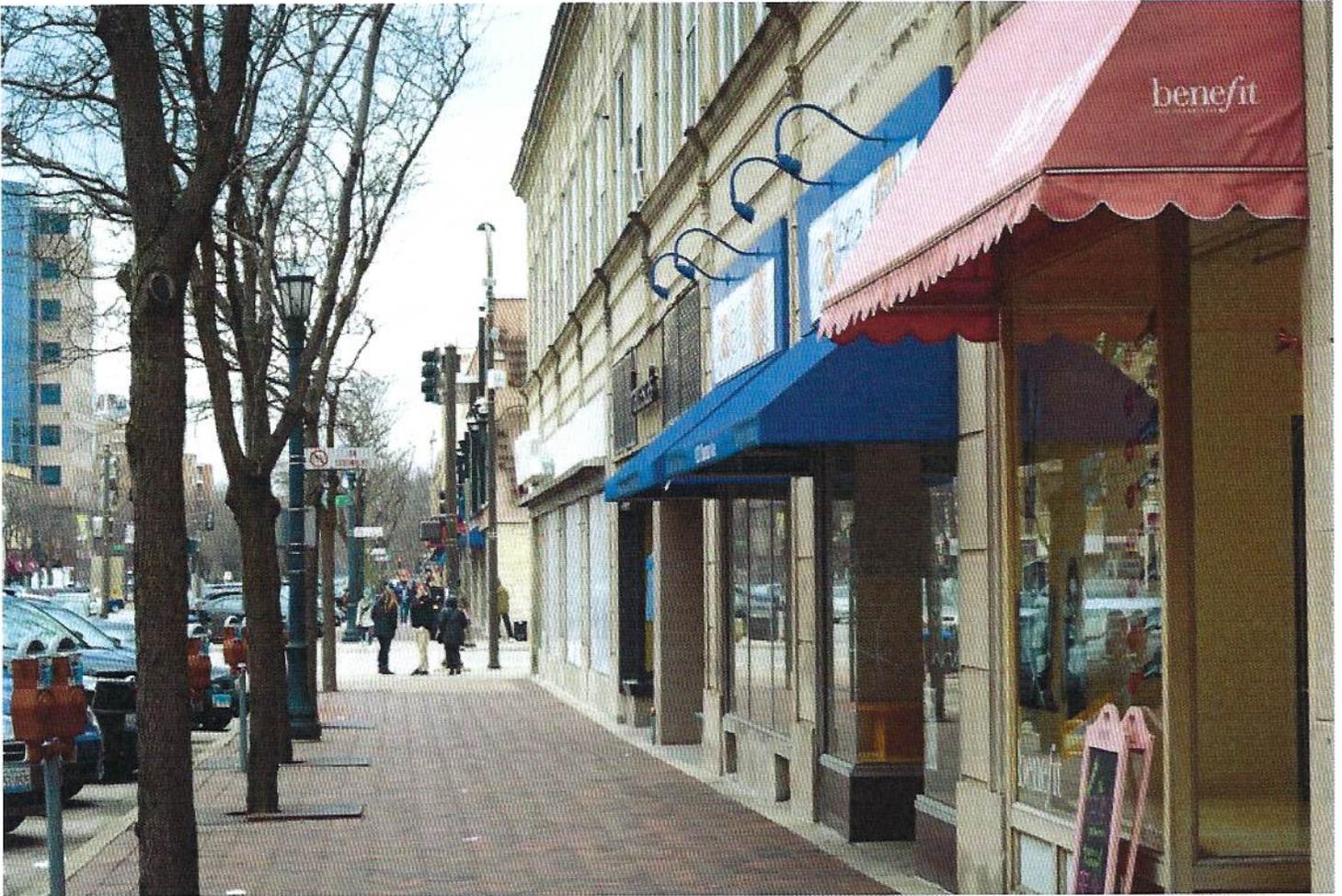
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Evanston officials, businesses mixed on proposed minimum wage hike



Daniel Tian/Daily Senior Staffer

Stores lined up along Sherman Avenue in downtown Evanston. Some local business owners expressed doubts about a proposed bill that would increase the minimum wage to \$15 an hour.

[Aaron Boxerman](#), Reporter
April 30, 2017

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on via
Local officials and business owners had mixed reactions to a bill in the Illinois House that would raise the minimum wage from \$8.25 to \$15 an hour by 2022.

The effort is part of a national campaign to raise the minimum wage; similar legislation has already been passed in California, New York and Washington, D.C.

For Evanston, the push for \$15 in Springfield takes place against the backdrop of a recently [enacted](#) Cook County ordinance. The ordinance — passed in October 2016 — will raise the minimum wage for employees over 18 to \$13 an hour by 2020.

Municipalities may choose to exempt themselves under the principle of “home rule” if they wish. Several municipalities — including River Forest, Schaumburg and Rosemont — have already opted out, choosing not to raise the minimum wage.

Evanston mayor-elect Steve Hagerty said he supports the effort, emphasizing that changes in the minimum wage should first come from Springfield.

“I feel very strongly that working people need a livable wage, and that needs to be implemented on a state level,” Hagerty said.

Cook County commissioner Larry Suffredin, who sponsored the minimum wage ordinance in Cook County, said he also supports the bill. He added that one of the goals of the Cook County minimum wage hike was to prod Springfield to take statewide action.

Suffredin said a higher minimum wage is for the public good, even if businesses have to make some sacrifices. A higher minimum wage would mean higher consumption, Suffredin said, as people living below the poverty line tend to spend immediately rather than save.

Hecky Powell, who owns Hecky’s Barbecue in Evanston, disagreed with Suffredin. Powell said he is preparing for the ordinance by freezing hiring, cutting back on staff and training his current employees to take more and different kinds of work at the restaurant. In addition, Powell said he would have to cut back on health care.

Powell attributed attempts to raise the minimum wage — both in Cook County and on the state level — to politicians' lack of business experience. Powell said he was interested in exploring an effort to get Evanston to opt out of the minimum wage ordinance.

"The problem with these people on the county level and in Springfield is that these guys have never made a payroll in their life," Powell said. "They think we're making all this money and we pay minimum wage and hide our taxes, and that's not so."

Local businessman Larry Murphy also said he was skeptical of a higher minimum wage. Murphy, who owns YoFresh, said though big corporations may be able to pay higher wages, local, small businesses run the risk of financial ruin. He added that a minimum wage is only one component of what employers pay on behalf of their employees, citing Social Security benefits and health care.

Murphy, who is also the lead organizer of the Black Business Consortium of Evanston/Northshore, said many of the consortium's members would have similar concerns.

"While we look positively upon a movement that seeks a livable wage for employees, that has to meet the realities," Murphy said. "It's a matter of ideal social policy meeting the level of operation. If those can coincide, that would be good. If they can't coincide, then one has to make some decisions."

The legislation, which was re-referred to the Rules Committee on Friday, seeks to address those doubts by providing tax credits for small businesses to compensate them for some of the lost profit. These credits would start at 25 percent in 2018 and gradually decrease to 5 percent in 2022.

Suffredin dismissed the concerns raised by Murphy and Powell as a common "knee-jerk reaction" he's heard while working on minimum wage issues.

"If a business is so fragile that it can't sustain the increases that we're talking about, then it shouldn't be in business," Suffredin said.

Ald. Judy Fiske (1st) also said she supports the minimum wage hike, and has previously supported the Cook County ordinance. Fiske said though she didn't know the specifics of the bill, she had [campaigned](#) to raise the minimum wage during the last election and won.

Fiske's ward, which contains many of Evanston's businesses, would be one of the most affected by a higher minimum wage. Fiske said the business owners in her ward have responded positively to the idea.

"We need to talk to more business owners, but so far the only ones I've heard from are people in support," Fiske said.

Jessica Donnelly, who owns Unicorn Cafe in the 1st Ward, said she supports an increase in the minimum wage because the current one is not livable. Donnelly said she is not worried about the potential impact of rising wages on her business.

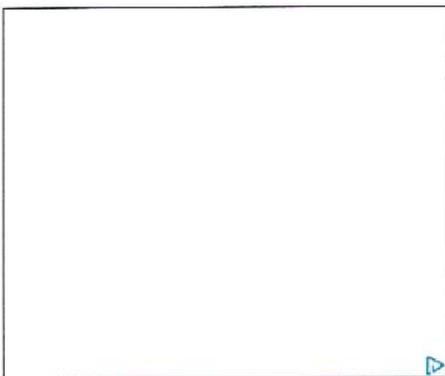
"It's a net zero (for my business)," Donnelly said. "We'll just have to raise prices. Now if it were just us, then it would be negative, but everyone is going to have to raise prices to accommodate a higher minimum wage."

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Working Paper 17-088



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Survival of the Fittest:
The Impact of the Minimum Wage on Firm Exit^{*}

Dara Lee Luca[†] and Michael Luca[‡]

April 2017

Abstract

We study the impact of the minimum wage on firm exit in the restaurant industry, exploiting recent changes in the minimum wage at the city level. The evidence suggests that higher minimum wages increase overall exit rates for restaurants. However, lower quality restaurants, which are already closer to the margin of exit, are disproportionately impacted by increases to the minimum wage. Our point estimates suggest that a one dollar increase in the minimum wage leads to a 14 percent increase in the likelihood of exit for a 3.5-star restaurant (which is the median rating), but has no discernible impact for a 5-star restaurant (on a 1 to 5 star scale).

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I. Introduction

The minimum wage has recently re-entered the forefront of policy discourse as federal proposals range from leaving it as is, or increasing it to \$10.10 or even higher. Some proposals include raising the federal minimum to uncharted territory of \$15 per hour.¹ While the federal minimum wage has remained stagnant since 2009, states – and more recently, cities – have increasingly set local minimum wages above the federal mandate of \$7.25. In the San Francisco Bay Area alone, there have been twenty-one local minimum wage changes over the past decade.

In this paper, we investigate the impact of the minimum wage on restaurant closures using data from the San Francisco Bay Area. We find suggestive evidence that an increase in the minimum wage leads to an overall increase in the rate of exit. However, this masks important heterogeneity. At any minimum wage level, lower quality restaurants, as proxied by their ratings on the review platform Yelp are more likely to exit. Moreover, lower quality restaurants are disproportionately affected by minimum wage increases. In other words, the impact of the minimum wage on exit is more pronounced among lower-rated restaurants.

The restaurant industry in the Bay Area makes a compelling setting to investigate the impact of the minimum wage on small businesses. First, the restaurant industry is the most intensive employer of minimum wage workers (U.S. Bureau of Labor Statistics, 2016b). Second, there is high turnover within the restaurant industry. In our sample – which covers restaurants in the Bay Area from 2008 through 2016 – roughly 5 percent of restaurants go out of business each year. Hence, the exit margin is economically meaningful. Additionally, there is no tip credit in

¹ While his exact stance on the minimum wage is not clear, President Trump has intimated that he would prefer to eliminate the federal minimum wage and let states determine their own minimum wages (<http://www.politico.com/blogs/2016-presidential-debate-fact-check/2016/10/trump-kaine-minimum-wage-229149>). Bernie Sanders proposed a \$15 federal minimum wage as part of his presidential campaign in 2016 (<https://berniesanders.com/issues/a-living-wage/>).

California. Hence, tips do not count toward the official wage and wait staff are covered by the same minimum wage as other employees, so the minimum wage is more likely to be binding. Finally, there has been a substantial number of city-level minimum wage increases in the area since 2008, with a number of cities implementing minimum wages upwards of \$12.

Our analysis proceeds in three stages. First, we provide evidence that lower quality businesses are, on average, closer to the margin of exit and fail at higher rates than higher quality restaurants irrespective of the minimum wage level. A one-star increase in rating is associated with more than a 50% decrease in the likelihood of going out of business. This qualitative relationship holds both with and without restaurant effects.

We then exploit the multiple city-level minimum wage changes in recent years across the Bay Area to implement a difference-in-differences design to investigate the effects of the minimum wage. We find suggestive evidence that a higher minimum wage leads to overall increases in restaurant exit rates – depending on the specification, we find that a \$1 increase in the minimum wage leads to approximately a 4 to 10 percent increase in the likelihood of exit, although the estimate is only statistically significant in certain specifications.

Next, we present robust evidence that the impact of the minimum wage varies with the rating of the business. Our point estimates suggest that a \$1 increase in the minimum wage leads to an approximate 14 percent increase in the likelihood of exit for the median 3.5-star restaurant but the impact falls to zero for five-star restaurants. These effects are robust to a number of different specifications, including controlling for time-varying county characteristics that may influence both minimum wage policies and restaurant demand, city-specific time trends to account for preexisting trends, as well as county-year fixed effects to control for spatial heterogeneity in exit trends.

Our results contribute to the existing literature in several ways. First, our findings relate to a large literature seeking to estimate the impact of the minimum wage, most of which has focused on identifying employment effects. While some studies find no detrimental effects on employment (Card and Krueger 1994, 1998; Dube, Lester & Reich, 2010), others show that higher minimum wage reduces employment, especially among low-skilled workers (see Neumark & Wascher, 2007 for a review). However, even studies that identify negative impacts find fairly modest effects overall, suggesting that firms adjust to higher labor costs in other ways. For example, several studies have documented price increases as a response to the minimum wage hikes (Aaronson, 2001; Aaronson, French, & MacDonald, 2008; Allegretto & Reich, 2016). Horton (2017) find that firms reduce employment at the intensive margin rather than on the extensive margin, choosing to cut employees hours rather than counts. Draca et al. (2011) document lower profitability among firms for which the minimum wage may be more binding.

Our study contributes to the existing literature by examining one channel of adjustment to the minimum wage that has received relatively little attention – firms could exit the market altogether. We provide suggestive evidence that the minimum wage increases overall restaurant exit. This finding is consistent with Aaronson et al. (forthcoming), who use a border discontinuity approach to show that restaurant exit increases after the minimum wage increases.

However, our results reveal that the average treatment effect can be substantially different from the impact on sets of businesses that are predictably closer to the margin. While lower rated restaurants are driven to exit by increases to the minimum wage, higher rated restaurants tend to be more insulated from such shocks. This helps to shed light on the likely impact of minimum wage increases on existing businesses. .

Our analysis also highlights how digital data can be used to better understand labor policy and the economy. Historically, datasets from the US Census Bureau and the Bureau of Labor Statistics (BLS) have formed the backbone of analyses looking to estimate the impact of the minimum wage in the US (e.g. Dube, Lester & Reich, 2010, Aaronson et al., forthcoming). Other analyses consist mainly of researcher-administered surveys (e.g. Katz & Krueger, 1992; Card & Krueger, 1994).

While administrative datasets are critical to our understanding of the minimum wage and the economy more generally, the effects we identify in this paper would have been difficult to observe using standard datasets. The growth of online review platforms such as Yelp allows for unique insights into the economy. First, we can use each restaurant's rating as a proxy for its quality, a measure that is not captured by conventional datasets. This lets us to evaluate whether the minimum wage differentially impacts lower quality businesses. Second, we are able to use exit data in close to real time, whereas BLS and Census data only become publicly available after a lag. This allows researchers and policymakers to more quickly understand the impacts of different economic policies. Third, we are able to observe granular data on businesses, whereas the public versions of the Census and BLS data are aggregated to coarser geographic levels, such as by county (depending on the variable the researcher is interested in). In principle, researchers can access restricted business-level data via an extensive application process, but the current waiting period for access even among approved applications is estimated to be two years. For example, a researcher trying to understand the impact of a policy change in 2017 would not be able to examine firm-level microdata from the Census until at least 2020. By using digital data, researchers can measure the impacts in close to real time.

The rest of the paper proceeds as follows. We discuss the landscape of minimum wages across the United States in recent years in Section II. Section III discusses the data and empirical evidence, as well as graphical evidence. Section IV reports the main results, and Section V concludes.

II. The Minimum Wage in Recent Years

The current federal minimum wage of \$7.25 is binding for roughly 2.6 million hourly workers (U.S. Bureau of Labor Statistics, 2016a), with the restaurant industry having the highest percent of employees at the minimum (U.S. Bureau of Labor Statistics, 2016b). In addition to the \$7.25 federal minimum wage rate, 29 states and 41 cities have introduced higher than federal minimum wage. For example, San Francisco is set to increase its minimum wage to \$15 in July 2018 from its current wage of \$12.25.

We focus our analysis on the Bay Area, a region comprising of 101 cities surrounding the San Francisco Bay. The Bay Area is home to more than 7.5 million people, and includes the major cities and metropolitan areas of San Jose, San Francisco, and Oakland. Among the 41 cities and counties that have changed their minimum wage ordinances at the local level since 2012, 15 were in the Bay Area.² We document 21 total local changes during our sample period from 2008 through 2016, with four additional cities set to increase their minimum beginning in 2017. Beyond the wide variation in minimum wage, focusing on a single region potentially allows us to better control for macroeconomic trends and attitudes towards labor standards.

² See <http://laborcenter.berkeley.edu/minimum-wage-living-wage-resources/inventory-of-us-city-and-county-minimum-wage-ordinances/>

[Figure 1](#) depicts the changes for the state of California and 11 cities in the state of California that have increased their minimum wage since 2008.³ In cities with separate minimum wages for large (usually defined as over 500 employees) and small companies, we use the minimum wage for small companies. This is because the majority of full-service and limited-service restaurants have fewer than 500 employees (U.S. Census Bureau, 2014). At the state level, the minimum wage was set at \$8 in the beginning of the sample, increased to \$9 in 2014, and then to \$10 in 2016.

III. Data and Empirical Strategy

A. Restaurant Data

Our underlying restaurant data are obtained from Yelp, as part of an ongoing economic research initiative done in collaboration with the company. Yelp was founded in 2004 in San Francisco and is now the dominant review platform in the US. On Yelp, users can leave text reviews and ratings (from 1 to 5) for individual businesses, ranging from dry cleaners to dentists. However, it is perhaps best known as a review platform for restaurants.

We start with the universe of all Yelp reviews for the Bay Area since 2008, and limit the dataset to only reviews for full-service and limited-service restaurants. Based on the review-level data, we form an unbalanced panel dataset at the restaurant-month level, where a restaurant enters the panel when it becomes active on Yelp (either by the owner registering the business, a reviewer registering the business, or receiving the first review), and leaves the panel after it has been marked as having been closed on Yelp.

³ Four additional cities (San Leandro, Cupertino, Los Altos, San Mateo) are slated to increase their minimum wage above the state level in 2017.

The indicator for restaurant exit is crowdsourced. On each restaurant’s Yelp page, users have the option of updating the restaurant’s business details, including tagging it as having closed or moved. Any suggested changes are then verified by Yelp moderators before being marked as such on the restaurant’s profile page. In practice, timing of exit through Yelp may also be more accurate than official administrative data, which contains nontrivial reporting lags and errors. In the review data, we exclude filtered reviews, which are deemed by Yelp’s algorithm as more likely to be fake or untrustworthy (Luca & Zervas, 2016). The dataset contains basic information about the restaurant, including the type of cuisine (e.g., “New American”, “Chinese”), the price category of the restaurant (denoted by dollar signs ranging from \$ to \$\$\$\$), with four dollar signs being the most expensive)⁴, the exact location, and also time-varying characteristics such as the running average rating, the number of reviews, and exit status.⁵

Yelp coverage of restaurants is close to universal in the Bay Area. Comparing Yelp data to administrative data obtained for the city of San Francisco,⁶ the number of restaurants active at the end of 2016 is 6,087 and 5,808 based on the San Francisco administrative and Yelp data, respectively. Exit statistics generated from the two datasets are similar and consistent with previous research. For example, a common statistic that the restaurant industry focuses on is the rate of closure within one year of entry. Based on the administrative data, 19.8 percent of restaurants exit within one year of entry, whereas Yelp data indicates 20.9 percent. Other research on the restaurant industry has demonstrated similar numbers ranging from 23 percent in

⁴ Price category is a crowd sourced element. Upon reviewing a restaurant, users are able to designate dollar signs based on the following criteria: \$= *under \$10*, \$\$= *11–30*, \$\$\$= *31–60*, \$\$\$\$= *over \$61*.

⁵ We constructed these variables such that they capture the measure at the end of the month, for example, the running average of the restaurant at the end of the month, or the displayed rating at the end of the month.

⁶ SF OpenData is the central clearinghouse for data published by the City and County of San Francisco, and includes a database of registered businesses that pay taxes, including their date of entry and exit. We restricted to the NAICS code of 722 (full-service restaurants and limited-service restaurants).

Dallas, Texas (Cline Group, 2003) to around 26 percent in Columbus, Ohio (Parsa, Self, Njite, & King, 2005).

We present two descriptive statistics of the data. The first set of statistics provides a snapshot of the restaurants' last appearance in the panel, i.e., at the end of 2016 or at the time of exit ([Table 1](#) Panel A). There are 35,173 unique restaurants in our dataset, with a mean number of 184 reviews per restaurant and an average rating of 3.6.⁷ Among the entire universe of restaurants, around 30 percent have closed. Restaurants remain in the panel for an average of 70 months⁸ and have an average price sign of 1.6 “dollar signs”.

The second set of statistics shows a summary at the monthly panel level ([Table 1](#) Panel B). A restaurant receives on average 2.5 new reviews each month with an average rating of 3.5. The likelihood of exit in any month is 0.4 percent.

B. Graphical Evidence

We first present graphical evidence of the relationship between a restaurant's operational status and its rating. [Figure 2a](#) depicts a snapshot of the overall distribution of restaurant ratings when last observed in the dataset. The modal rating is 3.5, and ratings are generally more positive than negative; there are fewer than 5 percent of restaurants with ratings 2 and below, whereas 40 percent of restaurants have an average rating of 4 or above. [Figure 2b](#) overlays the distribution by whether the restaurant has closed. The mass of ratings for closed restaurants is concentrated towards lower ratings relative to operating restaurants, suggesting that a restaurant's rating is correlated with closure

⁷ While Yelp displays ratings rounded to the nearest 0.5 on their website, we use unrounded version in the analysis. (Whether we use the rounded or unrounded version of ratings does not affect the conclusions of our analysis.)

⁸ Note that this statistic may not accurately represent average lifespan of a restaurant since when the restaurant becomes active on Yelp may not necessarily be the same as when the restaurant began operations.

We further explore this by plotting the simple means of the monthly likelihood of exit by displayed rating (which is the average rating rounded to the nearest 0.5). [Figure 3](#) depicts a clear negative relationship between the likelihood of exit and rating, again implying that restaurants with lower ratings are closer to the margin of exit.

Next we explore the cross-sectional relationship between the likelihood of exit and the minimum wage. [Figure 4](#) plots the mean likelihood of exit by minimum wage, which shows a distinctly positive correlation. However, it is possible that larger or wealthier cities implement the minimum wage, and exit rates are systematically different (higher) in those cities as well. To investigate this, we obtain the residuals from regressing the likelihood of exit on city dummies, and plot the mean residuals against the minimum wage ([Figure 5](#)). While the slope is less pronounced, there still remains a positive relationship between the minimum wage and the likelihood of exit.

[Figure 6](#) examines the likelihood of exit by restaurant rating and minimum wage. The figure synthesizes our empirical strategy and our main result: at any rating level, the likelihood of exit is higher when the minimum wage is higher. However, the increase in the likelihood of exit is greater for lower rated restaurants, and there does not appear to be any penalty for the highest rated restaurants. We confirm this finding using a regression framework in Section 4.

C. Empirical Strategy

The graphical evidence presented in Section 3.B suggests three things. First, restaurants with lower ratings are more likely to exit. Second, higher minimum wages are correlated with higher probabilities of exit. Third, the increase in the likelihood of exit is greater for lower rated restaurants.

, We then use a difference-in-difference framework to empirically analyze the impact of the minimum wage on restaurant exit decisions, in which exploit the temporal and spatial variation in minimum wage increases at the city level across the Bay Area. The basic regression model, estimated as a linear probability model, is as follow:

$$Exit_{ijt} = \alpha_i + \phi'_t \lambda + \beta MW_{jt} + X'_{ijt} \delta + Z'_{jt} \rho + \varepsilon_{ijt} \quad (1)$$

where $Exit_{ijt}$ is a binary variable denoting whether restaurant i in city j has exited by time t . MW_{jt} is the minimum wage (measured in dollar amounts) in that city, α_i are restaurant fixed effects, ϕ'_t is a vector of time controls, including year and quarter dummies to capture variation in macroeconomic conditions and seasonal variation in restaurant demand. X'_{ijt} are time-varying restaurant measures, such as the number of ratings and lagged running average rating.⁹ Z'_{jt} includes a host of county-level time-varying characteristics that may influence both restaurant demand and minimum wage policies, including the percent of young workers between ages 15 to 24, percent black, percent under the poverty line, the unemployment rate, and logged per capita income. ε_{ijt} is the error term. In some specifications, we include city-specific time trends to account for preexisting trends in local exit rates. We also include county-year fixed effects in certain specifications to control for spatial heterogeneity in exit trends that are unrelated to minimum wage policies. The estimated impact of a \$1 increase in the minimum wage is then given by $\hat{\beta}$. Standard errors are clustered by city to allow for serial correlation within locale.

⁹ Restaurant characteristics that are constant over time, such as the price category, location, type of cuisine, are controlled implicitly by restaurant fixed effects.

We also enter the city-level minimum wage as the proportional increase over the state mandate, Gap_{jt} . As an example, if the state minimum wage is \$8 and the city minimum wage is \$9, the Gap measure would be 12.5. This measure reflects both increases in minimum wage within the city as well as relative to the state mandate.

We then estimate the heterogeneous effects of the minimum wage by including an interaction term of the minimum wage with the restaurant's rating. More specifically, our estimating equation becomes:

$$Exit_{ijt} = \alpha_i + \phi'_t \lambda + \beta MW_{jt} + \gamma Rating_{ijt} + \theta MW_{jt} * Rating_{ijt} + X'_{ijt} \delta + Z'_{jt} \rho + \varepsilon_{ijt} \quad (2)$$

where $\hat{\theta}$ would provide an estimate of how the minimum wage affects exit by the restaurant's quality, as measured by its rating.

IV. Main Results

As in our graphical evidence, we first examine the relationship between a restaurant's likelihood of exit and its Yelp rating ([Table 2](#)). Cross-sectionally, a one-star increase in rating is associated with a 0.09 percentage point decrease in the likelihood of exit in any given month (column 1), which is consistent with Figure 3. After controlling for restaurant fixed and calendar fixed effects, the coefficient increases to approximately -0.29 percentage point (Column 2). The relationship remains stable when we include time-varying county characteristics, city-specific time trends and county-year fixed effects (Columns 3-5). Our results imply a one-star increase in rating is associated with a decline in the likelihood of exit of around 70 percent. This is not necessarily a causal relationship – it is certainly possible that poor quality restaurants are both more likely to exit and receive worse ratings. It could also be that lower ratings directly contribute to restaurants exiting; as Luca (2011) shows, a one-star increase in Yelp rating leads

to a 5 to 9 percent increase in restaurant revenue. Our objective is to test whether restaurants with lower ratings tend to be closer to the margin of exit.

We find suggestive evidence that higher minimum wage increases restaurant exit ([Table 3](#)). Panel A reports the coefficients on the minimum wage entered as a dollar measure in the regression model, whereas Panel B reports those on the *Gap* variable as defined in Section III.C, which is a measure of how much the city minimum wage is above the state mandate. Cross-sectionally, a one-dollar increase in the minimum wage is associated with a 0.09 percentage point increase in the probability of exit, which represents a 22 percent increase (Panel A Column 1). However, the estimate falls to 0.04 percentage points and loses statistical significance when we layer on restaurant and calendar fixed effects (Panel A Column 2). The estimate becomes even more imprecise when we include time-varying county characteristics that may influence both minimum wage policy and restaurant demand, city-specific time trends, and county-year fixed effects (Panel A Columns 3-5)

We find similar results when we examine the impact of the minimum wage as the percent increase over the state mandate, which may give a better measure of the “bite” of the minimum wage. Depending on the specification, our estimates suggest that a 10-percent increase of the local minimum wage over the state mandate would increase the overall exit rate ranges from 0.016 to 0.04 percentage points, which corresponds to an increase in the likelihood of exit of 4 to 10 percent. While the estimates are generally more precise than in Panel A, they only reach statistical significance in certain specifications.

Overall impacts could mask underlying heterogeneous effects if the minimum wage differentially affects restaurants of varying quality. To examine this, we include the interaction effect between a restaurant’s rating and the minimum wage, as specified in Equation (2). [Table 4](#)

reports the main results of our paper: the minimum wage increases the likelihood of exit, but the impact falls for higher-rated restaurants. The estimates remain similar across the different specifications. Based on the estimates in Column (2), the results would suggest that the impact of a \$1 rise in the minimum wage would increase the likelihood of exit for the median restaurant on Yelp (i.e., a 3.5 star restaurant) by around 0.055 percentage points, which is approximately 14 percent. For a 5-star restaurant, this impact falls to close to zero.

The results are consistent when we enter the minimum wage in the model as the percent above the state mandate ([Table 5](#)). A one-star increase in Yelp rating is associated with a 0.26 percentage point decline in the likelihood of exit for a restaurant in a city with the minimum wage equal to the state mandate, which is consistent with the results from Table 2. Further, the impact of the minimum wage varies by restaurant quality: a 10 percent increase in the minimum wage above the state mandate increases the likelihood of exit for a 3.5-star restaurant by 0.05 percentage points, translating into a 13.75 percent increase. The impact falls roughly by 0.09 percentage points for each star increase. The estimates are similar and statistically significant with city-specific time trends and county-year fixed effects. Finally, [Figure 7](#) plots the predicted likelihood of exit by rating for different minimum wages from the specification in Table 4 Column 5, and echoes [Figure 6](#). The figure shows that the predicted likelihood of exit is generally higher across ratings when the minimum wage is higher, but the impact, as well as the difference in impact across the three lines, shrinks as rating increases.

V. Further Investigation

A. Are Results Driven by Restaurant Prices?

If ratings are systematically correlated with prices – e.g., if cheap restaurants tend to receive low ratings, and expensive restaurants high ratings – then our results in Tables 4 and 5

may be confounded. Further, it could be that more expensive restaurants already pay wages above the minimum, and hence are less affected by minimum wage hikes. Are the heterogeneous effects we observe driven by how expensive the restaurant is rather than its quality?

We empirically examine this question by replacing $MW_{jt} * Rating_{ijt}$ in Equation 2 with the interaction term of the restaurant's price category (represented by dollar signs on Yelp) and the minimum wage $MW_{jt} * Price_i$ ([Table 6](#)). The coefficient on the interaction term is small and statistically insignificant, suggesting that the effects of the minimum wage along the price dimension are not significantly different (Column 1). When we include $MW_{jt} * Rating_{ijt}$ in the model as well, the coefficient on $MW_{jt} * Price_i$ remains insignificant, whereas the coefficient on $MW_{jt} * Rating_{ijt}$ are statistically significant and similar in magnitude to those in Table 5, providing evidence that the heterogeneous effects observed earlier are driven by quality rather than by the restaurant prices.

B. Impact on Entry

A natural follow-up question to our results on exit is the impact of the minimum wage on entry. Dates on restaurant entry only became regularly recorded by Yelp at the end of 2009, hence we restrict our entry analysis to the post-2010 period. To examine entry, we generate a city-level panel dataset based on our restaurant-level dataset and estimate the analogous version of Equation (1) using the entry rate as the dependent variable, weighted by the number of restaurants on Yelp in that city.

[Table 7](#) reports the results of this exercise. First, we find similar overall impacts of the minimum wage on exit as our restaurant-level analysis (Columns 1-3). Next, we find that the entry rate in fact declines with minimum wage increases – depending on the specification, the

entry rate declines by 0.025 to 0.045 percentage points from a base of 0.6 percent from a \$1 increase in the minimum wage, corresponding to an approximate 4 to 6 percent reduction. The number of restaurants per capita falls as expected, but the estimates are not statistically significant (Columns 7-9).

Our results suggest that higher minimum wages deter entry. Previous research on entry has produced mixed findings. Using a border discontinuity approach and data from Dun and Bradstreet Marketplace files, Rohlin (2011) finds that minimum wages hikes implemented between 2003 and 2006 discouraged firm entry – a \$1 increase in the minimum wage decreased the share of new establishments in an area relative to its comparison area by approximately 6 percent. Draca and Machin (2011) find some suggestive evidence that net entry rates decline after the imposition of a national minimum wage in the United Kingdom. In contrast, Aaronson et al. (forthcoming) finds that a 10 percent increase in the minimum wage increases the entry rate by roughly 14 percent from a mean of 8.7 percent using a similar border discontinuity approach and QCEW data.

C. Impact on Survival

In addition to the overall monthly likelihood of exit, we examine the effect of the minimum wage on restaurant time to exit. Since this relies on accurate coding of entry dates, we also restrict the analysis to after 2010. We estimate a survival model where the dependent variable is time to exit using a Weibull distribution (Table 8). The coefficients indicate that overall, the minimum wage increases the hazard rate, but the estimates are not statistically significant (Columns 1 and 3). However, when we interact the minimum wage with the restaurant's rating, we can see that the coefficient on the interaction term of minimum wage (or

gap) with rating is negative and statistically significant, suggesting that the speed to exit is accelerated for poorly rated restaurants (Columns 2 and 4).

V. Discussion

This paper presents several new findings. First, we provide suggestive evidence that higher minimum wage increases overall exit rates among restaurants, where a \$1 increase in the minimum wage leads to approximately a 4 to 10 percent increase in the likelihood of exit, although statistical significance falls with the inclusion of time-varying county-level characteristics and city-specific time trends. This is qualitatively consistent but smaller than what Aaronson et al. (forthcoming) find; they show that a 10 percent raise in the minimum wage increases firm exit by approximately 24 percent from a base of 5.7 percent. Differences in sample and specifications may account for the differences between our study and theirs.

Next, we examine heterogeneous impacts of the minimum wage on restaurant exit by restaurant quality. The textbook competitive labor market model assumes identical workers and firms who therefore are equally likely to share in the minimum-wage generated employment and profit losses. However, models that depart from the standard competitive model to allow for heterogeneous workers and firms suggest that a minimum wage increase would cause the lowest productivity firms to exit the market (Albrecht & Axell, 1984; Eckstein & Wolpin, 1990; Flinn, 2006). We show that there is, in fact, considerable and predictable heterogeneity in the effects of the minimum wage, and that the impact on exit is concentrated among lower quality restaurants, which are already closer to the margin of exit. This suggests that the ability of firms to adjust to minimum wage changes could differ depending on firm quality. Finally, we provide evidence that higher minimum wages deter entry, and hastens the time to exit among poorly rated restaurants.

Our findings suggest directions for future research. First, because most minimum wage changes in our sample are relatively new, our results should be considered short-term impacts. Second, while we find that the minimum wage reduces net entry slightly, it is unclear how employment would be affected given that the scale of entering or incumbent restaurants could change.¹⁰ Third, our results raise the possibility that higher rated restaurants may adjust to higher minimum wages through other channels, such as substituting toward higher productivity workers when faced with a minimum wage (Horton, 2017), especially if higher quality restaurants are able to assortatively match with more productive workers (Eeckhout & Kircher, 2011; Mendes et al., 2010).

Our results also demonstrate the potential for digital exhaust from online platforms to complement standard data sources to provide unique insight in policy evaluations. Glaeser et al (forthcoming) hypothesize that data from online platforms might provide dependent variables that are more granular and closer to real time, as well as independent variables that provide insight into dimensions of markets that were previously unobservable. Our analysis provides a case study in this, showing how digital exhaust from Yelp can further our understanding of the impact of the minimum wage.

¹⁰ The limited existing evidence on the interaction effect of firm dynamics and employment has been mixed. Anderson et al. (forthcoming) find the minimum wage increases exit (and entry) but do not find any impacts on employment. Draca and Machin (2011) find some evidence that minimum wages decreases net entry but no significant effects on employment.

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Figure 1. Minimum wage increases in the San Francisco Bay Area

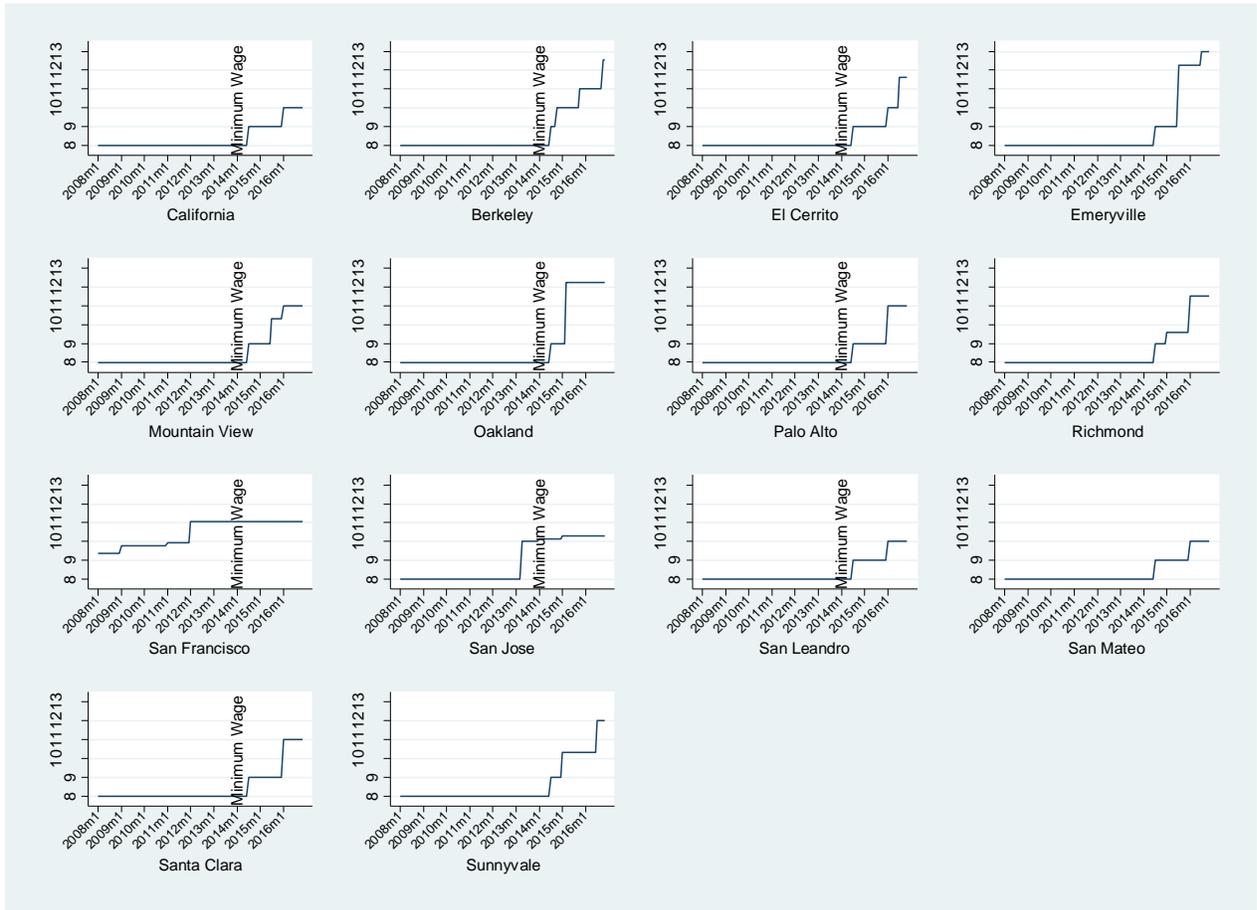


Figure 2a. Overall distribution of Yelp ratings

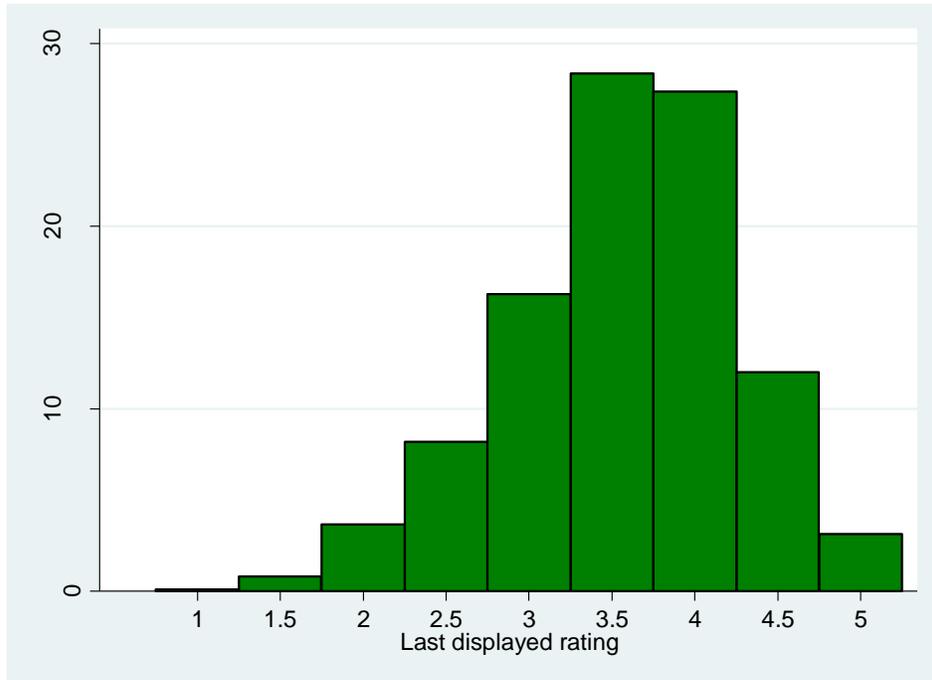


Figure 2b. Closed restaurants have lower ratings

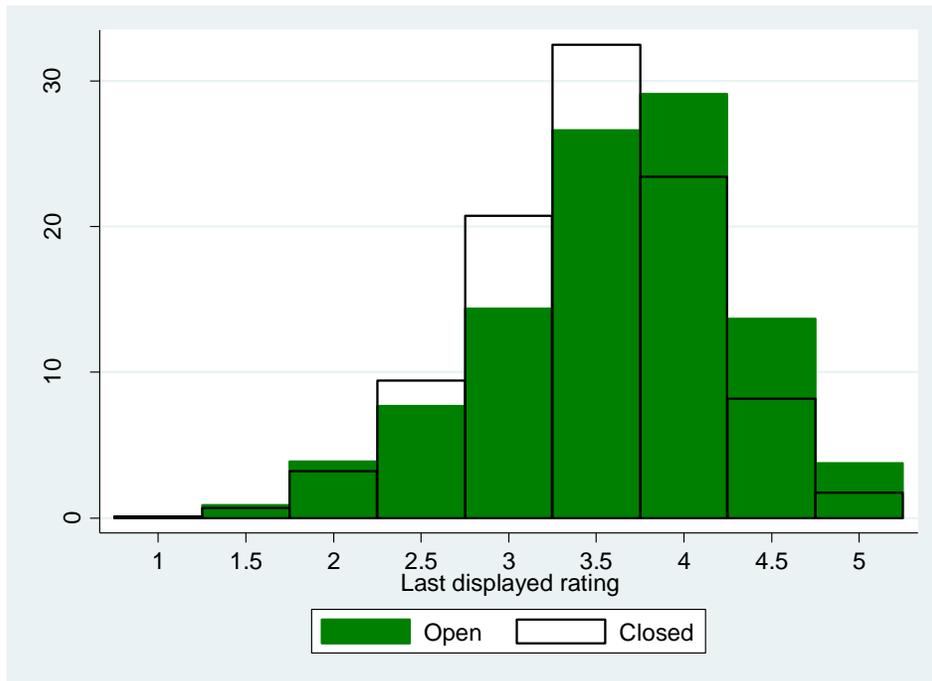
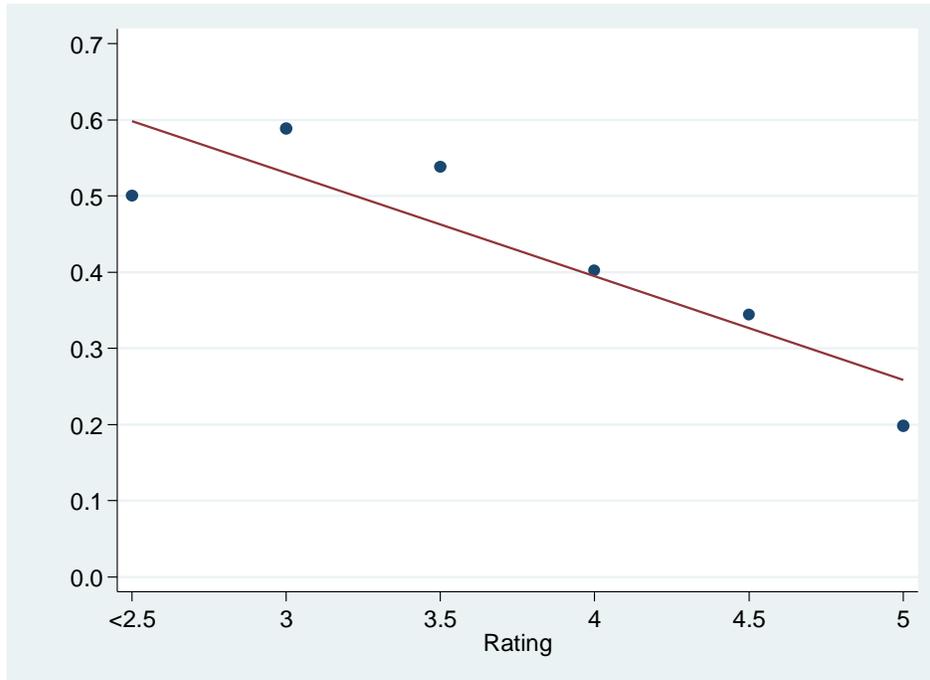
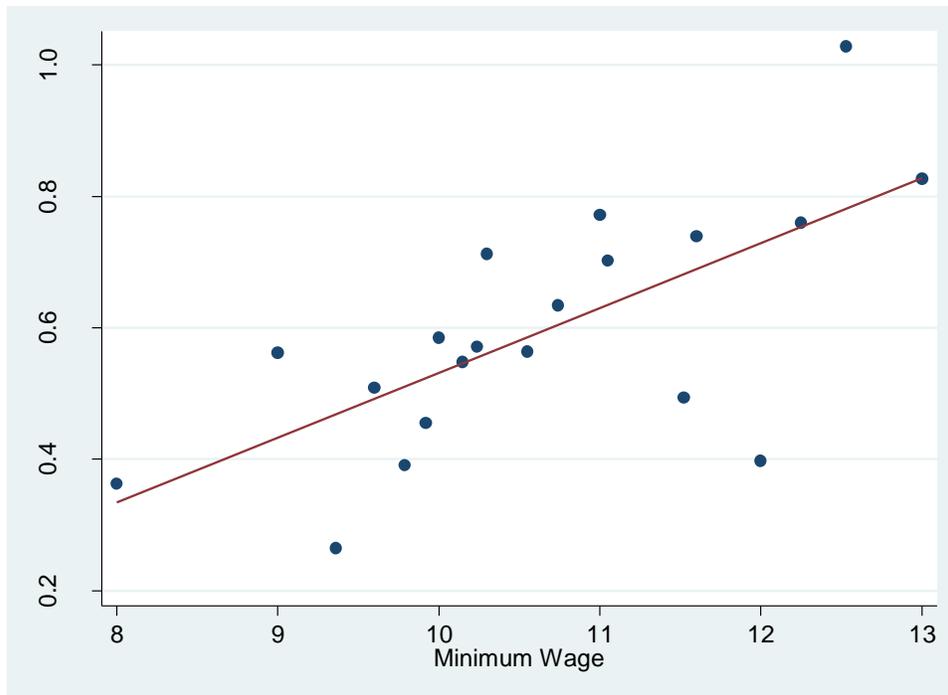


Figure 3. Lower rated restaurants are more likely to exit



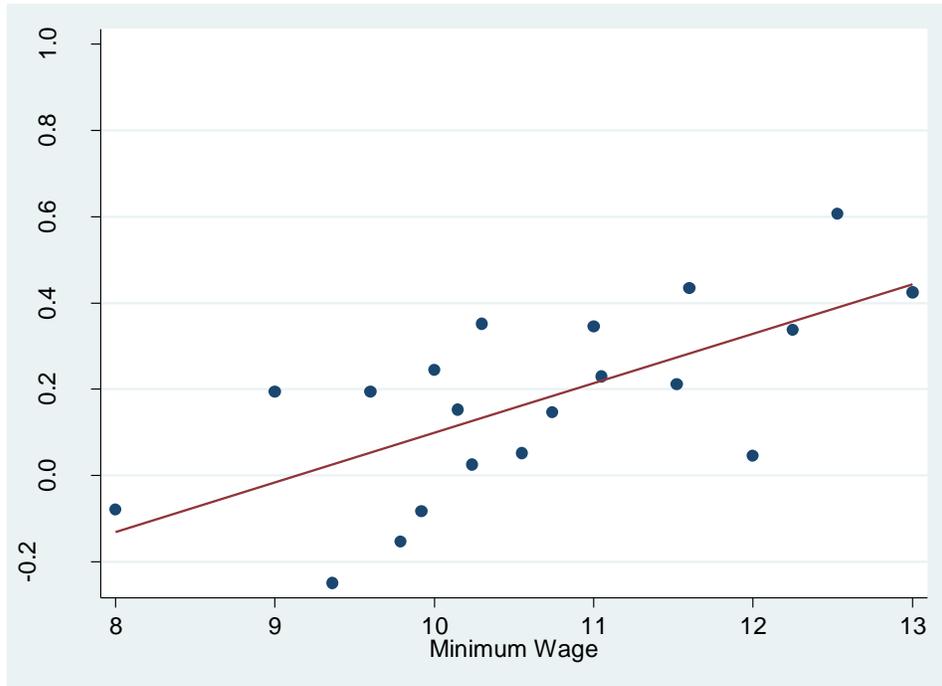
Note: This figure plots the monthly likelihood of exit at each Yelp rating.

Figure 4. Minimum wage and likelihood of exit



Note: This figure plots the simple means of the likelihood of exit at each minimum wage.

Figure 5. Minimum wage and likelihood of exit (within city)



Note: This figure plots the simple means of the residuals of regressing the likelihood of exit on city fixed effects at each minimum wage.

