



# City of Emeryville

CALIFORNIA

## MEMORANDUM

**DATE:** November 15, 2016

**TO:** Carolyn Lehr, City Manager

**FROM:** Charles S. Bryant, Community Development Director

**SUBJECT:** Minimum Wage Annual Report

### STAFF RECOMMENDATION

Staff recommends that the City Council accept the following informational report regarding the Minimum Wage Ordinance.

### EXECUTIVE SUMMARY

On June 2, 2015 the Minimum Wage Ordinance (MWO) was adopted by the City Council with an effective date of July 2, 2015.

California leads the nation and, since the passage of the MWO, Emeryville leads the state on minimum wage increases, with Emeryville's minimum wage currently set at \$14.82 per hour for large businesses (56 or more employees); and \$13.00 per hour for small businesses (55 or fewer employees). The minimum wage rates for large businesses will increase yearly on July 1 in accordance with the Consumer Price Index (CPI), with rates for small businesses increasing in \$1.00 increments until reaching the large business rate. As shown in Attachment 1, Emeryville's minimum wage exceeds minimums established in many cities across the nation. However, aside from the actual wage rate, there are notable variations in cities' implementation of local minimum wage ordinances.

Staff was directed to provide an economic impact study on the MWO, and has contracted with Mills College to conduct a survey of business responses to the MWO, since they did a similar study for the City of Oakland. Staff presented a preliminary report to the Council on September 20, 2016 to review the proposed approach to the study, including the Mills College business survey. The Council provided staff with further direction, requesting an analysis of enforcement and complaints, labor market information, and health impacts of the MWO on workers.

Despite several limitations, which are described in detail below, the initial data suggests that Emeryville's economy has remained strong since the adoption of the MWO.

Additional time is needed to develop a complete picture of employment and wages. Over a one-year span of time, Emeryville has seen a 10% growth rate in employment and wages across all industries and in those industries with particularly higher populations of low wage workers. This rate is comparable to the surrounding cities as well as Alameda County as a whole.

Regarding the economic impact on business activity, the Mills study concludes that while there are some contentious issues around operational changes caused by the MWO, the majority of businesses are either neutral or supportive of the MWO. The industry that has been most impacted appears to be the food service industry, with 64% of responding businesses reporting a negative opinion of the ordinance. At the same time this industry also appears to have the highest rate of increased overall costs and payroll expenses since the passage of the MWO.

Early studies of minimum wage ordinances in other cities indicate that there is a chance that, over the next several years, the increase in wages can result in increases in children's school achievement and cognitive and behavioral outcomes. Additionally, the potential for better overall health care seems viable, but at the same time there are several variables involved in estimating who will benefit. A full-time employee with steady income and stable housing seems to be most advantaged in this area as opposed to a minimum wage employee who may have two or more jobs and is still struggling to make ends meet. The priority among this population is having a secure place to live.

Overall, given the variety of wage rules, economic contexts, employee circumstances and societal factors in the cities that have adopted local minimum wages, it is clear that it will take some time to fully determine how minimum wage increases are achieving policy objectives, and it is likely that the answers to these research questions will be as nuanced and complex as the circumstances that the local ordinances seek to address.

## **BACKGROUND**

In an effort to help working households achieve economic security and acknowledging the higher relative cost of living in the San Francisco Bay Area, the City of Emeryville has implemented the highest minimum wage thus far in the State of California.

