

# **A HAWAII LIVING WAGE LAW: CONTRACTED STATE SERVICES**

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## FOREWORD

This study was undertaken in response to House Concurrent Resolution No. 62, H.D. 1, S.D. 1, adopted during the Regular Session of 2000. For the first time, certain wage data were compiled regarding employees of private companies doing work for the State. To the extent possible, the three branches of state government reported on whether private companies doing work for them had paid their own employees below a hypothetical living wage for Hawaii. The study also reviews the experience of other jurisdictions that have implemented a living wage law. Finally, as requested by the Resolution, a draft of proposed legislation for a Hawaii living wage law is attached.

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## Fact Sheet

### A HAWAII LIVING WAGE LAW: CONTRACTED STATE SERVICES

#### I. Highlights

1. This study attempts to gather wage data for employees of private firms that have contracted to perform work for the State in FY 1998 and FY 1999. All state agencies in the three branches of state government were polled.
2. Most agencies (or their attached entities) had some work contracted out to private firms. About half did not pay their contracted private sector workers below a hypothetical Hawaii living wage during the two years under study.
3. A "living wage," in jurisdictions that mandate them, is pegged to federal poverty guidelines. Generally, it must be enough to enable a family of four to remain above the federal poverty level. The poverty level in Hawaii in 1998 was \$18,920. Thus, in 1998, a hypothetical Hawaii living wage would have been \$9.10. In 1999, it would have been \$9.24. This is based on 40 hours of work per week for 52 weeks.
4. This study found that 583 employees who worked for private firms on contract with the State were paid below the hypothetical Hawaii living wage. The accuracy of this number should not be viewed as ironclad. It remains subject to certain limitations, including possible overstatement. Taken in the context of a statewide labor wage law, this number is relatively small.
5. This study also presents a brief overview of living wage laws, including the Baltimore, Los Angeles, and Chicago living wage ordinances and their effects.
6. A living wage law for Hawaii state government, if implemented, would have a much greater impact than any existing living wage law in other jurisdictions. By design, living wage ordinances have been targeted at the smallest and lowest jurisdictional levels of government, i.e. towns and cities. No living wage law has been implemented on a statewide basis or made to apply to an entire state government. Hawaii's state government takes on many responsibilities ordinarily falling to cities or counties in other states. Thus, its comparatively larger role would magnify the impact of a statewide living wage law.

## II. Frequently Asked Questions

1. What is the difference between a "living wage" and a "minimum wage?"

A minimum wage merely establishes a floor for hourly wages that workers must be paid. Aside from the federal minimum wage, states set their own minimum wage levels.

Supporters intend a "living wage" to be higher than a minimum wage. To do this, they define a living wage as an hourly rate of pay to enable one full-time wage earner to earn enough income to maintain a family of four above the federal poverty level. Federal poverty level guidelines are revised yearly by the Department of Health and Human Services. Calculations of the living wage invariably result in substantially higher rates of pay than either the federal or state minimum wages.

2. Are living wage laws the same everywhere?

No. In terms of coverage, living wage laws have expanded to include employers and entities other than those contracted to perform government services. Some have expanded coverage to all businesses within a certain geographic area regardless of whether or not the firms have contracted to perform government services. Nonprofits, lessees and tenants of firms receiving aid, loan recipients, and other beneficiaries of government assistance such as bond financing, tax increment financing, tax credits, economic development aid, etc., have also been required to pay their workers living wages. Some ordinances require all workers in an affected firm to be paid living wages. Others limit the law to workers actually engaged in the contracted work.

In terms of benefits, the amount of living wages differs across jurisdictions depending on the federal poverty level for a particular state. In addition, living wage laws have added benefits beyond wages. Some include health benefits, paid vacation and sick days, paid and unpaid emergency days and other benefits, including preferential community hiring practices, job creation requirements, and preferential treatment of labor unions.

3. Do living wage laws work?

Supporters say they do. Opponents say they don't. Supporters say the cost is minimal and that city governments and firms can afford them. Opponents say they are not cost-effective and that more efficient and targeted means of income redistribution, such as the federal earned income tax credit can be used. Aside from the findings of "economic hired guns", ultimately, the issue is a political one.

# Chapter 1

## INTRODUCTION

H.C.R. No. 62, H.D. 1, S.D. 1: This Resolution (Appendix A) directs the Legislative Reference Bureau to collect data on the number and percentage of private sector workers performing state work who may be affected by a hypothetical Hawaii living wage law. The Resolution also requests data on other living wage jurisdictions (Baltimore, Los Angeles, and Chicago). The Resolution finally requests a draft of proposed legislation for a Hawaii living wage law.

Rationale for the Study: According to the Resolution, the state government has privatized certain work activities in order to maximize the State's limited resources. However, the Legislature is concerned that by having done so, the state government might be acting against the public interest by allowing its private contractors to pay their employees wages too low to live on. As a result, the Legislature wishes to find out whether, and to what extent, the state government plays a part in paying low wages – below a hypothetical living wage for Hawaii – to employees of its private contractors. Neither the state government nor the private sector has previously reported how many private sector workers doing work for the State were paid below a living wage. As a result, the Legislature directed the Bureau to compile the relevant data.

Limitations of the Study: The chief limitation of the study is obvious: no one keeps the data that the Resolution requests. There are many reasons for this. Foremost is the absence of any legal requirements. There is no overarching law or statewide contractual mandate that requires the reporting of such data.

Living wage laws across the country are comparatively new. No jurisdiction in Hawaii has a living wage law. Thus, there is no benchmark for, nor interest in, wage comparisons. As a result, private firms have no reason to keep such records. It would have been expensive and required substantial effort for a private firm to identify and report, on its own initiative, how many workers were paid below a certain wage for state work. It would not have served any purpose. For much the same reasons, the various divisions of state government that contract with private firms also do not keep this type of data.

There is a further limitation on data accuracy. Specifically, reported wages may not be accurate if, unknown to the reporting agency, a private sector worker also receives wages paid by other employers. For example, a hypothetical state agency may have allocated \$4,160 to pay for, say, a groundskeeper for a year. Assuming that the gardener works four hours a day, five days a week for fifty-two weeks under the contract, the hourly wage works out to just \$4.00.<sup>1</sup> This would obviously fall below not only the hypothetical Hawaii living wage but also the federal and state minimum wages.

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1. This calculation is:  $((\$4,160 / 52 \text{ weeks}) / 5 \text{ days}) / 4 \text{ hours}) = \$4.00$ .



However, the groundskeeper may also work additional hours for other clients who pay additional wages under separate contracts. In reality, the contracted private firm probably pays its groundskeeper more than \$4.00 an hour. The point is, a government employer does not know – and cannot be faulted for not knowing – how much other employers may be contributing to an affected private sector worker's wages.

*Focus of the Study and Definition of Living Wage:* The study focuses on discovering the scope of payment of private sector workers by state government agencies below a hypothetical Hawaii living wage.

A "living wage," in jurisdictions that mandate them, is pegged to federal poverty guidelines. Generally, it must be enough to enable a family of four to remain above the federal poverty level. The poverty level in Hawaii in 1998 was \$18,920.<sup>2</sup> Thus, in 1998, a hypothetical Hawaii living wage would have been \$9.10. In 1999 and 2000, it would have been \$9.24 and \$9.43, respectively. This is based on 40 hours of work per week for 52 weeks.<sup>3</sup>

*Organization of the Study:* Chapter 2 offers a brief background to the living wage and presents a listing of enacted living wage laws in other jurisdictions. Chapter 3 looks at several jurisdictions that have implemented a living wage law. Chapter 4 presents the results of a survey of Hawaii's state government entities with regard to paying private sector workers below a hypothetical Hawaii living wage. Chapter 5 offers some conclusions. A bill for a living wage law for Hawaii, as required by H.C.R. No. 62, is attached as Appendix B.

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2. Federal Register: (1) February 24, 1998, vol. 63, no. 36, pp. 9235-9238 for 1998; (2) March 18, 1999, vol. 64, no. 52, pp. 13428-13430 for 1999; and (3) February 15, 2000, vol. 65, no. 31, pp. 7555-7557 for 2000.

3. The calculation is: (\$18920 / 2080).

## Chapter 2

### A BRIEF BACKGROUND ON THE LIVING WAGE AND TABLE OF ENACTED LIVING WAGE LAWS IN OTHER JURISDICTIONS

*Baltimore:* The first living wage ordinance imposed in a major city was enacted in Baltimore, Maryland in December, 1994, effective on July 1, 1995. The law ordered private companies that do city-contracted work to pay their workers \$6.10 in 1996. The rate rose to \$7.70 by 1999. Thereafter, the living wage is adjusted for inflation.<sup>1</sup>

*Expansion of Scope, Coverage, and Wage Levels and Benefits:* Since then, the scope, coverage, and level of wages and benefits of living wage laws have continued to expand. For example, in addition to a living wage, Detroit's law (Ordinance 45-98, effective 12/16/98) also requires "fully paid comprehensive family medical coverage"<sup>2</sup> to be given to the workers of firms, including non-profits, with city contracts worth more than \$50,000. Without medical coverage, the wage rises to 125% of the federal poverty level. Firms receiving financial assistance are also covered. The Detroit ordinance defines "financial assistance" to include any federal grant program administered by the city, revenue bond financing, planning assistance, tax increment financing, tax credit, or any other form of assistance, if the purpose of the assistance is economic development or job growth. The recipient's contractors, subcontractors, or leaseholders (tenants) at subsidized sites are likewise covered.<sup>3</sup>

San Francisco's ordinance adds a minimum of 12 days paid vacation and 10 unpaid days for family emergencies in addition to health coverage.<sup>4</sup> Proposed versions of living wage laws in Santa Monica, California would expand the scope of coverage to include *all* businesses having 50 or more employees in the city's tourist center. Businesses with city contracts and those receiving city grants or subsidies would also be covered.<sup>5</sup> According to ACORN (Association of Community Organizations for Reform Now), a national living wage advocacy organization:<sup>6</sup>

Increasingly, living wage coalitions are proposing other community standards in addition to a wage requirement, such as health benefits, vacation days, community hiring goals, public disclosure, community advisory boards, environmental standards, and language that supports union organizing.

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1. Baltimore, Ordinance No. 442, 1994.
  2. Detroit Regional Chamber of Commerce website: [www.detroitchamber.com](http://www.detroitchamber.com) (hereafter "Detroit website").
  3. Detroit website.
  4. San Francisco Small Business Network website: <http://www.sfsbn.org/sfsbn/common>.
  5. Employment Policies Institute, *Living Wage Policy: The Basics*, 2000 (hereafter "EmPI"), pp. 2, 3, 66, 67, 73, & 74.
  6. Association of Community Organizations for Reform Now (ACORN) website: <http://www.livingwagecampaign.org/introduction.html> (hereafter "ACORN website").

As can be seen from the following outline of a living wage law, created by ACORN, such an ordinance can range from a few basic elements to an extensive array of mandates.<sup>7</sup>

**Elements of a Living Wage Ordinance  
An Outline of Questions to Grapple With  
Created by ACORN in March of 1999**

**I. "The Basics"**

1. Wage level
2. Scope of coverage
  - Direct city and/or county employees?
  - City or county contractors and/or subcontractors?
  - Recipients of city or county economic development assistance/subsidies ?
  - Contractors of economic development assistance recipients?
  - Tenants or leaseholders of economic development assistance recipients?
3. Covered Workers
  - All workers employed by covered employer?
  - Just workers employed on contract or assisted project?
  - All employees working within the city or county limits?
  - How much of their time must be spent on project before they're covered?
4. Thresholds for coverage
  - By dollar value of contract or subsidy?
  - By number of employees?
  - Are there different thresholds for different types of assistance?
5. Monitoring/Disclosure, Enforcement, and Sanctions
6. Duration of Coverage

**II. Possible "Add-ons"**

- Indexing the wage
- Health benefits

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7. ACORN website: <http://www.livingwagecampaign.org/elements-of-a-living-wage-ordinance.html>.

- Job creation requirements -- maximum cost per job (e.g. must create X jobs for every \$10,000)
- Community hiring
- Vacation days and/or sick leave
- Union-friendly language/organizing handles (retention, collective bargaining supersession, labor peace considerations, etc.)
- Community oversight board
- Up-front reporting and regular disclosure of wage and hiring info

**III. Possible exemptions (to consider ... or to beware of!)**

- Construction or other work covered by prevailing wage laws
- Contracts for goods, as opposed to service contracts
- "Hardship" waivers
- Non-profits (CEO to lowest paid worker ratio cutoff, phase-ins, employee thresholds)
- Loans
- Redevelopment authorities, airport and port authorities, etc.
- Summer youth jobs programs
- Part time and temporary workers
- Welfare-to-work trainees or "workfare" workers
- New businesses
- New employees

The following sections present pros and cons of living wage laws found in the general literature.

*General Arguments in Favor of Living Wage Laws:* According to Robert M. Pollin, minimum wage studies show that national increases in the *minimum wage* have always been followed by job gains, not job losses. The implication is that the same thing will happen after mandating a higher *living wage*.<sup>8</sup> Advocates cite studies of Baltimore and Los Angeles that claim living wage ordinances in those jurisdictions did not produce layoffs and would not increase unemployment, respectively.<sup>9</sup> General arguments in support of living wage laws include the following:

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8. Ibid.

9. New Party website: <http://www.newparty.org/livwag/> (hereafter "New Party website").

- Local living wage laws add little to business costs, and virtually nothing to government costs.<sup>10</sup> Advocates cite the Baltimore study, which concluded that the real cost of city contracts experienced a statistically significant decline after Baltimore began requiring service contractors to pay their employees a living wage.<sup>11</sup>
- The cost of a living wage law is minimal. According to Pollin: "The living wage is, on average, one percent of total spending by businesses. If a business wants a city contract, they will absorb these costs, or the city will find someone cheaper."<sup>12</sup> The study of the original Los Angeles living wage proposal concluded that the ordinance would cause no net increase in the city's budget, no employment loss, and no loss of city services. In fact, the study projected a \$33.3 million savings primarily by reducing the need for food stamps and health entitlements.<sup>13</sup>
- The cost of the living wage is not enough to make businesses leave communities. According to Pollin: "The types of firms that might leave are ones who have a high enough proportion of low-wage workers to make it cost-effective enough to leave. The number of firms like that is relatively few."<sup>14</sup> Advocates point out that service companies, such as cleaning and security services, are captive and are unlikely to move out of the cities in which they work.<sup>15</sup>
- Under the "fairness" argument, companies that receive a benefit from the government in terms of a tax abatement, economic development aid, reduced rent, favorable leasehold terms, or other financial incentives should "give back" to the community by providing a decent living wage for workers.
- Living wage campaigns also are useful and productive organizing tools for low-wage urban residents to become actively involved in their economic fates.<sup>16</sup>

General Arguments Opposing Living Wage Laws: Opponents cite the same Baltimore study but point to flaws in the data ranging from "egregious misrepresentations" to "fabricated information" which they claim invalidate the study's conclusions.<sup>17</sup> Opponents also cite other studies that draw opposite conclusions. For example, the Chicago study concluded that a living wage law would cost the city 1,300 jobs, the city's employers \$37,500,000 a year, and

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10. Samuel, quoting Robert M. Pollin and Stephanie Luce in The Living Wage: Building a Fair Economy (New York: The New York Press), 1998.

11. New Party website.

12. Samuel, quoting Robert M. Pollin.

13. New Party website.

14. Samuel, quoting Robert M. Pollin.

15. New Party website.

16. Jared Bernstein, "The Living Wage Movement: Pointing the Way Toward the High Road," in Community Action Digest, Spring 1999; also in The Living Wage Movement—Viewpoints, Economic Policy Institute website: [http://www.epinet.org/webfeatures/viewpoints/LW\\_movement.html](http://www.epinet.org/webfeatures/viewpoints/LW_movement.html).

