

# Legislative Department

## Seattle City Council

### Memorandum

**Date:** March 21, 2014  
**To:** Councilmember Licata  
**From:** Patricia Lee & Dan Eder  
**Subject:** City of Seattle Minimum Wage

The Select Committee on Minimum Wage and Income Inequality (the Select Committee) currently plans to hold 8 committee meetings and two “lunch and learn” sessions. The Mayor intends to transmit proposed legislation in late April or early May; the Select Committee will consider the legislation and plans to take a final vote on or before June 23, 2014. [Attachment 1: Select Committee Schedule.](#)

Enacting a local minimum wage ordinance raises at least six major policy questions:

- What should the hourly wage be?
- How should it be calculated, i.e., should it take into consideration tips, commissions, benefits?
- When should the new minimum wage be in effect?
- Who should it cover?
- How should it be enforced?
- What remedies should be provided for violation?

We recognize that any one of these topics could become a robust discussion. Our objective in this memo is to provide some background information to start the committee discussion and determine what additional information would be most useful to the Committee.

Additional information will be available by the end of March from the University of Washington’s Evans School of Public Affairs and the University of California, Berkeley. Specifically, the Evans school will present information about workers in Seattle with lower-wage jobs and about employers with lower-wage workers. UC-Berkeley will present a summary of minimum wage laws in other municipalities and an overview of scholarly research evaluating select effects of minimum wage laws on employment. This information will be presented in two upcoming forums: on March 27th at an all-day Symposium hosted by the Income Inequality

Advisory Committee, and on April 12th (tentative) at the next scheduled Select Committee meeting.

We thought it would be helpful to begin by providing some background information on the:

1. Federal minimum wage law.
2. Washington State minimum wage law.
3. SeaTac Minimum Wage Ordinance.
4. The eight other locally enacted minimum wage laws.
5. Living Wage calculators.
6. Different objectives for enacting a minimum wage.

In general, minimum wage laws can be viewed like a layer cake with the bottom layer the Federal minimum wage law, the next layer the State minimum wage law and the top layer a local minimum wage law. If an employee is not covered by a local law, s/he may be covered by the State law or the Federal law. If an employee is covered by more than one minimum wage law, the one most favorable to the employee applies.

## **1. Federal Minimum Wage Law**

### *When Was It Established?*

The 1938 Fair Labor Standards Act (FLSA) establishes a minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in Federal, State, and local governments. After a year of Congressional debate, many amendments and changes, the FLSA established a \$0.25/hour minimum wage or \$11 a week, a 44 hour maximum work week and banned oppressive child labor. It required employees to be paid time and a half for all work in excess of the maximum work week. It applied to approximately one-fifth of the US workforce. In sending the bill to Congress President Roosevelt's message was that America should be able to give "all our able-bodied working men and women a fair day's pay for a fair day's work."

### *When and How Is It Increased?*

The Federal Minimum Wage is not tied to inflation and an increase requires an act of Congress. Between 1938 and 1978 there were different Federal minimum wage rates set for different employees. In 1978 one amount was set for all covered employees. The last increase from \$6.55 an hour to the current \$7.25 an hour was enacted in 2009. President Obama is currently seeking an increase to \$10.10 an hour.

### *Who Does It Cover?*

Coverage, or who is required to be paid the Federal Minimum Wage and Overtime is established through the definition of covered employer and employees. Since 1938 the FLSA has been expanded to include coverage of additional employers and employees. Currently it covers employers with \$500,000 or more in annual dollar volume of business and smaller firms if the employees are engaged in interstate commerce directly or indirectly. It also applies to employees of government agencies, hospitals, schools and domestic workers.

However, there are different exemptions to the requirements for minimum wage and overtime. Examples of exemptions from the Federal minimum wage requirements are employees who are: executive, administrative and professional, certain skilled computer professionals, employed in outside sales, seasonal amusement or recreational establishments, employees of certain small newspapers and switchboard operators of small telephone companies, seaman, fisherman, newspaper deliverers, farm workers, casual babysitters, and companions to the elderly or infirm.

In addition, some employees may be paid a different, defined amount: youth, students, student learners and employees with disabilities.

*Tips:*

Tipped employees may be paid a base wage of \$2.13 an hour if that amount plus tips equals at least the federal minimum wage, the employee retains all tips and the employee customarily and regularly receives more than \$30 a month in tips. If the tips plus \$2.13 an hour do not equal the federal minimum wage the employer must make up the difference.

[Attachment 2: Federal Minimum Wage Summary](#)

## **2. Washington State Minimum Wage law**

*When Was It Established?*

Washington State's Minimum Wage Act (MWA) was first established in 1961 and set a rate of \$1.15 an hour. The Federal Minimum wage in 1961 was \$1.15 or \$1.00 depending on the type of employment. The MWA also requires employers to pay overtime wages of at least 1 ½ times an employee's regular rate of pay for hours worked in excess of 40 hours in a week.

*When and How Is It Increased?*

Since 1998 and approval of Initiative 688 a cost-of living adjustment is made each year based on the federal Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). Washington's current rate of \$9.32 an hour is the highest state minimum wage rate, although there are cities and counties that have enacted higher rates.

*Who Does It Cover?*

Like the Federal Minimum Wage, who is covered in the MWA is established through the definition of covered employers and employees based on the type of work. The size of a business, amount of revenue or number of employees is not a determinant of coverage.

Most Washington employers are subject to both the Federal and State laws on minimum wage and overtime laws. If the laws differ, employers must follow the higher standard, meaning the one most beneficial to the employee. Since Washington's \$9.32 an hour is higher than the Federal \$7.25 the Washington rate applies to employees covered under both laws.

Below are the 14 categories of employees not covered by the State's MWA. However, the State Department of Labor and Industries notes that whether an employee falls within one of these categories will depend on the facts and will be evaluated on a case by case basis.

- Certain Agricultural employees, who are hand harvest pieceworkers, do not reside at the farm where they are employed, and have been employed in agriculture for less than 13 weeks during the preceding calendar year.
- Casual laborers, meaning irregular, uncertain or incidental work
- Executive, administrative, professional, computer professional or outside sales
- Volunteer work
- Employee volunteer work for the organization that employs them
- Newspaper vendors or carriers
- Railroad and Pipeline employee
- Forest protection and fire prevention
- Employees of charitable institutions charged with child care responsibilities
- Individuals who are required to reside or sleep at their place of employment or spent a substantial portion of their work time subject to call
- Inmates and others in custody
- Elected or appointed public officials and employees of the state legislature
- Washington State Ferry crews
- Crews of non-American vessels.

