Living Wage Ordinances in the Public Sector

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During the last decade more than 100 governmental units (primarily cities) have implemented living wage ordinances. These regulations require private sector employers who receive public funds through subsidies and contracts to pay their workforces a wage based on “need” rather than “skill.” Such ordinances feature a minimum wage floor that is higher—often much higher—than the traditional minimum wages set by state and federal legislation. This paper provides a history of the living wage movement and presents its benefits and challenges to assist local authorities in decision-making regarding this controversial and politicized issue.

Introduction

Two key efforts in the United States wage movement attempt to assist low-income families in freeing themselves from poverty by increasing their incomes. The first involved the enactment of a minimum wage. That the goal of minimum wages is to raise incomes of low-wage workers so as to reduce poverty has been forcefully argued by Senator Edward Kennedy—a perennial sponsor of legislation to increase the minimum wage who was quoted as saying, “The minimum wage was one of the first—and is still one of the best—anti-poverty programs we have.” At the outset of the 20th century individuals and pro-labor organizations lobbied for a “just wage,” “fair wage,” “subsistence wage,” or “minimum wage” (such terms are frequently used interchangeably). This quest for wage reform turned to a fight for a legislated minimum wage and, ultimately, to the passage of the national Fair Labor Standards Act in the 1930s. Initially, the act was quite restrictive with respect to what employees were protected, but today coverage is now nearly universal. Numerous states have at times imposed a higher minimum wage than today’s $5.15 per hour. For example, as of January 1, 2004 the highest state minimum wages were Washington ($7.16), Alaska ($7.15), Connecticut ($7.10), and Oregon ($7.05).

The second effort in the wage movement involved the development of a living wage at local levels and is a more recent innovation. Demands for governmental intervention in the labor market periodically have arisen in response to poverty and inequalities brought about by socioeconomic change. Recently a number of books have addressed issues of the working poor and how laws at (chiefly) the city and county levels can be designed to assist these individuals not only in terms of a higher minimum wage but also with respect to medical coverage. Collectively, these local wage campaigns have emerged under the rubric of “living wage” statutes. A living wage involves local legislation that requires employers to pay a certain wage above the federal or state minimum wage level under predetermined conditions to a specific set of employees. In general, beneficiaries include employees of contractors or subcontractors with city service contracts or those businesses that have received economic development subsidies or financial assistance from cities or other...
governmental entities. Living wage mandates differ from a traditional minimum wage in that the living wage is, at least theoretically, tied to meeting some standard of living and only applies to employers who receive some benefit from the government. The goal of living wages, like that of minimum wages, is to raise incomes of low-wage workers in order to reduce poverty. For example, the Economic Policy Institute, a nonprofit, nonpartisan think tank that seeks to broaden the public debate about strategies to achieve a prosperous and fair economy, stated, “The living wage is a crucial tool in the effort to end poverty.”

A History of Living Wage

In 1994, Baltimore, Md. was the first major United States city to pass a living wage ordinance, followed a year later by ones in Milwaukee, Wis., and by Santa Clara County, Calif. A total of 31 ordinances were passed between December 1994 and July 1999. By mid 2004, according to the Association of Community Organizations for Reform Now’s (ACORN) Living Wage Resource Center, there were 120 entities (cities, counties, school boards, colleges, and universities) with living wage policies. ACORN also reported that initiatives were underway in 118 additional cities, counties, and universities, such as Little Rock, Ark.; Jacksonville, Fla.; Atlanta, Ga.; Richmond, Va.; Knoxville, Tenn.; the University of Pittsburgh, Swarthmore College, and Valdosta State College.

Such ordinances require wages to be paid based on some definition of need; that is, a wage that is commensurate with workers’ needs as consumers. A needs-based or consumerist understanding marks a departure from a more traditional one that asserts workers may expect wages corresponding to the value of the product(s) or service(s) they produce. Living wage opponents object to the idea of paying workers above that which they currently draw in the labor market, thus interfering with the workings of the free market.

Living wage ordinances have been selectively applied to private sector employees who receive public funds from city or county contracts or economic development subsidies to pay at least enough to keep a family of four out of poverty. Supporters of living wages argue that requiring a set level of wages in government contracts is nothing new and that, for example, the Davis-Bacon Act was enacted by Congress in 1931 and required that union-level wages (typically higher than non-union wages) be paid to all workers on federal construction projects. This concept was incorporated into many state laws and local ordinances which are commonly referred to as “prevailing wage” laws—a mandate still in force throughout the U.S., and one commonly accepted by both the buying and selling communities.

The “living wage” label communicates that the higher wage levels are closer to the pay that full-time workers need to support themselves and their families at a subsistence level. By restricting the beneficiaries of ordinances to a select group of full-time workers, advocates of living wages highlight the inherent moral worth of earning rather than receiving a living income and thereby negating the “...danger of the ‘undeserving’ poor receiving ‘something for nothing’”—an argument frequently leveled by opponents of welfare programs like Aid to Families with Dependent Children and Temporary Assistance for Needy Families.
The living wage movement in the United States has gained momentum and has become a significant local public policy trend as evidenced by those having implemented living wage laws over approximately the last decade. A number of trends in national and global economies may have contributed to these living wage campaigns and resulting ordinances. Some factors may be attributable to the growing gap between rich and poor, growth of the temporary workforce, mounting large scale layoffs, declining real wages, the loss of union membership, the failure of the federal government’s minimum wage to keep pace with inflation, and loss of various governmental supports for the working poor.

Even though living wage policies seem to be gaining popular support across the country, not all responses have been favorable. Opponents, such as former Michigan State Senator David Jaye (R), have gone so far as to introduce legislation to outlaw the living wage ordinances which were passed by five communities in southeastern Michigan. Jaye stated, “These bleeding heart liberal advocates of paying people an artificial high minimum wage are actually destroying the jobs of welfare recipients, minorities and young people.” Other states and lesser legislative governmental units have not taken such an adversarial approach and have basically acquiesced to the concept by doing nothing to prohibit it. With such an emotionally charged issue, legislative authorities, as well as public managers and administrators, must be prepared to address the concept.