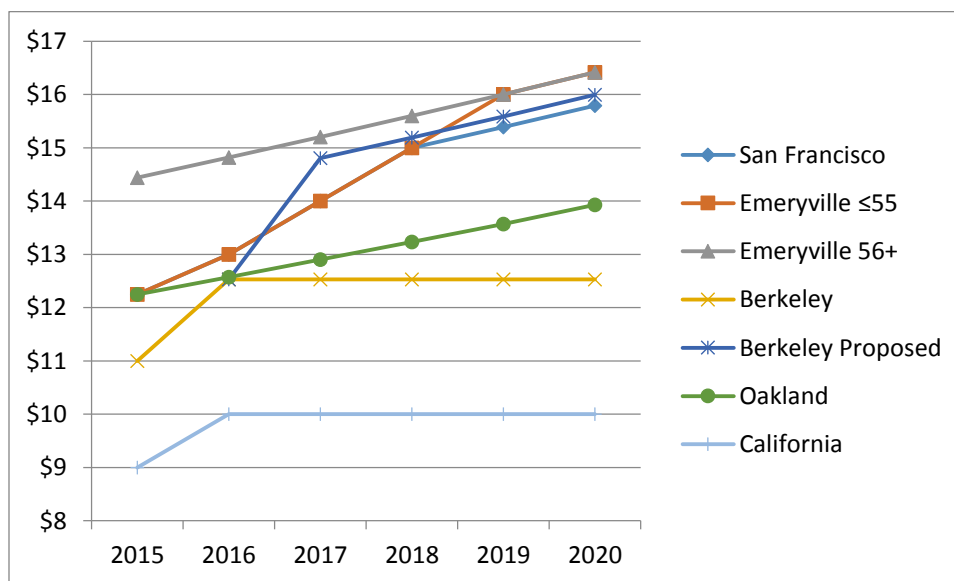
By early 2015, several local minimum wage measures had passed in surrounding cities. Research studies had analyzed the impacts of these measures, and many researchers concluded that increasing the minimum wage had very modest to negligible impacts on employment, business operating costs and consumer prices. Ballot measures increasing local minimum wages had passed by significant majorities in San Francisco and Oakland.

Based on these studies and circumstances, in January 2015 staff recommended that the Council consider a minimum wage ordinance similar to the Oakland initiative, with a schedule for outreach and implementation. Subsequent to this recommendation, Council directed staff to develop an ordinance to be effective July 1, 2015 with an hourly

wage consistent with the City's Living Wage (then \$14.03/hour) and with annual increases on July 1 in accordance with the CPI. On April 7, 2015 the Council held a study session on the topic. As the proposed ordinance was being developed, information about it was posted on the City website and mailed to all licensed Emeryville businesses and all residential addresses in Emeryville. On June 2, 2015 the MWO was adopted with an effective date of July 2, 2015.

The MWO established a minimum wage in the City of Emeryville of \$14.44 per hour for large businesses (defined as businesses with 56 or more employees within Emeryville); and \$12.25 per hour for small businesses (defined as businesses with 55 or fewer employees). The minimum wage rates increase annually thereafter on July 1 of each year. As of July 1, 2016, the minimum wage is \$14.82 per hour for large businesses, and \$13.00 for small businesses. A comparison of Emeryville's minimum wage rate with those of other cities, including projected increases, is shown in Table 1 below.

**Table 1: Minimum Wage Comparison Graph**



The MWO also requires that employers provide paid sick leave benefits to their employees, and requires that Hospitality Employers who collect service charges from customers pay all service charges to their Hospitality Workers.

As the one-year anniversary of the MWO approached, the City Council directed staff to prepare an annual review of its effects. At the September 20, 2016 City Council meeting, staff provided a preliminary report of the proposed approach to this annual review, including the commissioning of a business survey. At that meeting, the Council directed that staff include the following additional items in the report:

- A summary of complaints filed over the past year including industry type, nature of complaint and resolution;
- An analysis of Quarterly Census of Employment and Wages (QCEW) data from the State Employment Development Department (EDD) comparing the impact of the wage increase in Emeryville to other local jurisdictions; and
- A discussion regarding the correlation, if any, between workers' health status and the increase in wages.

The following sections of this report include: 1) basic information on the incidence of noncompliance with the MWO; 2) results of the business survey; 3) measurements of Emeryville's labor market performance relative to comparison regions; and 4) an overview of health impacts on workers and families

## **DISCUSSION**

### *Summary of Complaints and Enforcement*

Since adoption of the MWO, staff has worked closely with the City Attorney to develop uniform processes and procedures for complaint intake, investigation, and resolution.