In addition, some employees may be paid a different, defined amount: youth, students, student learners and employees with disabilities.

*Tips:*

Businesses may not use tips as a credit toward minimum wages owed to a worker.

[\*Attachment 3: Washington State Minimum Wage Summary\*](#)

[\*Attachment 4: Comparison of State and Federal Minimum Wage Laws\*](#)

### **3. SeaTac Ordinance**

*When Was It Established?*

Proposition 1 was approved by voters in November 2013. It requires that Hospitality and Transportation employers pay certain hospitality and transportation employees \$15.00 an hour.

*When and How Is It Increased?*

This rate is to be adjusted on January 1 of each subsequent year.

*Who Does It Cover?*

Hospitality Employer is defined as a person who operates a hotel of 100 or more guest rooms and 30 or more workers or who operates an institutional foodservice or retail operation that employs 10 or more non-managerial non-supervisory employees, including subcontractors and temporary agencies.

Transportation Employer excludes a certificated air carrier performing services for itself, and is defined as a person who employs 25 or more non-managerial, non-supervisory employees who who operate or provide the following services: curbside passenger check-in, baggage check, wheelchair escort, baggage handling, cargo handling, rental luggage cart, aircraft interior, carpet washing and cleaning, aviation group support equipment washing and cleaning; aircraft water or lavatory services, aircraft fueling; ground transportation management; or any janitorial and custodial services, facility maintenance services, security services or customer services.

Transportation Employer also includes a person who employs 25 or more non-managerial, non-supervisory employees who operate rental car services with a fleet of more than 100 cars; shuttle transportation with a fleet of more than 10 vans or buses or parking lot management controlling more than 100 parking spaces.

#### Waiver

Individuals may not waive these provisions. However, all of the provisions may be waived by a bona fide collective bargaining agreement but only if the waiver is explicitly set forth in clear and unambiguous terms.

#### Other Provisions

Proposition 1 also provides for paid sick and safe leave, that existing part-time employees be offered additional hours before additional employees or subcontractors are hired, that tips go to those performing the service, and that successor employers must offer employment to all qualified retention employees of the predecessor employer. Employers are prohibited from retaliation against employees for exercising their employment rights and are required to keep wage and benefit records.

Individuals may bring an action against an employer in King County Superior Court to enforce these provisions and if they prevail may be awarded lost compensation, damages, reinstatement and reasonable attorney fees and expenses. The SeaTac City Attorney may also investigate and bring any appropriate legal action.

#### Current Status

King County Superior Court Judge Darvas ruled in December 2013 that Proposition 1 was void as to the employers and employees doing business under the exclusive jurisdiction of the Port of Seattle as Washington State law gave the Port of Seattle jurisdiction over SeaTac airport. Proposition 1 was valid as to City of SeaTac employers and employees not under the exclusive jurisdiction of the Port of Seattle.

The portions that make it unlawful for covered employers to interfere with or take action against employees for informing other employees of their rights or retaliating against an employee for informing a union about an alleged violation are void as they are pre-empted by federal labor law.

Both sides have appealed the Superior Court ruling and it is pending on appeal now.

#### 4. Locally Enacted Minimum Wage Laws

Including SeaTac (discussed separately above), we evaluated nine cities and counties that have enacted a local minimum wage law:

- Albuquerque, NM
- Bernalillo County, NM
- Montgomery County, MD
- Prince George, MD
- San Francisco, CA
- San Jose, CA
- Santa Fe, NM
- SeaTac, WA
- Washington, DC

These local laws are all modeled on the Federal and applicable state minimum wage law. Among other variations, they vary by amount, the percent of increase over the applicable state minimum wage, the percent of the applicable median income (once fully implanted), and which employees and employers are covered.

We evaluated the minimum wage laws in each local jurisdiction to compare different approaches. First, we compared whether and how jurisdictions used phasing. [\*Attachment 5 – Phasing and Median Income\*](#) includes charts that illustrate how several jurisdictions approached phasing and how the adopted minimum wage compares against the area's median wage.

Next we compared an estimate of the minimum wage when fully implemented (for those jurisdictions with multiple steps) to the median wage in each jurisdiction, using a simplifying assumption of full-time employment. The U.C.-Berkeley consultant's report will be released at the March 27<sup>th</sup> Symposium. We expect it will address each jurisdiction's legislation in additional detail.

Table 1 below provides a summary of how other jurisdictions have addressed the six policy questions we have identified.

Table 1: Overview of Nine Local Laws:

What should the hourly wage be?	<p>The highest current municipal minimum wage is in SeaTac (\$15/hour for certain transportation and hospitality employees), followed by San Francisco, CA (\$10.72/hour for most employees).</p> <p>There are several jurisdictions with adopted minimums that have not yet taken full effect (Washington, DC and Montgomery County, MD will be \$11.50 in 2016; Prince George County, MD will be \$11.50 in 2017).</p> <p>The lowest locally adopted minimum wage is \$8.60 (Albuquerque, NM and Bernalillo County, NM).</p> <p><b><u>Inflation.</u></b> Seven increase the minimum wage annually with inflation.</p>
When should the new minimum wage be in effect?	<p>Five jurisdictions implemented a local minimum wage in a single step (no phasing).</p> <p>Four jurisdictions phased the minimum wage increases in multiple steps. Phase-in periods ranged from 1 year (Bernalillo County, NM) to 4 years (Prince George County, MD).</p> <p>San Francisco had no phase-in for most employers. However, small businesses with fewer than 10 employees and all non-profits were allowed to phase the increase over a 2 year period.</p>
How should it be calculated?	<p><b><u>Tips and Commissions.</u></b> Six included a lower wage for tipped employees than the general minimum wage. San Francisco counts commissions towards the calculation of the minimum wage.</p> <p><b><u>Benefits.</u></b> Several count selected benefits towards the minimum wage calculation:</p> <ul style="list-style-type: none"> <li>• health insurance benefits (Bernalillo, Albuquerque, Santa Fe);</li> <li>• child care benefits (Bernalillo, Albuquerque, Santa Fe)</li> <li>• housing and meals (San Francisco)</li> </ul>
Who should it cover?	<p><b><u>Family Members.</u></b> Three include exemptions for family members (San Francisco, Bernalillo, Santa Fe).</p> <p><b><u>Bargaining.</u></b> Five allow for waivers if approved in bona fide collective bargaining agreements (SeaTac, San Francisco, San Jose, City of Santa Fe, and Washington D.C.).</p>
How should it be enforced?	We have not yet completed our analysis of how other jurisdictions enforce minimum wage provisions.
What remedies should be provided for violation?	We have not yet completed our analysis of what remedies for violations are provided by other jurisdictions.