Current Implementation

While living wage campaigns vary in scope, they generally are founded on two basic beliefs: 1) public tax dollars should not be used to subsidize employers who pay poverty-level wages and 2) workers who have full-time jobs should not be trapped in poverty. The Economic Policy Institute estimates that most living wage ordinances cover less than one percent of the local workforce. Even supporters understand the campaigns to be merely necessary first steps in poverty alleviation. Pollin and Luce argued that “among other things, successful living wage campaigns create political momentum that can be used to build support for more ambitious measures to eliminate low-wage poverty in the United States.” Thus, living wage campaigns appear to aim for short-term victories or small wins and then seek to extend those gains on a larger scale through a process of “imitation and diffusion” so that more and more political entities adopt living wages. Narrowing the coverage of ordinances to employees of contractors and sometimes of city or county governments enhances the passage of such ordinances. “The ultimate potential of a living wage campaign is not just changes in government policy, but the opportunity to take concrete steps toward building an economic democracy movement.” Indeed, this appears to be the case as a few cities seem to be moving from relatively narrow living wage laws to broader city minimum wage laws in an effort to help more low-income residents (Although citywide minimum wage proposals have been defeated in Houston, Texas; Denver, Colo.; Santa Monica, Calif.; and New Orleans, La., four municipalities now have city minimum wages: San Francisco, Calif.; Santa Fe, N.M.; Madison, Wis.; and Washington, D.C.).
Living wage regulations vary considerably in coverage and scope (see Table 1). Living wage levels are often explicitly pegged to the wage level needed for a family with one full-time, year-round worker to reach the federal poverty level. The rates specified by living wage ordinances range from a low of $6.25 in Milwaukee, Wis. to a high of $14.75 in Fairfax, Cali.26 Some ordinances incorporate yearly adjustments based on the annual update of the federal poverty index. Some calculate adjustments according to an inflationary index. Still others mandate that both of the above adjustment methods be computed and that the one producing the highest living wage be implemented.

Table 1: Information on Living Wage Laws (after ACORN*; Neumark and Adams**)  

<table>
<thead>
<tr>
<th>City</th>
<th>Coverage Specified in Legislation</th>
<th>Wage Provisions</th>
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<tbody>
<tr>
<td>Baltimore, MD</td>
<td>Construction and service contracts &gt; $5000.</td>
<td>Passed in December 1994 but wage requirements were as follows: July 1995 ($6.10); 2003 ($8.70)</td>
</tr>
<tr>
<td>Cincinnati, OH</td>
<td>The city itself as well as any city service contractor with a contract &gt; $20,000.</td>
<td>2003 ($8.70, $10.20 w/o health benefits)</td>
</tr>
<tr>
<td>Hartford, CT</td>
<td>Contractors &gt; $50,000; commercial development projects receiving subsidies &gt; $100,000</td>
<td>110% of poverty level with health benefits; 2003 ($9.54; $11.55 w/o health benefits)</td>
</tr>
<tr>
<td>Berkeley, CA and Marina</td>
<td>Direct city employees, businesses with city contracts, financial assistance recipients, and businesses that lease land from the city; later amended to include the Berkeley Marina, which is City-owned public land thereby creating first area-based living wage policy</td>
<td>2003 ($10.76; $12.55 w/o health benefits)</td>
</tr>
<tr>
<td>St. Louis, MO</td>
<td>Contractors and businesses receiving tax breaks</td>
<td>130% of poverty level for family of three (assuming 2080 hours annual hours with benefits, plus $1.39 per hour for health insurance: 2003 ($9.54, $11.63 w/o health benefits)</td>
</tr>
<tr>
<td>Burlington, VT</td>
<td>Direct city employees and employees working on city service contracts or for businesses that have received grants from the city of at least $15,000</td>
<td>2003 ($11.67; 13.49 w/o health benefits); wage rate adjusted annually guided by a state-issued “basic needs budget;” at least 12 compensated days of leave</td>
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Many ordinances include requirements for health benefits. For example, the Hartford Municipal Code provides that if health benefits are not given, compensation must be made based on the average cost of comprehensive health insurance in Connecticut. Most ordinances clearly state that no employer shall respond to its provisions by reducing health insurance benefits. Some living wage laws exempt certain categories of city contractors, such as nonprofit agencies. Many apply the requirements only to service contracts or business subsidy awards above a specific size, or to firms with a certain minimum number of employees. Most laws require employers to pay the higher wages and benefits only during the time that employees actually perform publicly funded work. Under some laws, the city or county may grant exemptions to individual firms that demonstrate that they cannot reasonably afford to pay their employees a living wage due to budgetary or other constraints.27

Posting, recordkeeping and reporting requirements, as well as penalties for violations, are often included in living wage ordinances. Actual compliance with living wage laws is generally left to the employer—subject to audit and verification by a political entity. If an employer is discovered to have violated the specific provision by not paying a living wage, the statutes generally impose some form of penalty, though there is no uniformity of penalties among the existing statutes. For example, a Somerville, Mass. ordinance not only suspends contract payments to employers if they fail to comply with its living wage law, but also imposes a $500 per week penalty for each employee found to have been paid incorrectly.28 Similarly, Hartford, Conn. demands that an employer provide adequate restitution as well as $100 per day for each violation. Hartford also exacts $100 for each day of noncompliance with posting requirements.29