17. EmPI, p. 15.

the city \$20,000,000 in extra costs of which more than 20% would go to administrative costs.<sup>18</sup> General arguments in opposition of living wage laws include the following:

- Higher wages create less demand for low-wage labor so employers hire fewer low-wage workers, or require them to work fewer hours, thus hurting the group that living wage laws are meant to help.
- If employers do not lay off workers, they may not accept a loss in profits but try to offset the increased cost by increasing worker productivity or passing the cost of higher wages through to the jurisdiction and consumers.
- Higher wages generate new competition for jobs from better-qualified workers who displace existing low-wage workers. These displaced workers then re-enter the job market at below living wage rates or may not find jobs at all, thus hurting the group the laws are meant to help.
- A company that contracts to perform work for the government does not receive an unfair benefit compared to companies that do not perform government contract work. To require it to "give back" a fair share in the form of higher wages and benefits does not make sense under the "fairness" argument. In fact, having to pay higher wages inequitably hurts that company's ability to compete with other companies not required to pay higher wages.
- Higher wages force employers to move or relocate elsewhere, taking all existing or potential jobs away with them.
- Living wage laws force government contractors to pay workers more, which increases the amount that local governments must pay those contractors for contracted work.<sup>19</sup>
- Earned income growth among the lowest income workers can result in precipitous reductions in state and federal public benefits, substantially offsetting or negating gains in net family income. This may also cause a state to lose inflexible federal transfer payments.<sup>20</sup>

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18. George Tolley, Peter Bernstein, & Michael Lesage, Economic Analysis of a Living Wage Ordinance, RCF Economic & Financial Consulting (Employment Policies Institute: July 1999), pp. 11, 28. This was a study done originally in 1996 for a proposed ordinance. The final form of Chicago's ordinance, passed in 1998, was a scaled-down version with lesser economic and labor ramifications.

19. Samuel.

20. EmPI, p. 20 citing Thomas Kavet, Deborah Brighton, Douglas Hoffer, and Elaine McCrate, Vermont Legislature, Act 21 Research and Analysis for the Legislative Livable Income Study Committee, November 1999.

- Not all low-wage workers are from low-income families. Thus, mandating living wages for low-wage workers may not directly target and help low-income workers.<sup>21</sup>
- A better method to target low-income workers is to use the federal Earned Income Tax Credit (EITC), which helps only low-income persons regardless of what specific wage level they are at, and which brings external (federal) funds into the community.
- Benefits received through the EITC do not count against income in calculating eligibility for other means-tested benefits.
- Private companies are not limited to working only on government contracts. Their workers also produce goods and services sold on the private market where these companies suffer adversely from the law of supply and demand. Thus, private companies covered by living wage laws are put at an unfair disadvantage when they are forced to raise wages for all their workers.

Status of Living Wage Initiatives: The following table draws on data generated by both proponents and opponents of living wage laws.<sup>22</sup> The table lists jurisdictions that have already implemented living wage laws. The table further lists companies and entities the laws apply to and details mandatory living wage and benefit levels for each jurisdiction.<sup>23</sup>

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21. According to E. Douglass Williams and Richard H. Sander in An Empirical Analysis of the Proposed Los Angeles Living Wage Ordinance (Los Angeles: Fair Housing Institute), January 2, 1997, p. 7, as quoted in EmPI, p. 23: "[a] majority of low-wage workers are not the sole or even principal source of income in their household or family. Of those low-wage workers who do not live alone, less than one-quarter are the only wage earner in the family. The average low-wage worker's earnings make up less than one-third of the family's total income. As a result, most low-wage workers do not live in families that are below the poverty line."
  22. (1) EmPI; and (2) ACORN "Living Wage Successes: A Compilation of Living Wage Policies on the Books" on the ACORN website at <http://www.livingwagecampaign.org/living-wage-wins.html>.
  23. The calculation of a living wage varies among living wage ordinances, accounting for variations in wage levels among jurisdictions. Although not apparent, some assume 2,000 rather than 2,080 hours of work per year (2 weeks off). Amounts reported also vary because wage levels are based on the federal poverty index over different years.

## Current Living Wage Initiatives

LOCALITY	WAGE REQUIREMENT	APPLIES TO	TYPE OF PROPOSAL	STATUS
Allegheny County, PA	\$9.12	County workers; contractors and subcontractors	Administrative Code	Enacted June 2000 Council passed administrative code including living wage language; Mayor vetoed code; Council overrode veto
Baltimore, MD	\$7.10 in 1998; \$7.70 in 1999 (based on prevailing wage; 12/2/98 proposal calls for \$7.90 beginning in July 1999)	Construction and service contracts over \$5K	City ordinance	Enacted in December 1994; increase pending as of December 1998; efforts are now underway to extend a living wage to private employees
Boston, MA	\$8.42; indexed to cost of living increases, promotes community hiring, establishes adv. Board	City agencies and contractors over \$100K and subcontractors over \$25K; amended later to exempt companies receiving asst. Mayor has announced plans to raise wage July 2000	City ordinance	Enacted mid-1997; Amended in September 1998
Buffalo, NY	\$6.22 in 2000, \$7.25 in 2001, \$8.08 in 2002 w/benefits; \$7.22 in 2000, \$8.15 in 2001, \$9.08 in 2002 w/o benefits	City contractors and subcontractors over 50K with at least 10 employees	City ordinance	Enacted July 1999
Cambridge, MA	\$10.00	City employees, companies with city contracts > \$10K, recipients of city assistance > \$10K, subcontractors	City ordinance	Enacted May 1999
Chicago, IL	\$7.60	Contractors and subcontractors w/ 25 or more full time workers	City ordinance	Enacted July 1998
Cook County, IL	\$7.60	Service industry contractors and subcontractors of any size required to pay stipulated wage to workers on awarded contract	County ordinance	Enacted September 1998
Corvallis, OR	\$9.00	Contractors >5K	Ballot initiative	Enacted November 1999
Dane County, WI	100% poverty level and health benefits (approximately \$8.20)	County employees and county contractors	County ordinance	Enacted March 1999
Dayton, OH	\$7.00	City employees only	City ordinance	Enacted April 1998 (original ordinance included contractors)
Denver, CO	\$8.20 (based on poverty level for a	City contractors and subcontractors with	City ordinance	Enacted February 2000



*A HAWAII LIVING WAGE LAW: CONTRACTED STATE SERVICES*

LOCALITY	WAGE REQUIREMENT	APPLIES TO	TYPE OF PROPOSAL	STATUS
	family of four	contract > 2K, for parking lot attendants, security guards, child care workers, clerical workers		
Des Moines, IA	\$7.00 minimum, with goal of \$9.00	Non-management full-time employees at businesses receiving assistance	City ordinance	Enacted in 1988; amended to include \$9.00 "goal" in July 1996
Detroit, MI	Indexed to federal poverty level (currently \$9.02) with benefits; 125% of federal poverty level (currently \$10.25) without benefits	Contractors and subcontractors > \$50,000 annually; businesses receiving assistance > \$50,000 annually	City ballot initiative	Enacted November 1998
Duluth, MN	Must pay 90% of employees \$6.50 w/ health benefits; \$7.25 without, indexed to inflation	Companies receiving city economic development assistance > \$25K	City ordinance	Enacted July 1997
Durham, NC	Hourly wage of city employees (\$7.55 as of 10/98)	All city employees and contractors	City ordinance	Enacted January 1998
Gary, IN	"prevailing wage"	Recipients of tax abatements	City ordinance	Enacted in 1991
Hartford, CT	110% of the federal poverty level for a family of four (currently \$9.02)	City contractors > \$50K and commercial development projects that receive subsidies > \$100K	City ordinance	Enacted October 1999
Hayward, CA	\$8.00 with benefits; \$9.25 without; adjusted yearly with the area's cost of living	City employees and city contractors > \$25,000	City ordinance	Enacted April 1999
Hidalgo County, TX	\$6.75 January 2000; \$7.50 January 2001	County employees; state and federal funded programs controlled by county	County ordinance	Enacted July 1999
Hudson County, NJ	150% of the federal minimum wage, currently \$7.73, with benefits and paid vacation	County service contractors working at least 20 hours per week	County ordinance	Enacted January 1999
Jersey City, NJ	\$7.50	Service Contractors	City ordinance	Enacted June 1996
Los Angeles County, CA	\$8.32 with benefits \$9.46 without	County contractors  Amended to include only contractors with greater than 20 employees, with annual gross income exceeding \$1 million (\$2.5 for technical or professional service)	County ordinance	Enacted June 1999. Later amended to exclude businesses with 20 or fewer employees

*A BRIEF BACKGROUND ON THE LIVING WAGE*

<b>LOCALITY</b>	<b>WAGE REQUIREMENT</b>	<b>APPLIES TO</b>	<b>TYPE OF PROPOSAL</b>	<b>STATUS</b>
Los Angeles, CA	\$7.39 with benefits, \$8.64 without; 10 paid days off; indexed to inflation yearly;  campaign underway to raise wage to \$10.00	Businesses with city contracts over \$25K; companies receiving more than \$100K annually/\$1m onetime grant; amended to include airport workers	City ordinance	Enacted in March 1997, after the council overrode a mayoral veto; amended in August 1998
Madison, WI	105% of poverty level for a family of four (2000) \$8.61; 110% in 2001 (\$8.83); (initially 100% poverty level for a family of four in1999)	Companies w/ assistance > \$1 00K; non-profits with grants over \$5K; non unionized city employees	City ordinance	Enacted March 1999
Memphis, TN	"prevailing wage"	Contractors/subcontractors on publicly funded projects	City ordinance	Enacted April 1999
Miami-Dade County, FL	\$8.56 with benefits, \$9.81 without benefits	County employees, contractors/subcontractors, airport employees	County ordinance	Enacted May 1999
Milwaukee (city), WI	Indexed to poverty level for a family of three (currently \$6.80)	Service contracts over \$5K	City ordinance	Enacted November 1995
Milwaukee (county), WI	\$6.25	Service employees of county contractors	County ordinance	Enacted May 1997
Milwaukee (school district), WI	\$7.70	School employees and contractors	Board measure	Enacted January 1996
Minneapolis, MN	100% of federal poverty level for a family of four, plus benefits; 110% without benefits (currently \$9.02 with benefits)	Contractors and companies receiving subsidies > \$100K for projects earmarked for "job creation;" expanded to cover projects > \$25K	City ordinance	Enacted March 1997
Multnomah County, OR	July 1998 - \$7.50; July 1999 - \$8.00	Janitorial and security contracts; foodservice contracts to be added in 2000.	County ordinance	Enacted June 1996; amended to increase wage in October 1998
New Haven, CT	Based on federal poverty level for a family of four; 2000 115%; (currently \$9.43)	Service contractors	City ordinance	Enacted May 1997
New York, NY	Based on prevailing wage for specific industry as determined by city controller	Service contracts	City ordinance	Enacted September 1996
Oakland, CA	\$8.30 with benefits, \$9.55 without; 12 paid days off, 10 unpaid days off	Businesses and non-profits with service contracts > \$25K or receiving > \$100K in subsidies; plan to expand ordinance to cover Port.	City ordinance	Enacted April 1998

*A HAWAII LIVING WAGE LAW: CONTRACTED STATE SERVICES*

<b>LOCALITY</b>	<b>WAGE REQUIREMENT</b>	<b>APPLIES TO</b>	<b>TYPE OF PROPOSAL</b>	<b>STATUS</b>
Omaha, NE	\$8.19 w/benefits; \$9.01 without	City employees; companies receiving > \$75,000 assistance and city contractors with contracts > \$75,000 (with greater than 10 employees); amended to exempt development block grants, leaseholders and tenants	City ordinance	Enacted February 2000
Orange County, NC	\$8.00	All county employees	County ordinance	Enacted July 1998; discussion regarding expansion to contractors
Pasadena, CA	\$7.25 w/ benefits; \$8.50 without	City employees; major contractors	City ordinance	Enacted September 1998
Portland, OR	July 1998 -\$7.50, July 1999 - \$8.00	Contractors must pay service employees	City ordinance	Enacted in May 1996; amended April 1998
San Antonio, TX	\$9.27 to 70% of service employees in new jobs; \$10.13 to 70% for durable goods workers	Businesses receiving tax break	City ordinance	Enacted July 1998
San Fernando, CA	\$7.25 with benefits; \$8:50 without; six compensated & six uncompensated days off	Service contracts > 25K	City ordinance	Enacted April 2000
San Jose, CA	\$9.50 w/benefits; \$10.75 w/out; also with "labor peace" measure that would make it easier for unions to organize	Contracts > \$20,000, with some exemptions; also applies to some part-time city employees	City ordinance	Enacted November 1998
Santa Clara County, CA	\$10 with health benefits or suitable alternative	Manufacturing businesses benefiting from tax abatements	County ordinance	Enacted September 1995
Somerville, MA	\$8.35	Covering all city employees; employees of city contractors and subcontractors	City Ordinance	Enacted May 1999
St. Paul, MN	100% of federal poverty level for a family of four, plus benefits; 110% without benefits (currently \$9.02 with benefits)	Contractors w/exceptions, companies receiving over \$100K economic dev. assistance per year	City ordinance	Enacted January 1997
Tucson, AZ	\$8.00 w/benefits; \$9.00 without benefits	City contractors, excluding construction workers and companies that hold a city franchise	City ordinance	Enacted September 1999

*A BRIEF BACKGROUND ON THE LIVING WAGE*

<b>LOCALITY</b>	<b>WAGE REQUIREMENT</b>	<b>APPLIES TO</b>	<b>TYPE OF PROPOSAL</b>	<b>STATUS</b>
Warren, MI	Equal to federal poverty level for family of four (currently \$8.20 with benefits); 125% of federal poverty level without benefits (\$10.25)	City contractors and companies receiving subsidies >50K	City ordinance	Enacted January 2000
West Hollywood, CA	\$7.25 w/benefits, \$8.50 w/out benefits	Service contracts > \$25K or > 3 months	City ordinance	Enacted September 1997
Ypsilanti, MI	\$8.50 with benefits, \$10.00 without	Businesses with contractors > \$5K; under-10 employee businesses exempted, but non-profits with > \$10K in aid	City ordinance	Enacted May 1999

## Chapter 3

### LIVING WAGE LAWS – EXPERIENCE IN OTHER JURISDICTIONS

Contention over the Living Wage: Debate over the *minimum wage* has been adversarial and contentious. The same holds true for the *living wage*. It is important to bear in mind that the living wage issue goes beyond mere economics. Above all, it is a political issue.

This is clear from the available literature. Academic studies can be found that support both sides of the issue. Advocates do not hesitate to cite whatever study favors their own agenda. On one side are advocates of living wage laws. One national organization that promotes living wage laws is ACORN (the Association of Community Organizations for Reform Now). Another is the New Party – an affiliation of labor union organizers, academics, and community activists. Yet another is the Jobs with Justice, which specifically works to link unions with community and religious groups.<sup>1</sup> Many but not all labor groups also support living wage legislation.

For example, the AFL-CIO is a strong supporter.<sup>2</sup> Public worker unions generally oppose privatizing government jobs. Living wage laws require companies with government contracts to pay higher wages and thus reduce financial incentives to privatize union jobs. Thus, it is not surprising that some unions support living wage laws. Other organizations such as housing groups and anti-poverty advocates oppose business development and corporate tax breaks. These groups urge the use of living wage laws to force businesses to increase spending on local communities.<sup>3</sup>

On the other side, opponents of living wage laws generally include chambers of commerce, various employer groups such as restaurant and hotel associations, and business associations. The Employment Policies Institute (EmPI) is a research organization that generally represents the view of living wage opponents.

Expansion of Living Wage Law Coverage: Living wage laws have been on the scene only a relatively short time. Nonetheless, they have expanded in several ways. First, as more of these laws have been enacted, their coverage has increased to include more employers and businesses. Second, the scope of mandatory benefits has expanded to include higher wages, health and vacation benefits, and other worker and union-friendly requirements. Third, geographic coverage of living wage laws has broadened to cover more jurisdictions across the country.

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1. Leah Samuel, "Living Wage Movement Grows" in Labor Notes (hereafter "Samuel"), <http://www.labornotes.org/archives/1999/0799/0799a.html>.
  2. The New Party website: <http://www.newparty.org/livwag/> (hereafter "New Party website").
  3. Samuel.

Unlike the national campaign to increase the country's *minimum wage*, the campaign to enact *living wage* laws has proceeded on an incremental and grassroots basis. The minimum wage campaign has not been very successful. Raising the federal minimum wage affects workers and employers in all the states. Its very high national profile has attracted substantial and effective opposition from large employer groups with deep resources.

In their study of Baltimore's living wage ordinance, Weisbrot & Sforza-Roderick described the situation:<sup>4</sup>

...the political forces necessary to bring the minimum wage closer to its past real value are not in evidence. Congressional Republicans fought hard against the recent increase... On the Democratic side, neither President Clinton nor the Democratic Congressional leadership made any serious effort to increase the minimum wage when they had control of both Congress and the White House in 1993 and 1994. Any action to further raise the minimum wage during the next Congress seems unlikely.... The decline in wages for low-income workers and the failure of the federal government to take stronger steps to address the problem have led to efforts to raise wages through legislation at the state and local level. These efforts [are] common referred to as "living wage campaigns."