## 5. Living Wage Calculators, an alternative analysis to minimum wage.

In Section 6 of the memo, we will outline several different objectives for enacting a local minimum wage. However, before doing that, in this section we would like to take a step back and provide some additional background on one of the potential objectives that could be achieved by enacting a local minimum wage: providing each worker with a wage closer to a “Living Wage.”

The minimum wage is the lowest *rate* that may be paid for one or more hours of work. Minimum wage workers may work full-time or part-time; and a worker’s *income* is a function of both the hourly pay rate and the number of hours actually worked. One way of evaluating different potential minimum wages is to compute the annual gross income of an individual earning the minimum wage. This calculation is relatively straightforward:

$$\text{Annual Income} = (\text{Minimum Wage}) * (\text{Annual Hours Worked})$$

Several organizations have developed a tool that is useful for evaluating the adequacy of the minimum wage to pay for expected household costs. Living Wage calculators tally the required annual costs for different household configurations to live in a given area during a year. This information can be used to determine what hourly pay rate would be sufficient to cover expected household costs.

This calculation requires making an assumption about how many hours are worked per year; the typical assumption is full-time employment (although the costs could theoretically be spread among a part-time worker’s annual hours).

$$\text{Living Wage} = (\text{Annual Required Typical Costs}) / (\text{Annual Hours Worked})$$

Determining the annual budget for a Living Wage calculation involves a number of decisions. Some annual costs are less ambiguous; for instance, housing costs are universally required. Other costs could involve judgment calls; for instance, should a typical household’s required annual transportation costs include car ownership (relatively expensive) or instead a transit pass (relatively inexpensive)?

Moreover, the set of required annual costs varies by who is living in the household. A single adult living with two pre-school children alone must pay for a different list of costs as compared to a single adult living (e.g., no cost of childcare). As a result, the Living Wage calculation varies depending on the household configuration.

There are many Living Wage calculators. Some make different assumptions about what constitutes an appropriate budget, and there is a range of different conclusions about what a Living Wage would be even for a full-time worker in any given household type.

The Self-Sufficiency Standard (SSS) is one widely cited Living Wage calculator, published by the University of Washington’s Center for Women’s Welfare. The SSS accounts for a wide variety of different household types, accounting for different costs not only by the number of



working adults but also the ages of children. They also account for the different costs of living in different areas.

The SSS builds “bare bones’ family budgets [for each of several different types of households] that detail the minimum amount of income required by families to meet their basic needs without public or private assistance.” The SSS family budgets vary by geography reflecting different costs of living.

The table below highlights some information from the most recently published SSS (2011) for the City of Seattle. For many of the household types, the calculated Living Wage in the SSS is above the current minimum wage and above the proposed \$15/hour minimum wage supported by many community organizations. The SSS concludes that a “living wage” in Seattle would vary between \$10.62 for a single, full-time worker living alone and \$30.41 for a single full-time worker living with two pre-school children.

Table 2: Living Wage Calculator

<b>Self-Sufficiency Standard for City of Seattle</b>						
<b>Monthly Costs</b>	<b>Adult + preschooler +</b>			<b>2 Adults + preschooler +</b>		
	<b>Adult</b>	<b>preschooler</b>	<b>preschooler</b>	<b>2 Adults</b>	<b>preschooler</b>	<b>preschooler</b>
Housing	\$ 979	\$ 1,179	\$ 1,179	\$ 979	\$ 1,179	\$ 1,179
Child Care	\$ -	\$ 1,031	\$ 2,062	\$ -	\$ 1,031	\$ 2,062
Food	\$ 259	\$ 393	\$ 523	\$ 511	\$ 636	\$ 747
Transportation	\$ 90	\$ 90	\$ 90	\$ 180	\$ 180	\$ 180
Health Care	\$ 113	\$ 373	\$ 383	\$ 419	\$ 430	\$ 440
Miscellaneous	\$ 144	\$ 307	\$ 424	\$ 209	\$ 346	\$ 461
Taxes	\$ 283	\$ 664	\$ 957	\$ 324	\$ 658	\$ 945
<b>Subtotal Monthly Costs</b>	<b>\$1,869</b>	<b>\$ 4,036</b>	<b>\$ 5,619</b>	<b>\$ 2,623</b>	<b>\$ 4,460</b>	<b>\$ 6,014</b>
Child Care Tax Credit (-)	\$ -	\$ (50)	\$ (100)	\$ -	\$ (50)	\$ (100)
Child Tax Credit (-)	\$ -	\$ (83)	\$ (167)	\$ -	\$ (83)	\$ (167)
<b>Subtotal Monthly Credits</b>	<b>\$ -</b>	<b>\$ (133)</b>	<b>\$ (267)</b>	<b>\$ -</b>	<b>\$ (133)</b>	<b>\$ (267)</b>
<b>Total Monthly Costs</b>	<b>\$1,869</b>	<b>\$ 3,903</b>	<b>\$ 5,352</b>	<b>\$ 2,623</b>	<b>\$ 4,326</b>	<b>\$ 5,748</b>
<b>Work hour/month @ full time</b>	<b>176</b>	<b>176</b>	<b>176</b>	<b>176</b>	<b>176</b>	<b>176</b>
<b>Self-Sufficiency Wage</b>						
<b>Hourly @ full time</b>	<b>\$10.62</b>	<b>\$22.17</b>	<b>\$30.41</b>	<b>\$7.45</b>	<b>\$12.29</b>	<b>\$16.33</b>
				<i>per adult</i>	<i>per adult</i>	<i>per adult</i>
Monthly @ full time	\$1,869	\$3,903	\$5,352	\$2,623	\$4,326	\$5,748
Annual @ full time	\$22,423	\$46,831	\$64,222	\$31,477	\$51,917	\$68,973

*Adapted from the University of Washington’s Center for Women’s Welfare (2011)*

## **6. What is a Minimum Wage Supposed to Accomplish?**

As your discussions proceed, clarity about what the City is trying to achieve with a local minimum wage will be helpful in crafting the ordinance, determining the new municipal minimum wage rate, and allowing the City to evaluate whether the ordinance is achieving the policy objectives in the future. Below are some ways to consider what a minimum wage should accomplish, and whether the State and Federal minimum wages are inadequate in light of these metrics necessitating a local minimum wage.