The following procedures are followed when a minimum wage or paid sick leave complaint is received:

- Upon receipt of a written complaint staff initiates an informal investigation by contacting the complainant and employer (if necessary) to determine if there is any possible immediate resolution.
- If the complaint is not informally resolved, staff notifies the business of the complaint in writing.
- Staff requests documentation from the complainant to authenticate the complaint
- A site visit/inspection, interview and formal demand for documentation from the employer may be initiated if there is probable cause.
- A decision is issued after completion of formal or informal investigation process and each party is notified of the decision in writing.
- If a violation is found, staff issues a request to remedy the violation through back pay to the employee, payment of penalties, etc.; if no violation is found, the complaint is dismissed.

- The employer also has the right to appeal and request a hearing on any decision made within 14 business days.

Table 2 below summarizes inquiries and complaint resolution activity since ordinance adoption. Notably, this data does not include individual comment letters and emails that were received from businesses.

**Table 2: Inquiry and Complaint Activity**

Year	2015	2016 (thru Sept. 30)
Inquiries	13	42
Complaints	5	4
Closed Cases	7	1
Pending Cases	0	1

The increase in the number of inquiries in 2016 could suggest that it took some time to get businesses up to speed on implementing the MWO. Most inquiries originated from differences in employer and employee interpretation of the MWO's provisions. Most of the complaints originated from employees who work in retail chain stores, followed by the restaurant industry.

All investigations thus far have been complaint initiated, although the City retains the right to investigate even if a formal complaint is not received. As shown in Table 3 below, the majority of complaints were resolved informally by assisting the business in coming into compliance with the MWO. The nature of all complaints included combination of potential violations of minimum wage and paid sick leave (PSL) requirements with one allegation of retaliation by an employer. None of the complaints resulted in significant restitution. There were two cases that involved misinterpretation about rules regarding tips.

**Table 3: Summary of Complaints**

Business Type	Number of Complaints	Nature of Complaint	Restitution/Resolution
Small Format Chain Retail	5	Failure to publish and distribute official notice to employees; misinterpretation of business size as it applies to wage rates; Failure to properly calculate paid sick leave accrual; wage increase affected raises of long-term employees, putting wages closer to new hires' wages	\$455.19 in back pay (distributed among 4 employees); \$218.96 recovered by complainant

Restaurant	2	Misunderstanding about tip distribution in light of increased wages; reduction in hours; failure to provide PSL and noncompliance with minimum wage rate	Technical assistance; complainant recovered \$147 in back wages
Large Formula Retailer	1	Possible violation of Minimum wage requirements	Technical Assistance provided
Other (Amusement Gambling Recreation)	1	Reduction in hours, possible retaliation	Technical assistance; referral to state department for further investigation into retaliation

Preliminary studies show that as cities begin to implement their new minimum wage laws, the question of how to best enforce them becomes most important. As stated in a collaborative report, *Enforcing City Minimum Wage Laws in California: Best Practices and City-State Partnerships*, by the UCLA and UC Berkeley Centers for Labor Research and Education, delivering on the promise of higher wages and better working conditions hinges on the ability to put robust enforcement and technical assistance in effect, much like that used at the state or federal level.

While many cities are developing expertise in wage ordinance implementation, they are also recognizing the nuances of local-level enforcement and implementing best practices or collaborating with outside agencies such as Community-Based Organizations, state agencies and neighboring jurisdictions to assist in the process<sup>1</sup>.

Thus far in Emeryville, most complaints have been resolved by providing support and assistance, but as the wage rate rises and more employers and employees are educated about the MWO, strategies to address the range of issues that may arise are key to successfully realizing the economic benefits of the MWO.

### *Business Survey*

As noted above, staff engaged Mills College Lokey School of Business (Mills) to conduct a survey of businesses to find out how the MWO has affected employment, business location, and prices among many other factors that affect business operations. The full report is included as Attachment 3.