Living wage campaigns have aimed at incremental change and supported candidates and incumbents at the municipal and county levels. The first ordinances roused little interest or awareness as they affected a relatively small number of employers and workers. Usually, these were businesses contracting with city or county governments. Many ordinances were enacted under the radar of employer advocacy groups. In certain instances, shrewd politicking made the difference. For example, the Chicago City Council had originally defeated a living wage law proposal. Subsequently, the proposal was resurrected and tied to increases in the salaries of City Council members. The second attempt succeeded.<sup>5</sup>

Geographic coverage of living wage laws has expanded greatly. While there is as yet no integrated formal campaign for a national living wage, local campaigns are linked and supported by national organizations such as ACORN.<sup>6</sup>

As more living wage laws are enacted, the scope of their coverage has broadened. On the one hand, advocates believe that current living wage rates are still inadequate. However, they have kept wage demands low to avoid risking failure. On the other hand, the substantive scope of benefits has expanded incrementally to include health, vacation, and sick leave benefits, job creation, labor-friendly riders, etc. The scope of coverage has also increased by covering more employer organizations that receive government assistance.

For example, certain businesses may receive economic development aid, tax abatements, or reduced leasehold rent on land or facilities. These would also be required to pay their workers

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4. Mark Weisbrot and Michelle Sforza-Roderick, Baltimore's Living Wage Law: An Analysis of the Fiscal and Economic Costs of Baltimore City Ordinance 442 (Washington, D.C.: The Preamble Center for Public Policy), October 1996.

5. Ibid.

6. Ibid.

a higher living wage. More recent living wage laws require tenants of such leaseholders, including non-profits, to also pay higher wages and grant additional benefits.

According to the New Party, a living wage campaign includes *any* of the following substantive demands:<sup>7</sup>

- To require private providers of public service contracts to pay a living wage.
- To grant tax assistance, economic development funds, or other state aid only to corporations paying a living wage.
- To require *all* firms in some jurisdiction to pay a living wage.

According to a major advocate of living wage laws, the bar must be raised because so far, living wage laws directly benefit only workers at a handful of relatively small government contractors. "One reason they [living wage laws] are winning is that they are narrow ... but they should work to broaden the program and get more workers covered."<sup>8</sup>

As of August 2000, according to ACORN:<sup>9</sup>

- 22 ordinances cover principally city or county service contractors
- 7 cover only some form of economic development subsidy
- 14 cover both service contracts and economic development subsidies
- 4 additionally cover some firms leasing land from the city
- Several also cover direct city or county employees in addition to contracts and/or recipients of subsidies
- 14 specifically limit coverage to certain service contracts [Job categories covered generally are: janitorial, food service, security, parking lot attendants, and clerical workers, health care workers, on-site child-care workers]
- 10 include some "jobs" language – e.g. job creation goals and targeted community hiring
- 2 require covered firms to work with community hiring halls to fill jobs created with contracts or subsidies
- 29 require (or encourage) provision of some form of health benefits
- 16 cover some non-profits

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7. New Party website.

8. Ibid., quoting Robert M. Pollin, author of The Living Wage: Building a Fair Economy.

9. ACORN website at <http://www.livingwagecampaign.org/lw-stats.html>.

- 7 include vacation benefits
- Many include specific labor language (labor peace; good labor relations; worker retention; no county money for anti-union activities; preference to firms with broadly defined "responsible labor relations"; collective bargaining supersession clause; prohibition of retaliation against workers)

Experience in Other Jurisdictions and Limitations of Studies: H.C.R. No. 62, S.D. 1 (2000), cited three cities that have instituted living wage laws. These were Baltimore, Los Angeles, and Chicago. Living wage ordinances have a relatively short history. Thus, most studies on the effects of living wage laws either rely on very limited data or only attempt to predict what will happen based on various theoretical calculations. Unfortunately much of the work is also muddled by charges of special interest group bias leveled by advocates on both sides of the issue.

Contention over Studies – Detroit as Example: Advocates of the living wage have pointed to certain studies to show the benefits and successes of these laws. However, opponents have repudiated almost every study. The Detroit study is an example. One year after Detroit's ordinance took effect in December 1998, Reynolds, et al.<sup>10</sup> found that the ordinance caused employers only relatively minor costs. According to Reynolds, et al.:<sup>11</sup>

For over half of contract employers, the maximum possible cost increases represent under one percent of the funds they receive for the contracted work. At most, one quarter experience costs equal to 5-9% of the contract value. None would see costs of ten percent or more. Assuming city contracts are only a portion of a firm's business, the actual costs relative to the overall company would be even less...there is little reason to believe that employers would alter their employment or investment patterns negatively in response to the living wage law. There is similarly no reason to predict significant price increases.

Reynolds, et al., further found that:<sup>12</sup>

...approximately 2,300 workers would likely benefit from the living wage. Of these, 85% would see immediate wage gains whose average ranges from \$1,312 [to] \$4,439 a year.... For covered workers, substantial gains in overall income...and family medical coverage are far greater than the small possible losses in public assistance.... Firms could see...gains...in terms of lower employee turnover and higher worker morale and productivity.

The conclusions reached in the study by Reynolds, et al. conform to those in the Baltimore, Los Angeles, and Miami-Dade county studies. Herein lies the problem. Both living wage supporters and opponents recognize the influence of the prior research of Robert Pollin,

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10. David Reynolds, Rachel Pearson, and Jean Vortkamp, The Impact of the Detroit Living Wage Ordinance, Center for Urban Studies and Labor Studies Center, College of Urban, Labor and Metropolitan Affairs, Wayne State University, September 21, 1999.

11. Reynolds, pp. 1-2.

12. Reynolds, p. 2.



who authored the seminal 1996 Los Angeles living wage study. In fact, Reynolds, et al. acknowledge the use of a methodology developed by Pollin: "... his [Pollin's] method has been standardized and used to evaluate living wage ordinances for such municipalities as New Orleans and Miami-Dade County."<sup>13</sup>

Living wage opponents see Pollin's 1996 Los Angeles study, which served as the basis for his 1998 book on the living wage, as the model for pro-living wage studies. Many subsequent studies were based on Pollin's methodology and made findings similar to Pollin's original conclusions supporting living wage laws. Because Pollin's work has been criticized, these latter studies have also come under similar attack.

For example, the Employment Policies Institute, an opponent of the living wage, cites Neumark and Adams' criticism of Pollin's work:<sup>14</sup>

The best-known work on living wages is the book by Pollin and Luce (1998, hereafter PL)... There are several problems with this work. Foremost among these is that the calculations are hypothetical, and done in the absence of any evidence based on data before and after the passage of living wage ordinances. Most importantly, PL do not attempt to estimate whether there are disemployment effects or hours reductions from living wages; if either results from a living wage increase, then some families may suffer potentially sizable income declines.

In addition, their calculations are based on a typical Los Angeles family, but they admit that only 4% of those earning at or below the Los Angeles living wage are the single wage earner in a family. Moreover, the average family size of these workers is 2.1, indicating that on average people are not supporting a family of four on living wages.... In short, PL's work cannot be viewed as reliable empirical evidence on the effects of living wages on low-income families.

Despite the fact that PL's work cannot serve as a basis for evaluating the impact of living wages, its calculations have been used to evaluate ordinances in New Orleans, Miami-Dade County, and Detroit (Reynolds, 1999). Not surprisingly, given the assumptions, these studies reach similar conclusions.

For example, the Employment Policies Institute has accused Reynolds, et al. of rewriting:

...almost word for word a pro-living wage study done by Bruce Nissen [who wrote the Miami-Dade County study, and who] based his report on Pollin's book [The Living Wage: Building a Fair Economy, 1998], which Nissen says Pollin provided "prior to its publication."<sup>15</sup>

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13. Reynolds, p. 1.

14. David Neumark and Scott Adams, Do Living Wage Ordinances Reduce Urban Poverty? Michigan State University, March 2000, p. 12, cited by EmPI, p. 24.

15. EmPI, p. 12.

The Employment Policies Institute further contends that Reynolds' work may be biased and cites Reynolds himself for the following biographical description:<sup>16</sup>

David Reynolds ... worked as a consultant to the Detroit Living Wage Campaign and is on the steering committee of the Washtenaw Coalition for a Living Wage. Reynolds has a Ph.D. from Cornell University and has worked as a union organizer; a writer for the UAW's national publication *Solidarity*, and a lecturer in Political Science.

A year after Detroit's living wage law took effect, The Detroit News<sup>17</sup> reported that the law had

...failed to raise the pay of workers who should be covered, and the city is not actively enforcing the law... [Detroit] has no full-time inspectors to monitor whether contractors are paying living wage rates.... Several business people and state lawmakers want the law repealed.... "The ordinance creates more questions than it answers," said Sebastian Wade, spokesman for the Detroit Regional Chamber of Commerce. "We still see the living wage ordinance as something that ought to be repealed by the city council. The ordinance was not logically legislated or debated in the public arena.... Defenders of the law say it's too early to call it a failure.... A year into the living wage ordinance, and the city hasn't fallen apart," [council member Nicholas Hood III] said. But the ordinance is still causing much confusion for employers and workers.... State lawmakers want to eliminate the ordinance because most believe pay rates should be implemented at the federal level and the pay required by the ordinance is not equitable in each city.... Non-profit organizations criticized the ordinance because it would dramatically increase their budgets. The Salvation Army decided not to renew its contract with the city because it would cost the group millions in additional expenditures to pay the living wage, said Kevin Fobbs, a consultant with the organization. "That's an unbelievable burden," Fobbs said. "It basically inhibits the Salvation Army's ability to enter into new contracts..."

**Baltimore:** *[All material in this section on the Baltimore study is taken from Weisbrot & Sforza-Roderick's study unless otherwise indicated in a footnote or by comments in italics and enclosed in brackets.]* In December 1994, Baltimore's living wage law, Ordinance No. 442, was enacted. It took effect on July 1, 1995. The ordinance describes its purpose as providing for "a prevailing minimum hourly wage rate" for workers employed by city service contractors.<sup>18</sup> The law requires these workers to be paid hourly wages of \$6.10 by fiscal year 1996, \$6.60 by 1997, \$7.10 by 1998, and \$7.70 by 1999. The law also requires Baltimore's Wage Commission to recommend a revised prevailing minimum hourly wage rate by December 15 of each year for the following fiscal year.<sup>19</sup> The hourly living wage was to be increased to \$8.03 effective July 1, 2000.<sup>20</sup> Contractors who are awarded extensions of contracts ranging from one to four years are exempt from the law with the old wages grandfathered in.

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16. David Reynolds and ACORN National Living Wage Resource Center, Living Wage Campaigns: An Activist's Guide to Building the Movement for Economic Justice (Detroit: Wayne State University), February 2000, p. 1, cited by EmPI, p. 14.
  17. Darren A. Nichols, The Detroit News, "Living wage dead in Detroit."
  18. City of Baltimore, Ordinance 442, 1994-1995.
  19. Ibid.
  20. Baltimore website: <http://www.ci.baltimore.md.us/government/wage/index.html>.

One year later, in October 1996, Weisbrot & Sforza-Roderick ("WSR") published a study on the effects of the Baltimore living wage ordinance. They present and briefly explain five general arguments against living wage laws and then proceed to refute them by citing data gathered in their study. In summary, these five opposing general arguments are:<sup>21</sup>

1. High Costs for Contracts: Living wages will increase the cost of city contracts, which will have to be paid by taxpayers. Increased contract costs will also affect delivery of public services.
2. Fewer Workers Employed: Because labor costs will increase, employers will tend to hire fewer workers and cut low-wage jobs.
3. High Enforcement Costs: Monitoring and enforcing compliance with living wage laws will increase costs to taxpayers.
4. Loss of Bidders: Higher mandated wages will reduce the competitiveness of companies that bid for city contracts and fewer companies will enter bids. This will further reduce competition and increase contract costs.
5. Creation of a Hostile Business Climate: Imposing a living wage stimulates capital flight and curtails economic development by sending the message that jurisdiction's commitment is not to keep business costs down but to raise them in the form of mandated higher wages.

WSR make the following main findings:<sup>22</sup>

- The real cost of city contracts has actually *decreased* since the ordinance went into effect. For the average contract (weighted by its share in the sample), this decline was statistically significant.
- Of companies interviewed that held contracts before and after enactment of the law, none reported reducing staffing levels in response to the higher wage requirements.
- The cost to taxpayers of compliance has been minimal, with the City [of Baltimore] allocating about 17 cents per person annually for this purpose.
- The average number of bids per contract declined from 1994 to 1995, but this decline was not statistically significant, nor did it affect the competitiveness of the bidding process as manifested in actual contract costs.
- There is no evidence that businesses have responded negatively to the passage of the ordinance. In fact, the value of business investment in the City of Baltimore actually increased substantially in the year after passage of the law.

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21. Weisbrot & Sforza-Roderick.

22. Weisbrot & Sforza-Roderick.

- Based on these findings, it is clear that opponents' claims of large-scale negative economic and fiscal impacts from living wage legislation have not held true for the case of Baltimore.

The Baltimore ordinance requires the Wage Commission to enforce compliance. Covered city service contractors must submit payrolls biweekly or be fined \$10 per day. Those found non-compliant must pay fines and make up the back pay to workers. More importantly, violators may be ineligible to bid for city contracts for a year. If found non-compliant on more than three contracts within two years, the ineligibility extends to three years.

WSR use a sample of 46 contracts involving 75 companies that constitute 72% of the value of all contracts affected by the ordinance. They found the following:

1. High Costs for Contracts. Contract costs increased by less than one-quarter of one percent. Adjusting for inflation, this represented a decrease of 2.4% in costs. The average contract price, weighted by its share in the total cost of the sample, declined by 1.92% (statistically significant at the 0.001 level).<sup>23</sup>

WSR acknowledge that they "...cannot conclude that the living wage ordinance actually contributed to lowering the cost of the average contract."<sup>24</sup> They do speculate, however, that the higher wages reduced worker turnover and absenteeism rates, thus increasing productivity and offsetting the increased cost of labor.

2. Fewer Workers Employed. WSR acknowledge that "...the evidence here is not yet complete" because most affected companies had not yet reported the number of workers on their payrolls at the time of their study.<sup>25</sup> Furthermore, prior to the ordinance, companies were not required to report the size of their payrolls. Thus, there were no base employment figures against which to compare and determine whether or not employers cut workers after enactment of the ordinance.

Instead, WSR interviewed a smaller sample of 31 companies whose labor costs had increased after the living wage ordinance took effect. WSR report that none of the respondents had reduced their staff levels. [*WSR showed that worker levels were not reduced. However, that workers were not cut does not necessarily imply that they were retained because labor cost increases were insignificant.*] WSR acknowledge that other factors may have kept worker levels static. They point out that the school bus contract using 26 companies (accounting for 75% of the value of all contracts examined) involved bus drivers and aides for seniors and the disabled. Reducing staff for that contract would have been "difficult if not impossible....In addition, the large janitorial (school) contracts have mandatory

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23. Weisbrot & Sforza-Roderick.

24. Ibid.

25. Ibid.

staff levels set by the city. Staff levels for these contracts, then, could not be altered by contractors in response to living wage requirements."<sup>26</sup>

3. High Enforcement Costs. WSR report that the Wage Commission was given \$121,000 in 1996 to enforce the Baltimore ordinance. They contend that this enforcement cost translates to an annual \$0.17 per capita cost.<sup>27</sup> *[However, it is unclear whether this amount was sufficient for effective enforcement. Although the amount seems small, it is further unclear what its true magnitude is when compared to per capita costs for other services such as drug treatment or school lunches. See article from The Detroit News, above.]*
4. Loss of Bidders. WSR examined contracts immediately affected by increased labor costs to see if the number of bidders declined. They found that the **average** number of bids for these contracts declined from 6.64 to 5.42, but that this difference was "statistically insignificant." Of these contracts, 43% either had more or the same number of bidders and 57% had fewer bidders.<sup>28</sup> *[However, according to WSR data in Table 2, the **total** number of bids declined from 93 to 76, that is, 17 fewer bids or a decline of 18.3%. It is unclear whether this figure in terms of **total bids** is statistically significant or not.]*

WSR report widespread generally positive responses to the living wage from bidders. The prevailing response was that the requirement to pay higher wages "'levels the playing field' and relieves pressure on employers to squeeze labor costs in order to win low-bid contracts."<sup>29</sup> *[The bidders who expressed this sentiment felt it made them more competitive with bidders who operated on lower costs. However, this favors only the pre-living wage higher-cost bidders, not the city or the lower-cost bidders, by imposing higher labor costs on all.]*

5. Creation of Hostile Business Climate. WSR categorically state that "there is no evidence that local businesses or potential investors have responded negatively to the ordinance."<sup>30</sup> Their statement is based on several arguments.