### ***A. Should the minimum wage provide a “Living Wage” or a wage closer to a “Living Wage” that allows all workers to pay for their basic costs of living?***

As discussed in Section 5, the Living Wage for each household varies depending on the ages and number of people in each a household. Using Living Wage as the basis for establishing a minimum wage could lead to (a) different minimum wages for each household type (i.e., different pay for the same job) or (b) a single minimum wage that is a Living Wage for some workers but not for others.

### ***B. Should a minimum wage continue to establish a floor for worker wages?***

As discussed in earlier sections, the federal minimum wage was originally intended to “provide a fair day’s pay for a fair day’s work.” In other words, that if a person worked, there was an hourly minimum rate at which a person must be paid. This has never been fully realized as both the Federal and State Minimum Wage laws have exemptions.

### ***C. Should the minimum wage be set at a level that reflects increases in worker productivity?***

Some have noted that the minimum wage should increase with a measure of overall worker productivity. Since 1968, overall worker productivity has increased dramatically while the buying power of the minimum wage has decreased in real terms.

### ***D. Should the minimum wage be set at a level that reduces the number of Seattle residents living in poverty?***

Washington State’s minimum wage is the highest state minimum wage in the country. Yet 13.2% of Seattle’s population lived below the poverty level during 2008-2012 (<http://quickfacts.census.gov/qfd/states/53/5363000.html>). One argument for a local minimum wage is that increased wages will reduce the number of Seattle residents living in poverty.

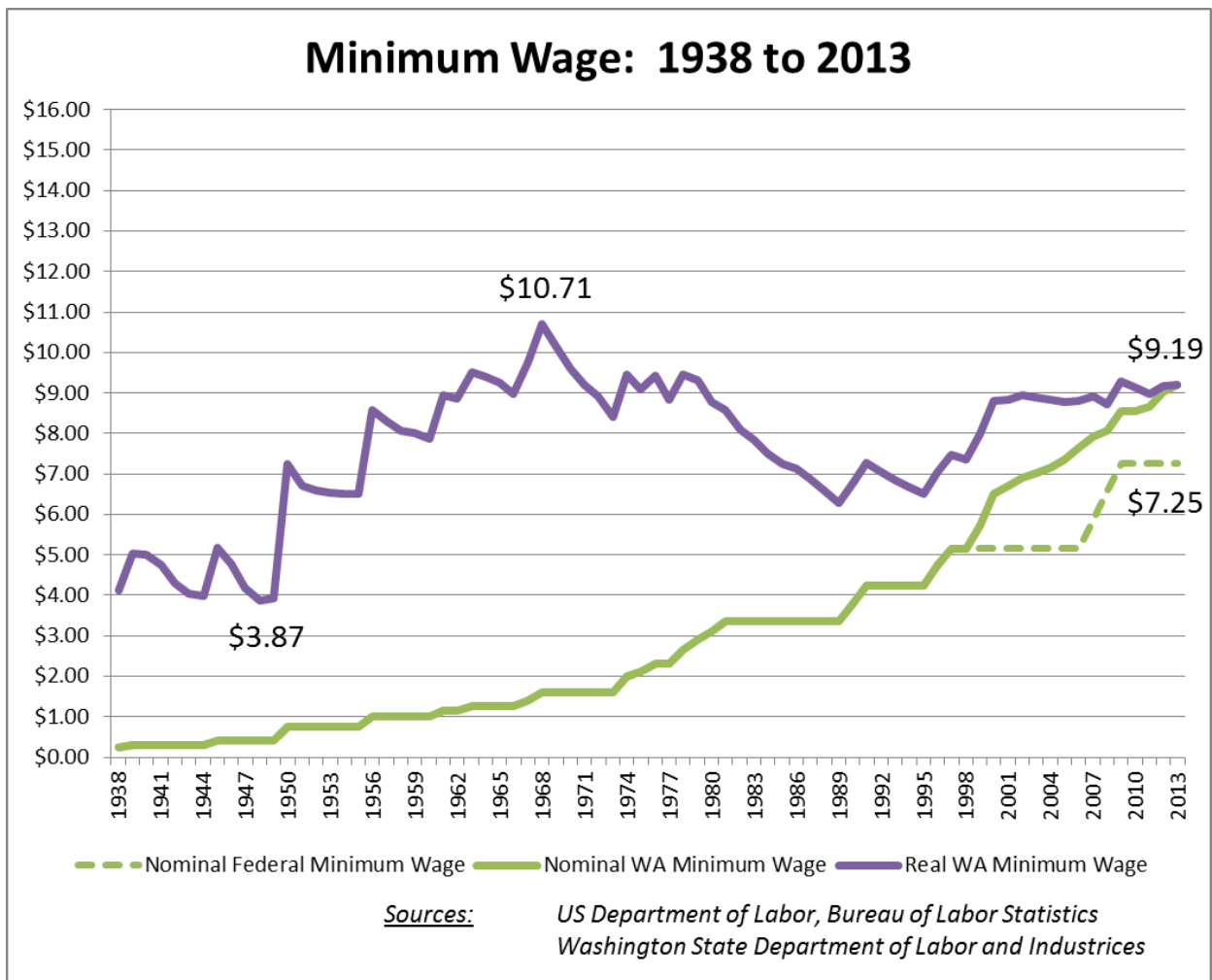
### ***E. Should the minimum wage be set at a level that reduces income inequality?***

The growing gap in earnings across the labor market in the United States is undisputed and has been highlighted by the loss of middle income manufacturing jobs. Raising the minimum wage will not replace middle income manufacturing jobs but may contribute to slightly narrow the gap between the upper and lower ends of the wage spectrum.

***F. Should a minimum wage provide a certain level of buying power for workers?***

The actual buying power of the federal minimum wage has varied since 1938 through a combination of increases and the effects of inflation.