---

<sup>1</sup> Bernhardt, A., Koonse, T & Dietz, M. (2015) *Enforcing City Minimum Wage Laws in California: Best Practices and City-State Partnerships*, UCLA Center for Labor Research and Education and UC Berkeley Center for Research and Education

Mills was selected because they had completed a survey evaluating Oakland's minimum wage ordinance, and their work provided Oakland stakeholders with a useful perspective on the impacts of minimum wage increases on the overall business climate as well as information regarding the benefits and challenges businesses face operating within the City of Oakland. The scope of work for the Emeryville survey was modeled after the Oakland survey. Although Mills' work in Oakland was used as a starting point, the survey instrument for Emeryville was tailored to the needs of Emeryville's unique circumstances and the sample size was expanded from that used in Oakland.

From August 24, 2016 to October 3, 2016 Mills researchers contacted over 600 Emeryville businesses to request their participation in the survey, and achieved a response from approximately half of the businesses that they contacted in person. Researchers conducted outreach by telephone, email and in-person visits. The best method proved to be personal contact with the business owner during business hours. The majority of the businesses that responded were small businesses and businesses that have been in operation for more than 10 years. The industries with the highest response rates were Retail Trade (12.5%) followed by Food Services, Restaurant, Café and Bar (11.3%) followed by Manufacturing (9.4%). Approximately 15 industries are represented in the survey. Key findings included:

Payroll Costs:

- 60.2% reported an increase in payroll costs, while 23.4% reported no change and 16.4% reported a decrease
- Nearly a quarter of the respondents saw an increase of 10% or more
- The food services industry reported a particularly sharp rise in payroll costs but also reported a corresponding increase in the number of full time employees

Changes in Overall Costs:

- 78.5% of respondents reported that overall costs have increased while 16.2% reported costs have remained the same and only 5.4% reported that costs have decreased; increases were reported across all industries
- Out of 49 respondents to an open ended question asking for the reasons that costs have increased, 44.9% attributed the increase in overall costs to costs of materials and services, 32.7% attributed the increase to overhead costs such as utilities, insurance and fees, and rent was cited by 28% of respondents to be a reason for increased costs

Changes in Revenues:

- 49.2% of respondents reported an increase in revenues, while 22% reported a decrease and 28.8% indicated their revenues stayed the same
- Out of the 24 respondents that provided qualitative answers to an open-ended question on this topic, 50% said their volume of sales had increased; 25% attributed revenue increases to the overall recovery of the economy and 16.7% indicated it was due to their price increases

Changes in Prices:

- 52% of businesses reported an increase in their prices compared to one-year prior while 42% reported no change and 6% reported a decrease
- 37% of businesses increased their prices by 4% or more
- The dominant industry where these price increases were reported is in the food services sector

Anticipated Future Changes in Business:

- 53.2% of responding businesses reported that they do not plan to make any changes, while 46.8% (of those that chose to elaborate) reported they do plan to make changes in the following areas:
  - 36% plan to increase prices
  - 21.3% plan to increase labor hours
  - 20% plan to increase wages
  - 5.3% plan to reduce training or entry-level positions

Future Planning for Location Change:

- 82% of responding businesses do not plan to make any move; 16% plan to move outside of Emeryville and 2% plan to move to another location within Emeryville

Challenges:

The survey asked for qualitative responses on respondents' major concerns. The areas of major concern are (1) finding employees with the necessary skills and experience, (2) rising property values and rents, and (3) the rising personal cost of living.

Business Needs:

When asked about the types of City assistance that would be most desirable to respondents, 70.9% expressed interest in marketing support, 37.2% expressed interest in developing a Chamber of Commerce, 33.7% would like assistance making trade connections, and 23.2% would like training on how to implement new ordinances.



### Reactions to MWO

Specifically regarding the minimum wage provisions of the MWO, 34.4% of respondents reported neutral attitudes, 26.3% reported positive attitudes and 21.9% reported negative attitudes. 17.5% did not respond with a comment at all. It is noted by the researchers that, if it is inferred that businesses that did not respond are neutral, then the neutral category could be viewed as representing 51.9% of responses.