Figure 6. Minimum wage increases exit, but more so for worse restaurants

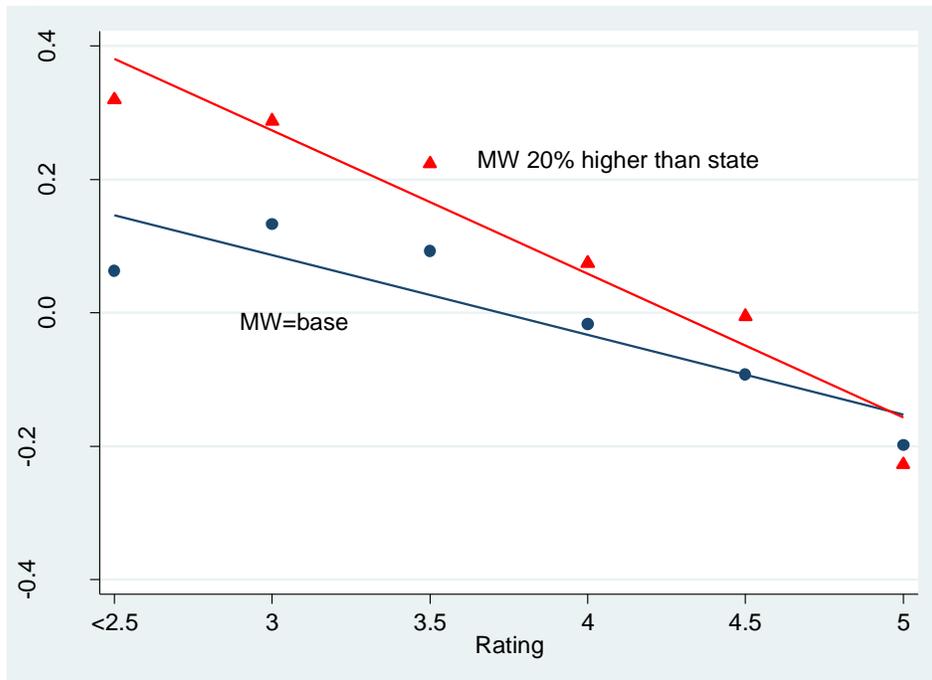
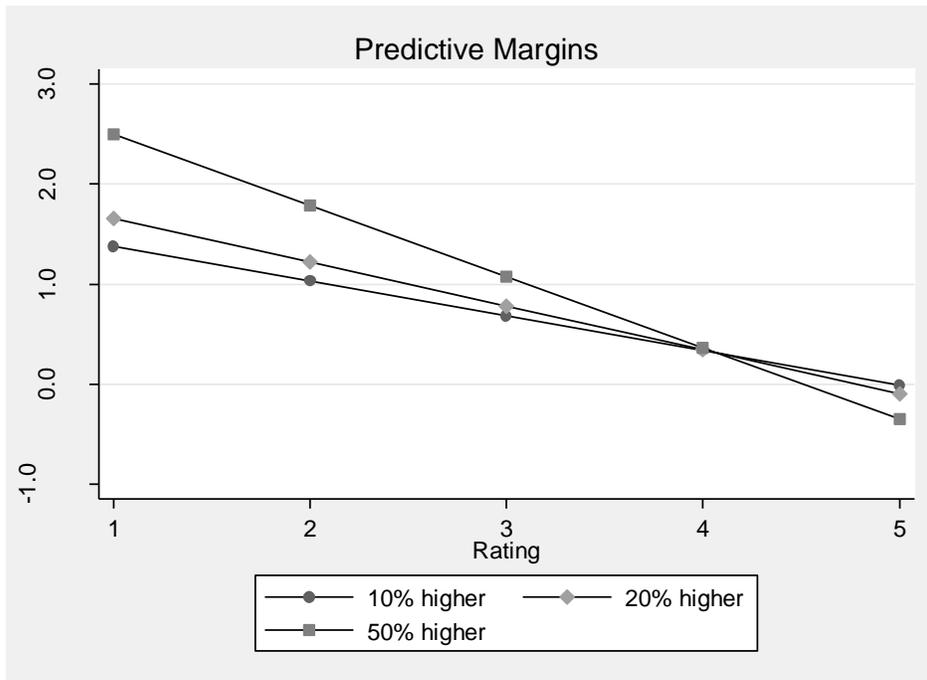


Figure 7. Predicted likelihoods of exit by minimum wage and rating



Note: This figure plots the predicted likelihood of exit by rating and the percent increase of local minimum wage above the state mandate based on the estimates from Table 4 Column 5.

Table 1. Descriptive statistics

Number of restaurants 35,173
Number of ratings 2,392,766

Panel A: Summary statistics at the restaurant level (at time of last appearance in panel)

Variable	Mean	Std Dev	Min	Max	Obs.
Total number of ratings	184.4	327.1	10	9781	35,173
Rating	3.564	0.691	1	5	35,173
Closed	0.301	0.459	0	1	35,173
Price category	1.588	0.603	1	4	35,173
Age of restaurants (months)	67.73	36.52	1	107	35,173
Minimum wage (\$)	10.49	1.534	8	13	35,173
Percent higher than state mw (%)	9.839	12.84	0	36	35,173

Panel B: Summary statistics at the restaurant-month level

Variable	Mean	Std Dev	Min	Max	Obs.
Incoming ratings	3.535	1.105	1	5	1,430,061
Number of incoming ratings	2.454	4.790	0	690	2,383,558
Average running rating	3.570	0.707	1	5	2,376,580
Exited (%)	0.464	6.792	0	100	2,392,766
Minimum wage (\$)	9.033	1.291	8	13	2,392,766
Percent higher than state mw (%)	7.346	11.77	0	36.1	2,392,766

Table 2. Are lower rated restaurants more likely to exit?

	Likelihood of Exit (Mean = 0.4%)				
	(1)	(2)	(3)	(4)	(5)
Rating	-0.0938*** (0.0116)	-0.2893*** (0.0277)	-0.2910*** (0.0287)	-0.2935*** (0.0280)	-0.2917*** (0.0290)
Restaurant FE		x	x	x	x
Calendar FE		x	x	x	x
Time-varying county characteristics			x	x	x
City-specific time trend				x	
County-year FE					x

Standard errors are clustered at the city level

Number of observations = 2,392,766

Calendar fixed effects = dummies for season and year

Table 3. Overall minimum wage effects on restaurant exit

	Likelihood of Exit (Mean = 0.4%)				
	(1)	(2)	(3)	(4)	(5)
Panel A: Minimum Wage	0.0929*** (0.0079)	0.0444 (0.0284)	0.0174 (0.0197)	-0.0132 (0.0134)	0.0263 (0.0181)
Panel B: Gap	0.0062*** (0.0006)	0.0045* (0.0024)	0.0026 (0.0019)	0.0016 (0.0017)	0.0040** (0.0018)
Restaurant FE		x	x	x	x
Calendar FE		x	x	x	x
Time-varying county characteristics			x	x	x
City-specific time trend				x	
County-year FE					x

Standard errors are clustered at the city level

Gap is a measure of the proportional increase of the city minimum wage over the state mandate

Number of observations = 2,392,766

Calendar fixed effects = dummies for season and year

Table 4. Heterogeneous effects of the minimum wage as a dollar measure

	Likelihood of Exit (%)				
	(Mean = 0.4%)				
	(1)	(2)	(3)	(4)	(5)
Minimum wage	0.1639*** (0.0208)	0.2336*** (0.0786)	0.2047*** (0.0730)	0.1746** (0.0696)	0.2148*** (0.0732)
Rating	0.0653 (0.0547)	0.1598 (0.1341)	0.1521 (0.1387)	0.1514 (0.1406)	0.1526 (0.1403)
Minimum Wage * Rating	-0.0190*** (0.0064)	-0.0527*** (0.0165)	-0.0520*** (0.0171)	-0.0522*** (0.0172)	-0.0521*** (0.0174)
Restaurant FE		x	x	x	x
Calendar FE		x	x	x	x
Time-varying county characteristics			x	x	x
City-specific time trend				x	
County-year FE					x

Standard errors are clustered at the city level

Number of observations = 2,370,963

Calendar fixed effects = dummies for season and year

Table 5. Heterogeneous effects of the minimum wage measured as the proportional increase above the state mandate

	Likelihood of Exit (%)				
	(Mean = 0.4%)				
	(1)	(2)	(3)	(4)	(5)
Gap	0.0170*** (0.0016)	0.0371*** (0.0096)	0.0338*** (0.0084)	0.0325*** (0.0081)	0.0349*** (0.0082)
Rating	-0.0831*** (0.0101)	-0.2557*** (0.0218)	-0.2589*** (0.0208)	-0.2615*** (0.0207)	-0.2597*** (0.0206)
Gap * Rating	-0.0029*** (0.0004)	-0.0091*** (0.0021)	-0.0087*** (0.0019)	-0.0086*** (0.0019)	-0.0086*** (0.0019)
Restaurant FE		x	x	x	x
Calendar FE		x	x	x	x
Time-varying county characteristics			x	x	x
City-specific time trend				x	
County-year FE					x

Table 6. Are results driven by restaurant prices?

	Likelihood of Exit (%)			
	0.4			
	(1)	(2)	(3)	(4)
Panel A				
Minimum Wage	0.0125 (0.0300)	0.1921** (0.0796)	0.1654** (0.0758)	0.2029** (0.0803)
Minimum Wage * Price	0.0019 (0.0102)	0.0059 (0.0106)	0.0035 (0.0103)	0.0054 (0.0107)
Rating		0.1464 (0.1424)	0.1452 (0.1441)	0.1479 (0.1435)
Minimum Wage * Rating		-0.0516*** (0.0177)	-0.0518*** (0.0178)	-0.0519*** (0.0178)
Panel B				
Gap	0.0019 (0.0028)	0.0339*** (0.0080)	0.0330*** (0.0075)	0.0352*** (0.0076)
Gap * Price	-0.0002 (0.0013)	0.0002 (0.0014)	-0.0001 (0.0013)	0.0000 (0.0013)
Rating		-0.2607*** (0.0211)	-0.2633*** (0.0210)	-0.2616*** (0.0210)
Gap * Rating		-0.0089*** (0.0019)	-0.0088*** (0.0018)	-0.0088*** (0.0019)
Restaurant FE	x	x	x	x
Calendar FE	x	x	x	x
Time-varying county characteristics	x	x	x	x
City-specific time trend	x		x	
County-year FE				x

Standard errors are clustered at the city level

Price indicates the price category of the restaurant, which ranges from 1 to 4

Gap is a measure of the proportional increase of the city minimum wage over the state mandate

Number of observations = 2,370,963

Calendar fixed effects = dummies for season and year

Table 7. Minimum wage effects on exit, entry, and number of restaurants

	Exit rate (%) (Mean = 0.4)			Entry rate (%) (Mean = 0.6)			Restaurants per 10,000 pop (Mean = 45.3)		
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Minimum Wage	0.0038 (0.0116)	-0.0030 (0.0126)	0.0185 (0.0138)	-0.0425*** (0.0139)	-0.0251* (0.0146)	-0.0449** (0.0193)	-0.1989 (0.1478)	-0.1149 (0.1187)	-0.1470 (0.1534)
Gap	0.0018* (0.0011)	0.0018 (0.0012)	0.0037*** (0.0013)	-0.0035*** (0.0010)	-0.0026*** (0.0009)	-0.0041*** (0.0015)	-0.0102 (0.0098)	-0.0026 (0.0079)	-0.0096 (0.0117)
Restaurant FE	x	x	x	x	x	x	x	x	x
Calendar FE	x	x	x	x	x	x	x	x	x
Time-varying county characteristics	x	x	x	x	x	x	x	x	x
City-specific time trend		x			x			x	
County-year FE			x			x			x

Each cell represents a different regression. Regressions are weighted by the number of restaurants at the city level.

Standard errors are clustered at the city level

Gap is a measure of the proportional increase of the city minimum wage over the state mandate

Number of observations = 8,134

Calendar fixed effects = dummies for season and year

Table 8. The impact of the minimum wage on survival rates

	Hazard Rate (Failure = Exit)			
	(1)	(2)	(3)	(4)
Minimum wage	0.0333 (0.0429)	0.4197*** (0.0854)		
Minimum wage * Rating		-0.1027*** (0.0199)		
Gap			0.0046 (0.0036)	0.0309*** (0.0076)
Gap * Rating				-0.0071*** (0.0018)
Rating		0.8606*** (0.1707)		-0.0133 (0.0188)

Standard errors are clustered at the city level. Coefficients are reported.

Gap is a measure of the proportional increase of the city minimum wage over the state mandate

Number of observations = 18,631

The survival model includes controls for the total number of ratings at exit or end of panel, time-varying county level characteristics, price category of the restaurant, and dummies for year of entry.



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OFFICE OF THE
VILLAGE PRESIDENT

Via Email & US Mail

June 16, 2017

Hon. Sean Morrison
Commissioner – 17th District
Cook County Board of Commissioners
118 N. Clark St.
Room 567
Chicago, IL 60602

RE: Cook County Minimum Wage and Mandatory Paid Sick Leave Ordinances

Dear Commissioner Morrison,

The Village Board of the Village of Wilmette is considering adoption of an ordinance that would “opt out” of the 2016 Cook County Ordinances concerning minimum wage and mandatory paid sick leave, which both take effect July 1, 2017. Previously, through the Metropolitan Mayors Caucus and the Northwest Municipal Conference we have received information from you and your staff concerning the two Cook County Ordinances at issue. We appreciate your sharing these materials with us, as they greatly aid in our discussion. Based on your prior willingness to provide information on the County Board’s process, I would respectfully request your assistance in obtaining some additional relevant information.

In preparing for our June 27, 2016 Village Board meeting at which adoption of an “opt out” ordinance will be considered, our staff and I have searched for background material and agenda material that would have informed the Cook County Board of Commissioner’s decisions on these two County Ordinances. We were able to locate a “working group” report to the City of Chicago that was used by the City Council as part of its review of a similar minimum wage ordinance, but we have been unable to locate any similar materials prepared for the County Board’s agenda for consideration of either of the County’s ordinances.

In reviewing the Cook County Ordinances, it would be useful for our Village Board to understand the procedural history of the Cook County minimum wage and paid sick leave ordinances, and review the back-up materials that were made a part of the public process by the County Board of Commissioners. Therefore, we respectfully request your assistance in resolving the following questions.

- Can you please outline the procedural history of the Cook County Paid Sick Leave Ordinance? When was it introduced? Was it referred to Committee? Were any Committee hearings held and, if so, are agenda materials and minutes available? When was it adopted by the County Board and were there any additional supporting materials circulated with the County Board agenda, other than the Ordinance itself?
- Similarly, can you please outline the procedural history of the Cook County Minimum Wage Ordinance? When was it introduced? Was it referred to Committee? Were any Committee hearings held and, if so, are agenda materials and minutes available? When was it adopted by the County Board and were there any additional supporting materials circulated with the County Board agenda, other than the Ordinance itself?
- Was there any independent study by the County about the impact of either the Minimum Wage or Paid Sick Leave Ordinance on suburban businesses (as opposed to the Chicago “working group” report that did not address suburban issues)? If so, can you share that information?
- Did the County survey or seek responses from suburban municipalities regarding either the Minimum Wage or Paid Sick Leave Ordinances prior to their adoption? If so, can you share that data?
- Did you or other Commissioners, to your knowledge, submit to either a County Board Committee or Commissioners any interrogatories concerning provisions or possible impact of either the Paid Sick Leave or Minimum Wage County Ordinances? If so, can you share those interrogatories with us and any response that you received to them?
- With regard to the Mandatory Paid Sick Leave Ordinance, which appears to provide paid sick leave for working approximately five hours per week, do you know if any of Cook County’s own employee collective bargaining agreements or the County’s own personnel policies (for unrepresented employees) provide paid sick leave on a comparable basis as the County Ordinance applicable to private employers?

To the extent that any of this information is available on the internet (although we have been unable to locate it), simply sending the document’s internet address would be more than sufficient for our staff to download it and send it to our Village Board.

The Wilmette Village Board is engaging in a thoughtful review of this subject, and materials that were made a part of the Cook County Board’s agenda materials when it

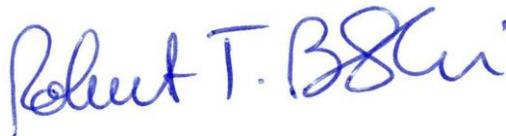
voted to approve these two Ordinances are a very important part of our review. The Village Board greatly appreciates any assistance you can provide in this regard.

The Wilmette Village Board will be discussing this at its regular meeting on June 27, 2017. We would greatly appreciate your response, or other relevant materials you would like to submit for our consideration, by noon, Thursday, June 22, 2017 in order to include them with the agenda material that we make available to the public and online. They may be submitted to Village Manager Tim Frenzer by email at FrenzerT@wilmette.com, if that is more convenient.

In addition, you are also invited to attend the Village Board meeting and address the Village Board on this matter.

Thank you again for your assistance on this important subject.

Respectfully,



Robert T. Bielinski
Village President

RTB/

Cc: Hon. Larry Suffredin, Cook County Commissioner



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OFFICE OF THE
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Via Email & US Mail

June 16, 2017

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Commissioner – 13th District
Cook County Board of Commissioners
118 N. Clark St.
Room 567
Chicago, IL 60602

RE: Cook County Minimum Wage and Mandatory Paid Sick Leave Ordinances

Dear Commissioner Suffredin,

The Village Board of the Village of Wilmette is considering adoption of an ordinance that would “opt out” of the 2016 Cook County Ordinances concerning minimum wage and mandatory paid sick leave, which both take effect July 1, 2017. As our representative on the Cook County Board of Commissioners, we appreciate your service to Wilmette and respect your support of the two Cook County Ordinances at issue. As our Commissioner, I would respectfully request your assistance in obtaining some additional relevant information that I think would aid the Village Board in its debate on this matter.

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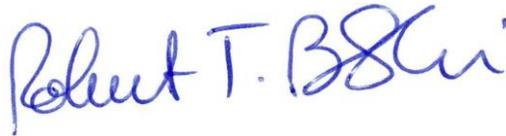
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In addition, you are also invited to attend the Village Board meeting and address the Village Board on this matter.

Thank you again for your assistance on this important subject.

Respectfully,

A handwritten signature in blue ink that reads "Robert T. Bielinski". The signature is written in a cursive style with a large initial "R" and "B".

Robert T. Bielinski
Village President

RTB/



1200 Wilmette Avenue
Wilmette, Illinois 60091-0040

(847) 853-7509
Facsimile (847) 853-7700
TDD (847) 853-7634

OFFICE OF THE
VILLAGE PRESIDENT

Via Email & US Mail

June 16, 2017

Sam Toia
President & Chief Executive Officer
Illinois Restaurant Association
33 W. Monroe St., Suite 250
Chicago, IL 60603

RE: Cook County Minimum Wage and Mandatory Paid Sick Leave Ordinances

Dear Mr. Toia,

Thank you for your interest in our Village Board's consideration of the Cook County Ordinances concerning minimum wage and mandatory paid sick leave. I appreciate your discussing your concerns and sharing them with us on behalf of the Illinois Restaurant Association members that you represent.

The Village Board will be discussing this subject at its regular meeting on June 27, 2017. If the Association has you have any written comments or other relevant materials you would like to submit for our consideration, please feel free to do so. The Village Manager would need to receive them by noon, Thursday, June 22, 2017 in order to include them with the agenda material that we make available to the public and online. You can submit them to the Village Manager, Tim Frenzer, by email at FrenzerT@wilmette.com, or by fax at 847-853-7700.

In addition, you are also invited to attend the Village Board meeting and address the Village Board on this matter.

Respectfully,

Robert T. Bielinski
Village President

RTB/



1200 Wilmette Avenue
Wilmette, Illinois 60091-0040

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Facsimile (847) 853-7700
TDD (847) 853-7634

OFFICE OF THE
VILLAGE PRESIDENT

Via Fax & US Mail

June 16, 2017

Mr. Ron Powell, President
Local 881 UFCW
10400 W. Higgins Rd., Suite 500
Rosemont, IL 60018-3705

RE: Cook County Minimum Wage and Mandatory Paid Sick Leave Ordinances

Dear Mr. Powell,

Thank you for your letter of June 1, 2017 concerning our Board's consideration of the Cook County Ordinances concerning minimum wage and mandatory paid sick leave. We appreciate your concerns and sharing them with us on behalf of the UFCW members that you represent.

The Village Board will be discussing this subject at its regular meeting on June 27, 2017. I will make sure that the letter and materials that you submitted to us are part of the public agenda material for the meeting. In addition, if you have any further comments or other materials you would like to submit for our consideration, please feel free to submit them to us. The Village Manager would need to receive them by noon, Thursday, June 22, 2017 in order to include them with the agenda material that we make available to the public and online. You can submit them to the Village Manager, Tim Frenzer, by email at FrenzerT@wilmette.com, or by fax at 847-853-7700.

In addition, you are also invited to attend the Village Board meeting and address the Village Board on this matter.

Respectfully,

Robert T. Bielinski
Village President

RTB/

**16-5768
ORDINANCE**

Sponsored by

**THE HONORABLE LARRY SUFFREDIN, LUIS ARROYO JR, RICHARD R. BOYKIN,
JERRY BUTLER, JOHN P. DALEY, JOHN A. FRITCHEY, BRIDGET GAINER,
JESÚS G. GARCÍA, EDWARD M. MOODY, STANLEY MOORE, DEBORAH SIMS,
ROBERT B. STEELE AND JEFFREY R. TOBOLSKI, COUNTY COMMISSIONERS**

AN ORDINANCE CREATING A MINIMUM WAGE IN COOK COUNTY

WHEREAS, Cook County, Illinois is a home-rule unit of government under Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois and, as such, may regulate for the protection of the public welfare; and

WHEREAS, promoting the welfare of those who work within the County's borders is an endeavor that plainly meets this criterion; and

WHEREAS, enacting a minimum wage for workers in Cook County that exceeds the state minimum wage is entirely consistent with the Illinois General Assembly's finding that it "is against public policy for an employer to pay to his employees an amount less than that fixed by" the Illinois Minimum Wage Law, 820 ILCS 105/2.

NOW, THEREFORE, BE IT ORDAINED, by the Cook County Board of Commissioners that Chapter 42 Human Relations, Article I In General, Division 2 Cook County Minimum Wage Ordinance, Sections 42-7 through 42-19 of the Cook County Code are hereby enacted as follows:

Sec. 42-7. - Short Title.

This Division shall be known and may be cited as the Cook County Minimum Wage Ordinance.

Sec. 42-8. - Definitions.

For purposes of this Division, the following definitions apply:

Covered Employee means any Employee who is not subject to any of the exclusions set out in Section 42-12 below, and who, in any particular two-week period, performs at least two hours of work for an Employer while physically present within the geographic boundaries of Cook County. For purposes of this definition, time spent traveling in Cook County that is compensated time, including, but not limited to, deliveries, sales calls, and travel related to other business activity taking place within Cook County, shall constitute work while physically present within the geographic boundaries of Cook County; however, time spent traveling in Cook County that is uncompensated commuting time shall not constitute work while physically present within the geographic boundaries of Cook County.

CPI means the Consumer Price Index for All Urban Consumers most recently published by the Bureau of Labor Statistics of the United States Department of Labor.

Director means the Executive Director of the Cook County Commission on Human Rights.

Domestic worker means a person whose primary duties include housekeeping; house cleaning; home management; nanny services, including childcare and child monitoring; caregiving, personal care or home health services for elderly persons or persons with illnesses, injuries, or disabilities who require assistance in caring for themselves; laundering; cooking; companion services; chauffeuring; and other household services to members of households or their guests in or about a private home or residence, or any other location where the domestic work is performed.

Employee, Gratuities, and Occupation have the meanings ascribed to those terms in the Minimum Wage Law, with the exception that all Domestic Workers, including Domestic Workers employed by Employers with fewer than four (4) employees, shall fall under the definition of the term “Employee”.

Employer means any individual, partnership, association, corporation, limited liability company, business trust, or any person or group of persons that gainfully employs at least one Covered Employee. To qualify as an Employer, such individual, group, or entity must (1) maintain a business facility within the geographic boundaries of Cook County and/or (2) be subject to one or more of the license requirements in Title 4 of this Code.

Fair Labor Standards Act means the United States Fair Labor Standards Act of 1938, 29 USC § 201 et seq., in force on the effective date of this chapter and as thereafter amended.

Minimum Wage Law means the Illinois Minimum Wage Law, 820 ILCS 105/1 et seq., in force on the effective date of this chapter and as thereafter amended.

Subsidized Temporary Youth Employment Program means any publicly subsidized summer or other temporary youth employment program through which persons aged 24 or younger are employed by, or engaged in employment coordinated by, a nonprofit organization or governmental entity.

Subsidized Transitional Employment Program means any publicly subsidized temporary employment program through which persons with unsuccessful employment histories and/or members of statistically hard-to-employ populations (such as formerly homeless persons, the long-term unemployed, and formerly incarcerated persons) are provided temporary paid employment and case-managed services under a program administered by a nonprofit organization or governmental entity, with the goal of transitioning program participants into unsubsidized employment.

Tipped Employee has the meaning ascribed that term in the Fair Labor Standards Act.

Wage means compensation due an Employee by reason of his employment.

Sec. 42-9. - Minimum Hourly Wage.

Except as provided in Sections 42-10 of this Code, every Employer shall pay no less than the following Wages to each Covered Employee for each hour of work performed for that Employer while physically present within the geographic boundaries of Cook County:

- (a) Beginning on July 1, 2017, the greater of: (1) the minimum hourly Wage set by the Minimum Wage Law; (2) the minimum hourly Wage set by the Fair Labor Standards Act; or (3) \$10.00 per hour.
- (b) Beginning on July 1, 2018, the greater of: (1) the minimum hourly Wage set by the Minimum Wage Law; (2) the minimum hourly Wage set by the Fair Labor Standards Act; or (3) \$11.00 per hour.
- (c) Beginning on July 1, 2019, the greater of: (1) the minimum hourly Wage set by the Minimum Wage Law; (2) the minimum hourly Wage set by the Fair Labor Standards Act; or (3) \$12.00 per hour.
- (d) Beginning on July 1, 2020, the greater of: (1) the minimum hourly Wage set by the Minimum Wage Law; (2) the minimum hourly Wage set by the Fair Labor Standards Act; or (3) \$13.00 per hour.
- (e) Beginning on July 1, 2021, and on every July 1 thereafter, the greater of: (1) the minimum hourly Wage set by the Minimum Wage Law; (2) the minimum hourly Wage set by the Fair Labor Standards Act; or (3) Cook County's minimum hourly Wage from the previous year, increased in proportion to the increase, if any, in the CPI, provided, however, that if the CPI increases by more than 2.5 percent in any year, the Cook County minimum Wage increase shall be capped at 2.5 percent, and that there shall be no Cook County minimum Wage increase in any year when the unemployment rate in Cook County for the preceding year, as calculated by the Illinois Department of Employment Security, was equal to or greater than 8.5 percent. Any increase pursuant to subsection 42-9(e) shall be rounded up to the nearest multiple of \$0.05. Any increase pursuant to subsection 42-9(e) shall remain in effect until any subsequent adjustment is made. On or before June 1, 2021, and on or before every June 1 thereafter, the Director shall make available to Employers a bulletin announcing the adjusted minimum hourly Wage for the upcoming year.

Sec. 42-10. - Minimum hourly wage in occupations receiving gratuities.

- (a) Every Employer of a Covered Employee engaged in an Occupation in which Gratuities have customarily and usually constituted part of the remuneration shall pay no less than the following Wage-to each Covered Employee for each hour of work performed for that Employer while physically present within the geographic boundaries of the County:
 - (1) Beginning on July 1, 2017, the greater of: (A) the minimum hourly Wage set by the Fair Labor Standards Act for Tipped Employees; or (B) the minimum hourly Wage set by the Minimum Wage Law for workers who receive Gratuities.

(2) Beginning on July 1, 2018, and on every July 1 thereafter, the greater of (A) the minimum hourly Wage set by the Fair Labor Standards Act for tipped workers; (B) the minimum hourly Wage set by the Minimum Wage Law for workers who receive Gratuities; or (C) Cook County's minimum hourly Wage from the previous year for workers who receive Gratuities, increased in proportion to the increase, if any, in the CPI, provided, however, that if the CPI increases by more than 2.5 percent in any year, the Cook County minimum Wage increase for workers who receive Gratuities shall be capped at 2.5 percent, and that there shall be no Cook County minimum Wage increase for workers who receive Gratuities in any year when the unemployment rate in Cook County for the preceding year, as calculated by the Illinois Department of Employment Security, was equal to or greater than 8.5 percent. Any increase pursuant to subsection 42-10 (a)(3)(C) shall be rounded up to the nearest multiple of \$0.05. Any increase pursuant to subsection 42-10 (a)(3) shall remain in effect until any subsequent adjustment is made. On or before June 1, 2018, and on or before every June 1 thereafter, the Director shall make available to Employers a bulletin announcing Cook County's minimum hourly Wage for the upcoming year for workers who receive Gratuities.

(b) Each Employer that pays a Covered Employee the Wage described in subsection 42-10 (a) shall transmit to the Director, in a manner provided by regulation, substantial evidence establishing: (1) the amount the Covered Employee received as Gratuities during the relevant pay period; and (2) that no part of that amount was returned to the Employer. If an Employer is required by the Minimum Wage Law to provide substantially similar data to the Illinois Department of Labor, the Director may allow the Employer to comply with this subsection 42-10 (b) by filing a copy of the state documentation.

Sec. 42-11. - Overtime compensation.

The Wages set out in Sections 42-9 and 42-10 are subject to the overtime compensation provisions in the Cook County Minimum Wage Law, with the exception that the definitions of "Employer" and "Employee" in this chapter shall apply.

Sec. 42-12. - Exclusions.

This chapter shall not apply to hours worked:

(a) By any person subject to subsection 4(a)(2) of the Minimum Wage Law, with the exception that the categories of Employees described in subsections 4(a)(2)(A) and 4(a)(2)(B) of the Minimum Wage Law shall be entitled to the Wages described in Sections 42-9 and 42-10, whichever applies, as well as the overtime compensation described in Section 42-11;

(b) By any person subject to subsection 4(a)(3), subsection 4(d), subsection 4(e), Section 5, or Section 6 of the Minimum Wage Law;

(c) For any governmental entity other than the Cook County, a category that, for purposes of this chapter, includes, but is not limited to, any unit of local government, the Illinois state government, and the government of the United States, as well as any other federal, state, or local governmental agency or department;

(d) For any Subsidized Temporary Youth Employment Program; or

(e) For any Subsidized Transitional Employment Program.

Sec. 42-13. - Applications to Collective Bargaining Agreements.

Nothing in this chapter shall be deemed to interfere with, impede, or in any way diminish the right of employees to bargain collectively with their employers through representatives of their own choosing in order to establish wages or other conditions of work in excess of the applicable minimum standards of the provisions of this chapter. The requirements of this chapter may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms.

Sec. 42-14. - Applications to the Cook County Living Wage Ordinance for Procurements.

Nothing in this chapter shall be deemed conflict with Article IV, Division 3 of the Cook County Code. All Contractors must comply with the Wage Requirements set forth in Article IV, Division 3, even if the wages required to be paid are higher than those set forth within this chapter.

Sec. 42-15. - Notice and Posting.

(a) Every Employer shall post in a conspicuous place at each facility where any Covered Employee works that is located within the geographic boundaries of Cook County a notice advising the Covered Employee of the current minimum Wages under this chapter, and of his rights under this chapter. The Director shall prepare and make available a form notice that satisfies the requirements of this subsection 42-14 (a). Employers that do not maintain a business facility within the geographic boundaries of Cook County and households that serve as the worksites for Domestic Workers are exempt from this subsection 42-14(a).

(b) Every Employer shall provide with the first paycheck subject to this chapter issued to a Covered Employee a notice advising the Covered Employee of the current minimum Wages under this chapter, and of the Employee's rights under this chapter. The Director shall prepare and make available a form notice that satisfies the requirements of this subsection 42-14(b).

Sec. 42-16. - Retaliation Prohibited.

It shall be unlawful for any Employer to discriminate in any manner or take any adverse action against any Covered Employee in retaliation for exercising any right under this chapter, including, but not limited to, disclosing, reporting, or testifying about any violation of this chapter or regulations promulgated thereunder. For purposes of this Section, prohibited adverse actions include, but are not limited to, unjustified termination, unjustified denial of promotion, unjustified negative evaluations, punitive schedule changes, punitive decreases in the desirability of work assignments, and other acts of harassment shown to be linked to such exercise of rights.

Sec. 42-17. - Enforcement – Regulations.

The Cook County Commission on Human Rights shall enforce this chapter, and the Director is authorized to adopt regulations for the proper administration and enforcement of its provisions.

Sec. 42-18. - Violation – Penalty.

Any Employer who violates this chapter or any regulation promulgated thereunder shall be subject to a fine of not less than \$500.00 nor more than \$1,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply.

Sec. 42-19. - Private Cause of Action.

If any Covered Employee is paid by his Employer less than the Wage to which he is entitled under this chapter, the Covered Employee may recover in a civil action three times the amount of any such underpayment, together with costs and such reasonable attorney's fees as the court allows. An agreement by the Covered Employee to work for less than the Wage required under this chapter is no defense to such action.

BE IT FURTHER ORDAINED, by the Cook County Board of Commissioners, that Chapter 34 Finance, Article IV Procurement Code, Division 4 Disqualifications and Penalties, Section 34-179 of the Cook County Code is hereby amended as follows:

Sec. 34-179. - Disqualification due to violation of laws related to the payment of wages and Employer Paid Sick Leave Ordinance.

(a) A Person including a Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) who has admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Employee Classification Act, 820 ILCS 185/1 et seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages shall be ineligible to enter into a Contract with the County for a period of five years from the date of conviction, entry of a plea, administrative finding or admission of guilt.

(b) A person including a Substantial Owner who has admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of violating the Cook County Minimum Wage Ordinance (Section 42-7 - 42-15 of the Cook County Code) shall be ineligible to enter into a Contract with the County for a period of five years from the date of conviction, entry of a plea, administrative finding or admission of guilt.

~~(b c)~~ The CPO shall obtain an affidavit or certification from every Person or Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) from whom the County seeks to make a Contract with certifying that the Person seeking to do business with the County including its Substantial Owners (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) has not violated the statutory provisions identified in Subsection (a) and or (b) of this Section.

~~(e d)~~ For Contracts entered into following the effective date of this Ordinance, if the County becomes aware that a Person including Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) under contract with the County is in violation of Subsection (a) or (b) of this Section, then, after notice from the County, any such violation(s) shall constitute a default under the Contract.

~~(d e)~~ If a Person including a Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) is ineligible to contract with the County due to the provisions of Subsection (a) or (b) of this Section, the Person seeking the Contract may submit a request for a reduction or waiver of the ineligibility period to the CPO. The request shall be in writing in a manner and form prescribed by the CPO and shall include one or more of the following actions have been taken:

- (1) There has been a bona fide change in ownership or Control of the ineligible Person or Substantial Owner;
- (2) Disciplinary action has been taken against the individual(s) responsible for the acts giving rise to the violation;
- (3) Remedial action has been taken to prevent a recurrence of the acts giving rise to the disqualification or default; or
- (4) Other factors that the Person or Substantial Owner believe are relevant.

The CPO shall review the documentation submitted, make any inquiries deemed necessary, request additional documentation where warranted and determine whether a reduction or waiver is appropriate. Should the CPO determine that a reduction or waiver of the ineligibility period is appropriate; the CPO shall submit its decision and findings to the County Board.

(e f) A Using Agency may request an exception to such period of ineligibility by submitting a written request to the CPO, supported by facts that establish that it is in the best interests of the County that the Contract be made from such ineligible Person. The CPO shall review the documentation, make any inquiries deemed necessary, and determine whether the request should be approved. If an exception is granted, such exception shall apply to that Contract only and the period of ineligibility shall continue for its full term as to any other Contract. Said exceptions granted by the CPO shall be communicated to the County Board.

BE IT FURTHER ORDAINED, by the Cook County Board of Commissioners, that Chapter 74 Taxation, Article II Real Property Taxation, Division 2 Classification System for Assessment, Section 74-74 of the Cook County Code is hereby amended as follows:

Sec. 74-74. - Laws regulating the payment of wages and Employer Paid Sick Leave.

- (a) Except where a Person has requested an exception from the Assessor and the County Board expressly finds that granting the exception is in the best interest of the County, such Person including any Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) shall be ineligible to receive any property tax incentive noted in Division 2 of this Article if, during the five year period prior to the date of the application, such Person or Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., the Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101 et seq., the Employee Classification Act, 820 ILCS 185/1 et. seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages.
- (b) The Assessor shall obtain an affidavit or certification from every Person and Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) who seeks a property tax incentive from the County as noted in Division 2 of this Article certifying that the Person or Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) has not violated the statutory provisions identified in Subsection (a) of this Section.

(c) If the County or Assessor becomes aware that a Person or Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) has admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., the Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101 et seq., the Employee Classification Act, 820 ILCS 185/1 et. seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages during the five year period prior to the date of the application, but after the County has reclassified the Person's or Substantial Owner's (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) subject property under a property tax incentive classification, then, after notice from the Assessor of such violation, the Person or Substantial Owner shall have 45 days to cure its violation and request an exception or waiver from the Assessor. Failure to cure or obtain an exception or waiver of ineligibility from the Assessor shall serve as grounds for revocation of the classification as provided by the Assessor or by the County Board by Resolution or Ordinance. In case of revocation or cancellation, the Incentive Classification shall be deemed null and void for the tax year in which the incentive was revoked or cancelled as to the subject property. In such an instance, the taxpayer shall be liable for and shall reimburse to the County Collector an amount equal to the difference in the amount of taxes that would have been collected had the subject property not received the property tax incentive.

(d) The Assessor shall obtain an affidavit or certification from every Person and Substantial Owner who seeks a property tax incentive from the County that the applicant pays a Wage as defined in Section 42-8 to its employees in accordance with Sections 42-7 through 42-15 of the Cook County Code.

BE IT FURTHER ORDAINED, by the Cook County Board of Commissioners, that Chapter 54 Licenses, Permits and Miscellaneous Business Regulations, Article X General Business Licenses, Section 54-384 and Section 54-390 of the Cook County Code are hereby amended as follows:

Sec. 54-384. - License application.

All applications for a General Business License shall be made in writing and under oath to the Director of Revenue on a form provided for that purpose.

(a) Every application for a County General Business License shall be submitted and signed by the Person doing business or authorized representative of the Person doing business and shall contain the following:

- (1) Name of the applicant.
- (2) Business address.
- (3) Social security numbers, Tax ID number, and residence addresses of its sole proprietor or the three individuals who own the highest percentage interests in such Person and any other individual who owns five percent or more interest therein.
- (4) Pin number of the property or properties where the business is being operated.
- (5) A brief description of the business operations plan.

(6) Sales tax allocation code. The sales tax allocation code identifies a specific sales tax geographic area and is used by the State of Illinois for sales tax allocation purposes.

(7) Certification that applicant is in compliance with all applicable County Ordinances.

(8) For Business Licenses applied for or renewed following the effective date of this provision, certification that the applicant has not, during the five-year period prior to the date of the application for a Business License, admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., the Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101 et seq., the Employee Classification Act, 820 ILCS 185/1 et. seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages.

(9) Certification that the applicant pays a Wage as defined in Section 42-8 to its employees that conforms with Sections 42-7 - 42-15 of the Cook County Code

(b) The Director of Revenue shall be the custodian of all applications for licenses which [sic] under provisions of this Code. All information received by the Department from applications filed pursuant to this article or from any investigations conducted pursuant to this article, except for official County purposes, or as required by the Freedom of Information Act, shall be confidential.

(c) The General Business License applicant may be subject to an inspection by the following county departments including, but not limited to, Health, Building and Zoning and the Environment, prior to licensing.

(d) It shall be grounds for denial and/or revocation of any license issued under the provisions of this article whenever the license applicant knowingly includes false or incomplete information in the license application or is in violation of a County Ordinance.

Sec. 54-390. - Failure to comply-Code of Ordinances.

(a) Failure to comply with applicable Cook County Code of Ordinances may result in general business license suspension or revocation.

(b) Persons doing business in unincorporated Cook County must comply with this article and, including but not limited to, the following Cook County Code of Ordinances:

(1) Chapter 30, Environment; or

(2) Chapter 38, Article III, Public Health and Private Nuisances; or

(3) Chapter 58: Article III, Offenses involving Public Safety, and Article IV, Offenses Involving Public Morals; or

(4) The Cook County Building Ordinance, adopted originally on March 11, 1949, as amended, and/or the Cook County Building Code; or

(5) Chapter 74 Taxation; or

(6) The Cook County Zoning Ordinance, as amended; or

(7) Chapter 42 Human Relations.

Effective Date: This Ordinance shall take effect immediately upon passage.

Approved and adopted this 26th of October 2016.

TONI PRECKWINKLE, President
Cook County Board of Commissioners

Attest: DAVID ORR, County Clerk

**16-4229
ORDINANCE**

Sponsored by

**THE HONORABLE BRIDGET GAINER, JESÚS G. GARCÍA, LUIS ARROYO JR.,
RICHARD R. BOYKIN, JOHN P. DALEY, JOHN A. FRITCHEY, DEBORAH SIMS,
ROBERT B. STEELE AND LARRY SUFFREDIN, COUNTY COMMISSIONERS**

ESTABLISHING EARNED SICK LEAVE FOR EMPLOYEES IN COOK COUNTY

WHEREAS, the County of Cook is a home rule unit of government pursuant to the 1970 Illinois Constitution, Article VII, Section 6 (a); and

WHEREAS, pursuant to their home rule powers, the Cook County Commissioners may exercise any power and perform any function relating to their governments and affairs, including the power to regulate for the protection of the public health, safety, morals and welfare; and

WHEREAS, employees in every industry occasionally require time away from the workplace to tend to their own health or the health of family members; and

WHEREAS, in Cook County approximately 40 percent, or 840,000, private sector workers receive no paid sick leave; and

WHEREAS, earned sick leave has a positive effect on the health of not only employees and their family members, but also the health of fellow workers and public at large and the most comprehensive national survey of United States restaurant workers found that two-thirds of restaurant wait staff and cooks have come to work sick; and

WHEREAS, earned sick leave reduces healthcare expenditures by promoting access to primary and preventative care and reduces reliance on emergency care; and

WHEREAS, nationally providing all workers with earned sick leave would result in \$1.1 billion in annual savings in hospital emergency department costs; and

WHEREAS, nearly one (1) in four (4) American women report domestic violence by an intimate partner, nearly one (1) in five (5) women have been raped, and nearly one (1) in six (6) women have been stalked. Many workers, men and women, need time off to care for themselves after these incidents, or to find solutions, such as protective orders or new housing, to avoid or prevent further domestic or sexual violence. Without paid time off, employees are in grave danger of losing their jobs, which can be devastating when victims need economic security to ensure their own safety and that of their children; and

WHEREAS, at least 28 local jurisdictions have enacted Earned Sick Leave including Chicago, New York City, Los Angeles, San Francisco, Oakland, Minneapolis, Philadelphia, Jersey City and Seattle; and

WHEREAS, a cost model developed by the Civic Consulting Alliance found that a paid sick leave framework similar to the one reflected in this Ordinance would result in only a small, 0.7 to 1.5 increase in labor costs for most employers.

NOW, THEREFORE, BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 42 Human Relations, Article 1 In General, Sections 42-1 through 42-6 of the Cook County Code is hereby enacted as follows:

Sec. 42-1. Short title.

This article shall be known and may be cited as the Cook County Earned Sick Leave Ordinance (“Ordinance”).

Sec. 42-2. Definitions.

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agency shall mean the Cook County Commission on Human Rights.

Construction Industry means any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving, wrecking, painting, decorating, demolishing, and adding to or subtracting from any building, structure, highway, roadway, street, bridge, alley, sewer, ditch, sewage disposal plant, water works, parking facility, railroad, excavation or other structure, project, development, real property or improvement, or to do any part thereof, whether or not the performance of the work herein described involves the addition to, or fabrication into, any structure, project, development, real property or improvement herein described of any material or article of merchandise. Construction shall also include moving construction related materials on the job site to or from the job site, snow plowing, snow removal, and refuse collection.

Covered Employee means any Employee who, in any particular two-week period, performs at least two hours of work for an Employer while physically present within the geographic boundaries of Cook County. For purposes of this definition, time spent traveling in Cook County that is compensated time, including, but not limited to, deliveries, sales calls, and travel related to other business activity taking place within Cook County, shall constitute work while physically present within the geographic boundaries of Cook County; however, time spent traveling in Cook County that is uncompensated commuting time shall not constitute work while physically present within the geographic boundaries of Cook County. The definition of “Covered Employee” for purposes of this ordinance does not include any “employee” as defined by Section 1(d) of the Railroad Unemployment Insurance Act, 45 U.S.C. § 351(d).

Domestic partner means any person who has a registered domestic partnership, or qualifies as a domestic partner under Sections 2-173 and 174 of this Code or as a party to a civil union under the Illinois Religious Freedom Protection and Civil Union Act, 750 ILCS 75/1 et seq., as currently in force and hereafter amended.

Earned Sick Leave means time that is provided by an Employer to a Covered Employee that is eligible to be used for the purposes described in Section 42-3 of this Chapter, and is compensated at the same rate and with the same benefits, including health care benefits, that the Covered Employee regularly earns during hours worked.

Employee means an individual permitted to work by an employer regardless of the number of persons the Employer employs.

Employer means:

- (1) "Employer" means any individual, partnership, association, corporation, limited liability company, business trust, or any person or group of persons that gainfully employs at least one Covered Employee with a place of business within Cook County.
- (2) The term "employer" does not mean:
 - a. The government of the United States or a corporation wholly owned by the government of the United States;
 - b. An Indian tribe or a corporation wholly owned by an Indian tribe;
 - c. The government of the State or any agency or department thereof; or
 - d. Units of local government.

Family and Medical Leave Act means the United States Family and Medical Leave Act of 1993, 29 USC S 2601 et seq. as currently in force and hereafter amended.

Family member means a Covered Employee's child, legal guardian or ward, spouse under the laws of any state, domestic partner, parent, spouse or domestic partner's parent, sibling, grandparent, grandchild, or any other individual related by blood or whose close association with the Covered Employee is the equivalent of a family relationship. A child includes not only a biological relationship, but also a relationship resulting from an adoption, step-relationship, and/or foster care relationship, or a child to whom the Covered Employee stands in loco parentis. A parent includes a biological, foster, stepparent or adoptive parent or legal guardian of a Covered Employee, or a person who stood in loco parentis when the Employee was a minor child.

Health Care Provider means any person licensed to provide medical or emergency services, including, but not limited to doctors, nurses, and emergency room personnel.

Sec. 42-3. Earned sick leave.

(a) General Provisions

- (1) Any Covered Employee who works at least 80 hours for an Employer within any 120-day period shall be eligible for Earned Sick Leave as provided under this Section.
- (2) Unless an applicable collective bargaining agreement provides otherwise, upon a Covered Employee's termination, resignation, retirement or other separating from employment, his or her Employer is not required to provide financial or other reimbursement for unused Earned Sick Leave.

(b) Accrual of Earned Sick Leave

- (1) Earned Sick Leave shall begin to accrue either on the 1st calendar day after the commencement of a Covered Employee's employment or on the effective date of this Ordinance, whichever is later.

- (2) For every 40 hours worked after a Covered Employee's Earned Sick Leave begins to accrue, he or she shall accrue one hour of Earned Sick Leave. Earned Sick Leave shall accrue only in hourly increments; there shall be no fractional accruals.
- (3) A Covered Employee who is exempt from overtime requirements shall be assumed to work 40 hours in each workweek for purposes of Earned Sick Leave accrual, unless his or her normal work week is less than 40 hours, in which case Earned Sick Leave shall accrue based upon that normal work week.
- (4) For each Covered Employee, there shall be a cap of 40 hours Earned Sick Leave accrued per 12-month period, unless his or her Employer sets a higher limit. The 12-month period for a Covered Employee shall be calculated from the date he or she began to accrue Earned Sick Leave.
- (5) At the end of a Covered Employee's 12-month accrual period, he or she shall be allowed to carry over to the following 12-month period half of his or her unused accrued Earned Sick Leave, up to a maximum of 20 hours.
- (6) If an Employer is subject to the Family and Medical Leave Act, each of the Employer's Covered Employees shall be allowed, at the end of his or her 12-month Earned Sick Leave accrual period, to carry over up to 40 hours of his or her unused accrued Earned Sick Leave, in addition to the carryover allowed under subsection 42-3(b)(5), to use exclusively for Family and Medical Leave Act eligible purposes.
- (7) If an Employer has a policy that grants Covered Employees paid time off in an amount and a manner that meets the requirements for Earned Sick Leave under this Section, the Employer is not required to provide additional paid leave. If such Employer's policy awards the full complement of paid time off immediately upon date of eligibility, rather than using an accrual model, the Employer must award each Covered Employee 40 hours paid time off within one calendar year of his or her date of eligibility.

(c) Use of Earned Sick Leave

- (1) An Employer shall allow a Covered Employee to begin using Earned Sick Leave no later than on the 180th calendar day following the commencement of his or her employment. A Covered Employee is entitled to use no more than 40 hours of Earned Sick Leave per 12-month period, unless his or her Employer sets a higher limit. The 12-month period for a Covered Employee shall be calculated from the date he or she began to accrue Earned Sick Leave. If a Covered Employee carries over 40 hours of Family and Medical Leave Act leave pursuant to subsection 42-3(b)(6) and uses that leave, he or she is entitled to use no more than an additional 20 hours of accrued Earned Sick Leave in the same 12 month period, unless the Employer sets a higher limit. A Covered Employee shall be allowed to determine how much accrued Earned Sick Leave he or she needs to use, provided that his or her Employer may set a reasonable minimum increment requirement not to exceed four hours per day.