Chart 1: Real and Nominal Minimum Wage



***G. Should the minimum wage be set at a level that allows full-time workers to earn a certain percent of area median income?***

The Federal minimum wage has varied from 50% of average hourly earnings in 1967 to 36% in 2013. (See “Inflation and the Real Minimum Wage: A Fact Sheet” Elwell, Craig, January 8, 2014, Congressional Research Service.) If the goal is to make minimum wages again 50% of median wages Richard Florida has suggested minimum wages based on Median Wage Levels for Large Metros. Given the Seattle-Tacoma-Bellevue median hourly earnings of \$25.49; 60% of median would be \$15.29 and 50% of median would be \$12.75. (See “The Case For a Local Minimum Wage,” Florida, Richard, December 11, 2013

<http://www.theatlanticcities.com/jobs-and-economy/2013/12/why-every-city-needs-its-own-minimum-wage/7801/> )

***H. Other objectives as determined by Council***

**Next Steps:**

- March 27: Symposium
- April 12: Next scheduled meeting of the Select Committee

### Attachment 1: Select Committee Schedule

**Minimum Wage & Income Inequality**

**Council Schedule**

**Updated March 17, 2014**

Date/Time	Event	Location	Notes
<b>February</b>			
February 18	Council Briefing	Chambers	Staff present IIAC and Council work plans
<b>March</b>			
March 5	Public Hearing	Town Hall	Joint SCMWII-Advisory Committee meeting
March 18	Lunch & Learn	Chamber	<ul style="list-style-type: none"> <li>15Now and Working Washington</li> </ul>
March 21	Committee meeting	Chambers	<ul style="list-style-type: none"> <li>Calendar of Decisions</li> <li>Fed &amp; State MW Ordinances</li> <li>SeaTac Ord</li> <li>Matrix of other Jurisdictions</li> <li>Goal Statements</li> </ul>
March 27 (all day)	Min Wage Symposium	Seattle U, Campion	
<b>April</b>			
April 9, noon-1:30	Lunch & Learn	Chambers	<ul style="list-style-type: none"> <li>Restaurants Forum</li> </ul>
April 12, 10:00am	SCMWII	TBA	<ul style="list-style-type: none"> <li>Econ Impact Study Findings (Mayor Presenting)</li> <li>Stakeholders</li> <li></li> </ul>
Mid April, Monday am	Monday Council Briefing by Advisory Committee Chairs	Chambers	
April 29, 9:30	Committee meeting	Chambers	<ul style="list-style-type: none"> <li>Policy Issues Framing</li> <li>Stakeholders</li> </ul>
<b>May</b>			
May			<ul style="list-style-type: none"> <li>Ordinance to Clerk's office</li> </ul>
May 9			<ul style="list-style-type: none"> <li>Ordinance on Referral Calendar</li> </ul>
May 13, 6pm	Committee	TBD	<ul style="list-style-type: none"> <li>Executive's Proposal (Mayor's</li> </ul>

	meeting	TBA	office) <ul style="list-style-type: none"> <li>Stakeholders</li> </ul>
May 29, 9:30am	Committee meeting	Chambers	<ul style="list-style-type: none"> <li>Review proposed ordinance and any amendments</li> <li>Stakeholders</li> </ul>
<b>June</b>			
June 6, 9:30am	Committee meeting	Chambers	<ul style="list-style-type: none"> <li>Review proposed ordinance and any amendments</li> </ul>
June 13, 9:30am	Committee meeting	Chambers	<ul style="list-style-type: none"> <li>Select Committee vote</li> </ul>
June 20, 9:30am	Committee meeting	Chambers	<ul style="list-style-type: none"> <li>Back up of Select Committee vote</li> </ul>
June 23	Full Council		<ul style="list-style-type: none"> <li>Full Council vote</li> </ul>

## **Attachment 2: Federal Minimum Wage Summary**

The federal minimum wage provisions are contained in the Fair Labor Standards Act (FLSA). Since 2009, the federal minimum wage has been \$7.25 per hour. The minimum wage rate does not increase automatically; Congress must enact a change to the minimum wage rate. The table below provides a history of the Federal Minimum Wage Rate.

### **Federal Minimum Wage Rates**

<i>Effective Date</i>	<i>1938 Act</i> <sup>1</sup>	<i>1961 Amendments</i> <sup>2</sup>	<i>1966 and Subsequent Amendments</i> <sup>3</sup>	
			<i>Nonfarm</i>	<i>Farm</i>
Oct 24, 1938	\$0.25			
Oct 24, 1939	\$0.30			
Oct 24, 1945	\$0.40			
Jan 25, 1950	\$0.75			
Mar 1, 1956	\$1.00			
Sep 3, 1961	\$1.15	\$1.00		
Sep 3, 1963	\$1.25			
Sep 3, 1964		\$1.15		
Sep 3, 1965		\$1.25		
Feb 1, 1967	\$1.40	\$1.40	\$1.00	\$1.00
Feb 1, 1968	\$1.60	\$1.60	\$1.15	\$1.15
Feb 1, 1969			\$1.30	\$1.30
Feb 1, 1970			\$1.45	
Feb 1, 1971			\$1.60	
May 1, 1974	\$2.00	\$2.00	\$1.90	\$1.60
Jan. 1, 1975	\$2.10	\$2.10	\$2.00	\$1.80
Jan 1, 1976	\$2.30	\$2.30	\$2.20	\$2.00
Jan 1, 1977			\$2.30	\$2.20
Jan 1, 1978	\$2.65 for all covered, nonexempt workers			
Jan 1, 1979	\$2.90 for all covered, nonexempt workers			
Jan 1, 1980	\$3.10 for all covered, nonexempt workers			
Jan 1, 1981	\$3.35 for all covered, nonexempt workers			
Apr 1, 1990 <sup>4</sup>	\$3.80 for all covered, nonexempt workers			

Apr 1, 1991		\$4.25 for all covered, nonexempt workers
Oct 1, 1996		\$4.75 for all covered, nonexempt workers
Sep 1, 1997 <sup>5</sup>		\$5.15 for all covered, nonexempt workers
Jul 24, 2007		\$5.85 for all covered, nonexempt workers
Jul 24, 2008		\$6.55 for all covered, nonexempt workers
Jul 24, 2009		\$7.25 for all covered, nonexempt workers

**What if the State and Federal minimum wage rate is different?** Many states also have minimum wage laws, the law setting the higher standards must be observed. So for employees covered under Washington's minimum wage act, Washington's minimum wage act applies.

### **Who is covered?**

Enterprises with \$500,000 or more in annual dollar volume of business and smaller firms if the employees are engaged in interstate commerce, in the production of goods for commerce, or perform duties which are closely related to interstate activities, such as guards, janitors, and maintenance employees. It also applies to employees of government agencies, hospitals, schools and domestic workers.

### **Tips**

An employer may pay a tipped employee \$2.13 an hour if that amount plus tips equal at least the federal minimum wage, the employee retains all tips and the employee customarily and regularly receives more than \$30 a month in tips. If the tips plus \$2.13 an hour do not equal the federal minimum wage the employer must make up the difference.

