STORAGE NAME: h0859.ric.doc
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HOUSE OF REPRESENTATIVES

COUNCIL FOR READY INFRASTRUCTURE
ANALYSIS

BILL #: HB 859

RELATING TO: Local Government

SPONSOR(S): Representative(s) Bense & others

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

(1) STATE ADMINISTRATION YEAS 5 NAYS 0
(2) FISCAL POLICY & RESOURCES YEAS 12 NAYS 0
(3) COUNCIL FOR READY INFRASTRUCTURE
(4)
(5)

I. SUMMARY:

This bill prohibits local jurisdictions from requiring employers to pay a minimum wage that exceeds the federal minimum wage (the higher minimum wage has come to be known as a "living wage"). In addition, the bill provides that no political subdivision of the state may establish, mandate, or otherwise require an employer to pay a minimum wage related to employee wages that are exempt under the Fair Labor Standards Act.

The bill does, however, provide three exceptions from its general prohibition. It allows a local jurisdiction to require an employer to pay a wage higher than the federal minimum wage if it is:

(1) For its (the local government's) own employees;

(2) Pursuant to the terms of any contract in which the political subdivision is a party procuring goods or services; or

(3) As a condition of the political subdivision providing a direct tax abatement or subsidy to an employer.

The exceptions provided by the bill are significant in that they allow local jurisdictions to pay their own employees a higher minimum wage, and allow local jurisdictions to impose a higher minimum wage requirement on employers who contract with the local government (as Miami-Dade County, and Miami Beach do). Therefore, it appears that the bill does not interfere with, or supercede, any existing ordinances imposing a living wage.

The bill does not have a significant fiscal effect on state or local governments.

This bill takes effect upon becoming law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes [x]	No []	N/A []
2.	Lower Taxes	Yes []	No []	N/A [x]
3.	Individual Freedom	Yes [x]	No []	N/A []
4.	Personal Responsibility	Yes []	No []	N/A [x]
5.	Family Empowerment	Yes []	No []	N/A [x]

For any principle that received a “no” above, please explain:

B. PRESENT SITUATION:

Florida currently has no state law that would prohibit any local jurisdiction from establishing a minimum wage that exceeds the federal minimum wage.

In Florida, Miami-Dade County and Miami Beach have passed ordinances that require employers who contract with them to pay their employees a minimum wage higher than that required under the federal minimum wage (also known as a "living wage").[1] Several other local jurisdictions are presently considering enacting living wage ordinances.

Federal minimum wage law

The federal minimum wage for covered, nonexempt employees is $5.15 per hour.[2] The federal minimum wage provisions are contained in the Fair Labor Standards Act (FLSA)[3]. Many states also have minimum wage laws.[4] In cases where an employee is subject to both the state and federal minimum wage laws, the employee is entitled to the higher of the two minimum wages.

There are a number of exemptions[5] from the federal minimum wage law. These include such workers as: taxicab drivers; babysitters; employees of a small-circulation newspaper business, children employed by parents, and certain agricultural workers.

Federal minimum wage was first established in 1938. It does not increase automatically, and any change requires an act of Congress. In 1968, the minimum wage was $1.60. The minimum wage was raised to $3.80 an hour beginning April 1, 1990, and to $4.25 an hour beginning April 1, 1991. The 1996 amendments increased the minimum wage to $4.75 an hour on October 1, 1996, and to $5.15 an hour on September 1, 1997.[6] Economic analysis appears to support the contention that the minimum wage has declined in real dollar terms.[7]

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[1] *Living Wage Successes: A Compilation of Living Wage Policies on the Books*, Prepared by ACORN (Association of Community Organizations for Reform Now).
[2] Home page for U.S. Department of Labor website, www.dol.gov.
[3] The Fair Labor Standards Act of 1938, 29 U.S.C., s. 206, et. seq.
[4] U.S. Department of labor website, http://www.dol.gov/dol/topic/wages/minimumwage.htm.
[5] Set forth in 29 U.S.C., s. 213.
[6] U.S. Department of Labor website, History of Changes to the Minimum Wage Law, http://www.dol.gov/dol/esa/public/minwage/coverage.htm.