- (2) A Covered Employee may use Earned Sick Leave when:
 - a. He or she is ill or injured, or for the purpose of receiving medical care, treatment, diagnosis or preventative medical care;
 - b. A member of his or her family is ill or injured, or to care for a family member receiving medical care, treatment, diagnosis or preventative medical care;
 - c. He or she, or a member of his or her family, is the victim of domestic violence, as defined in Section 103 of the Illinois Domestic Violence Act of 1986, or is the victim of sexual violence or stalking as defined in Article 11, and Sections 12-7.3, 12-7.4, and 12-7.5 of the Illinois Criminal Code of 2012; or
 - d. His or her place of business is closed by order of a public official due to a public health emergency, or he or she needs to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency. For the purposes of this section, "public health emergency" is an event that is defined as such by a Federal, State or Local government, including a school district.
- (3) An Employer shall not require, as a condition of a Covered Employee taking Earned Sick Leave that he or she search for or find a replacement worker to cover the hours during which he or she is on Earned Sick Leave.
- (4) If a Covered Employee's need for Earned Sick Leave is reasonably foreseeable, an Employer may require up to seven days' notice before leave is taken. If the need for Earned Sick Leave is not reasonably foreseeable, an Employer may require a Covered Employee to give notice as soon as is practicable on the day the Covered Employee intends to take Earned Sick Leave by notifying the Employer via phone, e-mail, or text message. The Employer may set notification policy if the Employer has notified Covered Employee in writing of such policy and that policy shall not be unreasonably burdensome. For purposes of this subsection, needs that are "reasonably foreseeable" include, but are not limited to prescheduled appointments with health care providers for the Covered Employee or for a family member, and court dates in domestic violence cases. Any notice requirement imposed by an Employer pursuant to this subsection shall be waived in the event a Covered Employee is unable to give notice because he or she is unconscious, or otherwise medically incapacitated. If the leave is one that is covered under the Family and Medical Leave Act, notice shall be in accordance with the Family and Medical Leave Act.
- (5) Where a Covered Employee is absent for more than three consecutive work days, his or her Employer may require certification that the use of Earned Sick Leave was authorized under subsection 42-3(c)(2). For time used pursuant to subsections (c)(2)(a) or (b), documentation signed by a licensed health care provider shall satisfy this requirement. An Employer shall not require that such documentation specify the nature of the Covered Employee's or the Covered Employee's family member's injury, illness, or condition, except as required by law. For Earned Sick Leave used pursuant to subsection (c)(2)(c) a police report, court document, a

signed statement from an attorney, a member of the clergy, or a victim services advocate, or any other evidence that supports the Covered Employee's claim, including a written statement from him or her, or any other person who has knowledge of the circumstances, shall satisfy this requirement. The Covered Employee may choose which document to submit, and no more than one document shall be required if the Earned Sick Leave is related to the same incident of violence or the same perpetrator. The Employer shall not delay the commencement of Earned Sick Leave taken for one of the purposes in subsection 42-3(c)(2) nor delay payment of wages, on the basis that the Employer has not yet received the required certification.

- (6) Nothing in this Section shall be construed to prohibit an Employer from taking disciplinary action, up to and including termination, against a Covered Employee who uses Earned Sick Leave for purposes other than those described in this Section.
- (7) This Section provides minimum Earned Sick Leave requirements; it shall not be construed to affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater Earned Sick Leave benefits.

Sec. 42-5. Application to collective bargaining agreements.

Nothing in this Ordinance shall be deemed to interfere with, impede, or in any way diminish the right of Covered Employees to bargain collectively with their Employers through representatives of their own choosing in order to establish wages or other conditions of work in excess of the applicable minimum standards of the provisions of this Ordinance. The requirements of this Ordinance may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms. Nothing in this Ordinance shall be deemed to affect the validity or change the terms of bona fide collective bargaining agreements in force on the effective date of this Ordinance. After that date, requirements of this Ordinance may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms. In no event shall this Ordinance apply to any Covered Employee working in the Construction Industry who is covered by a bona fide collective bargaining agreement.

Sec. 42-6. Notice and posting.

(a) Every Employer shall post in a conspicuous place at each facility where any Covered Employee works that is located within the geographic boundaries of Cook County a notice advising the Covered Employee of his or her rights to Earned Sick Time under this Ordinance. The Agency shall prepare and make available a form notice that satisfies the requirements of this Ordinance. Employers that do not maintain a business facility within the geographic boundaries of the County are exempt from this subsection.

(b) Every Employer shall provide to a Covered Employee at the commencement of employment written notice advising the Covered Employee of his or her rights to Earned Sick Time under this Ordinance. The Agency shall prepare and make available a form notice that satisfies the requirements of this Ordinance.

Sec. 42-7. Retaliation prohibited.

It shall be unlawful for any Employer to discriminate in any manner or take any adverse action against any Covered Employee in retaliation for exercising, or attempting in good faith to exercise, any right under this Ordinance, including, but not limited to, disclosing, reporting, or testifying about any violation of this Ordinance or regulations promulgated thereunder. For purposes of this Section, prohibited adverse actions include, but are not limited to, unjustified termination, unjustified denial of promotion, unjustified negative evaluations, punitive schedule changes, punitive decreases in the desirability of work assignments, and other acts of harassment shown to be linked to such exercise of rights. An Employer shall not use its absence-control policy to count Earned Sick Leave as an absence that triggers discipline, discharge, demotion, suspension, or any other adverse activity.

Sec. 42-8. Enforcement and penalties.

(a) The Agency shall administer and enforce this Ordinance in accordance with Chapter 42, Article II, Section 42-34 of the Cook County Human Rights Ordinance, except as allowed for in subsection (b) of this Section.

(b) If any Employer violates any of the Earned Sick Leave provisions in this Ordinance, the affected Covered Employee may recover in a civil action damages equal to three times the full amount of any unpaid Sick Leave denied or lost by reason of the violation, and the interest on that amount calculated at the prevailing rate, together with costs and such reasonable attorney's fees as the court allows. Such action may be brought without first filing an administrative complaint. The statute of limitations for a civil action brought pursuant to this Ordinance shall be for a period of three years from the date of the last event constituting the alleged violation for which the action is brought.

Sec. 42-9. Effect of invalidity; severability.

If any section, subdivision, paragraph, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

Sec. 42-10. After passage and publication, this Ordinance shall take effect on July 1, 2017.

Effective Date: This Ordinance shall take effect on July 1, 2017.

Approved and adopted this 5th of October 2016.

TONI PRECKWINKLE, President
Cook County Board of Commissioners

Attest: DAVID ORR, County Clerk

COOK COUNTY MINIMUM WAGE AND SICK LEAVE ORDINANCES



Law Department

DATE: June 19, 2017

To: Village President and Board of Trustees
Village Manager

From: [Jeffrey M. Stein](#), Corporation Counsel

SUBJECT: Village's Options Regarding Cook County's Minimum Wage and Sick Leave Ordinances

Background on the Cook County Minimum Wage Ordinance and Cook County Sick Leave Ordinance ("County Ordinances")

On June 13, 2017, the Village Board introduced Ordinance #2017-O-36 identifying home rule conflicts with certain County Ordinances regarding paid sick leave and minimum hourly wage ("Opt Out Ordinance").

Since that time, the Corporation Counsel has been directed to provide:

1. A brief overview of both County Ordinances;
2. An opinion regarding the legal authority of Cook County to enact the County Ordinances;
3. An opinion regarding Wilmette's legal authority to enact its own ordinances regulating the minimum wage and imposing mandatory sick leave for employees in Wilmette;
4. An opinion regarding Wilmette's legal authority to "opt out" of the County Ordinances and other options;

Overview of County Ordinances

Cook County Minimum Wage Ordinance ("Minimum Wage Ordinance")

On October 26, 2016, the Cook County Board of Commissioners ("County Board") passed the Minimum Wage Ordinance which requires "Employers" to pay "Covered Employees" (as defined in the Minimum Wage Ordinance and discussed more thoroughly below) a minimum wage higher than that otherwise required by Illinois law. Federal law sets the minimum wage in 2017 at \$7.25/hour. Illinois has a higher minimum wage set at \$8.25/hour pursuant to the Illinois Minimum Wage Act.

A "Covered Employee" is one that performs any work whatsoever anywhere in Cook County (including deliveries and compensated travel time). An "Employer" is (1) a business that employs one or more employees that has any business facility in Cook County or (2) any business that receives a license under Chapter 54 (erroneously labeled as "Title 4" in the Minimum Wage Ordinance).

The Minimum Wage Ordinance sets a minimum wage of \$10 per hour, effective July 1, 2017. The minimum wage goes up \$1 per hour each July 1st through 2020, so that by July 1, 2020 it will be \$13 per hour. After 2020, the minimum wage in Cook County will be increased by the Consumer Price Index (not to exceed an increase of 2.5% in a given year). If at any time after 2020, the unemployment rate in Cook County as determined by the Illinois Department of Employment Security was equal to or greater than 8.5%, the minimum wage would not increase and remain the same rate as the previous year. There is no year in which the minimum wage increase would sunset without additional action being taken by the County Board.

The Minimum Wage Ordinance does provide for certain exceptions. In a roundabout way, the Minimum Wage Ordinance under the "Exclusions" section (and not as an exception to "Covered Employees"), exempts time worked by entry level employees for the first ninety (90) days, employees under the age of 18, and employees licensed as "learners" or otherwise known as apprentices. Therefore, these categories of employees are *not* subject to the minimum wage set forth by the Minimum Wage Ordinance and their minimum rate of pay will be as determined by the Illinois Minimum Wage Act. In addition, the "Exclusions" section also provides for exceptions to the types of Employers that are subject to the Minimum Wage Ordinance. All other governments (including the Village) are not subject to the Minimum Wage Ordinance. Section 42-11 of the Minimum Wage Ordinance.

The Minimum Wage Ordinance does not provide for a statute of limitations for a "Covered Employee" to bring a private cause of action in the Circuit Court. It does provide for a damages cap of up to "three times the amount of any such underpayment together with costs and such reasonable attorney's fees as the court allows." Section 42-19 of the Minimum Wage Ordinance. Should the Commission (defined below) enforce any violation, a fine between \$500 and \$1000 for each offense may be imposed. The Minimum Wage Rules (defined below) also provide for additional forms of relief to aggrieved Covered Employees. The Commission may order back wages to be paid, disqualify a business from receiving a Cook County contract for up to five years and other injunctive relief to ensure future compliance with the Minimum Wage Ordinance. Furthermore, the Minimum Wage Rules do provide for a three year statute of limitations in regards to the Commission to investigate, prosecute and adjudicate any claim made under the Minimum Wage Ordinance. This statute of limitations does not apply to private causes of action.

The Minimum Wage Ordinance will become effective July 1, 2017.

Interpretive and Procedural Rules Governing the Cook County Minimum Wage Ordinance approved May 25, 2017 ("Minimum Wage Rules")

The Cook County Commission on Human Rights ("Commission") has the authority to promulgate and enforce certain rules relating to the County Ordinances. The Commission has done so by drafting and adopting the Minimum Wage Rules.

The purpose of such rules is to provide guidance for the "proper administration and enforcement of" the provisions of the Minimum Wage Ordinance. The Minimum Wage Rules bind the administrative departments, including the administrative enforcement wing of the County. The Minimum Wage Rules, may provide guidance and a possible interpretation to Courts, but they are not binding and need not be considered if a Court were to hear a private cause of action for a violation as authorized in the Minimum Wage Ordinance.

In addition, the Minimum Wage Rules attempt to clarify; and in some cases correct certain defects with the Minimum Wage Ordinance. Two examples of the Minimum Wage Rules attempt to change or clarify the Minimum Wage Ordinance are as follows:

A clarification is made in the Minimum Wage Rules which appears to redefine and reorganize the otherwise oddly placed exceptions to the types of employees that must receive the minimum wage. The “Exclusions” (discussed above) in the Minimum Wage Ordinance, have been reclassified in the Minimum Wage Rules as a “Covered Employee” exclusion and not as an hours worked exclusion. While the exclusion remains the same, it is not common to see a differing categorization of an otherwise clear provision between the initiating ordinance and its administrative rules.

A defect that is corrected in the Minimum Wage Rules relates to the definition of “Employer” which states in the second and relevant part: “(2) be subject to one or more of the license requirements in *Title 4* of this Code” (emphasis added). There is no delineation in the Cook County Code with the moniker “Title” much less one that is identified as “Title 4”. This is clearly a typo. It became obvious that this specific provision was copied from the Chicago’s Minimum Wage Ordinance which contains the exact same language, including a correct cross reference to Chicago’s Title 4.

The Chicago Minimum Wage Ordinance was passed after the City of Chicago published “A Fair Deal for Chicago’s Working Families: A Proposal to Increase the Minimum Wage,” a 24 page report discussing Chicago’s proposal to increase the minimum wage within the City limits. This report states that “a diverse group of community, labor and business leaders” were tasked with evaluating options for developing a balanced proposal to raise the minimum wage for Chicago’s workers. There was a public engagement component to the study. It provided for the rationale of the proposed (now enacted) minimum wage increase as well as the rationale for the exemptions of youth and training wages. It discusses the impact upon businesses and their anticipated responses. The report ends with a Summary of Academic Research, where cites nearly 40 academic articles as being relevant to the issue of minimum wage.

No such report from Cook County has been discovered or disclosed at the time this memorandum was drafted. A Cook County staff member has verified that no such report for the County Ordinances was ever created and therefore, it is likely that no study was conducted regarding the impact the Minimum Wage Ordinance would have upon suburban businesses, employees, and communities. As stated above, the Minimum Wage Ordinance is almost word-for-word the same as Chicago’s Minimum Wage Ordinance, even with incorrect cross references included. The Minimum Wage Ordinance was introduced on October 5, 2016 and passed three weeks later on October 26, 2016.

Cook County Sick Leave Ordinance (“Sick Leave Ordinance”)

On October 5, 2016, the County Board passed the Sick Leave Ordinance which provides for mandatory paid sick leave benefits to be provided by employers to employees. A Covered Employee is any employee that performs work for at least two hours for an Employer in a two-week period and is physically present in Cook County. Once that threshold is met, Employers are obligated to provide 1 hour of paid sick leave for each 40 hours of work to any employee who works at least 80 hours within a 120-day period, up to a maximum of 40 hours per year. An employee can roll over up to one-half of the prior year’s earned sick leave up to a maximum of 20 hours. All units of local government, which includes the Village, are excluded from the “Employer” definition.

The Sick Leave Ordinance provides for a three year statute of limitation for a “Covered Employee” to bring a private cause of action in the Circuit Court. It also provides for a damages cap of up to “three times the full amount of any unpaid sick leave denied or lost by reason of the violation, and the interest on that amount calculated at the prevailing rate, together with costs and such reasonable attorney’s fees as the court allows.” Section 42-8(b) of the Sick Leave Ordinance. The Sick Leave Rules (defined below) provide for penalty for violations that can be imposed by the Commission, which are a fine between \$500 and \$1000 for each offense, order lost wages to be paid, and other injunctive relief as deemed necessary to ensure future compliance with the Sick Leave Ordinance.

The Sick Leave Ordinance will become effective July 1, 2017.

Interpretive and Procedural Rules Governing the Cook County Earned Sick Leave Ordinance approved May 25, 2017 (“Sick Leave Rules”)

The Commission also adopted a set of rules for the Sick Leave Ordinance. The Sick Leave Rules do not attempt to clarify any terms or “fix” any discrepancies found in the Sick Leave Ordinance. The Sick Leave Rules do, as discussed above, set the penalties that the Commission may impose upon violators.

There were no studies or reports created by the County in relation to the Sick Leave Ordinance that have been discovered by the Village’s staff. A Cook County staff member verified that no such study or reports were ever created. The Sick Leave Ordinance was introduced on June 29, 2016, sent to the Labor Committee on July 13, 2017. It was then sent to the Finance Committee on October 5, 2017 and then passed that same day by the County Board. There were no discovered reports generated by the Labor or Finance Committees. The Sick Leave Ordinance, does in its recitals, provide for certain statistics and findings; however, there is no discussion how the Sick Leave Ordinance may or may not impact suburban business, employees and communities.

Cook County’s Home Rule Authority to Enact the County Ordinances

State’s Attorney Opinion

The authority of Cook County to adopt the County Ordinances has been called into question by Cook County’s own attorney, the Cook County State’s Attorney. In response to the request of Cook County Commissioners, three separate legal opinions were prepared by the Chief of the Civil Actions’ Bureau of the State’s Attorney. Two opinions discuss the lawful authority of the County Ordinances (one opinion for each ordinance). On both occasions the State’s Attorney opined that the County, “**lacks the home rule authority**” to enact both a minimum wage and a mandatory sick leave policy. (emphasis added).

The State’s Attorney relied significantly upon People ex rel. Bernardi v. Highland Park, 121 Ill. 2d 1, 520 N.E.2d 316 (1988), to come to its conclusion that the County’s authority to enact either a minimum wage or mandatory sick leave is non-existent. Accordingly, a discussion of that case is necessary.

People ex rel. Bernardi v. Highland Park

In Bernardi, the issue of the City of Highland Park’s Home Rule authority to fund public work’s projects without complying with the Illinois Prevailing Wage Act was addressed by the Illinois Supreme Court. This case remains the state of the law today.

The Supreme Court provided guidance on the limitations of home rule units and how it determined whether or not such units have the power to enact certain laws and regulations, when the State government has preempted a field. The Court wrote:

The limited grant of power to home rule units in section 6(a) legitimizes only those assertions of authority that address problems faced by the regulating home rule unit, not those faced by the State or Federal governments. Whether a particular problem is of statewide rather than local dimension must be decided not on the basis of a specific formula or listing set forth in the Constitution but with regard for the nature and extent of the problem, the units of government which have the most vital interest in its solution, and the role traditionally played by local and statewide authorities in dealing with it. Bernardi, 121 Ill. 2d at 12-13, 520 N.E.2d at 321.

The Court provided for a three prong test that lower courts will use to examine if a home rule unit has the power and authority to enter and regulate a certain field. A court will examine (but not all three prongs must be met):

1. the extent to which the conduct in question affects matters outside of the corporate boundaries of the home rule unit,
2. the traditional role of municipal (in this case county) versus State regulation in this field, and
3. which level of government has the more vital interest in regulating the field.

Bernardi, 121 Ill. 2d at 13, 520 N.E.2d at 321.

While Bernardi does not specifically address the issue of a home rule unit of government's authority to enact a minimum wage or mandatory sick leave for employees; it does provide guidance that matters dealing with "working conditions," which are of a statewide concern and not subject to local legislation. The Supreme Court evaluated prevailing wage laws and determined that "to otherwise improve working conditions has traditionally been a matter of State concern, outside the power of local officials to contradict..." Bernardi, 121 Ill. 2d at 14, 520 N.E.2d at 322. But the Supreme Court did not stop there, it then gave a laundry list of other Illinois statutes that designate workplace regulations as examples of why the regulations regarding the worker's rights and the like are matters of statewide concern. Most notably, in regards to the Minimum Wage Ordinance, the Supreme Court specifically names the Illinois Minimum Wage law as an example of how workplace regulations have been preempted by the State. Bernardi, 121 Ill. 2d at 15, 520 N.E.2d at 322. The Supreme Court was essentially stating (as an example, but not a citable ruling), that minimum wages are a matter already of statewide concern. The Supreme Court did not just list the Illinois Minimum Wage Act as the only example; it listed the following Illinois statutes which were enacted presumably to promote the safety and wellbeing of workers in Illinois, much like the County Ordinances:

1. Eight Hour Work Day Act
2. Equal Wage Act
3. One Day Rest in Seven Act
4. Child Labor Law
5. Illinois Wage Assignment Act
6. Medical Examination of Employees Act
7. Wages of Women and Minors Act
8. Unemployment Insurance Act

The statutes listed, albeit numbered differently and have been presumably amended since 1985, are still in effect today.

Highland Park's argument that it could regulate prevailing wage rates within Highland Park were disregarded by the Supreme Court in the following text (which again used the Illinois Minimum Wage Act as an example that workplace regulations are not subject to home rule legislation):

Adopting the defendants' definition of home rule authority in this case would put at risk all of the State's labor laws and invite increasingly localized definition of workers' rights. Consistent with the defendants' arguments, home rule units could condone 12-hour work days, *suspend minimum-wage requirements* and repeal child-labor laws within their jurisdictions. In those cases, as in many others, superseding local regulation would be justified as affecting only local industries and workers. Bernardi, 121 Ill. 2d at 15, 520 N.E.2d at 322-323. (emphasis added)

The Supreme Court continued:

Were home rule authorities allowed to govern their local labor conditions, the Illinois Constitution's vision of home rule units exercising their powers to solve local problems would be corrupted and that power used to create a confederation of modern feudal estates which, to placate local economic and political expediencies, would in time destroy the General Assembly's carefully crafted and balanced economic policies. It is precisely for this reason, to avoid a chaotic and ultimately ineffective labor policy, that the State has a far more vital interest in regulating labor conditions than do local communities. The disintegration of uniform labor rights and standards under State law would certainly follow the breakup of State monopoly in this field, and it is doubtful whether local units of government could agree upon statewide labor policies that would bring to Illinois the benefits of a well-compensated and skilled labor force. Bernardi, 121 Ill. 2d at 15, 520 N.E.2d at 323.

The Court concluded that Highland Park's attempt to abrogate the prevailing wage law was an act *ultra vires*, and outside of the grant of home rule powers under the Illinois Constitution.

Employee Sick Leave Act, 820 ILCS 191/1 et. seq.

On January 1, 2017 (after the issuance of the State's Attorney's Opinions), the State enacted the Employee Sick Leave Act. This new law requires employers to allow employees to use a portion of their otherwise earned sick leave for not only their own illnesses but also to care for certain relatives. 820 ILCS 191/10.

This new law is important as it regulates the use of personal sick leave benefits for all employees in Illinois. If the State government wanted to provide for mandatory sick leave for all employees in Illinois, it could very easily have done so in the Employee Sick Leave Act, but did not.

It is likely had this Act been in effect at the time Bernardi was written, it would be listed as yet another example of statewide preemption in the area of workplace regulations. Accordingly, a court could look at this law as the State's preemption into the specific field of sick leave for employees; and could rule that the Mandatory Sick Leave Ordinance is invalid because Cook County cannot regulate this field.

Wilmette Corporation Counsel Opinion – Validity of the County Ordinances

It is important to note that the County Ordinances carry with them a presumption of validity; and only a court or the County Board can deem them invalid. As such, on July 1, 2017, the County Ordinances will be in full effect and able to be enforced by the Commission and a court.

However, should someone challenge the validity of these ordinances, it is the Corporation Counsel's opinion that the State's Attorney correctly opined that the County exceeded its authority by enacting the County Ordinances. The reasoning already provided by the Illinois Supreme Court regarding the need of uniform workplace regulations lends itself to the conclusion that the County Ordinances can be deemed *ultra vires*, just like Highland Park's ordinance abrogating the Illinois Prevailing Wage Act. While the questions of whether a home rule unit of government can enact its own minimum wage or mandatory sick leave time was not the question that was ruled upon, it was certainly discussed in dicta and as part of the ruling, a circuit court will closely examine that language.

For the reasons provided for in the State's Attorney Opinions, in Bernardi, and stated in this memorandum, it is the Corporation Counsel's Opinion that while the County Ordinances do not *per se* violate any rule of law and are valid; if challenged in court, it is highly probable that a court will determine that Cook County acted beyond its home rule powers and the County Ordinances will be deemed null and void.

Wilmette's lack of authority to enact its own minimum wage or sick leave ordinances

It is the Corporation Counsel's opinion that the field of workplace regulations, specifically minimum wage and mandatory sick leave have been preempted by the State and are not within the home rule powers of the Village. In gathering this opinion, the Corporation Counsel found no relevant distinguishing characteristics that would allow Wilmette to enact minimum wage or mandatory sick leave regulations without facing the same level of scrutiny Highland Park faced in the Bernardi case. Should Wilmette attempt to enact its own ordinances establishing a minimum wage or mandatory sick leave time, it could face the same problems the County Ordinances may face. Therefore, the opinion of the Corporation Counsel is that the Village not consider enacting its own such ordinances as in doing so would be an improper extension of the Village's home rule powers. Doing so, despite the current validity and status of the Cook County Ordinance, would subject Wilmette to potential litigation and liability.

Home Rule Power to "Opt Out" and the Power to Encourage State Action

Wilmette may choose which set of standards will apply within its corporate boundaries

The question now becomes is "what can Wilmette, as a home rule municipality, do in regards to the County Ordinances"? The short answer is Wilmette can choose between allowing the Cook County standards to apply in Wilmette or pass the "Opt Out Ordinance" to keep the standards of the State intact within the Village.

If Wilmette does nothing, the unchecked County standards will be enforceable as long as the ordinance is not successfully challenged or changed. However, Wilmette may pass the already introduced "Opt Out Ordinance" which would create a conflict with the County Ordinances, thereby ensuring the State standards currently in place, remain so, after July 1, 2017.

Pursuant to the Illinois Constitution, a Home Rule County ordinance will apply within the territory of a municipality, unless the "county ordinance conflicts with an ordinance of a municipality" then "the municipal ordinance shall prevail within its jurisdiction." Illinois Const., Art. VII, § 6.

An ordinance providing for a conflict with the Cook County Ordinances, would allow for the State regulations to remain in place. This option is expressly provided for in the Illinois Constitution and is the opinion shared by the State's Attorney Office in its opinion number 16-4229 and dated July 22, 2016.¹

Based upon the State's Attorney's opinion, the discussion of opting out by Suburban Cook County municipalities began before the County Ordinances were adopted. After opinion number 16-4229 was disclosed to suburban communities, discussions at various suburban boards and counsels began to take place. Those municipalities have the same options as Wilmette, accept the County regulations or opt out of those regulations and keep the State standards intact within their boundaries. As discussed in Village Manager Frenzer's memorandum, dated June 2, 2017, 41 municipalities had opted out as of May 26, 2017. Since that time, 8 more municipalities, including Morton Grove and Glenview, opted out; leaving the total number of already opted out municipalities at 49. In addition, this matter is on the agenda for at least two more Suburban municipalities before July 1, 2017.

Accordingly, Wilmette is now discussing what at least 50 other Suburban Cook County municipalities have or will discuss. The Opt Out Ordinance is drafted and titled in such a way to expressly address the issue that a "conflict" is being created. This is consistent with the other municipal "opt out" ordinances already adopted in those other communities. The term "conflict" as used in the Illinois Constitution is an undefined term. There is also no statutory interpretation or jurisprudence addressing that term. Therefore, by labeling the ordinance as "an ordinance identifying Home Rule conflicts" with

¹ All three Cook County State's Attorneys' Opinions have been provided to you as part of the Agenda packet and in Village Manager Frenzer's memorandum to you on June 2, 2017.

the County Ordinances, there will be little room to have the Opt Out Ordinance interpreted as Wilmette's own regulation or an ordinance that does not create a conflict.

The Opt Out Ordinance would have the effect of keeping the minimum wage and sick leave provisions as the *status quo* – the State standards. The Opt Out Ordinance need not be permanent and can be amended by a future action of the Village Board. Should the Village Board determine that additional information be needed to determine the benefits or disadvantages of the County Ordinances, it can temporarily halt the effective date of the County Ordinances to a time after such information regarding the County Ordinance's effect upon the entire County as a whole has been gathered and analyzed by the County.

Next Steps

As the Opt Out Ordinance was introduced at the last Village Board Meeting, the ordinance will be up for debate at the June 27, 2017 regular meeting. Action upon the introduced ordinance is in order.

**COOK COUNTY
COMMISSION ON HUMAN RIGHTS
69 W. Washington Street
Suite 3040
Chicago, Illinois 60602**



INTERPRETATIVE AND PROCEDURAL RULES

GOVERNING THE COOK COUNTY MINIMUM WAGE ORDINANCE

APPROVED MAY 25, 2017

TABLE OF CONTENTS

SECTION 1. DEFINED TERMS	1
Rule 1.01: Definitions	1
SECTION 2. MINIMUM WAGE	4
Rule 2.01: Applicability to Work Performed in Cook County	4
Rule 2.02: Non-Tipped Employees	4
Rule 2.03: Tipped Employees	4
Rule 2.04: Cost of Living Increases in the Cook County Minimum Wage	5
Rule 2.05: Overtime Pay	6
SECTION 3. EMPLOYERS AND EMPLOYEES	7
Rule 3.01: Covered Employer – Definition	7
Rule 3.02: Covered Employer – Location of Business Facility	7
Rule 3.03: Covered Employee – Definition	8
Rule 3.04: Covered Employees – Location of Work	8
Rule 3.05: Covered Employees – Exclusions	9
SECTION 4. GENERAL INFORMATION	11
Rule 4.01: Waiver – Collective Bargaining Agreements	11
Rule 4.02: Required Employer Records	11
Rule 4.03: Notice & Posting	13
Rule 4.04: Retaliation Prohibited	13
SECTION 5. ENFORCEMENT	14
Rule 5.01: Application of Ordinance	14
Rule 5.02: Time Limit for Filing Complaints	14
Rule 5.03: Initiating Enforcement at the Commission	15

Rule 5.04: Commission Investigations of Alleged Ordinance Violations	16
Rule 5.05: Commission Findings	19
Rule 5.06: Administrative Hearings	19
Rule 5.07: Administrative Review	20
Rule 5.08: Service	20
Rule 5.09: Evidence of Compliance	21
Rules 5.10: Remedies	21
Rule 5.11: Private Right of Action	22
SECTION 6. MISCELLANEOUS	23
Rule 6.01: Construction of Rules	23
Rule 6.02: Effect of Rules	23
Rule 6.03: Amendment of Rules	23
Rule 6.04: Availability of Rules	23
Rule 6.05: Petition for Rulemaking	23
Rule 6.06: Practice Where Rules Do Not Provide Clear Guidance	23
Rule 6.07: Delegation of Authority to Commissioners	23

SECTION 1. DEFINED TERMS

Rule 1.01 Definitions

All defined terms used in these Rules have the same meaning as the defined terms set out in Section 42-12 of the Cook County Minimum Wage Ordinance. In addition, the following terms shall have the following meanings when used in these Rules.

“Business Facility” means a place where Covered Employees may work for a Covered Employer, including a residence or dwelling unit. A facility must be owned, leased, rented, operated, managed or in some manner controlled by a Covered Employer to meet this definition.

“Commission” means the Cook County Commission on Human Rights.

“Commissioners” means the members of that body of eleven Commissioners appointed by the President of the Cook County Board and approved by the County Board pursuant to the Cook County Human Rights Ordinance.

“Commission Staff” means those individuals who shall perform investigative, clerical, administrative or other duties as described and delegated by the Commissioners on behalf of the Commission through the Executive Director.

“Cook County Minimum Wage” means the minimum wage required by the Ordinance.

“Covered Employee” is defined and explained below in Rule 3.03.

“Covered Employer” is defined and explained below in Rule 3.01.

“CPI” means the Seasonally Adjusted Consumer Price Index for All Urban Consumers, inclusive of all items and averaged across all U.S. cities as published monthly by the U.S. Department of Labor Bureau of Labor Statistics and as it is determined by the Commission pursuant to Rule 2.04. The data that the Commission will use to calculate this figure is currently available online at: <https://data.bls.gov/cgi-bin/srgate> under the data series ID: CUSR0000SA0, but may change from time to time.

“Director” means the Executive Director of the Cook County Commission on Human Rights.

“Domestic Worker” means a person whose primary employment duties include housekeeping; house cleaning; home management; nanny services, including childcare and child monitoring; caregiving, personal care or home health services for elderly persons or persons with illnesses, injuries, or disabilities who require assistance in caring for themselves; laundering; cooking; companion services; chauffeuring; and other household services to members of households or their guests in or about a private home or residence, or any other location where the domestic work is performed.

“Federal Minimum Wage” means the minimum wage required under the federal Fair Labor Standards Act to be paid to an employee who does not usually and traditionally receive gratuities as part of his or her compensation.

“Federal Minimum Wage for Tipped Employees” means the minimum wage required under the federal Fair Labor Standards Act to be paid to an employee whose compensation usually and traditionally includes gratuities.

“Fair Labor Standards Act” means the United States Fair Labor Standards Act of 1938, 29 USC § 201 *et seq.*, in force on the effective date of the Ordinance and as thereafter amended.

“Government Employer” means any government entity other than Cook County that employs a Covered Employee, including any unit of local government, the Illinois State government, and the government of the United States, as well as any other federal, state or local governmental agency or department. The Commission will define “units of local government” as that term is used in Article VII, Section 1 of the Illinois Constitution to include counties, municipalities, townships, special districts and units designated as units of local government by law that exercise limited governmental powers or powers in respect to limited governmental subjects. However, the Commission also includes school districts within its definition of Government Employers as used in these Rules.

“Illinois Minimum Wage” means the minimum wage required under the Illinois Minimum Wage Law to be paid to an employee who does not usually and traditionally receive gratuities as part of his or her compensation.

“Illinois Minimum Wage for Tipped Employees” means the minimum wage required under the Illinois Minimum Wage Law to be paid to an employee whose compensation usually and traditionally includes gratuities.

“Illinois Minimum Wage Law” means the Illinois Minimum Wage Law, 820 ILCS 105/1 *et seq.*, in force on the effective date of the Ordinance and as thereafter amended.

“Ordinance” means the Cook County Minimum Wage Ordinance, enacted by the Cook County Board of Commissioners on October 26, 2016, as amended from time to time. The Ordinance is compiled in the County Code at Sections 42-11 through 42-23.

“Ordinance Rate for Non-Tipped Employees” means the hourly wage set out in Section 42-13 of the Ordinance, as amended from time to time, and as published by the Commission annually.

“Ordinance Rate for Tipped Employees” means the hourly wage set out in Section 42-14 of the Ordinance, as amended from time to time, and as published by the Commission annually.

“Overtime-Exempt Employees” means Covered Employees who are exempt from overtime pay benefits under the Fair Labor Standards Act and/or the Illinois Minimum Wage Law.

“Person” means any individual, partnership, association, corporation, limited liability company, business, or trust.

“Tipped Employee” means any Covered Employee engaged in an occupation in which gratuities have customarily and usually constituted part of the remuneration.

“Unemployment Rate” means the average of the not seasonally adjusted unemployment rate as published by the Illinois Department of Employment Security through the Local Area Unemployment Statistics program for the 12 months between March of the year in which the Commission is determining a change in the CPI pursuant to Rule 2.04 and March of the previous year. The data that the Commission will use to calculate this figure is currently available online at: http://www.ides.illinois.gov/lmi/Pages/Local_Area_Unemployment_Statistics.aspx, but may change from time to time.

SECTION 2. MINIMUM WAGE

Rule 2.01 Applicability to Work Performed in Cook County

The Cook County Minimum Wage applies to the payment of wages by a Covered Employer to a Covered Employee for work that is performed while the Covered Employee is physically present within the geographic boundaries of Cook County; provided that the Cook County Minimum Wage does not apply to work performed by a Covered Employee while he or she is physically present within the geographic boundaries of a municipality that has lawfully preempted the Ordinance.

The Cook County Minimum Wage does not apply to the payment of wages by a Covered Employer to an employee for work that is performed while physically present within the geographic boundaries of Cook County until the employee has satisfied the two-hour minimum criterion for coverage described in Rule 3.01.

Rule 2.02 Non-Tipped Employees

Except as provided for Tipped Employees in Rule 2.03, Covered Employers must pay Covered Employees the greater of: (1) the Illinois Minimum Wage; (2) the Federal Minimum Wage; or (3) the Ordinance Rate for Non-Tipped Employees.

As of the date of these Rules, the Illinois Minimum Wage is \$8.25 per hour (and has been since 2010), and the Federal Minimum Wage is \$7.25 per hour (and has been since 2009).

The Ordinance Rate for Non-Tipped Employees is: beginning on July 1, 2017, \$10.00 per hour; beginning on July 1, 2018, \$11.00 per hour; beginning on July 1, 2019, \$12.00 per hour; and beginning on July 1, 2020, \$13.00 per hour. Beginning on July 1, 2021, and on every July 1 thereafter, the Ordinance Rate for Non-Tipped Employees will be calculated by the Commission in the manner described in Rule 2.04 and published by June 1 of each year.

Rule 2.03 Tipped Employees

For Tipped Employees, Covered Employers must pay Covered Employees the greater of (1) the Illinois Minimum Wage for Tipped Employees; or (2) the Federal Minimum Wage for Tipped Employees.

As of the date of these Rules, the Illinois Minimum Wage for Tipped Employees is \$4.95 per hour (*i.e.* 60 percent of the \$8.25 Illinois Minimum Wage), and the Federal Minimum Wage for Tipped Employees is \$2.13 per hour.

Beginning on July 1, 2018, Covered Employers must pay Tipped Employees the greater of: (1) the Illinois Minimum Wage for Tipped Employees; (2) the Federal Minimum Wage for Tipped Employees or (3) the Ordinance Rate for Tipped Employees.

Beginning on July 1, 2018, and on every July 1 thereafter, the Ordinance Rate for Tipped Employees will be calculated by the Commission in the manner described in Rule 2.04 and published by June 1 of each year.

Consistent with the practice of the Illinois Department of Labor, if for hours worked during any seven-day period, a Covered Employee's compensation inclusive of gratuities and the greater of (1) the Illinois Minimum Wage for Tipped Employees; (2) the Federal Minimum Wage for Tipped Employees or (3) the Ordinance Rate for Tipped Employees is less than the number of hours worked by that Covered Employee during the seven-day period *times* the greater of (1) the Illinois Minimum Wage or (2) the Federal Minimum Wage, the Covered Employer must make up the difference.

Rule 2.04 Cost of Living Increases in the Cook County Minimum Wage

Starting in 2018 for Tipped Employees and in 2021 for all other Covered Employees, on or about June 1, the Commission will announce whether there will be any CPI-based increase in the Cook County Minimum Wage by posting such notice on its website at:

<https://www.cookcountyiil.gov/service/minimum-wage-ordinance>. Any annual adjustments to the Cook County Minimum Wage that are based on increases, if any, in the CPI, as described in Rules 2.02 and 2.03, shall be done as follows:

1. Calculation

On or about May 15 of each year, the Commission shall multiply the percentage change in the CPI from April of the prior year to April of the current year, and shall multiply that percentage by the greater of: (1) the Illinois Minimum Wage; (2) the Federal Minimum Wage; or (3) the Ordinance Rate for Non-Tipped Employees, and also by the greater of: (1) the Illinois Minimum Wage for Tipped Employees; (2) the Federal Minimum Wage for Tipped Employees or (3) the Ordinance Rate for Tipped Employees.

The resulting increase, if any, shall be rounded up to the nearest multiple of \$0.05 and added to the applicable wage. For example, if the Cook County Minimum Wage between July 1, 2020 and June 30, 2021, is \$13.00 per hour and the CPI increases by 1.8 percent between April 2020 and April 2021, then the Commission would advise and post by June 1, 2021 that the Cook County Minimum Wage will increased by \$0.25 (*i.e.* $\$13.00 \times 0.018 = 0.234$, then round up to the nearest nickel) effective July 1, 2021.

If the CPI decreases in the annual time period, the Cook County Minimum Wage will remain the same. For example, if the Cook County Minimum Wage between July 1, 2020 and June 30, 2021, is \$13.00 per hour and the CPI decreases by 0.1 percent between April 2020 and April 2021, then the Commission would advise by June 1, 2021 that the Cook County Minimum Wage will remain \$13.00 per hour until at least June 30, 2022.

2. Limitations

a. Recessionary Breaker

There shall be no increase in the Cook County Minimum Wage pursuant to an increase in the CPI in any year when the Unemployment Rate in Cook County is equal to or greater than 8.5 percent. For example, if the Cook County Minimum Wage between July 1, 2020 and June 30, 2021, is \$13.00 per hour and the CPI increases by 1.8 percent between April 2020 and April 2021, but the Unemployment Rate in Cook County averaged 8.7 percent between March 2020

and March 2021, the Commission would not increase the Cook County Minimum Wage by \$0.25. Instead, the Cook County Minimum Wage would remain \$13.00 per hour for the year between July 1, 2021 and June 30, 2022.

b. Inflationary Cap

Any annual increase in the Cook County Minimum Wage shall be capped at 2.5 percent. For example, if the Cook County Minimum Wage between July 1, 2020 and June 30, 2021, is \$13.00 per hour and the CPI increases by 3.1 percent between April 2020 and April 2021, the Commission would not increase the Cook County Minimum Wage by \$0.45 (*i.e.* $\$13.00 \times 0.031 = 0.403$, then round up to the nearest nickel) effective July 1, 2021. Instead, the Cook County Minimum Wage would increase by only \$0.35 (*i.e.* $\$13.00 \times 0.025 = 0.325$, then round up to the nearest nickel) for the year between July 1, 2021 and June 30, 2022.

Rule 2.05 Overtime Pay

Covered Employers must pay Covered Employees who work over 40 hours in any particular workweek a minimum wage of at least 1.5 times the Cook County Minimum Wage (*e.g.*, when the Cook County Minimum Wage is \$10.00 per hour, the minimum wage for overtime is \$15.00 per hour); provided that this requirement does not apply to Overtime-Exempt Employees.

Examples of such Overtime-Exempt employees include, but are not limited to: employees employed in a *bona fide* executive, administrative or professional capacity; employees who receive more than half of their compensation in the form of commission; mechanics primarily engaged in servicing automobiles, trucks and farm implements; salespersons primarily engaged in selling to ultimate purchasers automobiles, trucks, farm implements, trailers, boats, and aircraft; and employees of Government Employers, who are permitted to substitute compensatory time in lieu of overtime pay.

SECTION 3. EMPLOYERS AND EMPLOYEES

Rule 3.01 Covered Employer - Definition

To qualify as an “Employer” within the meaning of the Ordinance and a “Covered Employer” as that term is used in these Rules, a Person must satisfy both of the following two requirements:

1. Minimum Number of Employees

To be a Covered Employer, a Person must employ for compensation at least:

- a. One (1) Covered Employee as a Domestic Worker, or
- b. Four (4) employees, at least one (1) of whom is a Covered Employee.

2. Cook County Location or Cook County Licensee

To be a Covered Employer, a Person must also:

- a. Maintain a Business Facility within the geographic boundaries of Cook County and/or
- b. Be subject to one or more of the license requirements in Chapter 54 of the Cook County Code of Ordinances.

Notwithstanding the foregoing, no Person will be considered to be a Covered Employer if that Person is:

- a. A Government Employer, other than Cook County;
- b. An employer that employs only employees who are excluded from coverage by the Ordinance as set forth and described in Rule 3.05 below;
- c. A regulated motor carrier subject to subsection 3(d)(7) of the Illinois Minimum Wage Law; or
- d. An employer who is preempted by Federal or State Law from being covered by the Ordinance.

Rule 3.02 Covered Employer – Location of Business Facility

An employer with a single Business Facility within the geographic boundaries of Cook County satisfies the location requirement to qualify as a Covered Employer without regard to the location of its other Business Facilities, including whether its corporate headquarters, primary place of business, or the majority of its business, sales, facilities, or employees are located outside of Cook County. Examples of Business Facilities include, but are not limited to, stores, restaurants, offices, factories and storage facilities.

Both (i) a residence within Cook County that is used in part for a home business by a person who employs at least four (4) employees, at least one (1) of whom is a Covered Employee, and (ii) a residence where a person employs at least one (1) Covered Employee as a Domestic Worker whose work is performed in or about the residence or any other location constitute a Business Facility that satisfies the location requirement to qualify as an Employer covered by the Ordinance.

The Commission will consider any Business Facility within the geographic boundaries of Cook County for the purpose of determining whether the employer is a Covered Employer.

Rule 3.03 Covered Employee - Definition

A Covered Employee is an employee who:

1. Is not subject to any of the exclusions set out in Rule 3.05; and
2. In any particular two-week period, has performed at least two (2) hours of work for a Covered Employer (as defined in Rule 3.01) while physically present within the geographic boundaries of Cook County (except as limited by Rule 3.04).

Rule 3.04 Covered Employees - Location of Work

The Commission will consider any compensated work that an individual performs within the geographic boundaries of Cook County for the purpose of determining whether the individual has worked a sufficient number of hours in Cook County to be a Covered Employee with the following exception: The Commission will not consider work that an individual performs within the geographic boundaries of a municipality that has lawfully preempted the Ordinance.

The Commission will not consider the following to constitute compensated work while physically present within the geographic boundaries of Cook County:

1. Uncompensated commuting or
2. Traveling through Cook County without stopping for a work purpose. Examples of stopping for a work purpose include, but are not limited to, making deliveries or sales calls. Stopping for a work purpose would not include making only incidental stops, such as to purchase gas or buy a snack.

The Commission will consider the following to constitute compensated work while physically present within the geographic boundaries of Cook County:

1. Compensated commuting and
2. Traveling into Cook County for a work purpose, including but not limited to deliveries, sales calls, and travel related to other business activity for a Covered Employer which is taking place within Cook County.

For the purpose of determining whether an individual is a Covered Employee, the Commission will consider time that an individual spends performing compensated work for a Covered Employer at the individual's residence or any other location that is physically present in Cook County that is not the Covered Employer's Business Facility if the Covered Employer explicitly requires that the individual to work at that location.

Rule 3.05 Covered Employees – Exclusions

Notwithstanding the foregoing, the Commission will not consider any of the following to be Covered Employees:

1. Employees who are covered by a *bona fide* Collective Bargaining Agreement, under the conditions described in Rule 4.01;
2. Employees of any Subsidized Temporary Youth Employment Program (as defined in Section 41-12 of the Ordinance);
3. Employees of any Subsidized Transitional Employment Program (as defined in Section 41-12 of the Ordinance);
4. Employees subject to the provision in subsection 4(a)(2) of the Illinois Minimum Wage Law which currently allows employers to pay certain employees a wage up to 50¢ per hour less than the Illinois Minimum Wage during the first ninety (90) consecutive calendar days of employment;
5. Employees subject to the provision in subsection 4(a)(3) of the Illinois Minimum Wage Law, which currently allows employers to pay employees who are less than 18 years old a wage up to 50¢ per hour less than the Illinois Minimum Wage;
6. Employees who perform compensated work as camp counselors subject to subsections 4(d) and 4(e) of the Illinois Minimum Wage Law;
7. Persons whose earning capacity is impaired by age, physical or mental deficiency, or injury, who are subject to Section 5 of the Illinois Minimum Wage Law;
8. Employees licensed as “learners” by the Illinois Commission of Labor, which generally refers to employees involved in occupational training programs, who are subject to Section 6 of the Illinois Minimum Wage Law;
9. Persons employed in agriculture or aquaculture subject to subsection 3(d)(2) of the Illinois Minimum Wage Law;
10. Persons employed as outside salespersons subject to subsection 3(d)(4) of the Illinois Minimum Wage Law;

11. Persons employed as members of a religious corporation or organization subject to subsection 3(d)(5) of the Illinois Minimum Wage Law; and
12. Students employed at an accredited Illinois college or university at which they are students subject to subsection 3(d)(6) of the Illinois Minimum Wage Law.

The exclusions described in this Rule that are defined by reference to the Illinois Minimum Wage Law may be affected by changes to that law or, where relevant, to the Fair Labor Standards Act.

SECTION 4. GENERAL INFORMATION

Rule 4.01 Waiver – Collective Bargaining Agreements

The Commission will not enforce the Ordinance with respect to employment that is governed by a *bona fide* collective bargaining agreement that was entered into prior to July 1, 2017 and that remains in force on July 1, 2017. After July 1, 2017, the Commission will enforce the Ordinance with respect to Covered Employees and Covered Employers who are governed by any *bona fide* collective bargaining agreement that is entered into after July 1, 2017, unless that agreement provides in clear and unambiguous terms that the Covered Employees have waived their rights under the Ordinance.

The Commission will enforce the Ordinance, except in cases where the waiver of rights complies with this Rule, whether a *bona fide* collective bargaining agreement executed after July 1, 2017 is the first collective bargaining agreement between the parties or a renewal or extension of a previously existing collective bargaining agreement.

Rule 4.02 Required Employer Records

1. For All Covered Employees

Covered Employers are not required to retain any records prior to being named as respondents to a claim filed under the Ordinance with the Commission. The Commission, however, anticipates that moderately sophisticated Covered Employers who are complying with the Ordinance will have personnel and payroll records from the three (3) most recent years that are sufficient to demonstrate:

- a. Each Covered Employee's name;
- b. Each Covered Employee's contact information, including mailing address, telephone number and/or email address;
- c. Each Covered Employee's occupation or job title;
- d. Each Covered Employee's hire date;
- e. The number of hours that each Covered Employee worked each workweek or pay period;
- f. The rate of pay for each Covered Employee, including regular and overtime pay, if applicable;
- g. The type of payment for each Covered Employee (*e.g.*, hourly rate, salary, commission) and whether any overtime pay;
- h. The amount and explanation of any additions to and deductions from the wages of each Covered Employee; and

- i. The date of all wage payments to Covered Employees.

Failure of a moderately sophisticated Covered Employer to be able to produce such records if requested by the Commission in response to a complaint alleging a violation of the Ordinance may result in an adverse presumption against the Covered Employer by which the Commission will presume the accuracy of a Covered Employee's testimonial evidence with respect to the specific issue when it is in conflict with the testimonial evidence of a moderately sophisticated Covered Employer who cannot produce the expected records.

For the purpose of this Rule, the Commission will presume that any Covered Employer who does business in any corporate form or any natural person who employs more than four (4) Covered Employees is moderately sophisticated.

2. For Tipped Employees

In lieu of annual filings pursuant to Section 42-14(b) of the Ordinance, a Covered Employer must maintain records of Tipped Employees for a period of not less than three (3) years sufficient to show the following information for each Tipped Employee:

- a. An identifying symbol, letter, or number on the payroll record indicating such Covered Employee is a person whose wage is determined in part by gratuities.
- b. The report received from the Covered Employee setting forth gratuities received during each workday. Such reports submitted by the Covered Employee shall be signed and include a unique identifier such as his or her social security number.
- c. The amount by which the wage of each such Covered Employee has been deemed to be increased by gratuities as determined by the Covered Employer. The amount per hour which the Covered Employer takes as a gratuity credit shall be reported to the Covered Employee in writing each time it is changed from the amount per hour taken in the preceding pay period.
- d. If the Covered Employee worked for the Covered Employer some hours in an occupation in which he or she received gratuities and some hours in an occupation in which he or she did not receive gratuities, then the Covered Employer shall specify the total hours worked and the total daily or weekly straight-time payment made by the Covered Employer to the Covered Employee in each category (with and without gratuities).

Rule 4.03 Notice & Posting

1. Every Covered Employer shall post in a conspicuous place at each Business Facility within the geographic boundaries of Cook County a notice advising Covered Employees of the current Cook County Minimum Wage and of their rights under the Ordinance; provided that (a) a Business Facility located within the geographic boundaries of a municipality that has lawfully preempted the Ordinance and (b) a residence that serves as the worksite for a Domestic Worker are exempt from this requirement.
2. Every Covered Employer shall provide, with a Covered Employee's first paycheck after the effective date of the Ordinance, and at least once per calendar year thereafter, a notice advising such employee of the current Cook County Minimum Wage and of Covered Employees' rights under the Ordinance.
3. Covered Employers can satisfy these notice and posting obligations by providing any notice that states the current Cook County Minimum Wage and explains employees' rights under the Ordinance, including where to file a complaint for violation of the Ordinance and the prohibition against retaliation. The Director shall prepare sample notices and will make them available online at <https://www.cookcountyil.gov/service/minimum-wage-ordinance>, but Covered Employers are not required to use such samples as long as their notices convey all required information.

Rule 4.04 Retaliation Prohibited

A Covered Employer cannot subject a Covered Employee to adverse treatment because the Covered Employee exercises or has exercised his or her rights under the Ordinance or is or has engaged in conduct that is protected by the Ordinance. A Covered Employee's rights under the Ordinance include, but are not limited to, payment of the appropriate wage under Rule 2.02 or Rule 2.03 for work performed for a Covered Employer in Cook County.

