Finance Committee Meeting
Thursday, September 25, 2014
6:00 pm, room 209 City Hall

1. Approve Minutes From September 11 Meeting

   Documents: FINANCE COMMITTEE MEETING 9-11-14 (DRAFT).PDF

2. Minimum Wage Discussion

   Documents: MEMO FROM MAYOR BRENNAN RE MINIMUM WAGE.PDF

3. Stormwater Discussion

   Documents: MEMO FROM CORP COUNSEL 4-NOV-13 RE STORMWATER.PDF, MEMO FROM CORP COUNSEL 17-SEP-14 RE DIRECT DISCHARGERS.PDF, MEMO FROM IAN HOUSEAL 26-SEP-14 RE CREDIT.PDF

Finance Committee
Meeting Minutes
Thursday, September 11, 2014

Attendees: Chair Mavodones, Vice Chair Duson (arrived late) Committee members Marshall and Suslovic, members of the public and staff

Chair Mavodones opened the meeting – called to order

1. **Approval of minutes of September 11, 2014 meeting**

   Motion by Councilor Suslovic to approve the minutes, second by Councilor Marshall, **Passed 3-0**

2. **General assistance discussion**

   The Committee had a discussion on the policy and financial impact to the City on the general assistance matter facing the City. No action taken.

3. **Stormwater discussion**

   The Committee continued to review stormwater material. No action taken

   Meeting adjourned.

CITY OF PORTLAND

MEMORANDUM

TO: Chair Mavodones and Members of the Finance Committee

FROM: Michael F. Brennan, Mayor

Date: 9/15/2014

Re: Minimum Wage

I. Background

In January, during my State of the City address, I announced my intent to form a working group to advise me on developing a plan to present to the City Council on how to best implement a minimum wage for the City of Portland. Consequently, the Mayor's Advisory Committee on the Minimum Wage, co-chaired by myself and Anne Eleanor Roosevelt, the Chief Executive Officer of Goodwill of Northern New England, held its first meeting on March 20, 2014. Membership was comprised of representatives from stakeholder organizations and interested individuals from the community (see attachment 1, a list of participants).

Since March, the Committee has:

- Held five (5) meeting that were open to the public and covered by local news media (a copy of the public comment on this matter is available upon request);
- Heard from USM Economics Professor Charles Colgan and former State of Maine Labor Commissioner Laura Fortman, who is currently the Deputy Administrator, Wage &Hour Division, United States Department of Labor;
- Solicited comments and presentations from both employees, employers, businesses and organizations who would be affected by a change in the minimum wage;
- Reviewed numerous studies and data points related to the minimum wage; and
- Held a public meeting at the Portland Public Library on August 20, 2014. Over hundred (100) people attended the meeting with close to forty (40) people offering comments.

Finally, it should be noted that the Committee did not take any formal "votes" on the proposed recommendations being presented. Instead, Committee members offered suggestions and information related to the best method of developing and implementing a minimum wage for the City. While it would be inaccurate to represent this as a consensus proposal, it does reflect policies adopted by several cities across the country. The Committee did not have any formal staff resources; however, it was assisted by Michael Havlin, a recent graduate of the University of Southern Maine and current University of Massachusetts, Amherst graduate student, who volunteered with the Committee (see attachment 2, a report by Michael Havlin)

II. Recommended Action

After reviewing the data and based on several recommendations made by the Advisory Committee, I am requesting that the City Council enact an ordinance that conforms to the following proposal from the Committee:

Institute a minimum wage[1] in the City as follows:

- Nine dollars and fifty cents ($9.50) as of January 1, 2015
- Ten dollars and ten cents (10.10) as of January 1, 2016
- Ten dollars and sixty eight cents ($10.68) as of January 1, 2017
- Adjusted annually by cost of living as of January1, 2018

A. Wage Calculation

Several factors have been relied on in formulating the above recommendation. First, several economists recommend the minimum wage be set at fifty percent (50%) to sixty percent (60%) of the median wage. The medium wage in Portland is roughly seventeen ($17) dollars making the proposed wage increase consistent with this established benchmark.

Next, these recommendations are also in keeping with USM Professor Charles Colgan's comments that an initial increase should stay within the range of existing market metrics so as to prevent the City from being an economic outlier in the region.

Following the first three years, the minimum wage increase would be sufficiently adjusted to allow for yearly cost of living increases, given that inflation remains relatively stable. The Council could choose to make the adjustments automatic or take a vote each year to make the appropriate increases. Yearly adjustments are important to ensure the wage is still reflective of current market conditions and does not force increases to be in a constant state of "catch up."

[1] It is important to note that the current national minimum wage is seven dollars and twenty five cents ($7.25) while the Maine state minimum wage is seven dollars and fifty cents ($7.50). The state wage has not been adjusted for several years.

B. Data Analysis

The Committee spent a considerable amount of time reviewing data and studies relate to the impact of increasing the minimum wage (see attachment 3, applicable data). Unfortunately, we were unable to find specific data points related to how many jobs and/or persons would be directly affected by a wage increase in Portland. According to former Labor Commissioner Laura Fortman, close to one hundred and twenty thousand (120,000) persons in Maine would be affected by a minimum wage increase. At the same time, an article by the Portland Press Herald stated, "According to the U.S. Census Bureau, just 5 percent of Portland resident working year-round in full time jobs earned less than $15,000 in 2012, while 17.4 percent earned $15,000 to $24, 999." Obviously, this does not take into account persons who are working part-time.

The attached data also examines the impact minimum wage increases have had in cities that enacted such provisions, as well as the arguments for and against such an increase. The arguments for and against an increase in the minimum wage are very consistent. Those supporting an increase believe it is an effective tool in reducing poverty and helping employees keep pace with the cost of living. Opponents believe businesses/market should set the wage scale and that increases will result in the loss of jobs and business closures. However, there is little evidence to support the opposing view. In fact, more data showed workers are attracted by a higher wage and employee turnover is reduced.[2]

C. Legal Authority

At its first meeting, the Committee discussed in detail the legal authority of a municipality, specifically the City of Portland, to establish a minimum wage. The Committee reviewed a presentation by the City Corporate Counsel regarding this issue (see attachment 4, a Memo from Corporate Counsel). She noted Maine was a "home rule state" and given there were not expressed prohibition in state law, municipalities may be able to establish a minimum wage. However, she did suggest the proposed ordinance follow state law when it spoke to "exemptions" for specific groups of workers. She also pointed out that legal action had been taken, with mixed results, against municipalities who had passed local minimum wage provisions.

[2] Based on data provided by the City Manager, there would not be a financial impact on the City of Portland given the minimum amount currently earned by employees is greater than eleven ($11) dollars an hour.

D. Application

This proposal would be applicable to any business (for-profit or non-profit) employing persons in the City regardless of where the home location of the business might be. The proposal does not include any new exemptions and intends to follow current state law for tipped employees as well as others exemptions specified in state law.

The manner in which the tipped wage exemption would be applied was a major issue discussed by the Committee and repeatedly raised at the public forum. In short, this proposal calls for the tipped wage exemption to be applied consistent with current state law. However, the ordinance would be drafted to ensure that all tipped employees would achieve the minimum wages as proposed.

A secondary issue raised during the Committee's deliberations centered on a "training or youth" wage. While the Committee did not directly debate this item, it could be remedied by having the ordinance apply to persons eighteen (18) and over.

E. Enforcement

The proposed ordinance with complaints would be enforced through a complaint system. That is, any employee covered under the ordinance would be able to file a complaint. If the employee is not satisfied by the City's response, he/she could also bring action in Superior Court. Businesses found in violation of the ordinance may be subject to a one hundred dollar ($100) fine.

III. Conclusion

A recent article in the New York Times reviewed the finding of the Federal Reserve and showed "The most affluent 10 percent of the American families, average incomes rose by 10 percent from 2010 to 2013. For the rest of the population, average incomes were flat or falling. The article goes on to say "The least affluent families had the largest declines. Average incomes dropped by 8 percent for the bottom 20 percent of families....and there is growing evidence that inequality may be weighing on economic growth by keeping money disproportionately in the hands of those who already have so much they are less inclined to spend it" (see attachment 5, New York Times Article).

Assuming continued in-action at the state and federal levels to address minimum wage issues, it is timely for the City Council to act now and enact the proposed ordinance in order to ensure that people are able to live and work here.

ATTACHMENT 1

MINIMUM WAGE COMMITTEE

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A City-Wide Minimum Wage in Portland Maine

A Report Compiled for the Mayor's Minimum Wage Advisory Committee

Michael Havlin

The Minimum Wage. A brief History in the United States:

Nearly a decade after the financial crisis of 2007 the average worker has yet to experience significant economic recovery. The stagnation has forced many Americans to confront an omnipresent trend in our economy: ever growing inequality.

One tool that's been implemented over the last century to combat inequality and promote prosperity has been the minimum wage. Before the federal government established a minimum wage, it was in fact the states that lead the charge for a minimum wage. The first of which was Massachusetts in 1912 (NELP). Most of these early state minimum wage laws, like many state labor laws passed before the great depression, were struck down by conservative courts, though (Nuemark and Wascher,). In 1938, despite a few contentious judicial challenges, the Fair Labor Standards Act established the first federal minimum wage of 25 cents per hour, or $4.00 in 2013 dollars (US DOL, NELP, Neumark and Wascher).

During the first two and half decades following the establishment of the Fair Labor Standards Act "congress diligently approved regular increases in the minimum wage Act" which steadily increased the inflation adjusted (2013) wage to 10.56 an hour in 1968 (NELP, 2). High inflation in the late 60's and late 70's eroded much of this progress, and, unlike in the 40's and 50's, congress was reluctant to increase the wage; from 1938 to 1978 the longest period without an increase was only six years, while from 1978 to 2013 there were two instances in which the drought exceeded nine years (US DOL, NELP). Additionally, the minimum wage increases, measured by percent change, post-1978 were both much smaller nominally and inflation-adjusted comparted to the previous decades (US DOL). As a result, the federal minimum wage has lost 33% of its value since its peak in 1968 (NELP). The ratio of the federal minimum wage to the median wage, a useful comparative tool, was at an all-time high in 1968 of 55 percent (OECD). Today, the ratio is at a near low of 38% (OECD). Globally the minimum-median ratio has generally stayed within the 45-60% range, with France boasting one of the highest at 62% and the United States with one of the lowest (OECD).

In reaction to the lack of responsiveness by the federal government states have taken responsibility, as they did in the early 20th century, to preserve the minimum wage's value. Through the 80's, 90's, and 2000's over half of US states have, at some point, established a minimum wage that exceeded the federal minimum wage (CEPR, Soon). State minimum wages that exceed the federal rate range from 7.40 in Michigan to 9.32 in Washington (NELP). Similar to the federal government's response to the great depression in 1938, states have collectively fought recent stagnation and instability with wage hikes; on January first of 2014 there were 13 states who lifted the minimum wage further in excess of the federal wage, and several states will be implementing wage increases in the next few years, the most notable of which is $11 in Massachusetts (NELP).

A more recent trend that has evolved in response to the state success with wage hikes has been an increased effort to enact local minimum wage laws (Soon). As of March of 2014 there were five municipalities with local minimum wage laws, four county laws, and two pending municipal laws in Seattle and Richmond CA (Reich). Additionally, a number of municipal wage increases appear to be imminent. Two municipalities of which there is robust research is San Francisco and Santa Fe who, as pioneers in the method, first raised their minimum wages in 2004 (CEPR). Municipal wage increases have been enacted in a variety of forms, ranging from strong no exemption rates like in Albuquerque to the most recent of Seattle which has a plethora of exemptions, phase-ins, and relief valves (Reich, BDN).

Overview of the Recent Controversy Surrounding the Minimum Wage:

The minimum wage has naturally been a hot button issue among politicians and economist over the last century. A seminal book released in 1995 titled *Myths of Measurement: The New Economics of the Minimum Wage* by David Card and Alan Krueger sparked a revolution in minimum wage economics and reinvigorated the dispute between the economists on opposing sides of the issue (CEPR). The book and subsequent debates spawned a rich body of literature and economics that uses empirical evidence and new theories to discuss the minimum wage known as "New Minimum Wage Research (CEPR, 3)."

The majority of the research reveals that there is no statistically significant evidence to show job losses caused by minimum wage increases (CEPR). In fact, even the prominent studies that show negative employment effects admit that much of the evidence supporting employment losses is statistically insignificant (Neumark and Wascher). Statistically insignificant evidence means that changes in employment, either positive or negative, are so small that it is impossible to know whether employment actually changed or not. Several meta-analysis, which aggregate dozens of statistical studies, have been done over the last two decades on the wide and rich spectrum of minimum wage employment effects; the results of these meta-analysis reveal that the distribution of employment effects is concentrated closely to a zero, many slightly above zero, and many slightly below, but almost all statistically insignificant (CEPR, Nuemark and Wacher).

Despite the majority of research showing that there is no empirical basis to support disemployment claims there is still a significant portion of the political and economic spectrum that assert there will be catastrophic repercussions to a wage floor. Most of this conjecture comes from theoretical disagreements regarding how labor markets function. Economists who claim employers will be forced to make negative adjustments, like layoffs, cuts to benefits, or higher prices, view the labor market as an efficient "nexus of contracts" that is always in equilibrium (Osterman, CEPR, McLaughlin). Refuting the efficient labor market hypothesis are economists who throw out the rational economic models for models that borrow concepts from sociology, psychology, behavioral economics, and organizational behavior, and in doing so show that businesses are vulnerable to a large number of frictions, tendencies, and imperfect competitions that prevent them from setting an efficient market wage (CEPR, McLaughlin, Mcntyre). The evidence suggests that latter group, known as intuitionalists, are correct.