Regarding the paid sick leave provisions of the MWO, 23% of respondents indicated a positive response, 19% had a negative response while 21% did not respond and 37% remained neutral. Again, if it is inferred that businesses that did not respond are neutral, then the neutral category could be viewed as representing 58% of responses. Staff's experience in this area has been that many businesses are not well versed in this portion of the MWO as indicated by the volume of inquiries that have been received on this topic. This could suggest the high number of neutral responses are businesses that may be unfamiliar with the sick leave provisions.

For additional details, including the qualitative responses and the variation in information across business industries, types and sizes, please refer to Attachment 3.

### *Labor Market Analysis*

Staff requested detailed employment data from the State Economic Development Department (EDD), Bureau of Labor Statistics, Occupational Employment Statistics. The EDD maintains the Quarterly Census of Employment and Wages (QCEW). This dataset includes the number of jobs and total payroll for a requested geography, disaggregated by industry codes. Staff requested this data for Emeryville, Berkeley, and Oakland as well as for Alameda and Contra Costa Counties. The goal was to compare jobs and total payroll by industry in each geography before and after implementation of the MWO to get some indication of what has happened in Emeryville due to the MWO and how much employment and wages have been affected by the greater economy of the East Bay Area.

According to the data, Emeryville's average rate of employment and wages increased by less than 10% between 2014 and 2015 across all industries. It is important to note that this data is provided at the zip code level, and consequently some areas of Oakland are reported within Emeryville's employment data for zip code 94608.

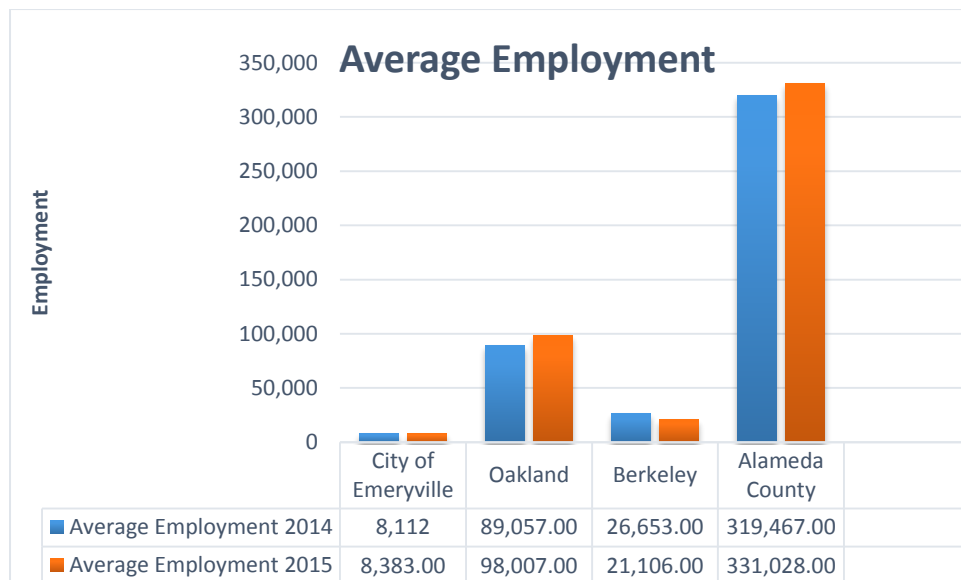
**Table 4: Emeryville Average Annual Employment and Wages, All Industries**

	2014	2015	% Change
<b>Average of Employment</b>	19,030	20,172	<b>6.00%</b>
<b>Average Wages</b>	\$1,837,985,124	\$2,028,938,236	<b>10.39%</b>