Conduct protected by the Ordinance includes, but is not limited to, disclosing, reporting, or testifying about a violation of the Ordinance to the Covered Employer, the Commission or a court of competent jurisdiction. Adverse treatment is any conduct by, or at the direction of, the Covered Employer that is reasonably likely to deter a Covered Employee from exercising his or her rights under the Ordinance or in engaging in conduct that is protected by the Ordinance. Such conduct includes, but is not limited to, unjustifiable termination, unjustifiable negative evaluations, punitive schedule changes, punitive decreases in the desirability of work assignments, and other acts of harassment.

SECTION 5. ENFORCEMENT

Rule 5.01 Application of the Ordinance

All functions and powers of the Commission and the Director under the Ordinance shall be exercised in cooperation with the functions and powers of the U.S. Commission of Labor under the Fair Labor Standards Act, the Illinois Commission of Labor under the Illinois Minimum Wage Law and the enforcement agency of any municipality within the geographic boundaries of Cook County that has enacted a minimum wage ordinance.

With respect to enforcement of the Ordinance, the Commission will defer to the jurisdiction of any municipality that is within the geographic boundaries of Cook County, including but not limited to the City of Chicago, that has enacted a minimum wage law applicable to the Covered Employee at issue, which (a) provides a minimum wage that is the same as or higher than the Cook County Minimum Wage and (b) provides remedies against a Covered Employer that fails to pay such a wage.

In any municipality that is located within Cook County which requires payment of a minimum wage that is the same as or higher than the Cook County Minimum Wage, such municipality's minimum wage law shall apply within its geographic boundaries.

Compliance with the Ordinance does not relieve a Covered Employer from complying with any other ordinance or law promulgated by Cook County or any other government that requires payment of a higher wage, including but not limited to the Cook County Living Wage Ordinance.

Rule 5.02 Time Limit for Filing Complaints

A Covered Employee who seeks to file a complaint with the Commission alleging that a Covered Employer has failed to pay the wage required by Rule 2.02 or Rule 2.03 must file any such complaint within three (3) years of the first underpayment provided that, if there is evidence that the Covered Employer concealed the underpayment, then any complaint must be filed with the Commission within three (3) years of when the Covered Employee discovered, or reasonably should have discovered, the underpayment. A Covered Employee alleging any other violation of the Ordinance must file any such complaint with the Commission within three (3) years of the alleged violation. Where such a violation is continuing, the claim must be brought within three (3) years of the last occurrence of the alleged violation.

Once a Covered Employee has filed a complaint within the time allowed by this Rule, the Commission's investigation of that complaint is not necessarily limited to the same time period, though as a matter of practice, the Commission will not focus its investigation on alleged violations of the Ordinance that are more than three (3) years old.

That a claim may be too old to file at the Commission does not affect any right that the Covered Employee may have to bring the claim in a court of competent jurisdiction pursuant to Section 42-23 of the Ordinance.

Rule 5.03 **Initiating Enforcement at the Commission**

1. Case Initiation

A Covered Employee who believes that his or her Covered Employer has committed any violation of the Ordinance may file a complaint with the Commission. Such a complaint must be in writing and verified by the complaining Covered Employee in addition to being timely pursuant to Rule 5.02.

Further, the complaint must include:

- a. The name of the Covered Employee and his or her contact information;
- b. The name of the Covered Employer that has allegedly violated the Ordinance and its contact information;
- c. A statement of facts alleged to establish that the complaining employee and his or her employer are covered by the Ordinance, including, but not limited to, (i) the address of the Covered Employer's Business Facility located in Cook County or an allegation that the Covered Employer has or should have a Cook County license; (ii) the names or a description of three (3) other employees of the Covered Employer, unless complainant is a Domestic Worker; (iii) the date(s) and place(s) where the complainant performed a minimum of two (2) hours of work for a Covered Employer while physically present within the geographic boundaries of Cook County, and a brief description of that work; and
- d. A statement of the facts alleged to constitute the violation of the Ordinance, including, but not limited to (i) the date(s) and amount(s) of any alleged underpayment for work within the geographic boundaries of Cook County; (ii) the date(s) and place(s) of any alleged failure to notify; and (iii) the date(s), place(s) and witness(es) to any alleged retaliation.

The Commission will provide a form that a Covered Employee can use for this purpose on its website. A complaining Covered Employee can be represented by counsel at this or any stage of the Commission process, but is not required to retain an attorney for this purpose.

2. Review of Complaint

Once filed with the Commission, (i) if the complaint is not timely, (ii) if the Commission lacks jurisdiction over the complaint, or (iii) if the complaint does not state facts that, if true, would constitute a violation of the Ordinance, the Commission will not serve the complaint. The

Commission will issue an abeyance letter to the complaining employee and take no further action with respect to the employee's claim.

The Commission may also decline to serve a complaint from an employee who has previously filed multiple complaints with the Commission that subsequently were determined to be non-meritorious if (i) the Commission previously determined that the employee had filed the non-meritorious complaint for an improper purpose or (ii) the Commission has some articulable evidence that the current complaint is also being filed for an improper purpose. The Commission will explain this determination in an abeyance letter issued to the complaining employee.

In any instance, the Commission's decision to decline an employee's request to initiate a case for enforcement of the Ordinance does not in any way prejudice any right that employee may have to pursue enforcement of the Ordinance outside of the Commission in a court of competent jurisdiction pursuant to Section 42-23 of the Ordinance.

If the complaint is acceptable to the Commission, the Commission will either serve the complaint on the Covered Employer named in the complaint or serve, as a substitute, a Commission Complaint as described in Rule 5.03(3).

3. Commission Complaint

In its discretion, in lieu of serving a complaint as filed, the Commission may serve instead on the Covered Employer named in the complaint, a complaint that is written in the Commission's name. Such a complaint does not have to disclose the name of the complaining Covered Employee and may allege violations of the Ordinance that are broader than those involving the complaining Covered Employee.

The Commission will consider the totality of the circumstances, but at least two circumstances will favor this approach: (a) multiple Covered Employees of the same Covered Employer have filed, or attempted to file, complaints with the Commission alleging substantially similar violations of the Ordinance by the Covered Employer or (b) there is a reasonable probability, based on the nature of the allegations and any evidence provided by the complaining Covered Employee, that the Covered Employer has also violated the Ordinance with respect to other Covered Employees who have not yet filed a complaint with the Commission, but could conceivably do so.

Rule 5.04 Commission Investigations of Alleged Ordinance Violations

1. Response

Once served with a complaint, whether in the name of a complaining Covered Employee or in the name of the Commission, the Covered Employer has thirty (30) days to file with the Commission a written and verified answer to the complaint that admits or denies each allegation and sets out any additional facts that, if true, would establish that the Covered Employer has complied with the Ordinance, the Ordinance does not apply, the Commission lacks jurisdiction over the claim, or any other reason in support of dismissal of the complaint.

The Covered Employer can request an extension of time to respond to a complaint but must do so in writing before the expiration of the time to answer. Absent extraordinary circumstances, the Commission will only grant one extension. The failure to promptly retain counsel is not an extraordinary circumstance.

Where the Commission deems the Covered Employer's response to be sufficient to demonstrate that the complaint lacks merit, the Commission will dismiss the complaint. The Commission's decision to dismiss at this stage does not in any way prejudice any right that a Covered Employee may have to pursue enforcement of the Ordinance outside of the Commission in a court of competent jurisdiction pursuant to Section 42-23 of the Ordinance.

Where the Commission deems the Covered Employer's response to be insufficient to demonstrate that the complaint lacks merit, the Commission will proceed with discovery.

Failure to submit a response within the time allotted will constitute an admission by the Covered Employer to the Commission of each allegation in the complaint. The Commission will render an order pursuant to Rule 5.05 on the basis of such admissions, as appropriate.

2. Discovery

The Commission will direct all discovery related to its determination of whether a violation of the Ordinance has occurred. The complaining Covered Employee and the Covered Employer can suggest discovery to the Commission that would facilitate the determination of whether or not a violation of the Ordinance has occurred, but the Commission will make the final determination of what information and testimony to obtain with the goal of conducting an accurate and expeditious investigation at the lowest reasonable cost to all parties and witnesses.

In conducting discovery of the parties, the Commission may conduct interviews or submit document requests and questionnaires calling for written responses. In conducting discovery of non-parties or as otherwise necessary, the Commission may issue a subpoena pursuant to Rule 5.03(4).

To the extent that the Commission is confronted with conflicting testimonial evidence on an issue that is material to its determination of whether a violation of the Ordinance has occurred, the Commission may order an Evidentiary Conference pursuant to Rule 5.03(3).

All discovery requested by the Commission must be provided within the time provided to respond in the Commission's request. The Commission will presume that any evidence it requests but that has not been produced or that has not been produced within the time requested does not exist, and it will resolve the related question of fact or law on the basis of the absence of evidence and/or the presence of other evidence obtained from other sources. Further, if a party fails to produce information requested by the Commission within the time requested, the party will be barred from presenting that evidence in any later setting related to enforcement of the Ordinance.

Parties who may be producing confidential, proprietary or personal information to the Commission should identify that material as such and may request appropriate protections for

that information, including that any documents that are not included or referenced in the Commission's final order be returned to the producing party at the close of the investigation.

3. Evidentiary Conference

The Commission may order an Evidentiary Conference to resolve simple factual disputes arising from conflicting testimonial evidence by parties and/or witnesses that is potentially determinative as to whether there is evidence of a violation of the Ordinance. The Commission may order the parties and/or witnesses to provide in-person, sworn testimony on the disputed fact before an administrative law judge, who will make a determination as to the credibility of any testifying party or witness with respect to the disputed fact. An order of an Evidentiary Conference will provide the parties with notice of the disputed issue of fact and the identity of the testifying parties and/or witnesses. Additional witnesses may be added by the parties as provided in subsection (a).

- a. At an Evidentiary Conference, the testifying parties and/or witnesses will be examined by the administrative law judge. The parties to the case, or their attorneys or representatives of record, will then have the opportunity to examine and cross-examine any party or witness testifying at an Evidentiary Conference. The parties to the case, or their attorneys or representatives of record, may also present any additional witnesses or documentary evidence to the administrative law judge that the parties believe will assist the administrative law judge in resolving the disputed issue of fact. A party must provide advance notice of any such additional evidence to the Commission and the other party at least five (5) business days before the Evidentiary Conference. The Evidentiary Conference is limited to hearing evidence relevant to resolving the dispute of fact identified in the order of an Evidentiary Conference.
- b. Within twenty-one (21) days of the Evidentiary Conference, the administrative law judge will present in writing any findings of fact, including any determinations of testimonial credibility, to the Commission. The administrative law judge's findings shall be considered an additional piece of evidence in the Commission's investigation into the merits of the complaint.

4. Subpoenas

The Commission may issue a subpoena for the appearance of witnesses or the production of evidence on its own initiative at any time. If a person does not comply with a subpoena on the date set for compliance whether because of refusal, neglect, or a change in the compliance date (such as due to continuation of an Administrative Hearing) or for any other reason, the subpoena shall continue in effect for up to one year, and a new subpoena need not be issued.

When issuing a subpoena the Commission shall pay witness fees of \$20.00 per day and mileage fees of \$0.20 per mile to the person subpoenaed.

The person to whom the subpoena is directed may object to the subpoena in whole or in part. The objection may be made to the Commission or to the administrative law judge (if one has been assigned) no later than five (5) business days prior to the time for appearance or production required by the subpoena. The objection shall be in writing, filed with the Commission, served on all parties and on the administrative law judge (if any assigned), and shall specify the grounds for objection. The party opposing the objection may file a written response to the objection specifying the need for certain witnesses or documentation no later than two (2) business days prior to the time for appearance or production required by the subpoena. The Commission or, if assigned, the administrative law judge, shall consider the objection and render a decision on the objection.

Failure to comply with a subpoena issued by the Commission shall constitute a separate violation of the Ordinance. Every day that a person fails to comply with said subpoena shall constitute a separate and distinct violation. The Commission may seek judicial enforcement of its subpoenas.

Rule 5.05 Commission Findings

If the Commission finds that the parties' pleadings and the evidence that the Commission obtained through discovery is insufficient to establish that the Covered Employer violated the Ordinance, the Commission will render a Finding of No Violation and serve it on the parties. A Finding of No Violation is on the merits and may prejudice any right that the complaining Covered Employee may have to pursue enforcement of the Ordinance outside of the Commission in a court of competent jurisdiction pursuant to Section 42-23 of the Ordinance. A Finding of No Violation is a final order of the Commission, subject to administrative review as described in Rule 5.07.

If the Commission finds on the basis of its investigation that a violation has occurred, the Commission will render a Finding of Violation. The Finding of Violation will order remedies and/or sanctions as described in Rule 5.10.

The Covered Employer has thirty (30) days from the date that the Commission renders its Finding of Violation to accept the Commission's finding or contest it pursuant to the procedures set out in Rule 5.06.

If the Covered Employer accepts the Finding of Violation, the Covered Employer must demonstrate compliance with any remedies ordered within thirty (30) days or such other time as may be provided by the Commission.

Rule 5.06 Administrative Hearing

If the Covered Employer does not accept the Commission's Finding of Violation pursuant to Rule 5.05, the Commission will appoint an administrative law judge to make a final determination as to whether the Covered Employer violated the Ordinance and the remedies ordered by the Commission are appropriate. The Commission, or its designee, will present the

evidence it obtained that supports its Finding of Violation. The Covered Employer can cross-examine this evidence and/or produce additional relevant evidence (that it is not otherwise prohibited by Rule 5.04(2) from producing). Neither the Commission nor the Covered Employer will be entitled to any additional discovery at this stage, though the Commission can use its subpoena power as described in Rule 5.04(4) to arrange for the presence of any necessary witnesses whose live testimony is requested by the administrative law judge or the Covered Employer. In the case of a witness subpoenaed at the request of the Covered Employer, the Covered Employer must effect service of the subpoena and pay the associated witness and mileage fees.

The administrative law judge will promptly issue a written opinion affirming or setting aside all or any portion of the Finding of Violation, including any proposed remedies and/or sanctions. The administrative law judge's decision will be the final decision of the Commission.

Rule 5.07 Administrative Review

The Commission will not entertain motions for reconsideration of Findings of Violation or Findings of No Violation. A party contesting the Commission's Finding of Violation or Finding of No Violation may, however, seek administrative review of the Commission's decision by filing a petition for *writ of certiorari* in the Circuit Court of Cook County within thirty (30) days of a Finding of No Violation as described in Rule 5.05 or within thirty (30) days of a Finding of Violation as described in Rule 5.06.

Rule 5.08 Service

For the purpose of any of these Rules that require service, a complaining Covered Employee shall be served by mail or in person at the address he or she provides on the complaint, provided that, if a complaining Covered Employee subsequently provides any other address, including the address of counsel, in writing to all parties and the Commission, then all future service upon the complaining Covered Employee shall be at that address.

A Covered Employer shall be served by mail or in person at its principal place of business or the Business Facility in Cook County where all or some of the alleged Ordinance violations occurred, provided that, if a Covered Employer subsequently provides any other address, including the address of counsel, in writing to all parties and the Commission, then all future service upon the Covered Employer shall be at that address.

The Commission shall be served at its 69 West Washington office by mail or in person Monday through Friday, excluding County holidays, between 9:00 a.m. and 4:00 p.m.

After the initial pleadings, service by electronic means to an email address provided by a party or the Commission can be made in lieu of mail or in person delivery to any party or the Commission with the prior written consent of that party or the Commission, as applicable.

Electronic service is presumed to be effective on the date on which it is sent. In-person service is presumed to be effective on the date on which it is made. Service by U.S. mail is presumed to be effective three (3) business days after it is deposited in the mail with postage pre-paid.

Rule 5.09 Evidence of Compliance

For any administrative enforcement proceeding between July 1, 2017 and June 30, 2018, if a Covered Employer that is the respondent in a complaint for violation of this Ordinance provides the Commission with competent evidence that it is in, or has come back into, full compliance with the Ordinance, then the Commission will terminate any investigation pursuant to Rule 5.04, will not proceed to rendering an order pursuant to Rule 5.05, and will dismiss the complaint with prejudice. The Commission considers full compliance to include the payment of any back wages that would have been due to any Covered Employee had the case proceeded.

The Commission will revisit this Rule on or before July 1, 2018 to determine whether it has furthered the Commission's goal of encouraging Covered Employers who may be out of compliance with the Ordinance to come quickly into compliance. If so, this Rule may be extended.

Rule 5.10 Remedies

When the Commission determines that a Covered Employer has violated the Ordinance, the Commission may (1) fine the Covered Employer; (2) order the Covered Employer to pay back wages to Covered Employees; (3) disqualify the Covered Employer from various County benefits; and/or (4) order other appropriate injunctive relief.

1. Fines

The Commission will impose fines payable to Cook County for any violation of the Ordinance. The amount of such fine will be at least \$500 per violation per Covered Employee affected per day, but will not exceed \$1,000 per violation per Covered Employee affected per day. In exercising its discretion within this range, the Commission will take into account the extent of the violation, the culpability of the Covered Employer, and whether the Covered Employer promptly and thoroughly cooperated during the course of the Commission's investigation into the complaint that led to the Finding of Violation.

2. Back Wages

The Commission may order a Covered Employer that has violated the Ordinance to pay to the affected Covered Employees the amount of back wages that resulted from noncompliance with the Ordinance. In exercising its discretion, the Commission will take into account whether the Covered Employer is currently meeting its obligations under the Ordinance and the amount and duration of any underpayment to affected Covered Employees.

If the Commission exercises the option pursuant to Rule 5.03(3) to proceed on behalf of the complaining Covered Employee, back wages will be based on all Covered Employees employed by the Covered Employer during the relevant time period. The Commission will award the complaining Covered Employee his or her back wages. The Commission will collect any back wages due to non-complaining Covered Employees to create a fund, administered by the Commission or its designee, to award back pay to non-complaining Covered Employees employed by the Covered Employer.

If the Commission does not proceed on behalf of the complaining Covered Employee, the amount of back wages awarded will be based only on back wages due to the complaining Covered Employee. Back wages due to non-complaining Covered Employees will not be considered.

3. Disqualifications

A Covered Employer who admits to violating the Ordinance or is adjudicated liable of a violation of the Ordinance by an administrative law judge shall be ineligible to enter into a contract with Cook County for a period of five (5) years from the date of the admission or administrative finding. Any failure to comply with the Ordinance also may result in suspension or revocation of a Covered Employer's Cook County general business license, if any. Failure to comply with the Ordinance may also adversely impact any property tax incentive a Covered Employer receives or seeks from Cook County.

The Commission will forward any Finding of Violation rendered pursuant to Rule 5.06 to the appropriate County officer for further appropriate action.

4. Injunctive Relief

The Commission may impose appropriate post-judgment injunctive relief. Such relief may include, for example, an order to cease and desist violating the Ordinance going forward or to reinstate a Covered Employee who was discharged in retaliation for exercising rights protected by the Ordinance.

The Commission may require the Covered Employer to submit to monitoring of future compliance with the Ordinance by the Commission or its designee. Monitoring may include additional recordkeeping obligations.

Rule 5.11 Private Right of Action

To the extent that a Covered Employee wishes to pursue a claim for failure to pay the appropriate wage under Rule 2.02 or Rule 2.03 for work performed for a Covered Employer in Cook County in a court of competent jurisdiction pursuant to Section 42-23 of the Ordinance, the Commission will not require that the Covered Employee first bring such a claim to the Commission. A Covered Employee requires no authorization from the Commission to pursue such a claim in a court of competent jurisdiction and the Commission will not purport to grant such authorization.

If, however, a Covered Employee first brings such a claim to the Commission and, while it is pending, files a substantially similar claim pursuant to Section 42-23 of the Ordinance in a court of competent jurisdiction, the Commission will dismiss its pending matter so as to avoid the risk of rendering inconsistent determinations. Similarly, the Commission will not entertain a claim to vindicate a right under the Ordinance that is substantially similar to a claim that was previously filed in a court of competent jurisdiction.

SECTION 6. MISCELLANEOUS

Rule 6.01 Construction of Rules

These Rules shall be liberally construed to accomplish the purposes of the Ordinance.

Rule 6.02 Effect of Rules

These Rules shall constitute the policy and practice of the Commission and shall govern activities of the Commission.

Rule 6.03 Amendment of Rules

Changes in these Rules may be made by a vote of a majority of the full membership of the Commissioners at a regular or special meeting of the Commissioners.

Rule 6.04 Availability of Rules

The Rules of the Commission shall be available to the public, and copies may be obtained on the Commission's website: <https://www.cookcountyil.gov/agency/commission-human-rights-0>.

Rule 6.05 Petition for Rulemaking

Any person may request that the Commission promulgate, amend or repeal a rule by submitting a written petition to the Chairperson. The petition, which shall be in writing, shall set forth in particular the rulemaking action desired and should contain the person's arguments or reasons in support thereof. The Commission shall be notified of any petition filed in accordance herewith. Any rulemaking undertaken in response to such petition shall be conducted in accordance with Rule 6.03 herein.

Rule 6.06 Practice Where Rules Do Not Provide Clear Guidance

If a matter arises in enforcing the Ordinance that is not specifically governed by these Rules, the Director shall, in the exercise of his or her discretion, specify the practice to be followed and as soon as practicable petition the Commission to adopt a clarifying rule pursuant to Section Rule 6.03 herein.

Rule 6.07 Delegation of Authority by Commissioners

Except as to those matters specifically enumerated below, the Commissioners may delegate to the Commission Staff, as the Commissioners consider necessary, any matter properly before the Commission. Such delegation to the Commission Staff, where permissible, shall be presumed, subject to recall as to specific items at any time by a vote of the majority of Commissioners present at a meeting of the Commission. Any delegation of authority by the Commissioners to the Commission Staff shall be effectuated in accordance with both the Ordinance and these Rules adopted and approved by the Commissioners.

The following matters are reserved for consideration of and disposition by the Commissioners:

1. Rulemaking and similar proceedings involving the promulgation of Commission rules; and
2. Conducting Commission meetings.

**COOK COUNTY
COMMISSION ON HUMAN RIGHTS
69 W. Washington Street
Suite 3040
Chicago, Illinois 60602**



INTERPRETATIVE AND PROCEDURAL RULES

GOVERNING THE COOK COUNTY EARNED SICK LEAVE ORDINANCE

APPROVED MAY 25, 2017

TABLE OF CONTENTS

PART 100 GENERAL PROVISIONS	1
Subpart 100 Definitions	1
Section 110.100 Defined Terms	1
Subpart 120 Rules of Construction	4
Section 120.100 Construction of Rules	4
Section 120.200 Effect of Rules	4
Section 120.300 Amendment of Rules	4
Section 120.400 Availability of Rules	4
Section 120.500 Petition for Rulemaking	4
Section 120.600 Practice Where Rules Do Not Provide Clear Guidance	4
Section 120.700 Days	4
Section 120.800 Delegation of Authority by Commissioners	4
PART 200 BENEFIT	6
Section 200.100 Description	6
Section 200.200 No Remuneration for Unused Earned Sick Leave	7
Section 200.300 No Consideration of Immigration Status	7
PART 300 COVERAGE	8
Subpart 310 Covered Employees	8
Section 310.100 Defined	8
Section 310.200 Types of Employees Who Can Be Covered Employees	10
Section 310.300 Impact of Timing and Location of Work by a Covered Employee	10
Section 310.400 Separation from Service	11
Subpart 320 Covered Employers	11

Section 320.100 Defined	11
Section 320.200 Temporary Staffing Firms	13
Section 320.300 Joint Employers	13
Section 320.400 Successor Employers	13
Subpart 330 Waiver	13
Section 330.100 Pursuant to Collective Bargaining	13
Section 330.200 Pursuant to Individual Bargaining	14
PART 400 ACCRUAL	15
Section 400.100 Date of Initial Accrual	15
Section 400.200 Rate of Accrual	15
Section 400.300 Accrual Period	17
Section 400.400 [Reserved]	18
Section 400.500 Maximum Accrual Per Accrual Period	18
Section 400.600 Carryover from One Accrual Period to the Next	18
PART 500 USE	21
Section 500.100 Earned Sick Leave Available for Use	21
Section 500.200 Earliest Use of Earned Sick Leave	21
Section 500.300 Maximum Use Per Accrual Period	21
Section 500.400 Increments of Use	22
Section 500.500 Permissible Uses	23
Section 500.600 Notice of Use	25
Section 500.700 Documentation of Use	27
Section 500.800 Payment of Earned Sick Leave	28
PART 600 ALTERNATIVE PRACTICES	29

Section 600.100 Minimum Requirements	29
Section 600.200 Terminology	29
Section 600.300 Equivalent Practices	29
PART 700 NOTIFICATION OF RIGHTS	33
Section 700.100 Posting Required	33
Section 700.200 Notice of Rights Required	33
PART 800 RECORDKEEPING	34
Section 800.100 Required Records; Covered Employer	34
Section 800.200 Required Records; Covered Employee	34
Section 800.300 Preservation Obligation	35
PART 900 MISCELLANEOUS PRACTICES	36
Section 900.100 Prohibited	36
Section 900.200 Permissible	36
PART 1000 ENFORCEMENT	38
Subpart 1010 Scope	38
Section 1010.100 Application of the Ordinance	38
Subpart 1020 Administrative Process	38
Section 1020.100 Time Limit for Filing Complaints	38
Section 1020.200 Initiating Enforcement at the Commission	38
Section 1020.300 Commission Investigations of Alleged Ordinance Violations	40
Section 1020.400 Commission Findings	43
Section 1020.500 Administrative Hearing	43
Section 1020.600 Administrative Review	44
Section 1020.700 Service	44

Section 1020.800 Evidence of Compliance	45
Subpart 1030 Administrative Remedies	45
Section 1030.100 Fines	45
Section 1030.200 Lost Wages	45
Section 1030.300 Injunctive Relief	46
Subpart 1040 Judicial Enforcement	46
Section 1040.100 Private Right of Action	46
Section 1040.200 Effect on Administrative Enforcement	46

PART 100 GENERAL PROVISIONS

SUBPART 110 DEFINITIONS

Section 110.100 Defined Terms

All defined terms used in these regulations have the same meaning as the defined terms set out in Section 42-2 of the Cook County Earned Sick Leave Ordinance (“Ordinance”). In addition, the following terms shall have the following meanings when used in these Rules:

Accrual Cap: The maximum number of hours of Earned Sick Leave that a Covered Employer must allow a Covered Employee to accrue during any Accrual Period and as described in Section 400.500.

Accrual Period: The 12-month period in which a Covered Employee accrues Earned Sick Leave, and which is used for purposes of determining the maximum number of hours of Earned Sick Leave that may be accrued, used and carried over on an annual basis. The dates of each annual Accrual Period are based on the anniversary of an employee’s Date of Initial Accrual.

Close Association: A relationship between a Covered Employee and another individual which is deemed the equivalent of the specifically identified familial relationships that are listed in Section 42-2 of the Ordinance for the defined term “Family member” (e.g., a parent-child, grandchild-grandparent, sibling, spousal). In determining whether a relationship is a Close Association, the Commission may consider whether, for some significant period of time, the Covered Employee provided uncompensated personal care for the individual and/or the individual provided such care for the Covered Employee and/or the Covered Employee and the individual lived together and shared financial and household responsibilities or one provided financial support for the other. The Commission may also consider whether the Covered Employee and the individual would be considered “Family member[s]” as that term is used in federal sick leave regulations (e.g., 5 C.F.R. § 630.201(b)) and/or any other appropriate consideration raised in any particular case. The Commission will not disregard a Close Association on the basis of terminology, if the terms used to describe a particular relationship vary from those used in Section 42-2 of the Ordinance for the defined term “Family member” due to identifiable cultural and/or linguistic differences.

Commission: The Cook County Commission on Human Rights.

Commissioners: The appointed members of the Commission pursuant to Section 42-34 of the Cook County Code of Ordinances.

Commission Staff: Those individuals who shall perform investigative, clerical, administrative or other duties as described and delegated by the Commissioners on behalf of the Commission through the Director.

Construction Industry: As defined in Section 42-2 of the Ordinance to mean any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving, wrecking, painting, decorating, demolishing, and adding to or subtracting from any building, structure,

highway, roadway, excavation or other structure, project, development, real property or improvement, or to do any part thereof, whether or not the performance of the work herein described involves the addition to, or fabrication into, any structure, project, development, real property or improvement herein described of any material or article of merchandise. Per Section 42-2 of the Ordinance, the Construction Industry also includes moving construction related material on the job site to or from the job site, snow plowing, snow removal and refuse collection.

Covered Employee: As defined in Section 42-2 of the Ordinance and Section 310.100.

Covered Employer: As “employer” is defined in Section 42-2 of the Ordinance and Section 320.100.

Date of Coverage: The first date on which an employee meets the criteria to be a Covered Employee. As fully described in Section 310.100, this primarily requires working at least two hours in a two-week period for a Covered Employer while physically present in Cook County.

Date of Eligibility: The first date upon which an employee has worked 80 hours within any 120-day period for a Covered Employer.

Date of First Allowable Use: The first date on which a Covered Employee can use Earned Sick Leave, which is the later of (i) the Covered Employee’s Date of Eligibility or (ii) the expiration of the Covered Employer’s Use Waiting Period, if any.

Date of Initial Accrual: The first date upon which a Covered Employee starts accruing Earned Sick Leave, which is the later of (a) July 1, 2017, (b) the first calendar day after his or her Start of Employment, or (c) the Covered Employee’s Date of Coverage.

Director: The Director of the Cook County Commission on Human Rights.

Eligible Employee: An employee who has worked at least 80 hours regardless of location for a Covered Employer in any 120-day period.

Family Member: As defined in Section 42-2 of the Ordinance.

FMLA-Eligible Covered Employee: A Covered Employee who works for an FMLA-Eligible Covered Employer and is eligible for job-protected unpaid leave under the federal Family and Medical Leave Act.

FMLA-Eligible Covered Employer: A Covered Employer who is subject to the requirements of the federal Family and Medical Leave Act.

FMLA-Restricted Earned Sick Leave: Paid leave awarded by a Covered Employer to a Covered Employee that the Covered Employee can use for any purpose set out in the federal Family and Medical Leave Act and still be compensated by the Covered Employer at the same rate and with the same benefits earned as if the Covered Employee had worked for the Covered Employer instead.

Non-FMLA-Eligible Covered Employee: A Covered Employee who either works for a Non-FMLA-Eligible Covered Employer or works for an FMLA-Eligible Covered Employer but is not him or herself eligible for job-protected unpaid leave under the federal Family and Medical Leave Act for whatever reason, including that such an employee has not worked for the Covered Employer for at least 12 months, has not worked at least 1,250 hours for the Covered Employer in the last 12 months or does not work in a location that is close enough to a location where the Covered Employer employs 50 or more employees.

Non-FMLA-Eligible Covered Employer: A Covered Employer who is not covered by the federal Family and Medical Leave Act, for whatever reason, including but not limited to because the Covered Employer employs fewer than 50 employees or employs 50 or more employees but for less than 20 workweeks in the current or preceding calendar year.

Ordinance: The Cook County Earned Sick Leave Ordinance as enacted by the Cook County Board of Commissioners on October 5, 2016, compiled into the Cook County Code of Ordinances at Chapter 42, Article I, Division 1, and as amended from time to time thereafter.

Ordinance-Restricted Earned Sick Leave: Paid leave awarded by a Covered Employer to a Covered Employee that the Covered Employee can use for any purpose set out in Section 42-3(c)(2) and still be compensated by the Covered Employer at the same rate and with the same benefits earned as if the Covered Employee had worked for the Covered Employer instead.

Overtime Eligible: An employee who is eligible for additional compensation for overtime hours worked under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, the Illinois Minimum Wage Law, 820 ILCS 105/1 *et seq.*, or other applicable law.

Overtime Exempt: An employee who is exempt from compensation for overtime hours worked under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, the Illinois Minimum Wage Law, 820 ILCS 105/1 *et seq.*, or other applicable law.

Start of Employment: The date on which an employee commences working for a Covered Employer. As explained in Section 310.400, any rehire by the same Covered Employer within 120 days of an employee's prior separation from employment relates back to the original Start of Employment.

Temporary Staffing Firm: An employer that hires its own employees and assigns those employees to perform work or services for another entity or organization at that entity's or organization's place of business.

Use Waiting Period: A time period that may be established by a Covered Employer as the minimum duration of time that an employee must work for the Covered Employer before he or she can use any accrued Earned Sick Leave; provided that in no event may a Use Waiting Period be more than 180 calendar days after an employee's Start of Employment.

SUBPART 120 RULES OF CONSTRUCTION

Section 120.100 Construction of Rules

These Rules shall be liberally construed to accomplish the purposes of the Ordinance.

Section 120.200 Effect of Rules

These Rules shall constitute the policy and practice of the Commission and shall govern activities of the Commission.

Section 120.300 Amendment of Rules

Changes in these Rules may be made by a vote of a majority of the full membership of the Commissioners at a regular or special meeting of the Commissioners.

Section 120.400 Availability of Rules

The Rules of the Commission shall be available to the public, and copies may be obtained on the Commission's website: <https://www.cookcountyil.gov/agency/commission-human-rights-0>.

Section 120.500 Petition for Rulemaking

Any person may request that the Commission promulgate, amend or repeal a rule by submitting a written petition to the Chairperson. The petition, which shall be in writing, shall set forth in particular the rulemaking action desired and should contain the person's arguments or reasons in support thereof. The Commission shall be notified of any petition filed in accordance herewith. Any rulemaking undertaken in response to such petition shall be conducted in accordance with Section 120.300 herein.

Section 120.600 Practice Where Rules Do Not Provide Clear Guidance

If a matter arises in enforcing the Ordinance that is not specifically governed by these Rules, the Director shall, in the exercise of his or her discretion, specify the practice to be followed and as soon as practicable petition the Commission to adopt a clarifying rule pursuant to Section 120.500 herein.

Section 120.700 Days

Where the Ordinance or these Rules refer to passage of time as being measured in days, the Commission will treat days as calendar days, inclusive of weekends and holidays. The Commission will not assume that the passage of time is denominated in business days unless the Ordinance or these Rules state so explicitly.

Section 120.800 Delegation of Authority by Commissioners

Except as to those matters specifically enumerated below, the Commissioners may delegate to the Commission Staff, as the Commissioners consider necessary, any matter properly before the Commission. Such delegation to the Commission Staff, where permissible, shall be presumed,

subject to recall as to specific items at any time by a vote of the majority of Commissioners present at a meeting of the Commission. Any delegation of authority by the Commissioners to the Commission Staff shall be effectuated in accordance with both the Ordinance and these Rules adopted and approved by the Commissioners.

The following matters are reserved for consideration of and disposition by the Commissioners:

- (1) Rulemaking and similar proceedings involving the promulgation of Commission rules; and
- (2) Conducting Commission meetings.

PART 200 BENEFIT

Section 200.100 Description

Earned Sick Leave is a benefit provided by a Covered Employer to a Covered Employee, which consists of (1) allowing job-protected absences from work for a given number of hours, for the purposes set out in Section 42-3(c)(2) of the Ordinance or, where applicable, the federal Family and Medical Leave Act and (2) compensating the absent Covered Employee for these hours as if he or she were not absent from work.

(A) Compensation and Benefits

Except as provided in subdivision (1) of this Section, when using Earned Sick Leave a Covered Employee shall be compensated at the same hourly rate that the Covered Employee would have earned at the time the Earned Sick Leave is taken.

- (1) If the Covered Employee uses Earned Sick Leave during hours that would have been designated as overtime, the Covered Employer is not required to pay the overtime rate of pay.
- (2) When using Earned Sick Leave, a Covered Employee is not entitled to compensation for lost tips or gratuities; provided, however, that a Covered Employer must pay a Covered Employee in an occupation in which Gratuities have customarily and usually constituted part of the remuneration at least the applicable minimum wage, inclusive of any additional compensation that a Covered Employer would be obligated by law to pay to the Covered Employee if he or she had worked the same number of hours for the Covered Employer but had received no gratuities.
- (3) When a Covered Employee who is paid on a commission basis (whether base wage plus commission or commission only) uses Earned Sick Leave, the Covered Employer must pay the Covered Employee the hourly rate of pay based on the base wage or the applicable minimum wage, whichever is greater.
- (4) For Covered Employees who are paid on a piecework basis (whether base wage plus piecework or piecework only), the Covered Employer shall calculate the Covered Employee's hourly rate of pay by adding together his or her total earnings from all sources for the most recent workweek in which no sick time was taken and dividing that sum by the number of hours spent performing the work during such workweek. For purposes of this subdivision, "workweek"

means a fixed and regularly recurring period of 168 hours, or seven consecutive 24-hour periods.

If a Covered Employer would compensate a Covered Employee for regular work with any additional benefits, including but not limited to the accrual of paid leave, seniority or health benefits, a Covered Employer will compensate a Covered Employee using Earned Sick Leave with such additional benefits in the same manner and to the same extent as if he or she had performed regular work instead.

(B) Without Adverse Employment Consequences

Earned Sick Leave includes the entitlement to take such leave free from adverse employment consequences that would not have occurred if the Covered Employee had not taken the leave. The Ordinance does not insulate a Covered Employee from adverse employment actions that are unrelated to the exercise of rights established or protected by the Ordinance, including poor work performance, unexcused absenteeism and other failures to meet a Covered Employer's reasonable expectations.

Section 200.200 **No Remuneration for Unused Earned Sick Leave**

A Covered Employer is not required to, but may, provide financial or other reimbursement for any unused accrued Earned Sick Leave upon a Covered Employee's termination, resignation, retirement or other separation from employment, unless an applicable collective bargaining agreement provides otherwise.

Section 200.300 **No Consideration of Immigration Status**

The Commission will enforce the Ordinance without regard to the immigration status of any individual, employee, employer or witness. Covered Employers must extend the benefit of this Ordinance to all Covered Employees without regard to immigration status of any Covered Employee.

PART 300 COVERAGE

SUBPART 310 COVERED EMPLOYEES

Section 310.100 Defined

An individual who meets the following criteria is a Covered Employee as that term is used in the Ordinance:

- (1) the individual performs compensated work;
- (2) for a Covered Employer as defined in Section 320.100;
- (3) for a minimum of two hours in any two-week period;
- (4) while physically present within the geographic boundaries of Cook County; and
- (5) is not exempt from coverage under the Ordinance or Section 310.100(D).

(A) Compensation for Work

An individual must be legally or equitably entitled to compensation for his or her work by a Covered Employer in order for the Commission to consider the individual to be a Covered Employee. The Commission will not consider an uncompensated volunteer to be a Covered Employee.

(B) Duration of Work

The Commission will consider an individual's work in any two-week period at any time after the commencement of an individual's employment for a Covered Employer for the purpose of determining whether the individual has worked a sufficient number of hours in Cook County to be a Covered Employee.

(C) Location of Work

The Commission will consider any compensated work that an individual performs within the geographic boundaries of Cook County for the purpose of determining whether the individual has worked a sufficient number of hours in Cook County to be a Covered Employee with the following exception: The Commission will not consider work that an individual performs within the geographic boundaries of a municipality that has lawfully preempted the Ordinance.

The Commission will not consider the following to constitute compensated work while physically present within the geographic boundaries of Cook County:

- (1) uncompensated commuting or

- (2) traveling through Cook County without stopping for a work purpose. Examples of stopping for a work purpose include, but are not limited to, making deliveries or sales calls. Stopping for a work purpose would not include making only incidental stops such as to purchase gas or buy a snack.

The Commission will also consider the following to constitute compensated work while physically present within the geographic boundaries of Cook County:

- (1) compensated commuting and
- (2) traveling into Cook County for a work purpose, including but not limited to, deliveries, sales calls and travel related to other business activity for a Covered Employer which is taking place within Cook County.

For the purpose of determining whether an individual is a Covered Employee, the Commission will consider time that an individual spends performing compensated work for a Covered Employer at the individual's residence or any other location that is physically present in Cook County that is not the Covered Employer's place of business if the Covered Employer explicitly requires that the individual work at that location.

(D) Exempt Employees

Notwithstanding the foregoing, the Commission will not consider an individual to be a Covered Employee under the following conditions:

- (1) the individual is an employee working in the Construction Industry who is covered by a *bona fide* collective bargaining agreement;
- (2) the individual is an employee covered by a *bona fide* collective bargaining agreement that was entered into prior to July 1, 2017 and remains in effect after July 1, 2017;
- (3) the individual is an employee who has waived his or her rights under the Ordinance pursuant to a *bona fide* collective bargaining agreement entered into after July 1, 2017 under the conditions described in Section 330.100;
- (4) the individual is an "employee" as that term is defined by Section 1(d) of the Railroad Unemployment Insurance Act, 45 U.S.C. § 351(d);
- (5) federal or state law preempts the individual from being covered by the Ordinance; or

- (6) the individual is an independent contractor; however, merely labeling an employee as an “independent contractor” will not defeat an employee’s rights under the Ordinance.

Section 310.200 Types of Employees Who Can Be Covered Employees

The Commission will consider an individual who meets the criteria set out in Section 310.100 to be a Covered Employee without regard to whether that individual is a full-time, part-time, temporary, seasonal, occasional, long-term, new or re-hired employee. Some of these types of employees, however, may be subject to special rules regarding accrual and use of Earned Sick Leave; for example, see Section 310.400 regarding employees who separate from service and return to work for the same employer within 120 days.

Section 310.300 Impact of Timing and Location of Work by a Covered Employee

(A) Accrual: Only for Work Performed in Cook County

Beginning on the Date of Initial Accrual, a Covered Employee starts accruing Earned Sick Leave based on work for a Covered Employer that is performed within the geographic boundaries of Cook County. This Date of Initial Accrual may pre-date the Date of Eligibility.

The Commission will not require that a Covered Employer award Earned Sick Leave to a Covered Employee for, or on the basis of, work performed outside of Cook County or within the geographic boundaries of a municipality that has lawfully preempted the Ordinance.

(B) Eligibility: Based on Work for Covered Employer in Any Location

A Covered Employee becomes eligible to use Earned Sick Leave when he or she has worked for the Covered Employer for at least 80 hours in any 120-day period. This requirement for eligibility may be satisfied by work that is performed in any location (*i.e.* within or outside of Cook County) and during any 120-day period after the employee’s Start of Employment.

An employee may become an Eligible Employee before or after becoming a Covered Employee. An Eligible Employee cannot accrue or use his or her accrued Earned Sick Leave until he or she is also a Covered Employee. An Eligible Employee’s ability to use his or her accrued Earned Sick Leave may also be delayed beyond his or her Date of Eligibility if the Covered Employer has established a longer Use Waiting Period that has not yet expired.

(C) Use: Can Use Earned Sick Leave Wherever They Work

As of the Date of First Allowable Use, a Covered Employee is entitled to use his or her accrued Earned Sick Leave in any location (*i.e.* within or outside of Cook County) where the Covered Employee works for the Covered Employer.

Section 310.400 Separation from Service

The Commission will consider a Covered Employee who is rehired by the same Covered Employer after more than 120 days have passed since the Covered Employee’s separation from service to have commenced new employment for the purpose of these Rules. Accordingly, such an employee will have to reestablish his or her coverage pursuant to Section 310.100 and eligibility to use Earned Sick Leave pursuant to Section 310.300(B).

The Commission will consider a Covered Employee who is rehired by the same Covered Employer within 120 days since his or her separation from service to have continued his or her employment with that employer for purposes of coverage pursuant to Section 310.100, eligibility to use Earned Sick Leave pursuant to Section 310.300(B)-(C) and the number of days passed in any applicable Use Waiting Period.

If the Covered Employee is separated from service with unused accrued Earned Sick Leave, however, the Commission will not consider it to be a violation of the Ordinance if the Covered Employer fails to restore this leave when the Covered Employee is rehired unless it appears that the Covered Employer separated the Covered Employee from service in order to prevent the Covered Employee from using accrued Earned Sick Leave.

Unused accrued Earned Sick Leave has no cash value at a Covered Employee’s separation from service.

SUBPART 320 COVERED EMPLOYERS

Section 320.100 Defined

An employer who meets the following criteria is an Employer as that term is used in the Ordinance and a “Covered Employer” as that term is used in these Rules:

- (1) the employer gainfully employs at least one Covered Employee as defined in Section 310.100;
- (2) has at least one place of business within Cook County; and
- (3) is not exempt from coverage under the Ordinance or Section 320.100(C).

(A) Place of Business

The Commission will consider any fixed location where the business of the employer is transacted to be a “place of business” for the purpose of determining whether an employer is a Covered Employer. Examples of places of business include, but are not limited to, stores, restaurants, offices, factories and storage facilities. A residence that is a home business may be a place of business. A residence where a person employs a Covered Employee as a domestic worker whose work is performed in or about the residence or any other location also constitutes a place of business for the purpose of determining the location of the Covered Employer’s place of business. An employer with a single place of business within the geographic boundaries of Cook

County, subject to the limitations set out in Section 320.100(B), meets this qualification for being a Covered Employer, even if the employer's corporate headquarters, primary place of business, or the majority of its business, sales, facilities, or employees are located elsewhere.

The Commission will not consider a location within Cook County from which an employee telecommutes to be an employer's place of business unless the employer explicitly requires that the employee work at that location.

(B) Location of Place of Business

The Commission will consider any place of business within the geographic boundaries of Cook County for the purpose of determining whether the employer is a Covered Employer.

(C) Exempt Employers

Notwithstanding the foregoing, the Commission will not consider an employer to be a Covered Employer if:

- (1) federal or state law preempts the employer from being covered by the Ordinance;
- (2) the employer exclusively employs employees who are exempt from the Ordinance pursuant to Section 310.100(D);
- (3) the employer is a government employer, including:
 - a. The government of the United States or a corporation wholly owned by the government of the United States;
 - b. An Indian tribe or a corporation wholly owned by an Indian tribe;
 - c. The government of the State of Illinois or any agency or department thereof; and
 - d. Units of local government.

The Commission will define units of local government as that term is used in Article VII, Section 1 of the Illinois Constitution to include counties, municipalities, townships, special districts and units designated as units of local government by law that exercise limited governmental powers or powers in respect to limited governmental subjects. However, the Commission also includes school districts within its definition of exempt government employers.

Section 320.200 Temporary Staffing Firms

When a Temporary Staffing Firm places one of its employees in a temporary position at another entity or organization, the Commission will continue to consider the Temporary Staffing Firm to be that employee’s employer for the purpose of determining whether the temporary staffing firm is a Covered Employer.

Section 320.300 Joint Employers

Where two or more employers have some control over the work or working conditions of an employee, the Commission may treat the employers as “joint employers” of the employee for purposes of the Ordinance. To be considered joint employers, each employer must independently satisfy the definition of a Covered Employer pursuant to Section 320.100, including that each employer must have its own place of business that is located within Cook County.

For example, if an out-of-state employer with no place of business in Cook County assigns one of its full-time employees to work on a long-term project at another employer’s place of business that is located in Cook County, the out-of-state employer does not become subject to the requirements of the Ordinance as a joint employer or otherwise.

All joint employers are responsible, individually and jointly, for compliance with all applicable provisions of the Ordinance. In discharging their obligations under this Ordinance, joint employers may allocate responsibility for such obligations among themselves. Notwithstanding any agreement among joint employers, all joint employers remain responsible for compliance with the Ordinance and for satisfaction of any penalties imposed for any violation thereof.

Section 320.400 Successor Employers

If a Covered Employer sells, transfers or otherwise assigns its business to another employer who meets the criteria for coverage described in Section 320.100 after the sale, transfer or assignment, then any Covered Employee who continues to work for the new employer will retain coverage, eligibility, accrual and use of Earned Sick Leave with respect to the successor employer.

SUBPART 330 WAIVER

Section 330.100 Pursuant to Collective Bargaining

The Commission will not enforce the Ordinance with respect to employment that is governed by a *bona fide* collective bargaining agreement that was entered into prior to July 1, 2017 and that remains in force on July 1, 2017. After July 1, 2017, the Commission will enforce the Ordinance with respect to Covered Employees and Covered Employers who are governed by any *bona fide* collective bargaining agreement that is entered into after July 1, 2017, unless that agreement provides in clear and unambiguous terms that the Covered Employees have waived their rights under the Ordinance.

The Commission will enforce the Ordinance, except in cases where the waiver of rights complies with this rule, whether a *bona fide* collective bargaining agreement executed after July 1, 2017 is the first collective bargaining agreement between the parties or a renewal or extension of a previously existing collective bargaining agreement.

Section 330.200 Pursuant to Individual Bargaining

The Commission will deem any waiver, written or otherwise, by a Covered Employee of any provision of the Ordinance outside of the circumstances described in Section 330.100 as contrary to public policy, void and without effect on the Commission's continued enforcement of the Ordinance.

PART 400 ACCRUAL

Section 400.100 Date of Initial Accrual

A Covered Employee begins to accrue Earned Sick Leave on the Date of Initial Accrual, which is the later of (a) July 1, 2017, (b) the first calendar day after his or her Start of Employment or (c) the Covered Employee's Date of Coverage.

A Covered Employee's exact Date of Initial Accrual is dependent on two factors: (1) whether the employee started working for a Covered Employer before or after July 1, 2017 (*i.e.* the effective date of the Ordinance) and (2) whether the employee works for the Covered Employer in or outside of Cook County.

To illustrate: for a Covered Employee who begins working for a Covered Employer before July 1, 2017 and who works for that Covered Employer in Cook County, the employee would start to accrue Earned Sick Leave on July 1, 2017. But for any employee who was already working for a Covered Employer on July 1, 2017, but was working for this employer outside of Cook County, such employee's Date of Initial Accrual would not be until his or her Date of Coverage (*i.e.* the date on which the employee works for the Covered Employer for two hours in Cook County as described in Section 310.100(C)).

For a person who is hired by a Covered Employer after July 1, 2017, and whose first day of work for the Covered Employer is in Cook County, his or her Date of Initial Accrual would be the first calendar day after his or her Start of Employment. For example, if a person starts working for a Covered Employer in Cook County on July 20, 2017, he or she will start to accrue Earned Sick Leave on July 21, 2017. But if that same person started working for a Covered Employer outside of Cook County on July 20, 2017, and first performs two hours of work for that Covered Employer in Cook County on September 5, 2017, then that employee will only begin to accrue Earned Sick Leave on September 5, 2017 (*i.e.* September 5, 2017 will be both that Covered Employee's Date of Initial Accrual and his or her Date of Coverage). *See* Section 500.200 for rules governing the earliest date when a Covered Employee can use accrued Earned Sick Leave.

Because there may be circumstances under which a Covered Employer may not reasonably know that an employee is a Covered Employee until after he or she has begun to accrue Earned Sick Leave, the Commission will not consider it to be a violation of the Ordinance if the Covered Employer does not calculate the Covered Employee's Earned Sick Leave until the date on which the Covered Employee first expresses a desire to use accrued Earned Sick Leave.