Issues and Results Surrounding Municipal Increases:

Legal aspects:

A concern for many cities considering its own minimum wage is the legal feasibility of the ordinance. Although most legal scholars argue that "cities may regulate minimum wages under their local home-rule authority to enact legislation to safeguard the health, safety and welfare of their communities (Soon, 6)," there is some case law where ordinances have been struck down. Although one of the first municipal ordinances, in New York City, was struck down, more recent rulings have disagreed with the 1962 New York City case.

In 1962 New York City passed a municipal minimum wage that exceeded the state wage by 25%. In 1964 the supreme appellate court of New York State determined that the municipal minimum wage was inconsistent with state law (Wholesale Laundry Board of Trade V. City of New York). This precedent was later used in the late 60's to justify ruling against a minimum wage ordinance in Baltimore; however, an appellate court would eventually reject its lower court's and parts of New York's reasoning (Sitnick v. City of Baltimore). The appellate court thought parts of the New York court's argument were legitimate because of state law specific to New York. The appellate court rejected the lower court's ruling using arguments regarding home-rule authority, and the argument that the local ordinance was using "concurrent powers" that amplified, not superseded, the state law (Sitnick v. City of Baltimore).

In New Mexicans for Free Enterprise v. City of Santa Fe, the most recent case regarding municipal wage ordinances, the appellate court cites Sitnick v. Baltimore in a robust and detailed defense of municipal wage ordinances, confirming the lower court's judgment that "The City has the power to set a minimum wage for private employers that is higher than that mandated by the state. The ordinance does not conflict with state law and is not otherwise unconstitutional (New Mexicans for Free Enterprise V City of Santa Fe)."

In the rulings supporting the city's right to a minimum wage ordinance the courts frequently cited Home-rule authority, which is the right of a municipality to "enact laws that are municipal in nature and that do not frustrate or run counter to a state law (Maine Municipal Association)." In 1969 the state of Maine amended the constitution to include a "strong" and "broad" home rule law (Main Municipal Association). According to the state constitution any law that is not in conflict with an existing state law, and is not specifically prohibited by the legislature, may be passed by municipalities (Maine Constitution Article VIII). Enforcement of a local minimum wage in Portland would have to be provided locally, as the Maine Department of Labor has already acknowledged that it will not recognize Portland's minimum wage over the state minimum wage when an infraction is reported (Title 26 chapter 7, Maine DOL).

<u>Santa Fe and San Francisco: policy and results.</u>

In 2004 Santa Fe and San Francisco became the first municipalities to implement local wage ordinances since Washington in 1995. Santa Fe, who successfully defended itself in court, by municipal legislation, and San Francisco by ballot initiative (Reich). Over the ten years that the ordinances have been in effect a robust amount of research has been developed. Santa Fe, taking an approach more similar to Seattle, implemented a series of exemptions while San Francisco, similar to Portland's plans, passed a strong ordinance with little to no exemptions (Reich).

Santa Fe passed an ordinance in 2003 that had a mixture of phase-ins and exemptions. Santa Fe's ordinance went into effect immediately for all for-profit businesses exceeding 25 employees. This initial hike was a substantial 80% jump from $5.15 to $8.50 (Reich). The wage hike increased the minimum wage to median wage ratio from 36%, similar to the national average, to 55% (BLS). By 2008 a full phase in for all businesses and workers (besides tip-workers who would continue to be paid 2.13) to $9.50 had been completed. When the phase-in was completed the minimum-median ratio had risen to 64% (BLS, Reich). The wage was indexed to inflation, and now, after 5 years of inflation adjustments the minimum wage is at 68% of the median wage, a ratio higher than all but one nation (BLS, Reich).

San Francisco's wage increase was not as steep as Santa Fe's, but the breadth of the increase was wider. San Francisco's initial increase was a more modest increase from 6.75 to 8.5, or 26% (Reich). The 26% hike raised the ratio of minimum-median from 39% to 42%, much more mild than Santa Fe's increase (Reich, BLS). San Francisco, though, did have a more aggressive policy on who would be covered. Unlike Santa Fe, San Francisco did not provide an exemption for tipped-workers, meaning that any tips collected would be income in addition to the minimum wage (Reich). Additionally, although San Francisco did phase in small businesses and non-profits like Santa Fe, the phase in period was only one year, and by 2006 all employees had a minimum wage of 8.82, or 60% of the median wage (Reich, BLS). Overall the two year increase from 6.75 to 8.82 represented a 31% increase.

The results of these two municipalities' minimum wage laws are very encouraging. Overall, several empirical studies on the two cities have concluded that "no statistically significant negative effects on employment or hours" have occurred and "that minimum wage mandates raise the incomes of low-wage workers (Michael Reich, Ken Jacobs, and Annette Bernhardt)." Three independent analysis, one done by the Institute for Research on Labor and

Employment, one by the Center for Economics and Policy Research, and one by the Institute of Industrial Relations, all found that employment in the cities tracked consistently with employment in surrounding counties and with reference cities (Arindrajit Dube, Ethan Kaplan, Michael Reich and Felix Su, John Schmitt and David Rosnick, Arindrajit Dube, T. William Lester, and Michael Reich). While, contrary to employment, wages for the tenth percentile in San Francisco did not track with surrounding counties, increasing by a total of 5% from 2003-2012, despite the recession, as the surrounding counties decreased by 7% (Michael Reich, Ken Jacobs, and Annette Bernhardt). Similar results were found in Santa Fe where wage increases were consistently and statistically significantly in excess of reference cities, while there were no statistically significant decreases in employment (John Schmitt and David Rosnick). Furthermore, no statistically significant negative adjustments to employee compensation in any form (health benefits, etc) can be found (Michael Reich, Ken Jacobs, and Annette Bernhardt).

Prior to the wage increases in San Francisco and Santa Fe, there were many businesses who warned and threatened that they would be forced to close shop and move elsewhere (Arindrajit Dube, Ethan Kaplan, Michael Reich and Felix Su). Fortunately, the catastrophic predictions did not hold. In Santa Fe there was no statistically significant difference in business closures compared to the surrounding counties, and in San Francisco there was actually a statistically significant decrease in business closures as compared to surrounding counties (Arindrajit Dube, Ethan Kaplan, Michael Reich and Felix Su).

There are a variety of reasons that explain why employers responded so well to the price floor, both on the cost side, and the revenue side. One significant reason on the cost side of the equation is that the high wages reduced employee turnover. A study by the Institute for research on Labor and Employment found that "for a 10 percent minimum wage increase, the turnover rates decline by around 2.0 percent for teens and 2.1 percent for the restaurant workforce (Arindrajit Dube, T. William Lester, and Michael Reich)." Although 2% sounds minor, a variety of analysis on businesses shows that the total costs of finding a replacement employee range from $1300 to $4800 for low wage workers, and up to $8000 for administrative positions (Hinkin and Tracey, Blake, Boushey and Glynn). Additionally, employers were able to find operational efficiencies after the wage increase that included higher employee morale and work ethic, better customer service, and lower absenteeism (Michael Reich, Ken Jacobs, and Annette Bernhardt). Overall, several analysis have found that total costs for businesses who experienced a significant minimum wage hike increased by only one to five percent (Michael Reich and Amy Laitinen, Sonn, Pollin).

Unfortunately there has been little ex-post empirical analysis on the wage increases effects on consumption expenditure and business sales; however, there are a number of credible economist, with strong theoretical foundations, who use statistical approaches to estimate an increase in expenditure, providing economic stimulus to the region (Michael Reich, Ken Jacobs, and Annette Bernhardt). The theoretical reasoning behind predicting an increase in consumption is that, since employment isn't affected, productivity increases, and the amount of income allocated to a group with a high propensity to consume (low wage workers spend close to 100% of income) increases, aggregate demand for goods and services will increase. The increase in consumption and business revenues can be very substantial; a 2003 estimate by a regional development economist estimated that San Francisco's 26% increase in the minimum wage would lead to a direct local injection of 45 million dollars in additional expenditure

(Lantsberg). Another method that could increase revenues in response to an increase in the minimum wage is inflation; however, there was no statistically significant difference between San Francisco's inflation rate and the inflation rate in surrounding counties, and a variety of studies on other areas have confirmed that substantial increases in the minimum wage result in only negligible prices increases (Michael Reich, Arindrajit Dube, and Suresh Naidu, Michael Reich, Ken Jacobs, Annette Bernhardt).

Overall the two minimum wage ordinances in Santa Fe and San Francisco have been tremendously successful and should serve as templates and examples to other cities around the country considering a municipal minimum wage. Municipal minimum wages are still highly experimental in the United States, but the results from San Francisco and Santa Fe demonstrate a range of feasibility. Results and data from the more recent ordinances in San Jose, Albuquerque, and Seattle will stimulate additional analyses.

Enforcement:

The various types of enforcement implemented by the five municipalities who have adopted local minimum wages vary significantly but fall into two broad categories; there is Santa Fe, San Francisco, and San Jose who share responsibility and duty with workers in enforcement, and Washington DC and Albuquerque who have left enforcement up to individual workers and the judicial system (Michael Reich, Ken Jacobs, and Annette Bernhardt, Dave Jamieson, San Jose DPW, John Schmitt and David Rosnick).

San Francisco, with the most aggressive enforcement mechanisms, administers the minimum wage with extensive advertising and education before the ordinance took effect, and beaucratic and judicial processes after it took effect. San Francisco was able to utilize its Office of Labor Standards Enforcement, which had already been created to enforce other local labor laws, to enforce the minimum wage ordinance. The OLSE ultimately had to hire 7 additional contractors to enforce the ordinance for the 611,000 workers in the city, allocating 87,285 workers per officer (Michael Reich, Ken Jacobs, Annette Bernhardt). San Francisco's OLSE has proven to be much more strict and effective than state and federal enforcement, fulfilling the role of both investigator, enforcer, and legal counsel of those wronged. If the OLSE finds that an infraction has been found, penalties range from fines and judicial remedies, to revocation various permits and licenses nescarry to do business in the city (Michael Reich, Arindrajit Dube and Suresh Naidu, Michael Reich, Ken Jacobs, Annette Bernhardt). Overall, the portion of OLSE's budget that goes towards the minimum wage enforcement and education cost 1.4 million dollars per year, and it returns roughly half a million dollars a year to workers (Michael Reich, Ken Jacobs, Annette Bernhardt).

San Jose, like San Francisco, used an existing administrative apparatus to enforce the minimum wage. San Jose's Office of Equality Assurance, an office created to enforce anti-discrimination ordinances and other labor laws, is charged to "investigate suspected violations where there appears to be a reasonable basis for the complaint" and then file a lawsuit on behalf of the workers if it appears there was a violation (San Jose DPW). The office also educates employers by mailing out information to all businesses when there is minimum wage change. Largely, the OEA operates passively and only when a complaint is made, but it does require that employers keep extensive payroll information for four years in case the OEA needs to investigate (San Jose CMO). If a worker decides to seek legal action independently, he or she is entitled to recovery of legal fees and, in addition to lost wages, $50 per day that he/she was underpaid (San Jose DPW).

Santa Fe does not do a significant amount of education or investigation, but the ordinance does have some hefty punishments for violation (Dave Jamieson, Santa Fe CS). The city ordinance makes it's a crime to pay sub-minimum wages, potentially punishable with a prison sentence (Santa Fe CS). The ordinance also stipulates that an individual seeking civil remedies is entitled to receive "twice the amount of any wages due, injunctive relief, and reasonable attorney's fees and costs (Santa Fe CS)."

Contrary to Santa Fe, San Jose, and San Francisco, there is Washington DC and Albuquerque who have done essentially nothing to administer and enforce their minimum wage ordinances, which ultimately made the ordinances somewhat ineffective (Dave Jamieson, John Schmitt and David Rosnick). Although recently Washington DC has passed amendments to its minimum wage law that set up penalties and enforcement mechanisms, the original ordinance was so toothless that the "share of workers earning below the new minimum wage actually increased after the law went into effect. (DC.gov, John Schmitt and David Rosnick, 24)." In Albuquerque, where the Mayor has said it's not the city's responsibility to enforce the minimum wage law, and the city's attorney has said the city will not get involved with private employers and employees contracts, employees being paid sub-minimum wages is a common occurrence (Dave Jamieson). Minimum wage workers simply don't have the money or employment security to seek legal remedies on their own (Chavez).

Is a Rapidly phased in 10.68 the 'right' thing for Portland?

A low wage worker named Katie recently met with the Mayor's Minimum Wage Advisory Committee and explained how impossible it is to make it on the minimum wage. Katie, who works a few dollars over the minimum wage, explained that she just barley scrapes by on her wage and "can't imagine how people, especially those with children, can get by" on the minimum wage. Drew Joy, a director of the Southern Maine Workers Center, also explained how minimum and low wage workers have been forced out of the city because of unaffordable rents, taking with them their purchasing power.

These testimonies are indeed representative of a minimum wage worker's experience, and are certainly not hyperbolic, as the Massachusetts of Institute of Technology has calculated that a minimum wage worker in Portland would need to work 54 hours a week, every week, just to support themselves (MIT). A single mother with one child, a common demographic in the infamously low wage restaurant industry, would have to work an unfathomable 121 hours a week at minimum wage just to make ends meet (MIT, White House, and National Women's Law Center). The restaurant industry is one of the largest employers in Portland, employing approximately 15% of the labor force, and is also one of the lowest paying, with 25% of workers making less than $8.50 per hour; a single mother working in the restaurant industry is likely a common demographic in Portland. Approximately 10% of the Greater Portland labor force works within $1.50 of the minimum wage (Bureau of Labor Statistics). MIT's living wage database, last updated in 2010, calculates a living wage for an independent adult in Portland to be \$10.03 per hour, or roughly \$10.60 in today's dollars. Approximately 16% of the labor force in the greater Portland area earns less than the \$10.60 an hour (Bureau of Labor Statistics, University of Illinois Chicago).