<table>
<thead>
<tr>
<th>City/County</th>
<th>Living Wage</th>
<th>Living Wage w/o Health Benefits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sacramento, CA</td>
<td>$9.00</td>
<td>$10.50</td>
</tr>
<tr>
<td>Sebastopol, CA</td>
<td>$11.70</td>
<td>$13.20</td>
</tr>
<tr>
<td>Lawrence, KS</td>
<td>$9.53</td>
<td>$11.03</td>
</tr>
<tr>
<td>Port Hueneme, CA</td>
<td>$9.00</td>
<td>$11.50</td>
</tr>
<tr>
<td>Lansing, MI</td>
<td>$11.50</td>
<td>$11.50</td>
</tr>
<tr>
<td>Orlando, FL</td>
<td>$8.50</td>
<td>$8.50</td>
</tr>
<tr>
<td>Lakewood, OH</td>
<td>$9.20</td>
<td>$10.20</td>
</tr>
<tr>
<td>Dayton, OH</td>
<td>$8.80</td>
<td>$10.60</td>
</tr>
<tr>
<td>Arlington, VA</td>
<td>$10.98</td>
<td>$10.98</td>
</tr>
<tr>
<td>Ingham County, MI</td>
<td>$9.20</td>
<td>$11.50</td>
</tr>
<tr>
<td>Prince George’s County, MD</td>
<td>$10.50</td>
<td>$10.50</td>
</tr>
<tr>
<td>Santa Fe, NM</td>
<td>$8.50</td>
<td>$8.50</td>
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There are three prominent features of living wage laws nationwide. First, all living wage ordinances feature a minimum wage floor that is higher than the traditional minimum wages set by state and federal legislation. Table 2 provides wage data regarding cities and counties that have passed living wage ordinances in 2003.

Many ordinances are directly tied to guidelines establishing the federal poverty level—therefore automatically establishing a new wage level needed for a family each year, which is above this level (e.g., Milwaukee, Wis.; San Jose, Calif.; and St. Paul, Minn.). Thus, when the federal government defines new poverty guidelines each year, the living wages in such jurisdictions increase. Other localities, such as Los Angeles and Oakland, Calif., set an initial wage that is increased annually to take into account increases in the cost of living. Although these latter ordinances may not explicitly state the basis for setting the initial wage, poverty is undoubtedly an underlying factor.

A second feature of living wage ordinances is static family size, even though poverty levels vary dramatically depending on the number of children and adults in a household. Generally, ordinances do not consider the income of other family members. For example, if two adults of the same family work for a covered contractor both would receive the living wage, placing their combined family income well above the poverty level. These situations suggest that living wage laws may not target genuine family needs—a criticism also leveled at minimum wages. However, living wage laws may affect a substantially different set of workers than do minimum wages, implying that the effects of living wages on poverty require separate study.

Finally, coverage by living wage ordinances is far from universal. The most common coverage—and also the most narrow—is restricted to companies under contract with a given city or public entity and the percentage of workers covered is typically, as indicated earlier, in the one percent range. Some living wage laws are applied to companies receiving business assistance from the city. The least living wage coverage is that imposed on cities themselves in covering their own employees. Regardless, narrow coverage contrasts with minimum wage laws, which apply to nearly all workers. Thus, living wage laws impose high wage floors, have an antipoverty objective that is often reflected in the choice of the wage floor, and often apply to what may constitute a relatively limited group of workers.

Evaluating Living Wage Ordinances

As living wage ordinances become more popular, it is important to consider the effects of these laws on communities, low-wage workers, poor families and employers. Only then can policymakers, employer organizations, labor unions, worker rights alliances and voters make informed judgments regarding the merits and drawbacks of such regulations. Each community or public entity must determine whether or not the benefits of living wages outweigh the detriments. Legislative groups which are socially oriented are more likely to adopt a living wage concept, while those who are more fiscally oriented are less inclined to do so. Table 3 provides a summary of the arguments for and against living wage ordinances.
<table>
<thead>
<tr>
<th>Arguments for a Living Wage</th>
<th>Arguments against a Living Wage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Raise the living standard of individual workers and reduce urban poverty</td>
<td>1. Higher costs for employers will force them to cut jobs, increasing unemployment, and making poverty and welfare more likely</td>
</tr>
<tr>
<td>2. Reduce taxpayer costs and the need for services that subsidize poverty wages—like food stamps and food banks, energy assistance programs, and so on</td>
<td>2. Living wage ordinances will create a hostile business climate, discouraging firms from locating to cities having such wages</td>
</tr>
<tr>
<td>3. Firms impacted by living wage ordinances benefit through an enhanced sense of worker dignity and morale and thus higher productivity and reduced turnover</td>
<td>3. A better policy to create income and jobs is to provide an environment conducive to business investment, technology formation, and entrepreneurial initiative. Markets are powerful devices in creating good quality jobs. Fewer government mandates on wages let market forces work.</td>
</tr>
<tr>
<td>4. Communities in which the affected workers live will gain modestly when the workers bring home increased spending power into their communities</td>
<td>4. Public money, our taxpayer money, should not be used to subsidize poverty jobs</td>
</tr>
<tr>
<td>5. Full-time workers deserve a living wage because the minimum wage has not kept up with the rate of inflation.</td>
<td>5. Raising the minimum wage to a living wage is a very blunt instrument for fighting poverty, since low-wage workers are not always from low-income families.</td>
</tr>
<tr>
<td>6. Ensure that families removed from welfare will be able to support themselves</td>
<td>6. Currently employed low-wage workers may be displaced by better-qualified workers following the enactment of living wage laws. Employers will simply swap those unskilled laborers for more desirable employees. As long as they are paying the higher salary, they may as well hire the best person they can</td>
</tr>
<tr>
<td>7. A living wage is the proper, just, and ethical thing to do</td>
<td>7. Living wage hikes fail to accomplish their principal policy goal of raising incomes of poor or low-income families</td>
</tr>
<tr>
<td>8. Using tax dollars to maintain or create decent living standards in affected communities</td>
<td>8. Research conducted by independent economists report that the living wage laws have adverse economic consequences</td>
</tr>
<tr>
<td>9. Expand the tax base</td>
<td>9. Living wage ordinances will increase the costs of city contracts</td>
</tr>
<tr>
<td>10. Living wage ordinances enhance the skills of lesser skilled workers by providing them job experience.</td>
<td>10. Living wage ordinances ignore the fact that affected workers are paid so little because they have few skills.</td>
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</tbody>
</table>
Living Wage Supporters

Supporters of living wage ordinances are nearly always religious or faith-based social justice bodies, organized labor and/or anti-poverty community organizations. For example, Kwon, reporting the events of a San Diego City Council meeting about a proposed living wage ordinance, wrote, “Brandishing bright yellow ‘Living Wage Now’ stickers, supporters filled the seats of the assembly room with students and workers, as well as ministers and priests holding open Bibles on their laps and quoting scripture on their turn to speak.”

