Office of the City Manager

ACTION CALENDAR
April 1, 2014

To: Honorable Mayor and Members of the City Council

From: Christine Daniel, City Manager

Submitted by: Jane Micallef, Director, Health, Housing & Community Services

Subject: Minimum Wage Ordinance

RECOMMENDATION

Review and consider information regarding the activities and costs associated with implementing and enforcing the Commission on Labor's proposed Minimum Wage Ordinance, the impact of the proposed ordinance on the City's YouthWorks program, the connection with business licenses, and the potential impacts on community-based organizations, the In-Home Support Services (IHSS) program, and categories of workers exempted from the Living Wage Ordinance.

SUMMARY

The Commission on Labor has proposed the City adopt a Minimum Wage Ordinance. The proposed Ordinance includes two tiers for the minimum wage based on business size. Starting June 30, 2014, the minimum wage for employers of fewer than 50 people and for nonprofits would be $10.74 per hour, increasing annually by fifty-five cents per hour until it is equal to the City's Living Wage. The Living Wage is currently $13.34 per hour. For employers of more than 50 people, the minimum wage will be equal to the Living Wage, or $13.34 per hour plus an increase based on the Consumer Price Index (CPI) starting June 30, 2014, and changing with the Living Wage in the future. Both large and small employers will be required to provide a medical benefit equal to that required by the Living Wage Ordinance, starting June 30, 2015. The medical benefit in the Living Wage Ordinance is currently $2.22 per hour.

This report considers the activities and costs associated with enforcing the proposed Ordinance, the impact on the City's Youth Employment Program, identifies additional issues for the Council's consideration, and describes the process by which the report was developed, including a summary of the issues raised.

FISCAL IMPACTS OF RECOMMENDATION

This report includes two types of fiscal impacts resulting from the Commission on Labor's proposed Minimum Wage Ordinance: cost of implementation and enforcement, and impact on the City's Youth Employment Program budget.

The first type of fiscal impact is broken into two phases. The first phase, or implementation phase, includes the program design, development, community outreach and finally implementation. This phase is estimated to take approximately six months and cost about $180,000. After the first phase has been established the second phase, which is the ongoing monitoring and enforcement will cost a little more than $200,000 per year. The basis for these estimates is detailed below, under Current Situation and Its Effects. Staffing would need to be added for this work as there is no existing capacity to absorb it. There is no other source of funding for these costs than the City's General Fund.

The second type of fiscal impact is on the City's YouthWorks Employment Program. With a $4.34 per hour increase in hourly pay, the YouthWorks Employment Program will be able to employ 207 youth per year, a decrease of 157, during FY 2015. The proposed minimum wage ordinance includes a health care credit of $2.22 per hour starting in FY 2016, bringing the rate effectively to $15.56 per hour. Youthworkers are temporary and unbenefitted employees, therefore, at $15.56 per hour, the Youth Employment Program will be able to employ 187 youth, a decrease of almost half from the current level. The Center for Independent Living, Rubicon, Berkeley Youth Alternatives and other local nonprofits also operate employment training programs that would be similarly impacted.

The Commission on Labor's report also discusses, but does not quantify, the fiscal impact of the Ordinance on the Berkeley Business Community. Possible positive and negative impacts are outlined later in this report under Background.

CURRENT SITUATION AND ITS EFFECTS

Enforcement of the Proposed Ordinance

The following activities are required to implement and enforce the Minimum Wage Ordinance:

- Provide outreach and education to affected businesses and employees about their rights and responsibilities, which would include creation and distribution of educational materials;
- Develop any guidelines required to implement the program;
- Answer questions about the ordinance;
- Accept complaints;
- Investigate complaints made regarding compliance, which including interviewing employees, requesting and reviewing documentation, and possible subpoenas by the City Attorney;
- Negotiate informal resolution of complaints;
- Issue administrative citations for noncompliance;

- Provide appeals with the hearing officer for administrative citations issued;
- Collect and track administrative citations; and
- Link status of complaints with issuance of business licenses, denying business licenses to businesses with outstanding violations.

In order to estimate the staffing required to enforce such an ordinance, staff contacted the cities of San Francisco and San Jose, which both have Minimum Wage Ordinances and are both much larger cities. San Francisco adopted its Minimum Wage in 2004 and enforces the ordinance through its Office of Labor Standards Enforcement, which also enforces Healthy San Francisco (a healthcare ordinance) and its Paid Sick Leave requirement. San Jose's ordinance was effective in March 2013, so there is less experience with enforcement. The office also enforces San Jose's Living Wage and Prevailing Wage programs.

The following table compares features of San Francisco, San Jose, and Berkeley.