State minimum wage laws

Florida is one of seven states without a minimum wage law. Ten states have minimum wage rates higher than the Federal. Three states have minimum wage rates lower than the federal.[8]

The living wage campaign, nationally

The living wage campaign is an organized effort of national scope, the goal of which is to require employers to pay minimum wages in excess of those required by the federal minimum wage law.[9] The proposed wage rates are usually designed to lift an individual worker's wage to some point above the federal poverty level for a family of four.[10] Typically, living wage proponents propose minimum wages of $10 to $15 an hour.[11] Nationally, at least 79 local governments have adopted some type of living wage mandate legislation.[12]

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[7] In attempting to quantify whether the value of the minimum wage has declined in real terms, Eric Schutz, Professor, Economics, Rollins College provided the following analysis: The minimum-wage in 1968 was $1.60 per hour. Since 1968, the prices of consumer goods have risen by a factor of 5.09 -- that is, $1-worth of goods in 1968 would in 2001 cost $5.09. Thus, in order to receive the same real wage today as an employee in 1968 who earned $1.60/hour, one would have to receive 5.09 X $1.60 = $8.14/hour. Pursuant to this analysis, the real value of the federal minimum wage has declined 38% since 1968. It should be noted that Professor Schutz is a strong proponent of raising the minimum wage. He admits that other analyses could arrive at a different figure, but strongly asserts that there is no dispute that the real dollar value of the minimum wage has declined (E-mail correspondence from Eric Schutz, 1-24-02).

[8] U.S. Department of labor website, http://www.dol.gov/dol/esa/public/minwage/america.htm States without minimum wage laws: Arizona, Mississippi, Louisiana, Alabama, Tennessee, South Carolina, and Florida. States with a higher minimum wage: Alaska, Hawaii, Oregon, Washington, California, Maine, Vermont, Massachusetts, Connecticut, and Rhode Island. States with a lower minimum wage: New Mexico, Kansas, and Hawaii.

[9] In many cases, the effort is directed only at certain employers (i.e., those with a minimum number of employees, or a minimum gross amount of sales), rather than seeking to have it apply to all employers within the local jurisdiction.

[10] More than eight in ten labor economists strongly oppose using a family of four as the standard for setting minimum wage levels. See *The Living Wage: Survey of Economists, The Employment Policies Institute, August 2000.*

[11] *What is the Living Wage?* Employment Policies Institute, Livingwage.com

[12] Several examples, as set forth in *Living Wage Successes: A Compilation of Living Wage Policies on the Books*, Prepared by ACORN (Association of Community Organizations for Reform Now):

Baltimore, Maryland The Baltimore living wage (enacted in 1996, the first instance of such a law enacted by a major city) required companies that provided contracted services for the city of Baltimore to pay their employees a living wage of $7.90 an hour by 1999, and thereafter adjusted to inflation. Because most of the affected companies were able to pass their increased labor costs directly back to their customer, the city of Baltimore — which could absorb the relatively small hit to its budget — there was little outcry from the affected businesses.

Suffolk County, New York In July 2001, the Suffolk County Legislature adopted a law establishing a living wage for the county. Under the law, recipients of county assistance in the form of loans, grants or tax abatements valued at $50,000 or more, and service contractors at more than $10,000 must pay a living wage of $9.00 an hour. If health benefits worth at least $1.25 an hour are not offered, the applicable living wage rate is $10.25. The law extends to tenants and leaseholders of beneficiaries, as well as their subcontractors. Youth employment programs and small businesses with fewer than 10 employees are not covered. Non-profits can be exempted for up to a year after passage of the law, if the ratio of pay from the highest paid employee to the lowest does not exceed 6:1, or the non-profit can demonstrate that its budget will increase more than 10% as a result of the living wage requirement.

Santa Cruz, California In October 2000, the Santa Cruz City Council passed the highest living wage in the country. According to the new law, city employees and employees of non-profit and for-profit city service contractors must earn at least $11.00 an hour with health benefits, or $12.00 an hour if benefits are not provided.