Living wage campaigns have made frequent use of religious themes. Figart argues that Christian social and economic thought has helped lay ethical foundations of the notion of a just living wage. Harvey observed that the impetus for the Baltimore living wage campaign in 1994 came from churches, “which set the tone concerning the definition of moral and civilized behavior that always enters into the determination of labor value.” The Chicago Jobs and Living Wage Campaign won the active support of the Archbishop of Chicago. A campaign appeal by the Detroit Living Wage Campaign made these religious undertones explicit: “We believe that a Living Wage is a basic morale [sic] right. ‘Don’t withhold wages of poor and needy laborers’—Deuteronomy 24:14-15. We ask that…you join with other congregations in a celebrating a Living Wage Sunday.”

National progressive/activist networks, such as ACORN, also have played an important role in linking with and lending support to local campaigns. In addition, the living wage fight has helped develop new and innovative organizing models, such as that of the New Party and community-student-labor alliances on campuses throughout the country. As a living wage campaigner remarked, “I think…[living wage campaigns] give activists opportunities to build broad coalitions among very different groups that normally don’t work on the same issues. How often do faith-based community organizers come to the same table with economists to discuss things? It’s not that these things don’t happen…but with campaigns around the country it’s happening much more frequently.”

Unions likewise have supported the idea of a living wage. For example, the AFL-CIO passed a resolution in 1997 to actively support local living wage campaigns. Additionally, economist David Neumark, who has studied the living wage movement, suggests that union self-interest has played a pivotal role in building momentum for living wage legislation. In assessing the effects of living wages on unionized municipal workers, Neumark suggested that ordinances may offer “higher-paid municipal workers protection from low-wage workers, rather than offering protection for low-wage workers. In particular, by raising the wages that city contractors must pay, living wage laws may reduce the incentives for cities to contract out work that would otherwise be done by municipal employees.” As a result, unions representing city workers have increased bargaining power.
Arguments for Living Wage Ordinances

The most common argument for proposing a local living wage ordinance concerns meeting the needs of poor families within cities. Supporters of living wages make strong claims that poverty will be reduced, even though a true level of poverty cannot be established. Pollin and Luce, for example, advocate living wages as a viable poverty-fighting tool that will deliver a higher standard of living for low-income families and ACORN states in its Web site that “Our limited public dollars should not be subsidizing a poverty-wage,” noting that in such cases “tax payers end up footing a double bill: the initial subsidy and then the food stamps, emergency medical, housing and other social services low wage workers may require to support themselves and their families even minimally.”

Proponents argue that the current federal minimum wage of $5.15 per hour is not a sufficient hourly wage for a full-time worker supporting a family. Consequently, many ordinances incorporate language addressing the issue of poverty within the title and purpose sections of the legislation. One city wrote, “Whereas, according to the 1990 Census, 14.9% of the residents of the City of Durham live in poverty; and whereas, it is beneficial to the health and welfare of Durham’s citizens to be paid a livable wage which enables them to not live in poverty....”

Living wage supporters also contend that businesses and organizations that receive substantial amounts of financial benefits and assistance from the city should be compelled to return some of that to the low-wage workers employed by the company. Businesses covered by living wage ordinances may have been awarded service contracts from the city in varying amounts from as little as $2,000 to upwards of $100,000. Proponents highlight the responsibility of employers who have specifically benefited from economic development credits and incentives to pay livable wages. For example, the Missoula Quality Job and Labor Protection Ordinance prescribes that businesses receiving financial assistance from the city for job creation and economic development must meet minimum standards for employment practices, including paying their eligible employees a minimum level of compensation.

As suggested earlier, proponents indicate that a living wage is a proper, ethical and right thing to do. A flyer circulated by Progressive Montgomery of Montgomery County, Md. with the heading, “Why People of Faith Should Support The Living Wage,” stated, “As people of faith, we know that religion tells us to intervene on behalf of the ‘least among us,’ the powerless, the poor. ‘Do not harden your heart and shut your hand against your needy kinsperson. Rather, you must...give to them readily’ (Deuteronomy 15: 7-8). Yet today, some of our needy kinspeople receive their too-low salary from the County—from us.” Thus, the unfortunate condition of working poor and the hardships they face become matters of ethical and communal responsibility.

Proponents suggest that the living wage movement is gaining momentum, has gone mainstream, and that even business seems to be in favor of this effort as
suggested in the title of an article in Business Week magazine which read, “What’s So Bad About a Living Wage?: Paying Above the Minimum Seems to Do More Good than Harm.” These are hardly the sort of conclusions hoped for by the living wage opposition, suggesting that the war of words and impact studies is being won by living wage supporters. If the opposition has learned anything from its setbacks, it is to “take nothing for granted when it comes to ordinances coming out of city hall.”

Living Wage Ordinances—The Negatives

Living Wage Detractors
The idea of living wages has not been without its detractors. The opposition has been comprised of the restaurant and hospitality industries, including the National Federation of Independent Business and the National Restaurant Association, local chambers of commerce, and the public policy think-tank—the Employment Policies Institute in Washington, D.C. In Living Wage Policy: The Basics, the Employment Policies Institute lays out the case against living wage ordinances, referred to derisively as “job killers” by the Grand Rapids Chamber of Commerce.