	San Francisco	**San Jose**	**Berkeley**
Total population	825,863	982,765	115,403
Number of businesses covered	53,000	70,000	*4,748
Complaints per year	75	Est. 32 (based on 16 in the first 6 months)	
FTE assigned to MWO	5.5 FTE	2.5 FTE	
Ratio of businesses to FTE	9,636: 1	28,000: 1	
Business and community outreach	$195,000 first 5 years	$3,400 for translation and posters only	
Inquiries	Not available	60+ per month initially	
Funds recovered through enforcement	$6.5M in wages $393K in fines since 2004	Not available	

*estimated by the Office of Economic Development. See Attachment 1 for details.
Note: Neither San Francisco nor San Jose include City Attorney staffing in their program budgets, although the City Attorneys participate in enforcement in both cities.

Because San Jose has both a smaller enforcement program and fewer linked programs to enforce, the staffing pattern in San Jose seems like a more relevant model. San Jose has the following positions assigned to the program: a Division Manager, a Contract Compliance Coordinator and a Contract Compliance Specialist, for a total of 2.5 FTE.

The Contract Compliance Specialist is similar to an Analyst classification, but in its own series.

Staff estimates that there will be two phases: The first phase will be to develop the program which will take approximately six months. The second stage will be the on-going monitoring and enforcement of the proposed Minimum Wage Ordinance. Staff estimates the following costs will need to be incurred in order to implement the ordinance. Costs are broken into initial costs and ongoing costs:

Phase 1-Developing the Program (6 months)

Position/Activity	**FTE**	**Responsibilities**	**Six Month Cost**
Senior Management Analyst*	1.0	Research and understand the program, develop the policy and procedure, create forms for all steps of the process	$80,000
Applications Programmer Analyst*	.25	Collaborate with Senior Analyst in setting up the website	$40,000
Management Oversight	.25	Meet with Senior Analyst and Attorneys on an on- going basis to develop and monitor progress of program	$50,000
Outreach to City Businesses	n/a	Mailing informational flyers with Business License Renewals, education materials, advertising and translation costs	$10,000
Total estimated cost			**$180,000**

*Classification used for example purposes only; ultimate classification would be determined by Human Resources

Phase 2- Monitoring and Enforcement (Annually after Phase 1)

Position	**FTE**	**Responsibilities**	**Annual Cost**
Management support and supervision	.20	Program support and oversight	$40,000
Senior Management Analyst* and related support	1.0	Receive complaints, review guidelines, investigate complaints, negotiate informal resolution, issue citations, answer questions, coordinate/track citations, report noncompliance to	$160,000

		business license staff	
Ongoing Outreach Materials	n/a	Include in business license renewal mailings	$5,000
Approximate Annual Cost			**$205,000**

*Classification used for example purposes only; ultimate classification would be determined by Human Resources

Outreach will also need to be ongoing although the cost for business notification may be nominal as the notifications can be integrated with other notices sent to businesses in the license renewal process.

The cost estimate above generally includes costs for a Hearing Officer to handle appeals of Administrative Citations, and a portion of staff in the City Attorney's Office to support the program and pursue any civil actions. These costs are very generally included as it is difficult to estimate exactly how much time will need to be allocated for these purposes. San Jose's and San Francisco's programs both rely on these roles, but neither has budgeted separately for capacity. It is difficult to estimate how much of either of these would be needed for enforcement.

Although some funding may be recovered through administrative citations, San Francisco's experience and the history of the Rental Housing Safety Program indicate that administrative citations will not be a significant source of income. Therefore, General Funds would be required to fund enforcement.

YouthWorks

In anticipation of the increase in the State of California minimum wage on July 1, 2014, YouthWorks increased its wage for the winter program (which started January 7) to $9 from $8 per hour and the hourly rate for older youth in Graffiti Abatement to $10 from $9 per hour.

The Commission on Labor recommendation proposes a two-tiered approach:

- Small businesses (employers with fewer than fifty employees) and non-profits minimum wage will increase to $10.74 per hour.
- Large business (employers with fifty or more employees) minimum wage will increase to $13.34 per hour.

Because the City of Berkeley qualifies as a large employer, the youth hourly rate will increase by $4.34 per hour. The Commission on Labor's report calculated the impact on YouthWorks assuming the hourly rate for small businesses and nonprofit organization, but the City would not qualify under the definition of either of these, and

there is no exception for YouthWorks, as discussed in the Commission's report. Therefore the impact is greater than that report calculates.

With a $4.34 per hour increase in hourly pay, the YouthWorks Employment Program will be able to employ 207 youth per year, a decrease of 157, during FY 2015. The proposed minimum wage ordinance includes a health care credit of $2.22 per hour starting in FY 2016, bringing the rate effectively to $15.56 per hour. Youthworkers are temporary and unbenefitted employees, therefore, at $15.56 per hour, the Youth Employment Program will be able to employ 187 youth, a decrease of almost half from the current level. The Center for Independent Living and Berkeley Youth Alternatives also operate employment training programs that would be similarly impacted.