Section 400.200 Rate of Accrual

A Covered Employee accrues one full hour of Earned Sick Leave for every 40 hours that he or she works for the Covered Employer within the geographic boundaries of Cook County, subject to the following qualifications:

(A) Overtime-Exempt Employees

The Commission will assume that a Covered Employee who is Overtime Exempt works 40 hours per week for the purpose of accruing Earned Sick Leave. However, if such a Covered Employee

actually works for a Covered Employer less than 40 hours per week, the Covered Employer can award Earned Sick Leave to the employee on the basis of his or her actual number of hours worked. If such an employee actually works more than 40 hours per week, the Commission will not require the Covered Employer to award more than one hour of Earned Sick Leave per week.

For example, if a Covered Employee is a part-time Overtime-Exempt employee who is scheduled to work 10 hours per week, he or she will accrue one full hour of Earned Sick Leave after four weeks of work. If a Covered Employee is a full-time Overtime-Exempt employee who works 60 hours in a given week, however, the Commission would not find an Ordinance violation if a Covered Employer awarded the employee only one full hour of Earned Sick Leave as if the employee had only worked 40 hours that week.

(B) Overtime-Eligible Employees

In contrast, an Overtime-Eligible Covered Employee accrues Earned Sick Leave based on actual hours worked.

For example, if a Covered Employee is a part-time Overtime-Eligible employee who is scheduled to work 10 hours per week, he or she will accrue one full hour of Earned Sick Leave after four weeks of work. If a Covered Employee is a full-time Overtime-Eligible employee who is scheduled to work 60 hours per week, he or she would accrue one full hour of Earned Sick Leave after his or her first 40 hours of work during the first week, another full hour of Earned Sick Leave after his or her next 40 hours of work during the second week, and another full hour of Earned Sick Leave by the end of the second week (at which point he or she will have worked 120 hours), for a total of three hours of Earned Sick Leave after two weeks of work.

(C) Location Worked

The Commission will not require that a Covered Employer award Earned Sick Leave to a Covered Employee for, or on the basis of, work performed outside of the geographic boundaries of Cook County or within the geographic boundaries of a municipality that has lawfully preempted the Ordinance.

(D) Hours Worked

To the extent that uncertainty arises about what constitutes hours worked for the purpose of determining accrued Earned Sick Leave, the Commission will consider the principles for making such determinations for purposes of the Fair Labor Standards Act, which are set forth in Part 785 of Title 29 of the Code of Federal Regulations, 29 C.F.R. § 785.1 *et seq.*, as may be amended from time to time, and any analogous Illinois law, to be instructive.

(E) Frequency of Accrual

Earned Sick Leave accrues continuously up to the Accrual Cap (described in Section 400.500) for a Covered Employee's Accrual Period (described in Section 400.300), but a Covered Employer is only required to award a Covered Employee Earned Sick Leave in hourly increments. The Commission will not require that any Covered Employer award Earned Sick Leave in fractional increments when a Covered Employee has worked less than 40 hours since

accruing his or her last full hour of Earned Sick Leave. However, a Covered Employer should track the hours of work required to earn the next full hour of Earned Sick Leave until the end of the Accrual Period. Nothing in this Section prohibits a Covered Employer from using a payroll system that tracks fractional accruals of Earned Sick Leave.

(F) Covered Employees of FMLA-Eligible Covered Employers

Even for Covered Employees who work for FMLA-Eligible Covered Employers, the Commission considers Earned Sick Leave to be Ordinance-Restricted Earned Sick Leave during the Accrual Period in which a Covered Employee accrues it, even though if it is carried over from one Accrual Period to the next, it may become FMLA-Restricted Earned Sick Leave in the next Accrual Period pursuant to Section 400.600(B).

(G) Equivalent Alternative: Front-Load Annual Accrual

For ease of administration, Covered Employers may choose to front-load Earned Sick Leave for its Covered Employees rather than use the accrual method described in this Section. The Commission will not consider this to be a violation of the Ordinance so long as at the start of the Covered Employer's Accrual Period or, alternatively, on an individual Covered Employee's Date of First Allowable Use, the Covered Employer awards the Covered Employee the maximum amount of Earned Sick Leave that the Covered Employee could accrue during that Accrual Period using the accrual method. *See also* Section 600.300(A) (describing this as one of the alternative practices that the Commission has determined to be compliant with the Ordinance).

To illustrate, a Covered Employer could front-load all 40 hours of Earned Sick Leave for full-time Covered Employees at the start of their Accrual Periods instead of awarding them one hour of Earned Sick Leave at a time for every 40 hours they worked. In fact, any Covered Employee who works at least 1,600 hours during the year would be awarded 40 hours of Earned Sick Leave up front under this methodology, but Covered Employees who were going to work fewer hours in a year could be front-loaded less Earned Sick Leave. For example, the Commission would consider a Covered Employer to have complied with the Ordinance if that Covered Employer awards a Covered Employee who will work 1,040 hours during the year 26 hours of Earned Sick Leave up front. Where a Covered Employer cannot accurately predict the number of hours that a part-time employee will work during an Accrual Period, the Covered Employer should use the accrual methodology instead or, if insisting on front-loading, should overestimate the amount of Earned Sick Leave due to a Covered Employee (*e.g.*, award all Covered Employees 40 hours of Earned Sick Leave). Such a Covered Employer can also use a combination of front-loading and accrual methodologies to true up employees who end up working more hours during the Accrual Period than the Covered Employer estimated at the start of the Accrual Period. *See also* Section 400.600(C) for rules on front-loading carryover and Section 600.300(C) for rules on front-loading both annual accrual and carryover.

Section 400.300 **Accrual Period**

Each Covered Employee will accrue Earned Sick Leave during a 12-month Accrual Period that commences for that Covered Employee on his or her Date of Initial Accrual, stops upon reaching the Accrual Cap (described in Section 400.500), and then repeats annually. Different Covered

Employees of the same Covered Employer are likely to have different Accrual Periods. *But see* Section 600.300(E) explaining that the Commission will not treat as a violation of the Ordinance a deviation from the Accrual Period described in Section 400.300 so long as the Accrual Period used by the Covered Employer for the Covered Employee does not make the Covered Employee worse off with respect to the accrual, carryover or use of Earned Sick Leave.

Section 400.400 **[Reserved]**

Section 400.500 **Maximum Accrual Per Accrual Period**

During any Accrual Period, a Covered Employee is only entitled under the Ordinance to accrue up to a maximum of 40 hours of Earned Sick Leave. A Covered Employer, however, may set a higher Accrual Cap or allow unlimited accrual of Earned Sick Leave for hours worked. If a Covered Employer has not established a different Accrual Cap, the Commission will assume that the Covered Employer intends to cap annual accrual at 40 hours of annual accrual of Earned Sick Leave.

For the sake of clarity, after a Covered Employee's first Accrual Period, he or she may have more hours of Earned Sick Leave available for use than the Accrual Cap as a result of carrying over unused Earned Sick Leave accrued during the prior Accrual Period as described in Section 400.600.

Section 400.600 **Carryover from One Accrual Period to the Next**

The limit on the amount of unused accrued Earned Sick Leave that may be carried over from the end of one Accrual Period to the start of the next Accrual Period, and how that amount is calculated, varies depending whether the Covered Employer is FMLA-Eligible or Non-FMLA-Eligible, as follows. In all scenarios, the amount of unused accrued Earned Sick Leave that is carried over must be in hourly increments, and may not be fractional.

(A) **For Covered Employees of Non-FMLA-Eligible Covered Employers**

At the end of a Covered Employee's Accrual Period (described in Section 400.300), a Non-FMLA-Eligible Covered Employer must permit a Covered Employee to carry over half of his or her total unused accrued Earned Sick Leave to the next Accrual Period up to a maximum of 20 hours. If halving the number of hours of unused accrued Earned Sick Leave would result in a fraction, that fraction should be rounded to the next whole number.

For example, if a Covered Employee of a Non-FMLA-Eligible Covered Employer has 20 hours of unused accrued Earned Sick Leave at the end of her first Accrual Period, she can carry over only 10 of those hours into the second Accrual Period. If that Covered Employee has 9 hours of unused accrued Earned Sick Leave at the end of her second Accrual Period, she can carry over 5 of those hours into the third Accrual Period (*i.e.* half of 9 is 4.5; rounding to the nearest whole hour increment is 5). If that Covered Employee has 44 hours of unused accrued earned Sick Leave at the end of her fourth Accrual Period, she can carry over only 20 of those hours into the fifth Accrual Period (*i.e.* half of 44 is 22, but there is a 20 hour maximum).

(B) For Covered Employees of FMLA-Eligible Covered Employers

Calculating the required amount of carryover for Covered Employees of FMLA-Eligible Covered Employers requires two steps:

First, an FMLA-Eligible Covered Employer, like a non-FMLA-Eligible Covered Employer, must permit a Covered Employee to carry over half of his or her total unused accrued Earned Sick Leave to the next Accrual Period, up to a maximum of 20 hours and calculated as set forth in subsection (A) above. Unused Earned Sick Leave carried over in this manner is Ordinance-Restricted Earned Sick Leave, which means that a Covered Employer does not have to allow a Covered Employee to use it in the next Accrual Period for any purpose other than those set out in the Ordinance and described in Section 500.500(B).

Second, in addition to the carryover described in the preceding paragraph, if a Covered Employee has any additional unused accrued Earned Sick Leave that was not carried over as Ordinance-Restricted Earned Sick Leave, then an FMLA-Eligible Covered Employer must permit the Covered Employee to carry over any such remaining accrued unused Earned Sick Leave, without first dividing those hours in half, up to a limit of 40 hours. Unused Earned Sick Leave carried over in this manner is FMLA-Restricted Earned Sick Leave, which means that a Covered Employer does not have to allow a Covered Employee to use it in the next Accrual Period for any purpose other than those set out in the federal Family and Medical Leave Act and described in Section 500.500(C).

For example, if a Covered Employee of an FMLA-Eligible Covered Employer has 30 hours of unused accrued Earned Sick Leave at the end of her first Accrual Period, she can carry over 15 of those hours into the second Accrual Period as Ordinance-Restricted Earned Sick Leave. However, rather than losing the remaining 15 hours of unused accrued Earned Sick Leave, she could carry over an additional 15 hours of Earned Sick Leave into the next Accrual Period as FMLA-Restricted Earned Sick Leave. If that Covered Employee has 70 hours of unused accrued Earned Sick Leave at the end of her second Accrual Period, she can carry over 20 as Ordinance-Restricted Earned Sick Leave into the third Accrual Period (half of 70 is 35, but a Covered Employer is not required to allow a Covered Employee to carry over more than 20 hours of Ordinance-Restricted Earned Sick Leave from one Accrual Period to the next). The Covered Employee could also carry over 40 hours of unused Earned Sick Leave that was not carried over as Ordinance-Restricted Earned Sick Leave as FMLA-Restricted Earned Sick Leave (50 hours of unused Earned Sick Leave was not carried over as Ordinance-Restricted, but a Covered Employer is not required to allow a Covered Employee to carry over more than 40 hours as FMLA-Restricted Earned Sick Leave into the next Accrual Period).

At the end of each Accrual Period, an FMLA-Eligible Covered Employer should calculate the number of hours available for Ordinance-Restricted Earned Sick Leave carryover before calculating the carryover hours for FMLA-Restricted Earned Sick Leave. When calculating the two kinds of carryover at the end of the Accrual Period, the Covered Employer shall start with the total amount of each Covered Employee's unused accrued Earned Sick Leave, without regard to whether during the course of that Accrual Period, such hours were considered Ordinance-Restricted or FMLA-Restricted for purposes of tracking allowable usage.

If it is clear that a Covered Employee will not be eligible to take leave under the federal Family and Medical Leave Act at any time during the Accrual Period to which unused accrued Earned Sick Leave is being carried over (*e.g.*, if the Covered Employee works too few hours to be FMLA-Eligible), the Commission will not consider it to be a violation of the Ordinance if an FMLA-Eligible Covered Employer does not allow the Covered Employee to carry over any FMLA-Restricted Earned Sick Leave from the current Accrual Period to the next Accrual Period.

(C) Equivalent Alternative: Front-Load Annual Carryover Maximum

The Commission will not consider it a violation of the Ordinance if a Covered Employer, for ease of administration, does not do individualized calculations of allowable carryover of unused accrued Earned Sick Leave from one Accrual Period to the next, but instead awards each Covered Employee at the start of each Accrual Period the maximum amount that the Covered Employee could have carried over pursuant to these Rules. *See also* Section 600.300(B) (describing this as one of the alternative practices that the Commission has determined to be compliant with the Ordinance).

For example, a Non-FMLA Eligible Covered Employer that awards Covered Employees at the start of each Accrual Period at least 20 hours of Earned Sick Leave typically does not need to allow carryover of unused accrued earned Sick Leave to comply with the Ordinance. Similarly, an FMLA Eligible Covered Employer that awards Covered Employees at the start of each Accrual Period at least 20 hours of Ordinance-Restricted Earned Sick Leave and at least 40 hours of FMLA-Restricted Earned Sick Leave typically does not need to allow carryover of unused accrued Earned Sick Leave to comply with the Ordinance. *See also* Section 400.200(G) for rules on front-loading annual accrual and Section 600.300(C) for rules on front-loading both annual accrual and carryover.

PART 500 USE

Section 500.100 Earned Sick Leave Available for Use

A Covered Employee can only use Earned Sick Leave that he or she has accrued or carried over pursuant to these Rules or which a Covered Employer has otherwise awarded to a Covered Employee. A Covered Employee is not entitled to use Earned Sick Leave in anticipation of accruing it at a later date.

Section 500.200 Earliest Use of Earned Sick Leave

A Covered Employee can use any of his or her accrued Earned Sick Leave at any time after the later of: (a) the Date of Eligibility or (b) the expiration of any Use Waiting Period.

If a Covered Employer has not established a Use Waiting Period, the Commission will assume that the Covered Employer intends for Covered Employees to be able to use their accrued Earned Sick Leave beginning on each Covered Employee's Date of Eligibility. The Covered Employer may, however, establish a Use Waiting Period that would prohibit a Covered Employee from using his or her accrued Earned Sick Leave until as late as the 180th day after the Covered Employee's Start of Employment.

Section 500.300 Maximum Use Per Accrual Period

(A) Maximum Use for Covered Employees of Non-FMLA-Eligible Covered Employers

A Covered Employee of a Non-FMLA-Eligible Covered Employer is entitled to use no more than 40 hours of Earned Sick Leave during any Accrual Period, without regard to whether the hours used were earned in the current Accrual Period or carried over from the prior Accrual Period, for any purpose allowed by the Ordinance.

A Non-FMLA-Eligible Covered Employer may – but is not required to – allow a Covered Employee to use more than 40 hours of Earned Sick Leave during an Accrual Period.

(B) Maximum Use for Non-FMLA-Eligible Covered Employees of FMLA-Eligible Covered Employers

A Non-FMLA-Eligible Covered Employee of an FMLA-Eligible Covered Employer is entitled to use no more than 40 hours of Ordinance-Restricted Earned Sick Leave during any Accrual Period, without regard to whether the hours used were earned in the current Accrual Period or carried over from the prior Accrual Period, for any purpose allowed by the Ordinance.

An FMLA-Eligible Covered Employer may – but is not required to – allow a Non-FMLA-Eligible Covered Employee to use more than 40 hours of Ordinance-Restricted Earned Sick Leave during an Accrual Period.

(C) Maximum Use for FMLA-Eligible Covered Employees of FMLA-Eligible Covered Employers

An FMLA-Eligible Covered Employee of an FMLA-Eligible Covered Employer is entitled to use no more than 40 hours of Earned Sick Leave during any Accrual Period, without regard to whether the hours used were earned in the current Accrual Period or carried over from the prior Accrual Period. Further, these 40 hours used may consist of any combination of Ordinance-Restricted Earned Sick Leave and FMLA-Restricted Earned Sick Leave that the Covered Employee elects consist with these Rules.

Under Section 42-3(c)(1) of the Ordinance, there is one circumstance in which, an FMLA-Eligible Covered Employer is required to allow an FMLA-Eligible Covered Employee to use up to 60 hours of Earned Sick Leave in an Accrual Period. If the FMLA-Eligible Covered Employee carries over the maximum allowable 40 hours of FMLA-Restricted Earned Sick Leave from the previous Accrual Period and then uses all 40 of these hours during the current Accrual Period, the FMLA-Eligible Covered Employer must allow that employee to use up to an additional 20 hours of Ordinance-Restricted Earned Sick Leave during the current Accrual Period (*i.e.* for a total maximum use of 60 hours of Earned Sick Leave used during the Accrual Period).

An FMLA-Eligible Covered Employer may – but is not required to – allow an FMLA-Eligible Covered Employee to use more Earned Sick Leave during any Accrual Period.

Section 500.400 **Increments of Use**

The Commission encourages a Covered Employee to consult with his or her Covered Employer in determining the duration (*i.e.* number of days and/or hours) of Earned Sick Leave used at any one point in time; however, in the event of a disagreement as to the duration of leave, the Covered Employee's preference is determinative.

A Covered Employer, however, can establish the minimum increment in which Earned Sick Leave can be used, provided that the minimum increment is no greater than four hours, even if this minimum requirement requires a Covered Employee to use more Earned Sick Leave at a time than he or she would otherwise prefer.

For example, a Covered Employee who has 20 hours of accrued Earned Sick Leave is scheduled to work from 8:00 a.m. until 4:00 p.m., but he or she has a doctor's appointment to attend at 8:00 a.m. that day. Although the Covered Employee could arrive at work by 10:00 a.m., if the Employer has established a minimum use increment of four hours, then he or she could be required to use four hours of Earned Sick Leave to attend the appointment and not arrive at work until 12:00 p.m. Similarly, if a Covered Employee has only two hours of accrued Earned Sick Leave and the Covered Employer has established a minimum use increment of four hours, then the Covered Employee would not be able to use Earned Sick Leave to attend that appointment.

If a Covered Employer has not established a written policy stating minimum increment for its employees' use of Earned Sick Leave, the Commission will presume that Earned Sick Leave can only be used in one whole hour increments.

Section 500.500 **Permissible Uses**

(A) Generally

A Covered Employee can use Earned Sick Leave for any of the following reasons:

- (1) the Covered Employee is physically or mentally ill or injured;
- (2) the Covered Employee is receiving medical care, treatment, diagnosis or preventative medical care or recuperating from the same;
- (3) the Covered Employee is the victim of domestic violence as defined in Section 103 of the Illinois Domestic Violence Act of 1986;
- (4) the Covered Employee is a victim of sexual violence of stalking as defined in Article 11, and Sections 12-7.3, 12-7.4 and 12-7.5 of the Illinois Criminal Code of 2012;
- (5) the Covered Employee's place of business is closed by order of a federal, state or local government public official (including a school district official) due to what the public official characterizes as a public health emergency;
- (6) the Covered Employee's Family Member is physically or mentally ill or injured;
- (7) the Covered Employee's Family Member is receiving medical care, treatment, diagnosis or preventative medical care or recuperating from the same;
- (8) the Covered Employee's Family Member is the victim of domestic violence as defined in Section 103 of the Illinois Domestic Violence Act of 1986;
- (9) the Covered Employee's Family Member is a victim of sexual violence of stalking as defined in Article 11, and Sections 12-7.3, 12-7.4 and 12-7.5 of the Illinois Criminal Code of 2012; or
- (10) the Covered Employee's child's school or place of care has been closed by order of a federal, state or local government public official (including a school district official) due to what the public official characterizes as a public health emergency and the Covered Employee needs to provide care for the child.

(B) Ordinance-Restricted Earned Sick Leave

Covered Employees of FMLA-Eligible Covered Employers can use Ordinance-Restricted Earned Sick Leave only for the purposes set out in Section 500.500(A).

(C) FMLA-Restricted Earned Sick Leave

FMLA-Eligible Covered Employees of FMLA-Eligible Covered Employers can use FMLA-Restricted Earned Sick Leave for any reason that such an employee can take leave pursuant to the federal Family and Medical Leave Act, including, but not limited to:

- (1) a serious health condition that makes the Covered Employee unable to perform the functions of his or her job;
- (2) to care for the Covered Employee's spouse, child, or parent who has a serious health condition;
- (3) the birth of the Covered Employee's son or daughter and to care for the Covered Employee's newborn child; or
- (4) the placement of a child with the Covered Employee for adoption or foster care and to care for the Covered Employee's newly placed child.

FMLA-Restricted Earned Sick Leave is used in conjunction with, and provides compensation for, leave that is protected by the federal Family and Medical Leave Act, which may otherwise be unpaid. A Covered Employee's use of Earned Sick Leave for FMLA purposes runs concurrently with his or her use of leave under the FMLA, and does not reduce or extend the number of hours and/or days of FMLA leave to which a Covered Employee may be entitled under the federal Act, nor does such use otherwise affect a Covered Employee's rights and duties under that Act.

(D) Covered Employee's Option

If leave would be permissible under either Section 500.500(B) or 500.500(C), the Covered Employee may determine whether he or she will use Ordinance-Restricted Earned Sick Leave or FMLA-Restricted Earned Sick Leave, provided that if a Covered Employee is taking leave pursuant to the federal Family and Medical Leave Act, he or she must satisfy all requirements for taking such leave under the federal Act.

(E) No Protection for Impermissible Use

The Commission will not protect a Covered Employee who uses, has used or intentionally attempts to use Earned Sick Leave for an impermissible purpose from discipline by his or her Covered Employer, up to and including termination of employment.

(F) Disciplinary Leave

A Covered Employer is not required to allow a Covered Employee to use Earned Sick Leave when the Covered Employee has been suspended or otherwise placed on leave for disciplinary reasons.

Section 500.600 **Notice of Use**

(A) Covered Employer Can Set Reasonable Notification Requirements

A Covered Employer may establish reasonable notice requirements for Covered Employees using Earned Sick Leave for both foreseeable and unforeseeable absences from work, as described in Sections 500.600(B) and 500.600(C) below.

(B) Foreseeable Absences

For the purpose of this Rule, a Foreseeable Absence includes any non-emergency, prescheduled appointment with a health care provider for the Covered Employee or the Covered Employee's Family Member and any non-emergency, prescheduled court date in a case related to domestic violence, sexual violence or stalking of a Covered Employee or the Covered Employee's Family Member. If asked to make a determination of whether an absence was foreseeable, the Commission will consider foreseeability from both the subjective perspective of the Covered Employee and the objective perspective of whether another reasonable person under the same circumstances would have foreseen the absence.

The Commission will consider a policy regarding required notification to use Earned Sick Leave for Foreseeable Absences to be unreasonable under the following conditions:

- (1) where such a policy is not in writing;
- (2) where such a policy has not been communicated to the Covered Employee in advance of the Covered Employee's failure to provide notice;
- (3) where such a policy would require the Covered Employee to give notice when he or she is unconscious or otherwise incapacitated;
- (4) where such a policy requires a Covered Employee to provide notice prior to seven days before the absence; or
- (5) where such policy limits the means by which a Covered Employee can provide the required notice in a manner that makes compliance so unreasonably difficult that Earned Sick Leave cannot, as a practical matter, be used (*e.g.*, requiring employees who work in the field to provide in-person notice at a distant business facility or requiring

employees with limited written English abilities to submit notice by writing a complex memo).

(C) Unforeseeable Absences

Unforeseeable Absences are those absences that are not Foreseeable Absences as described in Section 500.600(B).

The Commission will consider a policy regarding required notification to use Earned Sick Leave for Unforeseeable Absences to be unreasonable under the following conditions:

- (1) where such a policy is not in writing;
- (2) where such a policy has not been communicated to the Covered Employee in advance of the Covered Employee's failure to provide notice;
- (3) where such a policy would require the Covered Employee to give notice when he or she is unconscious or otherwise incapacitated;
- (4) where such a policy does not allow a person other than the Covered Employee to provide the required notice on behalf of the Covered Employee;
- (5) where such a policy requires a Covered Employee to provide notice prior to the day of the absence; or
- (6) where such a policy limits the means by which a Covered Employee can provide the required notice to exclude phone, email or text messaging.

Although a Covered Employer cannot limit the means of communication by which a Covered Employee provides any required notice of an Unforeseeable Absence to exclude phone, email or text messaging, the Commission will not consider it to be an unreasonable policy for a Covered Employer to require that a Covered Employee memorialize the notification he or she provided of an Unforeseeable Absence after returning from the absence by the Covered Employer's preferred means of communication to facilitate the Covered Employer's recordkeeping.

(D) In the Absence of a Written Policy

If a Covered Employer cannot produce a written policy with respect to the notification it requires of its Covered Employees using Earned Sick Leave, the Commission will presume that no such policy exists and that Covered Employees can use Earned Sick Leave pursuant to the Ordinance without providing any prior notification and without suffering any discipline as a result.

(E) Preference for Written Notification

Although Covered Employees can provide notification of use by any means of communication that is consistent with the reasonable written policy of his or her Covered Employer, the Commission encourages Covered Employees and Covered Employers to memorialize notification of use of Earned Sick Leave in writing. When faced with conflicting evidence regarding an issue of notification, the Commission will presume the accuracy of evidence that is written and dated when it conflicts with evidence that is testimonial in nature.

(F) FMLA Leave

Notwithstanding anything else in this Rule, when an FMLA-Eligible Covered Employee uses FMLA-Restricted Earned Sick Leave as described in Section 500.500(C) and pursuant to the federal Family and Medical Leave Act, the notification requirements of the federal Family and Medical Leave Act will take precedence over any conflicting requirements containing in a Covered Employer's reasonable written policy for notification of use of Earned Sick Leave pursuant to the Ordinance.

Section 500.700 **Documentation of Use**

A Covered Employer may require the following documentation to verify that Earned Sick Leave is being used for permissible purposes when a Covered Employee is absent for more than three consecutive work days:

- (1) For time used for the purposes described in Sections 500.500(A)(1)-(2) (*i.e.* the Covered Employee's own illness, injury, or medical care) or (A)(6)-(7) (*i.e.* a Covered Employee's Family Member's illness, injury, or medical care), a Covered Employer may require that a Covered Employee provide a note signed by a licensed health care provider; however, the Covered Employer shall not require that such note specify the nature of the Covered Employee's or his or her Family Member's injury, illness, or condition, except as required by law. Moreover, a Covered Employer who receives such documentation from a Covered Employee must maintain the confidentiality of the documentation to the extent that it contains sensitive or private medical information about any identifiable person.
- (2) For time used for the purposes described in Sections 500.500(A)(3)-(4) (*i.e.* the Covered Employee is a victim of domestic violence, sexual violence, or stalking) or (A)(8)-(9) (*i.e.* a Covered Employee's Family Member is a victim of domestic violence, sexual violence, or stalking), a Covered Employer may require that a Covered Employee provide a police report, court document, a signed statement from an attorney, a member of the clergy, or a victim

services advocate, or any other evidence that supports the Covered Employee's claim, including a sworn declaration or affidavit from him or her or any other person who has knowledge of the circumstances. The Covered Employee may choose which document to submit, and no more than one document shall be required if the Earned Sick Leave is related to the same incident of violence or the same perpetrator. A Covered Employer who receives such documentation from a Covered Employee must maintain the confidentiality of the documentation.

- (3) For time used for the purposes described in Section 500.500(C) (*i.e.* FMLA leave), a Covered Employer may require a Covered Employee to provide the type of documentation that is required for leave under the federal Family and Medical Leave Act.

The Covered Employer cannot delay the use of Earned Sick Leave or delay the payment of wages due during an absence pursuant to the Ordinance on the basis that the Covered Employer has not yet received the required documentation under this Section. The Commission, however, will not protect a Covered Employee from discipline, including termination, for failure to provide requested documentation pursuant to this Rule where the Covered Employer has given the Covered Employee a reasonable period of time to produce the requested documentation.

For the purpose of determining whether the Covered Employee has been provided a reasonable period of time to produce the requested documentation, the Commission will consider (i) what documentation has been requested, (ii) the amount of time the Covered Employee has been given to obtain the requested documentation, (iii) the Covered Employee's circumstances necessitating that he or she take Earned Sick Leave and (iv) in whose possession, custody or control the requested documents are.

Although a Covered Employer cannot require documentation from a Covered Employee to substantiate that Earned Sick Leave was used for a proper purpose for absences of three consecutive workdays or less, a Covered Employer is not prohibited from demonstrating that a Covered Employee has misused Earned Sick Leave by reference to any other evidence or documentation that it obtains from any other source that is not the Covered Employee. Moreover, the Commission encourages Covered Employees to document the appropriateness of Earned Sick Leave used. The Commission will presume the accuracy of evidence that is written and dated when it conflicts with evidence that is testimonial in nature.

Section 500.800 Payment of Earned Sick Leave

Wages earned during Earned Sick Leave must be paid no later than the next regular payroll period beginning after the Earned Sick Leave was used by the Covered Employee.

PART 600 ALTERNATIVE PRACTICES

Section 600.100 Minimum Requirements

Sections 400 and 500 provide minimum requirements for a Covered Employer with respect to the accrual, carryover and use of Earned Sick Leave. Nothing in these Rules should be construed as prohibiting a Covered Employer from allowing a Covered Employee:

- (1) to accrue Earned Sick Leave at a faster rate than that described in Section 400.200;
- (2) to accrue Earned Sick Leave without regard to the location of where the Covered Employee performed work for the Covered Employer;
- (3) a higher annual Accrual Cap than that described in Section 400.500;
- (4) to carry over more accrued Earned Sick Leave from one Accrual Period to the next than that described in Section 400.600;
- (5) to use more Earned Sick Leave each Accrual Period than that described in Section 500.300; or
- (6) to use Earned Sick Leave, Ordinance-Restricted Earned Sick Leave, and/or FMLA-Restricted Earned Sick Leave for purposes other than those described in Section 500.500.

A Covered Employer who exercises one or more of the foregoing options does not create a cause of action for a Covered Employee under the Ordinance if the Covered Employer later reverts to the minimum requirements of these Rules or some other practice that exceeds the minimum requirements of these Rules but is less generous. For example, if a Covered Employer had allowed Covered Employees to accrue one hour of Earned Sick Leave for every 10 hours of work, the Commission would not entertain the complaint of a Covered Employee if the Covered Employer, on a later occasion, requires a Covered Employee, for any nondiscriminatory reason, to instead work 30 hours before accruing an hour of Earned Sick Leave.

Section 600.200 Terminology

The Commission will not require a Covered Employer to use the same terminology used in the Ordinance or these Rules to describe paid leave benefits provided to Covered Employees as a precondition of finding that such paid leave benefits meet the requirements of the Ordinance.

Section 600.300 Equivalent Practices

The Commission recognizes that many Covered Employers have existing paid leave programs that they wish to modify as minimally as possible to achieve compliance with the Ordinance.

The Commission believes that the Ordinance provides Covered Employers with this flexibility so long as, in practical effect, Covered Employees (1) are awarded leave that, if it were converted into an hourly rate, accrues at a rate that is equivalent to or faster than that required by Section 400.200; (2) can carry over unused leave in an amount equivalent to or greater than that required by Section 400.600 from one Accrual Period to the next; (3) can use an amount of leave in each Accrual Period that is equivalent to or greater than that required by Section 500.300; (4) can use such leave for purposes that include at least those grounds set out in Section 500.500; and (5) can do so without providing notice or documentation that is more burdensome than that described in Sections 500.600 and 500.700.

The Commission observes that a number of additional alternative practices similarly may ease the administration of Earned Sick Leave while remaining its equivalent. Here, the Commission outlines some of the practices that it has determined would be compliant with the Ordinance. The following list is not intended to be exhaustive:

(A) Alternative to Accrual: Front-Loading

Section 400.200(G) of these Rules describes an equivalent practice for Covered Employers who prefer not to follow the accrual method described in Section 42-3(b)(2)-(4) of the Ordinance for awarding Earned Sick Leave to Covered Employees.

(B) Alternative to Carryover: Front-Loading

Section 400.600(C) of these Rules describes an equivalent practice for Covered Employers who prefer not to do individualized calculations of the amount of unused accrued Earned Sick Leave to be carried over from one Accrual Period to the next as described in Section 42-3(b)(5)-(6) of the Ordinance.

(C) Alternative to Accrual and Carryover: Front-Loading Both

For ease of administration, Covered Employers may choose to immediately grant at the beginning of each Accrual Period the maximum annual amount to which their Covered Employees could be entitled for both accrual during the current Accrual Period and carryover from the prior Accrual Period. Covered Employers may do so while complying with the Ordinance as follows: A Non-FMLA Eligible Covered Employer may comply by awarding its Covered Employees 60 hours of Earned Sick Leave (*i.e.* 40 hours maximum annual accrual plus 20 hours maximum annual carryover). An FMLA-Eligible Covered Employer may comply by awarding its Covered Employees 60 hours of Ordinance-Restricted Earned Sick Leave and 40 hours of FMLA-Restricted Earned Sick Leave. In both cases, the Covered Employer would then no longer be obligated either to track Covered Employee's accrual of Earned Sick Leave during the year or to allow carryover of unused accrued Earned Sick Leave from one Accrual Period to the next.

(D) Alternative to Specific-Purpose Leave: Multi-Purpose Paid Time Off

Where the federal Family and Medical Leave Act does not apply (*e.g.*, a Covered Employee of a Non-FMLA-Eligible Covered Employer or a Non-FMLA-Eligible Covered Employee of an FMLA-Eligible Covered Employer), the Ordinance does not require a Covered Employer to allow a Covered Employee to use more than 40 hours of Earned Sick Leave in a year. As a result, in such circumstances, the Commission will typically consider a Covered Employer to be in compliance with the Ordinance if the Covered Employer provides Covered Employees each Accrual Period with 5 days (*i.e.* 40 hours) of Paid Time Off (“PTO”), which can be used for the purposes described in Section 500.500 or for other leave purposes (*e.g.*, vacation), at the option of the Covered Employee.

Similarly, where the federal Family and Medical Leave Act does apply (*i.e.* an FMLA-Eligible Covered Employee of an FMLA-Eligible Covered Employer), the Ordinance does not require a Covered Employer to allow a Covered Employee to use more than 60 hours of Earned Sick Leave in a year. As a result, in such circumstances, the Commission will typically consider a Covered Employer to be in compliance with the Ordinance if the Covered Employer provides Covered Employees each Accrual Period with 7.5 days (*i.e.* 60 hours) of PTO, which can be used for the purposes described in Section 500.500 or for other leave purposes (*e.g.*, vacation), at the option of the Covered Employee.

To be equivalent, the Covered Employer could not, for example, require notice or documentation from the Covered Employee that is any more burdensome than the notice or documentation described in Sections 500.600 and 500.700, when a Covered Employee uses PTO as the equivalent of Earned Sick Leave.

(E) Alternative to Non-Uniform Accrual Periods: Excess Front-Loading or Excess Carryover

Under Section 42-3(b)(4) of the Ordinance, each Covered Employee has a specifically defined Accrual Period, the 12-month period starting on the Covered Employee’s Date of Initial Accrual, which ends 12 months later and repeats each year. For ease of administration, some Covered Employers may prefer to shift the start and end dates of any particular Covered Employee’s Accrual Period from the dates set by the Ordinance. One Covered Employer, for example, might prefer such a shift to align a particular Covered Employee’s Accrual Period with the Accrual Periods of other Covered Employees employed by the same Covered Employer (*e.g.*, have all employees share the same benefit year based on the calendar year or the employer’s fiscal year). Another Covered Employer might prefer such a shift to align a particular Covered Employee’s Accrual Period with the Covered Employer’s preexisting benefits administration practices (*e.g.*, an employer that bases other employee benefits on the anniversary of an employee’s start date may want to continue to do that for existing employees in Cook County whose Date of Initial Accrual would otherwise be July 1, 2017).

Regardless of the reason, shifting the start and end dates of a Covered Employee’s Accrual Period to fit a Covered Employer’s administrative preference or processes creates the risk that a Covered Employee may lose Earned Sick Leave to which he or she would otherwise be entitled to under the Ordinance. This is because while a Covered Employee accrues one hour of Earned Sick Leave for every 40 hours of work in Cook County, at the end of each Accrual Period, that

Covered Employee may lose some of his or her unused accrued Earned Sick Leave. As described in Section 400.600 of these Rules, the Ordinance does not require that a Covered Employer allow a Covered Employee to carry over all of his or her unused accrued Earned Sick Leave from one Accrual Period to the next. As a result, if a Covered Employer ends a Covered Employee's Accrual Period at a point where the Covered Employee has had less than 12 months since his or her Date of Initial Accrual, under the ordinary application of the carryover rules, the Covered Employee will be worse off. It is, however, possible for a Covered Employer to shift the start and end dates of a Covered Employee's Accrual Period in ways that do not make a Covered Employee worse off if the Covered Employer also extends Earned Sick Leave benefits to the Covered Employee that are in excess of those benefits required by the Ordinance.

The Commission will consider a Covered Employer who shifts the start and end dates of a Covered Employee's first Accrual Period to remain in compliance with the Ordinance so long as the Covered Employee is no worse off than he or she would be if the Covered Employer used the Accrual Period established in the Ordinance. The Commission has determined that there are at least two ways that a Covered Employer may be able to achieve this. First, in a Covered Employee's first days of employment, the Covered Employer can front-load a greater amount of Earned Sick Leave than the amount to which the Covered Employee is otherwise entitled to under the Ordinance. Second, at the end of a Covered Employee's first Accrual Period, a Covered Employer can allow the Covered Employee to carry over into the next Accrual Period all (rather than half) of his or her unused accrued Earned Sick Leave. The exact methodology – whether extra front-loading or extra carryover – is highly fact-specific and depends on, among other things, the dates that the Covered Employer is seeking to use for the Covered Employee's Accrual Period, the Covered Employee's Start of Employment, the Covered Employee's Date of Initial Accrual and the number of hours that the Covered Employee will work in Cook County.

PART 700 NOTIFICATION OF RIGHTS

Section 700.100 Posting Required

Every Covered Employer shall post in a conspicuous place at each place of business where any Covered Employee works within the geographic boundaries of Cook County a notice advising Covered Employees of their rights under the Ordinance. Such posting shall include, at a minimum, a description of the benefit, coverage, the rate of accrual, permissible uses and prohibited employer practices as well as contact information for the Commission and an explanation of how an employee who believes that his or her employer has violated the Ordinance can make a complaint.

For the purpose of this Rule, the Commission will not consider a residence where a Covered Employer employs only one or more domestic workers to be a place of business where posting of notice is required by the Ordinance. In addition, the Commission will not consider a place of business to be within the geographic boundaries of Cook County if it is also within the geographic boundaries of a municipality that has lawfully preempted the Ordinance.

The Commission will provide on its website a model posting that satisfies a Covered Employer's obligation under this Rule; however, a Covered Employer may satisfy its obligation under this Rule through any posting that advises Covered Employees of their rights under the Ordinance, including an explanation of how a Covered Employer's specific leave policy, which may use different terminology than the Ordinance, meets the requirements of the Ordinance.

Section 700.200 Notice of Rights Required

Every Covered Employer shall also provide to every Covered Employee a notice of rights advising each Covered Employee of his or her rights under the Ordinance by the later of each Covered Employee's Date of Coverage or Date of Eligibility, and at least once per calendar year thereafter. Such notice may accompany a Covered Employee's paycheck or paycheck deposit notification. Such notice shall include, at a minimum, a description of the benefit, coverage, the rate of accrual, permissible uses and prohibited employer practices as well as contact information for the Commission and an explanation of how employees who believe that their employer has violated the Ordinance can make a complaint.

The Commission will provide on its website a model notice of rights that satisfies a Covered Employer's obligation under this Rule; however, a Covered Employer may satisfy its obligation under this Rule through any written notice that advises Covered Employees of their rights under the Ordinance, including an explanation of how a Covered Employer's specific leave policy, which may use different terminology than the Ordinance, meets the requirements of the Ordinance.

PART 800 RECORDKEEPING

Section 800.100 Required Records; Covered Employer

Covered Employers are not required to retain any records prior to being named as respondents to a claim filed under the Ordinance with the Commission. The Commission, however, anticipates that moderately sophisticated Covered Employers who are complying with the Ordinance will have personnel and payroll records that are sufficient to demonstrate over the course of the three most recent years:

- (1) each Covered Employee's name;
- (2) each Covered Employee's Contact Information, including mailing address, telephone number and/or email address;
- (3) each Covered Employee's occupation or job title;
- (4) each Covered Employee's hire date;
- (5) the number of hours that each Covered Employee worked each workweek or pay period;
- (6) the number of hours of Earned Sick Leave each Covered Employee was awarded;
- (7) the number of hours of Earned Sick Leave each Covered Employee used; and
- (8) the date upon which each Covered Employee used Earned Sick Leave.

Failure of a moderately sophisticated Covered Employer to be able to produce such records if requested by the Commission in response to a complaint alleging a violation of the Ordinance may result in an adverse presumption against the Covered Employer by which the Commission will presume the accuracy of a Covered Employee's testimonial evidence with respect to the enumerated issue when it is in conflict with the testimonial evidence of a moderately sophisticated Covered Employer who cannot produce the expected records.

For the purpose of this Rule, the Commission will presume that any Covered Employer who does business in any corporate form or any natural person who employs more than four Covered Employees is moderately sophisticated.

Section 800.200 Required Records; Covered Employee

Covered Employees are not required to retain any records supporting their claim to a violation of the Ordinance in advance of filing such a claim with the Commission. The Commission, however, encourages Covered Employees to retain such records if they will use the Commission to enforce their rights under the Ordinance. The Commission will presume the accuracy of a

Covered Employer's contemporaneously written business records when they are in conflict with a Covered Employee's testimonial evidence.

Section 800.300 Preservation Obligation

Once a Covered Employer or Covered Employee has notice of a claim under the Ordinance, they have an obligation to retain all records related to the claim in their possession, custody or control until final disposition of the claim by the Commission. Destruction, damage or loss of such records will result in an adverse presumption against any party who had a retention obligation under this Rule. The Commission may also fine that party if the Commission determines that the destruction, damage or loss of such records was intentional.

PART 900 MISCELLANEOUS PRACTICES

Section 900.100 Prohibited

In addition to any other practice expressly or implicitly prohibited by the Ordinance, the Commission will consider a Covered Employer to have violated the Ordinance by:

- (1) requiring that a Covered Employee find coverage as a condition of using Earned Sick Leave;
- (2) retaliating against a Covered Employee for exercising rights under the Ordinance or participating as a party or witness in a case alleging a violation of the Ordinance that is or was pending before the Commission;
- (3) counting absences arising from the use of properly noticed Earned Sick Leave as an absence that triggers discipline, demotion, suspension or any other adverse employment action;
- (4) switching a Covered Employee's schedule after he or she provides notice that he or she is using or will use Earned Sick Leave to avoid paying the employee during his or her absence;
- (5) forbidding or requiring a Covered Employee to take Earned Sick Leave, provided that it is not prohibited for a Covered Employer to require that a Covered Employee use accrued Earned Sick Leave when the Covered Employee can do so instead of taking an unpaid absence from work; or
- (6) paying a Covered Employee to not take Earned Sick Leave.

Section 900.200 Permissible

The Commission will not consider a Covered Employer to have violated the Ordinance by doing the following:

- (1) denying a Covered Employee's request to use Earned Sick Leave for a foreseeable purpose where the Covered Employee failed to provide reasonable notice consistent with Section 500.600(B);
- (2) imposing discipline on a Covered Employee for failing to provide his or her Covered Employer with notice that he or she will use Earned Sick Leave to be absent from work in accordance with a reasonable written policy established by the Covered Employer;

- (3) imposing discipline on a Covered Employee for abusing Earned Sick Leave by, for example, a proven use of Earned Sick Leave that is not one of the permissible uses described in Section 500.500;
- (4) if a Covered Employer fails to pay Earned Sick Leave on the grounds that the payment of Earned Sick Leave in the specific circumstances at issue would require the Covered Employer to compensate a Covered Employee at more than the appropriate rate of pay as described in Section 200.100(A). For example, if a Covered Employee is being compensated by a Covered Employer at 100 percent of his or her hourly rate of pay through workers' compensation payments or disability leave benefits, the Commission will not require that a Covered Employer compensate the Covered Employee at 200 percent of his or her normal rate of pay through an additional payment for the use of Earned Sick Leave.

PART 1000 ENFORCEMENT

SUBPART 1010 SCOPE

Section 1010.100 Application of the Ordinance

With respect to enforcement of the Ordinance, the Commission will defer to the jurisdiction of any municipality that is within the geographic boundaries of Cook County, including but not limited to the City of Chicago, that has enacted an earned sick leave law applicable to the Covered Employee at issue, which (a) provides Earned Sick Leave in an amount and manner that is as, or more, generous than the Ordinance and (b) provides remedies against a Covered Employer that fails to provide such benefits.

SUBPART 1020 ADMINISTRATIVE PROCESS

Section 1020.100 Time Limit for Filing Complaints

A Covered Employee who seeks to file a complaint with the Commission alleging that a Covered Employer has violated the Ordinance must do so within three years of the alleged violation, provided that, if there is evidence that the Covered Employer concealed the violation, then any complaint must be filed with the Commission within three years of when the Covered Employee discovered, or reasonably should have discovered, the violation. Where such a violation is continuing, the claim must be brought within three years of the last occurrence of the alleged violation.

Once a Covered Employee has filed a complaint within the time allowed by this Rule, the Commission's investigation of that complaint is not necessarily limited to the same time period though, as a matter of practice, the Commission will not focus its investigation on alleged violations of the Ordinance that are more than three years old.

That a claim may be too old to file at the Commission will not impact the Covered Employee's ability to bring the claim in a court of competent jurisdiction pursuant to Section 42-8(b) of the Ordinance.

Section 1020.200 Initiating Enforcement at the Commission

(A) Case Initiation

A Covered Employee who believes that his or her Covered Employer has committed any violation of the Ordinance may file a complaint with the Commission. Such a complaint must be in writing and verified by the complaining Covered Employee in addition to being timely pursuant to Section 1020.100.

Further, the complaint must include:

- (1) the name of the Covered Employee and his or her contact information;

- (2) the name of the Covered Employer that has allegedly violated the Ordinance and its contact information;
- (3) a statement of facts alleged to establish that the complaining employee and his or her employer are covered by the Ordinance, including, but not limited to, (i) the address of the Covered Employer's Place of Business located in Cook County and (ii) the date(s) and place(s) where the complainant performed a minimum of two hours of work for the Covered Employer while physically present within the geographic boundaries of Cook County and a brief description of that work; and
- (4) a statement of the facts alleged to constitute the violation of the Ordinance, including, but not limited to, (i) the date(s) and amount(s) of any alleged denial of use or under-accrual of Earned Sick Leave for work performed for the Covered Employer while in Cook County; (ii) the date(s) and place(s) of any alleged failure to notify; and (iii) the date(s), place(s) and witness(es) to any alleged retaliation.

The Commission will provide a form that a Covered Employee can use for this purpose on its website. A complaining Covered Employee can be represented by counsel at this or any stage of the Commission process but is not required to retain an attorney for this purpose.

(B) Review of Complaint

Once filed, the Commission will serve the complaint unless it finds upon review that (i) the complaint is not timely; (ii) the Commission lacks jurisdiction over the complaint; or (iii) the complaint does not state facts that, if true, would constitute a violation of the Ordinance. The Commission then will issue an abeyance letter to the complaining employee and take no further action with respect to the employee's claim.

The Commission may also decline to serve a complaint from an employee who has previously filed multiple complaints with the Commission that subsequently were determined to be non-meritorious if (i) the Commission previously determined that the employee had filed the non-meritorious complaint for an improper purpose or (ii) the Commission has some articulable evidence that the current complaint is also being filed for an improper purpose. The Commission will explain this determination in an abeyance letter issued to the complaining employee.

In any instance, the Commission's decision to decline an employee's request to initiate a case for enforcement of the Ordinance does not in any way prejudice any right that employee may have to pursue enforcement of the Ordinance outside of the Commission in a court of competent jurisdiction pursuant to Section 42-8(b) of the Ordinance.

If the complaint is deemed viable by the Commission, the Commission will either serve the complaint on the Covered Employer named in the complaint or will serve, as a substitute, a Commission Complaint as described in Section 1020.200(C).

(C) Commission Complaint

In its discretion, in lieu of serving a complaint as filed, the Commission may serve instead on the Covered Employer named in the complaint, a complaint that is written in the Commission's name. Such a complaint does not have to disclose the name of the complaining Covered Employee and may allege violations of the Ordinance that are broader than those involving the complaining Covered Employee.

The Commission will consider the totality of the circumstances but at least two circumstances will favor this approach: (i) multiple Covered Employees of the same Covered Employer have filed, or attempted to file, complaints with the Commission alleging substantially similar violations of the Ordinance by the Covered Employer or (ii) there is a reasonable probability based on the nature of the allegations and any evidence provided by the complaining Covered Employee that the Covered Employer has also violated the Ordinance with respect to other Covered Employees who have not yet filed a complaint with the Commission but could conceivably do so.

Section 1020.300 Commission Investigations of Alleged Ordinance Violations

(A) Response

Once served with a complaint, whether in the name of a complaining Covered Employee or in the name of the Commission, the Covered Employer has 30 days to file with the Commission a written and verified answer to the complaint that admits or denies each allegation and sets out any additional facts that, if true, would establish that the Covered Employer has complied with the Ordinance, the Ordinance does not apply, the Commission lacks jurisdiction over the claim, or any other reason in support of dismissal of the complaint.

The Covered Employer can request an extension of time to respond to a complaint but must do so in writing before the expiration of the time to answer. Absent extraordinary circumstances, the Commission will only grant one extension. The failure to promptly retain counsel is not an extraordinary circumstance.

Where the Commission deems the Covered Employer's response to be sufficient to demonstrate that the complaint lacks merit, the Commission will dismiss the complaint. The Commission's decision to dismiss at this stage does not in any way prejudice any right that a Covered Employee may have to pursue enforcement of the Ordinance outside of the Commission in a court of competent jurisdiction pursuant to Section 42-8(b) of the Ordinance.

Where the Commission deems the Covered Employer's response to be insufficient to demonstrate that the complaint lacks merit, the Commission will proceed with discovery.

Failure to submit a response within the time allotted will constitute an admission by the Covered Employer to the Commission of each allegation in the complaint. The Commission will render an order pursuant to Section 1020.400 on the basis of such admissions as appropriate.

(B) Discovery

The Commission will direct all discovery related to its determination of whether a violation of the Ordinance has occurred. The complaining Covered Employee and the Covered Employer can suggest discovery to the Commission that would facilitate the determination of whether or not a violation of the Ordinance has occurred, but the Commission will make the final determination of what information and testimony to obtain with the goal of conducting an accurate and expeditious investigation at the lowest reasonable cost to all parties and witnesses.