Arguments Against Living Wage Ordinances
Opponents generally maintain that a living wage law is not the best way to achieve a livable income. Communities, instead, should focus on education, training, and employment counseling, thus decreasing the tax burden for low-income workers. Opponents also argue that a living wage results in increased municipal budgets and taxes because of the increased administrative costs associated with the implementation of such proposals. Critics often highlight the inefficiencies and unintended consequences of living wage ordinances on the business community, the city and unskilled, low-wage workers.

More specifically, opponents argue that the primary goal of living wage ordinances—to lift families out of poverty—is generally not met in practice due to its narrow coverage. Typically these ordinances only apply to contractors and subcontractors within a city and the percentage of workers covered is usually in the one percent range. Thus, a relatively small number of individuals are actually covered under living wage ordinances and claims that poverty will be reduced may be exaggerated. Neumark and Adams examined poverty reduction effects. They compared the changes in poverty for workers in cities that have adopted living wages to changes in poverty for workers in cities that have not adopted them and found some evidence that living wage ordinances result in modest reductions in the likelihood that urban families live in poverty. Specifically, estimates indicate that a 50 percent increase in the living wage should, over the course of a year, raise average wages for workers in the bottom tenth of the wage distribution by 3.5 percent.
Opponents of living wage ordinances also argue that even fewer of the covered employees may actually represent workers supporting families. According to the 1998 Current Population Survey data, the vast majority of minimum wage earners do not support families. The percentage that do ranges from five percent in South Dakota to 24 percent in Mississippi, with the average being 15 percent for all states. Since most local minimum wage ordinances only cover employees of city contractors, the number of workers covered who are low-income families is minimal.55 Additionally, most low-wage workers do not live in families that are below the poverty line. Therefore, targeting low-wage workers, it is argued, is not an effective way to reduce poverty. The vast majority of entry-level wage earners either live with their parents, have a working spouse or are living alone without children. Just 15 percent are sole earners with children.56 However, the living wage calculation appears to rely on the assumption that there will be one wage earner supporting a four-person household. Admitting that many beneficiaries of living wage ordinances are teenagers, proponents cite statistics from recent research indicating that 72 percent of the 11.8 million people who would benefit from a living wage are older than 20. Opponents counter that the primary beneficiaries of minimum wage are not heading households and have other income sources, such as their parents.57

Despite the good intentions of some movement participants, critics assert that those individuals targeted to benefit from living wage ordinances may actually be harmed by their implementation in the end. Low-wage earners also tend to be low-skilled in many instances. Simply put, as mandated wages increase, employers have access to a broader choice of employees. The jobs are more desirable, and so a higher caliber of worker may apply. Depending on the goods or services under consideration, employers may employ fewer low-skilled workers (or more precisely, use fewer low-skilled hours), and more high-skilled labor. At the same time, forcing employers to pay more means some jobs will be eliminated altogether.58 Even more directly, one opponent indicates that, “The quickest way to kill jobs is to have this ordinance [living wage] pass. It is dumb and outrageous.”59

To further investigate the relationship between living wages and unemployment as suggested above, it might be helpful to examine the impact of minimum wages on unemployment because both the minimum and the living wage provide a legally mandated wage floor. Following this rationale, a literature review found that the elasticity of employment of low-skilled workers with respect to minimum wages was most likely between -0.10 and -0.20, that is, for every 10 percent increase in the minimum wage, employment of these low-skilled individuals falls by one to two percent.60 Additionally, a survey of economists asked them to provide their best estimates of minimum wage effects on employment.61 They found that the median “best estimate” of the minimum wage elasticity was -0.10, whereas the mean estimate was -0.21.62 Neumark, noting that empirical estimates from minimum wage studies may not carry over to living wages, conducted a study of 36 cities that had adopted living wage laws and found that such laws appear to reduce employment among the affected workers.63 Neumark
estimates that a 50 percent increase in the living wage would reduce the employment rate for workers in the bottom tenth of the skill distribution by seven percent. Thus, disemployment effects offset, to some extent, positive effects of living wage laws on the wages of low-wage workers, pointing to the tradeoff between wages and employment that economic theory would predict. Additionally, a 1999 study by the Vermont Legislature concluded that living wages have a negative effect on the availability of jobs. It seems, then, that living wages reduce employment of those with low skills, although the effect is relatively weak.

Additionally, columnist Paul Krugman, in reviewing Pollin and Luce’s book, *The Living Wage*, found the authors’ willingness to believe that “the price of labor...can be set based on considerations of justice, not supply and demand, without unpleasant side effects” specious. He went on to say that that living wage advocates do not realize “that wages are a market price—determined by supply and demand, the same as the price of apples or coal” and that “…the amorality of the market economy is part of its essence, and cannot be legislated away.”

Opponents of living wage ordinances have also voiced concern about rising costs and increased unionization. For example, Neumark believes that municipal unions work to pass living wage laws as a form of rent-seeking. Specifically, by forcing up the wage for contractor labor, they reduce or eliminate the incentive for cities to contract out work done by their members, and in so doing increase the bargaining power of municipal unions and raise wages of their members. There also appears to be abundant indirect evidence consistent with this belief as municipal labor unions have generally been very active in living wage campaigns; for example, the American Federation of State, County, and Municipal Employees was one of the major organizers of the Baltimore living wage campaign.

Finally, opponents argue that living wage activists are after nothing less than a national living wage; an ill-conceived, perhaps well-meaning, political strategy that, if successful, would almost certainly do irreparable damage to the economy. The title of an op-ed in *Crain’s Detroit Business* expresses this sentiment in an alarmist fashion, “Living Wage or Death Wish?”

