



**House  
Legislative  
Analysis  
Section**

House Office Building, 9 South  
Lansing, Michigan 48909  
Phone: 517/373-6466

**STATE PREEMPTION OF LOCAL  
MINIMUM WAGES**

**House Bill 4160 as introduced  
First Analysis (2-25-03)**

**Sponsor: Rep. Fulton Sheen  
Committee: Employment Relations,  
Training and Safety**

***THE APPARENT PROBLEM:***

Since 1994, when Baltimore, Maryland enacted the first local “living wage” ordinance, the movement has continued to grow. By the end of 2002, at least 103 similar ordinances had been enacted in cities, towns, townships, and counties across the United States. Currently, 15 local units of government in Michigan, all in the southeastern portion of the state, have enacted a local living wage ordinance.

A “living wage” is a wage above the federal or state minimum wage levels. Typically, a living wage refers to the amount a person would need to earn in a specific locale in order to support a family of four above the poverty level. Since the costs associated with living in certain areas, such as large cities or resort towns, can vary, the wage considered to be a living wage can vary from region to region. Living wage ordinances generally apply to larger businesses which contract for services with state or local governmental units, or businesses that receive economic development subsidies to locate in a particular area, e.g. tax abatements, grants, or low interest loans.

According to information on the web site of the Association of Community Organizations for Reform Now (ACORN), the basic reasoning underlying living wage ordinances is that “limited public dollars should not be subsidizing poverty-wage work.” Proponents maintain that such ordinances can actually decrease the cost of city contracts with private companies, as well as increase the standard of living for workers employed by those companies. The result is that local governments may save money; meanwhile, higher paid workers pay higher state and local taxes, have more money to spend to support the local economy, and are less likely to need governmental support services such as food stamps and Medicaid. Further, many believe the decision to enact a living wage ordinance should remain with local voters and their elected officials.

Opponents, however, believe that local living wage ordinances make it harder to attract out-of-state businesses reluctant to do business in a state where wages may differ between localities. Further, many believe that the market should set the wages for particular jobs, not an artificial system that creates a higher wage only because it is performed for a business that contracts with a governmental unit. In particular, some feel that the increasing number of local living wage ordinances in Southeast Michigan is making that area of the state unattractive to new businesses, and therefore, may result in the loss of new jobs for the state’s unemployed workers.

Previous legislative attempts to ban local living wage ordinances have been unsuccessful. However, in light of the current economic downturn, some feel that the issue should be reconsidered.

***THE CONTENT OF THE BILL:***

The bill would amend the Minimum Wage Law of 1964 to prohibit local units of government from enacting, maintaining, or enforcing by charter, ordinance, purchase agreement, contract (excepting a collective bargaining agreement), regulation, rule, or resolution, either directly or indirectly, a minimum wage rate that is greater than that specified in the act or the federal minimum wage law. Currently, the state (and federal) minimum wage is \$5.15 per hour. The bill would apply to cities, counties, townships, villages, school districts, intermediate school districts, and any political subdivisions of the state.

The bill specifies that it would not prohibit a local unit of government from enacting, maintaining, or enforcing through a collective bargaining agreement or other means a minimum wage requirement governing compensation paid by that local unit of government to its own employees. Further, the bill also specifies that it would not limit, restrict, or

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expand any prevailing wage required under Public Act 166 of 1965, the state's prevailing wage law.

MCL 408.383

### ***BACKGROUND INFORMATION:***

Similar attempts to ban local governments from enacting local living wage ordinances have been proposed in the past two legislative sessions. In the 1999-2000 legislative session, House Bill 4766 passed the House of Representatives but was not acted upon by the Senate. In the 2001-2002 legislative session, House Bill 4328 was reported by the House Employment, Training and Safety Committee, but was not voted on by the full House.

"Living wages." The term "living wage" usually applies to wages set by local ordinance that are higher than state or federal minimum wages and that cover certain employers. Some ordinances cover only businesses that contract with the municipality, others also cover businesses that receive public subsidies (such as tax abatements), and some cover the public entity itself. Cities and counties with higher costs of living tend to have higher living wage levels, which currently range from a low of \$6.15 in New Orleans to a high of \$13.00 in Fairfax, California (\$14.75 if health benefits are not provided).