Portland's cost of living, and by definition its living wage, is very similar to some of the largest cities in United States. According to MIT, Portland actually has a higher cost of living than Seattle, by about 4% and Albuquerque by a substantial 18%. Santa Fe, a city about the size of Portland, also has a cost of living lower than Portland by about 7%. The largest US city, New York City, has a cost of living only 20% greater than Portland. San Francisco and San Jose both have cost of livings that are substantially higher than Portland's, with San Francisco 20% higher, and San Jose at 15%. Although Portland has a cost of living comparable to these major cities, it has a minimum wage substantially lower than all of them. Portland's current minimum wage is 70% of the living wage, while the average ratio in the cities who have passed minimum wage laws is 90% with a high of 108% in Santa Fe (MIT, Michael Reich, Ken Jacobs, and Annette Bernhardt).

A rapidly phased in \$10.68 would bring the minimum wage in line with the cost of living in Portland, and would do so in a way that is within reach of Santa Fe and San Francisco, the two most successful local wage experiments. The first potential increase to \$9.50 would represent a 26% increase in the minimum wage, exactly the proportion of San Francisco's first increase, and would set the minimum-living wage ratio at 90%, equal to the average ratio of the other municipal minimum-living wage ratios. The 26% increase is also approximately equal to the average first increase of all the municipalities who established minimum wage laws. The potential initial increase would raise Portland's minimum-median ratio from 43% to 55%, a ratio that would be exactly equal to Santa Fe's after its initial increase. The final potential increase, tentatively planned for January 2017, to $10.68 would put the minimum wage roughly equal to a living wage, and approximately 60% of the median wage, which is on par with Santa Fe's ending ratio. After 2017, the potential ordinance would stipulate the minimum wage be increased at the rate of inflation every year, effectively making Portland's minimum wage a living wage indefinitely.

As mentioned above the establishment of a minimum wage that is on par with a living wage would come to fruition in a way that isn't unprecedented. Although the municipal minimum wage is still in a highly experimental phase, there are a number of cities who have made the first leap to serve has examples and templates. Although not useful for precision's sake, using a multi-variant linear regression model can be used to compare Portland with the other cities and provide a correlating minimum wage. Using the variables cost of living, median wage, population, minimum wage before increase, and whether or not there will be exemptions, a multi-variant linear regression model calculates that an initial increase of $10.04 correlates with Portland's variables, which is in the same ballpark of the potential initial increase of $9.50.

San Francisco demonstrates that requiring tipped workers to be paid the full minimum wage by their employer is feasible; however, San Francisco did not suddenly raise the tipped wage from 2.13 an hour (federal rate) to its 2004 minimum wage of 8.50 overnight. Tipped-workers in San Francisco had been paid the full minimum wage long before it established a minimum wage in 2004, as this was the law in California (DOL, Reich). The San Francisco minimum wage law increased tipped workers by the same proportion of regular workers, 26%

(Reich). Requiring employers in Portland to pay the full wage even for tipped workers would represent a 153% wage cost increase for business who rely on tipped workers. A jump this large is unprecedented and could very likely push the boundaries of what is possible without causing disemployment effects; however, not increasing the tipped-wage at all could make the minimum wage ordinance somewhat ineffective given the percentage of restaurant workers in Portland. Additionally, given the nature of the restaurant industry, the low wages paid, and the high proportion of women working in the industry, it is a labor market most in need of a wage increase.

As illustrated by minimum wage experiments in other cities, establishing enforcement mechanisms is an important step for an ordinance's success; however, the fiscal impact of a bureaucratic enforcement agency may make the ordinance politically infeasible. Additionally, because of Portland's small size, an organization tasked with enforcement may simply be unnecessary. To ensure compliance, policy makers should work to find a creative solution to enforce the ordinance that would not increase the city's budget.

Conclusion:

With the federal government in gridlock, the real value of the minimum wage at a near all-time low, the high cost of living in Portland, numerous examples of successful municipal minimum wage laws, a preponderance of evidence refuting negative economic costs, and Portland's progressive culture, the city of Portland should join the other cities and establish a municipal minimum wage. To determine precisely what the optimal wage should be is impossible; however, given the evidence, a phased in 10.68 would provide real benefits to workers without hurting the overall economy. Establishing a municipal minimum wage in Portland is a crucial first step towards building a local government that can continue to guide its citizens and economy in the presence of a gridlock at the State and Federal levels.

Wage and Payment

AN ORDINANCE relating to wages and employment in the city of Portland; adding a new chapter, 33, to Portland's municipal code and establishing new minimum wage rules in the city applicable to all those employed within the Portland.

WHEREAS, income and wealth inequality has reached levels not seen since the Great Depression

WHEREAS, the federal government is in a political gridlock that makes federal action on the minimum wage impossible.

WHEREAS, the real value of the minimum wage has fallen to levels not seen in over fifty years.

WHEREAS, the cost of living in Portland has increased to be on par with major U.S. cities where the minimum wage is much higher.

WHEREAS, M.I.T. has calculated that for a single adult to support themselves in Portland at the current minimum wage he or she would need to work over 50 hours a week

WHEREAS, rising housing costs are pushing low wage workers out of the city

WHEREAS, the majority of empirical economic research has shown that increases in the minimum wage do not increase unemployment or consumer prices

WHEREAS, other cities in the United States have passed local minimum wage laws which have proven immensely successful, increasing wages for many while not affecting unemployment.

WHEREAS, the proposed minimum wage is within the range of feasibility demonstrated by Santa Fe and San Francisco.

WHEREAS, the Mayor's Minimum Wage Advisory has met several times with business, non-profit, labor, and community leaders and has determined the proposed plan of action best represents the wants and needs of all stakeholders in the Portland community.

WHEREAS, Portland is the economic center of Maine.

NOW, THEREFORE

LET IT BE ORDAINED BY THE CITY OF PORTLAND

The city of Portland adds a new chapter,33, titled Minimum Wage Ordinance to the City of Portland, Maine Code of Ordinances.

Chapter 33 sections:

33.1

Authority: The city of Portland has the authority to enforce a local minimum wage under Article VIII, Part Second, Section One of the Maine State Constitution.

33.2

Definitions:

A: Regular Employee: Employee is any person who performs any labor who can not be defined as a contractor or agent under federal law, and who does not collect more than $30 per month in tips.

B: Tipped-Employee: A tipped-employee is any person who performs any labor who can not be defined as a contractor or agent under federal law, and who does collect more than $30 per month in tips.

C: Employer: An employer is any person, persons, business, non-profit, franchise, legal entity, and/or institution located within the city of Portland who directly, or indirectly through other persons including temporary employment agencies, exercise control over the wages, hours, working conditions, and/or working location of an individual who performs labor who is defined as an employee under federal law.

D: Regular-Minimum-Wage: The regular-minimum-wage is the lowest dollar value that an employer may legally pay a regular-employee on an hourly basis; the regular-employee is always entitled to be paid at the very least the regular-minimum-wage.

E: Tipped-Minimum-Wage: The tipped-minimum-wage is the lowest dollar value that an employer may legally pay a tipped-employee on an hourly basis; the tipped-employee is always entitled to be paid at the very least the tipped-minimum-wage.

F: City Limits: City limits is defined as the physical boundaries of the municipality of Portland

G: Direct Employer: The entity to which an employee is most immediately employed by. For example, the direct employer of an individual who works for a franchised corporation would be the local franchise establishment that the employee performs labor for.

33.3

The Wage:

The regular-minimum-wage discussed in this section 33.3 shall apply to all hours worked in Portland by regular-employees within City limits, and to all hours worked by an employee whose direct employer's location is within City limits.

*On January 1st 2015, the regular-minimum-wage for regular-employees shall be established as

$9.50 per hour for all regular employees.

*On January 1st 2016, the regular-minimum-wage for regular-employees shall be raised to

$10.10 per hour for all regular employees.

*On January 1st 2017, the regular-minimum-wage for regular-employees shall be raised to

$10.68 per hour for all regular employees.

*On every January 1st following January 1st 2017, the regular-minimum-wage for regular-employees shall increase by the Consumer Price Index for All Urban Consumers (CPI-U) of the previous most up to date 12 months as reported by the Bureau of Labor Statistics. The sum of the most recent 12 months for which there is a calculated CPI-U reported by the BLS will be the rates to define the increase in the regular-minimum-wage. For example, if the BLS reports that every month from January 2017 to December 2017 experienced a .1% price increase, then the increase in the regular-minimum-wage would be 1.2%

33.4

Tipped-employees:

The tipped-minimum-wage discussed in this section 33.3 shall apply to all hours worked in Portland by tipped-employees within City limits, and to all hours worked by an employee whose direct employer's location is within City limits.

*For tipped-employees the wage shall always be at least consistent with state law. Additionally, in a given pay period if the tipped-employee does not receive tips that sum to an amount high enough where she/he is effectively being paid at least the regular-minimum-wage, then the tipped-employee's employer must pay her/him the difference so that the tipped-employee receives at least the regular-minimum-wage.

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ATTACHMENT 3

RESEARCH AND BACKGROUND INFORMATION ON THE MINIMUM WAGE

Minimum Wage

In his State of the Union Address, President Obama called on Congress to raise the federal minimum wage from $7.25 to $10.10 an hour. The Fair Minimum Wage Act (HR 1010), will increase the minimum wage in three steps from $7.25 to $10.10 an hour. The rate will then be adjusted to inflation each year thereafter. Legislation will also increase the required cash wage for tipped workers in annual 85 cent increases from today's $2.13 an hour until the tip credit reaches 70% of the regular minimum wage.

Below are facts on an increase in the federal minimum wage:

- If the federal minimum wage were passed to $10.10 an hour, over 28 million workers would be lifted out of poverty
- Raising the Federal Minimum Wage to $10.10 an hour would reduce federal spending on food stamps by nearly $4.6 billion a year. Higher wages would reduce the number of food stamp recipients and the amount of aid they receive. View the report here.
- Raising the federal minimum wage would give working families an extra $100 per week.
- According to the Center for Economic and Policy Research (CEPR), if the minimum wage kept pace with the gains in the nation's productivity since 1968, the minimum wage would be $16.54 an hour today. This is higher than the hourly wages earned by 40% of Americans
- The minimum wage today pays only $15,000 per year, which is $3,000 below the poverty level for a family of three. The Fair Minimum Wage Act will boost the minimum wage to $21,000, lifting families above the poverty line
- Increasing the minimum wage to $10.10 per hour will increase GDP by nearly $33 billion over the course of three years as workers spend their raises in their local businesses and communities. This economic activity will generate 140,000 new jobs over the course of three years.
- Polls consistently show Americans support raising the minimum wage:
    - Wall Street Journal/ NBC (12/11/13): 63 percent of Americans support raising the minimum wage to $10.10 from the current $7.25 rate. (January 2014)
    - Quinnipiac Poll (12/10/13): American voters support 69 - 27 percent, including 49 - 44 percent among Republicans, raising the minimum wage.
    - National Journal Poll (12/17/13): 71 percent of Americans support raising the minimum wage.
    - ABC News/Washington Post poll (12/18/13): 66 percent of Americans support raising the minimum wage.

While the Fair Minimum Wage act moves forward, President Obama is calling on municipal and state governments to act saying, "Every Mayor, Governor, and state legislature in America, you do not have to wait for Congress".

Since then, state and municipal leaders have been leading the charge to raise the minimum wage. Across the U.S., 21 states and the District of Columbia have higher minimum wages than the federal minimum wage.

In the 2013 legislative session, 23 states and D.C. proposed minimum wage increases. Legislatures in California, Connecticut, New York, and Rhode Island enacted bills which were signed into law, enacting minimum wage increases for 2014. New Jersey voters approved a Constitutional amendment in November 2013 to raise the minimum wage and tie future increases to the cost of living. View the full report here.

Mayors and cities across the U.S. are taking action:

Seattle: After taking office in January, Mayor Ed Murray began work on his campaign promise to pay city employees $15 an hour. This minimum wage would be the highest in the nation. In January, Murray convened a 23-member committee of business, labor, and civic leaders to consider raising the Seattle minimum wage to $15 an hour. The committee is expected to deliver its proposal by the end of April. Read more about Seattle's minimum wage hike here.

San Francisco: In 2004, San Francisco raised its minimum wage from $6.75 to $8.50 an hour. Since then, the San Francisco minimum wage has got up at regular intervals to $10.74 an hour, the highest big-city starting wage in the country. Nonprofits and businesses with fewer than ten employees were given two years to implement higher pay. In addition to its minimum wage laws, San Francisco includes mandates for business to include paid sick leave and health-care coverage or pay into a pool for uninsured residents. Economists at University of California, Berkeley found San Francisco's unemployment rate was unaffected by the raise in minimum wage. Businesses absorbed the costs through lower turnover, small price increases at restaurants, and higher worker productivity. Restaurants experienced the largest impact from the change in minimum wage with a 2% - 3% increase in the cost of eating out when the minimum wage rose 25%. Overall, Berkeley researchers found little negative impacts when the minimum wage was increased. View more here

Santa Fe: In 2004, Santa Fe allowed the phase-in of its 65% minimum-wage increase for businesses with less than 25 employees. The minimum wage jumped from $5.15 to $8.50 an hour for larger businesses, with the current wage at $10.66. A study by the University of New Mexico found "no discernible impact on employment per firm" and discovered employment slightly increased. Find out more about Santa Fe here

San Jose: In November, 2012, voters in San Jose approved "Measure D", a proposal to increase the city's minimum wage from $8 to $10 an hour. Measure D took effect on March 11, 2013. A year later, the results of the increase are available. Critics argued the increased wages would drive away businesses, cut employee hours and cause an increase in unemployment. Data provided since the increase has proven these accusations incorrect. The unemployment rate dropped in San Jose from 7.6% in February, 2013 to 5.8% in December, 2014. Economists have attributed this drop to the 40,000 minimum wage workers in San Jose pumping more than $100 million into the local economy over the past year. According to the California Employment Development Department segments of the economy that employed minimum wage workers-specifically the leisure and hospitality industry- experienced a net increase of 4,000 jobs in 2013. View more on San Jose's minimum wage increase here.