**Practical Considerations**

Although living wages were introduced in Baltimore more than a decade ago, policymakers are typically not well-acquainted with the details of such ordinances. Therefore, before deciding on the merits and liabilities of such regulations it would be helpful if political leaders become familiar with the following two issues in designing living wage ordinances: key questions that should be answered when considering implementing living wage legislation and challenges that need to be addressed prior to a vote for a living wage ordinance. These questions and challenges are designed to provide direction to policymakers as they deliberate living wage proposals.
Key Questions With Respect to Living Wage Ordinances

Wage Level
- How will a new minimum wage be selected? Will it be tied to a specific measurement like 130 or 140 percent of the federal poverty line?
- Will the political entity specify two separate wage levels that take into account whether or not an employer provides health benefits?
- How and when will increases in the base wage be determined?

Scope of Coverage
- Which employers and employees will be affected by a living wage ordinance? Direct city/county employees? Employees of contractors/subcontractors who have been awarded service contracts? Any business or organization that has received economic development subsidies or other financial assistance from the city?
- Will there be exceptions for certain categories of city contractors such as nonprofit agencies?
- Which employees will be eligible to receive the new wage level? All full-time or part-time employees? All workers employed in businesses with more than 10, 20, or 50 employees? Just those working on specific contracts? Only employees in specific job fields like security?
- Will the ordinance identify a specific minimum dollar amount for contracts and subsidies to specify which employers would be required by law to pay a living wage to eligible employees? Any dollar amount? Contracts greater than $2,000, $50,000, or $100,000?

Enforcement
- Which city/county department will oversee implementation and enforcement of living wage ordinances? How will it identify and monitor which firms must adhere to the regulations? What kind of reporting will be required by participating businesses?
- If violations occur, what kind of penalties should be imposed on businesses? One-time monetary fines? Fines and back-wages due to covered employees? Immediate suspension of a service contract and/or future prohibition from bidding for other contract awards or financial assistance?
- Will there be any protection or assistance for employees who file complaints or risk losing their jobs because of the imposition of new higher wages?

Miscellaneous
- Are there any state restrictions with respect to local living wage ordinances?
- How many workers and/or families will be affected by implementation of a living wage?
- What is the overall family income status of those who will likely earn this living wage?
• In what types of families will living wage earners be living? Are the workers single or married? Are they heads of their households? Will they be the sole-earners in their family or one of many?
• What are the realistic total costs of a living wage beyond wage increases? Hidden costs?
• What percentage of the beneficiaries represent the sole breadwinner in a family of two, three, or four people?
• What percentage of the beneficiaries are single adults living alone, with no dependents? (Single adults rise above the current poverty line even with an income based on the federal minimum wage of $5.15 per hour.)
• What recourse is available for those who lose their positions due to an increase in wages because of the adoption of a living wage law? What public assistance benefits would be accessible to these people if layoffs occur?
• With a higher mandated wage rate, would employers choose to hire a different kind of employee—perhaps one with more experience, better English language skills, more education? Would employers opt to automate certain functions or provide a lower level of service (thus requiring fewer employees) to compensate for the higher wage costs?
• Could a living wage proposal make it harder for people to move off welfare into the workforce, or harder to re-enter the workforce if they become unemployed?
• Would city contractors affected by a living wage proposal reduce their employment base or decline to expand employment in areas they might otherwise enter?

In addition to answering the above questions it would also be helpful if political entities considering a living wage also carefully examine challenges presented below that may need to be addressed.

**Challenges**

Like any new directive, living wage policies bring their share of challenges to the affected political entity. Because living wage statutes have been designed to target organizations having contractual relationships with a jurisdiction (or wishing to have a contractual relationship) the following challenges of implementing a living wage policy relate to working with contractors and include:

- integrating social policy within existing practices;
- providing clear direction to the contractor community;
- ensuring policy compliance through contract administration; and
- facing the dilemmas of fiscal impact and cost control.

**Integration with Existing Practices**

Public procurement is highly regimented and rule-bound. A given agency can have countless policies and procedures, and everything from bid advertisement to bid
opening, to contract award. To protect the integrity of the public bidding process, and to ensure a fair and level playing field for all contractors, many entities adopt procedures that are consistent with the American Bar Association’s Model Procurement Code for State and Local Governments. These practices have withstood the tests of time, but with the adoption of a living wage policy they may need to be revised, since a living wage requirement effectively increases bid prices for contracts. This can create a quandary for public officials who are taught early in their careers to secure the lowest priced contract.

**Notice to Contractor(s)**

It is not a coincidence that the service areas targeted by living wage policies (e.g., custodial, security, parking attendant) are historically some of the lowest paid. Within these affected industries, contractors must learn to adjust their way of doing business. To assist potential contract holders in structuring their bids and to make them aware of the living wage requirements, the solicitation documents need to provide clear direction. Public purchasing officers use standard documents for both invitations to bid and request for proposal processes. These standard boilerplates may need to be revised in order to more accurately reflect the new living wage expectations during contract performance. Whether communicated in writing, verbally, or both, the message of living wages needs to be heard loud and clear. Political entities enacting a living wage should consider including the requirements within their public notice. Other methods of highlighting this unique contractual obligation could include bolding or underlining the area of the bid that describes living wages and discussing the issue with potential contractors at pre-bid conferences.

**Compliance Requirements and Problems**

A key challenge for governmental units is the enforcement of the living wage policy during contract performance. After all, the governing body’s intent in passing such a resolution is to have the contractor’s employees actually receive the proper wages. One of the worst things that could happen is to work through the political process and adopt a living wage policy, only to find later that the contractor doing the work was ignoring the requirement.

Consequently, with the enactment of living wage ordinances follows the burden to enforce the legislation’s provisions. Cities incur substantial costs for introducing reporting requirements, monitoring compliance, establishing grievance procedures for eligible employees, and imposing sanctions against covered businesses. For example, Rochester, New York’s living wage ordinance provides that:

“Covered employers shall provide to the city publicly available annual reports of job titles and wage rates of covered employees during the term of the service contract....and shall provide such reports at the beginning and end of the contract....The covered employer shall permit representatives from the city
to observe the work being performed at its place of work; furthermore, the covered employer shall permit said representative to interview employees and to examine its books and records relating to employment and payroll...Complaints by covered employees shall be made within one year of the date of the violation and shall be investigated promptly by the city...”