### **Youth**

Workers under 20 years of age may be paid a minimum wage of \$4.25 an hour for the first consecutive 90 days of employment. After that they must be paid minimum wage.

### **Students**

Full time students employed in retail, services, agriculture or at colleges or universities may be paid 85% of minimum wage, if the employer obtains approval from DOL. There are also limits to the number of hours students may work.

### **Student learners**

High School students, 16 and over, enrolled in vocational education may be paid 75% of minimum wage if the employer obtains approval from DOL.

### **Employees with disabilities**

May be paid less than minimum wage if the employer obtains approval from DOL



### **Below are the Footnotes to Federal Minimal Wage Rate Chart**

<sup>1</sup> The 1938 Act was applicable generally to employees engaged in interstate commerce or in the production of goods for interstate commerce.

<sup>2</sup> The 1961 Amendments extended coverage primarily to employees in large retail and service enterprises as well as to local transit, construction, and gasoline service station employees.

<sup>3</sup> The 1966 Amendments extended coverage to State and local government employees of hospitals, nursing homes, and schools, and to laundries, drycleaners, and large hotels, motels, restaurants, and farms. Subsequent amendments extended coverage to the remaining Federal, State and local government employees who were not protected in 1966, to certain workers in retail and service trades previously exempted, and to certain domestic workers in private household employment.

<sup>4</sup> Grandfather clause - Employees who do not meet the tests for individual coverage, and whose employers were covered by the FLSA on March 31, 1990, and fail to meet the increased annual dollar volume (ADV) test for enterprise coverage, must continue to receive at least \$3.35 an hour.

<sup>5</sup> A subminimum wage -- \$4.25 an hour -- is established for employees under 20 years of age during their first 90 consecutive calendar days of employment with an employer.

### **Attachment 3: Washington State Minimum Wage Summary**

Washington's Minimum Wage Act (MWA) specifies the minimum hourly wage, \$9.32 in 2014, that employers subject to the MWA must pay. It applies to workers in both agriculture and non-agricultural jobs, although 14 and 15 year-olds may be paid 85% of the minimum wage (\$7.92).

Since 1998, and approval of Initiative 688, a cost-of-living adjustment is made each year based on the federal Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). Washington's hourly minimum wage increases are shown below.

History of Minimum Wage in Washington State	
Effective date	Minimum wage per hour
January 1, 2014	\$9.32
January 1, 2013	\$9.19
January 1, 2012	\$9.04
January 1, 2011	\$8.67
January 1, 2010	\$8.55
January 1, 2009	\$8.55
January 1, 2008	\$8.07
January 1, 2007	\$7.93
January 1, 2006	\$7.63
January 1, 2005	\$7.35
January 1, 2004	\$7.16
January 1, 2003	\$7.01
January 1, 2002	\$6.90
January 1, 2001	\$6.72
January 1, 2000	\$6.50
January 1, 1999	\$5.70
(September 1, 1997)	\$5.15 (Federal minimum wage change)
January 1, 1994	\$4.90
January 1, 1990	\$4.25
January 1, 1989	\$3.85
January 1, 1976	\$2.30
September 1, 1975	\$2.00

January 1, 1974	\$1.80
January 1, 1968	\$1.60
January 1, 1962	\$1.25
June 30, 1961	\$1.15

Dual Requirements: Most Washington employers are subject to both the Federal and State laws on minimum wage and overtime laws. If the laws differ, employers must follow the higher standard, meaning the one most beneficial to the employee, when there are differing requirements in the laws. The Federal minimum hourly wage in 2014 is \$7.25 an hour.

Tips: Businesses may not use tips as credit toward minimum wages owed to a worker.

Overtime: The MWA also requires employers to pay overtime wages of at least 1 ½ x an employee's regular rate of pay for hours worked in excess of 40 hours in a week. The requirements of who must be paid minimum wage and who must be paid overtime are not the same.

Coverage under the state MWA is different from coverage under the Federal minimum wage.

Minimum wage applies to workers who are 18 years or older.

There is a statutory exception for learners, apprentices, messengers of letters and messages, and people with disabilities who under a certificate from the Department of Labor may be paid less. "Learners" is not defined in the statute or Washington Administrative Code.

The state MWA does not have a dollar volume of business threshold. The Federal minimum wage does not apply to enterprises with less than \$500,000 in annual dollar volume of business unless they are engaged in interstate commerce or produce goods for commerce, or engaged in duties closely related to interstate activities.

Who is not covered by the state MWA?

Independent Contractors are not employees and are not covered by the MWA.

There is a statutory exception for learners, apprentices, messengers of letters and messages, and people with disabilities who under a certificate from the Department of Labor may be paid less. "Learners" is not defined in the statute or Washington Administrative Code.

Below are the 14 categories of employees not covered by the State's MWA. However, the State Department of Labor and Industries notes that whether an employee falls within one of these categories will depend on the facts and will be evaluated on a case by case basis.

- Certain Agricultural employees, who are hand harvest pieceworkers, do not reside at the farm they're employed at and have been employed in agriculture for less than 13 weeks during the preceding calendar year.
- Casual laborers, meaning irregular, uncertain or incidental work
- Executive, administrative, professional, computer professional or outside sales
- Volunteer work
- Employee volunteer work for the organization that employs them
- Newspaper vendors or carriers
- Railroad and Pipeline employee
- Forest protection and fire prevention
- Employees of charitable institutions charged with child care responsibilities
- Individuals who are required to reside or sleep at their place of employment or spent a substantial portion of their work time subject to call
- Inmates and others in custody
- Elected or appointed public officials and employees of the state legislature
- Washington State Ferry crews
- Crews of non-American vessels.

#### Investigation and Enforcement

The MWA specifies what records the employer must maintain.

The Washington State Department of Labor and Industries (DOL) has authority to investigate complaints and may bring a civil action against an employer. An employee also has the right to bring a private right of action for unpaid wages or overtime and to seek costs and attorney fees, notwithstanding DOL's authority to investigate and bring legal action.

An employer may be criminally prosecuted for failure to comply with minimum wage requirements, including overtime, for firing or retaliating against an employee for complaining about an employer's non-compliance with the MWA and for failing to comply with the MWA's record keeping requirements or DOL's investigation of a complaint.