The Medical Benefit Requirement

Section 13.99.040(D) of the ordinance provides that a medical benefit equivalent to the amount of the medical benefit of the Living Wage Ordinance shall be added to the minimum wage beginning June 30, 2015. The ordinance then provides that the employer may decrease the amount of this modified minimum wage (base minimum wage plus the medical benefit equivalent) by the cost of the medical benefit plan actually incurred by the employer but not in excess of value of the Living Wage medical benefit. Because the ordinance sets a floor (i.e. the amount of the medical benefit set forth in the Living Wage Ordinance) for the amount of medical benefit an employer must incur, this portion of the ordinance may be barred by the Employee Retirement Income Security Act ("ERISA"), a federal act passed in 1974 which provides for the exclusive regulation of health benefits. While local legislation can require the provision of medical benefits and allow the costs incurred to be credited against the employers minimum wage requirement, the legislation may not penalize the employer for failing to incur a specific amount for medical benefits.

Additional Considerations

The ordinance allows the City to revoke or suspend licenses (such as a business license) and bars the City from renewing licenses for business in violation of the ordinance. Because a business license is not a permit to conduct business, but rather a tax on local businesses, the main outcome of not renewing business licenses would be to decrease the amount of revenue to the City's General Fund. Therefore, revoking and suspending business licenses is unlikely to encourage compliance (unless the business wishes to contract with the City, for which a business license is required). The Community Health Commission recommended to the Commission on Labor that Health Permits also be linked to Minimum Wage Ordinance enforcement.

Staff surveyed community based organizations regarding the possible impact of a minimum wage. Most agencies that responded reported paying more, but not all, of their employees above $10.55 per hour, the amount of the minimum wage contemplated at the time of the survey. In addition, the City and community based

organizations might also have to reduce or cease their employment of other types of workers based on the Ordinance. These included unpaid student interns, such as University of California students, and stipended volunteers, such as AmeriCorps, VISTA, and Jesuit Volunteer Corps volunteers, who may receive less than the local minimum wage.

The public In Home Support Services (IHSS) program is not referenced in the ordinance. IHSS is a state program operated by counties. The program pays for in-home services for people who are over 65 or disabled who need assistance with daily activities and who are on Medi-Cal. Although recipients hire their own IHSS workers, the care providers are paid by Alameda County Social Services Agency, which would be considered a large employer. This program currently pays $11.50 per hour, less than the large employer wage of $13.34 per hour. Therefore the program would violate the Minimum Wage Ordinance unless another source of public funds could be found to make up the difference, potentially leaving elderly or disabled people without needed daily care.

As described further below, the Minimum Wage Ordinance will eventually bring the minimum wage to match the Living Wage Ordinance. There are nine categories of workers exempt from the Living Wage Ordinance which are not referenced in the Minimum Wage Ordinance. Employees in these categories would be subject to the Minimum Wage, which will eventually rise to meet the Living Wage for all types of businesses. The Living Wage Ordinance does not cover:

1. An employee participating in a temporary job-training program
2. An employee under 18 years of age, employed by a non-profit entity for after school or summer employment or as a trainee for a period not longer than 120 days.
3. An employee working for the employer for a period not exceeding 6 months in aggregate during any 12- month period.
4. Volunteers.
5. Employees of contractors on City public works projects subject to the requirements of Division 2, Part 7, of the California Labor Code, when said code requires compensation greater than that required by this chapter.
6. Employees who are standing by or on-call according to the criteria established by the Fair Labor Standards Act, 29 U.S.C. Section 201. This exemption shall apply only during the time when the employee is actually standing by or on-call.
7. An employee for whom application of the requirements of this chapter is prohibited by state or federal law.
8. An employee subject to a bona fide collective bargaining agreement where the waiver of the provisions of this chapter are set forth in clear and unambiguous terms in such an agreement.
9. Employees of goods suppliers such as office supplies etc.

As an example, currently a nonprofit organization that contracts with the City and meets the thresholds for compliance with the Living Wage Ordinance has no minimum wage requirement for its employees participating in a temporary job training program and is required to pay its other employees the Living Wage, $13.34 per hour plus $2.22 for health benefits. If the proposed Minimum Wage Ordinance goes into effect, the same organization will be required to pay participants in the temporary job training program $10.74 per hour (the minimum wage for nonprofits) and other employees the Living Wage. If the organization stopped contracting with the City, the $10.74 minimum wage would apply to all employees in FY 2015, and go up every year thereafter. See the chart of wages by year in the following section of this report.

BACKGROUND

The Commission on Labor received the Minimum Wage Ordinance referral on April 30, 2013. Council recommended that the Commission submit a recommendation to the City Council that also considers the Living Wage Ordinance and tipped employees. At their regular meeting on May 15, 2013, the Commission formed a Subcommittee on Minimum Wage Ordinance, with Commissioners Angus Teter (subcommittee chairperson), Irene Yu and Steve Kessler appointed to the subcommittee.

The subcommittee held fourteen subcommittee meetings between May 2013 and January 2014. Forty-three members of the public attended the subcommittee meetings. The Subcommittee Chairperson also sent a memo to City Commissions inviting them to provide input regarding a Minimum Wage increase. The Commission on Labor received reports from the subcommittee at each of their seven full commission meetings held after receiving the Council referral. Of those seven meetings, the Commission convened three Special Meetings, with the Minimum Wage Ordinance discussion as the primary agenda item. Sixty-nine members of the public provided public comment, both in favor and against a wage increase, during those meetings.

