

SUBJECT: Prohibiting municipalities from setting higher than federal minimum wage

COMMITTEE: Economic Development — favorable, without amendment

VOTE: 4 ayes — J. Keffer, Homer, Hughes, Wong

1 nay — Rodriguez

2 absent — Isett, Thompson

WITNESSES: For — Jeff Clark, National Federation of Independent Business; Richie Jackson, Texas Restaurant Association; Scott Joslove, Texas Hotel and Motel Association

Against — Walter Hinojosa, Texas AFL-CIO; Jason Sabo, Center for Public Policy Priorities; Rosalie Tristan, Valley Interfaith; Richard Troxell, Universal Living Wage Campaign

BACKGROUND: Labor Code, chapter 62 governs the minimum wage in Texas. Sec. 62.051 requires employers to pay their employees the federal minimum wage as defined by the Fair Labor Standards Act of 1938, currently \$5.15 per hour. Texas municipalities may set base wages that are higher but not lower than the federal minimum wage, although no city has adopted such a policy.

DIGEST: HB 804 would prohibit a municipality from adopting a minimum wage for private employers that is higher than the federal minimum wage, except for wages under a public contract. The minimum wage provided by Labor Code, chapter 62, which defers to the federal minimum wage, would supersede any wage set in a municipal ordinance or charter provision. The bill would not apply to an ordinance, charter provision, or contract governing tax abatements or to any state or federal job training or workforce development program.

The bill also would delete portions of the Labor Code, already superseded by federal law, that allow payment of a wage lower than the federal minimum wage for certain elderly and physically or mentally impaired people.

The bill would take effect September 1, 2003.

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**SUPPORTERS SAY:** HB 804 would keep the minimum wage uniform across Texas by preventing any locality from establishing a separate minimum wage. Congress has determined the desirable minimum wage across the nation, and it would be unwise and disruptive for cities to adopt their own minimum wages. Wage uniformity would ensure simplicity, efficiency, and a level playing field for businesses across the state.

Without HB 804, nothing would prevent a city from adopting an artificially high minimum wage while a neighboring city does not. Any restaurant or retailer in the higher-wage city would be hampered by inflated labor costs and a lower profit margin, resulting in an unfair competitive advantage for similar businesses in adjacent lower-wage cities.

The existence of different minimum wages across the state would cause an accounting nightmare for businesses with offices in multiple communities, which would have to consider and keep track of different regulations across the state. For example, a person who worked in multiple communities might have to be paid different wage rates in different communities. There is no way to predict how different wage rates would influence businesses' investment decisions, but some businesses likely would not move into communities that required inflated wages for employees.

Enactment of HB 804 would prevent artificially high wage rates and would allow the labor market to determine the appropriate wage for workers. If a community adopted an artificially high minimum wage, many businesses could not employ as many workers at the higher wage. Layoffs, higher unemployment, and inflation resulting from such a policy would harm both businesses and workers.

HB 804 would eliminate the need for expensive, wasteful public information campaigns in cities that might consider raising their minimum wage. When Houston considered establishing a higher minimum wage in 1997, businesses had to spend more than \$1 million informing citizens as to why the proposal was a bad idea. HB 804 would prevent multiple minimum-wage campaigns from coming up in different cities, or even in the same city multiple times.

HB 804 would leave local control intact by allowing a municipality to enact a higher base wage for its own employees, for employees of companies that

contracted with that municipality, and for employees of companies receiving tax abatements or other incentives. Under this bill, a municipality could set higher wages for employees whose jobs involved expenditure of public funds but could not dictate business decisions to private employers.

Community organizations in some cities across the country have tried to raise the minimum wage independent of federal action. The City of Santa Fe, N.M., recently adopted a base wage of \$10.50 per hour for all private employers, and several other cities are considering similar proposals. The shaky legal ground for such ordinances has not slowed efforts to impose these so-called “living wages.” HB 804 would halt this movement before it becomes a more serious threat in Texas.

HB 804 also would delete archaic portions of the Labor Code that conflict with federal law. Although irrelevant now, these sections offensively state that employees with certain mental and physical disabilities do not have to be paid the federal minimum wage. The bill would reinforce Texas’ commitment that no one should be paid less than the federal minimum wage.

**OPPONENTS  
SAY:**

HB 804 would abrogate local control for cities across Texas. Although no city in Texas has chosen to adopt a living wage, municipalities should be allowed to consider, debate, and decide on this issue for themselves. Every Texas city is unique, and local voters should be able to decide if a living wage is a good idea for their community.

Because the costs of housing, health care, child care, and other necessities vary greatly across the state, it is unreasonable to assume that one uniform minimum wage is appropriate for all Texas communities. Historically, Texas has allowed workforce policy to be set at the local level, since people at the local level know best how to manage their economies. Enactment of HB 804 would erode the ability for communities with vastly different economic conditions to determine what is best for their citizens.

Many Texas cities need a living wage ordinance because the federal minimum wage is so low. The federal government’s failure to offer meaningful wage protection to workers has forced local communities to bear the cost of the working poor through higher public expenditures for homeless shelters, food

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banks, health care, and law enforcement. HB 804 would tie the hands of cities that are looking for ways to protect their citizens.

Arguments about the negative effects of higher minimum wages are dubious. If low-income people have more money in their pockets, their additional spending on food, clothing, and housing will stimulate and expand a local economy. Also, because higher wages tend to reduce job turnover and related training needs, a living wage can improve economic efficiency and reduce unemployment. In any case, a local government should have authority to evaluate the economic arguments on both sides of the living-wage issue to determine if such a policy is right for that community.