Washington, D.C.: On January 15th, Mayor Vincent Gray signed a bill giving D.C. workers a minimum wage increase in several steps, allowing annual increases to D.C.'s minimum wage. In July, 2014 the rate will increase to $9.50, $10.50 in July, 2015, and culminate at $11.50 in July, 2016. The rate will be reset on a yearly basis based on the region's cost of living. Economists estimate the increase will benefit over 40,000 District residents. Read a fact sheet on the Washington, D.C. minimum wage increase here.

Los Angeles: The Los Angeles City Council has put forth a measure to study the economic impacts of a $15.37 minimum wage for large hotel employees. The measure, dubbed "Raise LA", was introduced by three City Council members on February 19th. The proposal has the support of nearly 600 local businesses, labor unions, and a majority of the City Council. Mayor Eric Garcetti has voiced his support for the measure, saying it fits with his administration's focus on inequality. Garcetti said he will look to tie a larger minimum wage hike to summer jobs programs, expanded vocational training, and widening access to healthcare. The law would apply to 87 Los Angeles hotels. Read more about the Los Angeles minimum wage hike here.

Why Allegations that Minimum Wage Hikes would cost Jobs are Wrong:

A majority of academic studies have concluded the effects on employment of minimum wage increases in the range now under consideration are likely small to nonexistent. The Congressional Budget Office (CBO) agrees that the employment effect would be "essentially zero".

Over seven Nobel Prize Winners, eight former Presidents of the American Economic Association, and over 600 economists signed a letter calling for a $10.10 minimum wage. The letter addressed concerns on employment saying,

> ... *In recent years there have been important developments in the academic literature on the effect of increases in the minimum wage on employment, with the weight of evidence now showing that increases in the minimum wage have had little or no negative effect on the employment of minimum-wage workers, even during times of weakness in the labor market...*
> View the full letter here

An additional review by the Center of Economic Policy Research concluded, "Employment effects of the minimum wage are one of the most studied topics in all of economics. This report examines the most recent wave of this research – roughly since 2000 – to determine the best estimates of the impact of increases in the minimum wage on employment prospects of low-wage workers. The weight of that evidence points to little to no employment response to modest increases in minimum wage."

The academic, scientific and economic research on the minimum wage

Some of the major questions that research attempts to answer;

- Does the minimum wage (and raising the minimum wage) help the working poor ? (families, individuals, teenagers) ?
- Does raising the minimum wage have a negative effect on employment ? (i.e. decreasing jobs)
- Does raising the minimum wage hurt profits?
- Does raising the minimum wage hurt small business or the local economy?

In 1977 Congress created the Minimum Wage Study Commission, and after four years of reviewing research and $17 million spent on the project, a 250 page summary report was issued with an additional six volumes of related research papers.

In the 1990s, a large number of researchers started to take a renewed look at the minimum wage. For the past two decades, the minimum wage debate has had two polls; on the one side researchers who come to the conclusion that "the weight of evidence suggests that the minimum wage (and an increase to the minimum wage) does not have a large, negative impact on employment." On the other side, critics of the minimum wage cite researchers who assert that "the preponderance of the evidence points to disemployment affects and that the minimum wage reduces the employment of low wage workers."

The last decade has seen a continued outpouring of research from both camps, and the emergence of what economist have called a "fourth generation" of research on the minimum wage that tries to make sense of the sometimes contradictory evidence.

Meta-studies
Meta-studies are "studies of studies" that use a set of well-defined statistical techniques to pool the results of a large number of separate analyses. Meta-study techniques effectively increase the amount of data available for analysis and can provide a much sharper picture of statistical relationships than is possible in any individual study. Meta-studies are widely used in medicine, where the results of many small clinical trials can be combined to produce much more accurate estimates of the effectiveness of different kinds of treatments.

Question 1; Does MW help the working poor?

At the current Maine minimum wage of $7.50, a parent who works full time, year round, does not earn enough to be above the federal poverty line.

On Feb 18, 2014 the Congressional Budget Office released a report on the effects of raising the minimum wage nationally:

The **CBO found that raising the minimum wage to $10.10 per hour would directly benefit 16.5 million workers.** According to CBO's report, 16.5 million people making less than $10.10 per hour would get a raise if the minimum wage is increased. This figure does not include CBO's estimate of as many as 8.0 million workers who currently earn just above $10.10 an hour but could also potentially see a raise due to the "ripple effect" of a shifting wage structure. **CBO also found that raising the minimum wage would lift 900,000 people out of poverty,** finding that increases in the minimum wage reduce poverty.

The top three occupations in industries that experienced job growth in 2010 were retail sales persons, cashiers, and food preparation workers – all occupations with median wages below $10 per hour. Seven of the top ten growth occupations as projected by the Bureau of Labor Statistics for the next decade are low-wage jobs, including home health aides, customer service representatives, food preparation and serving workers, personal and home care aides, retail salespersons, and office clerks. And nearly 76% of the workers earning at or near the current very low minimum wage of $7.25 are adults 20 or over. Nationally, if the minimum wage were raised to around $10.00, the workforce affected would be even more overwhelmingly adult.

Age	Percentage of workers affected by Min. Wage Increase
6-19	16.6%
20-24	15.7%
25-34	24.1%
35-44	17.2%
45-54	16.0%
55-64	10.4%

Question 2 ; Does raising the MW negatively effect employment?

Probably the most controversial of the research areas related to raising the minimum wage.

Negatively effects: There has been a considerable response from economists more critical of the minimum wage. David Neumark and William Wascher's book *Minimum Wages* brings together much of this critique, with an emphasis on their own work. In Neumark and Wascher's assessment, the most reliable recent research on the minimum wage has built on the earlier time-series analysis and applies modern econometric techniques to state-level data on teenagers (and sometimes less-educated workers). Neumark and Wascher's conclusion is that "...the preponderance of evidence supports the view that minimum wages reduce the employment of low-wage workers." By their calculations, of the 33 studies "providing the most credible evidence; 28 (85 percent) ... point to negative employment effects."

No negative effects on employment: Researchers who are critical of the conclusions reached by Neumark and Wascher . Other researchers note that the Neumark and Wascher review is more subjective and arguably less relevant to the United States than other meta-studies. Only 52 of the 102 studies reviewed by Neumark and Wascher analyzed U.S. data. Of these, Neumark and Wascher designated 19 as "most credible," five of which were their own studies. The Neumark and Wascher (2006) review also excludes several important papers that were not published until after the review was completed, including the important contributions of Arindrajit Dube, William Lester, and Michael Reich (2010) and Sylvia Allegretto, Dube, and Reich (2011).

Other Meta-study results that show **No negative effects on employment** :

Hristos Doucouliagos and T. D. Stanley (2009) conducted a meta-study of 64 minimum-wage studies published between 1972 and 2007 measuring the impact of minimum wages on employment in the United States. When they graphed every employment estimate contained in these studies (over 1,000 in total), weighting each estimate by its statistical precision, they found that the most precise estimates were heavily clustered at or near zero employment effects. Doucouliagos and Stanley concluded that their results "...corroborate overall finding of an insignificant employment effect (both practically and statistically) from minimum-wage raises

- "Two scenarios are consistent with this empirical research record. First, minimum wages may simply have no effect on employment... Second, minimum-wage effects might exist, but they may be too difficult to detect and/or are very small."

key recent studies

Dube, Lester, and Reich (2010) Probably the most important and influential paper written on the minimum wage in the last decade was Dube, Lester, and Reich (2010)'s study which offered a comprehensive reappraisal of both the new minimum wage research and its critics. The study was built around a key methodological innovation, which essentially was nationally representative, and identified a significant weakness in much of the earlier minimum-wage research based on the analysis of state employment patterns, which had failed to control for regional differences in employment growth that were unrelated to the minimum wage.
In recognition of this problem, Dube, Lester and Reich compared employment differences across contiguous U.S. counties with different levels of the minimum wage. The three economists carefully constructed a data set of restaurant employment in every quarter between 1990 and 2006 in the 1,381 counties in the United States for which data were available continuously over the full period. They also matched these employment data with the level of the federal or state minimum wage (whichever was higher) in the county in each quarter of each year in the sample. They then compared restaurant employment outcomes across a subset of 318 pairs of bordering counties where the prevailing minimum wage could differ, depending on the level of the federal and state minimum wage. Dube, Lester, and Reich "...find strong earnings effects and no employment effects of minimum wage increases."

Hirsch, Kaufman, and Zelenska (2011)
Barry Hirsch, Bruce Kaufman, and Tatyana Zelenska (2011) studied the impact of the 2007-2009 increases in the federal minimum wage on a sample of 81 fast-food restaurants in Georgia and Alabama.
Hirsch, Kaufman, and Zelenska gathered two kinds of data. The first were electronic payroll data obtained from the three owners of the 81 establishments and they also collected data through separate interviews with managers and employees, using a survey designed to investigate channels of adjustment to the minimum wage – other than changes in employment or hours.32 The other channels they considered included: price increases; changes to the internal wage structure (including slower pay increases for higher-wage workers); reductions in turnover; "operational and human resource efficiencies;" reductions in non-labor costs; reductions in customer service; and lower profits. After analyzing the establishment data on wages, employment, and hours, Hirsch, Kaufman, and Zelenska concluded that while wages did rise after the federal minimum-wage increase, any employment and hours changes were not statistically distinguishable from zero. The employment effects they find lie at the consensus estimate in the most recent meta-studies: little or no negative employment outcomes. The key contribution of this paper, however, is its focus on the wide range of ways that employers respond to minimum-wage increases other than adjusting employment or hours.

Question 3 ; Does raising the MW hurt profits?

Some of the strongest evidence suggests that many employers may experience declines in costly turnover. And workers may respond to the higher wage by working harder. Any of these channels might be sufficient to eliminate the need for employment cuts or reduce the size of employment cuts to a level below where they can be reliably measured. According to economists at the University of California, Berkeley, who have studied San Francisco, eight other cities that raised their minimum wages in the past decade, businesses absorbed the costs through lower turnover, small price increases at restaurants, which have a high concentration of low-wage workers, and higher worker productivity.

Question 4 ; Does raising the MW hurt small business or the local economy?

Sara Lemos has conducted a comprehensive review of the 30 or so academic papers on the price effects of the minimum wage. She concludes: "Despite the different methodologies, data periods and data sources, most studies reviewed above found that a 10% US minimum wage increase raises food prices by no more than 4% and overall prices by no more than 0.4%"; and "[t]he main policy recommendation deriving from such findings is that policy makers can use the minimum wage to increase the wages of the poor, without destroying too many jobs or causing too much inflation." Neumark and Wascher agree with Lemos's assessment about the likely price effects (while disagreeing with her conclusions about the overall usefulness of the minimum wage): "Both because of the relatively small share of production costs accounted for by minimum wage labor and because of the limited spillovers from a minimum wage increase to wages of other workers, the effect of a minimum wage increase on the overall price level is likely to be small." Other recent research by Daniel Aaronson, Eric French, and James MacDonald on restaurant pricing, a sector with a high share of low-wage workers suggests that the price effects are likely to be lower than the upper bounds suggested by Lemos. Aaronson, French, and MacDonald "find that a 10 percent increase in the minimum wage increases prices by roughly 0.7 percent."

Recent research from the Federal Reserve Bank of Chicago finds that raising the federal minimum wage to $10 could increase U.S. GDP by up to 0.3 percentage points in the near term (Aaronson and French 2013). Economists generally agree that low-wage workers are more likely than any other income group to spend any additional earnings they receive, largely because they must in order to meet their basic needs.

Studies look at what happened when cities raised minimum wage

Raising the minimum wage doesn't have a drastic, negative impact on employment, according to university researchers who have studied pay hikes in other cities.