The following table illustrates the amount of the proposed minimum wage:

	Starting June 30, 2014	**Starting June 30, 2015**	**Starting June 30, 2016**
Small business (<50) and nonprofit minimum wage	$10.74	$11.29	$11.84
Large business (50+) minimum wage	Living Wage ($13.34 + CPI)	Living Wage	Living Wage
Medical benefit	Not required	$2.22	$2.22

Note: Minimum wage paid by small businesses and nonprofits will keep increasing by 55 cents per year until it is the same as the Living Wage.

The Subcommittee and public speakers at its meetings discussed tipped workers extensively. Speakers from restaurants repeatedly made the case that a minimum wage should not apply to tipped workers because they have higher compensation when the tips were taken into account, and because more base pay for tipped workers would mean that less base pay would be available for non-tipped workers. However, no other jurisdiction in California has a different minimum wage for tipped versus non-tipped workers. HH&CS staff consulted with the City Attorney, and determined that California Labor Code 351 precludes crediting tips against wages to meet a minimum wage requirement. Other points for and against adopting a minimum wage were discussed at Subcommittee meetings, as follows:

Arguments made in favor of adopting a minimum wage

- The state's increase to the minimum wage is not sufficient, current wage is not a livable wage;
- Workers purchasing power will increase;
- Workers of color earn an average of $4.00 less than other workers; and
- Wages are not keeping up with the cost of living.

Arguments made against adopting a minimum wage

- A higher wage in Berkeley than in surrounding cities will cause businesses to move to the neighboring cities;
- The increase will negatively impact small businesses more than larger businesses, and will devastate the Berkeley restaurant industry;
- Businesses do not yet know the cost impact of the Affordable Healthcare Act;
- Businesses, especially restaurants will pass on the increase to the consumer; resulting in higher prices to be paid by the consumer;
- Businesses employing people in multiple jurisdictions will be negatively impacted by the need to establish different rates for different jurisdictions, and to track hours by jurisdiction.

ENVIRONMENTAL SUSTAINABILITY
There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION
Not applicable.

ALTERNATIVE ACTIONS CONSIDERED
Not applicable.

CONTACT PERSON
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Attachments:
1. Memo from David Fogarty, Office of Economic Development, to Commission on Labor: Estimate of the Number of Workers in Berkeley Who Would Be Affected by a City of Berkeley Minimum Wage Requirement of $10.74 per Hour with Benefits and $12.96 per Hour without Benefits

Office of Economic Development

To: Labor Commission

From: Dave Fogarty, Office of Economic Development

Subject: Estimate of the Number of Workers in Berkeley Who Would Be Affected by a City of Berkeley Minimum Wage Requirement of $10.74 per Hour with Benefits and $12.96 per Hour without Benefits

No official source tells us this directly, but we can make estimates using information from the California Employment Development Department Labor Market Information Division.

The first step is to identify the occupations that would likely be affected by the City minimum wage. The *Occupational Employment Statistics (OES) Survey Results* available on-line gives the 25th percentile, 50th percentile (median) and 75th percentile hourly wages of detailed occupations in the Oakland-Fremont Metropolitan Area (Alameda County and Contra Costa Counties) that includes Berkeley. As explained in greater detail in Appendix 1, I sorted this source for occupations with median hourly wages below $14 per hour because I wanted to pick up some occupations that had significant numbers of jobs paid below $12.96 even though their median wage was higher than that. The sort showed 92 6-digit Standard Occupational Classifications (SOC) with median hourly wages below $14.00. I then did a first screening for the number of such jobs in Berkeley based on the crude and somewhat counter-factual assumption that, in each occupation, 6.6% of the jobs would be located here because Berkeley employment comprises 6.6% of the jobs in Alameda and Contra Costa counties. I then supplemented this information with qualitative information from my own knowledge of the Berkeley economy, plus phone calls to selected informants knowledgeable about particular occupations or economic sectors. The results of this analysis of the *OES Survey Results* are summarized in a matrix below, though modified to identify occupational groupings in Berkeley that contain workers who are paid less than $12.96 per hour without benefits or $10.74 with benefits:

Table 1: Identification of Standard Occupational Classifications (SOC) that could be affected by City of Berkeley Minimum Wage