A living wage usually is determined by reference to the federal poverty guidelines (which are different from, and more current than, the federal poverty thresholds) for a specific family size. An example of a living wage would be a wage level equal to what a full-year, full-time worker would need to earn to support a family of four at the poverty line, which for the year 2000 was \$17,690 a year or \$8.20 an hour. Some living wage levels are set to equal up to 130 percent of the poverty line, which is the maximum income a family can have and still be eligible for food stamps. Some living wage advocates have attempted to calculate a living wage based on a "self-sufficiency" income level, such as that needed to provide for a family's basic needs; this kind of living wage is generally much higher than the federal poverty guidelines.

Living wage ordinances in Michigan. The Detroit living wage ordinance applies to all employers who receive over \$50,000 either in yearly city contracts or public financial assistance given for the purpose of economic development or job growth. The Detroit ordinance requires a minimum living wage equal to the federal poverty line for a family of four (\$8.44 an

hour during 2000) if the employer provides medical coverage, or 125 percent of the poverty level if no medical coverage is provided (\$10.50 an hour during 2000). To the greatest extent feasible, employers falling under the ordinance also must fill jobs created by the contracts or financial assistance with Detroit residents.

The living wage ordinance passed in 1999 by the city of Ypsilanti applies to service contracts or financial assistance over \$20,000 in a year, with a wage of \$8.50 an hour with benefits or \$10 an hour without benefits. Ypsilanti Township's ordinance applies to contracts over \$10,000, also with a wage of \$8.50 an hour with benefits and \$10 an hour without benefits. The city of Warren's living wage ordinance applies to service contractors receiving financial assistance over \$50,000, with a wage equal to the federal poverty level for a family of four with benefits, or 125 percent of the federal poverty level without benefits.

The most recent ordinances to implement living wage ordinances were adopted in the city of Ferndale in February 2001, Ann Arbor and Pittsfield Charter Township in March 2001, the city of Eastpointe in April 2001, Monroe and Washtenaw Counties in October 2001, Hazel Park in February 2002, and Southfield in July 2002. In addition, the cities of Taylor and Southgate, the Ann Arbor Downtown Development Authority, and the Washtenaw Road Commission have adopted living wage ordinances. Reportedly, the City of Lansing is currently considering adopting a living wage ordinance.

### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, prohibiting living wage arrangements, as the bill would do, would likely reduce wage levels for at least some employees working for employers currently affected by living wage arrangements. The direct impact of the bill would be to reduce local contractual costs in those municipalities that have chosen to enact local living wage arrangements. The amount of this reduction is indeterminate, but would likely be very small when compared to overall local costs. State and, where applicable, local revenues could also decrease due to reduced incomes. However, any revenue impact would be negligible. Also, some have argued that living wages can indirectly reduce local costs by promoting increased productivity from workers and reduced turnover due to the higher wage. While such impacts cannot be verified, these factors could limit the direct impact of the bill on costs and revenue. (2-24-03)

**ARGUMENTS:*****For:***

Proponents of the bill, which consist mainly of business interests, generally argue that ‘the market’ should be the ultimate determinant of wages and that there should be a uniform statewide wage, set by state, not local laws. They argue that living wage requirements create a “hostile” business environment that discourages economic investment in communities with such ordinances and drive out existing businesses by raising the cost of doing business in the community. They claim such ordinances can be particularly harmful to economically distressed areas trying to attract and keep new businesses, since the higher wages required by a living wage ordinance can discourage businesses from bidding on contracts. This chilling effect decreases (or eliminates) competition, which in turn can drive up costs and reduce quality.

***Response:***

According to the Michigan League for Human Services, there is little current research from which to draw conclusions regarding the effect of living wage ordinances on employment levels. Though such ordinances could lead to modest job losses, the benefit to the community from lifting low-income residents out of poverty far outweighs any negative effect. In fact, testimony offered by representatives of local governments with living wage ordinances revealed that the above concern has failed to materialize. In fact, several testified that economic development has increased in the years following adoption of a living wage ordinance, and some communities have seen increased competition in response to request for proposals (RFPs) for government contracts.