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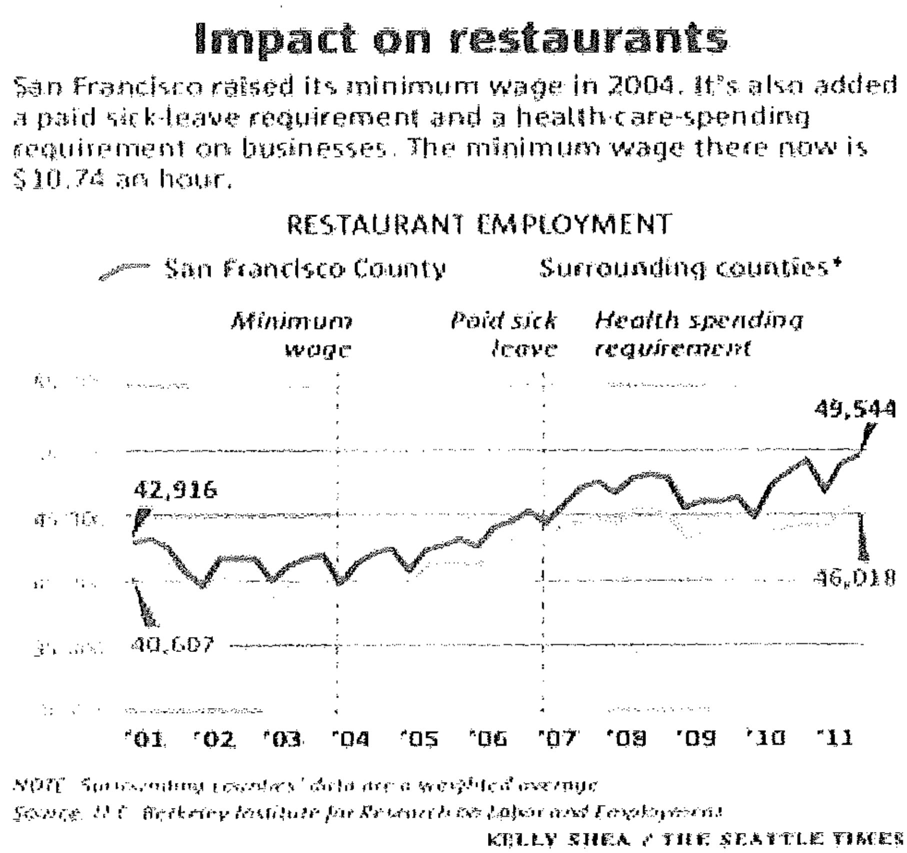
By Lynn Thompson
Seattle Times staff reporter

Ten years ago, San Francisco raised its minimum wage from $6.75 to $8.50 an hour, a 26 percent increase. Since then, it has gone up at regular intervals to its current $10.74 an hour, the highest big-city starting wage in the country.

The city has slapped other mandates on businesses, including paid sick leave and a requirement to provide health-care coverage or pay into a pool for uninsured residents.

What have the effects been on employment?

Almost none, according to economists at the University of California, Berkeley, who have studied San Francisco, eight other cities that raised their minimum wages in the past decade, and 21 states with higher base pay than the federal minimum.



Businesses absorbed the costs through lower turnover, small price increases at restaurants, which have a high concentration of low-wage workers, and higher worker productivity, the researchers found.

The average increase among cities raising the minimum wage was 40 percent. The average step increase for a phased-in pay hike was 17 percent.

"Our data show that an increase up to $13 an hour has no measurable effect on employment," said Michael Reich, a Berkeley economics professor with the Institute for Research on Labor and Employment.

Still, Reich, whose work has been cited by President Obama in pressing for a higher federal minimum, stopped short of saying there would be no significant impact if Seattle leaders were to raise the minimum wage here to a proposed $15 an hour, a 61 percent jump.

"We have not studied what would happen at $15," Reich said.

In San Francisco, nonprofits and businesses with fewer than 10 employees were given two years to implement the higher pay.

Santa Fe allowed the phase-in of its 65 percent minimum-wage increase for businesses with fewer than 25 employees. For larger businesses, the minimum jumped from $5.15 to $8.50 an hour in 2004. (It now sits at $10.66.)

A study two years later by the University of New Mexico Bureau of Business and Economic Research found "no discernible impact on employment per firm." Employment in the city actually went up slightly, and did better when compared with Albuquerque, which didn't raise its minimum wage.

The study was done by Nicholas Potter, now a researcher at Washington State University. He said some businesses in Santa Fe did close and some said it hurt their competitiveness. But workers were overwhelmingly positive about the pay hike. And the fear of massive restaurant closures didn't happen, he said, though the cost of eating out did go up some.

"It seemed to have helped workers and not hurt business too much," he said.

Cost of eating out

Potential price increases at restaurants was the biggest negative impact identified by the Berkeley researchers. The cost of eating out went up 2 to 3 percent when the minimum wage rose 25 percent. That means dining out in Seattle could go up as much as 7 percent if the city goes to $15 an hour.

But another Berkeley researcher said there isn't an overwhelmingly negative impact on any type of business where the minimum wage has been raised.

"There is considerable churn among small businesses. Firms are going out of business and new businesses are rising all of the time. What is important from the research is that you do not see a net decline in employment as a result of the minimum-wage ordinances," said Ken Jacobs, chairman of the Berkeley Center for Labor Research and Education.

Other economists say there are more negative effects, particularly for the youngest and least-skilled workers who might lose hours and see the number of entry-level positions reduced in favor of more skilled workers.

Joseph Sabia, an economics professor at San Diego State University, said his research on the effects of the proposed jump in the federal minimum wage found that fewer than 15 percent of minimum-wage workers live in poverty.

"In contrast to the myth that a common minimum- wage worker is a poor single mother head-of-household struggling to make ends meet, the typical minimum-wage worker is actually a second- or third-earner in their 20s from a nonpoor household," Sabia said.

A study by the Congressional Budget Office last month found that raising the federal minimum to $10.10 would boost the earnings of 16.5 million workers, but an estimated half million would lose their jobs.

And with Seattle contemplating a 61 percent jump, low-skilled employment could drop as much as 18 percent, Sabia said.

One critic of the minimum-wage hike said it could lead to increased automation at fast-food restaurants, such as touch-screen displays instead of cashiers taking orders, or robots capable of making 360 burgers in an hour.

"When talking about a $15 minimum wage, you're going to a level that's somewhat unprecedented," said Michael Saltsman, research director for the Employment Policies Institute, which is partially funded by the restaurant industry.

"A 60 percent increase in labor costs doesn't just wipe out profits at a typical restaurant, it wipes them out four times over," he said.

Business, labor

Seattle Mayor Ed Murray in January convened a 23-member committee of business, labor and civic leaders to consider raising the minimum wage in Seattle to $15 an hour from the current state minimum of $9.32 an hour, the highest state rate in the country.

The committee is supposed to deliver a proposal to Murray by the end of April. The City Council also is examining the issue and is expected to consider the mayor's proposal and make a recommendation. Advocates have vowed to place a measure on the November ballot to set a $15 minimum in the city starting Jan. 1, 2015, if they don't approve of the city's proposal.

Murray has asked researchers at Berkeley and the University of Washington Evans School of Public Policy to examine the economic impact of raising the base pay to $15 an hour.

The UW researchers are trying to identify who in the city currently earns the minimum wage, who makes between minimum wage and $15 an hour, where they work and where they live.

"We said all along that this was going to be a conversation informed by data. The Berkeley research will give us a look at the experience of other cities with the minimum wage, and these results will factor into the Advisory Committee's negotiations. We're also studying Seattle's own profile of low-wage workers, and those results will be a key consideration for the Advisory Committee as well, " Murray said in an emailed statement.

Research Indicates That City Minimum Wages Boost Earnings Without Reducing Employment

With growing numbers of U.S. cities adopting higher local minimum wages, economists have had the opportunity to study the impact of these measures on local economies. The most rigorous analysis of the higher city minimum wages that have been enacted in U.S. cities to date indicates that they have boosted earnings without evidence of slowed job growth or business relocations. These findings are consistent with the bulk of modern research on higher state minimum wages, which has generally found no statistically significant evidence of job losses resulting from minimum wage increases passed over the last twenty years.

In part this is because the bulk of the low-wage positions affected are in fields such as restaurants, retail, building services, home health care and child care – jobs that serve city-based customers such as residents, office workers and tourists at city locations. As a result, most cannot practically be moved by their employers to locations outside of the city while still retaining their customer bases.

Summary of Recent Research on the Economic Impact of Higher Local Minimum Wages

Study	Year Published	Cities Studied	Summary of Findings
"The Wage and Employment Impact of Minimum-Wage Laws in Three Cities" Center for Economic and Policy Research	2011	San Francisco, CA Santa Fe, NM Washington, DC	"The results for fast food, food services, retail, and low-wage establishments ... support the view that citywide minimum wages can raise the earnings of low-wage workers, without a discernible impact on their employment..."
"When Mandates Work: Raising Labor Standards at the Local Level" University of California-Berkeley	2014	San Francisco, CA	This book-length study of San Francisco's minimum wage, living wage, health care and paid sick leave laws, which collectively raised the compensation of low-wage workers 80 percent higher than the federal minimum wage, found that these laws raised pay without costing jobs. Researchers found that from 2004 to 2011, private sector employment grew by 5.6 percent in San Francisco, but fell by 4.4 percent in other Bay Area, California counties that did not have a higher local wage. Among food-service workers, who are more likely to be affected by minimum-wage laws, employment grew 17.7 percent in San Francisco, faster than in the other Bay Area counties. San Francisco employers absorbed the higher wage costs through reduced employee turnover and improved customer service and productivity.

"The Economic Effects of a Citywide Minimum Wage" University of California-Berkeley	2007	San Francisco, CA	"We find that the San Francisco wage floor policy increased pay significantly at affected restaurants... We do not detect any increased rate of business closure or employment loss among treated restaurants; this finding is robust across a variety of alternative specifications and control subsamples."
"Measuring the Employment Impacts of the Living Wage Ordinance in Santa Fe, New Mexico" University of New Mexico Bureau of Business and Economic Research	2006	Santa Fe, NM	"Overall, this analysis found that the living wage had no discernible impact on employment per firm, and that Santa Fe actually did better than Albuquerque in terms of employment changes."
"Minimum Wage Effects Across State Borders: Estimates Using Contiguous Counties" University of California-Berkeley, University of Massachusetts-Amherst, and University of North Carolina-Chapel Hill	2010	288 pairs of neighboring U.S. counties with differing minimum wage rates at any point between 1990 and 2006	This study, widely regarded as the "state of the art" in minimum wage research, compared employment levels among 288 pairs of neighboring U.S. counties that had differing minimum wage rates at any point between 1990 and 2006. It found that such minimum wage variations between neighboring counties did not reduce employment or lead to slower job growth in the higher wage counties.

Cities Take on Minimum Wage Battle

January 14, 2014 | Economic Development, Finance Comments Off

What Happened?
In major cities across the country, residents are protesting for increases in the minimum wage to help middle class families and possibly boost economic activity. Many officials are discussing the notion of a local minimum wage that would vary across the country to be more consistent with differences in housing and living costs between cities and metropolitan areas.

The Goal
The federal government has proposed a nationwide increase of the minimum wage to $10.10 per hour. A University of Massachusetts Amherst economist pointed out that this increase will provide limited relief to struggling middle class workers, as the earnings would account for just 37 percent of the median full-time wage reported nationwide. This means the purchasing power of the middle class will be significantly lower than in the past, making it difficult for that increase to make an impact on economic activity.

As a result, many major cities are witnessing a push for local minimum wages to be set based on the prices of goods, services and housing in the area. The minimum wages of San Francisco and New York City, for example, should be arguably higher than those of smaller cities based on the costs of living. Many state and local governments are already working on passing minimum wage levels above the federal level. How to approach the setting of a local minimum wage, however, is still up for debate, The Atlantic Cities reported.

Some economic experts believe the minimum wage should be set to 50 or 60 percent of the median wage, which would closely mirror the purchasing power enjoyed by the middle class in the 1960s and 1970s. Under the federal government's proposal of a $10.10 minimum wage, only 20 major metropolitan areas would have half of their median wage under that level, while no cities would surpass 60 percent of the median full-time wage. Thus, to enjoy the economic perks of an adequate minimum wage, cities must determine their levels independently.

What's The Point?

A 2010 study from the Institute for Research on Labor and Employment outlined some of the effects local minimum wages could have on the economy when they are aligned with median full-time wages in the area. When minimum wages are raised to coincide with local costs of living, poverty is likely to drop without damaging employment levels in industries paying workers minimum wages.

Despite the federal government's efforts to address the minimum wage problem at the national level with the National Employment Law Project , several organizations have rallied around a high-wage strategy that focuses on enriching the middle class without damaging major industries or employment levels.

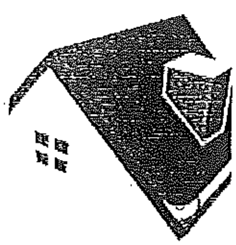
The Center for Economic and Policy Research supports this notion in a report illustrating a significant increase in the minimum wage would not hurt job growth or increase unemployment. Rather, the data suggests boosts to economic activity as well as small price increases to benefit businesses.

What Works Best

EfficientGov has followed several trends focused on worker rights and economic activity including four-day work weeks and local grants to boost job growth.

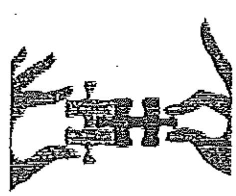
In Case You Missed It!