SOC 27: Arts, Design, Entertainment, Sports & Media Occupations
None or negligible. Low-wage Arts & Entertainment Sector jobs are in SOC 39.
SOC 29: Health Care Practitioners and Technical Occupations
None
SOC 31: Heathcare Support Occupations
40%-50% of Pharmacist Aides and Veterinary Assistants (estimated 100-150) could be affected by the proposed City Minimum Wage. Home Health Aides serve many clients in Berkeley but their employers are usually major regional health care providers located outside Berkeley (e.g. Sutter Health's Visiting Nurses Association in Emeryville) and services provided in Berkeley are temporary and discontinuous.
SOC 33: Protective Service Occupations
Part-time lifeguards employed by the YMCA (approximately 35 at any one time.)
SOC 33: Food Preparation and Serving Related Occupations
Along with SOC 41 discussed below, this is the occupational classification that will be impacted by the Minimum Wage Ordinance: estimated 80% of waiters and waitresses; 60% of Combined Food Preparation and Serving Workers; 60% of Counter Attendants; 40% of Short-Order Cooks, etc. The total should be at least 2,500 employees.
SOC 37: Building and Grounds, Cleaning and Maintenance Occupations
Approximately 60% of Maids & Housekeeping Cleaners in hotels and motels plus some landscape maintenance employees could be affected. One major hotel, the Doubletree, already subject to the City's Livable Wage Ordinance. Estimated 400 employees to be subject to Minimum Wage Requirement.
SOC 39: Personal Care and Service Occupations
This is a diverse Occupational Classification that includes workers employed in different economic sectors: • Most movie theater ticket takers and counter attendants, nearly all employed part-time, will be affected (estimated 100+). • Nearly half of employed hairdressers and nearly all employed manicurists-pedicurists will be affected, though this is a small number (under 50) because most are independent contractors, not employees. • Approximately half of child care workers employed by private child care centers could be affected (estimated 200). School District, Head Start, and other publicly-assisted child care centers pay high enough wages so that they will not be affected. • It appears that approximately half of Personal and Home Care Aides/Attendants who provide services to the elderly and disabled are paid less than $12.96 per hour. However, many of those who assist disabled people are paid under State programs that also set the wage level so it is unlikely that a City Minimum Wage would apply. Similarly, many In-Home Supportive Services personnel assisting elderly people are paid through Med-Cal and the Minimum Wage may not apply. Somewhat arbitrarily, I am going to estimate that there are 200 Personal and Home Care Aides paid by clients

themselves who could be affected by the Minimum Wage.

SOC 41: Sales and Related Occupations

Berkeley has a retail sector dominated by small shops: In 2011 (latest data available), of Berkeley's 499 retailers, 231 had 1-4 employees; 133 had 5-9 employees, and 72 had 10-19 employees. Only 21 retailers employed more 50 or more employees. The small retailers employ primarily part-time workers, some of them family members, who tend to paid minimum wage or a little more. Even the large retailers have starting wages below the proposed City Minimum Wage, though full-time jobs usually pay more than that and have benefits. The OES suggests that the job classifications affected will be:

- Cashiers 60% below the proposed Minimum Wage
- Counter and Rental Clerks 55%
- Retail Salespersons 70%

However, smaller employers do not have specialized job classifications and train employees to perform all sales-related tasks. In the first quarter 2013, Berkeley had about 5,700 retail jobs and about half of them will be impacted by the Minimum Wage. Most of these jobs are part-time and unbenefitted.

SOC 43: Office and Administrative Support Occupations

In Berkeley, the jobs in this SOC affected by the proposed Minimum Wage are:

- Hotel and Motel Desk Clerks. The hotels tend to employ full-time staff and pay them enough that they would not be subject to the Minimum Wage, but the motels employ part-timers, many of whom are paid below the proposed Minimum. 100 employees are estimated to be impacted.
- Stock Clerks & Order Fillers. These jobs are in larger retailers and in most wholesale businesses. Perhaps 200 jobs pay less than the proposed City Minimum Wage.

SOC 45: Farming, Fishing and Forestry Occupations

Employment in this SOC in Berkeley is negligible at present. Jobs could be created if businesses open that grow vegetables and herbs indoors (one is under construction), or if indoor marijuana cultivation becomes a legitimate industry. However, jobs in these activities would likely pay more than the proposed Minimum Wage.

SOC 47: Construction and Extraction Occupations

No Standard Occupational Classification in construction pays less than the proposed Minimum. However, contractors often hire day laborers, usually undocumented workers, who are usually paid less than the proposed Minimum.

SOC 49: Installation, Maintenance and Repair Occupations

Bicycle Repairers. Berkeley has 3 relatively large bike shops that employ bicycle repairers. These are mostly full-time jobs that pay above the proposed Minimum and after some months of employment, they also pay benefits. The starting wage for bicycle repairers, however, is below the proposed Minimum. An estimated 10 employees are subject to the Minimum.

SOC 51: Production Occupations

Manufacturing in Berkeley tends to be specialized small batch production even when the firms themselves are relatively large. Jobs require higher skill and are paid accordingly. The two largest manufacturers, Bayer (pharmaceuticals) and Pacific Steel Casting (metal castings), that together employ more than half the employees in the entire sector, have no employees paid

less than the proposed Minimum. Neither do other "larger" firms in the sector such as Meyer Sound (speakers), Pyramid Brewing and Trummer Pils (beer), DSM/PTG (medical polymer), Acme Bread, or GU Energy Labs (sports energy gel). Some smaller manufacturers may employ entry-level workers at a pay scale under the proposed Minimum Wage. The manufacturing sector as a whole, however, will not be impacted by the proposed Minimum Wage.