***For:***

Monitoring and enforcing living wage ordinances creates additional costs. Those who would eliminate the ordinances say the local laws add overly burdensome and costly administrative requirements, and that these requirements are especially onerous for small businesses. According to the Small Business Association of Michigan, “it is small business that is creating the greatest proportion of entry-level jobs in the Michigan workforce.” SBAM maintains that when labor costs rise, it is the new entry-level jobs that are cut first. A reduction in minimal wage, entry-level jobs can rob many of opportunities to gain basic experience that could lead to better jobs in the future. Further, the welter of ordinances in different communities creates a hodge-podge of different requirements across the state, and compliance costs

are high for businesses that operate across political boundaries (especially when businesses already have to meet burdensome federal and state regulations).

***Response:***

Several communities with living wage ordinances reported little to no complaints from businesses they contract with, or from businesses that responded to RFPs. In addition, some communities have reported that the living wage ordinance has created a more level playing field and has enabled small businesses to compete fairly with larger businesses. The reason given is that wages represent a fixed cost. Since all bidders for a public contract must pay the same minimum wage, the door is actually opened wider for small business to compete on an equal footing with the larger companies. Most importantly, the fact is that representatives from communities with living wage ordinances reported very little, if any, additional costs to the local governmental unit.

***For:***

Those who favor the repeal and prohibition of living wage ordinances argue that local living wage laws hurt nonprofit community organizations that provide basic services to the poor and the needy because the higher wages mean that nonprofits have to lay off some workers in order to meet the wage requirements.

***Response:***

Most living wage ordinances have a waiver provision for nonprofit agencies. However, there is no waiver provision in the citizen-initiated ordinance adopted in the City of Detroit. In the past, two nonprofit organizations in Detroit that pay low wages to some of their workers opposed the city’s ordinance. There had been some talk of modifying the ordinance, but according to a Detroit-based union, the ordinance has not been altered. It should be noted, though, that no Detroit-area nonprofits testified on the bill this time, nor did any submit written testimony.

***For:***

Those who oppose living wage ordinances and favor the bill argue that living wage laws increase citizens’ property taxes, because they increase a local government’s costs, which create a need for bigger budgets funded by more tax revenue.

***Response:***

At least one local unit of government has reported that property values have increased in its community since the living wage ordinance was adopted.

Property owners would, therefore, benefit in the long run by getting a better investment return on their houses and other property.

***Against:***

Many see the bill as another example of the state trying to usurp the power and authority of local governments. It is also feared by many that the bill is the first step in repealing the state prevailing wage law. Local governments have seen their authority in their own jurisdictions weakened by recent state laws, for example, the state having the authority to replace a local school board with an appointed board. The bill really is about local control vs. the state micro-managing the affairs of municipalities. Local governments must retain the authority to enact local ordinances that improve the lives and well-being of residents and business owners alike. If a local living wage ordinance is working for a community, then why should the state come in and nullify such ordinances?

***Response:***

Fully 67 percent of the state's voters voted 'No' on Proposal 2 several years ago that would have required a legislative "super majority" vote to enact certain laws affecting local government. Clearly the majority of voters do not favor local control when it comes to matters of economic policy and employment standards.

***Reply:***

Proposal 2 failed because of its legislative 'super majority' provision (which would have required a super majority vote in the legislature in order to override local policies, but which also would have had the effect of placing extraordinary 'veto' power in the hands of a small minority of elected state legislators). Many citizens support local control but voted against the proposal because of that provision.

***Against:***

In many ways, the issues surrounding local living wage ordinances represent a collision of belief systems. Proponents of the bill feel strongly that such ordinances are bad for business by increasing costs to businesses, scaring businesses away from locales with living wage ordinances, and by creating artificial wage levels that are not related to market forces. Opponents of the legislation, who support living wage ordinances, feel that any negatives are greatly offset by positive benefits such as increased competition for government contracts, a reduction in need for government assistance programs, and an increase in economic development.