How Olympics P3 Transformed Vancouver Public Transit



New Market Tax Credits Revitalize North St. Louis

Saving $1.3M with Consolidated Maintenance



Task Force Supports Public Safety, DPW and Court Consolidation

State Increases Effective 1/1/2014				
Region	Previous Wage	New Wage	% Increase	Cost of Living or Legislation?
Arizona	$7.80	$7.90	1%	Cost of Living
Colorado	$7.78	$8.00	3%	Cost of Living
Connecticut*	$8.25	$8.70	5%	Legislation
Florida	$7.79	$7.93	2%	Cost of Living
Missouri	$7.35	$7.50	2%	Cost of Living
Montana	$7.80	$7.90	1%	Cost of Living
New Jersey	$7.25	$8.25	14%	Legislation
New York*	$7.25	$8.00	10%	Legislation
Ohio	$7.85	$7.95	1%	Cost of Living
Oregon	$8.95	$9.10	2%	Cost of Living
Rhode Island*	$7.75	$8.00	3%	Cost of Living
Vermont*	$8.60	$8.73	2%	Cost of Living
Washington	$9.19	$9.32	1%	Cost of Living

Upcoming State Increases				
Region	Current Wage	Date of change	Future Wage	% increase
California	$9.00	1/1/2016	$10.00	11%
Connecticut*	$8.70	1/1/2015	$9.15	5%
Delaware	$7.75	6/1/2015	$8.25	6%
Hawaii*	$7.25	1/1/2015	$7.75	7%
Maryland*	$7.25	1/1/2015	$8.00	10%
Massachusetts*	$8.00	1/1/2015	$9.00	13%
Michigan	$7.40	9/1/2014	$8.15	10%
Minnesota*	$8.00	8/1/2015	$9.00	13%
New York*	$8.00	12/31/2015	$8.75	9%
Rhode Island*	$8.00	1/1/2015	$9.00	13%
Vermont*	$8.73	1/1/2015	$9.15	5%
West Virginia*	$7.25	12/31/2014	$8.00	10%

Municipal Minimum Wages					
Region	Original Wage	Date of Initial Increase	First increase	% increase	Current wage
Albuquerque*	$5.15	1/1/2008	$6.75	31%	$8.60
San Francisco*	$6.75	2/24/2004	$8.50	26%	$10.74
San Jose*	$8.00	3/11/2013	$10.00	25%	$10.15
Santa Fe*	$5.15	6/25/2004	$8.50	65%	$10.66
Washington DC	$6.15	4/8/2005	$6.60	7%	$9.50
Seattle**	$9.32	1/1/2015**	$11.00	18%	$8.50

Potential Municipal Wages				
Region	Current Wage	Potential Date	First Increase	% increase
Chicago	$8.25	1/1/2018	$13.00	58%
Los Angeles	$9.00	3/1/2015	$15.00	67%
Oakland	$9.00	3/1/2015	$12.25	36%
Portland, ME*	$7.50	1/1/2015	$9.50	27%
San Diego	$9.00	1/1/2015	$9.75	8%

*Single asterisk indicates that the initial increase in the minimum wage is part of a phase in plan that will ultimately put the ending minimum wage in the $10 to $12 range, typically followed by inflation adjustments

**Seattle's passed an ordinance that will slowly raise the minimum wage to $15 an hour over 7 years in a triaged fashion that will start with large business going to $11 in 2015, and ending with small business paying $15 an hour in 2021.

Occupations where at least 25% of workers earn less than $9.50 per hour
Portland-South Portland-Biddeford NECTA

Occupation	Total Employment	Median Wage
Retail Salespersons	6,510	$10.41
Personal Care Aides	3,420	$9.75
Stock Clerks and Order Fillers	2,620	$11.40
Food Preparation Workers	1,740	$10.67
Maids and Housekeeping Cleaners	1,460	$9.83
Packers and Packagers, Hand	1,030	$9.85
Packaging and Filling Machine Operators and Tenders	770	$11.80
Counter and Rental Clerks	540	$11.12
Hairdressers, Hairstylists, and Cosmetologists	420	$11.89
Crossing Guards	300	$9.69
Nonfarm Animal Caretakers	270	$10.28
Bakers	260	$11.97
Meat, Poultry, and Fish Cutters and Trimmers	250	$9.99
Laundry and Dry-Cleaning Workers	250	$10.01
Manicurists and Pedicurists	160	$10.18
Lifeguards, Ski Patrol, and Other Recreational Protective Service Workers	140	$9.96
Information and Record Clerks, All Other	140	$13.46
Community and Social Service Specialists, All Other	80	$12.28
Photographers	60	$17.18
Farmworkers and Laborers, Crop, Nursery, and Greenhouse	50	$10.59
Furniture Finishers	**	$12.41
Motor Vehicle Operators, All Other	**	$13.02
Cooks, Fast Food	**	10.96
Septic Tank Servicers and Sewer Pipe Cleaners	**	10.67
Sales and Related Workers, All Other	**	10.49
Pressers, Textile, Garment, and Related Materials	**	10.72
Home Appliance Repairers	**	17.65

Source: Bureau of Labor Statistics, 2013 Occupational Employment Statistics

Prepared by the Maine Center for Economic Policy

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Portland-South Portland-Biddeford NECTA

Occupation	Total Employment	Median Wage
Office Clerks, General	3,720	14.46
Janitors and Cleaners, Except Maids and Housekeeping Cleaners	2,810	12.23
Cooks, Restaurant	2,200	11.92
Security Guards	950	11.40
Childcare Workers	760	11.04
Driver/Sales Workers	600	18.01
Construction Managers	560	33.30
Self-Enrichment Education Teachers	560	17.60
Recreation Workers	540	11.67
Substitute Teachers	530	11.30
Hotel, Motel, and Resort Desk Clerks	520	10.79
Preschool Teachers, Except Special Education	500	13.06
Machinists	410	17.72
Interviewers, Except Eligibility and Loan	330	13.61
Helpers--Production Workers	310	11.61
Butchers and Meat Cutters	230	13.31
Weighers, Measurers, Checkers, and Samplers, Recordkeeping	220	12.75
Editors	200	17.67
Food Batchmakers	130	11.80
Protective Service Workers, All Other	100	13.61
Community Health Workers	90	16.37
Library Assistants, Clerical	80	11.77
Helpers--Installation, Maintenance, and Repair	80	10.85
Farmworkers, Farm, Ranch, and Aquaculture	60	13.41
Broadcast Technicians	60	21.97
Photographic Process Workers and Processing Machine Operators	50	13.11
Education, Training, and Library Wrkrs, All Other	50	16.40
Floral Designers	50	11.99
Funeral Attendants	40	10.77
Skincare Specialists	40	15.63
Insulation Workers, Floor, Ceiling, and Wall	**	14.08
Telemarketers	**	12.80
Painting, Coating, and Decorating Workers	**	11.51
Parking Lot Attendants	**	15.37
Office Machine Operators, Except Computer	**	12.83
Cleaners of Vehicles and Equipment	**	11.55

Source: Bureau of Labor Statistics, 2013 Occupational Employment Statistics

Prepared by the Maine Center for Economic Policy

2013 Hourly Occupational Employment

Geography: Statewide & MSA

Occupational Group: Total, All Occupations

Area Name	Occupation Title (2010 Standard Occupational Classification)	Estimated Employment	Average Wage	25th Percentile	Median Wage	75th Percentile
Portsmouth, NH-ME Metropolitan NECTA	Management Occupations	3,390	$57.02	$36.68	$50.70	$68.69
	Office and Administrative Support Occupations	9,270	$17.34	$12.84	$16.23	$20.61
	Personal Care and Service Occupations	1,530	$13.01	$9.07	$11.07	$14.51
	Production Occupations	3,500	$19.21	$13.28	$17.71	$24.54
	Protective Service Occupations	600	$21.33	$12.68	$20.70	$27.10
	Sales and Related Occupations	7,920	$21.74	$9.34	$12.61	$25.13
	Transportation and Material Moving Occupations	2,330	$16.81	$10.75	$14.27	$19.57
Rochester-Dover, NH-ME Metropolitan NECTA	Total all occupations	53,730	$21.84	$11.39	$17.07	$26.55
	Architecture and Engineering Occupations	890	$35.21	$26.68	$34.50	$43.34
	Arts, Design, Entertainment, Sports, and Media Occupations	490	$21.33	$12.43	$19.16	$25.64
	Building and Grounds Cleaning and Maintenance Occupations	1,410	$13.66	$10.44	$12.81	$16.18
	Business and Financial Operations Occupations	2,260	$31.99	$23.06	$29.46	$38.99
	Community and Social Services Occupations	810	$19.22	$13.21	$17.16	$23.83
	Computer and Mathematical Occupations	2,110	$37.33	$28.12	$36.65	$45.84
	Construction and Extraction Occupations	1,370	$20.28	$15.99	$19.52	$24.15
	Education, Training, and Library Occupations	5,000	$25.33	$15.76	$22.41	$31.92
	Farming, Fishing, and Forestry Occupations	50	$14.69	$9.93	$13.72	$18.54
	Food Preparation and Serving-Related Occupations	5,380	$10.16	$8.29	$9.17	$11.55
	Healthcare Practitioners and Technical Occupations	2,860	$41.19	$21.01	$30.44	$44.25
	Healthcare Support Occupations	1,600	$14.56	$11.57	$13.89	$17.05
	Installation, Maintenance, and Repair Occupations	1,800	$20.83	$15.41	$19.18	$25.48
	Legal Occupations	160	$33.88	$17.83	$25.12	$38.20
	Life, Physical, and Social Science Occupations	340	$34.78	$20.29	$28.16	$43.39
	Management Occupations	2,560	$48.61	$31.65	$43.12	$58.20
	Office and Administrative Support Occupations	9,500	$16.96	$12.10	$15.77	$20.35
	Personal Care and Service Occupations	1,170	$12.27	$9.01	$10.88	$14.13
	Production Occupations	4,080	$17.38	$12.05	$16.15	$21.64
	Protective Service Occupations	820	$21.17	$16.44	$20.37	$25.65
	Sales and Related Occupations	6,590	$17.12	$9.12	$11.44	$18.17
	Transportation and Material Moving Occupations	2,490	$15.90	$10.23	$14.08	$20.30

2013 Hourly Occupational Employment
Geography: Statewide & MSA
Occupational Group: Total, All Occupations

Area Name	Occupation Title (2010 Standard Occupational Classification)	Estimated Employment	Average Wage	25th Percentile	Median Wage	75th Percentile
Portsmouth, NH-ME Metropolitan NECTA	Management Occupations	3,390	$57.02	$36.68	$50.70	$68.69
	Office and Administrative Support Occupations	9,270	$17.34	$12.84	$16.23	$20.61
	Personal Care and Service Occupations	1,530	$13.01	$9.07	$11.07	$14.51
	Production Occupations	3,500	$19.21	$13.28	$17.71	$24.54
	Protective Service Occupations	600	$21.33	$12.68	$20.70	$27.10
	Sales and Related Occupations	7,920	$21.74	$9.34	$12.61	$25.13
	Transportation and Material Moving Occupations	2,330	$16.81	$10.75	$14.27	$19.57
Rochester-Dover, NH-ME Metropolitan NECTA	Total all occupations	53,730	$21.84	$11.39	$17.07	$26.55
	Architecture and Engineering Occupations	890	$35.21	$26.68	$34.50	$43.34
	Arts, Design, Entertainment, Sports, and Media Occupations	490	$21.33	$12.43	$19.18	$25.64
	Building and Grounds Cleaning and Maintenance Occupations	1,410	$13.66	$10.44	$12.81	$16.18
	Business and Financial Operations Occupations	2,260	$31.99	$23.06	$29.46	$38.99
	Community and Social Services Occupations	810	$19.22	$13.21	$17.16	$23.83
	Computer and Mathematical Occupations	2,110	$37.33	$28.12	$36.65	$45.84
	Construction and Extraction Occupations	1,370	$20.28	$15.99	$19.52	$24.15
	Education, Training, and Library Occupations	5,000	$25.33	$15.76	$22.41	$31.92
	Farming, Fishing, and Forestry Occupations	50	$14.69	$9.93	$13.72	$18.54
	Food Preparation and Serving-Related Occupations	5,380	$10.16	$8.29	$9.17	$11.55
	Healthcare Practitioners and Technical Occupations	2,860	$41.19	$21.01	$30.44	$44.25
	Healthcare Support Occupations	1,600	$14.56	$11.57	$13.89	$17.05
	Installation, Maintenance, and Repair Occupations	1,800	$20.83	$15.41	$19.18	$25.48
	Legal Occupations	160	$33.88	$17.83	$25.12	$38.20
	Life, Physical, and Social Science Occupations	340	$34.78	$20.29	$28.16	$43.39
	Management Occupations	2,560	$48.61	$31.65	$43.12	$58.20
	Office and Administrative Support Occupations	9,500	$16.96	$12.10	$15.77	$20.35
	Personal Care and Service Occupations	1,170	$12.27	$9.01	$10.88	$14.13
	Production Occupations	4,080	$17.38	$12.05	$16.15	$21.64
	Protective Service Occupations	820	$21.17	$16.44	$20.37	$25.65
	Sales and Related Occupations	6,590	$17.12	$9.12	$11.44	$18.17
	Transportation and Material Moving Occupations	2,490	$15.90	$10.23	$14.08	$20.30

BUY LOCAL

KEEP PORTLAND INDEPENDENT

MAYOR Brennan

The Portland Buy Local campaign was launched in July 2006 by a group of about twenty Portland business owners and citizens. After receiving a very enthusiastic response from both businesses and residents, that initial working group decided to incorporate the Portland Independent Business and Community Alliance (PIBCA) in September 2006 and form the organization's first Board of Directors and Advisory Board.

PIBCA's mission is to support locally owned, independent businesses in Portland, to maintain our unique community character, provide continuing opportunities for entrepreneurs, build community economic strength, and prevent the displacement of community-based businesses by national and global chains.

Our three focus areas are:

1) Informing citizens of the values provided by community-based businesses and their importance to the local economy, culture and social fabric. (2) Group branding, promotion and advertising to elevate the collective profile of our community-based businesses and bring to them some of the advantages chains enjoy. (3) Creating strong relationships with local government and the media to inform local decision-making and give a voice to the locally owned independent business community.

Our activities include the Portland Buy Local Campaign, facilitating regular networking and educational events with our members, promoting an annual Holiday campaign, and maintaining an online business directory.

Portland Buy Local Poll Summary

While our organization will not be officially taking a stance on this issue, we feel it is very important for Buy Local to be at the table. This is a unique opportunity to share our member's opinions with you and the mayor and to also report back to our members with any developments throughout the process. Thank you for giving us the opportunity to present the findings of our member survey to you today. Feel free to contact us for a digital copy of the results or for any other information on our organization.