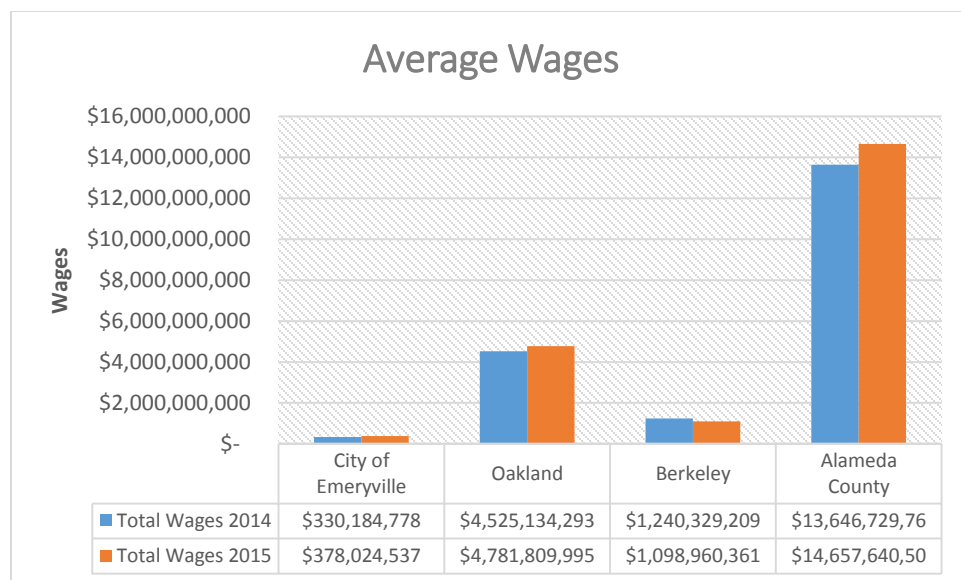
Source: EDD QCEW Data extracted as of 10/13/2016

The charts below compare Emeryville's average employment and total wages with other geographies for key industries that traditionally have the largest population of minimum wage employees, specifically retail trade, administrative, healthcare, education, and accomodation and food services.

**Chart 1**



**Chart 2**



While the QCEW is an important and widely used data source, it is important to note its limitations. The primary limitations, for the purposes of evaluating the impact of the MWO, are the age and aggregation of the data. These limitations are especially relevant for Emeryville's small size. For example, EDD will not disclose data for industries with three or fewer employers due to confidentiality rules. This becomes problematic for a jurisdiction the size of Emeryville, as data for many industries is redacted due to this rule. The QCEW also does not categorize jobs by wages or hours worked. For example, we cannot study what happened only for Emeryville jobs paying less than \$20 an hour. This means that the data will mask any effects for minimum wage workers in industries that have significant numbers of higher wage jobs.

According to EDD<sup>2</sup>, additional limitations include:

- 1) Multi location establishments: Some large employers with multiple locations such as retail or restaurant chains file a single quarterly report to cover all locations
- 2) Nontraditional jobs: There is a large degree of under-reporting on jobs that include tips. Reported income may increase less than actual income.
- 3) If a worker transitions from one job to another in one quarter, they will be counted twice in the data.
- 4) Some nontraditional jobs such as independent contractor positions may be underrepresented because reported income could show as decreased when in actuality the contractor might not be reporting.
- 5) Average Annual Pay is affected by the ratio of full time to part time workers, the number of workers who worked for the full year; and the number of individuals in high-paying and low-paying occupations. For example, industries with high proportions of part time workers will show average wage levels appreciably less than the pay levels of regular full time employees. The opposite occurs where industries with low proportions of part-time workers or industries that schedule heavy weekend and overtime work are mischaracterized. Average wage data could also be affected by labor turnover, retroactive pay, bonus payment and more.

Despite these limitations, the initial data suggests that Emeryville's economy has remained strong since the adoption of the MWO. Additional time is needed to develop a complete picture of employment and wages.

### *Business Activity in Emeryville*

While it is valuable to know the rate of business openings and closures as it relates to the MWO, this data is limited due to the inefficiency of businesses reporting their status on an annual basis. For example, there is often a delay in reporting business closures. The data below is based on current available records.

---

<sup>2</sup> [http://www.labormarketinfo.edd.ca.gov/Data/QCEW\\_About\\_the\\_Data.html](http://www.labormarketinfo.edd.ca.gov/Data/QCEW_About_the_Data.html)

**Table 5: Business Openings and Closings**

	Openings	Closings
July 2013-Sept 2014 Pre MWO Ordinance	182	160
July 2015-Sept 2016 Post MWO Ordinance	181	140

Source: Emeryville Business Tax Certificate data

### *Impacts on Employees*

The City Council expressed interest in the perspective of workers regarding the MWO. Due to limited resources and time constraints, staff did not commission a worker survey specific to the MWO, having recently completed a worker survey for the Fair Workweek Ordinance.