It is important to consider the existing data in order to evaluate these positions. The oldest of the Michigan ordinances are barely four years old. Nationally, the oldest ordinance has been in effect for about nine years. Economists are just beginning to get data that can be studied and from which answers can be gleaned. However, some early studies are beginning to reveal more positives than negatives from such ordinances. A well-respected economics professor at Michigan State University who at one time espoused concerns about the negatives of living wage ordinances has been recently quoted as saying, "I'm no longer ready to dismiss these policies out of hand." This is because a growing body of academic research is beginning to suggest that living wage ordinances have genuine positive effects for communities. A representative of Monroe County testified before the House committee that none of the concerns raised in previous legislative debate have materialized over the 18 months the county ordinance has been in effect. Meanwhile, when council members revisited the issue recently, they found no negatives and were able to identify 20 people that the ordinance had helped. Because so many of the communities with living wage ordinances are now reporting positive benefits, many more Michigan communities, including Lansing, are considering adopting living wage ordinances, too.

The legislature should wait a few years to evaluate this experiment of local living wage ordinances and then to let the facts be the deciding factor. If living wage ordinances prove to be beneficial for all, or even some, communities, it would indeed be a shame to prohibit them. On the other hand, any community that begins to realize a negative effect would not wait for legislation to outlaw such ordinances; local leaders would respond to the needs of their community by modifying or repealing their ordinance.

***Against:***

The bill in its current form would do more than prohibit the creation of new living wage ordinances, it would also nullify the existing local ordinances currently in effect in more than a dozen communities in the state. Further, many believe that the vague wording of the bill would extend to local prevailing wage contracts that a local government had negotiated with its vendors. Though the bill does specify that it would not restrict, limit, or expand prevailing wages required under the state prevailing wage law, many in local governments and unions believe that some local contracts will be affected. In particular, some are concerned that Project Labor agreements will be affected, since they are also

funded by public money. These ordinances represent much deliberation among the members of local units of government, and some came into being via voter referendum. It would not be good public policy for state legislators to usurp the authority of local leaders and the wishes of local voters.

***Against:***

Local living wage ordinances only apply to contracts between local governments and businesses that are funded with public money or for businesses that receive tax abatements. The reasoning is that if public tax dollars are going to pay for a project or for the delivery of services for local residents and taxpayers, then those who actually perform the service should be paid a living wage. Studies are beginning to show that communities with living wage ordinances are beginning to see a reduction in poverty. A reduction in poverty means that fewer people will need public assistance, more people will have more money to put into the local economy, and more people can actually afford to live in the communities in which they work. (In some communities, many workers cannot afford to live in the community and so must commute from surrounding locales). A living wage ordinance also means that businesses don't have to worry about undercutting their employees' salaries in order to win a bid, that small and large companies can compete more equally, and that employee morale and retention rates are higher (which in turn lowers business costs related to high turnover and low morale). Therefore, many of the concerns voiced by business interests are unfounded.

***Response:***

Though currently such living wage ordinances are restricted to public contracts for projects or services, there is nothing in law to prevent communities from expanding them to apply to all businesses under their jurisdictions. This could be particularly detrimental to those in the service industry, such as retailers and restaurants. There still needs to be low skill, entry-level jobs that can serve as a person's first job, or as a vehicle to gain experience for future advancement. Even if there were merit for requiring publicly funded projects or businesses with tax breaks to pay a higher, living wage, requiring such wages for all jobs would be tantamount to increasing the minimum wage across the board. Many businesses simply could not survive the increased costs. The bill is needed to protect private businesses from being included in any living wage or prevailing wage ordinance a community or local government may adopt.

***Rebuttal:***

If that is a concern, the bill could be changed to simply limit such local ordinances to apply only to a business that contracts with a local government for a project or to deliver services to its residents if public money is used to fund the contract, and also to include those private businesses who are taking advantage of tax abatements offered by the local units. Since these funds are derived primarily from income and sales taxes, it is only right that an employer who benefits from public money or from reduced taxes should compensate employees with a decent salary.

***Against:***

Opponents of the bill argue that living wage ordinances can benefit local economies by enabling local workers to reinvest their higher wages in their communities in the form of buying the basic necessities of life, such as paying for food, shelter, and medical care. They say that taxpayers' costs will be decreased because workers who are paid a living wage will no longer need public subsidization. They also argue that as a matter of simple social justice, full time workers ought to be able to earn enough money to support themselves and their families. Moreover, welfare reform policies are stressing the need for people to move from public assistance to paid employment. If the only available employment is at below-poverty level income, living wages are more important than ever for the most disadvantaged in society.