Sincerely,
Thalassa Raasch - Ambassador - info@portlandbuylocal.com
Tony Cox - Board Member - tony@cascobayframes.com

Portland Buy Local currently has 480 members. 20 of those are individual members and 460 businesses. Membership requirements are found on page three of your directory

Selected excerpts from the survey. We received a 14% response rate from our members. Of the responses:

- 100% are from Portland based businesses
- 31.5% of the businesses consider themselves retail
- 71.83% have 10 or fewer employees
- 38.89% have a starting wage of less than $10.00 per hour
- 61.11% have a starting wage of $10.00 per hour or more. (of that, 24.07% have a $10.00 starting wage)
- 72.70% support raising the min wage to $8.50 per hour or higher. With 32.9% stating the $10.10 per hour amount. (see breakdown on question #9)
- 12.3% do not support raising it, with 6.8% unsure, and 8.2% other. (Question #9)
- 32.8% feel raising the minimum wage to $10.10 per hour would negatively or very negatively impact their business. 32% responded that their business would not be affected. (Question #10)
- 28.1% answered they would have greater employee retention in the minimum wage was raised to $10.10 per hour and 23.4% would have better employee morale. 10.9% would have employee layoffs and 31.3% would have to cut employee hours if the minimum wage was increased to $10.10 per hour.

* full survey results in packet

CITY OF PORTLAND
MEMORANDUM

TO: Mayor Brennan and Members of the Portland City Council
FROM: Danielle P. West-Chuhta, Corporation Counsel
DATE: March 18, 2014 (updated September 17, 2014)
RE: Minimum Wage Research

The following is a summary of the research I have conducted to date with regard to local minimum wage ordinances. Since there is a Maine law which establishes the minimum wage, the legal focus of the discussion below (and research on such ordinances) is on the City's authority to enact such an ordinance.

I. Home Rule Authority

In the United States, some states constitutionally or legislatively grant home rule to cities, counties, and municipalities within their borders. These are called "home rule states." Local governments in home rule states are free to pass laws and ordinances as they see fit to further their operations, within the bounds of the state and federal constitutions. In Maine, home rule is granted to municipalities by the Maine Constitution and by statute. Me. Const. art. VIII, pt. 2, § 1; 30–A M.R.S. § 3001.

The Maine home rule law states that it is to be liberally construed to effect its purposes, that there is a presumption in favor of home rule, and that preemption is not to be implied unless local action would frustrate the purposes of state law. Id. In other words, "[o]nly where the municipal ordinance prevents the efficient accomplishment of a defined state purpose should a municipality's home rule power be restricted, otherwise [municipalities] are free to act to promote the well-being of their citizens." School Comm. v. Town of York, 626 A.2d 935, 938 n. 8 (Me.1993); 30–A M.R.S. § 3001(3). E. Perry Iron & Metal Co., Inc. v. City of Portland, 2008 ME 10, 941 A.2d 457, 462.

Maine's minimum wage laws are codified in 26 M.R.S.A. §§ 661-672. Specifically, the statute provides:

> Except as otherwise provided in this subchapter, an employer may not employ any employee at a rate less than the rates required by this section.
>
> 1. **MINIMUM WAGE.** . . . . Starting October 1, 2009, the minimum hourly wage is $7.50 per hour. If the highest federal minimum wage is increased in excess of the minimum wage in effect under this section,

> the minimum wage under this section is increased to the same amount, effective on the same date as the increase in the federal minimum wage, but in no case may the minimum wage exceed the minimum wage otherwise in effect under this section by more than $ 1 per hour.

The statute does not explain how the minimum wage is calculated or describe what entity is responsible for setting the minimum wage. There are also no express prohibitions on a municipality setting a local minimum wage. The only limitation (which is not applicable to this situation) outlined in the statute is that any increase in the minimum wage as a result of an increase in the federal minimum wage may not be more than $1.00 per hour above the current legislated State rate. See id.

A. Frustrate the Purpose of State law?

Given the fact that there are no express prohibitions on a municipality enacting its own local minimum wage in the State law, the question then becomes whether such an act would frustrate the purposes of the State law. See Sawyer Envtl. Recovery Facilities, Inc. v. Town of Hampden, 2000 ME 179, ¶ 27, 760 A.2d 257, 263-64. Generally, local laws which do not prohibit what the State law permits nor allow what the State law forbids are not inconsistent.

With that said, the prevailing law around the country is unsettled as to whether a local minimum wage higher than a set State minimum wage is preempted.[1] Some courts have held that a local minimum wage law is inconsistent with State law because it prohibits something that the State permits and is therefore preempted. For example, a local employer could potentially be in compliance with the State's minimum wage, but in violation of a local minimum wage. See Wholesale Laundry Board of Trade, Inc., et al. v. City of New York, 17 A.D.2d 327 (1962).

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[1] See Wholesale Laundry Board of Trade, Inc., et al. v. City of New York, 17 A.D.2d 327 (1962)(City of New York's minimum wage law, which was higher than the state minimum wage law, was found invalid); City of Baltimore v. Sitnick, 254 Md. 303 (1969)(City ordinance establishing minimum wage standards found valid); New Orleans Campaign for a Living Wage v. City of New Orleans, 825 So.2d 1098 (2002)(city ordinance amending home rule charter that established minimum wage for individuals employed and performing work in city found unconstitutional/invalid); New Mexicans for Free Enterprise v. City of Sante Fe, 138 N.M. 785 (2005)(City acted within its home rule powers and minimum wage ordinance was found to be valid).

On the other hand, some courts have held that a minimum wage higher than current state and federal minimum hourly wage does not conflict with State law because the State's Minimum Wage law set a wage floor without barring higher local minimum wage rates, and did not establish any type of comprehensive wage scheme or express any need for uniformity. See New Mexicans for Free Enterprise v. City of Sante Fe, 138 N.M. 785 (2005).

In Maine, the minimum wage law sets a minimum hourly wage, prohibiting the payment of wages below $7.50 per hour. The minimum wage law does not "permit" only its rate, establish any type of comprehensive wage scheme, express any need for uniformity or prohibit higher local minimum wage rates. A local minimum wage ordinance could therefore be viewed as complementary and not antagonistic towards the State law's policy of ensuring that all workers are paid at least $7.50 per hour. In this way, a local ordinance would not be in conflict with the State law and would seem to most likely be permitted.

B. Occupy the Field?

Despite the above analysis, those in opposition to a local minimum wage ordinance may also argue that the State has "occupied the [wage] field" and therefore the City is not entitled to enact an ordinance that addresses this area. In Maine, "[m]unicipal legislation will be invalidated . . . where the Legislature has intended to exclusively occupy the field and the legislation would frustrate the purpose of a state law." Sch. Comm. of Town of York v. Town of York, 626 A.2d 935, 939 (Me. 1993). When local law requires a more stringent standard, both state and local law advance the same purpose, and thus, purpose of state law is not frustrated by enforcement of local law. See Central Maine Power Co. v. Town of Lebanon, 571 A.2d 1189, 1194-95 (Me. 1990).

Here, the State's stated purpose for its minimum wage law is to ensure that Maine's workers "receive wages sufficient to provide adequate maintenance and to protect their health, and to be fairly commensurate with the value of the services rendered." The City's proposed local minimum wage law, which would put in place a higher wage would advance the same purpose as the State law (i.e. to ensure that Maine workers are adequately compensated), and so the purpose of Maine's law would not be frustrated and the City's proposed ordinance.

II. Conclusion

Overall, a local minimum wage ordinance would seem to pass muster under the legal tests described above. With that said, I am concerned about the fact that this issue has not yet been litigated in Maine and that future enforcement of the proposed ordinance may prove to be difficult (since it may be hard for City staff to determine if employers are paying their employees the City's proposed minimum wage (i.e. what forms do we require from employers to show that each employee is being paid minimum wage, etc.)).

ATTACHMENT 5

The New York Times | http://nyti.ms/1xhUvji

ECONOMY

Fed Says Growth Lifts the Affluent, Leaving Behind Everyone Else

By BINYAMIN APPELBAUM SEPT. 4, 2014

WASHINGTON — Economic growth since the Great Recession has improved the fortunes of the most affluent Americans even as the incomes and wealth of most American families continue to decline, the Federal Reserve said Thursday.

For the most affluent 10 percent of American families, average incomes rose by 10 percent from 2010 to 2013. For the rest of the population, average incomes were flat or falling.

The least affluent families had the largest declines. Average incomes dropped by 8 percent for the bottom 20 percent of families, the Fed reported in its triennial Survey of Consumer Finances, one of the most comprehensive sources of data on the financial health of American families.

The new report, broadly consistent with other data on the aftermath of the Great Recession, underscores why so many Americans think the economy remains in poor health. While the pie has grown, most people are getting smaller slices.

The result is that wealth also is increasingly concentrated. While overall wealth barely changed during the survey period, the money sloshed from the bottom toward the top. For the top 10 percent of families, ranked by income, estimated average wealth increased by 2 percent to $3.3 million. For the bottom 20 percent of families, average wealth sharply declined by 21 percent to $65,000.

There is growing evidence that inequality may be weighing on economic growth by keeping money disproportionately in the hands of those who already have so much they are less inclined to spend it.

President Obama last year described income inequality as "the defining challenge of our time." The Fed's chairwoman, Janet L. Yellen, said earlier this year it was "one of the most important issues and one of the most disturbing trends facing the nation."

But the trend so far has provoked little more than public outrage and political debate, in part because there is no agreement about the causes, let alone potential remedies. Some economists point to the impact of mechanization and foreign competition. Others say that legal changes have undermined the bargaining power of workers. Still others think the economy is suffering from a drought of lucrative innovations.

The French economist Thomas Piketty argued in his recent book that wealth concentration is a natural tendency in market economies.

The Fed's report said the widening income gap represented a reversion to a long-term trend that was disrupted by the recession. It said that the top 3 percent of families collected 30.5 percent of all income in 2013, up from 27.7 percent in 2010, but still slightly below their 31.4 percent share in 2007.

The concentration of wealth continued without interruption, albeit at a slower pace during the recession. The Fed said that the top 3 percent of families held 44.8 percent of wealth in 1989, then 51.8 percent in 2007 and 54.4 percent in 2013.

One signal of the growing divide is a decline in the share of families that hold assets. The share of families that directly own stock fell to 13.8 percent from 15.1 percent, the Fed found. The share of families with retirement accounts, savings bonds and life insurance also declined. Likewise, the share of families that owned homes, owned rental properties or had a stake in a business declined.

In a more positive trend, debt burdens also fell. The debts of the average American family continued to exceed its annual income, but the ratio declined to 105 percent of income in 2013 from 125 percent of annual income in 2010. Importantly, the share of Americans probably struggling to pay those debts has also declined. Just 8.2 percent of households devoted more than 40 percent of income to debt payments in 2013, the lowest rate since the 1990s.

A version of this article appears in print on September 5, 2014, on page B2 of the New York edition with the headline: Least Affluent Families' Incomes Are Declining, Fed Survey Shows.

CITY OF PORTLAND
M E M O R A N D U M

TO: Chair John Anton and Members of the Finance Committee

CC: Michael F. Brennan, Mayor; Mark Rees, City Manager; and Ellen Sanborn, Finance Director

FROM: Danielle P. West-Chuhta, Corporation Counsel

DATE: November 4, 2013

RE: **Storm Water Ordinance**

This memo is written in response to several questions posed by Councilor Anton and other members of the Finance Committee with regard to the proposed Storm Water Ordinance. The following is a summary of my responses to each of the aforementioned questions:

Can the Sewer Fund Bear the Costs of the Storm Water Phase-in Period?

The language of the City's ordinance broadly defines sewer as "a pipe or conduit for conveying liquid or other liquid-carried waste." Chapter 24, section 24-2. The ordinance goes on to provide that wastewater shall mean "a combination of the liquid and water-carried wastes from residences, commercial buildings . . .together with such other ground, surface and stormwater as may be present." Id. Finally, the ordinance provides that the charges made for sewer may be used for, among other things, to defray the expenses of operating and maintaining the wastewater system" and "to pay the interest and repay the principal on outstanding or future indebtedness of the city for construction of sewers . . ." Id. at section 24-73.

As a result of these definitions, it is appropriate for the sewer monies to fund the start-up/phase-in of the storm water program. With that said, the City's Finance Director has also made it clear that "[i]n order to avoid contributing general fund money to the stormwater effort, and since the stormwater costs are now borne by the Sewer Fund, [she] would transfer cash from the Sewer Fund to the Stormwater Fund to cover costs until it began realizing its own revenue stream." See the Memo attached hereto as Exhibit A. Thereby further alleviating any potential concerns.

Are Credits Important/Does There Need to be a 100% Credit Option?

In City of Lewiston v. Gladu the validity of a storm water fee was reviewed by the Maine Law Court through the application and consideration of the following four factors:

> (1) whether the primary purpose is to raise revenue; (2) whether the assessment is paid in exchange for exclusive benefits not received by the general public; (3) whether the assessment is voluntary; and (4) whether the assessment is a fair approximation of the cost to the government and the benefit to the individual of the services provided.

City of Lewiston v. Gladu, 2012 ME 42, ¶ 9 (quotations and citations omitted).

Through out the review of all of four of these factors, as well as outlined in the cases that the Court cited in its analysis, the voluntariness of a fee was of primary importance in determining that the proposed user fee is a fee and not a tax. "In other words, whether . . . [there is] the ability to avoid the assessment if he[/she] wishes to do so." Id. at ¶ 21. It is important for the proposed ordinance to "provide for credits to offset or eliminate the fee." Id. at ¶ 22.