First, WSR cite bidders directly affected by the ordinance that had no complaints. *[These were the same bidders who liked the ordinance because it relieved them from pressure to compete with lower cost contractors.]*

Second, WSR cite Baltimore's total assessable personal property tax base. From 1990 to 1994, in the years before the ordinance, the tax base (in constant dollars) decreased. But it increased in 1995 after passage of the ordinance. *[However, WSR do not indicate whether the increase in the tax base was correlational or*

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26. Ibid.  
27. Ibid.  
28. Ibid.  
29. Ibid.  
30. Ibid.

*caused by the ordinance. Nor do they state whether the change was statistically significant. Furthermore, it is unlikely that the living wage ordinance was fully responsible for reversing Baltimore's declining tax base in 1995. It takes time to make business decisions that result in adding to a city's tax base. The ordinance was enacted in December 1994 and did not take effect until July 1995.]*

WSR conclude that "...the predicted negative effects of raising wages for workers employed on city contract have not materialized in Baltimore." However, they do acknowledge that it will take more time to determine exactly how contractors are responding to the ordinance, and how their responses affect employment, productivity, and costs to the city government. They further acknowledge that "...as the living wage continues to rise to \$7.70 per hour over the next two years, there will be greater potential for cost increases and other effects."<sup>31</sup> Finally, they acknowledge that:<sup>32</sup>

There is of course some level of the minimum wage that would actually cause employers to eliminate jobs; whether any of the living wage ordinances could reach this level remains to be seen. One major difference between some of these ordinances and minimum wage laws is that to the extent that increased labor costs can be passed on to the city government, there would be no need for contractors to reduce employment. Of course, this could mean additional taxes for city residents.

*Baltimore Study: Rebuttal by the Employment Policies Institute:* In 1998, the Employment Policies Institute published a rebuttal of WSR's Baltimore study.<sup>33</sup> The Institute leveled several charges. These revolved around the contention that, although labor input prices increased, the Baltimore study reported that contract costs had declined.

The most serious charge involves alleged errors in the reporting of one pre- and post-ordinance contract pair among 23 pairs examined. The Employment Policies Institute claims that fabrication of data from that one pair turned an actual \$9,000 increase in costs into a "statistically significant" decrease of \$466,000. The contract in question was the 21-month "nutritional meals program management" contract (#94025) worth \$4,415,370.96. This contract had been extended for 12 months. However, contract extensions are exempt from Baltimore's living wage law. Thus it should not have been included in the study. Nonetheless, the WSR study prorated the 21-month contract and treated it as a 12-month contract worth \$2,253,069.12 and then created a non-existent contract number (#95025) to account for the \$2,161,391.00 value of the contract extension.

The Employment Policies Institute claims that by wrongly including this contact and by falsely creating a "pair" out of the original contract and its exempt extension, WSR were able to report a large decrease in labor costs. According to law, the study should have treated the entire amount of \$4,415,370.96 as a pre-ordinance cost, with no post-ordinance figure for comparison.

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31. Ibid.

32. Ibid.

33. Employment Policies Institute, The Baltimore Living Wage Study: Omissions, Fabrications and Flaws (Washington, D.C.), October 1998 (hereafter "Baltimore rebuttal"). Also at EmPI website: <http://www.epionline.org/preamble.htm>.

Instead, WSR prorated 12 months of the original contract to come up with a \$2,523,069.12 pre-ordinance cost so that it could subtract the 12-month extension cost of \$2,161,391.00 to get a decrease of \$361,678.12. Using an inflated 5.5% inflation rate (rather than the actual 2.8% increase in the consumer price index for 1995) the study generated a post-ordinance cost of \$2,047,918.39. Using this adjusted figure, WSR were able to report an even larger decrease in wage costs amounting to \$475,150.73.<sup>34</sup>

The Employment Policies Institute made two further charges regarding another contract pair for \$14,137,507.50 for school bus transportation amounting to 73% of the value of all contracts. The first charge is that although the post-contract price was \$14,500,000 (\$362,492.50 more than the pre-contract price), by applying a 5.5% inflation factor, WSR reduced this cost increase into a much smaller \$75,756 increase. The second, and more serious charge, is that WSR inappropriately omitted adding on a supplemental increase of \$193,000 in costs to the post-ordinance contract, thus reducing the post-ordinance cost by that amount. The Employment Policies Institute charges that WSR were aware of Baltimore's practice of adjusting contracts at year-end based on the actual level of bus services provided. The Institute charges that although WSR included the year-end supplemental increase for the **pre**-ordinance contract, they did not include the \$193,000 year-end supplemental increase for the **post**-ordinance contract.<sup>35</sup>

The Employment Policies Institute further charged that:<sup>36</sup>

- The WSR study improperly included five contracts that were not affected by the living wage ordinance.
- The prices of 14 contracts were incorrect: "Most of these discrepancies are small, but one is off by more than \$60,000."
- The WSR study overstated the number of bids on 5 of the 46 contracts.
- The WSR did not report contract prices for four contract pairs. The difference in one of these pairs (for hauling voting machines) was an increase of \$135,200 from \$93,600 to \$228,800, or 244%.
- The WSR study did not control for other factors that may have affected contract prices. The contract price for "Grass Cutting – cluster H" reportedly decreased \$13,104 or 29% from \$44,604 to \$31,500. However, the price decrease was due to a reduction in the acreage to be cut from 177 to 95 acres due to an error in the original estimate of acreage to be cut.
- The WSR made errors in their statistical calculations which, assuming all other errors are ignored, would have indicated that costs did not decline significantly.

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34. Ibid., pp. 4-6.

35. Ibid., pp. 6-7.

36. Ibid., pp. 7-10.

Los Angeles: [All material in this section on the Los Angeles study is taken from Pollin and Luce<sup>37</sup> unless otherwise indicated in a footnote or by comments in italics and enclosed in brackets.] On March 18, 1997, the Los Angeles City Council adopted a living wage ordinance. The law requires all recipients of city service contracts and all businesses receiving a subsidy to pay their employees a living wage.

The contracts must be worth more than \$25,000 and have a term of at least three months. Contracts also include leases or licenses under which the lessee or licensee renders services to the city. Subcontractors are covered as well as contractors.<sup>38</sup>

Recipients of city financial assistance are also covered. However, the financial assistance received must be for economic development or job growth expressly articulated and identified by the city. This includes bond financing, planning assistance, exclusive city tax increment financing, and tax credits. Subsidies of at least \$1,000,000 given within a year are subject to the law for five years from the date the subsidy reaches \$1,000,000. Assistance in any one-year period less than \$1,000,000 but at least \$100,000 are subject to the law for one year if at least \$100,000 is given on a continuing basis. Recipients that are in their first year of existence are exempt from the law for one year. Recipients that employ fewer than five workers daily in each of 20 or more calendar weeks a year are also exempt. Recipients that employ the long-term unemployed or provide trainee positions intended to prepare employees for permanent positions, and who claim economic hardship, may apply for a waiver from the law. Finally, non-profit employers are exempt unless the chief executive officer is paid, on an hourly basis, more than eight times the lowest-wage paid by the non-profit.<sup>39</sup>

The initial living wage was set at \$7.25 an hour with health benefits, or \$8.50 an hour otherwise. Thereafter, the wage rates are to be adjusted annually to correspond to retirement benefits paid to retired Los Angeles city employees. Employers must pay at least \$1.25 per hour towards provision of health care benefits for their employees and dependents. Also mandated are at least 12 paid days a year for sick leave, vacations, or personal necessity at the employee's request. Employers are further required to give at least 10 additional days a year of unpaid leave for the illness of an employee or a member of the employee's immediate family if compensated leave has been exhausted. However, collective bargaining agreements may supersede the requirements of the law.<sup>40</sup>

Covered employees include employees of contractors or subcontractors<sup>41</sup> working any amount of time on city service contracts. For recipients of city financial assistance, employees who spend at least 50% of the time on a funded project are also covered. Finally, workers

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37. Robert Pollin & Stephanie Luce, The Living Wage: Building a Fair Economy (The New Press: New York), 1998.

38. Although Pollin & Luce included in their analysis employers who have "concession arrangements," these concessionaires were omitted in the ordinance that was adopted.

39. Los Angeles Ordinance 171547, section 10.37.1.

40. Ibid., sections 10.37.2, 10.37.3, & 10.37.11.

41. Ibid., section 10.37.1(e)(1). These include, but are not limited to: hotel employees, restaurant, food service or banquet employees, janitorial employees, security guards, parking attendants, non-professional health care employees, gardeners, waste management employees, and clerical employees.



employed by a service contractor of a recipient of city financial assistance who spend at least 50% of the time on the premises of the recipient directly involved with the activities funded by the city are covered.<sup>42</sup>

Prior to the law's passage in 1997, the Los Angeles City Council requested a study estimating its economic impact. In 1996, a team led by Robert Pollin, and which included Mark Weisbrot and Michelle Sforza-Roderick (who wrote the Baltimore study), conducted the Los Angeles study. The 1996 study has since been revised<sup>43</sup> and incorporated into a book authored by Robert Pollin and Stephanie Luce entitled The Living Wage: Building a Fair Economy and published in 1998.

*Estimate of Costs.* Pollin & Luce classify as direct costs all mandated wage, benefits, and compliance costs of firms affected. (The city's monitoring and enforcement costs were evaluated separately as part of the city budget.) The study also considers indirect costs incurred when uncovered workers in the same broad pay range receive raises even though not mandated.

*Direct Costs.* Pollin & Luce use two populations of firms comprising all employers subject to the ordinance to estimate direct costs. The larger population of 999 firms includes six large firms employing a substantial number of low-wage workers, and their 176 subcontractor firms. The smaller population is comprised of 817 firms without the six large firms and their subcontractors.

1. Wage Costs. The study reports the average pre-ordinance wage was \$5.43. Thus, a wage increase of \$1.82 is needed to reach the mandated living wage of \$7.25. With 3,355 covered full-time equivalent (FTE) workers working 40 hours per week, the smaller population would generate a direct wage cost of \$12,212,200 a year for employers. With the larger population of 6,521 FTE, the direct wage cost would be almost double that at \$23,736,440.<sup>44</sup>
2. Health Benefits Costs. Pollin & Luce calculate that a total of 2,045 FTE workers in the smaller population and 4,117 in the larger population would need to be paid \$1.25 per hour in health benefits. This would have been \$5,112,500 per year for the smaller population and about double that (\$10,292,500) for the larger population.<sup>45</sup>
3. Paid Days Off. According to Pollin & Luce, paid days off must be given to all workers in a covered firm, including those not engaged in city-contracted work. For workers earning below the living wage, a rate \$7.25 an hour was used to calculate the cost of 12 paid days off. For those earning above the living wage, the study estimates an average hourly wage of \$18.46. For the smaller population, 2,449 FTE workers earned below \$7.25. At that wage rate, 12 paid

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42. Ibid., section 10.37.1(e)(2) & (3).

43. ACORN website: <http://www.livingwagecampaign.org/impact-summary.html>.

44. Pollin & Luce, Table 4-2, p. 96; figures slightly off due to rounding.

45. Ibid., Table 4-3, p. 100; figures slightly off due to rounding.

days would cost \$1,704,504. For the same population, 3,703 FTE workers earned above \$7.25. At \$18.46 an hour, their paid days off cost would amount to \$6,562,308. Thus, the total cost for the smaller population would be \$8,266,812.

For the larger population, using the same assumptions and calculations, the number of workers earning below and above \$7.25 were 4,760 and 7,976, respectively, generating a cost of \$3,312,960 and \$14,134,748, respectively. The total cost of \$17,447,708 for the larger population would be more than double that of the smaller population.<sup>46</sup>

4. Payroll Taxes. The study assumes a total 12.5% cost for payroll taxes that includes FICA (7.65%), federal and state unemployment insurance (4.4%), state disability insurance (0.5%), and employer training program (0.1%). With the additional wage cost of \$12,212,200 for the smaller population, payroll tax cost would be \$1,526,525. For the larger population's additional wage cost of \$23,736,440, payroll costs would be almost double that at \$2,967,055.<sup>47</sup>
5. Compliance Costs. The study estimates total annual compliance costs of \$300,00 and \$400,000 for the smaller and larger populations.

The total annual direct costs estimated by Pollin & Luce amounted to \$27,400,000 and \$54,700,000 for the smaller and larger populations.<sup>48</sup> [*Figures do not tally exactly as reported above due to rounding.*]

*Indirect Costs.* Indirect costs (Pollin & Luce term this the "ripple effect") are incurred when:<sup>49</sup>

...some significant group of workers – but not all workers – in an affected firm get the mandated raise. While workers who are in roughly the same pay range don't necessarily make the same wage or receive increases at the same rate, their pay tends to move together over time, generally in response to firms' wage-setting policies and to local labor market conditions. [*See "indirect-cost-pass-through" in the Chicago study under "Increase Prices – Response One" for a different perspective on this.*]

Acknowledging that considerable uncertainty surrounds the extent of the ripple effect, Pollin & Luce suggest admittedly "speculative" indirect cost estimates of \$7.4 and \$11.9 million for the smaller and larger populations, respectively. Consequently, the corresponding payroll taxes would be \$0.9 and \$1.5 million for a total of \$8.3 million and \$13.4 million, respectively.<sup>50</sup>

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46. Ibid., Table 4-4, p. 102; figures slightly off due to rounding.

47. Ibid., Table 4-5, p. 104; figures slightly off due to rounding.

48. Ibid.

49. Ibid., p. 105.

50. Ibid., pp. 105-109.

Thus, the total costs (direct plus indirect) for the smaller and larger populations would be **\$35,700,000** and **\$68,200,000**, respectively.<sup>51</sup>

*Estimate of Employer Responses.* Pollin & Luce examine the usual employer responses: cutting workers, increasing costs and passing them through to the city, and relocating elsewhere. (See discussion of the same three possible employer responses in "Employer Responses to Increased Costs" in the section on the Chicago study by Tolley, et al., below.) As discussed above, the additional costs, in *absolute* terms, are substantial. However, Pollin & Luce choose to view additional wage costs in *relative* terms as a *proportion* of the total cost of production of goods and services. This is done for the "average" firm and for firms grouped according to the proportion of low-wage workers employed.

*Low Proportional Costs of Wage Increases.* Pollin & Luce argue that living wage costs, in relative terms, are minimal and can be easily absorbed by the firms affected by the law. They estimate the proportion of new living wage costs to the total cost of production of goods and services for the "average" firm to be a relatively low 1.8% and 1.5%, respectively, for the smaller and larger populations.<sup>52</sup>

Furthermore, Pollin & Luce argue that the living wage ordinance would impose very low total production costs on the great majority of firms. For example, 86% of firms affected by the law would incur an average wage increase of 3.5%, or an increase of only 0.8% in total cost of production. A smaller 7.3% of firms would incur an 11.7% increase in wage costs representing a 2.4% increase in total production costs. However, 6% of firms would incur a 28% increase in wage costs, translating into an 11% increase in total production costs. Finally, only 0.8% of firms would incur a very high 85% increase in wage costs for a 28.9% increase in total production costs.<sup>53</sup>

*Proportionately Few Firms and Workers Are Affected.* They further estimate that many industries subject to the living wage law do not employ a high proportion of low-wage workers. As a result, these firms could "readily" absorb the added costs. Examples of these industries are engineering, accounting, research, legal, and management firms. Conversely, the law affects only a small percentage of industries that employs a high proportion of low-wage workers. These include the hotel, restaurant, agricultural services, personal services, and food products industries. Thus, although a majority of their workers would be affected, these industries represent only a small proportion of all industries affected by the living wage law.

In effect, Pollin & Luce contend that:<sup>54</sup>

...for the most part, the impact of the Los Angeles living wage ordinance will be spread thinly among a large number of firms and industries, but that in a few cases, the impact will be substantial.

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51. *Ibid.*, Table 4-7, pp. 110-111.

52. *Ibid.*, Table 4-8 & Figure 4-1, pp. 113, 114.

53. *Ibid.*, Table 4-10, p. 119.

54. *Ibid.*, p. 118.

*No Price Increase – No Cost Pass-Through to City.* Pollin & Luce discuss "low-impact" and "high-impact" firms separately (those firms incurring total production cost increases of less than 1% and up to 10% or more). They argue that **low-impact firms** need not raise prices nor pass them through to the city because of competition. They further contend that the incentive to maintain their association with the city outweighs their need to make up the increase in operating costs through a price increase. This is so especially since these firms "...make heavy up-front expenditures on lobbying, legal fees, and bribery to win contracts and that ... contract terms are regularly padded."<sup>55</sup>

A second argument that these firms will not raise prices is that living wage costs do not make a significant dent in their profits. Pollin & Luce figure that profits would shrink only 1% due to living wage costs. Thus, contractors' profits would drop from 19% to 18% and subsidy recipients' profits would decline from 11% to 10%.<sup>56</sup>

The study cites a third factor. Pollin & Luce assume that firms will increase their productivity at a rate about equal to the average non-farm growth rate from 1990 to 1995 – about 1%. This productivity growth is seen to help offset any living wage cost increase.