Such activities can entail substantial dollars and critics contend that the financial costs of compliance with living wage ordinances may force contractors to pass along those costs to the city as well as consumers of services, or cause businesses to move outside of the community.

It is, therefore, imperative that controls be put in place when drafting the contract that allow for the enforcement of properly paid employee wages. These controls might include posting a notice in the work area of the affected workers, or even auditing the contractor’s payroll records. The latter method is commonly used when a governmental unit receives a wage complaint from a worker.

Oversight and control will require the most attention right after policy implementation or whenever a new contractor begins work. Once procedures are established and both parties are clear about compliance with the wage requirements, it is likely that the contract will require less time and administration. Rather than continual oversight, a quarterly review may be more appropriate.

**Fiscal Impact and Cost Control**

As governments at all levels face shrinking budgets, the tendency is to outsource services in an effort to reduce operating costs. Many types of services that historically have been performed by a political entity’s workforce, including those covered by living wage policies, are now being contracted out to private firms. The driving motivation, of course, is the need to reduce costs. However, in the case of living wages, a requirement is established that will inevitably increase costs. (For an opposing view see Elmore.) When governments build such a requirement into its service contracts, the cost of providing for it will be ultimately passed on to the governments adopting such legislation. When companies are preparing their bids and proposals, they factor in wages, benefits, overhead, profit, etc., and they will need to adjust their bid amounts to cover the increased wages.

The dilemma for public managers is that they are faced with implementing a public program that is potentially costly, while being asked to “do more with less” at the same time. Undoubtedly, as economies weaken and budgets are tightened, issues of cost will come to the forefront in the decision making process regarding living wage policies. Just as other social programs come under scrutiny, so will the living wage. As with other controversial and costly programs, public officials will need to provide the necessary leadership to the organization’s administration. New approaches to purchasing that look beyond total cost and employee wages in contractor selection may be appropriate in addressing this tension.
A Local EITC as an Alternative to a Living Wage Ordinance

Analysts assessing living wage laws, and policymakers contemplating their implementation should give consideration to comparisons among alternative methods of reducing poverty. One such approach involves refundable tax credit programs which are methods of distributing assistance to low-income residents that gives money back to workers in excess of the total amount of income tax they pay. The federal Earned Income Tax Credit (EITC) is the largest refundable tax credit and the largest federal aid program targeted to the working poor and equals a percentage of earned income, up to a maximum amount. The credit increases as earnings increase, up to the maximum amount and then remains constant until earnings reach the phase-out threshold. It phases out as income increases about the threshold. There are separate phase-out thresholds and phase-out rates for income tax filers with zero, one, and two or more qualifying children. The thresholds are indexed for inflation. Working poor people can receive refunds even if they owed no federal income tax since refunds offset largely what they paid in payroll taxes.

It has enjoyed wide bipartisan support. For example, The Democratic Leadership Council indicated that the EITC is the single most effective mechanism in supplementing the income of those low-wage earners who have families while the well-known conservative economist and Nobel laureate Gary S. Becker praised the EITC for aiding poor families without reducing employment, discouraging work, or increasing reliance on public assistance. Becker wrote that the EITC “rewards rather than penalizes poor families with working members....Empirical studies confirm the prediction of economic theory that the EITC increases the labor force participation and employment of people with low wages because they need to work in order to receive this credit.” Becker also applauded the EITC for being “fully available to families with both parents present, even where only one works and the other cares for their children....”

Since 1993, 16 states and the District of Columbia have built on the federal framework by enacting their own versions of the EITC that “piggyback” on the federal model. The majority of those states have adopted a refundable approach, including Colorado, the District of Columbia, Illinois, Indiana, Kansas, Massachusetts, Minnesota, New Jersey, New York, Oklahoma, Rhode Island, Vermont, and Wisconsin. Three states—Iowa, Maine, and Oregon—have instituted a non-refundable credit, meaning that families only receive a credit to offset their state income taxes. Uniquely, Maryland offers taxpayers a choice of a refundable or non-refundable credit. In the majority of states, the state version of the EITC equals a percentage of the federal credit—ranging from five percent in Illinois to 43 percent in Wisconsin.

In a study commissioned by the Employment Policies Institute, a nonprofit research organization dedicated to studying public policy issues surrounding employment growth, researchers compared living wage initiatives with an EITC provided at the local level and found that a locally operated EITC was more effective at reducing poverty than a living wage. Specifically, researchers compared the benefits
of “broad” (applicable to many employers, for example, all employers receiving business assistance from a city) and “narrowly” (applicable to more limited number of employers, for example, only those employers having contracts with a city) targeted living wage laws to a new phenomenon, localized EITC programs, and found that only 12 percent of families affected by a broad living wage were below the poverty level, while only 26 percent of those affected by a narrow living wage were officially in poverty. However, 44 percent of EITC programs were shown to be far more efficient in reaching this group. It seems then that if cities are most concerned with helping poor families, EITC programs are shown to be far more efficient in reaching this group. Either type of living wage, i.e., broad or narrow, affects a large number of families that are not near poverty. More than 70 percent working families benefiting from living wages have family incomes that are more than one and a half times the poverty level, while only 13 percent of EITC-eligible families fall into this category.

These findings should be examined more closely as policymakers debate strategies of addressing poverty in their areas of responsibility. It seems that a local EITC may be a viable alternative that promises much greater impact on poverty. Currently one city and one county have developed local EITCs that show promising results with such initiatives costing less than contractor-based living wage ordinances and reaching more families genuinely in need. Montgomery County, Maryland enacted a 15 percent refundable EITC in 1999. In order to provide the credit, the county initially contracted with the state comptroller’s office. Qualifying families were sent additional checks which were paid from county funds levied from income taxes. The state of Maryland subsequently passed legislation to allow inclusion of any county EITCs on the state’s tax form although no other county has taken advantage of this provision. Supporters of the county EITC cited the fact that the intention was to help families in poverty while not causing a budget increase similar to those that have been cited in many living wage budget studies. More recently, Montgomery County Executive Doug Duncan indicated that “The EITC is one of the most successful social policies of the last two decades. As opposed to less well-targeted approaches, the EITC benefits the vast majority of working families with children that are poor or near poor.”