It is also clear from the cases cited by the Law Court that the credit must be based on the impervious surface area and applies to all properties. Overall, if the person minimizes the impact to the system (as a result of the items they receive a credit for) then that person should receive a credit.

Is it Necessary to Differentiate Between MS4 and Combined Sewer Areas?

There is no need to differentiate in the ordinance between properties that are served by the City's MS4 system and those that are served by a combined sewer system. This is because the separation of the City's sewer system is not the primary or exclusive reason why the proposed storm water fee is being instituted and is not the only item that the fee monies will be spent on. On the contrary, the proposed ordinance makes it clear that the fee will be used "[t]o defray the current expenses of storm water services . . . [t]o pay the interest and repay the principal on any outstanding or future indebtedness of the city for construction of the storm drainage system and a portion of the combined sewer systems . . . [and] [t]o reimburse the city for the cost of computation, billing and enforcement of such charges." Chapter 24, at section 24-82.

Would Property Tax Exempt Organizations (like the State and Federal Government, etc.) be Required to Pay the new fee?

Tax exempt properties are still required to pay user fees. See Municipal Corporations, McQuillin, Section 44.62.20. Consequently, as described above in the other legal memorandum provided to the Finance Committee on this subject, since the City's proposed storm water fee is a valid user fee that meets all the requirements of the *Gladu* holding (i.e. it is a fee and not a tax), and is a payment given in return for a government provided benefit, any tax exempt property (including federal and state properties) would be required to pay the fee under Maine law.

What is the Difference Between the Real Estate Valuation Appeal Process and the Proposed Appeal Process in the Stormwater Ordinance?

Under Maine law, a record owner of a parcel of land can appeal their real estate valuation (i.e. seek an abatement) under 36 M.R.S.A. section 841 for the following reasons: (1) because of an alleged overvaluation; (2) to correct an illegality, error or irregularity in the assessment; and/or (3) because of poverty or infirmity. If the owner is seeking abatement for an overvaluation, such an appeal must be filed within 185 days of the commitment of the tax. If the individual/entity, however, is seeking to correct an illegality, error or irregularity in the assessment, their appeal must be filed within 1 year, but not later than 3 years from the assessment. And, finally, if they are seeking abatement because of poverty or infirmity, such a request must be made within 3 years of the date of the tax commitment.

On the other hand, the appeals process for the storm water fee is different and is specifically provided for in section 24-87 of the proposed ordinance. Under this process, a record owner can appeal their bill (only because the storm water generated on site is less than the City calculated; and the only factors that will be considered is the impervious area and credits available to the owner) to the Director of Public Services within 30 calendar days of the date of the bill. Thereafter, they can appeal that decision to the City Manager within 30 calendar days; and finally they can appeal that decision to the Superior Court pursuant to Rule 80B within 30 calendar days of the date of the City Manager's decision.

Please note that credits under the proposed ordinance can be applied for at any time. See Chapter 24, section 24-85. They must be approved by the Department of Public Services, and they will be applied to the first bill issued 30 calendar days after approval of the credit by the Department of Public Services. Id.

What are the Differences Between the Lewiston and the Proposed Portland Storm Water Ordinances?

Attached hereto as Exhibit B is a first draft of the proposed storm water ordinance which highlights the differences between the Lewiston Ordinance and the City's proposed Ordinance. Essentially, the attached draft shows that the City first attempted to adopt the Lewiston ordinance with some minor adjustments to reflect specific areas that are unique to the City. The City's proposed ordinance has been edited further, but still primarily tracks the language used by the City of Lewiston.

How Does the Proposed Ordinance Conform With the Various Case Law Holdings?

Based on the applicable case law, it is essential for the City's proposed storm water fee to be for something that each land owner individually and exclusively benefits from. See Gladu, at ¶¶ 17-20. The fee also needs to be a fair approximation of the cost of the service to the City, and be part of a regulatory program that is intended to raise monies to cover the cost of administering the program. Id. at ¶¶ 13-16. It is further important for there to be the option of not using the City's storm water service (i.e. have a 100% credit in place), and the fees need to be deposited into a separate fund/account, not in the general fund. Id. at ¶¶ 21-23.

Overall, the City's proposed ordinance lines up nicely with the aforementioned requirements and holdings on this subject. More specifically, it has a broad purpose section which specifies the specific public policy reasons for adopting the fee, it contains specific language about how the fees may be spent and where they are to be kept (i.e. in a separate fund), it provides a right to appeal, and it has the option of seeking credits (including a 100% credit).

CITY OF PORTLAND
MEMORANDUM

TO: Chair Mavadones and Members of the Finance Committee
FROM: Danielle P. West-Chuhta, Corporation Counsel
DATE: September 17, 2014
RE: Stormwater Research re: Direct Dischargers

The following is a summary of the research I have conducted to date with regard to direct dischargers and the City's proposed stormwater ordinance. I have also included a brief supplemental discussion regarding the need for a 100% credit option to be included in the City's stormwater credit manual.

I. Are property owners that directly discharge pursuant to permits from the State or otherwise required to pay the City's proposed stormwater disposal system fee?

Maine's home rule statute allows the City to adopt ordinances to exercise "any power or function… which is not denied either expressly or by clear implication".[1] Further, "[t]here is a rebuttable presumption that any ordinance enacted . . . is a valid exercise of a municipality's home rule authority."[2] "The [primary] inquiry on a preemption question is whether the local action would frustrate the purpose of any state law." E. Perry Iron & Metal Co., Inc. v. City of Portland, 941 A.2d 457, 462 (Me. 2008), *quoting* Sawyer Envtl. Recovery Facilities, Inc. v. Town of Hampden, 2000 ME 179, ¶ 27, 760 A.2d 257, 263–64 (quotation marks omitted). Local action will be preempted by implication where it "prevents the efficient accomplishment of a defined state purpose . . ." Id.

[1] 30-A M.R.S. § 3001.
[2] Id.

The State permits individuals to directly discharge into Maine water bodies through its Environmental Protection Agency ("EPA")-granted authority to authorize National Pollutant Discharge Elimination System ("NPDES"), or as from the State, Maine Pollutant Discharge Elimination System ("MEPDES") permits.[3] Dischargers that are not required to have such individual permits may alternatively be required to be authorized under a general permit for specific activities.[4]

The stated purpose of these regulatory schemes is to directly protect the quality of the receiving water according to state standards, and they most often involve detailed analysis and hefty regulation of the discharge activity.[5]

Similarly, the purpose of the City's proposed ordinance is to "protect the public health, safety and welfare . . . of the City's residents, the City "manages and administers stormwater programs, services, systems and facilities aimed at preventing polluted stormwater from entering streams, rivers, wetlands and coastal waters and restoring water quality . . .", as well as secure "sufficient and stable funding" for the city's stormwater management activities.[6]

The proposed ordinance (as its purpose statement indicates) provides a means for the City to manage its stormwater, which includes quality and quantity. Stormwater quality and quantity are both directly affected by the volume and cleanliness of municipal

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[3] See National Pollutant Discharge Elimination System Memorandum of Agreement Between the State of Maine and the United States Environmental Protection Agency, at http://www.epa.gov/compliance/resources/policies/state/moa/me-moa-npdes.pdf.
[4] See http://www.maine.gov/dep/land/stormwater/storm.html, and http://www.maine.gov/dep/water/wd/stormwater/index.html.
[5] See, generally, 38 M.R.S. § 414-A.
[6] Proposed Portland City Code, Chapter 24, Article V, Section 24-80.

streams and other natural watercourses. Likewise, stormwater enters and is carried by natural watercourses and affects the quantity and quality of all waters downstream.

Overall, these purposes do not conflict with or frustrate the aforementioned purpose of State law, and are should not be found to be preempted by the State's regulation of (or lack thereof) direct dischargers.

Furthermore, the City's broad definition of "storm water disposal system" (which includes structures and "natural streams and rivers and other water bodies used wholly or partly to convey or control storm water or floodwater")[7] mirrors the State's statute that clearly enables municipalities to "establish a schedule of service charges . . . upon improved real estate connected with a municipal sewer or sewer system or storm water disposal system for the use of the system", and which clarifies that "'storm water disposal system' means storm water and flood control devices, structures, conveyances, facilities or systems, including natural streams and rivers and other water bodies used wholly or partly to convey or control storm water or floodwater".[8]

Finally, it has been alleged that the Law Court has interpreted the aforementioned section of state law to invalidate user fees charged to a citizen during a period when that citizen's property was not physically connected to the City's sewer system. See Tucci v. City Of Biddeford, 864 A.2d 185, 189 (Me. 2005). Although this is accurate, the Law Court's decision in Tucci is distinguishable from situation presented by the direct dischargers in Portland. This is because, under the express language of the ordinance in that case, the citizen only contributed (and therefore could be charged a sewer user fee) if

[7] Proposed Portland City Code, Chapter 24, Article V, Section 24-81.
[8] 30-A M.R.S. § 3406.

he was physically connected by a structure to the City's sewer system.[9] As described in detail above, however, Portland's proposed ordinance plainly applies to all properties that are in any way connected to the City's stormwater system, which includes structures, natural water bodies, etc. "used wholly or partly to convey or control storm water or floodwater." [10]

II. <u>100% Stormwater Fee Credit</u>

Questions have also arisen regarding why the 100% credit option has been included in the City's proposed credit manual. In order to answer this question it is important to first describe the difference between a user fee and an impermissible tax under Maine law.

The "[d]istinction between a fee, which may be imposed by judicial and executive branches, and tax, which may only be imposed by legislature, is one of purpose and of degree of particularity. <u>Butler v. Supreme Judicial Court</u> (1992) Me., 611 A.2d 987 (applying Me. Const. art. III, § 2). "[W]hether the assessment is a fee: (1) whether the primary purpose is to raise revenue [or is for a regulatory purpose]; (2) whether the assessment is "paid in exchange for exclusive benefits not received by the general public"; (3) whether the assessment is voluntary; and (4) whether the assessment is "a fair approximation of the cost to the government and the benefit to the individual of the services provided." <u>City of Lewiston v. Gladu</u>, 40 A.3d 964, 967 (Me. 2012).

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[9] The Law Court specifically noted that the municipal ordinance's only purpose was "to collect charges from all users who contribute wastewater to the city's treatment works." <u>Id</u>.
[10] Proposed Portland City Code, Chapter 24, Article V, Section 24-81.

The availability of the 100% credit is directly applicable to the voluntariness prong discussed by the Law Court above. In fact, when reviewing that prong, the Court cited approvingly to a case which held that:

> On the question of whether payment of the fee was voluntary, the court noted that there was an "opt out" provision in the ordinance by which a landowner could install their own storm water retention system in order to qualify for a credit against the charge. The court acknowledged that it is highly unlikely that any landowner would go to those lengths in order to opt out of the service charge. Still, the court found that the existence of the credit provision made the charge voluntary.

Church of Peace v. City of Rock Island, 828 N.E.2d 1282, 1284-85 (Ill. App. 3d Dist. 2005). As a result of this analysis, it is recommended that a 100% credit option be included in the City's stormwater credit manual.[11]

[11] For your reference, I have also attached my prior memorandum to the Finance Committee on this subject.

MEMORANDUM

To: Finance Committee

From: Ian Houseal, Assistant to the City Manager

Date: September 26, 2014

RE: Question Regarding Definition of the System and 100% Credit for Direct Dischargers

1. Has the city defined its "stormwater disposal system"?

Yes, see the following authority and establishment of the Stormwater Fund and definitions of stormwater services.

Sec. 24-82 Authority and Establishment of the Stormwater Fund

"… To defray the current expenses of stormwater services and a portion of the current expenses of the combined sewer system attributable to providing stormwater service;"

Sec. 24-2 Definitions

Stormwater services shall mean the program and maintenance activities as well as the pipe, conduits, or other conveyances or facilities provided by the city including but not limited to necessary programs, improvements, or maintenance required to meet national pollutant discharge elimination system (NPDES) permits the city may hold or other regulatory or court imposed obligations on the city, or general maintenance of pipes, conduits or other facilities improvements and other unforeseen improvements necessary to provide stormwater service to the city.

Stormwater drainage system shall mean any publicly owned or operated conveyance for stormwater, natural and human-made including, but not limited to, storm sewers, city and state roads including the Maine Turnpike and other physical works with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, culverts, human-made channels, swales, ditches, swamps, rivers, streams, creeks, brooks, reservoirs, ponds, drainage ways, inlets, pipes, head walls, lakes, properties, and improvements which transfer, control, convey or otherwise influence the movement of stormwater runoff and its discharge to and impact upon receiving waters.

2. Will the credit manual be amended to provide for 100% credit if someone can demonstrate that their property is not connected to the stormwater disposal system?

The credit manual *as written* allows for a 100% credit for properties discharging directly into tidal waters as defined in Section 3.1 of the Credit Manual.

Credit Manual Section 3.1

"If a property meets the General Standard, and receives or obtains a waiver of the Flooding Standard, as defined in of the Department of Environmental Protection Chapter 500 – Stormwater Management AND discharges directly into a tidal water without flowing through an off-site, publicly-owned manmade conveyance or natural stream system, it will qualify for the normal full compliance Flooding Standard credit…"

The credit percentage breakdown for properties seeking a waiver of the Flood Reduction Credit is as such:

- Basic Water Quality Credit: 50%
- Basic Flood Reduction Control Credit: 10%

OR

- Extra Water Quality Credit: 75%
- Extra Flood Reduction Credit: 25%