For **high-impact firms** that incur relatively high production cost increases, Pollin & Luce concede that productivity gains would probably not fully offset living wage costs. Nonetheless, they argue that these firms should experience some offsetting effect from above-average productivity growth. That is, higher living wages should increase worker effort, boost morale, and reduce lower worker turnover. However, they do acknowledge that quantitative research results in this area have varied widely.

Pollin & Luce allow that the city of Los Angeles must accept some price increases and pass-through of costs. However, they contend that this would not impose any significant costs on the city budget or any loss of city services. Their argument is based on the impact on city concessionaires, which comprise a large percentage of these firms. [*Concessionaires were not included in the ordinance that was finally adopted.*] The argument is that concessionaires can raise prices to cover their wage costs. Thus, the cost increase would be paid for by consumers who buy their products, and not by the city budget. Price increases would be tempered by concessionaires' need to compete in the open market where other firms are not subject to living wage increases. Pollin & Luce further assume that concessionaires would absorb increased wage costs not by cutting workers, but by using "productivity gains and a redistribution of wages and profits within the firm" to offset wage costs.<sup>57</sup> [*Why concessionaires would not cut workers but resort to "productivity gains" is not clear, unless "redistribution of wages" implies cutting workers. Perhaps this scenario is more an expression of the authors' preference than a representation of an actual choice by a concessionaire.*]

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55. Ibid., p. 123.

56. Ibid., p. 123.

57. Ibid., p. 126.

Pollin & Luce concede that the city must pay other high-impact firms such as contractors and subsidy recipients more. However, they argue that the city can minimize the impact on the city budget by paying low-impact firms less and reduce their services over a period of time. *[It is unclear how much this re-distribution of city funds to high-impact firms will further increase costs for low-impact firms. This argument assumes that the public will accept the lower levels of services provided by low-impact firms so that the costs of high-impact firms can be subsidized.]*

*No Relocation.* According to Pollin & Luce, "...no incentive exists for firms to relocate...because the ordinance will affect firms that have contracts with the city, regardless of where they are located."

*Possible Worker Cuts.* Pollin & Luce acknowledge two factors that may lead to worker cuts. First, higher wages and better benefits for low-wage workers create an incentive for employers to hire fewer such workers. Second, higher worker productivity means fewer workers would be needed.

With regard to much lower increases in the *minimum* wage, there is some evidence that other factors are more important than wage hikes in determining the level of employment. Overall demand for services would be one such factor. However, the very large *living* wage cost increases, including health benefits, represent an increase far beyond those examined in *minimum* wage studies. Thus, the study cannot determine whether workers will lose jobs or not in Los Angeles. Pollin & Luce acknowledge that, despite their analysis, firms may still reduce their workforce or replace existing low-wage workers with those more deserving of the higher wages. However, they contend that this may not result in an overall employment loss if workers who are cut are able to find other jobs. *[It is not clear how successful these workers would be in finding other jobs in light of their limited job skills.]*

*Estimate of Benefits.* Pollin & Luce outline four types of benefits arising from the living wage law as follows:

1. The prime beneficiaries are affected workers and their families who receive higher wages and health and other benefits.
2. Government agencies also benefit from reduced payment of subsidies to the working poor.
3. Affected firms benefit from heightened worker morale and increased productivity.
4. Communities in which affected workers live benefit modestly from increased spending.

*Increase in Disposable Income.* The study assumes that there is only one worker in a family of four who is working full-time at 2,000 hours per year. *[This may underestimate the number of workers in the family as well as overestimate the size of the family.]* On the plus side, the family would benefit from an increase of \$3,640 in gross income when the pre-ordinance wage of \$5.43 is raised to \$7.25. They would also receive an estimated \$2,500 worth of private health benefits. However, on the negative side, the affected worker would have to pay more in federal income tax, FICA taxes, and state disability tax. In addition, the family would get less of

its federal Earned Income Tax Credit, food stamps, and MediCal coverage, and would lose all of its Los Angeles County indigent health coverage.<sup>58</sup>

Consequently, in terms of disposable income, the family of four would gain \$1,245 a year. *[This works out to about \$0.62 an hour. This means that \$1.82 in a living wage raise is needed to generate a \$0.62 increase in disposable income, a ratio of almost 3-to-1.]*

*Decrease in Government Subsidy Payments.* By earning a higher wage the affected worker would get less MediCal coverage and lose Los Angeles County indigent health coverage, as noted above. On the other hand, this can be viewed as cost savings for the state and county governments of \$625 and \$994, respectively. Thus, a total of \$1,619 can be saved in state and county government subsidies. The federal government would also save a total of \$2,772 – \$521 in income tax, \$654 in the EITC, \$972 in food stamp payments, and \$625 in MediCal payments. The total savings in government subsidies at all levels would then be \$4,391.<sup>59</sup> *[It must be noted that all government savings accrue to entities other than the city of Los Angeles. It is the federal, state, and county governments that reap the savings.]* However, Pollin & Luce acknowledge that estimates of government saving:<sup>60</sup>

...represent an upper-end figure, as families with more wage-earners and fewer or no children would not qualify to the same extent for the EITC, food stamps, or MediCal support....the actual figures for government saving are probably in the range of one-half of the total figures we have generated.

The upper-end estimate would generate government savings of \$14.6 million a year. At the more reasonable estimate, savings would be half that at about \$7.3 million.<sup>61</sup> The increase in workers' disposable income, at 3,355 FTE workers, would amount to \$4,176,975 a year. All together, the benefits in terms of workers' increased disposable income and government savings would amount to between \$11,476,975 to \$18,776,975 a year, depending on the use of upper-end or the more reasonable estimate of government savings. *[This can be compared to Pollin & Luce's estimate of total direct and indirect costs of the living wage law of \$35,700,000 and \$68,200,000 a year for the smaller and larger populations, respectively.]*

The study points out several unquantifiable benefits. First, affected workers would have easier access to bank loans and other forms of credit. According to Pollin & Luce, lenders evaluate a borrower's creditworthiness on the basis of earning power. The study uses the increase in *gross* pre-tax income as a measure of increased earning power.<sup>62</sup> Second, the study also considers the increase in self-esteem from earning more money, as opposed to receiving government subsidies, as a benefit of the living wage law. Third, Pollin & Luce hold that:<sup>63</sup>

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58. *Ibid.*, Table 5.1, p. 138.

59. *Ibid.* and Table 5-3, p.148.

60. *Ibid.*, p. 147.

61. *Ibid.*, Table 5-3, p. 148.

62. *Ibid.*, p. 141.

63. *Ibid.*, p. 150.

...when workers receive a higher wage, a firm benefits in many ways, including reduced labor turnover, better quality of work, better cooperation with management, more flexibility in the operation of a business, and higher overall morale.

Finally, increased spending in the communities in which workers receive a higher living wage is offered as another unquantified benefit. According to Pollin & Luce, given that very few workers would be affected by the living wage ordinance in Los Angeles, this effect should be minimal.

*Chicago:* [All material in this section on the Chicago study is taken from Tolley, et al. unless otherwise indicated in a footnote or by comments in italics and enclosed in brackets.] On May 9, 1996, the Chicago City Council proposed for consideration the Chicago Jobs and Living Wage Ordinance. Consequently, the Chicago Council requested a study of the effect of the proposed ordinance. The result was the Chicago study<sup>64</sup> by Tolley, et al., and entitled Economic Analysis of a Living Wage Ordinance, which was presented to the Chicago City Council in July 1996.

The 1996 Chicago living wage proposal required firms that receive city assistance to pay their workers a \$7.60 hourly wage. The proposal would affect contractors, subcontractors, concessionaires, recipients of subsidized loans, tax increment financing (TIF) funds, and tax abatements, and other beneficiaries of city government. Workers employed in construction, and those under age 19 hired as part of the city's summer program, were exempt.

No law had yet been enacted at the time. Thus, the study was not based on empirical data but on a survey of entities potentially affected. Tolley, et al. note that the study relied on a "narrow interpretation of which companies would be covered by the proposal. If the Ordinance were interpreted to cover a wider range of firms, the estimated costs of the Ordinance would be higher, perhaps by a vast amount."<sup>65</sup> For example, the study does *not* account for the following additional workers that would be covered under a broader interpretation:

- All workers of subcontractors regardless of type of work done
- All employees of the Archdiocese of Chicago (which receives property tax and sewer and water fee waivers)
- Small businesses occupying space in former city buildings sold at a discounted price, if the discount exceeds the ordinance threshold
- Subcontracted building management companies that operate buildings for TIF-aided developers; subcontracted janitorial workers, etc.
- All workers, including low-wage foreign assembly workers, of manufacturers selling equipment to the city

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64. George Tolley, Peter Bernstein, and Michael Lesage, Economic Analysis of a Living Wage Ordinance (Washington, D.C.: Employment Policies Institute), July 1996.

65. Tolley, et al., p. 7.

The study surveys a total of 133 firms under the *narrow* interpretation of the ordinance. Employers were categorized into the following five groups:

<b>Employer Category</b>	<b>Number</b>
Contractors	46
Delegate agencies	46
Airport concessions	16
TIF recipients	9
Loan recipients	16

These five categories covered 11,322 employees. Of these workers, 1,881 (16.6%) were being paid between \$6.00 and \$7.50 hourly and 2,049 (18.1%) were being paid less than \$6.00. Thus, about 34.7% or 3,930 of the sampled workers would have been eligible to receive a higher living wage.

*Additional Labor Costs.* Based on 2,000 hours of work per year, Tolley, et al. estimate that it would cost \$14,431,405 to raise covered workers' wages up to \$7.60 an hour, including FICA taxes. The average additional cost per eligible employee would be \$3,672 per year for these 3,930 workers. The total cost for the five employer categories would range from \$531,683 for loan recipients to \$6,657,668 for TIF recipients.<sup>66</sup>

Extrapolating results from the sample to all covered employers, Tolley, et al. estimate that 9,807 covered workers earn less than the living wage. The estimated additional cost to pay these workers \$7.60 an hour would amount to \$37,485,392. The average total additional cost per eligible worker would be \$3,822 per year.

<b>Employer Category</b>	<b>Annual Cost Increase</b>
Contractors	\$8,377,864
Delegate agencies	\$7,256,932
Airport concessions	\$6,999,296
TIF recipients	\$7,989,202
Loan recipients	\$3,190,098
Other Beneficiaries	\$3,672,000
<b>Total Annual Wage Increase</b>	<b>\$37,485,392</b>

Contractors would incur the largest annual increase at \$8,377,864, closely followed by TIF recipients with \$7,989,202 and delegate agencies with \$7,256,932. Airport concession employers would need to pay an additional \$6,999,296 and loan recipients, \$3,190,098. A sixth

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66. Ibid., pp. 9-10 and Table 2.



category of "other beneficiaries" was added that included firms located in enterprise zones, recipients of tax abatements or waivers of water and sewer charges, buyers of discounted property, and recipients under other programs. This category was estimated to incur an additional annual cost of \$3,672,000.<sup>67</sup>

Contractors and delegate agencies and other non-profits would probably raise prices and pass through their costs to the city (*see discussion below under "Employer Responses to Increased Costs"*). This means Chicago would need to increase its budget by \$15,634,796 to maintain existing levels of services. The most likely way to do this would be by implementing a tax increase of that amount *each* year. This would not be a one-time tax increase. As living wage rates escalate, these costs or taxes will increase correspondingly each year as long as the ordinance remains in effect.

*Additional Administrative Costs.* In addition to direct labor costs, Tolley, et al. also note that additional administrative costs would be incurred as a result of the Chicago ordinance. They report that Chicago's Office of Management and Budget estimated an annual cost of \$4,200,000 for administrative expenses for certification, monitoring, and enforcement of the living wage ordinance.<sup>68</sup> Added to the \$15,634,796 for direct labor costs, the living wage ordinance would cost the city \$19,834,796 a year.

Aside from the city's additional costs, Tolley, et al. present their own list of additional costs as follows:

- *Cost of applying for assistance.* Employers receiving city assistance will be subject to the living wage ordinance. Consequently, they would incur extra costs in reporting additional information such as payroll data, including those for subcontractors and tenants also qualifying as assistance beneficiaries.
- *Cost of determining coverage by the ordinance.* All employers, including those who eventually turn out to be exempt from the ordinance, may need to consult with attorneys to determine whether they are subject to the ordinance. They will also need to review payroll data to determine how many and which workers are eligible, by virtue of working on a city contract, to receive a living wage.
- *Compliance cost.* Employers need to continue to submit payroll and other data. Tolley, et al. noted that this could be extremely burdensome for manufacturing firms that supply equipment if all assembly workers, including foreign workers, are considered covered employees. Employers are also required to consider employing applicants from community hiring halls before hiring from the general public. Contracted firms that already pay in excess of the living wage will also need to bear the burden of proof of compliance.
- *Cost of government enforcement.* The city itself will need to expend funds to hire personnel to monitor, investigate, and enforce the ordinance.

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67. Ibid., pp. 10-11 and Table 3.

68. Ibid., p. 11.

*Employer Responses to Increased Costs.* Tolley, et al. theorize and evaluate the likelihood of three potential employer responses to a living wage law. Employers could:

1. Raise prices and pass them through to offset the increased labor cost.
2. Cut workers.
3. Relocate to another jurisdiction.

*Increase Prices – Response One.* In the first scenario, firms can raise prices and pass through the cost of increased wages to the city and its taxpayers. Implicit in this response is that workers are not cut. If the city (read "taxpayers"), as customer, does not want to curtail the level of services, this could lead to a tax increase. However, the issue is more complex. Increasing prices and passing them through becomes more likely only if all bidder firms were similarly affected by the mandate to increase wage rates. Often, this is not the case. If a few firms need to increase their wages, they would be at a competitive disadvantage in bidding against other firms that already pay at higher rates. As a result, they may find it impossible to raise prices and may opt for another response.

Furthermore, some firms, by nature, would find it hard to raise prices. Tolley, et al. cite firms that receive loans or TIF funding, but compete in the open marketplace. Their competitors are not subject to the wage requirements. Thus, these firms would have little power to pass costs through to their open market customers. In contrast, firms that service and sell directly to the city would most likely all be affected. Thus, these firms would be more likely to pass through their increased costs. To the extent that not all firms need to raise wages, price increases that are passed through to the city may be limited by competition among bidder firms.

However, this too is not always the case. Even if a firm already pays adequately and need not raise its prices, it may. The study cites this phenomenon as "indirect-cost-pass-through." This occurs when firms that do not need to raise prices, do so anyway to take advantage of other firms that need to increase prices.

Tolley, et al. conclude discussion of this first employer response by stating that "...previous studies of the impact of higher wages show that higher prices are definitely one result."<sup>69</sup>

*Cut Workers – Response Two.* In the second scenario, firms may cut workers instead of raising prices. This is measured by employers' elasticity of demand for labor. Very often, the demand is not fully elastic (elasticity = -1). That is, employers cannot always reduce employment by the same percentage that wages increase. Other factors such as city-required minimums on workers per contract or job may prevent employers from cutting workers. Thus, only if employers' demand for labor were totally elastic would a certain percentage increase in wages, say 15%, result in the same 15% decrease in employment. Therefore, full elasticity

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69. *Ibid.*, p. 14.

(at - 1) implies that employers are unable to pass through any of the wage-cost increase. Instead, employers offset all wage-cost increases by reducing employment.

On the other hand, if employers' demand for labor were fully *inelastic* (elasticity = 0), then no amount of wage increase would cause a reduction in employment. One way to achieve this is to pass through all wage-cost increases to the city. However, most firms' elasticity of demand for labor falls somewhere between 0 and -1 (between fully inelastic and fully elastic). This means that an increase in wages will result in some decrease in employment and an increase in employer costs that is passed through in terms of higher prices. The study states: "In other words, the less able firms are to pass their costs on to their consumers, the more aggressively they will attempt to cut their costs by reducing employment."<sup>70</sup>

How big a wage hike is mandated would also have an impact. The larger the magnitude of the wage hike, the greater the increase in the employers' costs, and the greater the number of workers eligible for wage hikes. Employers would find it more difficult to pass through larger cost increases than smaller ones. In addition, if an employer needs to raise hourly wages to \$7.60 an hour, the employer would more likely dismiss a worker earning \$4.25 than one already earning \$7.50. If all workers need to be paid at the higher \$7.60 level, employers would tend to hire higher-skilled workers already paid at that wage level than to hire lower-skilled workers earning only \$4.25. Thus, it is the lowest-skilled worker that would bear the brunt of job dismissals.