According to the Sugar Law Center for Economic and Social Justice, a project of the National Lawyers Guild, the living wage succeeds in bringing workers only to the very threshold of impoverished living conditions. Recognizing this fact, the Michigan League for Human Services has calculated a statewide *self-sufficiency wage*, which the league defines as the wage necessary to meet one's basic needs on an ongoing basis without the help of public or private aid. The self-sufficiency wage for a Michigan wage-earner with two children is \$15.72 per hour. The law center points out that the significance of this calculation with respect to the living wage is that the figure is much higher than the \$10.44 hourly wage required by the Detroit ordinance. The center observes that while living age ordinances are a step in the right direction, they are just that: a small but important step. It is imperative, then, that the legislature not interfere with the very necessary first efforts by local municipalities if any community is to achieve, ultimately, a life free from poverty for all its citizens.

***Against:***

The living wage rate that is embodied in the majority of ordinances is about \$8.50 an hour with medical benefits, or \$10.44 an hour without. Annualized, that wage rate for a fulltime worker equals about \$18,000. The *total* annual living wage is, then, less than the \$20,000 *increase* in legislative pay that recently took effect. Many feel it is flat-out wrong for a legislator to accept a 36-percent, \$20,000 pay increase, and vote against an \$18,000 living wage for a worker whose job status may be lower, but who works equally hard.

***Against:***

Proponents of the bill ignore the fact that so-called 'artificial wage rates' constitute legitimate policy initiatives that aim to reduce poverty, and encourage employer-paid health care for workers. Already, state policies and programs sometimes require higher wage rates than the minimum wage, and some of those rates are specified in law. For example, under the terms of the Michigan Economic Growth Authority Act (Public Act 24 of 1995; MCL 202.808), employers who receive state tax breaks must pay an average of 150 percent of the federal minimum wage. For qualified high tech businesses, the jobs must pay 400 percent of the federal minimum wage. These are legitimate policy goals, and both state and local levels of government should be free to pursue them.

***POSITIONS:***

The Michigan Restaurant Association supports the bill. (2-21-03)

The Small Business Association of Michigan (SBAM) supports the bill. (2-21-03)

The National Federation of Independent Businesses supports the bill. (2-21-03)

The Michigan Manufacturers Association supports the bill. (2-21-03)

The Michigan Retailers Association supports the bill. (2-24-03)

The Michigan Chamber of Commerce supports the H-1 substitute with no further amendments. (2-21-03)

A representative of the Detroit Regional Chamber of Commerce testified in support of the bill. (2-19-03)

A representative of the Grand Rapids Regional Chamber of Commerce testified in support of the bill. (2-19-03)

The Michigan Townships Association opposes the bill. (2-24-03)

The Michigan State AFL-CIO opposes the bill. (2-21-03)

The Metro-Detroit AFL-CIO opposes the bill. (2-24-03)

The Southeast Michigan Jobs for Justice organization opposes the bill. (2-24-03)

The International Brotherhood of Electrical Workers (IBEW) Local 58 opposes the bill. (2-21-03)

Ypsilanti Township opposes the bill. (2-21-03)

The City of Ann Arbor opposes the bill. (2-21-03)

The Washtenaw County Administrative Office opposes the bill. (2-21-03)

Pittsfield Charter Township opposes the bill. (2-21-03)

The City of Eastpointe opposes the bill. (2-21-03)

The Michigan League for Human Services opposes the bill. (2-21-03)

The Michigan State Building and Construction Trades Council opposes the bill. (2-21-03)

The Michigan Catholic Conference opposes the bill. (2-21-03)

The International Union, UAW opposes the bill. (2-21-03)

The Carpenters Local 1004 opposes the bill. (2-21-03)

The Service Employees International Union (SEIU) opposes the bill. (2-21-03)

A representative of the National Lawyers Guild Sugar Law Center testified in opposition to the bill. (2-19-03)

A representative of the Washtenaw County Road Commission testified in opposition to the bill. (2-19-03)

A representative of Monroe County testified in opposition to the bill. (2-19-03)

The City of Ferndale has enacted a living wage ordinance and supports the right of cities to establish such ordinances. (2-21-03)

Analyst: S. Stutzky

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.