Although it may be too early to truly assess the impact the MWO has had on employees' lives, there is preliminary, qualitative information available from interviews conducted by advocacy groups and journalists across the nation that can be inferred as applicable to Emeryville. From this, we can determine that there has been some level of relief for workers who have previously had to have multiple minimum wage jobs to make ends meet.

A San Jose State Fellow that interviewed approximately 50 low wage workers in Emeryville and Oakland reported that it is apparent that some workers in these communities recognize this increase as promise for them to reduce their debt. For example, a worker from an Emeryville grocery store and resident of West Oakland explained that the increase was a 'major change' in her life. However, at the same time, there are some workers dissatisfied that they are now earning the same as new hires.<sup>3</sup>

Researchers working for the City of Seattle are currently conducting a 3-year interview process to follow a cohort of workers through the cycle of these changes. In their preliminary study, results indicated that there is still more work to be done to get the average minimum wage employee to livable standards. Many of the workers were not aware what the Seattle ordinance really meant, and many expressed doubt that the law would fundamentally alter their financial situations. Many of the workers relied heavily on government assistance.<sup>4</sup>

---

<sup>3</sup> Thompson, G. (2016) *This is What \$15 an Hour Looks Like. Cities Rising*. University of California Press

<sup>4</sup> The Seattle Minimum Wage Study Team (2016). *Report on the Impact of Seattle's Minimum Wage Ordinance on Wages, Workers, Jobs and Establishments Through 2015*, Seattle. University of Washington

### *Health Impact on Workers*

Existing research suggests that there may be downstream benefits from the minimum wage increases, such as improved health outcomes for both workers and their children, and increases in children's school achievement and cognitive and behavioral outcomes.<sup>5</sup>

Preliminary studies performed by researchers at the University of Washington suggest that prices of all goods will increase along with wages, which, in turn, can result in difficulties for lower wage workers in accessing healthier food options, which tend to be more expensive. This is exacerbated by the fact that many low wage workers live in "food deserts" where access to healthier options are not as widely available. On the other hand, workers who become full time employees with a steady flow of income could gain access to better health care options.

Staff contacted the Alameda County Public Health Department in an effort to gather health data on the relationship between wages and health, but was informed that such data is delayed, which makes it more feasible to do such a study two years from now. Also, while mortality and individual health conditions (such as diabetes, asthma, high blood pressure, etc.) are evaluated by the County on a local and regional level, these indicators are affected by many variables, including housing trends, food supply, composition of family, and other factors, which makes it difficult to draw a clear connection to increased income. Finally, the data that they collect is by residency, and, as such, there is no easy way to specifically look at individuals who work in Emeryville but live in other areas as opposed to those that live in Emeryville but work in other areas.

### **FISCAL IMPACT**

The business survey required an expenditure of approximately \$20,000 from the Economic Development and Housing Division's Professional Services budget.

**PREPARED BY:** April Shabazz, Management Analyst

**REVIEWED BY:** Chadrick Smalley  
Economic Development and Housing Manager

---

5 Reich, M., Montialoux, C., Bernhardt, A., Allegretto, S, Thomason, S, Jacobs, K (2014). *The Effects of a \$15 Minimum Wage by 2019 in San Jose and Santa Clara County*.  
<http://laborcenter.berkeley.edu/the-effects-of-a-15-minimum-wage-by-2019-in-santa-clara-county-and-the-city-of-san-jose/>

**APPROVED AND FORWARDED TO THE  
CITY COUNCIL OF THE CITY OF EMERYVILLE**



Carolyn Lehr, City Manager

Attachments:

1. Inventory of Local Minimum Wage Ordinances
2. Mills College Business Impact Survey Instrument
3. Emeryville Business Conditions Report
4. Research Review