SOC 53: Transportation and Material Moving Occupations

The following jobs in this SOC will not be impacted by the Minimum Wage requirement:

- Ambulance Drivers and Attendants are either well-paid public sector workers (Fire Dept.) or employees of ambulance services who are paid above the proposed Minimum Wage.
- Taxi Drivers and Chauffers work in Berkeley but are mostly independent contractors or employees of firms headquartered outside Berkeley.

The classifications of jobs in this SOC that will be impacted are:

- Driver/Sales Workers, such as pizza delivery workers, are often paid a minimum wage and are expected to get most of their income from tips. This appears to be an SOC where many workers are employed part-time but we have no information on how many of them are employees and how many independent contractors. Given this, I will accept the estimate of 163 employees from Appendix 1.
- Parking Lot Attendants: At least 150 employees and possibly more. All, or nearly all of them, are paid a wage below the proposed Minimum.
- Service Station Attendants: Though this job is usually combined with counter attendant at a convenience store.
- Cleaners of Vehicles and Equipment (e.g., car wash employees): at least 50 employees. All of them are paid below the proposed Minimum.
- Laborers and Freight and Stock Movers, Hand. Berkeley has few jobs of this type because it has few stores that sell heavy items such as appliances that need to be moved or delivered.

In order to further understand the impact of the proposed Minimum Wage Ordinance, we need to translate the estimates of employment by Standard Occupational Classifications into estimates of employment by economic sector. This is done in the attached table – Table 2, *Employment in Berkeley, March 2013: Percent and Number of Employees Subject to Proposed Minimum Wage*. These are estimates only, based on the preceding review of occupational classifications combined with interviews with some business owners.

The analysis suggests that a Minimum Wage Ordinance that requires an hourly wage of $10.74 with benefits and $12.96 without benefits could affect about 8,400 employees in Berkeley, with the greatest impact being felt in two sectors, Retail Trade (NAICS 44-45) and Accommodation and Food Services (NAICS 72). It goes without saying that this does not assume that the only impact will be a wage increase for employees presently working for wages below the proposed minimum. Employers could take various pre-emptive or post facto steps to reduce the impact of the proposed Minimum Wage

Ordinance on their cost of employment: e.g.,substituting family members for paid employees, substituting "independent contractors" for employees, contracting with firms outside Berkeley to provide services that were formerly performed in-house, or changing service formats (substituting counter service for table service in the restaurant industry.) We will learn the actual impact of the Ordinance only after it is implemented.

Table 2: Employment in Berkeley, March 2013, by NAICS Sector. Estimate of the Percent and Number of Employees Subject to Proposed Minimum Wage [1]

NAICS Sector	**Establish-ments**	**Employ-ment**	**% under Minimum**	**# under Minimum**	Comments
Sector 11: Agriculture, Forestry, Fishing & Hunting	4	17	0%	0	
Sector 23: Construction	176	1,335	0%	0	Except laborers hired temporarily
Sector 31-33: Manufacturing	146	3,600	5%	180	Trainees and temporary staff
Sector 42: Wholesale Trade	112	1,314	10%	131	Primarily Stock Clerks and Order Fillers
Sector 44-45: Retail Trade	420	5,689	50%	2845	High proportion of part-time employees in small retailers
Sector 48-49: Transportation & Warehousing	17	90	10%	9	Helpers in local trucking/hauling
Sector 51: Information	116	1,368	10%	137	Part-time movie theater employees
Sector 52: Finance & Insurance	94	830	0%	0	
Sector 53: Real Estate & Rental & Leasing	163	795	20%	159	Building maintenance & employees of mini-storage
Sector 54: Professional, Scientific, & Technical Skills	626	4,872	0%	0	
Sector 55: Management Of Companies & Enterprises	12	258	0%	0	
Sector 56: Admin & Support & Waste Mgmt & Remediation	132	991	15%	149	Copy shop and temporary help agencies
Sector 61: Educational Services	126	1,982	0%	0	
Sector 62: Health Care & Social Assistance	1,465	8,682	10%	868	IHSS workers, day care and residential care employees

[1] Establishment and employment figures are from the Quarterly Census of Employment and Wages, California EDD, LMI.

NAICS Sector	Establish-ments	Employ-ment	% under Minimum	# under Minimum	Comments
Sector 71: Arts, Entertainment, & Recreation	75	783	10%	78	ticket takers, counter attendants in performing arts facilities
Sector 72: Accommodation & Food Services	391	6,417	50%	3208	Restaurant employees, hotel/motel housekeepers and clerks
Sector 81: Other Services	301	2,603	25%	650	Parking lot attendants, car wash employees, nail & hair salon
Non-Classified	315	239		0	
Federal Govt	9	248	0%	0	
State Govt	3	18,269	0%	0	
Local Govt	45	3,706	0%	0	
Total	**4,748**	**64,088**		**8415**	

Appendix I

The *Occupational Employment Statistics (OES) Survey Results* available on-line gives the 25th percentile, 50th percentile (median) and 75th percentile hourly wages at a detailed occupational level for the Oakland-Fremont Metropolitan Area (Alameda County and Contra Costa Counties) that includes Berkeley. The survey I used gives detailed employment for May 2012 and estimates wages for first quarter 2013. I sorted this source to show the detailed occupations with median wages below $14.00 per hour in order to pick up nearly all the occupations that would likely be affected by a City of Berkeley Minimum Wage Ordinance. The 92 detailed occupations with median wages below $14/hr included nearly a quarter of all jobs in Alameda and Contra Costa counties: 239,540 out of 971,360 (24.6%).