#### **Attachment 4: Comparison of State and Federal Minimum Wage Laws**

**As of 01/01/2014**

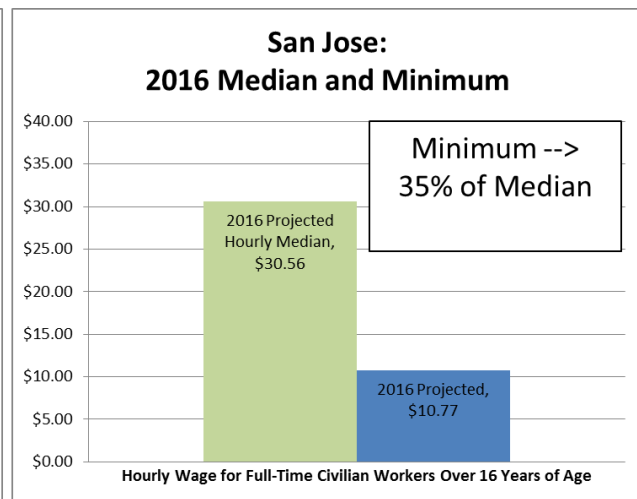
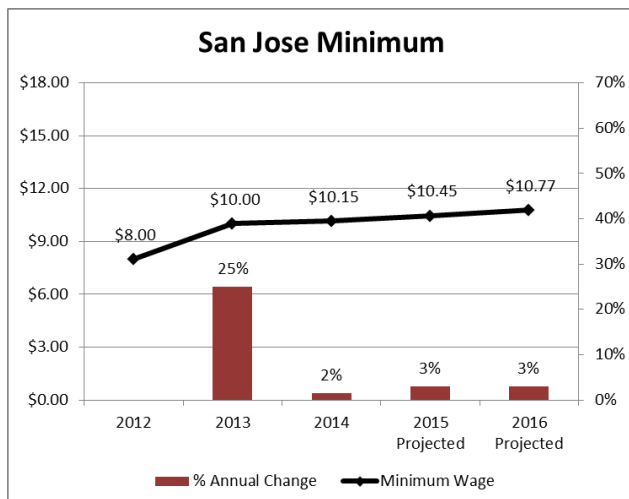
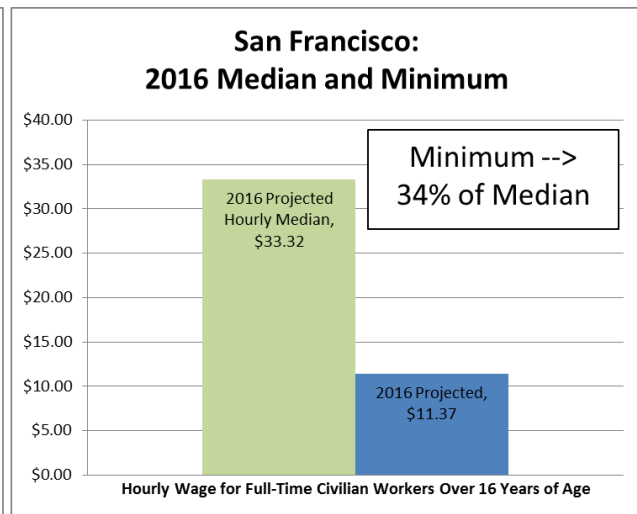
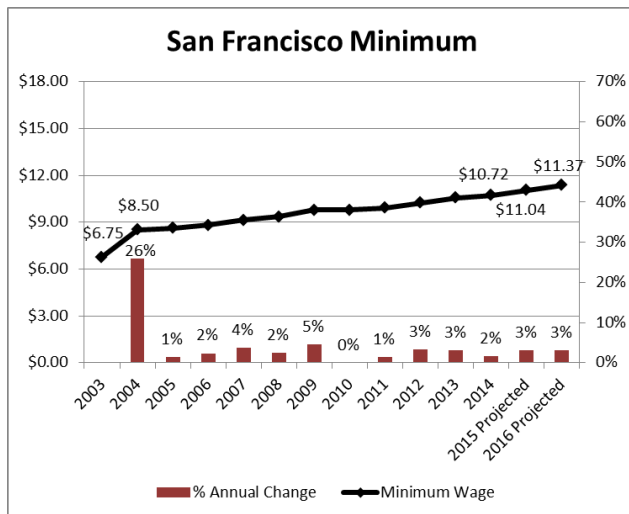
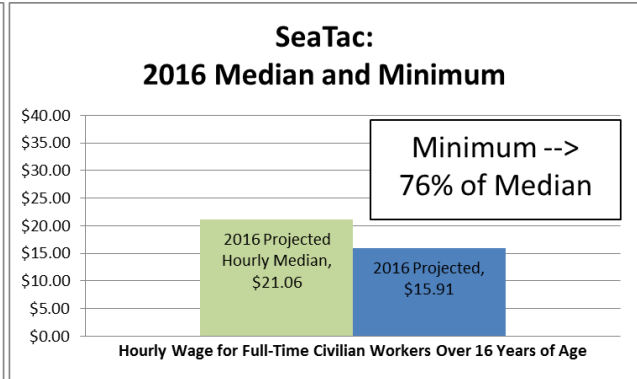
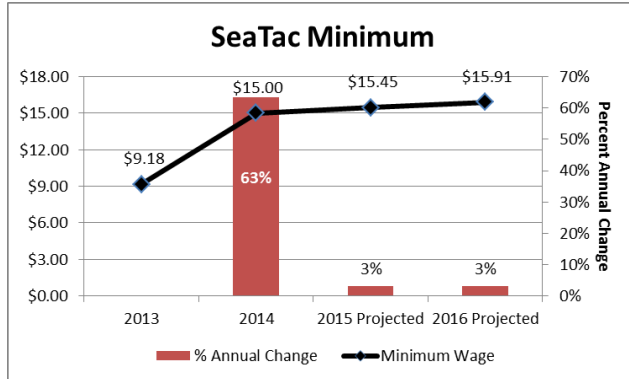
<i>Greater than Federal MW</i>	<i>Equals Federal MW of \$7.25</i>	<i>Less than Federal MW</i>	<i>No MW Required</i>
AK - \$7.75	DE	AR - \$6.25	AL
AZ - \$7.90*	HI	GA - \$5.15	LA
CA - \$8.00	IA	MN - \$6.15	MS
CO - \$8.00*	ID	WY - \$5.15	SC
CT - \$8.70	IN		TN
DC - \$8.25	KS		
FL - \$7.93*	KY		
IL - \$8.25	MD		
MA - \$8.00	NC		
ME - \$7.50	ND		
MI - \$7.40	NE		
MO - \$7.50*	NH		
MT - \$7.90*	OK		
NJ - \$8.25	PA		
NM - \$7.50	SD		
NV - \$8.25*	TX		
NY - \$8.00	UT		
OH - \$7.95*	VA		
OR - \$9.10*	WV		
RI - \$8.00	WI		
VT - \$8.73*			
WA - \$9.32*			
<b>21 States + DC</b>	<b>20 states</b>	<b>4 States</b>	<b>5 States</b>