In conducting discovery of the parties, the Commission may conduct interviews or submit document requests and questionnaires calling for written responses. In conducting discovery of non-parties or as otherwise necessary, the Commission may issue a subpoena pursuant to Section 1020.300(B)(4).

To the extent that the Commission is confronted with conflicting testimonial evidence on an issue that is material to its determination of whether a violation of the Ordinance has occurred, the Commission may order an Evidentiary Conference pursuant to Section 1020.300(B)(3).

(1) Failure to Produce Requested Evidence

All discovery requested by the Commission must be provided within the time provided to respond in the Commission's request. The Commission will presume that any evidence it requests but that has not been produced or that has not been produced within the time requested does not exist, and it will resolve the related question of fact or law on the basis of the absence of evidence and/or the presence of other evidence obtained from other sources. Further, if a party fails to produce information requested by the Commission within the time requested, the party will be barred from presenting that evidence in any later setting related to enforcement of the Ordinance.

(2) Sensitive Information

Parties who may be producing confidential, proprietary or personal information to the Commission should identify that material as such and may request appropriate protections for that information (*e.g.*, request that any documents that are not included or referenced in the Commission's final order be returned to the producing party at the close of the investigation).

(3) Evidentiary Conference

The Commission may order an Evidentiary Conference to resolve simple factual disputes arising from conflicting testimonial evidence by parties and/or witnesses that is potentially determinative as to whether there is evidence of a violation of the Ordinance. The Commission may order the parties and/or witnesses to provide in-person, sworn testimony on the disputed fact before an administrative law judge who will make a determination as to the credibility of any testifying party or witness with respect to the disputed fact. An order of an Evidentiary Conference will provide the parties with notice of the disputed issue of fact and the identity of the testifying parties and/or witnesses. Additional witnesses may be added by the parties as provided in subsection (a).

- (a) At an Evidentiary Conference, the testifying parties and/or witnesses will be examined by the administrative law judge. The parties to the case, or their attorneys or representatives of record, will then have the opportunity to examine and cross-examine any party or witness testifying at an Evidentiary Conference. The parties to the case, or their attorneys or representatives of record, may also present any additional witnesses or documentary evidence to the administrative law judge that the parties believe will assist the administrative law judge in resolving the disputed issue of fact. A party must provide advance notice of any such additional evidence to the Commission and the other party at least five business days before the Evidentiary Conference. The Evidentiary Conference is limited to hearing evidence relevant to resolving the dispute of fact identified in the order of an Evidentiary Conference.

- (b) Within 21 days of the Evidentiary Conference, the administrative law judge will present in writing any findings of fact, including any determinations of testimonial credibility, to the Commission. The administrative law judge's findings shall be considered an additional piece of evidence in the Commission's investigation into the merits of the complaint.

(4) Subpoenas

The Commission may issue a subpoena on its own initiative at any time for the appearance of witnesses or the production of evidence. If a person does not comply with a subpoena on the date set for compliance whether because of refusal, neglect, or a change in the compliance date (such as due to continuation of an Administrative Hearing) or for any other reason, the subpoena shall continue in effect for up to one year, and a new subpoena need not be issued.

When issuing a subpoena the Commission shall pay witness fees of \$20.00 per day and mileage fees of \$0.20 per mile to the person subpoenaed.

The person to whom the subpoena is directed may object to the subpoena in whole or in part. The objection may be made to the Commission or to the administrative law judge (if one has been assigned) no later than five business days prior to the time for appearance or production required by the subpoena. The objection shall be in writing, filed with the Commission, served on all parties and on the administrative law judge (if any assigned), and shall specify the grounds for objection. The party opposing the objection may file a written response to the objection specifying the need for certain witnesses or documentation no later than two business days prior

to the time for appearance or production required by the subpoena. The Commission or, if assigned, the administrative law judge, shall consider the objection and render a decision on the objection.

Failure to comply with a subpoena issued by the Commission shall constitute a separate violation of the Ordinance. Every day that a person fails to comply with said subpoena shall constitute a separate and distinct violation. The Commission may seek judicial enforcement of its subpoenas.

Section 1020.400 Commission Findings

(A) Finding of No Violation

If the Commission finds that the parties' pleadings and the evidence that the Commission obtained through discovery is insufficient to establish that the Covered Employer violated the Ordinance, the Commission will render a Finding of No Violation and serve it on the parties. A Finding of No Violation is on the merits and may prejudice any right that the complaining Covered Employee may have to pursue enforcement of the Ordinance outside of the Commission in a court of competent jurisdiction pursuant to Section 42-8(b) of the Ordinance. A Finding of No Violation is a final order of the Commission, subject to administrative review as described in Section 1020.600.

(B) Finding of Violation

If the Commission finds on the basis of its investigation that a violation has occurred, the Commission will render a Finding of Violation. The Finding of Violation will order remedies and/or sanctions as described in Subpart 1030.

The Covered Employer has 30 days from the date that the Commission renders its Finding of Violation to accept the Commission's finding or contest it pursuant to the procedures set out in Section 1020.500.

If the Covered Employer accepts the Finding of Violation, the Covered Employer must demonstrate compliance with any remedies ordered within 30 days or such other time as may be provided by the Commission.

Section 1020.500 Administrative Hearing

If the Covered Employer does not accept the Commission's Finding of Violation pursuant to Section 1020.400(B), the Commission will appoint an administrative law judge to make a final determination as to whether the Covered Employer violated the Ordinance and the remedies and sanctions ordered by the Commission are appropriate. The Commission, or its designee, will present the evidence it obtained that supports its Finding of Violation. The Covered Employer can cross-examine this evidence and/or produce additional relevant evidence (that it is not otherwise prohibited by Section 1020.300(B)(2) from producing). Neither the Commission nor the Covered Employer will be entitled to any additional discovery at this stage though the Commission can use its subpoena power as described in Section 1020.300(B)(4) to arrange for the presence of any necessary witnesses whose live testimony is requested by the administrative

law judge or the Covered Employer. In the case of a witness subpoenaed at the request of the Covered Employer, the Covered Employer must effect service of the subpoena and pay the associated witness and mileage fees.

The administrative law judge will promptly issue a written opinion affirming or setting aside all or any portion of the Finding of Violation, including any proposed remedies and/or sanctions. The administrative law judge's decision will be the final decision of the Commission and be subject to administrative review as described in Section 1020.600.

Section 1020.600 Administrative Review

The Commission will not entertain motions for reconsideration of Findings of Violation or Findings of No Violation. A party contesting the Commission's Finding of Violation or Finding of No Violation may, however, seek administrative review of the Commission's decision by filing a petition for *writ of certiorari* in the Circuit Court of Cook County within 30 days of a Finding of No Violation as described in Section 1020.400(A) or within 30 days of a Finding of Violation as described in Section 1020.500.

Section 1020.700 Service

For the purpose of any of these Rules that require service:

(A) On Complainant

A complaining Covered Employee shall be served by mail or in person at the address he or she provides on the complaint, provided that, if a complaining Covered Employee subsequently provides any other address, including the address of counsel, in writing to all parties and the Commission, then all future service upon the complaining Covered Employee shall be at that address.

(B) On Respondent

A Covered Employer shall be served by mail or in person at its principal place of business or at its place of business where all or some of the alleged Ordinance violations occurred, provided that, if a Covered Employer subsequently provides any other address, including the address of counsel, in writing to all parties and the Commission, then all future service upon the Covered Employer shall be at that address.

(C) On the Commission

The Commission shall be served at its 69 West Washington office by mail or in person Monday through Friday, excluding County holidays, between 9:00 a.m. and 4:00 p.m.

(D) Electronic Service

Service by electronic means to an email address provided by a party or the Commission can be made in lieu of mail or in-person delivery after the initial pleadings to any party or the Commission with the prior written consent of that party or the Commission, as applicable.

(E) When Service is Effective

Electronic service is presumed to be effective on the date on which it is sent. In-person service is presumed to be effective on the date on which it is made. Service by U.S. mail is presumed to be effective three business days after it is deposited in the mail with postage prepaid.

Section 1020.800 **Evidence of Compliance**

For the first year after the effective date of the Ordinance, if a Covered Employer that is the respondent in a complaint for violation of this Ordinance provides the Commission with competent evidence that it is in, or has come back into, full compliance with the Ordinance, then the Commission will terminate any investigation pursuant to Section 1020.300(A), will not proceed to rendering an order pursuant to Section 1020.400, and will dismiss the complaint with prejudice. The Commission considers full compliance to include the payment of any lost wages to affected Covered Employees that resulted from noncompliance with the Ordinance.

The Commission will revisit this rule on or before July 1, 2018 to determine whether it has furthered the Commission's goal of encouraging Covered Employers who may be out of compliance with the Ordinance to come quickly into compliance. If so, this Rule may be extended.

SUBPART 1030 **ADMINISTRATIVE REMEDIES**

When the Commission determines that a Covered Employer has violated the Ordinance, the Commission may (1) fine the Covered Employer; (2) order the Covered Employer to pay lost wages to affected Covered Employees; and/or (3) order other appropriate injunctive relief.

Section 1030.100 **Fines**

The Commission will impose fines payable to Cook County for any violation of the Ordinance. The amount of such fine will not exceed \$500 per violation per Covered Employee affected per day. In exercising its discretion to set an appropriate fine, the Commission will take into account the extent of the violation, the culpability of the Covered Employer, and whether the Covered Employer promptly and thoroughly cooperated during the course of the Commission's investigation into the complaint that led to the Finding of Violation.

Section 1030.200 **Lost Wages**

The Commission may order a Covered Employer that has violated the Ordinance to pay to affected Covered Employees the amount of any lost wages that resulted from noncompliance with the Ordinance. For example, if a Covered Employer violated the Ordinance by requiring a Covered Employee to take an unpaid sick day when the employee had accrued and could have used one day of Earned Sick Leave, the Commission may require the Covered Employer to pay the Covered Employee an amount equivalent to one day's wages. In exercising its discretion, the Commission will take into account whether the Covered Employer is currently meeting its obligations under the Ordinance and the amount and duration of any lost wages to affected Covered Employees.

If the Commission exercises the option pursuant to Section 1020.200(C) to proceed on behalf of the complaining Covered Employee, lost wages will be based on all Covered Employees employed by the Covered Employer during the relevant time period. The Commission will award the complaining Covered Employee his or her lost wages. The Commission will collect any back wages due to non-complaining Covered Employees to create a fund, administered by the Commission or its designee, to award lost wages to non-complaining Covered Employees employed by the Covered Employer.

If the Commission does not proceed on behalf of the complaining Covered Employee, the amount of lost wages awarded will be based only on lost wages due to the complaining Covered Employee. Back wages due to non-complaining Covered Employees will not be considered.

Section 1030.300 Injunctive Relief

The Commission may impose appropriate post-judgment injunctive relief. Such relief may include, for example, an order to cease and desist violating the Ordinance going forward or to reinstate a Covered Employee who was discharged in retaliation for exercising rights protected by the Ordinance.

The Commission may require the Covered Employer to submit to monitoring of future compliance with the Ordinance by the Commission or its designee. Monitoring may include additional recordkeeping obligations.

SUBPART 1040 JUDICIAL ENFORCEMENT

Section 1040.100 Private Right of Action

To the extent that a Covered Employee wishes to pursue a claim against a Covered Employer in Cook County in a court of competent jurisdiction pursuant to Section 42-8(b) of the Ordinance, the Commission will not require that the Covered Employee first bring such a claim to the Commission. A Covered Employee requires no authorization from the Commission to pursue such a claim in a court of competent jurisdiction and the Commission will not purport to grant such authorization.

Section 1040.200 Effect on Administrative Enforcement

If a Covered Employee first brings a claim alleging an Ordinance violation to the Commission and, while it is pending, files a substantially similar claim pursuant to Section 42-8(b) of the Ordinance in a court of competent jurisdiction, the Commission will dismiss its pending matter so as to avoid the risk of rendering inconsistent determinations. Similarly, the Commission will not entertain a claim to vindicate a right under the Ordinance that is substantially similar to a claim that was previously filed in a court of competent jurisdiction.



Wilmette/Kenilworth Chamber of Commerce

June 1, 2017

Village President Bob Bielinski
Village of Wilmette
1200 Wilmette Ave.
Wilmette, IL 60091

Dear President Bielinski:

The Wilmette/Kenilworth Chamber of Commerce would like to formally request that the Village of Wilmette opt out of both the Cook County Minimum Wage Ordinance No. 16-5768 and the Cook County Mandatory Paid Sick Leave Ordinance No. 16-4229.

The Chamber conducted a survey of its members, and a majority of responding businesses requested that the Village of Wilmette opt out of these ordinances. The Chamber does not believe it is right for county government to regulate these business issues.

We believe that workers are entitled to a living wage, and that most Wilmette businesses already pay their employees above minimum wage. However, there may be some Wilmette businesses for whom this will cause a hardship. In the case of paid sick leave, numerous businesses feel that it would create financial and logistical difficulties for them.

Thank you for considering our request to opt out of these Cook County ordinances.

Sincerely,

Julie Yusim
Executive Director
Cc: Wilmette/Kenilworth Board of Directors

June 1, 2017

Bob Bielinski
Mayor, Village of Wilmette
1200 Wilmette Avenue
Wilmette, IL 60091

Dear Mayor Bielinski:

I write today on behalf of the 34,000 hardworking members of Local 881 United Food and Commercial Workers, 53 of which call Wilmette home, and additionally, the 420,000 suburban Cook County workers who diligently show up to work sick or with an ill child at home because they are without a single earned sick day.

In October, Cook County took the historic step voting to support and pass the earned sick day law. This law will allow over 420,000 workers in Cook County, including the waitress at your favorite neighborhood restaurant, your child's daycare worker, or the staffer at a small manufacturer, to be able to take off when they need to visit a doctor or care for an ill loved one.

We are dismayed to learn that your Board is considering opting out of the Cook County ordinances that establish Earned Sick Time and/or an increased Minimum Wage.

An overwhelming majority of your constituents are in favor of both of these measures: **73% of Wilmette voters supported paid sick days and 65% supported an increased minimum wage** in recent non-binding ballot referendums. By considering opting out of the County ordinance, you are going against the spirit of the referendums supported by the overwhelming majority of your constituency.

We therefore ask you **to postpone considering opting out of the sick leave and minimum wage laws** until you have the opportunity to meet constituents who would be affected by these changes. To that end, **we request a meeting with Local 881 UFCW and our Wilmette membership at your earliest convenience.**

As I'm sure you're aware, 42% of workers in Cook County do not have access to paid sick days. The time is now for Cook County to lead on the earned sick leave initiative because passing a bill at the state level is unlikely. As we've seen time and time again in the last few months, Springfield is paralyzed in a debilitating partisan struggle, leaving working families behind and causing harm to the most vulnerable among us. A Federal solution is just as unlikely to happen due to near uniform Republican opposition.

That leaves it up to cities and local jurisdictions to lead the way. Already, over two dozen cities, from Seattle to Washington D.C. and smaller localities in-between, including most recently Minneapolis, have acted on this to the benefit of their workers and with minimal impact to their employers.

It is Cook County's turn to lead, not only Illinois, but the entire Midwest and show that workers, employers, and government can proactively build out the modern economy to meet the needs of working families who must navigate the inevitable flu season outbreak, unforeseen accident, or sick child.

On behalf of the 11,542 Local 881 workers who live in Cook County and help every neighborhood in this region thrive, and in conjunction with the over 60 members of the Earned Sick Leave Coalition, I ask for your strong support of the Earned Sick Leave ordinance. My members, and the 420,000 workers in suburban Cook County who are forced to choose between going to work sick and making rent, deserve to be able to take a day off when they're ill.

If you have any questions or concerns about Local 881 UFCW's strong support of the Earned Sick Leave ordinance, or that of any of our coalition's members, please do not hesitate to contact me. I'll meet you anywhere you want to talk this issue through and maintain this hard-fought victory for working families.

Sincerely,

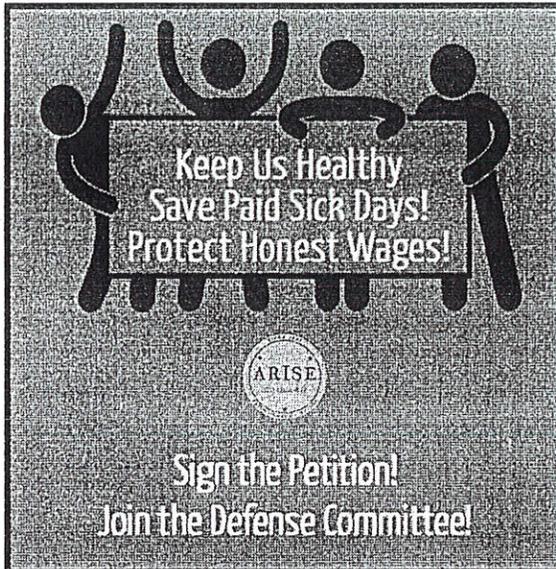


Ron Powell
Local 881, President and UFCW International Vice President



Let's get the facts straight in Wilmette!

Support keeping Wilmette a healthy community by saving
Paid Sick Days and the Higher Minimum Wage



Background

In 2016, Cook County passed two ordinances to provide basic rights to workers to help their families survive and improve quality of life

1. The **Earned Sick Time Ordinance** allows full-time workers to earn up to 5 earned sick days per year, prorated for part-time workers.
2. The **Minimum Wage Ordinance** raises the minimum wage, now \$8.25, by one dollar each year, to eventually reach \$13 an hour in 2020.

Both ordinances go into effect July 1, 2017.

At least **420,000 workers** will benefit from the ordinances

**Wilmette is threatening to take away these basic rights.
In response, local residents formed the Stand Up for the Wilmette Workers Committee**

Top 3 Reasons to Keep the Minimum Wage in Wilmette

#1: 65% of Voters Support a Higher Minimum Wage!

- In a November 2014 gubernatorial election non-binding ballot referendum, **65% of Wilmette voters supported a higher state minimum wage**

#2: Workers Can't Live on the Current Minimum Wage

- Working full time at the minimum wage means workers make approximately **\$17,000 per year.**
- The median household income in Wilmette is \$ \$130,088. Workers earning minimum wage cannot afford to live in our community
- Over 200,000 workers in Cook County will benefit from the increased minimum wage.

#3: A Higher Minimum Wage Improves Local Economies

- In other cities, like San Jose, San Francisco, and **Seattle after raising the minimum wage, restaurant industries grew, and/or unemployment decreased**
- There are downstream benefits from the proposed wage increase, such as **improved health outcomes for both workers and their children**, and increases in children's school achievement and cognitive and behavioral outcomes.

**Wilmette is threatening to take away basic worker rights.
In response, local residents formed the
Stand Up for the Wilmette Workers Committee**



Top 3 Reasons to Keep Paid Sick Days in Wilmette

#1: Wilmette Voters Support Paid Sick Days!

- In a November 2016 general election non-binding ballot referendum, **73% of voters Wilmette supported paid sick days in Illinois**

#2: Paid Sick Days Improve Community Physical & Economic Health

- Before the passage of the Chicago and Cook County Earned Sick Time ordinances, an estimated **42% of the Chicago metropolitan area private workforce did not have access to earned sick time**
- The CDC reports that, among food workers who worked at least one shift in the last year while suffering from vomiting or diarrhea, **49% reported to work (at least in part) because they wouldn't be paid if they stayed home.**
- **Lack of paid sick leave also contributes to the spread of contagious disease** and its human and economic toll. University of Pittsburgh researchers estimate, for example, that lack of paid sick days resulted in five million additional cases of flu during the 2009 H1N1 epidemic.
- **Families without paid sick days have to risk their basic necessities when illness strikes.** For a family without paid sick days, on average, 3.1 days of pay lost to illness are equivalent to the family's entire monthly health care budget, and 3.5 days are equivalent to its entire monthly grocery budget. Simply put, paid sick days help families make ends meet.

#3: Paid Sick Days Provide Cost Savings to Employers and Local Government

Employers

- **Employers save from greater workforce stability:** Replacing workers can cost anywhere from 25 to 200 percent of annual compensation. Paid sick days result in reduced turnover, which leads to reduced costs incurred from advertising, interviewing and training new hires.
- **Employers save due to worker productivity:** "Presenteeism," or workers performing at less than full productivity because of illness, is estimated to cost employers \$160 billion per year — twice as much as the cost of absenteeism due to illness.
- **Employers save from reduced workplace contagion:** Employees who work sick endanger business profits by putting the health and productivity of other workers — as well as customers — at risk. It's far less expensive to provide paid sick days than to deal with a reputation for infecting your customers.

Government

- **Lack of paid sick days drives up health care costs for businesses and the public.** Workers without paid sick days are more than twice as likely as those with paid sick days to seek emergency room care because they can't take time off during normal work hours.
- Parents without paid sick days are **five times more likely to seek emergency room care** for their 2 children or other relatives.

From: Julie Yusim [<mailto:julie@wilmettekenilworth.com>]

Sent: Friday, June 16, 2017 3:06 PM

To: Frenzer, Tim <frenzert@wilmette.com>

Subject: RE: Questions for the Chamber Concerning the Cook County Minimum Wage & Paid Sick Leave Ordinances

Tim, please see my responses below:

Julie Yusim, Executive Director
Wilmette/Kenilworth Chamber of Commerce
351 Linden Ave, Wilmette 60091
847-251-3800

Please note that the chamber's new email address is julie@wilmettekenilworth.com and info@wilmettekenilworth.com. Please update our contact information.

From: Frenzer, Tim [<mailto:frenzert@wilmette.com>]

Sent: Friday, June 16, 2017 2:40 PM

To: Julie Yusim <julie@wilmettekenilworth.com>

Cc: Bielinski, Bob <bielinskib@wilmette.com>; Braiman, Michael <braimanm@wilmette.com>

Subject: Questions for the Chamber Concerning the Cook County Minimum Wage & Paid Sick Leave Ordinances

Dear Julie;

Thank you for joining us at the Village Board meeting this past Tuesday, and for speaking on the subject of the Village Board's consideration of how to respond to the Cook County Ordinances that take effect on July 1, 2017.

Based on your comments and, more particularly, the letter dated June 1, 2017, the Village President asked me to submit to you, for the Chamber's response, a number of follow up questions. Please review these and let us know what additional information that the Chamber of Commerce can provide.

Our Agenda materials for the June 27, 2017 Village Board meeting need to be ready at noon on Thursday, June 22, so we would grateful if the Chamber could respond by then.

Thank you again for all your assistance.

Regards,

Tim

The Chamber's letter of June 1, 2017, referencing the Cook County Minimum Wage Ordinance No. 16-5768 and the Cook County Mandatory Paid Sick Leave Ordinance No. 16-4229, states:

The Chamber conducted a survey of its members, and a majority of its responding businesses requested that the Village of Wilmette opt out of

these ordinances. The Chamber does not believe it is right for the county government to regulate these business issues.

We believe that workers are entitled to a living wage, and that most Wilmette businesses already pay their employees above minimum wage. However, there may be some Wilmette businesses for whom this will cause a hardship. In the case of paid sick leave, numerous businesses feel that it would create financial and logistical difficulties for them.

With regard to the survey referenced in the Chamber letter, the Village Board is interested in additional information.

1. Can the Chamber share the survey questions with the Village? Yes, but would like to do 2nd, more detailed survey to get additional information for you.
2. Can the Chamber share the survey results or summarize them in more detail (without revealing the identities of the individual member respondents)? Yes
 - a. How many Chamber members were surveyed? 180
 - b. How many members responded? 35
 - c. How many respondents were opposed or not opposed to opting out of the County minimum wage or the sick leave ordinances, or both? 23 in favor of opting out; 12 opposed to opting out
3. Insofar as responses are concerned, can they be categorized in any way (e.g. restaurant, retail, service, etc.) Yes, I can define for you

With regard to the issue of opting out or not, as expressed by the Chamber in the second paragraph above:

4. Does the Chamber have any additional information or examples of how specific businesses or types of businesses would be economically impacted? 2nd survey will give this information
5. Does the Chamber have any information on the number or types of businesses that do work in multiple municipalities, so as to be impacted by possibly conflicting rules on minimum wage and/or paid sick leave applicable in other Cook County municipalities where they may do work? Thus far, I know of 2 businesses that have talked about this: deGuilio Kitchen Design and F.J. Kerrigan Plumbing
6. Is there any additional data or information that the Chamber can provide to the Village in support of its request? There will be with a second survey.

Another point that the businesses want to make is that they feel there is a “misconception” that Wilmette customers are not cost-conscious – that is contrary to what most of the retailers/restaurants/service providers report. In other words, a significant demographic does make purchasing decisions based on price over loyalty to Wilmette small businesses.

A large part of the concern is that businesses will have to increase prices in order to accommodate the mandates, which will in turn lead to lost customers.



A Fair Deal for Chicago's Working Families

A Proposal To Increase the Minimum Wage



Recommendations of Mayor Rahm Emanuel's
Minimum Wage Working Group



Background on the Minimum Wage Working Group

On May 20th, 2014, Mayor Emanuel appointed a diverse group of community, labor and business leaders and tasked them with evaluating options for developing a balanced proposal to raise the minimum wage for Chicago's workers.

Working Group Members:

- **John Bouman, President, Sargent Shriver Center on Poverty Law (co-chair)**
- **Will Burns, Alderman of the 4th Ward (co-chair)**
- Deborah Bennett, Senior Program Officer, Polk Bros. Foundation
- Matt Brandon, Service Employees International Union Local 73
- Carrie Austin, Alderman, Alderman of the 34th Ward and Chairman of the City Council Committee on the Budget and Government Operations
- Walter Burnett, Alderman of the 27th Ward and Chairman of the City Council Committee on Pedestrian and Traffic Safety
- Sol Flores, Executive Director, La Casa Norte
- Theresa Mintle, CEO, Chicagoland Chamber of Commerce
- Emma Mitts, Alderman of the 37th Ward and Chairman of the City Council Committee on License and Consumer Protection
- Joe Moore, Alderman of the 49th Ward and Chairman of the City Council Committee on Special Events, Cultural Affairs and Recreation
- Ameya Pawar, Alderman of the 47th Ward
- Maria Pesqueira, President and CEO, Mujeres Latinas en Accion
- Ariel Reboyras, Alderman of the 30th Ward and Chairman of the City Council Committee on Human Relations
- JoAnn Thompson, Alderman of the 16th Ward
- Sam Toia, President, Illinois Restaurant Association
- Tanya Triche, Vice President and General Counsel, Illinois Retail Merchants Association
- Andrea Zopp, President and CEO, Chicago Urban League

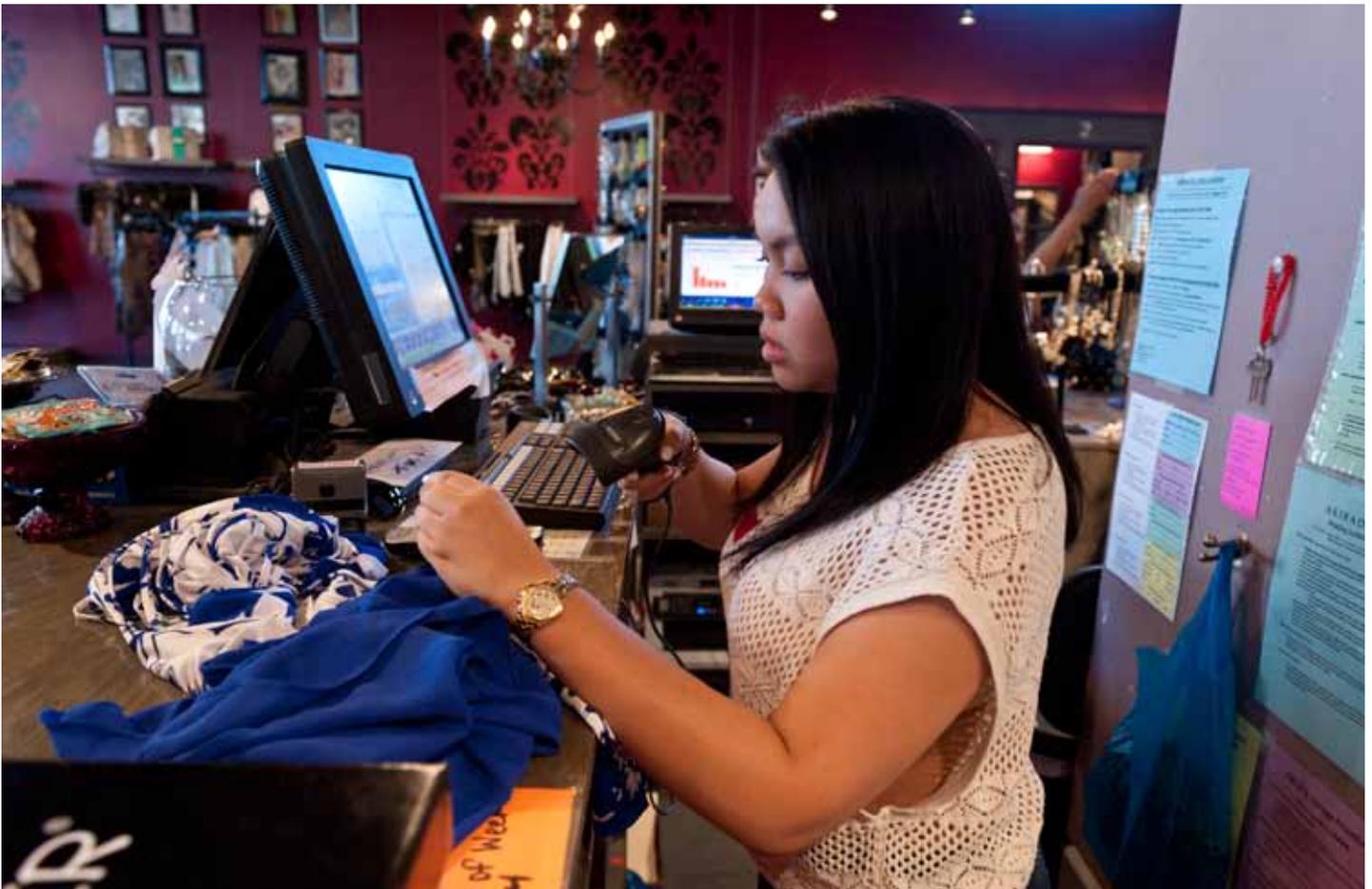


Public Engagement Process:

To ensure that its recommendations reflected the broadest range of input, the Working Group held five public meetings attended by hundreds of residents from across the city and consulted an array of experts and stakeholders. In addition, the Group received more than 200 comments via its online portal at www.cityofchicago.org/MinimumWage.

Following years of inaction by the Congress, it is long past time for cities and states to raise the minimum wage to lift more families out of poverty and stimulate the economy. Cities like Seattle and Washington DC have already acted, while a coalition of advocates and elected officials including Governor Pat Quinn are leading an effort in Springfield to raise the Illinois minimum wage. Raising the Illinois wage is critical, but due to Chicago's higher cost of living a state increase alone is not enough. The Raise Chicago coalition has helped shape the public debate in Chicago, creating an opening for establishing a Chicago minimum wage higher than the rest of the state.

Mayor Rahm Emanuel created the Minimum Wage Working Group to develop a balanced proposal to establish a Chicago minimum wage that will help the city's working families keep up with rising costs of living. Following a comprehensive review of data and research, and after an extensive public engagement process in public meetings held across the city, the Minimum Wage Working Group recommends that the Mayor introduce an ordinance that would raise the minimum wage for workers in the City to \$13 by 2018. Our proposal will increase the earnings for approximately 410,000 Chicagoans and inject nearly \$800 million into the local economy over four years. The proposal would also help the minimum wage keep up with cost of living by indexing it to inflation.



- \$13 by 2018
- 45% Increase in the Minimum Wage
- 410,000 workers to benefit
- Nearly \$800 million in economic stimulus

The Working Group recommends that this increase phase in over four years to ensure the City's business owners have time to adjust. By phasing the increase over this time period, the proposal would ensure that the impact on overall business expenses during the phase in would be an increase ranging from 1-2 percent each year depending on the industry. Our analysis focused on the industries that typically employ low-wage workers: food service and hospitality, health care, and retail.

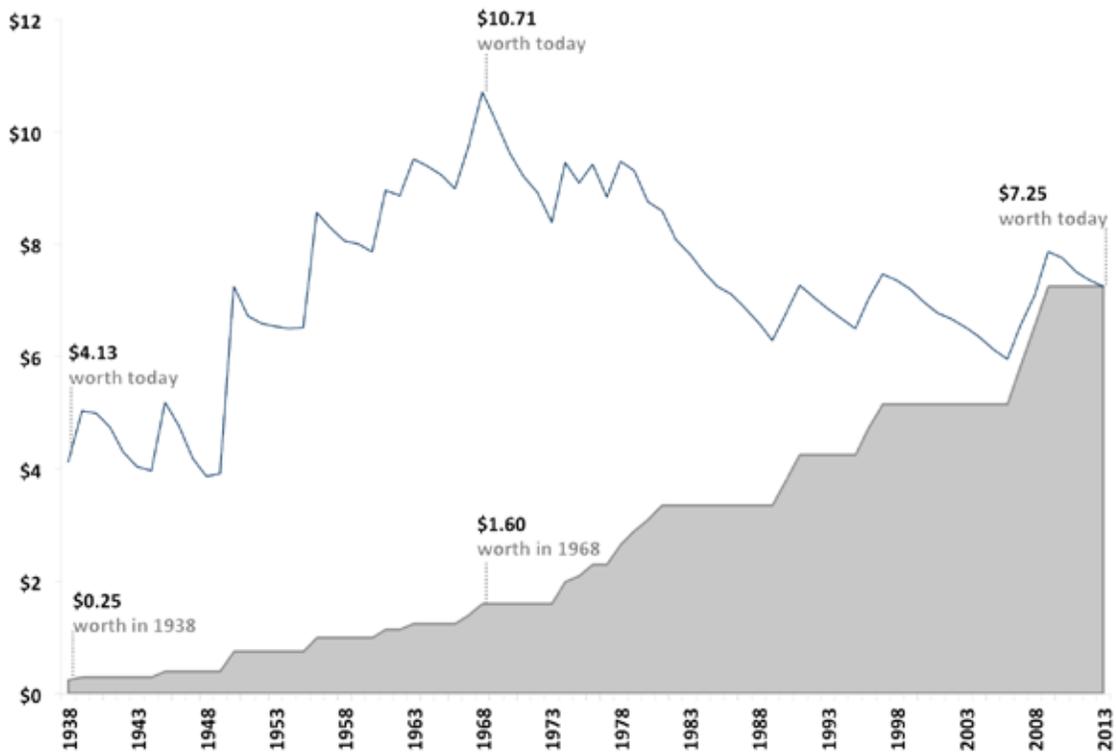
Furthermore, the Working Group recommends that the Mayor and City Council not pass an ordinance that implements its recommendation until the Illinois General Assembly has had the opportunity to raise the statewide minimum wage during the next veto session at the end of 2014.



Why a Minimum Wage Increase is Needed

By historical standards, the value of the current minimum wage is fairly low. Rising inflation has outpaced the growth in the minimum wage, leaving its true value at 32 percent below the 1968 level of \$10.71 in 2013 dollars. Additionally, the value of the minimum wage has declined by 21.5% from its 20-year average between 1960 and 1980 of \$9.23 in 2013 dollars with comparatively small increases in the 1990s and in 2007 failing to keep up.

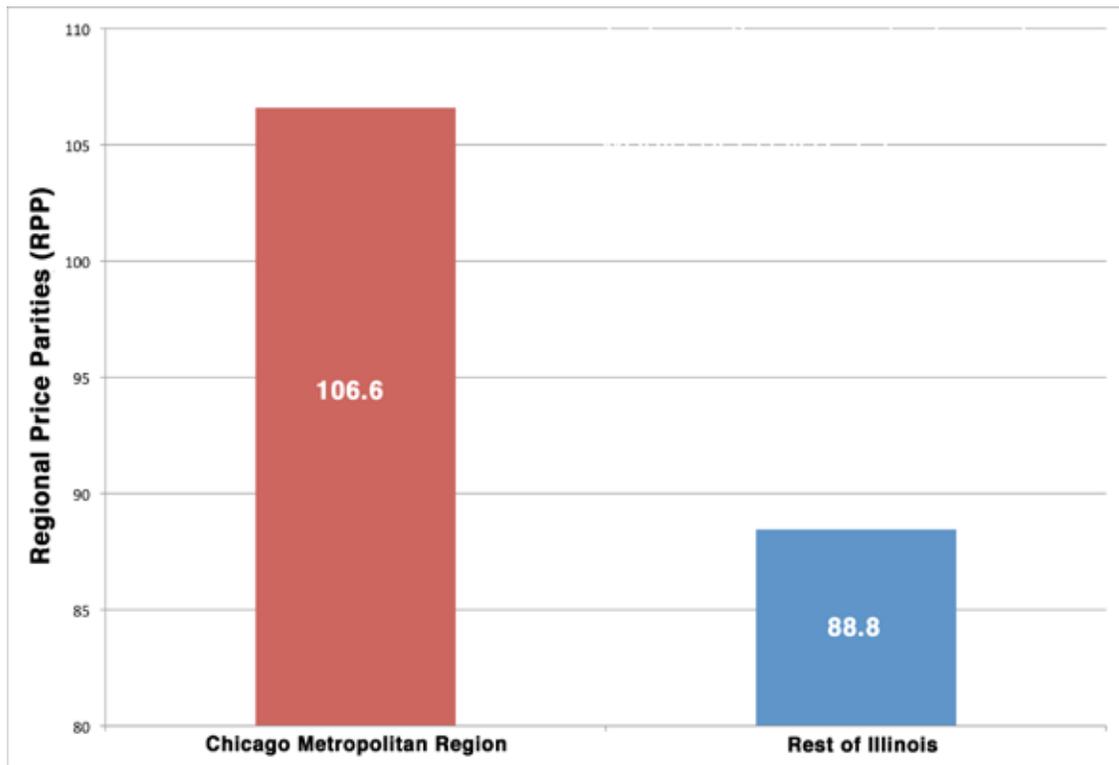
FEDERAL MINIMUM WAGE 1938 TO 2013



As the value of the minimum wage declines, the Great Recession has brought more families to the brink. According to the US Census, 22.1 percent of Chicagoans live below the poverty level. By comparison, 13.7 percent of the overall Illinois population and 14.9 percent of the national population lives below the federal poverty level.

This decline in wealth is taking place as cost of living is going up. In Chicago, rent as a percentage of income has risen to 31 percent, from a historical average of 21 percent. In addition, according to federal Commerce Department data, the Chicago metro region has the highest cost-of-living of any other city in the Midwest, and is also the only metropolitan region in Illinois that ranks above the national average in cost-of-living expenses.

The same data also reveal that the Chicago metro region's cost of living is 20.1 percent higher than the rest of Illinois:



A significant percentage of Chicago workers earn low wages. Nearly 31 percent of the Chicago workforce makes \$13 per hour or less. The median age of a worker making \$13 per hour is 33, and two-thirds of these workers are over the age of 25.

Additionally, women and minorities make up a disproportionate share of low-wage workers in Chicago.

CHICAGOANS MAKING UNDER \$13 AN HOUR

Race		Gender		Age	
Asian	7%	Female	55%	Under 18	2%
Black	27%	Male	45%	18-25	28%
Hispanic	38%			25-40	35%
White	27%			40-65	32%
Other	1%			65+	3%



These data demonstrate the importance of a Chicago minimum wage above the Illinois minimum that accounts for the City's higher costs of living and larger concentrations of low-wage workers.

It is important to be clear that none of the minimum wage increases under public consideration – including the \$15 increase passed by the Seattle City Council – represent a living wage. According to a recent report by the National Low Income Housing Coalition, a worker in the Chicago metro region must make \$18.83 an hour to afford a two-bedroom apartment at Fair Market Rent (FMR) values. This reality heightens the importance of income supports like the Earned Income Tax Credit (EITC), which lifts millions out of poverty each year.

The Working Group's Recommendation

A Minimum Wage of \$13 by 2018

The Working Group recommends that the City establish a Chicago minimum wage of \$13, phase in the increase over four years, and index it to inflation going forward. We also recommend that the City increase the minimum wage for tipped employees by \$1 above the tipped minimum set by state law – currently \$4.95 – over two years and index it to inflation.

Proposed Minimum Wage Increase Over Time

Year	Non-Tipped	Tipped
2014	\$8.25	\$4.95
2015	\$9.50	\$5.45
2016	\$10.75	\$5.95
2017	\$12.00	\$6.08*
2018	\$13.00	\$6.23*
2019	\$13.31*	\$6.38*
2020	\$13.63*	\$6.53*

*Increase due to inflation

What is the Tipped Minimum Wage?

Under Illinois law, employers are allowed to pay tipped employees a minimum wage equivalent to 60 percent of the state minimum. The current tipped minimum wage is \$4.95 an hour, but on average tipped employees in the Chicago region earn \$10.50 an hour once tips are factored into their income. State law mandates that employers ensure that all employees take home at least the state minimum of \$8.25, requiring businesses to compensate employees who failed to reach \$8.25 in tips during a given pay period.



Why \$13?

A minimum wage of \$13 takes into account higher costs of living in Chicago as compared to the rest of the state and would increase the earnings for 31% of Chicago workers. The Working Group anticipates that a \$13 minimum wage would boost the local economy by \$800 million. By setting the Chicago minimum wage at \$13 following a statewide increase to \$10.65, the City would be accounting for the fact that the metro region's cost of living is 20 percent higher than the rest of the state. In fact, a Chicago minimum wage of \$13 is roughly equivalent to a wage of \$10.65 in the rest of the state when costs of living are factored into the amount.

Exemptions

Our proposal includes a number of exemptions to prevent the minimum wage increase from having unintended negative consequences on other important policy priorities. In most cases, we recommend simplifying the compliance process for businesses by adopting existing exemptions in Illinois state law. We recommend that the language adopting state exemptions be drafted to incorporate any future changes to state law.

The Working Group discussed other issues that appear to be best handled at the state or federal level, there being no compelling reason to differentiate Chicago from other parts of the state and nation. One example of this was the question of whether to repeal the exception to the Federal Labor Standards Act that allows a sub-minimum wage for supported work for people with disabilities. While there was substantial support for recommending such a change amongst Working Group members, we recommend that the decision be left to state or federal government.

Youth and Transitional Employment Programs

We recommend that the Mayor's proposal include an exemption from the Chicago minimum wage for (i) transitional subsidized employment programs and (ii) nonprofit programs that employ youth under the age of 25 as part of a youth employment program. These programs are designed to provide youth and hard-to-employ individuals with the training, experience, and other support to help them develop emotionally and professionally. The exemption should not apply to youth that are employed by private or nonprofit employers in permanent or temporary positions outside of the scope of a youth employment program.

Youth Wage

The Working Group also recommends that the Chicago minimum wage ordinance adopt the existing state exemption for youth under the age of 18. Under state law, youth under 18 can be paid a wage that is 50 cents below the state minimum wage. We believe this exemption is appropriate because employees under 18 are not yet adults and unlikely to be heads of household with families to support. To prevent the Chicago minimum wage increase from having a negative impact on youth employment, we believe it is necessary to adopt the state exemption.

Training Wage

To continue to allow employers to train workers during a limited probationary period, the Working Group recommends that the City maintain the current state exemption that allows employers to pay learners a wage no less than 70 percent of the state minimum. Employers must apply to the Illinois Department of Labor (DOL) for authorization to pay a learner's wage for a period not to exceed six months.

Disabled Workers

We recommend that the City minimum wage ordinance retain the existing state authorization for employers to provide a subminimum wage to disabled workers when authorized by the DOL.

Other State Exclusions

The Working Group recommends that the City retain the exclusions from the definition of "employee" in 820 ILCS 205/3(d). These exclusions include:

- An exclusion for small businesses that allows the employer to pay a subminimum wage where the business has less than 4 employees not counting the employer's parent, spouse, child, or other members of immediate family. This exemption exists to allow the smallest businesses that rely upon family to get off of the ground and make ends meet.
- An exclusion for members of religious organizations or corporations. Under state law, this exemption applies to individuals who perform religious or spiritual functions such as priests, rabbis, nuns, imams, and pastors, but does not include laypersons who otherwise work for these entities.
- Authorization for students in work-study programs to be paid a sub-minimum wage.



Impact on Business

In evaluating options for potential minimum wage increases, the Working Group analyzed the potential impact on different types of businesses. Our analysis indicated that a minimum wage of \$13 phased in over four years would result in increases in overall costs ranging from 1-2 percent each year. Overall, our proposal, when adjusted for inflation, will increase the minimum wage by 45 percent over four years - a proportion on par with the most recent federal minimum wage increase of 34.1 percent over three years from 2007-09.

How Will Businesses Respond

While each business will respond to increased personnel costs in its own way, the Working Group reviewed a wide range of studies that suggest that the impact on jobs and costs from prior minimum wage increases has been small. Generally, the studies reviewed found small impacts on employment generally under 1 percent with a few outliers. In addition, some studies showed a heightened, though small, impact on young workers with associated price increases of less than 10 percent. It is important to note that these studies reviewed minimum wage increases of the past few decades, which resulted in real value wage increases ranging from 34.1 percent over three years from 2007 to 2009 to 19 percent over two years from 1990 to 1991. Our proposed increase is on par with the 2007 increase in that it would increase the value of the wage by 45 percent over four years, leading us to believe that these studies provide a reasonable predictor of how businesses would respond. The Working Group anticipates that the anticipated \$800 million in economic activity will blunt or reverse potential job losses. For example, a study performed on San Francisco's minimum wage increase showed an overall growth in private employment during the same period as the increase.

We have included a listing and summary of the studies in Appendix B.

Other Recommendations

Cracking Down on Wage Theft

Although a minimum wage is crucial for securing the economic future of Chicago's workers, the Working Group acknowledges that much can still be done to ensure that Chicagoans are receiving the wage they have rightfully earned. A recent study by the University of Illinois-Chicago's Center for Urban Economic Development found that approximately \$7.3 million in employee wages are stolen in Cook County each week. In response to this issue, City Council and Mayor Emanuel worked together in January of 2013 to pass an ordinance that made Chicago a national leader in the protection of employee wages. Co-sponsored by Aldermen. Ameya Pawar (47), Danny Solis (25) and Ald. Emma Mitts (37), along with Mayor Emanuel, the ordinance enabled the City to ensure that businesses convicted of violating state and federal consumer protection or labor laws such as wage theft will come into compliance with the law, or risk City license denial or revocation. However, the Group urges that the State join the City by taking more action to address this urgent issue for Chicago's workers and ensure that Chicagoans are safeguarded from wage theft.

Expanding the Earned Income Tax Credit

The EITC is the nation's largest and most successful bipartisan anti-poverty program that provides critical funds for working families and individuals, particularly those with children. Each year, the EITC lifts more than 6 million families out of poverty by enabling them to receive a tax credit of more than \$6,000, and an Illinois EITC of more than \$600. The average EITC recipient receives a refund of \$2,200. This money often makes a significant difference for the recipients and their ability to meet essential daily expenses.

The Working Group supports efforts to expand the EITC. Currently the EITC is unavailable to childless workers under the age of 25, and for childless workers older than 25, the credit is less than one tenth the average credit for filers with children. The Illinois General Assembly should expand the EITC by lowering the childless eligibility age to 21 and doubling the maximum credit available to childless filers. In addition, the Working Group applauds recent efforts to double the portion of the Illinois state EITC from 5 percent to 10 percent, and calls for the state portion to be doubled again to 20 percent.

Study of Chicago Minimum Wage Impact Going Forward

To inform future policy making of the City of Chicago and other governments, we recommend the impact of the minimum wage increase on Chicago residents and its businesses be studied over the next several years. To that end the Polk Bros. Foundation has graciously offered to contribute \$25,000 to fund such work.

Benefits Credit

The Working Group considered the potential incorporation of a benefits credit for employers that provide health insurance, paid sick leave, child care support, or pension benefits. While we did not include a benefits credit in our final recommendation, we urge the City Council to consider the issue further.

A Progressive Income Tax

A majority of Working Group members also supports implementing a progressive income tax for the state of Illinois. The state remains an outlier nationally by continuing to impose a flat income tax. Reforming the Illinois tax code by making it progressive would help reduce income inequality by reducing taxes for low-income families and increasing them for the highest earners and also ensure that the state generates the revenue needed for programs that support work and a fair opportunity for upward mobility, such as education and an expanded state EITC.

Achieving Pay Equity

A majority of Working Group members also supports efforts to address structural barriers to women's progress that contribute to long-standing gender-based wage gaps nationally and in Illinois. Women today earn only 77 cents for every dollar earned by men, and this is reflected in the finding that women make up 55 percent of all wage earners making \$13 per hour or less in Chicago. In addition, black women earn 69.5 percent, and Hispanic women 60.5 percent, compared to the earnings of their white male counterparts. Tackling this enduring social issue will require several important policy changes, such as efforts to ensure workers have access to paid sick leave, and proposals at the federal level to create paid family and medical leave programs.

Final Vote on the Minimum Wage Proposal

Working Group Member	Vote on Proposal
John Bouman	Yes
Will Burns	Yes
Carrie Austin	Yes
Deborah Bennett	Yes
Matt Brandon	Yes
Walter Burnett	Yes
Sol Flores	Yes
Theresa Mintle	No
Emma Mitts	Yes
Joe Moore	Yes
Ameya Pawar	Yes
Maria Pesqueira	Yes
Ariel Reboyras	Yes
JoAnn Thompson	Yes
Sam Toia	No
Tanya Triche	No
Andrea Zopp	Yes

Appendix A

Methodology



Business Impact

The Working Group developed a series of case studies to quantify the impact of a minimum wage increase on selected industries – primarily restaurants, retail merchants, hotels, and health care providers. The basis of our wage data was the May 2013 Metropolitan and Nonmetropolitan Area Occupational Employment and Wage Estimates for the Chicago-Joliet-Naperville, IL Metropolitan Division. These estimates provided wage rates at the 10th, 25th, 50th, 75th, and 90th percentiles.

Using industry reports and interviews with business owners, we constructed wage models for various businesses, detailing the number of employees per business by occupation and assigning a wage percentile to the business depending on its wage structure. We then modeled the estimated increase in wages both with and without a change to the minimum wage beginning in 2015 and continuing through 2025. We then excluded the impact on inflation to show figures in real (2014) dollars.

Importantly, we assumed that not only would wages increase but also that a series of wage-based benefits and taxes would increase as well, including payroll taxes, workers compensation, unemployment insurance, and vacation/sick leave. However, we did not increase payroll costs to account for non-wage based benefits such as health insurance, free food, or uniforms. For all case studies we assumed an additional 19 cents in non-wage costs on top of every dollar a business spent directly on wages.