A median wage of $14.00/hour was selected because nearly all occupations at that *median* wage include at least some workers who would be paid less the proposed level of $10.74 per hour with benefits and $12.94 without benefits. The first sort, Attachment 1, shows all the occupations with a median wage below $14/hour ranked from lowest median wage, *Manicurists and Pedicurists* with a wage of $8.93/hr. to *Cooks, Institution and Cafeteria* with a median wage of $13.99. The second sort, Attachment 2, takes the same occupations with a median wage below $14/hour and groups them by broad Standard Occupational Classifications. This attachment, supplemented by information on the economy of Berkeley, allows us to do a screening of the Metropolitan Area data in order to identify occupations and industries in Berkeley that could be significantly affected by the minimum wage requirement.

The second column in Table 2 below shows the total number of employees in occupations with median wages below $14/hr for the Metropolitan Area taken from the May 2012 employment estimates, attachment 1. Of course, since $14 per hour is a median, occupations with a median wage close to that amount include many employees paid more than $14/hour while occupations with a median well below that amount include many fewer. The third column is a rough estimate of the number of employees paid less than fourteen dollars per hour extrapolated from the attachment's data on the occupation's hourly median wage, 25th percentile wage and 75th percentile wage. The fourth column provides a rough estimate of the number of employees paid less than $14/hr. in Berkeley, assuming that the same proportion applies to local jobs in each occupation as applies to Berkeley employment compared to Alameda and Contra Costa employment. (Berkeley has 6.6% of the jobs in Alameda and Contra Costa counties (64,088[2]/971,360 = .066). This, of course, is a counter-factual assumption because some the economy of Berkeley is not a mirror of the economy of the larger region and some sectors here are relatively more or less important than in the region as a whole. Nevertheless, the crude number gives us a starting point for understanding the possible importance of individual occupations in Berkeley. The last column provides any qualitative information that we may have about the actual size of the occupation in Berkeley or its wage level.

Table 3

Occupational Classifications with Median Wages Less than $14/hr	Occupational Employment in Alameda-Contra Costa	Estimated Number paid less than $14/hr	Estimate for Number in Berkeley (X.066)	Comment
SOC 27: Arts, Design, Entertainment, Sports & Media Occupations				
Merchandise display & window trimmers	970	680	45	Few if any employed here
SOC 29: Health Care Practitioners and Technical Occupations				
EMTS and Paramedics	1280	700	46	Employed at higher wage level here
SOC 31: Healthcare Support Occupations				
Home Health Aides	4700	2800	185[3]	See footnote

[2] Quarterly Census of Employment and Wages, March 2013, including employment in private households.
[3] "Home Health Aides" or "Geriatric Health Aides", etc., work in Berkeley but usually visit clients' homes temporarily. They are employed at regional businesses like Sutter Health's Visiting Nurses Association in

Physical Therapist Aides	250	125	8	
Pharmacist Aides	300	170	11	
Vet Assistants	540	324	21	Probably more
SOC 33: Protective Service Occupations				
Lifeguards & Other Recreational	980	850	56	Mostly part-time at YMCA
SOC 33: Food Preparation and Serving Related Occupations				
First-Line Mgrs. Food Prep & Serving	5280	3432	226	
Cooks, Fast Food	5940	5940	392	
Cooks, Institutional	1520	760	50	
Cooks, Restaurant	6680	4676	308	
Cooks, Short Order	1250	1000	66	
Food Prep Workers	4540	4540	300	
Bartenders	3200	3100	205	
Combined Food Prep & Serving	19250	19200	1267	
Counter Attendants	4580	4580	302	
Waiters /Waitresses	13930	13930	919	
Food Servers, Non restaurant	1420	1400	92	
Dining Room & Cafeteria Attendants	3130	3130	207	
Dishwashers	4880	4800	317	
Hosts & Hostesses	2600	2550	168	
SOC 37: Building and Grounds, Cleaning and Maintenance Occupations				
Maids/Housekeeping Cleaners	5670	3969	261	
Landscaping & Grounds Workers	6430	3858	255	
SOC 39: Personal Care and Service Occupations				
Nonfarm Animal Caretakers	910	637	42	Some jobs may exist at UCB
Gaming dealers	480	480	31	No jobs here
Motion Picture Projectionists	120	110	7	UCB and PFA?

Emeryville, the Center for Elders' Independence in Oakland and others. Since their employer is outside Berkeley, it is unlikely that the City minimum wage would apply.