Tolley, et al. conclude discussion of the second possible employer response by citing consensus estimates of employer elasticity of demand for labor based on increases in the minimum wage as follows:<sup>71</sup>

These studies show a range of effects, but all indicate that the elasticity response to changes in the minimum wage is less in magnitude than -1. The consensus among economists is that the elasticity of demand at the minimum wage is between -0.1 and -0.3, meaning that a 10 percent increase in the minimum wage leads to a decline in employment of minimum wage workers by between 1 and 3 percent. Furthermore, relatively less experience and lower skilled workers are most likely to be adversely affected....

The study suggests that the Chicago *living* wage hikes would result in a greater employer elasticity of demand for labor than wage increases in the federal *minimum* wage. Chicago's ordinance would amount to a 79% wage hike whereas federal minimum wage studies examined hikes of about 20%. Tolley, et al. point out that even supporters of minimum wage increases acknowledge that "at sufficiently high levels of the minimum wage, the predicted employment losses of the standard model will be borne out."<sup>72</sup>

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70. Ibid., p. 15.

71. Ibid., p. 16.

72. Ibid., p. 16, citing David Card and Alan Krueger, Myth and Measurement: The New Economics of the Minimum Wage (Princeton, NJ: Princeton University Press), 1995.

*Relocate Elsewhere – Response Three.* In the third scenario, employers relocate to the Chicago suburbs to escape the living wage mandate while continuing to bid on city contracts. Firms that benefit from city assistance, especially in the form of economic development aid, could find that mandated wage hikes outweigh the benefits of their city assistance. If an employer could not raise prices in scenario one, nor cut workers in scenario two, it would have to relocate or else suffer reduced profits or incur losses. Alternatively, it could voluntarily withdraw from bidding and give up doing business entirely with the city, which presumably would also reduce its profits.

According to Tolley, et al. the likely responses to the proposed living wage ordinance of the six categories of employers surveyed are as follows:

1. City Contractors. The sample contractors surveyed indicated they would most likely first raise their prices and pass through their increased costs to the city. If Chicago were to accept, a tax increase may be necessary. If the city refused to accept higher prices, contractors would cut workers to offset the mandated wage hikes.
2. Delegate Agencies & Other Non-Profits. This group reported that they would first attempt to secure more funding to pay the higher wages without cutting workers. However, Tolley, et al. suggested that additional funding from the federal or state governments would be highly unlikely and thus extra funding would have to come from the city. This would increase the city's costs, as if the non-profits passed through their increased wage costs. If funds cannot be secured (including an increase in city taxes) this group would cut workers and the level of services.
3. Airport Concessionaires. Raising prices was not an option. A city ordinance limits already-high airport prices to a certain cap above street prices. Respondents in this group would want to renegotiate lower city rents. However, even if successful, lower rents would decrease the city budget. The city, in turn, would have to either decrease services elsewhere or increase taxes to cover the shortfall. The alternative was to cut workers.
4. Recipients of TIF Funds. Raising prices for this group was also very difficult. This group must compete with firms not subject to the living wage ordinance, and thus hold a competitive advantage. The group's most likely response would be to cut workers. Firms that find that the cost of the ordinance more than offsets the benefits of city assistance may relocate. Relocation would remove *all* jobs at the firm from the city– a consequence more damaging than marginal job cuts to offset wage hikes.
5. Recipients of Subsidized Loans. This group would be at the same competitive disadvantage and respond in the same way as recipients of TIF funds.

6. Other Beneficiaries of City Assistance: This group would also be at a competitive disadvantage and would most likely cut workers.

*Summary of Employer Responses.* The study summarizes employers' responses, reflecting the impact of the proposed Chicago living wage ordinance as follows:

- Three employer categories – Recipients of TIF funds, subsidized loans, and other city assistance would probably not be able to raise prices and pass through their increased costs because of competition with firms not affected by the living wage law. A fourth category, airport concessionaires, cannot raise prices because of another city ordinance capping their prices. These four employer categories would have to reduce employment by 1,337 jobs.
- Of the 9,807 workers eligible to receive the higher living wage, 1,337, or 13.6%, would lose their jobs and 8,470 would receive a pay hike.
- The city would lose jobs in the future proportional to the degree of expansion of affected firms. Alternatively, expansion may not occur if mandated wage increases were deemed too costly.
- Even more jobs would be lost as the living wage rate increases over time. For example, increasing the living wage to \$8.00 an hour would cost employers \$45,900,000 annually (as opposed to \$37,485,392 to raise the wage to \$7.60 an hour).
- Affected employers may relocate if living wages escalate beyond their means to offset the costs. Relocation would mean loss of *all* jobs in the firm, not just those jobs needed to be cut to lower operating costs.
- Contractors and delegate agencies and other non-profits may be assumed to be able to raise prices and pass through their costs to avoid cutting jobs. However, this would require a tax increase.
- If Chicago chooses not to accept the pass-through costs (\$19,834,796, including administrative costs) it must reduce service levels. The most obvious way is to cut city workers at an average of \$40,000 per year including FICA and benefits. To avoid a tax increase, the study estimates Chicago must cut about 496 city workers at this wage level. Thus, in addition to the 1,337 dismissed workers from the other four employer categories, the total number of workers cut would amount to 1,833 in order to avoid a tax increase.

*Net Employee Benefits.* Tolley, et al. calculate the net dollar benefit of the Chicago living wage ordinance for a family of four in which the sole wage earner was paid the federal minimum wage of \$4.25. The study calculated the change in:

1. *Net Household Income.* Net household income would increase by \$5,371.45. Tolley, et al. based gross income on 2,000 hours of work. At \$4.25 an hour, gross income would be \$8,500. At \$7.60, it would be \$15,200. However, to cite the

increase in terms of gross income of \$6,700, rather than a net increase in income, would be misleading. Thus, the study accounted for FICA taxes, Illinois state income tax, and the federal Earned Income Tax Credit. At \$4.25, net household income would be \$11,124.75 after taxes. At the living wage of \$7.60, it would be \$16,496.20, an increase of \$5,371.45, or about 25% less than the gross increase in income.

2. *Food Stamp Benefits.* Food Stamp benefits would decrease by \$2,122.80.
3. *Medicaid Benefits.* Medicaid benefits would decrease by \$1,416.

Thus, the net increase in annual disposable household income as a result of the living wage ordinance would be \$1,832.65.

<b>Annual Income &amp; Benefits</b>	<b>At \$4.25/hour</b>	<b>At \$7.60/hour</b>
Net After-Tax Income	\$11,124.75	\$16,496.20
Food Stamp Benefits	\$ 3,721.20	\$1,598.40
Medicaid Benefits	\$ 3,408.00	\$1,992.00
Total Income & Benefits	\$18,253.95	\$20,086.6
<b>Net Increase in Income &amp; Benefits</b>	<b>\$1,832.65</b>	

*Net Employer Costs.* Tolley, et al. next calculated the total cost to the employer of increasing a full-time worker's wage from \$4.25 to \$7.60 an hour. First, an employer would incur a direct labor cost of \$6,700 a year to raise each worker's wage from \$4.25 to \$7.60 an hour. Next, the employer must pay FICA taxes at 7.65% on the \$6,700. This would amount to \$512.55. Thus, the employer's total cost for each such worker would be \$7,212.55. This figure would be the amount of a tax increase needed for each worker if costs were passed through (without cutting jobs) and the city agreed to maintain existing services. *[In other words, under this scenario, the city's taxpayers must pay \$7,212.55 to increase the disposable income of a family of four by \$1,832.65. It would cost the city almost \$4 for every \$1 of benefit gained by the worker.]*<sup>73</sup>

*Effect on the Poor.* Tolley, et al. make several observations that question whether the proposed living wage ordinance effectively targets the poor. First, the living wage seems to help those already earning above the targeted poverty level. Remember that the premise underlying the living wage ordinance is that an hourly wage must be paid to raise a family of *four* above the poverty level. However, census data show that the average household size in Chicago is three persons. The hourly wage to lift a family of three above the poverty level in 1996 (at \$12,516)

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73. *Ibid.*, pp. 22-23. It is interesting to note that the difference of \$5,379.90 goes to the federal government and the state of Illinois. The federal government gets 83% of the amount (\$4,470.90) in the form of increased employer and employee FICA taxes, and smaller outlays for the EITC, food stamps, and Medicaid. Illinois gets 17% of the difference (\$909.00) in the form of additional state income tax and reduced Medicaid outlays.

would have been \$6.26, not \$7.60.<sup>74</sup> It is estimated that workers eligible for the living wage were already earning an average of \$5.90 an hour. At this level, these workers would receive over \$2,000 in the Earned Income Tax Credit, thus already placing them beyond the poverty level.

Second, the ordinance [*and all living wage laws that so define the living wage*] incorrectly assumes that there is only one full-time earner in a family of four. According to Tolley, et al., in 1996, 70% of workers who earned less than \$7.50 an hour lived in households with incomes above \$20,000 and 40% lived in households with incomes above \$40,000.<sup>75</sup> The presence of additional workers in the family means that household incomes are higher than assumed by the ordinance. In turn, this means that many of the workers helped by the living wage ordinance would already be earning above the poverty level.

Third, a certain number of workers will lose their jobs (1,337 workers if the city raises taxes, and 1,833 workers if no extra tax is imposed but services are cut). (*See "Summary of Employer Responses".*) Many of these workers would be pushed into poverty. Tolley, et al. contend that the primary cause of poverty is lack of full-time employment, not low wages. They cite census data indicating that only 17% of families living in poverty were headed by full-time workers earning too little. The remaining 83% were either headed by an adult who did not work full-time (38%) or did not work at all (45%) in 1996.<sup>76</sup> Tolley, et al. further cite their own previous research of poverty rates in Chicago's 77 communities:

The poverty rate in each community was compared to the employment rate in the community. It was found that three-fourths of the difference in community poverty rates is due to lack of employment, not low wages. Furthermore, each one percent reduction in employment led to a 1.3 percent increase in poverty.

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74. Ibid., p. 27: The ordinance used the 1994 poverty level to come up with the \$7.60 hourly wage to lift a family of four above the poverty level. It should have been \$8.02 because the relevant poverty level in 1996 was \$16,036, not \$15,200.

75. Ibid., p. 27, citing figures from the United States Bureau of Labor Statistics.

76. Ibid., p. 28.

## Chapter 4

# SURVEY OF STATE GOVERNMENT AGENCIES

Item (1) of H.C.R. No. 62 requests the Bureau to compile data on the number and percentage of employees of private companies on contract with the State who may be affected by a living wage law. This chapter addresses that request. For the purposes of this study, an employee may be "affected by a living wage law" if the employee was paid less than a hypothetical Hawaii living wage when performing work for the State. This would have been an hourly wage of \$9.10 in 1998, and \$9.24 in 1999. (*See chapter 1, "Definition of Living Wage."*)<sup>1</sup>

*Data Not Readily Available:* It was clear from the outset that no one state department, agency, or office either keeps or has access to all the data being requested. The Department of Labor and Industrial Relations has information on the size of various companies but does not know which companies have contracts with the State.<sup>2</sup> Neither is it privy to companies' contract terms.

The administrator of the State Procurement Office is statutorily designated as the chief procurement officer for the executive departments and governmental bodies attached to them.<sup>3</sup> However, according to the Office, it does not do any procuring. Rather, it delegates all purchasing back to the executive departments.<sup>4</sup> However, the Office does do partial procurement for many agencies, such as the Department of Human Services and the Stadium Authority. It assists in processing some bids for janitorial and security work because there are requirements for comparable pay but it does not do so for clerical work because no law requires it.<sup>5</sup>

Initial discussions with various state agencies also confirmed that individual agencies do not keep the type of data requested by H.C.R. No. 62.<sup>6</sup> In general, state agencies are not required

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1. Some jurisdictions assume 2,000 rather than 2,080 hours of work per year (2 weeks off). Based on a shorter 50-week period, a hypothetical Hawaii living wage for 1998 would have been  $\$18,920 / 2000 = \$9.46$ , and  $19,210 / 2000 = \$9.61$  in 1999.
  2. Telephone interviews of May 15, 2000 with Claire Hane 586-9005 and May 19, 2000 with Naomi Harada 586-8999 of the Department of Labor and Industrial Relations.
  3. Section 103D-203(a)(6), Hawaii Revised Statutes, excluding the Department of Education for which the chief procurement officer is the superintendent of education.
  4. Telephone interview of May 23, 2000 with Lloyd Unebasami, Administrator, State Procurement Office 587-4700. Apparently, section 103D-208, HRS, gives each chief procurement officer, including the Administrator of the State Procurement Office, the power to delegate any authority "to designees or to any department, agency or official within their respective jurisdictions."
  5. Telephone interview of June 13, 2000 with Bob Govers, procurement and supply administrator, State Procurement Office 586-0554.
  6. (1) According to Lloyd Unebasami (telephone interview of May 23, 2000), it is not possible to obtain the requested data because neither state agencies nor the private contractors stipulate the number of workers and their individual rates of pay in their contracts. In order to obtain that data, it would be necessary to contact each state agency – the state procurement office does not have enough manpower to call each private contractor to get the data. (2) According to Steven Miwa, Public Works Division, Department of



to stipulate wage rates or numbers of workers in contracts with private companies doing work for the State. To backtrack to uncover these data, if at all possible, would require a large amount of time and effort on the part of the state agencies.

Need for Survey: Consequently, the Bureau constructed a very short survey that attempted to simplify the relevant state agencies' work in unearthing useful data. This survey was sent to the following state agencies that may have contracts for private sector work:

- House of Representatives
- Senate
- Hawaii Health Systems Corporation
- Judiciary
- Office of Hawaiian Affairs
- University of Hawaii
- Department of Education
- Department of Accounting and General Services
- Department of Agriculture
- Department of the Attorney General
- Department of Budget and Finance
- Department of Business, Economic Development, and Tourism
- Department of Commerce and Consumer Affairs
- Department of Civil Defense
- Department of Hawaiian Home Lands

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Accounting and General Services, 586-0510 (telephone interview of June 8, 2000), specific wage rates for contract workers are not required to be stipulated in contracts. The Public Works Division has over 500 private contracts and DAGS would need to hire a private contractor to perform the needed research to dig up the requested data if forced to respond. (3) According to Elaine Abe, Department of Agriculture 973-9606 (telephone interview of 6/8/00), there is no way the Department can find the data requested for its 12-15 contracts because hourly wages are not specified in the contracts. (4) According to Naomi Harada, Department of Labor and Industrial Relations (telephone interview of June 8, 2000), no state department can provide the data requested because no department knows how much private contractors are paying their workers. (5) According to Alan Neves, Corporate Director for Materials Management, 808-928-2024, Hawaii Health Systems Corporation (telephone interview of June 19, 2000), it would be an "auditing nightmare" to find out how much individuals are paid in eligible contracts signed by each of the corporation's 12 hospitals.

*SURVEY OF STATE GOVERNMENT AGENCIES*

- Department of Health
- Department of Human Resources Development
- Department of Human Services
- Department of Labor and Industrial Relations
- Department of Land and Natural Resources
- Department of Public Safety
- Department of Taxation
- Department of Transportation

*Survey Questions:* For convenience, each agency was sent an individually-tailored survey that listed all governmental bodies, boards, commissions, etc., attached to the agency. (*Survey is attached as Appendix C.*) The survey explained the data being requested and why. It defined a living wage and set the 1998 and 1999 amounts for a hypothetical Hawaii living wage at \$9.10 and \$9.24, respectively.

The survey itself asked only three questions. *Question 1* asked whether the state agency (or its attached governmental bodies) contracted with private companies that actually paid their workers between July 1, 1998 and June 30, 1999. Contracts for "professional services" were specifically excluded to expedite agencies' responses. The survey considered wages for "professional services," such as those provided by attorneys, architects, and accountants, etc., as, in all likelihood, to be too high to be of interest in this study. Instructions on the survey gave the state agencies further guidance as to the probable labor categories that might be involved. These were: general laborers, janitorial, security, and food service workers, and certain human service workers such as personal care assistants and home care providers.

If a state agency indicated that they had not entered into any such contracts, the agency was asked to stop and return the survey. If an agency indicated that it had entered into such contracts, it was requested to proceed to answer the second and third questions.