We increased wages not only for employees whose wages were below the minimum wage but also for those who are slightly above the minimum wage, accounting for a “spillover effect” cited in numerous studies. After a review of the academic research we incorporated into our calculations an assumption that any worker making within 10% of the new minimum wage would see an increase of double the CPI in a given year. We are already assuming every employee receives an increase of the CPI annually, so the spillover effect is added on to the already inflation-adjusted wage. For example, assuming a \$13 minimum wage, an employee in 2018 who would make \$14.00 (7.7% above the minimum wage), would then make \$14.34, or 2.4% above what they normally would have made. This assumption held constant through all of our case studies.

Lastly, we looked at the impact of these increases on both the personnel and overall business expenses. We have more confidence about our projected impact on personnel expenses – the overall expenses estimates are based on commonly reported estimates of the proportion of overall expenses represented by personnel costs. These numbers can vary significantly from business to business, from the 20 percent range in the fast food industry to the 45 percent range in the hotel industry.

Economic Stimulus

To calculate the economic stimulus resulting from a minimum wage increase, the Working Group:

- Used Census Bureau and Bureau of Labor Statistics data to derive the distribution of wages and income for Chicago workers.
- Totaled the increased wages for this distribution of wages and translated them into 2014 dollars
- Assumed no job loss in these figures
- Assumed all workers would receive a wage increase equivalent to CPI and subtracted that increase from the total
- Reduced the stimulus number by anticipated amount of additional taxes paid by individuals – approximately 25 percent – giving us the net wages associated with the proposed minimum wage increase.
- Used a multiplier of 0.38 based upon the work of Mark Zandi of Moody Analytics, with downward adjustments based on changes in the national economy since his original study and assumptions that some of the spending would take place outside of Chicago.

Appendix B

Summary of Academic Research

The Working Group assembled the following listing and summary of the studies on the topic of minimum wage increases and their impacts. Although not an exclusive list, the following has provided useful context to the Group on impacts of minimum wage increases on employment, price pass-throughs, and overall consumer spending.

Study	Authors	Year	Findings
The Effects of a Minimum-Wage Increase on Employment and Family Income	Congressional Budget Office	2014	<ul style="list-style-type: none"> • With minimum wage increase (either \$10.10 option or \$9.00 option), most low-wage workers would see increase in income (16.5 million workers for \$10.10 option and 7.6 million for \$9.00 option) • Employment would fall slightly (\$10.10 option – 0.3% decline, \$9.00 option – >.1% decline)
Local Minimum Wage Laws: Impacts on Workers, Families and Businesses	Michael Reich, Ken Jacobs, Annette Bernhardt	2014	<ul style="list-style-type: none"> • A meta-analysis shows minimum wage laws lead to positive income effects and reduces pay inequality • Costs to businesses are absorbed by reduced turnover costs and by small restaurant price increases • Price increases outside the restaurant industry are largely negligible • 1 to 2 percent increase in restaurants' operating cost and .7% one-time increase in price for every 10 percent increase in minimum wage
The Paychex IHS Small Business Jobs Index	Paychex/IHS	2014	<ul style="list-style-type: none"> • In survey of employment in small businesses, found that the state with the highest percentage of annual job growth was Washington, the state with the highest minimum wage in the nation, \$9.32 an hour • The metropolitan area with the second highest percentage of annual job growth was San Francisco — the city with the highest minimum wage in the nation, at \$10.74
Raise Chicago: How a higher minimum wage would increase the wellbeing of workers, their neighborhoods, and Chicago's economy	The Center for Popular Democracy (CPD)	2014	<ul style="list-style-type: none"> • Report finds that a targeted \$15 minimum wage would: • Increase wages: \$1.47 billion in new gross wages • Stimulate Chicago's economy: \$616 million in new economic activity and 5,350 new jobs • Increase city revenues: Almost \$45 million in new sales tax revenues • Decrease labor turnover: as much as 80% less annual turnover • Slightly increase some consumer prices: 2% price hikes at covered firms and franchises • Evidence shows manufacturing will be the most impacted sector
Raising the Minimum Wage: Reviewing the Evidence on Why Minimum Wage Increases Boost Incomes Without Reducing Employment	National Employment Law Project (NELP)	2014	<ul style="list-style-type: none"> • Reviews research on the impact of raising the minimum wage, drawing three conclusions: • Raising the minimum wage – including at the city-wide level – boosts incomes for low-paid workers without reducing overall employment • Opponents of raising the minimum wage rely on outdated studies that use imprecise methodologies and fail to take advantage of the

			<p>most recent advancements in economic research</p> <ul style="list-style-type: none"> • Businesses are able to pay higher wages without reducing employment due to a range of factors, including higher productivity and reductions in employee turnover that consistently result from minimum wage increases
Out of Reach 2014	National Low Income Housing Coalition	2014	<ul style="list-style-type: none"> • A full-time worker needs to earn \$18.92 an hour to afford a two-bedroom rental in the U.S., without spending more than 30 percent of income toward rent, according to an annual report by the National Low Incoming Housing Coalition • In Chicago, you'd need to make between \$18.25 and \$19.25 an hour to afford a typical two-bedroom rental
Raising Chicago's Minimum Wage: Background on the Proposal for a \$15 City Minimum Wage for Chicago	National Employment Law Project (NELP)	2014	<ul style="list-style-type: none"> • Provides background on characteristics of Chicago workforce earning less than \$15 an hour and summary of economic evidence on impact of wage increase: • 38% of Chicago's workers earn less than \$15 per hour, including disproportionate numbers of female, black, and Hispanic workers • Over half of workforce earning less than \$15 per hour is estimated to be employed by large companies with annual revenue of \$50 million or more • Research on the impact of other cities' minimum wage increases indicates that they have boosted earnings without reducing employment
Minimum Wage, Maximum Benefit	Illinois Economic Policy Institute (ILEPI); University of Illinois Labor Education Program	2014	<ul style="list-style-type: none"> • Report finds that raising the Illinois minimum wage to \$10 would: • Increase labor income by \$1.9 to \$2.3 billion for intended beneficiaries and by \$5.4 to \$7.2 billion for all workers; • Cause either a small drop or small gain in employment (between -70,000 and 32,000 jobs); • Have no impact or a small impact on weekly hours worked (between -0.7 and 0.0 hours per worker); • Generate \$141.2 to \$192.2 million in new annual state income tax revenue; and • Further raise total labor income by up to \$414.2 million annually if sub-minimum wage workers are actually paid the new minimum wage, increasing ten-year tax revenues by another \$63.0 million for Illinois' state and local governments and \$89.2 million for the federal government
When Mandates Work: Raising Labor Standards at the Local Level	Michael Reich	2014	<ul style="list-style-type: none"> • In San Francisco County, median family income increased from \$63,545 to \$85,778 between 1999 and 2006-2010, during a time when the minimum wage increased • During this same time period, household Income in SF relative to the United States increased from 1.31 to 1.37 and relative to California increased from 1.16 to 1.17 • The 10th percentile wage jumped in 2004, when the new minimum wage went into effect, and has remained constant, despite a decline in 10th percentile wage in surrounding counties

Raising The Federal Minimum Wage To \$10.10 Would Lift Wages For Millions And Provide A Modest Economic Boost	David Cooper (Economic Policy Institute (EPI))	2013	<ul style="list-style-type: none"> • Key findings include raising the federal minimum wage to \$10.10 by 2016 would return the federal minimum wage to roughly the same inflation-adjusted value it had in the late 1960s • An increase to \$10.10 would either directly or indirectly raise the wages of 27.8 million workers, who would receive about \$35 billion in additional wages over the phase-in period • Across the phase-in period of the increase, GDP would grow by about \$22 billion, creating roughly 85,000 net new jobs over that period • Among affected workers, the average age is 35 years old, nearly 88 percent are at least 20 years old, and more than a third (34.5 percent) are at least 40 years old • Of affected workers, about 54 percent work full time, about 69 percent come from families with family incomes less than \$60,000, and more than a quarter have children • The average affected worker earns half of his or her family's total income
How does a federal minimum wage hike affect aggregate household spending?	Federal Reserve Bank of Chicago	2013	<ul style="list-style-type: none"> • Article finds that a federal minimum wage hike would boost the real income and spending of minimum wage households • The impact could be sufficient to offset increasing consumer prices and declining real spending by most non-minimum-wage households and lead to an increase in aggregate household spending • The authors calculate that a \$1.75 hike in the hourly federal minimum wage could increase the level of real gross domestic product (GDP) by up to 0.3 percentage points in the near term, but with virtually no effect in the long term
Why Does Minimum Wage Have No Discernable Effect on Employment?	John Schmitt	2013	<ul style="list-style-type: none"> • In study of over hundred minimum wage studies, most since 1990s conclude that minimum wage has little/no discernable effect on employment prospects of low-wage workers • Most likely reason is cost shock of minimum wage is small relative to firms' costs
Minimum Wage Channels of Adjustment	Barry T. Hirsch, Bruce E. Kaufman, Tetyana Zelenska	2013	<ul style="list-style-type: none"> • Some evidence that minimum wage increases compress wages for higher paid workers • Following a federal wage increase, found that nearly half of employers interviewed would limit pay increases or bonuses for more experienced employees • No evidence of employment or hours effects
Minimum Wages: Evaluating New Evidence on Employment Effects	David Neumark and J.M. Ian Salas	2013	<ul style="list-style-type: none"> • Strongly condemns the work of Dube et al. 2010 and Allegretto et al. 2011 as having flawed methods • Invalidates their findings that there are no employment losses from minimum wage increases
Minimum Wage Effects on Employment, Substitution, and the Teenage Labor Supply: Evidence from Personnel Data	Laura Giuliano	2013	<ul style="list-style-type: none"> • Examining large US retail firm's response to 1996 federal minimum wage increase, found increase in average wage had negative (but statistically insignificant) effects on employment (-.01% to -.09%) • Found increase in relative employment of

			teenagers, especially among younger, more affluent teens
Effects of the Minimum Wage on Employment Dynamics	Jonathan Meer and Jeremy West	2013	<ul style="list-style-type: none"> Using state panel data, found that minimum wage reduces net job growth by about 0.5 percentage points while employment level remains unchanged Effects are most pronounced for younger workers and industries with a higher proportion of low-wage workers
Minimum Wage Channels of Adjustment	Barry Hirsch, Bruce Kaufman, Tetyana Zelenska	2013	<ul style="list-style-type: none"> Small to no statistically significant impact of the federal minimum wage increase on restaurant employment and employee hours in Georgia and Alabama
Are the Effects of Minimum Wage Increases Always Small?: New Evidence from a Case Study of New York State	Joseph Sabia, Richard V. Burkhauser, Benjamin Hansen	2012	<ul style="list-style-type: none"> Using Current Population Survey data for 16-to-29-year-olds without a high school diploma found evidence that minimum wage increase from \$5.15 to \$6.75 was associated with 20.2 to 21.8% reduction in employment
Revisiting the Minimum Wage-Employment Debate: Throwing Out the Baby with the Bathwater?	David Neumark and J.M. Ian Salas	2012	<ul style="list-style-type: none"> Reviewing recent minimum wage research, concludes research showing positive employment effects flawed Concludes evidence still shows minimum wages pose tradeoff of higher wage for some against job losses for others 4.2% decline in youth employment
Do Minimum Wages Really Reduce Teen Employment?	Sylvia Allegretto, Arindrajit Dube, and Michael Reich	2011	<ul style="list-style-type: none"> Using Current Population Survey data on teens for 1990-2009, find no statistically significant employment effects of minimum wage Finds that employment effects do not vary by business cycle
Using Federal Minimum Wages to Identify the Impact of Minimum Wages on Employment and Earnings Across the U.S. States	Yusef Soner Baskaya and Yona Rubinstein	2011	<ul style="list-style-type: none"> Using CPS data for 1977-2007, found notable wage impacts and large corresponding disemployment effects (-1%), yet only when utilizing the differential influences of federal minimum wages to instrument for state wage floors
Minimum Wage Effects Across State Borders: Estimates Using Contiguous Counties	Arindrajit Dube, T. William Lester, and Michael Reich	2010	<ul style="list-style-type: none"> Among contiguous county-pairs over 10 years, there are no adverse employment effects to minimum wage There are strong positive earnings effects
The Teen Employment Crisis: The Effects of the 2007-2009 Federal Wage Increases on Teen Employment	William E. Even and David A. Macpherson	2010	<ul style="list-style-type: none"> Using state-level data for 2007 federal wage hike, there was a 6.9% decline in employment for teens and 12.4% decline in employment for teens with less than 12 years of education
Using Local Labor Market Data to Re-Examine the Employment Effects of the Minimum Wage	Jeffrey P. Thompson	2009	<ul style="list-style-type: none"> Using quarterly Census data for 1996-2000 on county level, no evidence of employment effects In counties where minimum wage increase was binding, some evidence for negative impact Suggests regional variation in minimum wage effects

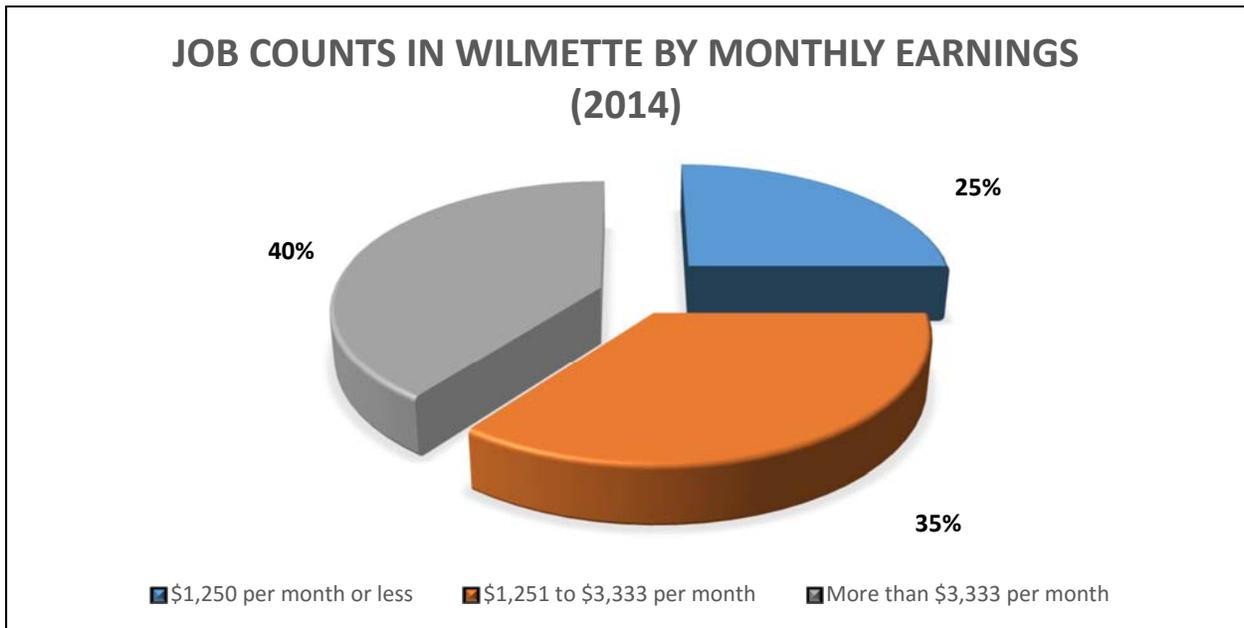
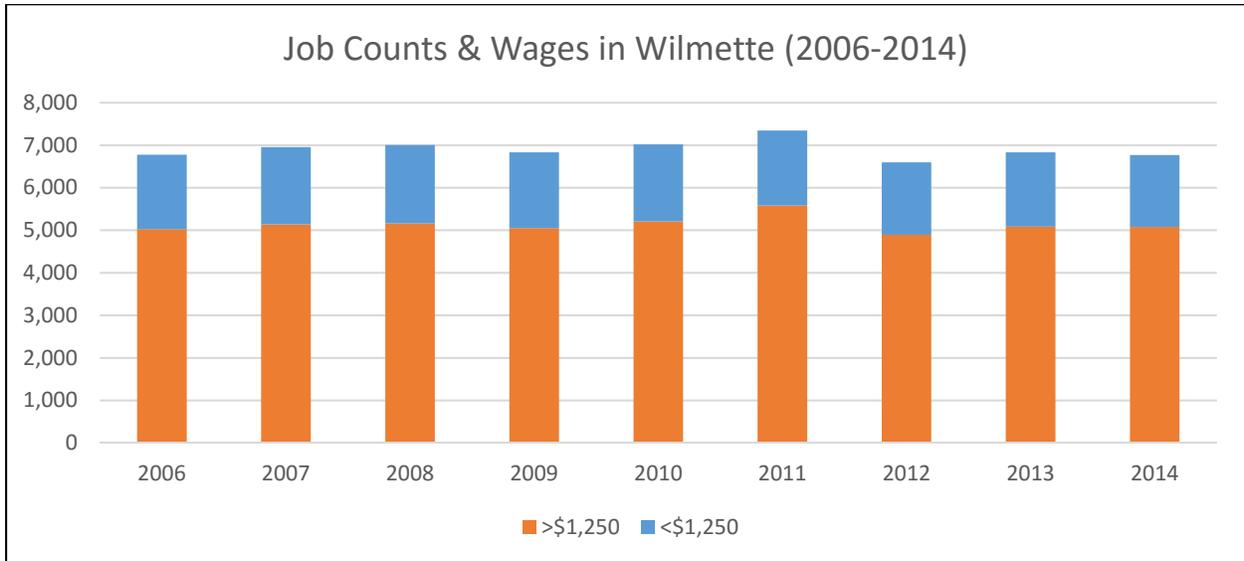
The Effects of Minimum Wage Increases on Retail Employment and Hours: New Evidence from Monthly CPS Data	Joseph J. Sabia	2008	<ul style="list-style-type: none"> • Monthly CPS data from 1979-2004 shows 10% increase in minimum wage associated with 1% decline in retail trade employment and weekly hours worked • Larger negative employment and hours effects for least experienced workers in retail sector
The Economic Effects of a Citywide Minimum Wage	Arindrajit Dube, Suresh Naidu, Michael Reich	2007	<ul style="list-style-type: none"> • San Francisco's indexed minimum wage increased worker pay and compressed wage inequality • Did not create any detectable employment loss among affected restaurants • 6.2% increase (statistically significant) in fast-food restaurant prices compared to neighboring area that did not raise minimum wage • 2.8% increase (not statistically significant) in overall restaurant prices compared to neighboring area that did not raise minimum wage
The Minimum Wage, Restaurant Prices, and Labor Market Structure	Daniel Aaronson, Eric French, and James MacDonald	2007	<ul style="list-style-type: none"> • No evidence that prices fall in response to a minimum wage increase • Price increase effects more pronounced among fast food restaurants
Minimum Wages and Employment: A Review of Evidence from the New Minimum Wage Research	David Neumark, William Wascher	2006	<ul style="list-style-type: none"> • In study of 90 minimum wage studies from 1996-2006, majority points to slight negative employment effects • Concludes no consensus on overall effects of minimum wage
The Dissipation of Minimum Wage Gains for Workers Through Labor-Labor Substitution	David Fairris and Leon Fernandez Bujanda	2005	<ul style="list-style-type: none"> • Find evidence of labor-labor substitution by city contractors in response to the Los Angeles living wage ordinance – substitution for workers with more years of schooling, prior formal training, etc. • Intended wage gain for workers is dissipated by roughly 40% through labor-labor substitution
The Effects of Minimum Wages Throughout the Wage Distribution	David Neumark, Mark Schweitzer and William Wascher	2004	<ul style="list-style-type: none"> • Evidence for low-wage workers experiencing wage gains and high-wage workers experience little effects • Low-wage workers experience hours and employment decline - "adverse consequences, on net, for low-wage workers"
Living Wages and Economic Performances	Michael Reich, Peter Hall, Ken Jacobs	2003	<ul style="list-style-type: none"> • Study of San Francisco airport workers showed turnover dramatically fell after pay rose from \$5.75 to \$10 • No evidence of significant reduction in employment • Turnover rate dropped by a statistically significant amount
Minimum Wage Effects on Hours, Employment, and Number of Firms: The Iowa Case	Peter F. Orezem and J. Peter Mattila	2002	<ul style="list-style-type: none"> • Analysis of county-level data of Iowa minimum wage changes in 1990, 1991, and 1992 suggests negative employment elasticities (-.3 to -.85) and reduced number of firms
The effect of the minimum wage on employment and hours	Madeline Zavodny	2000	<ul style="list-style-type: none"> • Using state and individual level panel data, found evidence of some potential employment loss among teens • No evidence for negative effect on hours worked in teens
Employment and the	Donald Deere, Kevin	1995	<ul style="list-style-type: none"> • Comparing the year before and after a federal minimum wage hike in 1990, employment of men

1990-1991 Minimum Wage Hike	M. Murphy, Finis Welch		<ul style="list-style-type: none"> 25-64 fell 2.5% while women fell 0.3% Reduction among low wage workers is greater than expected in the period after a minimum wage increase (4.8% for teenagers, 6.6% for teenage black females 7.5% for teenage black males)
Minimum Wage Laws and the Distribution of Employment	Kevin Lang	1995	<ul style="list-style-type: none"> Found evidence of increase in employment but displacement of low-skill workers in favor of higher-skill workers
The Employment Effect in Retail Trade of California's 1988 Minimum Wage Increase	Taeil Kim and Lowell J. Taylor	1995	<ul style="list-style-type: none"> Evaluating California's 1988 minimum wage increase in retail trade industry, found evidence suggesting that employment growth may have been tempered by wage increase
Minimum Wages and Employment: A Case Study of the Fast-Food Industry in New Jersey and Pennsylvania	David Card and Alan B. Krueger	1994	<ul style="list-style-type: none"> No indication that the 1992 NJ rise in minimum wage reduced employment
Comment on David Neumark and William Wascher, 'Employment Effects of Minimum and Subminimum Wages: Panel Data on State Minimum Wage Laws.'	David Card, Lawrence F. Katz, Alan B. Krueger	1994	<ul style="list-style-type: none"> Argues that Neumark and Wascher's findings are invalid due to flaws in empirical analysis and that their data does not support negative employment effects
Employment Effects of Minimum and Subminimum Wages	David Neumark and William Wascher	1992	<ul style="list-style-type: none"> Using panel data of state minimum wage laws, a 10% increase in minimum wage causes a decline of 1-2% in teenage employment and 1.5-2% decline for young adults
Using Regional Variation in Wages to Measure the Effects of the Federal Minimum Wage	David Card	1992	<ul style="list-style-type: none"> Evaluating 1990 increase in federal minimum wage, found evidence for increase in teenagers' wages Found no corresponding losses in teenage employment or in teenage school enrollment

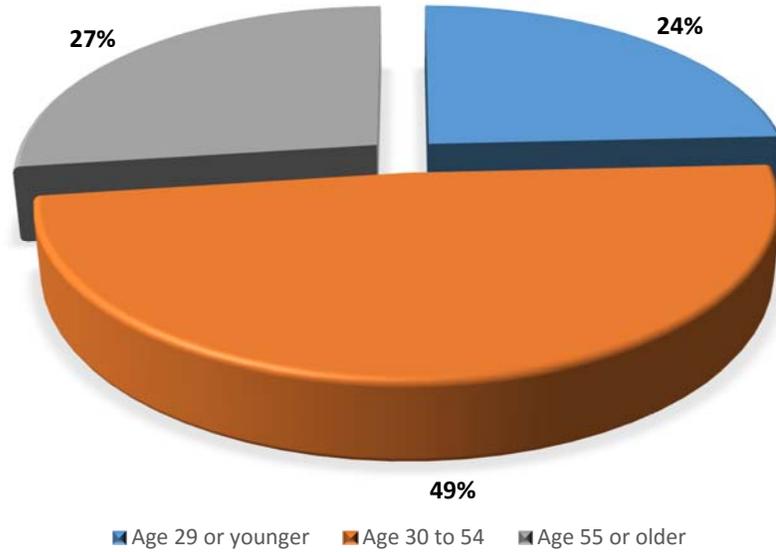


WILMETTE EMPLOYMENT DATA:

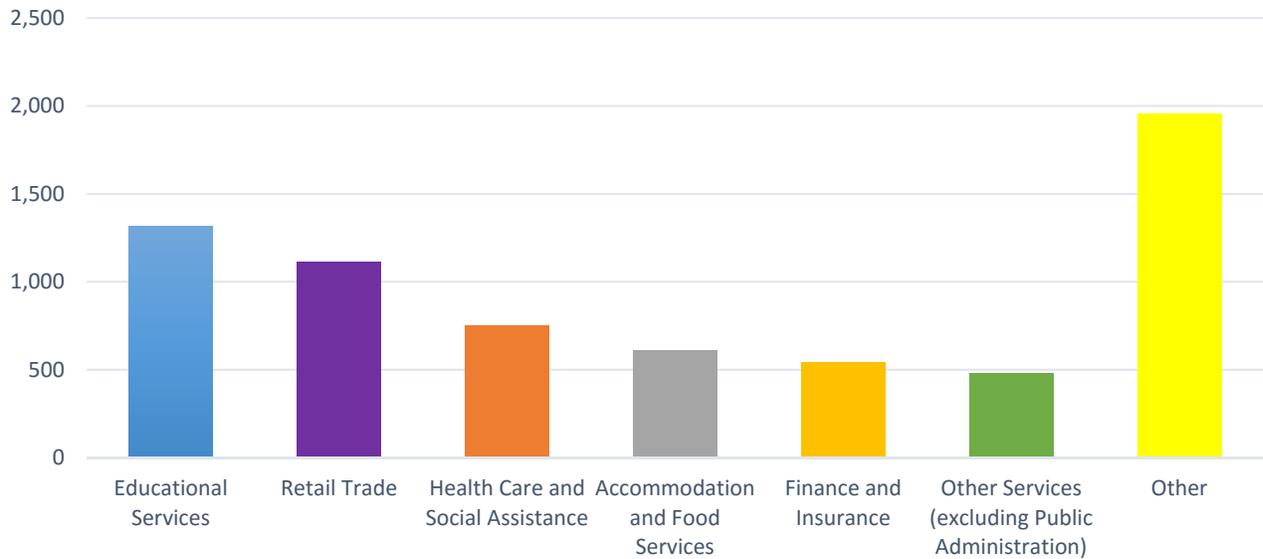
The following statistics regarding employment within the corporate limits of the Village of Wilmette were derived from the U.S. Census Bureau and the State of Illinois Department of Employment Security.



JOB COUNTS IN WILMETTE BY WORKER AGE (2014)



Top NAICS Industry Sectors in Wilmette





Village Manager's Office

SUBJECT: Cook County Minimum Wage and Paid Sick Leave Ordinances – Consideration of Ordinance 2017-O-36, Identifying Conflicts with Cook County Ordinances

MEETING DATE: June 13, 2017

FROM: [Timothy J. Frenzer](#), Village Manager

BUDGET IMPACT: N/A

Recommended Motion

At the June 13, 2017 Regular Village Board Meeting – Introduce Ordinance 2017-O-36. No motion is required to introduce an Ordinance.

At the June 27, 2017 Regular Village Board Meeting – Move adoption of Ordinance 2017-O-36, in order for adoption of the Ordinance to be debated and considered.

Adoption of Ordinance 2017-O-36 would have the effect of “opting out” of Cook County Ordinances creating a separate minimum wage and minimum paid sick leave benefits for private sector employees in Cook County.

Background

The Wilmette/Kenilworth Chamber of Commerce submitted a letter, dated June 1, 2017, requesting that the Village Board adopt an ordinance “opting out” of new Cook County Ordinances covering minimum wage and paid sick leave, which take effect July 1, 2017. A copy of that letter is attached.

The Chamber of Commerce’s letter state’s that the Chamber has surveyed its members and the majority want the Village to adopt opt out ordinances for both the Cook County minimum wage and sick leave ordinances, questioning the propriety of the County’s legislating on this subject, and identifies concerns over adverse impact on Village businesses.

Wilmette businesses would be subject to the Cook County Ordinances on July 1, 2017, unless the Village Board adopts an opt out ordinance prior to that date.

As a point of reference, the Village’s 2017 Budget projects annual sales tax revenue of \$5,796,500, which constitutes 15% of the Village’s General Fund revenues.

Discussion

Cook County Minimum Wage Ordinance

On October 26, 2016, the Cook County Board passed an Ordinance requiring “employers” to pay “covered employees” (as defined in the Ordinance) a minimum wage higher than that otherwise required by Illinois law.

Federal law sets the minimum wage in 2017 at \$7.25/hour. Illinois has a higher minimum wage - \$8.25/hour. The City of Chicago has a minimum wage ordinance of \$11.00/hour (which increases \$1/hr. in each of the next two calendar years, so \$13/hour in 2019).

The Cook County Ordinance sets a minimum wage of \$10/hour, effective July 1, 2017. The minimum wage goes up \$1/hour each July 1 through 2020, so that by July 1, 2020 it will be \$13/hour.

A “covered employee” is one that performs any work whatsoever anywhere in Cook County (including deliveries and compensated travel time). An employer is a business that employs one or more employees that has any business facility in Cook County.

A copy of the Cook County Minimum Wage Ordinance is attached.

It should also be noted that the Illinois General Assembly passed a bill to increase the State minimum wage over a number of years to, eventually, \$15/hour. The Governor has not yet acted on this bill.

Cook County Sick Leave Ordinance

On October 5, 2016, the Cook County Board also passed an Ordinance prescribing minimum paid sick leave benefits. The definitions of “covered employee” and “employer” are essentially the same as in the sick leave ordinance. An employer would be obligated to provide 1 hour of paid sick leave for each 40 hours of work to any employee who works at least 80 hours within a 120-day period, up to a maximum of 40 hours per year. An employee can roll over or “bank” up to one-half of the prior year’s earned sick leave up to a maximum of 20 hours.

A copy of the Cook County Sick Leave Ordinance is attached.

Excluded Employers and Employees

All units of federal, state and local government are excluded from coverage by the County Minimum Wage and Sick Leave Ordinances. Thus, the Village, the Park District, Public Library, District 37 and District 39 are all excluded.

Additionally, unionized employers and employees are not covered insofar as their collective bargaining agreements provide different terms of employment and compensation. Future collective bargaining agreements would need to explicitly waive the County Ordinances’ provisions to provide less benefits, and collective bargaining agreements are not precluded for agreeing to better terms.

Validity of Cook County Ordinances

Three legal opinions were prepared by the staff of the Cook County State's Attorney's Office in response to questions submitted by members of the Cook County Board of Commissioners regarding the County's authority to legislate on these subjects, as well as the consequence of the County Ordinances being in conflict with municipal ordinances. Those opinions have been released to the public and copies are attached.¹

On July 22, 2016 the State's Attorney issued an opinion to County Commissioner Timothy Schneider to the effect that the County minimum wage and sick leave ordinances would not be applicable in places where they conflicted with a municipal ordinance. The opinion suggests that non-home rule units may opt out as well, but as the constitutional discussion in the next section of this memorandum explains, the authority of a home rule municipality to opt out is much clearer.

On July 22, 2016, the State's Attorney issued an opinion to County Commissioner Sean Morrison stating that the County lacked the legal authority to enact a mandatory paid sick leave ordinance, and that such an ordinance exceeded the County's home rule authority.

On October 25, 2016, the State's Attorney issued an opinion to County Commissioner Sean Morrison stating that the County lacked the legal authority to enact a mandatory minimum wage ordinance, and that such an ordinance exceeded the County's home rule authority.

Home Rule and "Opt Out"

As provided in Article VII, Section 6(c) of the State of Illinois Constitution, when a home rule municipal ordinance conflicts with a home rule county ordinance, the municipal ordinance prevails within the municipality's jurisdiction. Based on this, a number of home rule municipalities have passed local ordinances providing that the County Ordinances will not be in effect in their municipalities. This is referred to, for purposes of this situation, as passing an "opt out" ordinance.

Cook County is the State of Illinois' only home rule county. The Village of Wilmette is a home rule municipality.

Since the County Ordinances take effect July 1, a municipality wishing to "opt out" would probably want to do so before the end of June. A home rule municipality is not precluded from opting out after July 1, 2017. However, businesses would be subject to the County Ordinances until such time as the home rule municipality adopted an opt out ordinance.

It should be noted that, for some types of larger employers, a local opt out ordinance may be of limited practical effect. For example, in the case of some larger employers whose employees perform work in Chicago or suburbs that have not opted out, the County Ordinance suggests that their employees may still be "covered" for any work performed in those places. The same could be said of a business that does delivery, installation or any other work in another municipality that does not opt out.

¹ The opinions were each issued under former State's Attorney Anita Alvarez. We are unaware of any contrary opinion being issued by the new State's Attorney, Kimberly Foxx.

In the case of non-governmental employers whose employees are unionized and covered by collective bargaining agreements, those agreements may provide benefits different from the County Ordinances. Retailers with locations in other municipalities may find themselves in the situation of having employees performing work in communities still subject to the County Ordinances. However, employers in Wilmette that are smaller, single location businesses, such as shops and restaurants, as well as employers that rely on seasonal labor, will likely find themselves impacted.

Finally, the County Ordinances make no provision for entry, training or apprentice wages.

Action by Other Suburban Cook County Municipalities

A significant number of municipalities have now passed “opt out” ordinances.

Cook County Commissioner Sean Morrison has circulated a list (attached) of 41 Cook County municipalities that have opted out, through May 26, 2017. Since that list was provided to us, Glenview, Lincolnwood and Orland Park have also opted out, raising the total to 44. Des Plaines voted against opting out. Morton Grove is set to consider opting out on June 13, 2017.

North and northwest suburban municipalities that have opted out so far include Buffalo Grove and, which both straddle the Lake/Cook County border, promptly opted out for that reason. Northbrook and Niles are two of the municipalities that have most recently opted out. I have attached two newspaper articles about the debates surrounding their decisions to adopt opt out ordinances. Additional north and northwest suburban Cook County municipalities that have opted out are Arlington Heights, Barrington, Elk Grove Village, Glenview, Hoffman Estates, Lincolnwood, Mount Prospect, Niles, Palatine, Rolling Meadows, Rosemont, Schaumburg, Streamwood and Wheeling.

A map of Cook County municipalities that have opted out is also attached.

Other Considerations

Cook County has passed an Ordinance providing, essentially, that any municipality that opts out will be excluded from future consideration for participation in its redevelopment property tax incentive programs (the 6B and 7B incentive programs covering distressed industrial and commercial property). The most common of these relate to redevelopment of commercial areas, which Wilmette businesses do not participate in at this time.

Process

In order to place the Village Board in the position of being able to consider an “opt out” ordinance, as requested by the Chamber of Commerce, prior to July 1, 2017, the Village Board would need to introduce the appropriate ordinance on June 13, 2017 at its regular meeting.

The ordinance would then be up for debate and be voted on at the June 27, 2017 regular meeting.

Documents Attached

1. Ordinance No. 2017-O-36
2. Letter from Wilmette/Kenilworth Chamber of Commerce
3. Cook County Minimum Wage Ordinance
4. Cook County Sick Leave Ordinance
5. Cook County State's Attorney's Opinions (3)
6. List of "opt out" municipalities
7. Map of "opt out" municipalities

ORDINANCE NO. 2017-O-36

AN ORDINANCE IDENTIFYING HOME RULE CONFLICTS WITH CERTAIN COUNTY ORDINANCES REGARDING PAID SICK LEAVE AND MINIMUM HOURLY WAGE

WHEREAS, the Village President and Board of Trustees (“the Corporate Authorities”) of the Village of Wilmette (“Village”) find that the Village is a home rule municipality as provided in Article VII, Section 6 of the Constitution of the State of Illinois, 1970, and may pursuant to said authority undertake any action and adopt any ordinance relating to its government and affairs; and

WHEREAS, Article VII, Section 6(c) of the Constitution of the State of Illinois of 1970 provides that when a county ordinance conflicts with an ordinance of a home rule municipality, the municipal ordinance shall prevail within its jurisdiction; and

WHEREAS, on October 5, 2016, the County of Cook Board of Commissioners adopted an ordinance Establishing Earned Sick Leave for Employees in Cook County that requires employers in Cook County to provide a minimum number of paid sick days to employees (“Cook County Sick Leave Ordinance”); and

WHEREAS, on October 26, 2016, the County of Cook Board of Commissioners adopted an ordinance creating a minimum wage in Cook County (“Cook County Minimum Wage Ordinance”) that stipulates scheduled increases in the minimum hourly wage paid by employers in Cook County; and

WHEREAS, certain provisions of the Cook County Sick Leave Ordinance and the Cook County Minimum Wage Ordinance (collectively referred to as the “County Ordinances”) take effect on July 1, 2017; and

WHEREAS, the Wilmette/Kenilworth Chamber of Commerce (“Chamber of Commerce”) conducted a survey of its membership regarding the impact the County Ordinances will have upon local businesses and determined that the County Ordinances may have a negative impact upon certain businesses located within the Village; and

WHEREAS, on June 1, 2017, the Chamber of Commerce formally requested the Village to “opt

out” of the County Ordinances; and

WHEREAS, the Village finds that the County Ordinances place an undue burden on employers within the Village given the current rights of employees available under federal and state law; and

WHEREAS, the Village finds that given the considerable number of businesses that employ individuals that are required to work across municipal and county borders within the Chicago metropolitan region and throughout the State of Illinois, the Village believes that employment-related laws are best established at the federal and state level; and

WHEREAS, the Village finds that given a significant number of businesses located within the Village are smaller family owned businesses, the County Ordinances could detrimentally harm the financial health and operations of those businesses; and

WHEREAS, the Corporate Authorities find it in the public interest to clearly define the minimum requirements regarding minimum hourly wage and paid sick leave which apply to the employers within the Village, and that this ordinance is in the best interests of the health, safety and welfare of the public.

NOW, THEREFORE, be it ordained by the Corporate Authorities of the Village of Wilmette, Cook County, Illinois, as follows:

SECTION 1. INCORPORATION OF PREAMBLES

The Corporate Authorities hereby find that the recitals contained in the preambles are true and correct, and incorporate them into this Ordinance by this reference.

SECTION 2. MINIMUM HOURLY WAGES AND PAID SICK LEAVE

- A. Employers located within the Village shall comply with all applicable federal and/or state laws and regulations as such laws and regulations may exist from time to time with regard to payment of minimum hourly wages and paid sick leave for its employees.
- B. Any employee’s eligibility for minimum hourly wages and paid sick leave shall be in compliance with all applicable federal and/or State of Illinois laws and regulations as such laws and regulations may exist from time to time.

C. No additional obligations with regard to minimum hourly wages and paid sick leave, including without limitation, any obligations adopted by ordinance of the County of Cook Board of Commissioners, shall apply to businesses and/or employers located within the Village, except those required by federal and/or State of Illinois laws and regulations as such laws and regulations may exist from time to time.

D. 1: For the purposes of this Section the following definitions shall apply:

- a. “employee” means an individual permitted to work by an employer regardless of the number of persons the employer employs.
- b. “employer” means any person employing one or more employees, or seeking to employ one or more employees, if the person has its principal place of business within the Village or does business within the Village.

2: For the purposes of this Section, the term “employer” does not mean:

- a. the United States or a corporation wholly owned by the government of the United States;
- b. an Indian tribe or a corporation wholly owned by an Indian tribe;
- c. the State of Illinois or any agency or department thereof; or
- d. any unit of local government.

SECTION 3. SEVERABILITY

If any section, paragraph, clause or provision of this Ordinance is held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

SECTION 4. REPEALER

All ordinances, resolutions, order or parts thereof, which conflict with the provisions of this Ordinance, to the extent of such conflict, are hereby repealed.

SECTION 5. FULL FORCE AND EFFECT

This Ordinance shall be in full force and effect from and after its passage, approve and publication in pamphlet form as required by law.

PASSED by the President and Board of Trustees of the Village of Wilmette, Illinois, on the **27th** day of **June, 2017**, according to the following roll call vote:

AYES: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

Clerk of the Village of Wilmette, IL

APPROVED by the President of the Village of Wilmette, Illinois, this **27th** day of **June, 2017**.

President of the Village of Wilmette, IL

ATTEST:

Clerk of the Village of Wilmette, IL

Published in Pamphlet Form this **27th** day of **June, 2017**



Wilmette/Kenilworth Chamber of Commerce

June 1, 2017

Village President Bob Bielinski
Village of Wilmette
1200 Wilmette Ave.
Wilmette, IL 60091

Dear President Bielinski:

The Wilmette/Kenilworth Chamber of Commerce would like to formally request that the Village of Wilmette opt out of both the Cook County Minimum Wage Ordinance No. 16-5768 and the Cook County Mandatory Paid Sick Leave Ordinance No. 16-4229.

The Chamber conducted a survey of its members, and a majority of responding businesses requested that the Village of Wilmette opt out of these ordinances. The Chamber does not believe it is right for county government to regulate these business issues.

We believe that workers are entitled to a living wage, and that most Wilmette businesses already pay their employees above minimum wage. However, there may be some Wilmette businesses for whom this will cause a hardship. In the case of paid sick leave, numerous businesses feel that it would create financial and logistical difficulties for them.

Thank you for considering our request to opt out of these Cook County ordinances.

Sincerely,

Julie Yusim
Executive Director
Cc: Wilmette/Kenilworth Board of Directors

**16-5768
ORDINANCE**

Sponsored by

**THE HONORABLE LARRY SUFFREDIN, LUIS ARROYO JR, RICHARD R. BOYKIN,
JERRY BUTLER, JOHN P. DALEY, JOHN A. FRITCHEY, BRIDGET GAINER,
JESÚS G. GARCÍA, EDWARD M. MOODY, STANLEY MOORE, DEBORAH SIMS,
ROBERT B. STEELE AND JEFFREY R. TOBOLSKI, COUNTY COMMISSIONERS**

AN ORDINANCE CREATING A MINIMUM WAGE IN COOK COUNTY

WHEREAS, Cook County, Illinois is a home-rule unit of government under Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois and, as such, may regulate for the protection of the public welfare; and

WHEREAS, promoting the welfare of those who work within the County's borders is an endeavor that plainly meets this criterion; and

WHEREAS, enacting a minimum wage for workers in Cook County that exceeds the state minimum wage is entirely consistent with the Illinois General Assembly's finding that it "is against public policy for an employer to pay to his employees an amount less than that fixed by" the Illinois Minimum Wage Law, 820 ILCS 105/2.

NOW, THEREFORE, BE IT ORDAINED, by the Cook County Board of Commissioners that Chapter 42 Human Relations, Article I In General, Division 2 Cook County Minimum Wage Ordinance, Sections 42-7 through 42-19 of the Cook County Code are hereby enacted as follows:

Sec. 42-7. - Short Title.

This Division shall be known and may be cited as the Cook County Minimum Wage Ordinance.

Sec. 42-8. - Definitions.

For purposes of this Division, the following definitions apply:

Covered Employee means any Employee who is not subject to any of the exclusions set out in Section 42-12 below, and who, in any particular two-week period, performs at least two hours of work for an Employer while physically present within the geographic boundaries of Cook County. For purposes of this definition, time spent traveling in Cook County that is compensated time, including, but not limited to, deliveries, sales calls, and travel related to other business activity taking place within Cook County, shall constitute work while physically present within the geographic boundaries of Cook County; however, time spent traveling in Cook County that is uncompensated commuting time shall not constitute work while physically present within the geographic boundaries of Cook County.

CPI means the Consumer Price Index for All Urban Consumers most recently published by the Bureau of Labor Statistics of the United States Department of Labor.

Director means the Executive Director of the Cook County Commission on Human Rights.

Domestic worker means a person whose primary duties include housekeeping; house cleaning; home management; nanny services, including childcare and child monitoring; caregiving, personal care or home health services for elderly persons or persons with illnesses, injuries, or disabilities who require assistance in caring for themselves; laundering; cooking; companion services; chauffeuring; and other household services to members of households or their guests in or about a private home or residence, or any other location where the domestic work is performed.

Employee, Gratuities, and Occupation have the meanings ascribed to those terms in the Minimum Wage Law, with the exception that all Domestic Workers, including Domestic Workers employed by Employers with fewer than four (4) employees, shall fall under the definition of the term "Employee".

Employer means any individual, partnership, association, corporation, limited liability company, business trust, or any person or group of persons that gainfully employs at least one Covered Employee. To qualify as an Employer, such individual, group, or entity must (1) maintain a business facility within the geographic boundaries of Cook County and/or (2) be subject to one or more of the license requirements in Title 4 of this Code.

Fair Labor Standards Act means the United States Fair Labor Standards Act of 1938, 29 USC § 201 et seq., in force on the effective date of this chapter and as thereafter amended.

Minimum Wage Law means the Illinois Minimum Wage Law, 820 ILCS 105/1 et seq., in force on the effective date of this chapter and as thereafter amended.

Subsidized Temporary Youth Employment Program means any publicly subsidized summer or other temporary youth employment program through which persons aged 24 or younger are employed by, or engaged in employment coordinated by, a nonprofit organization or governmental entity.

Subsidized Transitional Employment Program means any publicly subsidized temporary employment program through which persons with unsuccessful employment histories and/or members of statistically hard-to-employ populations (such as formerly homeless persons, the long-term unemployed, and formerly incarcerated persons) are provided temporary paid employment and case-managed services under a program administered by a nonprofit organization or governmental entity, with the goal of transitioning program participants into unsubsidized employment.

Tipped Employee has the meaning ascribed that term in the Fair Labor Standards Act.

Wage means compensation due an Employee by reason of his employment.

Sec. 42-9. - Minimum Hourly Wage.

Except as provided in Sections 42-10 of this Code, every Employer shall pay no less than the following Wages to each Covered Employee for each hour of work performed for that Employer while physically present within the geographic boundaries of Cook County:

- (a) Beginning on July 1, 2017, the greater of: (1) the minimum hourly Wage set by the Minimum Wage Law; (2) the minimum hourly Wage set by the Fair Labor Standards Act; or (3) \$10.00 per hour.
- (b) Beginning on July 1, 2018, the greater of: (1) the minimum hourly Wage set by the Minimum Wage Law; (2) the minimum hourly Wage set by the Fair Labor Standards Act; or (3) \$11.00 per hour.
- (c) Beginning on July 1, 2019, the greater of: (1) the minimum hourly Wage set by the Minimum Wage Law; (2) the minimum hourly Wage set by the Fair Labor Standards Act; or (3) \$12.00 per hour.
- (d) Beginning on July 1, 2020, the greater of: (1) the minimum hourly Wage set by the Minimum Wage Law; (2) the minimum hourly Wage set by the Fair Labor Standards Act; or (3) \$13.00 per hour.
- (e) Beginning on July 1, 2021, and on every July 1 thereafter, the greater of: (1) the minimum hourly Wage set by the Minimum Wage Law; (2) the minimum hourly Wage set by the Fair Labor Standards Act; or (3) Cook County's minimum hourly Wage from the previous year, increased in proportion to the increase, if any, in the CPI, provided, however, that if the CPI increases by more than 2.5 percent in any year, the Cook County minimum Wage increase shall be capped at 2.5 percent, and that there shall be no Cook County minimum Wage increase in any year when the unemployment rate in Cook County for the preceding year, as calculated by the Illinois Department of Employment Security, was equal to or greater than 8.5 percent. Any increase pursuant to subsection 42-9(e) shall be rounded up to the nearest multiple of \$0.05. Any increase pursuant to subsection 42-9(e) shall remain in effect until any subsequent adjustment is made. On or before June 1, 2021, and on or before every June 1 thereafter, the Director shall make available to Employers a bulletin announcing the adjusted minimum hourly Wage for the upcoming year.

Sec. 42-10. - Minimum hourly wage in occupations receiving gratuities.

- (a) Every Employer of a Covered Employee engaged in an Occupation in which Gratuities have customarily and usually constituted part of the remuneration shall pay no less than the following Wage-to each Covered Employee for each hour of work performed for that Employer while physically present within the geographic boundaries of the County:
 - (1) Beginning on July 1, 2017, the greater of: (A) the minimum hourly Wage set by the Fair Labor Standards Act for Tipped Employees; or (B) the minimum hourly Wage set by the Minimum Wage Law for workers who receive Gratuities.

(2) Beginning on July 1, 2018, and on every July 1 thereafter, the greater of (A) the minimum hourly Wage set by the Fair Labor Standards Act for tipped workers; (B) the minimum hourly Wage set by the Minimum Wage Law for workers who receive Gratuities; or (C) Cook County's minimum hourly Wage from the previous year for workers who receive Gratuities, increased in proportion to the increase, if any, in the CPI, provided, however, that if the CPI increases by more than 2.5 percent in any year, the Cook County minimum Wage increase for workers who receive Gratuities shall be capped at 2.5 percent, and that there shall be no Cook County minimum Wage increase for workers who receive Gratuities in any year when the unemployment rate in Cook County for the preceding year, as calculated by the Illinois Department of Employment Security, was equal to or greater than 8.5 percent. Any increase pursuant to subsection 42-10 (a)(3)(C) shall be rounded up to the nearest multiple of \$0.05. Any increase pursuant to subsection 42-10 (a)(3) shall remain in effect until any subsequent adjustment is made. On or before June 1, 2018, and on or before every June 1 thereafter, the Director shall make available to Employers a bulletin announcing Cook County's minimum hourly Wage for the upcoming year for workers who receive Gratuities.

(b) Each Employer that pays a Covered Employee the Wage described in subsection 42-10 (a) shall transmit to the Director, in a manner provided by regulation, substantial evidence establishing: (1) the amount the Covered Employee received as Gratuities during the relevant pay period; and (2) that no part of that amount was returned to the Employer. If an Employer is required by the Minimum Wage Law to provide substantially similar data to the Illinois Department of Labor, the Director may allow the Employer to comply with this subsection 42-10 (b) by filing a copy of the state documentation.

Sec. 42-11. - Overtime compensation.

The Wages set out in Sections 42-9 and 42-10 are subject to the overtime compensation provisions in the Cook County Minimum Wage Law, with the exception that the definitions of "Employer" and "Employee" in this chapter shall apply.

Sec. 42-12. - Exclusions.

This chapter shall not apply to hours worked:

(a) By any person subject to subsection 4(a)(2) of the Minimum Wage Law, with the exception that the categories of Employees described in subsections 4(a)(2)(A) and 4(a)(2)(B) of the Minimum Wage Law shall be entitled to the Wages described in Sections 42-9 and 42-10, whichever applies, as well as the overtime compensation described in Section 42-11;

(b) By any person subject to subsection 4(a)(3), subsection 4(d), subsection 4(e), Section 5, or Section 6 of the Minimum Wage Law;

(c) For any governmental entity other than the Cook County, a category that, for purposes of this chapter, includes, but is not limited to, any unit of local government, the Illinois state government, and the government of the United States, as well as any other federal, state, or local governmental agency or department;

(d) For any Subsidized Temporary Youth Employment Program; or

(e) For any Subsidized Transitional Employment Program.