Ushers, Lobby Attendants, Ticket	1200	1080	71	
Amusement & Rec Attendants	2360	2100	138	
Locker & Dressing Room Attendants	160	155	10	
Funeral Attendants	170	102	7	
Hairdressers & Cosmetologists	1790	1166	77	
Manicurists & Pedicurists	2160	2160	143	
Baggage Porters	100	80	5	
Child Care Workers	2990	2690	178	underestimate
Personal & Home Care Aides	3950	3555	235	underestimate
Recreation Workers	4080	2652	175	Part-time at YMCA, COB
SOC 41: Sales and Related Occupations				
Cashiers	24080	15652	1033	
Gaming Change Persons & Booth Cashiers	100	100	7	Occupation not present in Berkeley
Counter & Rental Clerks	4740	2844	188	
Retail Salespersons	27610	18499	1221	
Demonstrators & Product Promoters	970	824	54	few if any here
Real Estate Sales Agents	1170	585	39	
Telemarketers	820	508	34	None here
SOC 43: Office and Administrative Support Occupations				
Gaming Cage Wrkrs	70	52	4	None here
Hotel, Motel Desk Clerks	1030	876	58	
Stock Clerks & Order Fillers	14710	8826	582	Likely too high
SOC 45: Farming, Fishing and Forestry Occupations ignore- neglible employment				
SOC 47: Construction and Extraction Occupations ignore-neglible employment ignore-few if any employees paid less than $14 / hour				

SOC 49: Installation, Maintenance and Repair Occupations				
Bicycle Repairers	NA[4]	NA	25	
Helpers, Installation, Maintenance, Repair	1320	977	64	
SOC 51: Production Occupations				
Assemblers & Fabricators	1490	745	49	
Bakers	1870	1065	70	
Meat, Poultry & Fish Cutters	NA[5]	NA	Some jobs in this classification but paid well above the median.	
Slaughterers and Meat Packers	NA	NA	No jobs in this classification exist in Berkeley	
Food Batchmakers	670	368	24	
Food Cooking Machine Operators	290	232	15[6]	See footnote
Food Processing Workers, All Other	370	296	20	
Extruding & Drawing Machine Setters	160	150	10	May not exist in Berkeley
Lay Out Workers, Metal & Plastic	NA	If jobs in this classification exist in Berkeley, they are paid well over the proposed minimum wage		
Laundry and Dry Cleaning Workers	990	792	52	
Pressers, Textile & Garment	740	592	39	Unlikely as dedicated job
Sewing Machine Operators	840	630	42	Unlikely as dedicated job
Shoe and Leather Workers & Repairers	NA		Independent craftsmen, few if any employees	
Sewers, Hand	NA		Some employees sew and cut textiles while making prototypes but these are not dedicated jobs. Textile bleaching/dyeing may be performed as a craft but not a job.	
Textile Bleaching and Dyeing Workers	NA			
Textile Cutting Machine Operators	NA			
Sawing Machine Setters, Operators	90	60	In Berkeley, these activities are performed as part of woodworking but unlikely to be dedicated jobs..	
Woodworking Machine Setters	280	210		

[4] OES Survey shows median wage at $11.04/hr; 25th percentile wage at $10.38, and 75th percentile wage at $11.71. It does not attempt to estimate employment. However, Berkeley has a number of bicycle shops that do repairs and, based on conversations with staff, I estimate employment at 25 who are paid less than $14/hr.

[5] OES Survey shows median wage at $12.44, 25th percentile wage at $10.18 and 75th percentile wage at $19.31. It does not attempt to estimate employment. Berkeley food stores do employ a number of people in this occupation, though it is likely they are paid well above the median.

[6] From informants, Berkeley food manufacturers (chocolate, beer, wine, preserves, etc. are too small to support this activity as a specialized job.

Cutters and Trimmers	160	140	9	May not exist in Berkeley
Cutting & Slicing Machine Operators	300	152	10	May not exist in Berkeley
Extruding, Forming, Pressing Machine Operators	520	312	21	May not exist in Berkeley
Ophthalmic Laboratory Techs.	120	78	5	A few jobs on campus?
Packaging & Filling Machine Operators	2260	1582	104	May not exist in Berkeley as dedicated job
Painting, Coating & Decorating Workers	40	24	2	
Cleaning, Washing & Metal Pickling Equip. Operators	90	54	4	May not exist in Berkeley as dedicated job
Helpers, Production Workers	2490	1369	90	
Production Workers, All Other	580	301	20	
SOC 53: Transportation and Material Moving Occupations				
Ambulance Drivers & Attendants	NA	NA	Jobs in public sector or at Alta Bates- paid higher than $14/hr	
Driver/Sales Workers	3500	2450	162	Few jobs-ind. contractors
Taxi Drivers & Chauffers	890	623	41	Not employed here
Parking Lot Attendants	930	744	49	
Service Station Attendants	390	351	23	
Transportation Attendants	70	45	3	
Cleaners of Vehicles & Equipment	2550	1912	126	
Laborers & Freight, Stock Movers, Hand	14940	8,964	591	Too high
Packers & Packagers, Hand	4450	4005	264	Too high