*Question 2* asked whether any workers were paid either less than \$9.10 per hour in 1998 or \$9.24 in 1999. If the answer was no, the agency was asked to stop and return the survey. If yes, the agency was asked to answer the third, and last, question by indicating the number and percentage of workers involved. *Question 3* took the form of a table, like the one below, for an agency to complete if it reached this stage.

Name of State Entity	No. of Workers Paid Less Than \$9.10 in 1998 or \$9.24 in 1999	Percent of Contracted Workers
(sample entry)	4	16%
Name of Department		
Name of Attached Body No. 1		
Name of Attached Body No. 2		

A sample entry, based on an example given in the survey, has been inserted. The entry indicates 4 workers, or 16% of contracted workers were paid below the hypothetical Hawaii living wage. The example cited five contracts, three of which paid wages for professional services that are too high for the purposes of the survey. Of the remaining two contracts, one paid three janitorial workers out of 10 a wage below \$9.10 in 1998. The other contract paid 1 clerical worker out of 15 below \$9.24 in 1999. Thus, the total number of workers affected was 3 janitors + 1 clerk = 4 workers, accounting for  $4 / (10 + 15) = 16\%$  of all workers involved in the two contracts.

Survey Results: A total of 20 of 23 departments and entities contacted responded for an 87% response rate. Of the 20 respondents, three (the Departments of Education and Hawaiian Home Lands and the House of Representatives) reported that neither they nor any attached agencies had contracted with any private companies for any state work. Of the remaining 17 respondents, eight (40%) reported that workers from the private sector had performed state work but none were underpaid. *[The terms "underpaid" or "underpay" are not used in a judgmental way but only to describe pay below the hypothetical Hawaii living wage rates in 1998 and 1999.]* These were the:

1. Hawaii Health Systems Corporation;
2. Department of Accounting and General Services;
3. Department of the Attorney General;
4. Department of Budget and Finance;
5. Department of Defense;
6. Department of Labor and Industrial Relations;
7. Department of Land and Natural Resources; and
8. Department of Transportation.

In other words, 11 of 20 responding agencies (55%) reported either no private sector work done or no payment of private sector workers below the hypothetical Hawaii living wages.

Of the nine remaining respondents, two – the Department of Commerce and Consumer Affairs (DCCA) and Department of Public Safety (PSD) – reported extenuating circumstances that, for all practical purposes, eliminated almost all of their affected workers from consideration in this study.

First, affected workers for the DCCA were exam proctors who were paid nominal stipends and who cannot even be fairly considered "part-time." For example, the position of proctor for national exams that pays a stipend of \$8 an hour for 24 hours was requested seven times in 1999, amounting to total stipends of \$1,344. The position of "dental hygiene grader" paid a stipend of \$5.63 an hour for 32 hours and was requested five times in 1999 for a total of \$2,162. These private sector workers cannot in fairness be considered underpaid low-skilled private sector workers.

Given the extenuating circumstances, it would be more accurate to group the DCCA with the other 11 respondents who reported either no private sector work done or no "underpaid" private sector workers. The number and percentage of all respondents in this group would then be 12 and 60%, respectively.

Second, according to the PSD, 15 of the 18 affected "workers" were actually inmates employed in a contracted program of the Correctional Industries Advisory Committee. Only three other workers were reported by the PSD to have been underpaid. However, because of the three underpaid PSD workers, this agency cannot be added to the group that either had no contracts or underpaid private sector workers.

A total of eight respondents (including the PSD and its three workers) reported that some private sector workers had been paid below the hypothetical Hawaii living wages. Within these eight agencies (40% of respondents), a total of 583 private sector workers were paid either less than \$9.10 or \$9.24 in 1998 and 1999, respectively.

The four respondents with the largest numbers of underpaid private sector workers were the Department of Human Services (DHS), the University of Hawaii (UH), the Department of Business, Economic Development, and Tourism (DBEDT) and its attached agencies, and the Department of Health (DOH). The DHS reported 178 such workers, representing 35% of all private sector workers involved in those DHS contracts that underpaid workers. The UH reported 168 underpaid contracted workers (100%), the DBEDT's attached agencies, 108 for (51%), and the DOH, 70 for 10.1%).

At the low end, the Department of Taxation reported 40 private sector workers paid below the hypothetical Hawaii living wages, representing 100% of all private sector workers involved in underpaying contracts. The Judiciary had only 12 such workers (92%), the PSD had three, and the Department of Agriculture had two (100%).

A HAWAII LIVING WAGE LAW: CONTRACTED STATE SERVICES

The following table summarizes the survey results.

- "NC" = No contracts
- "0" = No contracted private sector workers were paid below indicated wages
- "NA" = Information not available
- "NR" = No response

	<b>Department/Agency/Entity</b>	<b>No. Workers Paid Under \$9.10 in '98 or \$9.24 in '99</b>	<b>Percent of Workers</b>
1	House of Representatives	NC	NC
2	Senate	NR	NR
3	Hawaii Health Systems Corporation	0	0
4	Judiciary	12	92%
5	Office of Hawaiian Affairs	NR	NR
6	University of Hawaii	168	100%
7	Department of Education	NC	NC
8	Department of Accounting and General Services	0	0
9	Department of Agriculture	2	100%
10	Department of the Attorney General	0	0
11	Department of Budget and Finance	0	0
12	Department of Business, Economic Development, and Tourism.....Total Attached Agencies	108	51%
	Convention Center Authority	1	2%
	Hawaii Community Development Authority	76	64%
	High Technology Development Corporation	8	100%
	Land Use Commission	2	100%
	Natural Energy Laboratory of Hawaii Authority	21	100%
13	Department of Commerce and Consumer Affairs	*	*
14	Department of Defense	0	0
15	Department of Hawaiian Home Lands	NC	NC
16	Department of Health.....Total Division or Office	70	10.1%**
	Adult Mental Health Division	7	1.36%
	Communicable Disease Division, STD/AIDS Prevention Branch	4	8%
	Family Health Services Division, Women, Infant, and Children Branch	10	14.5%
	Office of Health Status	49	84.48%
17	Department of Human Resources Development	NR	NR
18	Department of Human Services	178	35%

SURVEY OF STATE GOVERNMENT AGENCIES

	<b>Department/Agency/Entity</b>	<b>No. Workers Paid Under \$9.10 in '98 or \$9.24 in '99</b>	<b>Percent of Workers</b>
19	Department of Labor and Industrial Relations	0	0
20	Department of Land and Natural Resources	0	0
21	Department of Public Safety.....Total	18	
	Correctional Industries Advisory Committee	15†	100%
	Hawaii Paroling Authority	3	NA††
22	Department of Taxation	42	100%
23	Department of Transportation	0	0

\* All private sector workers for DCCA were either proctors for national and state exams or specialty dental and dental hygiene personnel who acted as graders and recorders. As such, this very small group was paid \$5.63, \$6.00 and \$8.00/hour in stipends for an extremely limited annual amount of work ranging from 24 hours to 80 hours for each type of exam. (See Appendix C)

\*\* The 10.1% figure was extrapolated from DOH figures. At the reported percentages, the total numbers of contracted workers involved were estimated at 515, 50, 69, and 58 for the Adult Mental Health, Communicable Disease, and Family Health Services Divisions, and the Office of Health Status, for a total of 692. Thus, 70 underpaid workers would constitute 10.1% ( $70 / 692 = 10.1$ ).

† All 15 workers in the Correctional Industries Advisory Committee contracted program were inmates who received less than the theoretical Hawaii living wage in 1998 and 1999.

†† Although only 3 employees were paid below the theoretical Hawaii living wage in the Hawaii Paroling Authority program, no percentage is reported because, according to the DPS, "Vendors were reluctant to divulge total number of employees on payroll."

**Discussion:** Respondent agencies were asked to determine if they had contracts between July 1, 1998 and June 30, 1999 with private companies to perform state work, and if so, to report the number, if any, and percentage of workers that were paid below the hypothetical Hawaii living wages.

The data suggest several conclusions:

- Most state departments, or their attached agencies, had contracted out some work to the private sector.
- Seventeen of 20 respondents so indicated.
- About half (eight of 17) reported that no private sector worker had been paid below the hypothetical Hawaii living wages.
- Of the eight respondents that reported some underpayment, three underpaid only a minimal number of workers (2, 3, and 12 workers).
- Five respondents reported more sizable numbers of underpaid workers (42, 70, 108, 168, and 178 workers).

- Most of the time when underpayment occurred in a contract, the underpayment often, but not always, extended to a large proportion of workers under that contract. In other words, there often appears to be a relatively high concentration of low-paid workers working under any affected contract that paid below the hypothetical Hawaii living wages.

For example, the Judiciary reported that its 12 underpaid workers constituted almost all (92%) of all such contracted workers. For University of Hawaii contracts that involved underpayment, all (100%) of the 168 reported workers were underpaid. The same holds true for the Department of Agriculture's two, and the Department of Taxation's 42 private sector workers.

However, this is not always the case. The DBEDT's 108 underpaid workers accounted for 51% of all private sector workers employed in those affected contracts. The 178 underpaid private workers contracted by the DHS accounted for only 35%. The DOH's 70 underpaid workers accounted for only 10%.

In summary, a Hawaii living wage would not have had a large impact. On the one hand, the number of workers affected would have been very small. However, on the other hand, the cost would have been relatively low also.

## Chapter 5

### CONCLUSION

This study found that in 1998 and 1999 most state departments (or their attached entities) had some work contracted out to private firms. About half the departments did not pay their contracted private sector workers below a hypothetical Hawaii living wage in those two years.

The study did find 583 workers who were paid below a hypothetical Hawaii living wage. At face value, the number of workers involved is not very large. This is especially so when considered in the context of a statewide labor wage law.<sup>1</sup> In any case, the accuracy of this number should not be viewed as ironclad. It remains subject to certain limitations, including possible overstatement, as explained in chapter 1. (*See "Limitations of the Study" in chapter 1.*)

The living wage has been and will continue to be debated. Irrespective of the merits or faults of a living wage law for the State of Hawaii, H.C.R. No. 62 requires the Bureau to draft such a bill. Accordingly, a draft is attached as Appendix B.

It must be realized that a living wage law for the State, if implemented, would be at least an order of magnitude broader in coverage and impact than any other such existing law. By design, existing living wage laws have generally been targeted at the smallest and lowest jurisdictional levels of government, i.e. towns and cities. Some counties also have them, but such a law has never been implemented on a statewide basis or made to apply to an entire state government.

In Hawaii, the state government plays a comparatively larger role than in almost any other state. Hawaii's state government assumes many of the responsibilities that ordinarily fall to cities or counties in other states. Accordingly, a statewide living wage law that affects all state government contracts with the private sector would have a greater impact than in almost any other state.

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1. This total discounts exam proctors hired by the Department of Commerce and Consumer Affairs and 15 inmates performing private contracted work for the Department of Public Safety. See chapter 3 "Survey Results." According to the State Data Book for 1999 (table 12.05), in that year, the total civilian labor force in Hawaii was 594,800. Thus the 583 "underpaid" workers account for less than one-tenth of one percent of that total.



HOUSE OF REPRESENTATIVES  
 TWENTIETH LEGISLATURE, 2000  
 STATE OF HAWAII

H.C.R. NO.

62

H.D. 1  
 S.D. 1

HOUSE CONCURRENT  
 RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO COMPILE DATA ON  
 THE NUMBER AND PERCENTAGE OF EMPLOYEES OF PRIVATE COMPANIES  
 ON CONTRACT WITH THE STATE WHO MAY BE AFFECTED BY THE  
 IMPLEMENTATION OF A LIVING WAGE LAW.

1 WHEREAS, the State of Hawaii, in an effort to maximize the  
 2 State's limited resources, began the privatization of certain  
 3 types of work associated with the upkeep and maintenance of its  
 4 many facilities; and

5  
 6 WHEREAS, currently, each state department or agency  
 7 contracts out various work so that there is no one company  
 8 providing services to the State; and

9  
 10 WHEREAS, companies that benefit from state contracts  
 11 awarded to them often pay their employees less than these  
 12 employees would be earning if they were working in the same  
 13 capacity as a state employee; and

14  
 15 WHEREAS, many of these employees live below the poverty  
 16 line and receive welfare assistance to supplement their income;  
 17 and

18  
 19 WHEREAS, cities across the United States, such as  
 20 Baltimore, Los Angeles, and Chicago, have instituted a living  
 21 wage law to lift employees working for companies contracted by  
 22 the government to the poverty line; and

23  
 24 WHEREAS, a living wage law is defined as the rate of pay to  
 25 lift a family of four to the poverty line; and

26  
 27 WHEREAS, currently the State of Hawaii does not compile  
 28 comprehensive data on the amount of contracts awarded to  
 29 private firms, nor the number of people that would be affected  
 30 by a living wage law; now, therefore,

31  
 32 BE IT RESOLVED by the House of Representatives of the  
 33 Twentieth Legislature of the State of Hawaii, Regular Session

Page 2

H.C.R. NO.

62

H.D. 1  
 S.D. 1

1 of 2000, the Senate concurring, that the Legislative Reference  
2 Bureau (LRB) is requested to:

- 3  
4 (1) Compile data on the number and percentage of employees  
5 of private companies on contract with the State who  
6 may be affected by a living wage law;  
7  
8 (2) Contact other jurisdictions that have enacted living  
9 wage laws and request of them any and all pertinent  
10 information relating to their experience with the  
11 implementation of the living wage law; and  
12  
13 (3) Submit proposed legislation for a living wage law for  
14 employees of private companies on contract with the  
15 State;

16  
17 and

18  
19 BE IT FURTHER RESOLVED that the LRB submit the findings and  
20 recommendations to the Legislature no later than twenty days  
21 before the convening of the Regular Session of 2001; and  
22

23 BE IT FURTHER RESOLVED that certified copies of this  
24 Concurrent Resolution be transmitted to the Governor, the  
25 Director of Labor and Industrial Relations, the Director of  
26 Finance, and the Acting Director of LRB.

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**A BILL FOR AN ACT**

RELATING TO A HAWAII LIVING WAGE LAW.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4                                   **"CHAPTER**  
5                                   **LIVING WAGE**

6           **§ -1 Findings and intent.** The legislature finds that  
7 the state government awards contracts for services each year for  
8 substantial amounts that result in the creation and maintenance  
9 of a wide variety of employment opportunities in Hawaii. These  
10 contracts are paid for by taxpayer dollars and should be used to  
11 promote the sustenance and creation of jobs that will increase  
12 consumer income, decrease levels of poverty, invigorate  
13 neighborhood business, and reduce the need for taxpayer-funded  
14 public assistance programs.

15           Therefore, it is the intent of this chapter to ensure that  
16 employees of private sector vendors who contract with the state  
17 government to provide certain services earn an hourly wage that  
18 is sufficient for a family of four to live at or above the  
19 federal poverty level.

20           **§ -2 Definitions.** As used in this chapter, unless the  
21 context clearly requires otherwise:

22           "Contracting department" means:

- 23           (1) Any state department established pursuant to section  
24                 26-4, including any boards, commissions, agencies,  
25                 offices, or corporations administratively attached  
26                 thereto, but excluding the University of Hawaii;
- 27           (2) The legislature;
- 28           (3) The judiciary; and
- 29           (4) The office of Hawaiian affairs.

30           The Hawaii health systems corporation shall not be considered a  
31 contracting department.

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1 "Covered employee" means an individual employed by a  
2 covered vendor who directly expends or would directly expend the  
3 person's time on the service contract or the service subcontract  
4 with the contracting department.

5 "Covered vendor" means any for-profit employer who employs  
6 at least twenty-five full-time equivalent employees or any  
7 nonprofit employer who employs at least one hundred full-time  
8 equivalent employees who has been awarded a service contract or  
9 subcontract after the effective date of this chapter.

10 "Department" means the department of labor and industrial  
11 relations. The department of labor and industrial relations  
12 shall be responsible for the overall implementation, compliance,  
13 and enforcement of this chapter.

14 "Full-time" means forty working hours per week.

15 "Full-time equivalent" is a formula to calculate the number  
16 of employee work hours that equal one full-time position.

17 "Living wage" means the rate established by the department  
18 as the minimum hourly wage rate that shall be paid to a covered  
19 employee by a covered vendor pursuant to the formula set forth  
20 in section -5.

21 "Person" means one or more of the following or their  
22 agents, employees, and representatives: individuals,  
23 corporations, partnerships, joint ventures, associations, labor  
24 organizations, educational institutions, mutual companies,  
25 joint-stock companies, trusts, unincorporated organizations,  
26 trustees, trustees in bankruptcy, receivers, fiduciaries, and  
27 all other entities recognized by law by this State.