Denver, Colorado has also implemented a local EITC, which is funded by the city’s share of the Colorado federal Temporary Assistance for Needy Families block grant. Started on January 22, 2002, the Denver EITC was set at 20 percent of the federal credit. Preliminary analyses indicated that the program is successful and was listed as one of the city’s “best practices” by the mayor. In summary, we are cautiously optimistic (because of the limited samples) that a local EITC may be more beneficial than a living wage ordinance in ensuring that no American family with a full-time worker should have to live in poverty.

Conclusions

In recent years, living wage ordinances and campaigns have emerged as grassroot responses to the declining real value of the minimum wage, the growth of a low-wage
service sector, and widening economic disparities. In an effort to improve the lot of low-income families, the living wage movement seeks to pass local ordinances requiring private businesses benefiting from public money (generally from cities or counties) to pay their workers a living wage. While living wage ordinances have been passed in over one hundred jurisdictions, it should be noted that some municipalities and counties have repealed such legislation, and some ordinances declared in violation of state constitutions. For example, the city council of Omaha, Neb. simply repealed the ordinance after one year (over the veto by the mayor) and the living wage ordinance passed by the city of New Orleans was subsequently invalidated by the state supreme court as being unconstitutional because it was said to usurp the power of the state.

This victory for the opposition at the state level has prompted others, including Arizona, Colorado, Utah, Missouri, and Oregon to follow suit by specifying that only states can set minimum wages. A review of other political entities that have repealed or invalidated living wage laws did not seem to illustrate a pattern or logic for such repeals, nor does there appear to be a consistent legal theory regarding the unconstitutionality of such ordinances. Nevertheless, when a jurisdiction is considering the implementation of living wages it would behoove all concerned parties, specifically the members of the legislative authority, to thoroughly review past decisions where living wage ordinances have been overturned.

Many other issues need to be explored before policy analysts can feel confident that they have a well-established set of findings from which to draw strong conclusions. These other issues might include the effect of living wages on municipal budgets, the extent to which higher labor costs are absorbed by contractors or passed through to cities, the implications of living wages for economic development, their effects on productivity and the provision of city services, the effectiveness of compliance and enforcement, and the effects of living wages on unemployment and overall economic welfare. The findings in each case may well differ, depending on the local economy and the specific law considered.

As has been seen, living wage supporters have advanced a limited and closely circumscribed agenda to increase worker pay. The ordinances are justified by advocates as restricting business practices viewed as harmful to the social good, and highlighting the ways that ordinances benefit those who work full-time, not just any citizen, and contribute to their independence. There is a simultaneous downplaying of the ways that ordinances undercut or interfere with free markets. Opponents highlight this very tension and point to the negative consequences that may flow from such governmental action and by pointing out that there may be more effective alternatives to living wage ordinances.

Notes


10 Glickman, L.B., op. cit., p. 132.


14 Ibid.


21 Pollin, R. and S. Luce, op. cit., p. 3.


25 While living wage laws generally apply only to municipal workers or employees at businesses with municipal contracts, city minimum wage ordinances apply to all private business in the city. For example, Santa Fe, N.M. enacted an $8.50 minimum that applied to all businesses requiring a license or registration from the city, and San Francisco voters similarly approved a citywide minimum wage of $8.50. Indeed, the Brennan Center for Justice noted that “Broader city minimum wage laws are an attractive option because they help more struggling families but don’t involve new costs for cash-strapped city budgets.” Brennan Center for Justice (2003). *Q & A on the new city minimum wage movement*. Retrieved May 30, 2004, from http://www.brennancenter.org/programs/living_wage/City_Minimum_WagesQA_110403.pdf.


32 Ibid.


40 Nadeem, S., op. cit.


42 Nadeem, S., op. cit.


Ordinances sometimes provide a collective bargaining “opt-out.” If the contracting companies ensure the rights of collective bargaining, then they can pay workers slightly below the proposed living wage as the benefits accruing from bargaining are expected to outweigh the marginal differential in wages.

46 Pollin, R. and S. Luce, op. cit.


48 Durham, North Carolina Ordinance #11333.

49 Missoula, Montana Ordinance #3169.

50 Nadeem, S., op. cit.


The 2000 model procurement code for state and local governments. Chicago, IL: Author.


Elmore, A.J., op. cit.


Internal Revenue Service (nd). EITC Overview. Retrieved May 27, 2004, from http://www.irs.gov/individuals/article/0,,id=96406,00.html. “The Earned Income Tax Credit (EITC), sometimes called the Earned Income Credit (EIC), is a refundable Federal income tax credit for low-income working individuals and families. Congress originally approved the tax credit legislation in 1975 in part to offset the burden of social security taxes and to provide an incentive to work. The credit reduces the amount of Federal tax owed and can result in a refund check. When the EITC exceeds the amount of taxes owed, it results in a tax refund to those who claim and qualify for the credit.”

Income and family size determine the amount of the EITC and the amount is adjusted slightly each year. On 2003 returns, the maximum credit can be as much as $4,204 for workers supporting two or more children. A worker with one child can get up to $2,547 with the credit: $382 is available to a childless eligible employee. See also The Brookings Institution, Center on Urban & Metropolitan Policy (2001, June). Rewarding work: The impact of the earned income tax credit on greater Denver. Retrieved May 28, 2004, from http://www.brook.edu/es/urban/eitc/denver.pdf.


Democratic Leadership Council, op. cit.


Democratic Leadership Council, op. cit.


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