Sec. 42-13. - Applications to Collective Bargaining Agreements.

Nothing in this chapter shall be deemed to interfere with, impede, or in any way diminish the right of employees to bargain collectively with their employers through representatives of their own choosing in order to establish wages or other conditions of work in excess of the applicable minimum standards of the provisions of this chapter. The requirements of this chapter may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms.

Sec. 42-14. - Applications to the Cook County Living Wage Ordinance for Procurements.

Nothing in this chapter shall be deemed conflict with Article IV, Division 3 of the Cook County Code. All Contractors must comply with the Wage Requirements set forth in Article IV, Division 3, even if the wages required to be paid are higher than those set forth within this chapter.

Sec. 42-15. - Notice and Posting.

(a) Every Employer shall post in a conspicuous place at each facility where any Covered Employee works that is located within the geographic boundaries of Cook County a notice advising the Covered Employee of the current minimum Wages under this chapter, and of his rights under this chapter. The Director shall prepare and make available a form notice that satisfies the requirements of this subsection 42-14 (a). Employers that do not maintain a business facility within the geographic boundaries of Cook County and households that serve as the worksites for Domestic Workers are exempt from this subsection 42-14(a).

(b) Every Employer shall provide with the first paycheck subject to this chapter issued to a Covered Employee a notice advising the Covered Employee of the current minimum Wages under this chapter, and of the Employee's rights under this chapter. The Director shall prepare and make available a form notice that satisfies the requirements of this subsection 42-14(b).

Sec. 42-16. - Retaliation Prohibited.

It shall be unlawful for any Employer to discriminate in any manner or take any adverse action against any Covered Employee in retaliation for exercising any right under this chapter, including, but not limited to, disclosing, reporting, or testifying about any violation of this chapter or regulations promulgated thereunder. For purposes of this Section, prohibited adverse actions include, but are not limited to, unjustified termination, unjustified denial of promotion, unjustified negative evaluations, punitive schedule changes, punitive decreases in the desirability of work assignments, and other acts of harassment shown to be linked to such exercise of rights.

Sec. 42-17. - Enforcement – Regulations.

The Cook County Commission on Human Rights shall enforce this chapter, and the Director is authorized to adopt regulations for the proper administration and enforcement of its provisions.

Sec. 42-18. - Violation – Penalty.

Any Employer who violates this chapter or any regulation promulgated thereunder shall be subject to a fine of not less than \$500.00 nor more than \$1,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply.

Sec. 42-19. - Private Cause of Action.

If any Covered Employee is paid by his Employer less than the Wage to which he is entitled under this chapter, the Covered Employee may recover in a civil action three times the amount of any such underpayment, together with costs and such reasonable attorney's fees as the court allows. An agreement by the Covered Employee to work for less than the Wage required under this chapter is no defense to such action.

BE IT FURTHER ORDAINED, by the Cook County Board of Commissioners, that Chapter 34 Finance, Article IV Procurement Code, Division 4 Disqualifications and Penalties, Section 34-179 of the Cook County Code is hereby amended as follows:

Sec. 34-179. - Disqualification due to violation of laws related to the payment of wages and Employer Paid Sick Leave Ordinance.

(a) A Person including a Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) who has admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Employee Classification Act, 820 ILCS 185/1 et seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages shall be ineligible to enter into a Contract with the County for a period of five years from the date of conviction, entry of a plea, administrative finding or admission of guilt.

(b) A person including a Substantial Owner who has admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of violating the Cook County Minimum Wage Ordinance (Section 42-7 - 42-15 of the Cook County Code) shall be ineligible to enter into a Contract with the County for a period of five years from the date of conviction, entry of a plea, administrative finding or admission of guilt.

~~(b c)~~ The CPO shall obtain an affidavit or certification from every Person or Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) from whom the County seeks to make a Contract with certifying that the Person seeking to do business with the County including its Substantial Owners (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) has not violated the statutory provisions identified in Subsection (a) and or (b) of this Section.

~~(e d)~~ For Contracts entered into following the effective date of this Ordinance, if the County becomes aware that a Person including Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) under contract with the County is in violation of Subsection (a) or (b) of this Section, then, after notice from the County, any such violation(s) shall constitute a default under the Contract.

~~(d e)~~ If a Person including a Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) is ineligible to contract with the County due to the provisions of Subsection (a) or (b) of this Section, the Person seeking the Contract may submit a request for a reduction or waiver of the ineligibility period to the CPO. The request shall be in writing in a manner and form prescribed by the CPO and shall include one or more of the following actions have been taken:

- (1) There has been a bona fide change in ownership or Control of the ineligible Person or Substantial Owner;
- (2) Disciplinary action has been taken against the individual(s) responsible for the acts giving rise to the violation;
- (3) Remedial action has been taken to prevent a recurrence of the acts giving rise to the disqualification or default; or
- (4) Other factors that the Person or Substantial Owner believe are relevant.

The CPO shall review the documentation submitted, make any inquiries deemed necessary, request additional documentation where warranted and determine whether a reduction or waiver is appropriate. Should the CPO determine that a reduction or waiver of the ineligibility period is appropriate; the CPO shall submit its decision and findings to the County Board.

(e f) A Using Agency may request an exception to such period of ineligibility by submitting a written request to the CPO, supported by facts that establish that it is in the best interests of the County that the Contract be made from such ineligible Person. The CPO shall review the documentation, make any inquiries deemed necessary, and determine whether the request should be approved. If an exception is granted, such exception shall apply to that Contract only and the period of ineligibility shall continue for its full term as to any other Contract. Said exceptions granted by the CPO shall be communicated to the County Board.

BE IT FURTHER ORDAINED, by the Cook County Board of Commissioners, that Chapter 74 Taxation, Article II Real Property Taxation, Division 2 Classification System for Assessment, Section 74-74 of the Cook County Code is hereby amended as follows:

Sec. 74-74. - Laws regulating the payment of wages and Employer Paid Sick Leave.

(a) Except where a Person has requested an exception from the Assessor and the County Board expressly finds that granting the exception is in the best interest of the County, such Person including any Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) shall be ineligible to receive any property tax incentive noted in Division 2 of this Article if, during the five year period prior to the date of the application, such Person or Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., the Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101 et seq., the Employee Classification Act, 820 ILCS 185/1 et. seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages.

(b) The Assessor shall obtain an affidavit or certification from every Person and Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) who seeks a property tax incentive from the County as noted in Division 2 of this Article certifying that the Person or Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) has not violated the statutory provisions identified in Subsection (a) of this Section.

(c) If the County or Assessor becomes aware that a Person or Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) has admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., the Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101 et seq., the Employee Classification Act, 820 ILCS 185/1 et seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages during the five year period prior to the date of the application, but after the County has reclassified the Person's or Substantial Owner's (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) subject property under a property tax incentive classification, then, after notice from the Assessor of such violation, the Person or Substantial Owner shall have 45 days to cure its violation and request an exception or waiver from the Assessor. Failure to cure or obtain an exception or waiver of ineligibility from the Assessor shall serve as grounds for revocation of the classification as provided by the Assessor or by the County Board by Resolution or Ordinance. In case of revocation or cancellation, the Incentive Classification shall be deemed null and void for the tax year in which the incentive was revoked or cancelled as to the subject property. In such an instance, the taxpayer shall be liable for and shall reimburse to the County Collector an amount equal to the difference in the amount of taxes that would have been collected had the subject property not received the property tax incentive.

(d) The Assessor shall obtain an affidavit or certification from every Person and Substantial Owner who seeks a property tax incentive from the County that the applicant pays a Wage as defined in Section 42-8 to its employees in accordance with Sections 42-7 through 42-15 of the Cook County Code.

BE IT FURTHER ORDAINED, by the Cook County Board of Commissioners, that Chapter 54 Licenses, Permits and Miscellaneous Business Regulations, Article X General Business Licenses, Section 54-384 and Section 54-390 of the Cook County Code are hereby amended as follows:

Sec. 54-384. - License application.

All applications for a General Business License shall be made in writing and under oath to the Director of Revenue on a form provided for that purpose.

(a) Every application for a County General Business License shall be submitted and signed by the Person doing business or authorized representative of the Person doing business and shall contain the following:

- (1) Name of the applicant.
- (2) Business address.
- (3) Social security numbers, Tax ID number, and residence addresses of its sole proprietor or the three individuals who own the highest percentage interests in such Person and any other individual who owns five percent or more interest therein.
- (4) Pin number of the property or properties where the business is being operated.
- (5) A brief description of the business operations plan.

(6) Sales tax allocation code. The sales tax allocation code identifies a specific sales tax geographic area and is used by the State of Illinois for sales tax allocation purposes.

(7) Certification that applicant is in compliance with all applicable County Ordinances.

(8) For Business Licenses applied for or renewed following the effective date of this provision, certification that the applicant has not, during the five-year period prior to the date of the application for a Business License, admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., the Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101 et seq., the Employee Classification Act, 820 ILCS 185/1 et seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages.

(9) Certification that the applicant pays a Wage as defined in Section 42-8 to its employees that conforms with Sections 42-7 - 42-15 of the Cook County Code

(b) The Director of Revenue shall be the custodian of all applications for licenses which [sic] under provisions of this Code. All information received by the Department from applications filed pursuant to this article or from any investigations conducted pursuant to this article, except for official County purposes, or as required by the Freedom of Information Act, shall be confidential.

(c) The General Business License applicant may be subject to an inspection by the following county departments including, but not limited to, Health, Building and Zoning and the Environment, prior to licensing.

(d) It shall be grounds for denial and/or revocation of any license issued under the provisions of this article whenever the license applicant knowingly includes false or incomplete information in the license application or is in violation of a County Ordinance.

Sec. 54-390. - Failure to comply-Code of Ordinances.

(a) Failure to comply with applicable Cook County Code of Ordinances may result in general business license suspension or revocation.

(b) Persons doing business in unincorporated Cook County must comply with this article and, including but not limited to, the following Cook County Code of Ordinances:

(1) Chapter 30, Environment; or

(2) Chapter 38, Article III, Public Health and Private Nuisances; or

(3) Chapter 58: Article III, Offenses involving Public Safety, and Article IV, Offenses Involving Public Morals; or

(4) The Cook County Building Ordinance, adopted originally on March 11, 1949, as amended, and/or the Cook County Building Code; or

(5) Chapter 74 Taxation; or

(6) The Cook County Zoning Ordinance, as amended; or

(7) Chapter 42 Human Relations.

Effective Date: This Ordinance shall take effect immediately upon passage.

Approved and adopted this 26th of October 2016.

TONI PRECK WINKLE, President
Cook County Board of Commissioners

Attest: DAVID ORR, County Clerk

**16-4229
ORDINANCE**

Sponsored by

**THE HONORABLE BRIDGET GAINER, JESÚS G. GARCÍA, LUIS ARROYO JR.,
RICHARD R. BOYKIN, JOHN P. DALEY, JOHN A. FRITCHEY, DEBORAH SIMS,
ROBERT B. STEELE AND LARRY SUFFREDIN, COUNTY COMMISSIONERS**

ESTABLISHING EARNED SICK LEAVE FOR EMPLOYEES IN COOK COUNTY

WHEREAS, the County of Cook is a home rule unit of government pursuant to the 1970 Illinois Constitution, Article VII, Section 6 (a); and

WHEREAS, pursuant to their home rule powers, the Cook County Commissioners may exercise any power and perform any function relating to their governments and affairs, including the power to regulate for the protection of the public health, safety, morals and welfare; and

WHEREAS, employees in every industry occasionally require time away from the workplace to tend to their own health or the health of family members; and

WHEREAS, in Cook County approximately 40 percent, or 840,000, private sector workers receive no paid sick leave; and

WHEREAS, earned sick leave has a positive effect on the health of not only employees and their family members, but also the health of fellow workers and public at large and the most comprehensive national survey of United States restaurant workers found that two-thirds of restaurant wait staff and cooks have come to work sick; and

WHEREAS, earned sick leave reduces healthcare expenditures by promoting access to primary and preventative care and reduces reliance on emergency care; and

WHEREAS, nationally providing all workers with earned sick leave would result in \$1.1 billion in annual savings in hospital emergency department costs; and

WHEREAS, nearly one (1) in four (4) American women report domestic violence by an intimate partner, nearly one (1) in five (5) women have been raped, and nearly one (1) in six (6) women have been stalked. Many workers, men and women, need time off to care for themselves after these incidents, or to find solutions, such as protective orders or new housing, to avoid or prevent further domestic or sexual violence. Without paid time off, employees are in grave danger of losing their jobs, which can be devastating when victims need economic security to ensure their own safety and that of their children; and

WHEREAS, at least 28 local jurisdictions have enacted Earned Sick Leave including Chicago, New York City, Los Angeles, San Francisco, Oakland, Minneapolis, Philadelphia, Jersey City and Seattle; and

WHEREAS, a cost model developed by the Civic Consulting Alliance found that a paid sick leave framework similar to the one reflected in this Ordinance would result in only a small, 0.7 to 1.5 increase in labor costs for most employers.

NOW, THEREFORE, BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 42 Human Relations, Article 1 In General, Sections 42-1 through 42-6 of the Cook County Code is hereby enacted as follows:

Sec. 42-1. Short title.

This article shall be known and may be cited as the Cook County Earned Sick Leave Ordinance (“Ordinance”).

Sec. 42-2. Definitions.

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agency shall mean the Cook County Commission on Human Rights.

Construction Industry means any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving, wrecking, painting, decorating, demolishing, and adding to or subtracting from any building, structure, highway, roadway, street, bridge, alley, sewer, ditch, sewage disposal plant, water works, parking facility, railroad, excavation or other structure, project, development, real property or improvement, or to do any part thereof, whether or not the performance of the work herein described involves the addition to, or fabrication into, any structure, project, development, real property or improvement herein described of any material or article of merchandise. Construction shall also include moving construction related materials on the job site to or from the job site, snow plowing, snow removal, and refuse collection.

Covered Employee means any Employee who, in any particular two-week period, performs at least two hours of work for an Employer while physically present within the geographic boundaries of Cook County. For purposes of this definition, time spent traveling in Cook County that is compensated time, including, but not limited to, deliveries, sales calls, and travel related to other business activity taking place within Cook County, shall constitute work while physically present within the geographic boundaries of Cook County; however, time spent traveling in Cook County that is uncompensated commuting time shall not constitute work while physically present within the geographic boundaries of Cook County. The definition of “Covered Employee” for purposes of this ordinance does not include any “employee” as defined by Section 1(d) of the Railroad Unemployment Insurance Act, 45 U.S.C. § 351(d).

Domestic partner means any person who has a registered domestic partnership, or qualifies as a domestic partner under Sections 2-173 and 174 of this Code or as a party to a civil union under the Illinois Religious Freedom Protection and Civil Union Act, 750 ILCS 75/1 et seq., as currently in force and hereafter amended.

Earned Sick Leave means time that is provided by an Employer to a Covered Employee that is eligible to be used for the purposes described in Section 42-3 of this Chapter, and is compensated at the same rate and with the same benefits, including health care benefits, that the Covered Employee regularly earns during hours worked.

Employee means an individual permitted to work by an employer regardless of the number of persons the Employer employs.

Employer means:

- (1) "Employer" means any individual, partnership, association, corporation, limited liability company, business trust, or any person or group of persons that gainfully employs at least one Covered Employee with a place of business within Cook County.
- (2) The term "employer" does not mean:
 - a. The government of the United States or a corporation wholly owned by the government of the United States;
 - b. An Indian tribe or a corporation wholly owned by an Indian tribe;
 - c. The government of the State or any agency or department thereof; or
 - d. Units of local government.

Family and Medical Leave Act means the United States Family and Medical Leave Act of 1993, 29 USC S 2601 et seq. as currently in force and hereafter amended.

Family member means a Covered Employee's child, legal guardian or ward, spouse under the laws of any state, domestic partner, parent, spouse or domestic partner's parent, sibling, grandparent, grandchild, or any other individual related by blood or whose close association with the Covered Employee is the equivalent of a family relationship. A child includes not only a biological relationship, but also a relationship resulting from an adoption, step-relationship, and/or foster care relationship, or a child to whom the Covered Employee stands in loco parentis. A parent includes a biological, foster, stepparent or adoptive parent or legal guardian of a Covered Employee, or a person who stood in loco parentis when the Employee was a minor child.

Health Care Provider means any person licensed to provide medical or emergency services, including, but not limited to doctors, nurses, and emergency room personnel.

Sec. 42-3. Earned sick leave.

(a) General Provisions

- (1) Any Covered Employee who works at least 80 hours for an Employer within any 120-day period shall be eligible for Earned Sick Leave as provided under this Section.
- (2) Unless an applicable collective bargaining agreement provides otherwise, upon a Covered Employee's termination, resignation, retirement or other separating from employment, his or her Employer is not required to provide financial or other reimbursement for unused Earned Sick Leave.

(b) Accrual of Earned Sick Leave

- (1) Earned Sick Leave shall begin to accrue either on the 1st calendar day after the commencement of a Covered Employee's employment or on the effective date of this Ordinance, whichever is later.

- (2) For every 40 hours worked after a Covered Employee's Earned Sick Leave begins to accrue, he or she shall accrue one hour of Earned Sick Leave. Earned Sick Leave shall accrue only in hourly increments; there shall be no fractional accruals.
- (3) A Covered Employee who is exempt from overtime requirements shall be assumed to work 40 hours in each workweek for purposes of Earned Sick Leave accrual, unless his or her normal work week is less than 40 hours, in which case Earned Sick Leave shall accrue based upon that normal work week.
- (4) For each Covered Employee, there shall be a cap of 40 hours Earned Sick Leave accrued per 12-month period, unless his or her Employer sets a higher limit. The 12-month period for a Covered Employee shall be calculated from the date he or she began to accrue Earned Sick Leave.
- (5) At the end of a Covered Employee's 12-month accrual period, he or she shall be allowed to carry over to the following 12-month period half of his or her unused accrued Earned Sick Leave, up to a maximum of 20 hours.
- (6) If an Employer is subject to the Family and Medical Leave Act, each of the Employer's Covered Employees shall be allowed, at the end of his or her 12-month Earned Sick Leave accrual period, to carry over up to 40 hours of his or her unused accrued Earned Sick Leave, in addition to the carryover allowed under subsection 42-3(b)(5), to use exclusively for Family and Medical Leave Act eligible purposes.
- (7) If an Employer has a policy that grants Covered Employees paid time off in an amount and a manner that meets the requirements for Earned Sick Leave under this Section, the Employer is not required to provide additional paid leave. If such Employer's policy awards the full complement of paid time off immediately upon date of eligibility, rather than using an accrual model, the Employer must award each Covered Employee 40 hours paid time off within one calendar year of his or her date of eligibility.

(c) Use of Earned Sick Leave

- (1) An Employer shall allow a Covered Employee to begin using Earned Sick Leave no later than on the 180th calendar day following the commencement of his or her employment. A Covered Employee is entitled to use no more than 40 hours of Earned Sick Leave per 12-month period, unless his or her Employer sets a higher limit. The 12-month period for a Covered Employee shall be calculated from the date he or she began to accrue Earned Sick Leave. If a Covered Employee carries over 40 hours of Family and Medical Leave Act leave pursuant to subsection 42-3(b)(6) and uses that leave, he or she is entitled to use no more than an additional 20 hours of accrued Earned Sick Leave in the same 12 month period, unless the Employer sets a higher limit. A Covered Employee shall be allowed to determine how much accrued Earned Sick Leave he or she needs to use, provided that his or her Employer may set a reasonable minimum increment requirement not to exceed four hours per day.

- (2) A Covered Employee may use Earned Sick Leave when:
- a. He or she is ill or injured, or for the purpose of receiving medical care, treatment, diagnosis or preventative medical care;
 - b. A member of his or her family is ill or injured, or to care for a family member receiving medical care, treatment, diagnosis or preventative medical care;
 - c. He or she, or a member of his or her family, is the victim of domestic violence, as defined in Section 103 of the Illinois Domestic Violence Act of 1986, or is the victim of sexual violence or stalking as defined in Article 11, and Sections 12-7.3, 12-7.4, and 12-7.5 of the Illinois Criminal Code of 2012; or
 - d. His or her place of business is closed by order of a public official due to a public health emergency, or he or she needs to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency. For the purposes of this section, "public health emergency" is an event that is defined as such by a Federal, State or Local government, including a school district.
- (3) An Employer shall not require, as a condition of a Covered Employee taking Earned Sick Leave that he or she search for or find a replacement worker to cover the hours during which he or she is on Earned Sick Leave.
- (4) If a Covered Employee's need for Earned Sick Leave is reasonably foreseeable, an Employer may require up to seven days' notice before leave is taken. If the need for Earned Sick Leave is not reasonably foreseeable, an Employer may require a Covered Employee to give notice as soon as is practicable on the day the Covered Employee intends to take Earned Sick Leave by notifying the Employer via phone, e-mail, or text message. The Employer may set notification policy if the Employer has notified Covered Employee in writing of such policy and that policy shall not be unreasonably burdensome. For purposes of this subsection, needs that are "reasonably foreseeable" include, but are not limited to prescheduled appointments with health care providers for the Covered Employee or for a family member, and court dates in domestic violence cases. Any notice requirement imposed by an Employer pursuant to this subsection shall be waived in the event a Covered Employee is unable to give notice because he or she is unconscious, or otherwise medically incapacitated. If the leave is one that is covered under the Family and Medical Leave Act, notice shall be in accordance with the Family and Medical Leave Act.
- (5) Where a Covered Employee is absent for more than three consecutive work days, his or her Employer may require certification that the use of Earned Sick Leave was authorized under subsection 42-3(c)(2). For time used pursuant to subsections (c)(2)(a) or (b), documentation signed by a licensed health care provider shall satisfy this requirement. An Employer shall not require that such documentation specify the nature of the Covered Employee's or the Covered Employee's family member's injury, illness, or condition, except as required by law. For Earned Sick Leave used pursuant to subsection (c)(2)(c) a police report, court document, a

signed statement from an attorney, a member of the clergy, or a victim services advocate, or any other evidence that supports the Covered Employee's claim, including a written statement from him or her, or any other person who has knowledge of the circumstances, shall satisfy this requirement. The Covered Employee may choose which document to submit, and no more than one document shall be required if the Earned Sick Leave is related to the same incident of violence or the same perpetrator. The Employer shall not delay the commencement of Earned Sick Leave taken for one of the purposes in subsection 42-3(c)(2) nor delay payment of wages, on the basis that the Employer has not yet received the required certification.

- (6) Nothing in this Section shall be construed to prohibit an Employer from taking disciplinary action, up to and including termination, against a Covered Employee who uses Earned Sick Leave for purposes other than those described in this Section.
- (7) This Section provides minimum Earned Sick Leave requirements; it shall not be construed to affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater Earned Sick Leave benefits.

Sec. 42-5. Application to collective bargaining agreements.

Nothing in this Ordinance shall be deemed to interfere with, impede, or in any way diminish the right of Covered Employees to bargain collectively with their Employers through representatives of their own choosing in order to establish wages or other conditions of work in excess of the applicable minimum standards of the provisions of this Ordinance. The requirements of this Ordinance may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms. Nothing in this Ordinance shall be deemed to affect the validity or change the terms of bona fide collective bargaining agreements in force on the effective date of this Ordinance. After that date, requirements of this Ordinance may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms. In no event shall this Ordinance apply to any Covered Employee working in the Construction Industry who is covered by a bona fide collective bargaining agreement.

Sec. 42-6. Notice and posting.

(a) Every Employer shall post in a conspicuous place at each facility where any Covered Employee works that is located within the geographic boundaries of Cook County a notice advising the Covered Employee of his or her rights to Earned Sick Time under this Ordinance. The Agency shall prepare and make available a form notice that satisfies the requirements of this Ordinance. Employers that do not maintain a business facility within the geographic boundaries of the County are exempt from this subsection.

(b) Every Employer shall provide to a Covered Employee at the commencement of employment written notice advising the Covered Employee of his or her rights to Earned Sick Time under this Ordinance. The Agency shall prepare and make available a form notice that satisfies the requirements of this Ordinance.

Sec. 42-7. Retaliation prohibited.

It shall be unlawful for any Employer to discriminate in any manner or take any adverse action against any Covered Employee in retaliation for exercising, or attempting in good faith to exercise, any right under this Ordinance, including, but not limited to, disclosing, reporting, or testifying about any violation of this Ordinance or regulations promulgated thereunder. For purposes of this Section, prohibited adverse actions include, but are not limited to, unjustified termination, unjustified denial of promotion, unjustified negative evaluations, punitive schedule changes, punitive decreases in the desirability of work assignments, and other acts of harassment shown to be linked to such exercise of rights. An Employer shall not use its absence-control policy to count Earned Sick Leave as an absence that triggers discipline, discharge, demotion, suspension, or any other adverse activity.

Sec. 42-8. Enforcement and penalties.

(a) The Agency shall administer and enforce this Ordinance in accordance with Chapter 42, Article II, Section 42-34 of the Cook County Human Rights Ordinance, except as allowed for in subsection (b) of this Section.

(b) If any Employer violates any of the Earned Sick Leave provisions in this Ordinance, the affected Covered Employee may recover in a civil action damages equal to three times the full amount of any unpaid Sick Leave denied or lost by reason of the violation, and the interest on that amount calculated at the prevailing rate, together with costs and such reasonable attorney's fees as the court allows. Such action may be brought without first filing an administrative complaint. The statute of limitations for a civil action brought pursuant to this Ordinance shall be for a period of three years from the date of the last event constituting the alleged violation for which the action is brought.

Sec. 42-9. Effect of invalidity; severability.

If any section, subdivision, paragraph, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

Sec. 42-10. After passage and publication, this Ordinance shall take effect on July 1, 2017.

Effective Date: This Ordinance shall take effect on July 1, 2017.

Approved and adopted this 5th of October 2016.

TONI PRECKWINKLE, President
Cook County Board of Commissioners

Attest: DAVID ORR, County Clerk



OFFICE OF THE STATE'S ATTORNEY
COOK COUNTY, ILLINOIS
CIVIL ACTIONS BUREAU

ANITA ALVAREZ
STATE'S ATTORNEY

500 RICHARD J. DALEY CENTER
CHICAGO, ILLINOIS 60602
AREA 312-603-5440

October 25, 2016

Honorable Sean M. Morrison
Commissioner – 17th District
Cook County Board of Commissioners
118 North Clark Street, Room 567
Chicago, Illinois 60602

CONFIDENTIAL ATTORNEY CLIENT COMMUNICATION

Re: Item 16-5768: Living Wage Ordinance

Dear Commissioner Morrison:

We received your request for advice with regard to the legality of a proposed ordinance (Item 16-5768) that purports to institute a countywide living wage mandate. You have also asked several related questions. The specific questions you have asked, our conclusions and a discussion of the reasons supporting our conclusions follow.

ISSUES AND CONCLUSIONS:

ISSUE 1

Question: “As a home rule government, does Cook County have the legal authority to create a Living (Minimum) Wage in the State of Illinois?”

Answer: Our legal conclusion is that Cook County lacks the home rule authority to enact such an ordinance.

ISSUE 2

Question: “Can you ascertain if a local home rule government in Illinois has attempted to establish their own minimum wage? If so, [have] there been any legal challenges?”

Answer: We know that the City of Chicago has enacted a living wage ordinance and that it has not yet been challenged. Regardless, we believe that the outcomes of lawsuits in other states challenging living wage legislation would not provide reliable guidance for Cook County with respect to Item 16-5768 because laws and state constitutions differ from state to state and as such, these other lawsuits offer little predictive value.

ISSUE 3

Question: “If this ordinance were enacted and then challenged in court in a protracted lawsuit is there a quantifiable measurement in place that calculates the time and expense for the State’s Attorney’s Office to defend this legislation?”

Answer: There is no way to precisely predict how long such a lawsuit would last or what resources would be expended in defending it. It has been our experience, however, that cases challenging Cook County’s home rule authority have taken two or more years to be decided in the Circuit Court and one or more years to be decided in the Appellate Court. Typically, one or two Assistant State’s Attorneys are assigned to lawsuits of this type.

ISSUE 4

Question: “Do municipalities have the ability through passage of their own Ordinance to “Opt-Out” of the Cook County Minimum Wage Increase Ordinance?”

Answer: If a municipality has enacted or subsequently enacts an ordinance that “conflicts” with the County’s living wage mandate ordinance, the municipal ordinance would be controlling within the geographic boundaries of the municipality.

DISCUSSION

Issue 1

As a home rule unit of local government, the County may exercise any power and perform any function pertaining to its government and affairs, including, but not limited to, the power to regulate for the protection of the public welfare. 1970 Ill. Const., art. VII, § 6(a). Notwithstanding the forgoing, if the home rule entity’s action does not pertain to its “government and affairs” it is invalid and the local unit of government may not legislate in that field.

The Illinois Supreme Court’s ruling in *Bernardi v. City of Highland Park*, 121 Ill. 2d. 1 (1988) directly calls into question the County’s home rule authority to enact Item 16-5768. As a general rule, the authority of home rule units under section 6(a) is limited in those fields where the State of Illinois has the greater or more vital interest in regulating. In *Bernardi*, the Illinois Supreme Court considered whether a home rule municipality must conform to the requirements of the Illinois Prevailing Wage Act. *Bernardi*, 121 Ill. 2d at 5. The court opined that “[e]stablishing minimum requirements to . . . improve working conditions has traditionally been a matter of State concern, outside the power of local officials to contradict, and it remains so today.” *Id.* at 14.

Although the facts in *Bernardi* involved a municipality’s attempt to ignore and thereby effectively lower the prevailing wage, whereas Item 16-5768 proposes to increase wages it must be emphasized that the Supreme Court characterized the local legislation as an attempt to “interven[e] in the workplace.” *Id.* at 14. Identifying a long list of statutes as within the scope of State labor regulations, the court opined that a departure from them was beyond the authority of a home rule unit because the State has a far more vital interest in regulating labor conditions than did local entities. *Id.* at 15-16. The court concluded that allowing home rule units to govern “local labor

conditions” would destroy the General Assembly’s “carefully crafted and balanced economic policies.” *Id.* at 16. Accordingly, we interpret *Bernardi* to stand for the proposition that local legislation that purports to regulate local labor conditions does not pertain to a home rule unit’s “government and affairs” for purposes of Section 6(a), and we believe that if challenged a court would likely find that the ordinance exceeds the County’s home rule authority.

We wish to briefly discuss a potential alternative argument that attempts to distinguish *Bernardi*’s application to attempts by local units of government to regulate workplace conditions. This alternative argument is premised upon a characterization of the *Bernardi* decision as one in which the court held that the State’s interest in the field of labor regulation is only to set *minimum* standards that can be exceeded by local units of government. *See, Bernardi*, 121 Ill. 2d at 14 (discussing “[e]stablishing *minimum requirements* to . . . improve working conditions has traditionally been a matter of State concern, outside the power of local officials to contradict, and it remains so today.” (Emphasis supplied). There are cases in which Illinois courts have upheld local laws that provide greater protection than state laws. *See, e.g., Crawford v. City of Chicago*, 304 Ill. App. 3d 818, 828 (1st Dist. 1999) (City of Chicago’s policy of extending benefits to same sex domestic partners upheld); *see also, Village of Bolingbrook v. Citizens Utilities Co.*, 158 Ill. 2d 133, 134-143 (1994) (environmental ordinances that regulate sewage discharge more restrictively than state law); *Kalodimos v. Village of Morton Grove*, 103 Ill. 2d 483, 501 (1984) (gun safety ordinance regulated hand guns more restrictively than state law).

Under this alternative argument, it could be argued that Item 16-5768 would pertain to the County’s “government and affairs” because it provides *more* protections to workers than state law requires. However, we believe that in light of the Supreme Court’s clear holding in *Bernardi* that labor regulations are *not* a matter pertaining to home rule units’ “government and affairs” and the fact that none of the local laws at issue in *Crawford*, *Village of Bolingbrook*, or *Kalodimos*, above, involved the regulation of local labor conditions, a court likely would find that the County is prohibited from legislating in the field of labor regulation regardless of whether Item 16-5768 purportedly improves local labor conditions.

Issue 2

The City of Chicago has enacted a living wage ordinance that has yet to be challenged. We are anecdotally aware that other municipalities have enacted similar legislation in other states. However, it bears mentioning that constitutions and labor laws vary from state to state. Accordingly, the outcome of litigation in out-of-state jurisdictions in which local living wage legislation is being challenged is not predictive of how Illinois courts would view the legality of Item 16-5768 were it to be enacted.

Issue 3

Were Item 16-5768 to be enacted and challenged, the State’s Attorney’s Office would be tasked with defending it in court. There is no way to precisely predict how long such a lawsuit would last or what resources would be expended in defending it. It has been our experience, however, that cases challenging Cook County’s home rule authority have taken two or more years to be decided in the Circuit Court and one or more years to be decided in the Appellate Court.

Regarding your question as to whether municipalities may “opt out”, we understand your use of that term to refer to the ability of a municipality to enact an ordinance that conflicts with the ordinance of a home rule county. In the instant situation, assuming that Item 16-5768 or similar living wage ordinance is enacted and a court finds it valid, such ordinance would be applicable countywide except to the extent that it conflicts with the ordinance of a municipality, home rule or not. Article VII, § 6(c) of the Illinois Constitution provides that “[i]f a home rule county ordinance conflicts with an ordinance of a municipality, the municipal ordinance shall prevail within its jurisdiction.” Please note that Section 6(c) does not distinguish between home rule and non-home rule municipalities.

The Report of the Committee on Local Government of the 1970 Illinois constitutional convention recognized the problem of legislating in the same field by both a municipality and a home-rule county not as a question or preemption of authority but as a matter of resolving conflicts in ordinances. (7 Proceedings 1591, 1646-1650.) In defining the problem to be resolved by section 6(c) the committee proposal states: “ * * * there may be differences or actual conflicts and inconsistencies between municipal legislation and county legislation. Some provision must be made to resolve these potential disagreements and conflicts.” (p. 1647).

The Illinois Attorney General has opined that “to the extent that a home-rule county ordinance and a municipal ordinance *actually conflict*, the municipal ordinance will be given effect within the municipality’s corporate boundaries.” See 1996 Ill. AG LEXIS 36 (Ill. AG 1996) (Emphasis supplied). The Attorney General relied on *Evanston v. County of Cook*, 53 Ill. 2d 312, 317 (1972) wherein the Court noted that in zoning, regulatory and licensing ordinances, “there are clear opportunities for contradictions and conflicts between the ordinances of the municipalities and ordinances of the county.” As such, it appears that, as a general rule, a county may not regulate within a home-rule municipality if that municipality has conflicting ordinances of its own.

Case law has not defined the word “conflict” for purposes of Section 6(c). Accordingly, what would be considered a “conflict” for purposes of Section 6(c) would have to be decided on a case-by-case basis. Thus, in the instant case, assuming that Item 16-5768 or similar living wage ordinance is enacted and found to be legally valid and a municipality (home rule or otherwise) either has enacted or subsequently enacts a “conflicting” ordinance, the municipal ordinance would be controlling within the geographic boundaries of the municipality.

Sincerely,

ANITA ALVAREZ
STATE’S ATTORNEY OF COOK COUNTY



Donald Pechous
Chief, Civil Actions Bureau



OFFICE OF THE STATE'S ATTORNEY
COOK COUNTY, ILLINOIS
CIVIL ACTIONS BUREAU

ANITA ALVAREZ
STATE'S ATTORNEY

500 RICHARD J. DALEY CENTER
CHICAGO, ILLINOIS 60602
AREA 312-603-5440

July 22, 2016

Honorable Sean M. Morrison
Commissioner – 17th District
Cook County Board of Commissioners
118 North Clark Street, Room 567
Chicago, Illinois 60602

CONFIDENTIAL ATTORNEY CLIENT COMMUNICATION

Re: Item 16-4229: Countywide Paid Leave Mandate

Dear Commissioner Morrison:

We received your request for advice with regard to the legality of a proposed ordinance (Item 16-4229) that purports to institute a countywide paid sick leave mandate. You have also asked several ancillary questions. The issues presented, our conclusions and a discussion of the reasons supporting our conclusions follow.

ISSUES AND CONCLUSIONS:

ISSUE 1

Question: Does Cook County have the legal authority to enact a paid leave mandate for private employers in both unincorporated and incorporated areas of Cook County?

Answer: Our legal conclusion is that Cook County lacks the home rule authority to enact a paid leave mandate for employers whether countywide or within unincorporated Cook County.

ISSUE 2

Question: Can the State's Attorney's Office ascertain the status of lawsuits challenging the authority of other local governments around the country to enact paid sick leave mandates?

Answer: We believe that the outcomes of lawsuits in other states challenging sick leave mandates would not provide reliable guidance for Cook County with respect to Item 16-4229 because laws and state constitutions differ from state to state and as such, these other lawsuits offer little predictive value.

ISSUE 3

Question: If Item 16-4229 were to be enacted and then challenged in court in a protracted lawsuit is there a quantifiable measurement in place that calculates the time and expense for the State's Attorney's Office to defend this litigation?

Answer: There is no way to precisely predict how long such a lawsuit would last or what resources would be expended in defending it. It has been our experience, however, that cases challenging Cook County's home rule authority have taken two or more years to be decided in the Circuit Court and one or more years to be decided in the Appellate Court. Typically, one or two Assistant State's Attorneys are assigned to lawsuits of this type.

ISSUE 4

Question: Did the author of Item 16-4229 seek an opinion and/or guidance from the State's Attorney's as to its legality and merit?

Answer: We are not at liberty to say whether any other person has requested advice from us as to the legality of item 16-4229.

ISSUE 5

Question: Does the imposition of a mandatory paid sick leave ordinance "fall within the county's domain of public safety or ministerial duties?"

Answer: We believe that this inquiry is related to Issue 1, above. As such, we reiterate our conclusion that Cook County does not have the home rule authority to enact a paid leave mandate for employers whether countywide or within unincorporated Cook County.

DISCUSSION

Any analysis regarding the validity of home rule power must begin with the legal question of whether the problem pertains to local government and affairs, as required by section 6(a) of the 1970 Illinois Constitution. As a home rule unit of local government, the County may exercise any power and perform any function pertaining to its government and affairs, including, but not limited to, the power to regulate for the protection of the public welfare and to tax. 1970 Ill. Const., art. VII, § 6(a). Notwithstanding the forgoing, if the home rule entity's action does not pertain to its "government and affairs" it is invalid and the local unit of government may not legislate in that field.

The Illinois Supreme Court's ruling in *Bernardi v. City of Highland Park*, 121 Ill. 2d. 1 (1988) directly calls into question the County's home rule authority to enact Item 16-4229. As a general rule, the authority of home rule units under section 6(a) is limited in those fields where the State of Illinois has the greater or more vital interest in regulating. In *Bernardi*, the Illinois

Supreme Court considered whether a home rule municipality must conform to the requirements of the Illinois Prevailing Wage Act. *Bernardi*, 121 Ill. 2d at 5. The court opined that “[e]stablishing minimum requirements to . . . improve working conditions has traditionally been a matter of State concern, outside the power of local officials to contradict, and it remains so today.” *Id.* at 14.

It must be emphasized that although the ordinance in question in *Bernardi* pertained to wages, the Supreme Court characterized the local legislation as an attempt to “interven[e] in the workplace.” *Id.* at 14. Identifying a long list of statutes as within the scope of State labor regulations, the court opined that a departure from them was beyond the authority of a home rule unit because the State has a far more vital interest in regulating labor conditions than did local entities. *Id.* at 15-16. The court concluded that allowing home rule units to govern “local labor conditions” would destroy the General Assembly’s “carefully crafted and balanced economic policies.” *Id.* at 16.

There is no existing Illinois law creating an obligation on employers to provide paid sick leave. We note that two bills, House Bill 4420 and Senate Bill 2789, creating the Earned Sick Time Act [30 ILCS 805/8.38 (new)] were introduced in late 2014, which if enacted would have provided for minimum requirements with regard to a mandatory accrual of sick time. However, these bills died at the end of the legislative session and no further action has been taken by the legislature. As such, the clearest guidance with regard to this issue rests with our Supreme Court. Consistent with the Illinois Supreme Court’s decision in *Bernardi*, there is a substantial likelihood that Item 16-4229 would likely be found not to pertain to the County’s “government and affairs” within the meaning of Article VII, § 6(a).

Other states have enacted preemption laws prohibiting cities, counties, and other state municipalities from passing mandatory paid sick leave laws. At least eleven states – Alabama, Arizona, Florida, Georgia, Indiana, Kansas, Louisiana, Mississippi, North Carolina, Tennessee, and Wisconsin have responded in this manner. For example, the Wisconsin state legislature, citing a need for statewide uniformity, passed a statute (W.S.A. § 103.10 (1m) (a)) nullifying a Milwaukee ordinance and prohibiting future local ordinances that required businesses to provide paid sick leave to employees. Notwithstanding the foregoing, it bears mentioning that constitutions and labor laws vary from state to state. Accordingly, the outcome of litigation in out-of-state jurisdictions in which local paid sick leave legislation is being challenged is not predictive of how Illinois courts would view the legality of Item 16-4229 were it to be enacted.

Were Item 16-4229 to be enacted and challenged, the State’s Attorney’s Office would be tasked with defending it in court. There is no way to precisely predict how long such a lawsuit would last or what resources would be expended in defending it. It has been our experience, however, that cases challenging Cook County’s home rule authority have taken two or more years to be decided in the Circuit Court and one or more years to be decided in the Appellate Court.

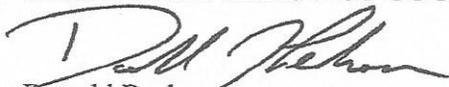
As to your remaining questions, we are not at liberty to say whether any other person has requested advice from us regarding Item 16-4229. Finally, we believe that your inquiry as to whether the imposition of a mandatory paid sick leave ordinance “fall[s] within the county’s

domain of public safety or ministerial duties” has been addressed by our above-stated conclusion that Item 16-4229 would not likely be found to pertain to the County’s “government and affairs” within the meaning of Article VII, § 6(a) of the Illinois Constitution.

We hope that we have been of assistance. Please feel free to call if you have any questions.

Sincerely,

ANITA ALVAREZ
STATE’S ATTORNEY OF COOK COUNTY

A handwritten signature in black ink, appearing to read "Donald Pechous", written in a cursive style.

Donald Pechous
Chief, Civil Actions Bureau



OFFICE OF THE STATE'S ATTORNEY
COOK COUNTY, ILLINOIS
CIVIL ACTIONS BUREAU

ANITA ALVAREZ
STATE'S ATTORNEY

500 RICHARD J. DALEY CENTER
CHICAGO, ILLINOIS 60602
AREA 312-603-5440

July 22, 2016

Honorable Timothy O. Schneider
Commissioner – 15th District
Cook County Board of Commissioners
118 North Clark Street, Room 567
Chicago, Illinois 60602

CONFIDENTIAL ATTORNEY CLIENT COMMUNICATION

Re: Item 16-4229: Countywide Paid Leave Mandate

Dear Commissioner Schneider:

We received your request for advice with respect to whether a proposed ordinance (Item 16-4229) that purports to institute a countywide paid sick leave mandate would have to be obeyed by home rule municipalities in Cook County or would only affect the unincorporated areas. Our advice is limited to the sole issue presented. The issue presented, our conclusion and a discussion of the reasons supporting our conclusions follow.

ISSUE PRESENTED:

Would an ordinance that requires employers in Cook County to give their employees paid sick leave be applicable countywide or only within the unincorporated areas of Cook County?

CONCLUSION:

Such ordinance would be applicable countywide except to the extent that it conflicted with the ordinance of a municipality, home rule or otherwise, in which case the municipal ordinance would prevail within the municipality's jurisdiction.

DISCUSSION

Article VII, § 6(c) of the Illinois Constitution provides that "[i]f a home rule county ordinance conflicts with an ordinance of a municipality, the municipal ordinance shall prevail within its jurisdiction." *It is critical to note that a municipality whose ordinance conflicts with Cook County's ordinance does not have to be a home rule unit of local government for its ordinance to prevail under Section 6(c).*

The Report of the Committee on Local Government of the 1970 Illinois constitutional convention recognized the problem of legislating in the same field by both a municipality and a home-rule county not as a question of preemption of authority but as a matter of resolving conflicts in ordinances. (7 Proceedings 1591, 1646-1650.) In defining the problem to be resolved by section 6(c) the committee proposal states: " * * * there may be differences or actual conflicts and inconsistencies between municipal legislation and county legislation. Some provision must be made to resolve these potential disagreements and conflicts." (p. 1647).

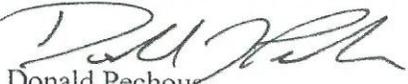
The Illinois Attorney General has opined that "to the extent that a home-rule county ordinance and a municipal ordinance *actually conflict*, the municipal ordinance will be given effect within the municipality's corporate boundaries." See 1996 Ill. AG LEXIS 36 (Ill. AG 1996) (emphasis supplied). The Attorney General relied on *Evanston v. County of Cook*, 53 Ill. 2d 312, 317 (1972) wherein the Court noted that in zoning, regulatory and licensing ordinances, "there are clear opportunities for contradictions and conflicts between the ordinances of the municipalities and ordinances of the county." As such, it appears that, as a general rule, a county may not regulate within a home-rule municipality if that municipality has conflicting ordinances of its own.

Case law has not defined the word "conflict" for purposes of Section 6(c). Accordingly, what would be considered a "conflict" for purposes of Section 6(c) would have to be decided on a case-by-case basis. Thus, in the instant case, if a municipality (home rule or otherwise) were to enact a "conflicting" ordinance relating to paid sick leave, that ordinance would be controlling within the geographic boundaries of the municipality.

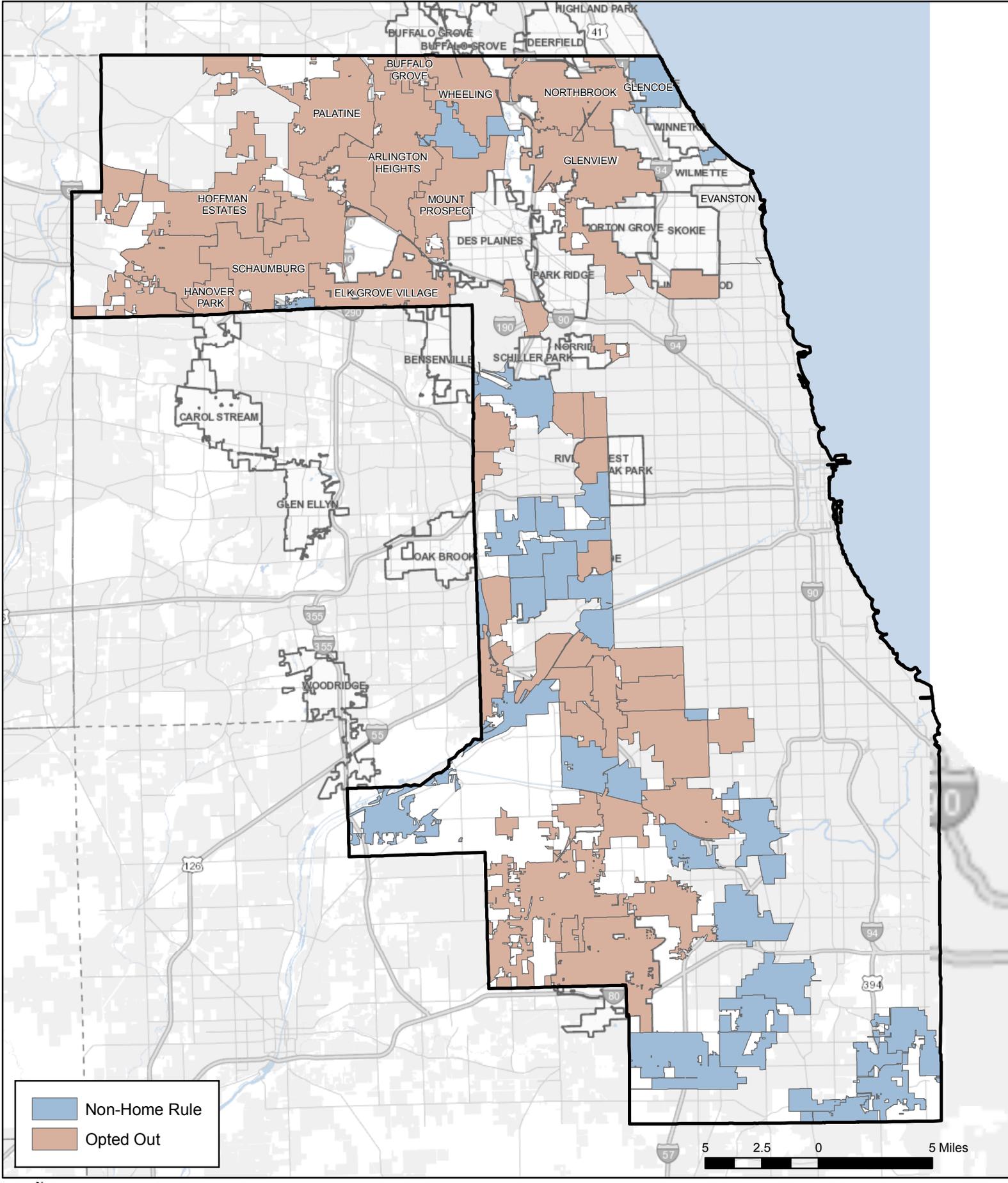
We hope that we have been of assistance. Please feel free to call if you have any questions.

Sincerely,

ANITA ALVAREZ
STATE'S ATTORNEY OF COOK COUNTY


Donald Pechous
Chief, Civil Actions Bureau

	A	B	C	D	E	F
1	OPTED OUT LIST OF MUNICIPALITIES			UPDATED: 5-26-17		
2	Alsip					
3	Arlington Heights					
4	Barrington					
5	Bartlett					
6	Bedford Park					
7	Berkeley					
8	Bridgeview					
9	Buffalo Grove					
10	Burbank					
11	Burr Ridge					
12	Elk Grove Village					
13	Elmwood Park					
14	Evergreen Park					
15	Hanover Park					
16	Harwood Heights					
17	Hickory Hills					
18	Hodgkins					
19	Hoffman Estates					
20	Indian Head Park					
21	Justice					
22	Mount Prospect					
23	Niles					
24	Northbrook					
25	Northlake					
26	Oak Forest					
27	Oak Lawn					
28	Orland Hills					
29	Palatine					
30	Palos Heights					
31	Palos Park					
32	River Forest					
33	River Grove					
34	Riverside					
35	Rolling Meadows					
36	Rosemont					
37	Schaumburg					
38	Streamwood					
39	Tinley Park					
40	Western Springs					
41	Wheeling					



Cook County Minimum Wage and Paid Sick Leave Opt Out Status



Date: 6/8/2017