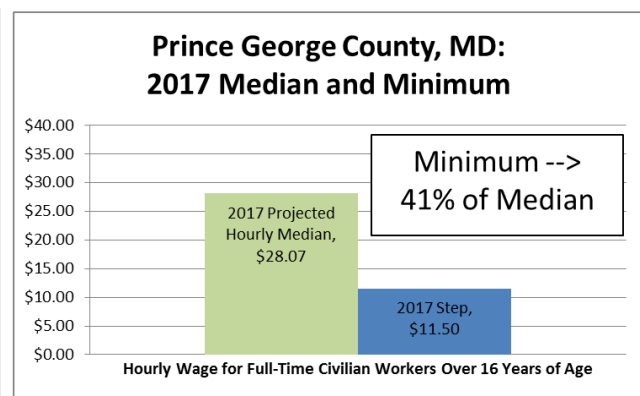
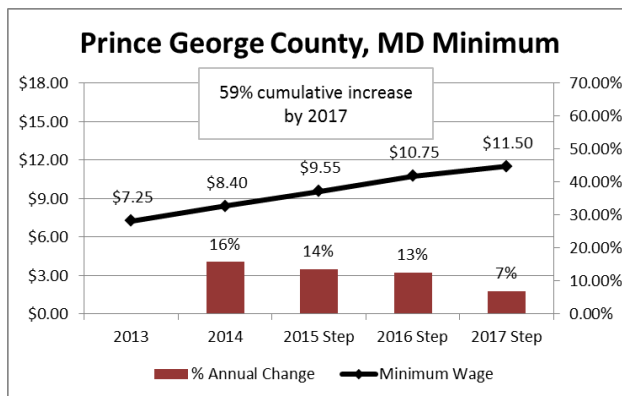
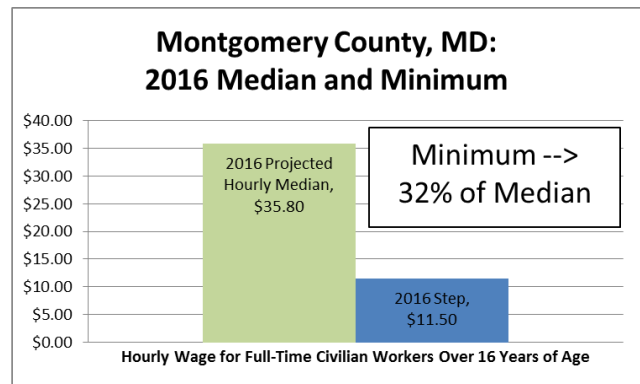
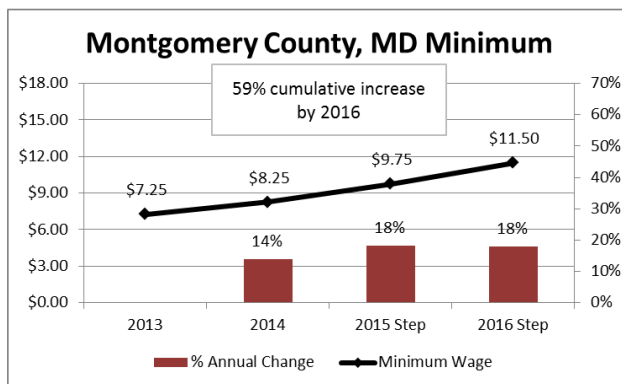
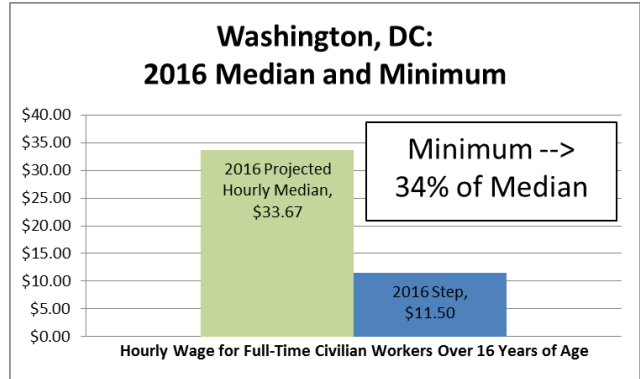
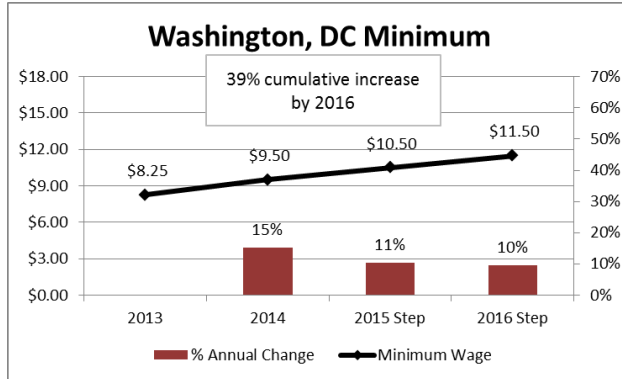
\*Annual inflationary adjustment

The State of Washington has the highest minimum wage at \$9.32/hour. The states of Georgia and Wyoming have the lowest minimum wage (\$5.15) of the 45 states that have a minimum wage requirement.

Note: There are 10 states (AZ, CO, FL, MO, MT, NV, OH, OR, VT, and WA) that have minimum wages that are linked to a consumer price index. As a result of this linkage, the minimum wages in these states are normally increased each year, generally around January 1st. The exception is Nevada which adjusts in the month of July each year.

## Attachment 5: Phasing and Median Wages





*Notes:*

1. Median wages from Diana Canzoneri based on US Census Bureau's CSA survey for 12 months during 2010 thru 2012.
2. CPI projected at 3% for 2015, 2016, and 2017 based on mean CPI over last 30 years.
3. All jurisdictions have implemented minimum wage laws that increase in one or more required steps and rise with CPI.
4. Assumes median wages rise annually with CPI.