28 "Service contract" means any single contract of at least  
29 \$100,000 or more awarded to a vendor by a contracting department  
30 for the furnishing of services.

31 "Service subcontract" means a subcontract of \$25,000 or  
32 more awarded to a vendor by a covered vendor, provided the  
33 subcontract is paid for by funds from the service contract.

34 "Vendor agreement" means a written agreement between the  
35 State, through a contracting department, and any covered vendor  
36 that is executed at the time a service contract is signed with  
37 the State or a subcontract is signed with a covered vendor.

38 **§ -3 Applicability, exemptions, and waivers.** (a)  
39 Except for the exemptions listed in subsection (b), this chapter  
40 shall apply to all covered vendors. The department of labor and

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1 industrial relations shall be responsible for the overall  
2 implementation, compliance, and enforcement of this chapter.

3 (b) The following types of service contracts and  
4 subcontracts shall be exempt from the requirements of this  
5 chapter:

- 6 (1) Construction contracts awarded by the State that are  
7 subject to the state prevailing wage law;
- 8 (2) Contracts awarded to work-study or cooperative  
9 educational programs, provided that the contract is  
10 for stipends to students in the programs;
- 11 (3) Contracts awarded to the department of public safety  
12 or its attached agencies where contracted employees  
13 are inmates of correctional institutions;
- 14 (4) Contracts awarded to the department of commerce and  
15 consumer affairs or its attached agencies where  
16 contracted employees are paid stipends for proctoring,  
17 grading, supervising, or recording examinations; and
- 18 (5) Contracts awarded to vendors who provide services to  
19 the State and are awarded to vendors who provide  
20 trainees a stipend or wage as part of a job-training  
21 program; provided that the trainees do not replace  
22 current state-funded positions.

23 (c) A covered vendor must certify and submit to the  
24 department an affidavit in a form approved by the department and  
25 provided by the contracting department and signed by a principal  
26 officer of the covered vendor, that one of the exemptions in  
27 this section applies to them before the department may grant an  
28 exemption to the covered vendor. The covered vendor shall also  
29 submit a copy of the affidavit to the contracting department.

30 (d) The department may grant general and hardship waivers  
31 from this chapter as follows:

- 32 (1) A general waiver may be granted where application of  
33 this chapter to a particular service contract or  
34 subcontract violates a specific state or federal  
35 statute, rule, regulation, or constitutional  
36 provision. All general waiver requests shall include  
37 the following:
  - 38 (A) The service contract or subcontract to which this  
39 chapter applies;
  - 40 (B) The conflicting statutory, regulatory, or  
41 constitutional provision that makes compliance

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1 with this chapter unlawful, and a copy of each  
2 such provision; and

- 3 (C) An explanation of how compliance with this  
4 chapter would violate the cited provision, and  
5 the consequences that would result if this  
6 violation were to occur.

7 A general waiver request shall be submitted directly  
8 to the department and a copy submitted to the  
9 contracting department.

- 10 (2) With respect to hardship waivers, a contracting  
11 department shall monitor, and as necessary, recommend  
12 to the department, individual or group exemptions  
13 necessary in cases in which compliance with this  
14 chapter would cause undue economic hardship. These  
15 waivers shall be subject to the department's approval  
16 after a public hearing on the request has been held.  
17 All hardship waiver requests shall include the  
18 following:

- 19 (A) The service contract or service subcontract to  
20 which this chapter applies;  
21 (B) The lower wage paid by the covered vendor, and  
22 (C) A detailed explanation of how the payment of a  
23 living wage will cause undue economic hardship,  
24 including supporting financial statements.

25 **§ -4 Notification requirements.** All contracting  
26 departments engaged in the awarding of contracts shall provide  
27 in writing, an explanation designed by the department, of the  
28 requirements of this chapter in all requests for bids for  
29 service contracts with the State. All persons who have signed a  
30 service contract with the State shall forward a copy of the  
31 requirements to any person submitting a bid for a subcontract on  
32 the service contract.

33 **§ -5 Living wage payment to employees.** (a) Covered  
34 vendors shall pay no less than the living wage to covered  
35 employees.

36 (b) The living wage shall be calculated on an hourly basis  
37 and shall be no less than \$9.43 beginning on July 1, 2001. Each  
38 July 1 thereafter, the living wage shall be recalculated  
39 according to each of the adjustments set forth in paragraphs (1)  
40 to (3). The highest of the three figures derived in this manner  
41 shall be the living wage applicable until the following June 30:

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- 1           (1) Adjustment to the hourly rate which at forty hours of  
2           work a week for fifty-two weeks a year would be equal  
3           to but not less than the poverty threshold in Hawaii  
4           for a family of four as published by the United States  
5           Department of Health and Human Services; or
- 6           (2) Adjustment in proportion to the increase at the  
7           immediately preceding December 31 over the year  
8           earlier level of the annual average consumer price  
9           index for all urban consumers (CPI-U) Honolulu as  
10          published by the Bureau of Labor Statistics, United  
11          States Department of Labor applied to \$9.43; or
- 12          (3) Adjustment to one hundred ten per cent of the current  
13          federal minimum wage.

14           **§ -6 Duties of covered vendors; payroll records; vendor**  
15 **agreements; annual reports.** Covered vendors shall have the  
16 following duties:

- 17          (1) With respect to maintenance of payroll records, each  
18          covered vendor shall maintain payrolls for all covered  
19          employees and basic records relating thereto for a  
20          period of three years. The records shall contain:
  - 21               (A) The name and address of each employee;
  - 22               (B) Each employee's job title and classification;
  - 23               (C) The number of hours worked each day for each  
24               employee;
  - 25               (D) Each employee's gross wages, deductions made, and  
26               actual wages paid;
  - 27               (E) A record of fringe benefit payments including:
    - 28                   (i) Contributions to approved plans, funds or  
29                   programs;
    - 30                   (ii) Additional cash payments; or
    - 31                   (iii) Both;
  - 32               and
  - 33               (F) Any other data that may be required by the  
34               contracting department from time to time;
- 35          (2) With respect to examination of payrolls, each covered  
36          vendor shall permit a representative of the department  
37          or its designee to observe work being performed upon  
38          the work site, to interview employees, and to examine  
39          the books and records relating to the payrolls being  
40          investigated;

- 1 (3) With respect to vendor agreements, at the time of  
2 signing a service contract with the State or a  
3 subcontract with a vendor, the contract with the  
4 covered vendor shall include the following:
- 5 (A) The name of the program or project under which  
6 the contract or subcontract is being awarded;
  - 7 (B) A local contact name, address, and phone number  
8 for the covered vendor;
  - 9 (C) A written commitment by the covered vendor to pay  
10 all covered employees not less than the living  
11 wage, subject to adjustment each July 1, and to  
12 comply with this chapter;
  - 13 (D) A workforce profile of covered employees paid for  
14 by the service contract or subcontract including  
15 the employees' job titles with wage ranges; and
  - 16 (E) For service contracts, a list of all service  
17 subcontracts either awarded or that will be  
18 awarded to vendors with funds from the service  
19 contract. Any covered vendor awarded a service  
20 contract shall notify the contracting department  
21 within three working days of signing a service  
22 subcontract with a vendor; and
- 23 (4) By July 31 of each year, covered vendors shall provide  
24 annual reports to the department of their employment  
25 activities including the job positions charged to the  
26 contract and the wage ranges of those positions.

27 **§ -7 Enforcement.** (a) If necessary for the enforcement  
28 of this chapter, the department may issue subpoenas, compel the  
29 attendance and testimony of witnesses and production of books,  
30 papers, records, and documents relating to payroll records  
31 necessary for hearing, investigations, and proceedings. The  
32 department may apply to a court of competent jurisdiction to  
33 enforce these provisions.

34 (b) An individual who believes that the individual is a  
35 covered employee, or if the individual is an applicant for a  
36 position to be filled by a covered employee, and believes that  
37 the employer is not complying with requirements of this chapter,  
38 may file a complaint with the department. Complaints by covered  
39 employees of alleged violations may be made at any time.  
40 Written or oral statements made by the individual shall be  
41 treated as confidential and shall not be disclosed to the  
42 covered vendor without the consent of the individual. A



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1 complaint of non-compliance with this chapter may be filed by  
2 any person with the department, which shall provide a copy of  
3 the complaint to each covered vendor against whom the complaint  
4 is made within five business days.

5 (c) If a covered vendor discharges, reduces the  
6 compensation of, or discriminates against any covered employee  
7 or any other individual for making a complaint to the  
8 department, otherwise asserting the individual's rights under  
9 this chapter, participating in any of the proceedings under this  
10 chapter, or using any civil remedies to enforce the individual's  
11 rights under this chapter, the covered vendor shall be  
12 considered in violation of this chapter. The department shall  
13 investigate allegations of retaliation or discrimination and, if  
14 found to be true, after notice and a hearing, shall order  
15 appropriate relief to the employee or individual and assess  
16 penalties against the covered vendor and may suspend the  
17 contract or order the service contractor to suspend the  
18 subcontract.

19 (d) The department or its designee shall investigate all  
20 complaints of non-compliance. Investigations may include  
21 routine reviews, spot checks, and investigations pursuant to  
22 complaints. The department shall examine promptly all payrolls  
23 for compliance upon receiving a complaint in furtherance of any  
24 investigation.

25 (e) If the department finds evidence that the covered  
26 vendor is not in compliance or has violated any of the  
27 provisions of this chapter, the department shall order any  
28 remedial measures that may be required to ensure compliance  
29 including, but not limited to ordering back pay to covered  
30 employees for non-compliance with section -5. If the covered  
31 vendor does not comply with the department's order within ten  
32 working days, the department shall review the facts of the  
33 finding and may proceed with a formal hearing and investigation.  
34 If the department decides not to proceed with a hearing, it  
35 shall provide a statement of the reasons for the decision.

36 **§ -8 Penalties; remedies.** (a) In the event that the  
37 department determines, after notice and hearing, that any  
38 covered vendor has failed to pay the living wage rate or has  
39 otherwise violated this chapter, the department may impose any  
40 or all of the following penalties or remedies:

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- 1 (1) A fine not to exceed \$300 for each affected covered  
 2 employee for each day that the covered vendor is in  
 3 violation of this chapter;  
 4 (2) The filing of a complaint with the pertinent state or  
 5 federal agency;  
 6 (3) Wage restitution for each affected employee;  
 7 (4) Suspension of ongoing contract and subcontract  
 8 payments;  
 9 (5) Ineligibility to bid for future contracts with the  
 10 State for three years or until all penalties and  
 11 restitution have been paid in full; and  
 12 (6) Any other action deemed appropriate and within the  
 13 discretion and authority of the State.

14 (b) No remedy set forth in this chapter is intended to be  
 15 exclusive or a prerequisite for asserting a claim for relief to  
 16 enforce the right granted under this chapter in a court of law.  
 17 This chapter shall not be construed to limit an employee's right  
 18 to bring common law cause of action for wrongful termination.

19 **§ -9 Earned income credit notification.** Covered vendors  
 20 shall inform their covered employees earning less than \$12 per  
 21 hour, or any other amount as determined by the department, of  
 22 their possible right to apply for and receive the federal earned  
 23 income credit. The department shall assist any covered vendors  
 24 to the fullest extent possible to implement this section."

25 **SECTION 2. Living wage advisory committee established;**  
 26 **duties; composition and term; meetings; rules; conflict of**  
 27 **interest.** (a) There is established the living wage advisory  
 28 committee, which shall be attached to the department of labor  
 29 and industrial relations for administrative purposes only.

30 (b) The living wage advisory committee shall:

- 31 (1) Review and evaluate the effectiveness of this chapter  
 32 in creating and retaining living wage jobs in Hawaii;  
 33 (2) Review and evaluate the implementation and enforcement  
 34 of this chapter; and  
 35 (3) Submit to the legislature and the governor:  
 36 (A) An interim preliminary report no later than  
 37 twenty days prior to the convening of the regular  
 38 session of 2002;  
 39 (B) An interim annual report no later than twenty  
 40 days prior to the convening of the regular  
 41 session of 2003; and

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1 (B) A final report no later than twenty days prior to  
2 the convening of the 2004 regular session, which  
3 shall include recommendations, including  
4 specifically whether or not to reenact a living  
5 wage law for Hawaii.

6 (c) The living wage advisory committee shall be comprised  
7 of five members who shall serve until the committee is  
8 terminated pursuant to subsection (i) and whom the governor  
9 shall appoint as follows:

- 10 (1) One member representing a labor union;
- 11 (2) One member representing a living wage advocacy  
12 organization;
- 13 (3) One member representing a community-based organization  
14 operating solely within the State of Hawaii;
- 15 (4) One member representing the Chamber of Commerce of  
16 Hawaii; and
- 17 (5) One member representing small businesses in Hawaii.

18 The committee shall appoint from its members a chairperson and  
19 secretary. Three members shall constitute a quorum, whose  
20 affirmative vote shall be necessary for all actions by the  
21 committee.

22 (d) Members shall serve without compensation, but may be  
23 reimbursed for the necessary expenses, including travel  
24 expenses, incurred in the performance of their duties.

25 (e) The committee shall meet quarterly or more frequently  
26 as required. All meetings of the committee shall be open to the  
27 public.

28 (f) The committee shall adopt rules in accordance with  
29 chapter 91 governing public participation and testimony at  
30 hearings and meetings; provided that the committee shall have  
31 the power to issue interim rules, which shall be exempt from the  
32 public notice, public hearing, and gubernatorial approval  
33 requirements of chapter 91.

34 (g) No person shall serve on the committee who has any  
35 actual or potential conflict of interest as defined in chapter  
36 84. No member of the committee shall participate in any  
37 proceeding concerning a covered vendor, covered employee, or  
38 applicant for waiver or exemption, if the member or any of the  
39 member's immediate family has a direct or indirect financial  
40 interest in the covered vendor, covered employee, or applicant  
41 for waiver or exemption, or in the award of a service contract,

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1 subcontract, or the granting of relief to the covered vendor,  
2 covered employee, or applicant for waiver or exemption.

3 (h) The department of labor and industrial relations shall  
4 provide staff assistance to the committee and shall provide all  
5 information relating to the implementation of chapter ,  
6 Hawaii Revised Statutes, to the committee at least quarterly and  
7 upon the committee's request for the committee's review and  
8 evaluation.

9 (i) The committee shall terminate on December 31, 2004.

10 SECTION 3. If any provision of this Act, or the  
11 application thereof to any person or circumstance is held  
12 invalid, the invalidity does not affect other provisions or  
13 applications of the Act, which can be given effect without the  
14 invalid provision or application, and to this end the provisions  
15 of this Act are severable.

16 SECTION 4. This Act shall take effect on July 1, 2001 and  
17 shall be repealed on July 1, 2004, except that section 2, which  
18 establishes the living wage advisory committee, shall be  
19 repealed on December 31, 2004.

20

INTRODUCED BY: \_\_\_\_\_

## Appendix C

### SURVEY

#### Living Wage

*Please return this survey to: Peter G. Pan, Legislative Reference Bureau, Room 446, State Capitol Building, Honolulu, Hawaii 96813.*

1. Did «yourdepartment» execute any contracts with private sector companies, **excluding contracts limited to professional services**, under which private sector employees were actually paid between July 1, 1998 and June 30, 1999? Yes \_\_\_\_\_ No \_\_\_\_\_

*[If "no", stop and return this questionnaire to us. Otherwise, continue.]*

2. If you answered "yes" to question 1, did any of these contracts involve paying private sector employees **less than \$9.10 in 1998**, or **less than \$9.24 in 1999**? Yes \_\_\_\_\_ No \_\_\_\_\_

*[If "no", stop and return this questionnaire to us. Otherwise, continue.]*

3. For contracts that did involve paying private sector employees **less than \$9.10 in 1998**, or **less than \$9.24 in 1999**, what was the total number of employees thus paid? What percentage of contracted employees did these low-paid employees make up?

*[Example: Assume the following case:*

- (1) Of a total of 5 contracts with private companies, 3 contracts paid for professional services only while 2 contracts (A and B) paid the low wages specified.*
- (2) Contract A paid 10 workers, but only 3 workers were paid below \$9.10 as janitors in 1998.*
- (3) Contract B paid 15 workers but only 1 was paid below \$9.24 in 1999 as a clerk.*

*The total number of low-paid employees would be 4 (3 janitors + 1 clerk); and the percentage of employees would be 16% -- 4 divided by (10 + 15).]*

Name of State Entity	No. of Workers Paid Less Than \$9.10 in 1998 or \$9.24 in 1999	Percent of Contracted Workers
(Sample Entry): Name of Your Department	4	16%