Santa Monica (**The only known instance of adoption of a living wage ordinance made applicable to employers having no business relationship with the local jurisdiction adopting the law**) On July 24, 2001, Santa Monica dispensed with any public-money criteria and mandated a $10.50-an-hour minimum wage (or $12.25-an-hour minimum wage for employees not being provided health benefits) for any employee of a business within a designated tourist area, if that business had done $5 million in gross receipts the previous two years . Violation of the ordinance is a misdemeanor. It should be noted that this variant of living wage law is quite different than limiting the application to those employers who contract with the local government. In this case, many businesses, whose "customer" is the general public, are now required to pay "living wage" rates to their employees, yet they are unable to "pass along" the cost of the mandated increase to the government body that mandated them. The law does have a provision for exemptions

The most common form of living wage law is the requirement that employers *contracting with the local government* be required to pay the specified higher minimum wage. In promoting laws requiring that higher minimum wages be paid by employers who contract with the local government, the living wage movement argues that public money should not be used to create jobs that pay "poverty level" wages.[13]

Living wage laws in Florida

Miami-Dade County

In May 1999, the Board of County Commissioners of Miami-Dade County voted unanimously to enact a living wage ordinance requiring that the county, certain of its service contractors, and airport licensees (for ground service personnel), pay employees a living wage of no less than $8.56 an hour if employer-paid health benefits are offered, or $9.81 without health benefits. The ordinance covers the following categories of county service contracts worth at least $100,000: food preparation and/or distribution; security services; routine maintenance services, such as custodial, cleaning, refuse removal, repair, refinishing, and recycling; clerical or other non-supervisory office work, whether temporary or permanent; transportation and parking services including airport and seaport services; printing and reproduction services; and, landscaping, lawn, or agricultural services. The ordinance establishes a Living Wage Commission to enhance compliance and review the effectiveness of the law

Miami Beach, Florida

In April 2001, the City of Miami Beach voted to enact a living wage ordinance requiring the city and certain of its service contractors with contracts over $100,000 to pay employees a living wage of no less than $8.56 an hour if employer-paid health benefits are offered, or $9.81 without health benefits, indexed annually.

Studies examining the effects of living wage laws

Proponents of living wage laws cite numerous studies that support the idea that living wage laws produce economic benefits, rather than damages.[14] Opponents of living wage laws also have

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for severe hardship. The exemption would apply when: a) compliance with the requirements would render the employer's business nonviable; (b) the viability of a business depends on young people and other first-time workers who are employed on a seasonal basis; and (c) granting a waiver would otherwise advance the underlying policy of this ordinance. Although the law took effect on August 24, 2001, employees will not be required to pay the new minimum compensation until July 1, 2002, so no data is available on this law's economic effect.

[13] Home page, ACORN website: http://www.acorn.org/acorn10/livingwage/what.htm.

[14]Two examples taken from Living Wage Resource Center: Research Summaries (ACORN website at: http://www.livingwagecampaign.org/) *Baltimore's Living Wage Law: An Analysis of the Fiscal and Economic Costs of Baltimore City Ordinance 442 -- October, 1996, (Preamble Center for Public Policy)* The study found that the real cost of city contracts actually decreased since the ordinance went into effect; business investment in the city increased substantially in the year following the ordinance; companies interviewed that held contracts before and after passage of the ordinance did not report reducing staff levels in response to the higher wage requirement; some contractors praised the ordinance for "leveling the playing field" by relieving pressure on employers to squeeze labor costs in order to win low-bid contracts; and the cost to taxpayers of compliance with the ordinance has been minimal, with the City allocating about 17 cents per person annually for this purpose.
Miami-Dade: The Impact of a Living Wage Ordinance on Miami-Dade County -- October 22, 1998, (Bruce Nissen: Center for Labor Research and Studies, Florida International University) The study found that costs to the county would total approximately $5 million over a three year period (0.1-0.2% of the county operating budget for the first year and .01-.02% of the budget for the second and third year of implementation); costs to Miami-Dade citizens and taxpayers are extremely small because they already pay a substantial "hidden subsidy" to maintain the lives of low wage workers and their families through federal and state measures.

numerous studies[15] supporting their position, including studies attacking the methodologies and data contained in the studies *supporting* living wage results. These studies cited by living wage opponents conclude that any significant increase in minimum wage requirements, such as those found in living wage laws, while well-intended, would actually result in significantly increased cost to employers and massive loss of jobs.[16]

C. EFFECT OF PROPOSED CHANGES:

This bill prohibits local jurisdictions from requiring employers to pay a minimum wage that exceeds the federal minimum wage. In addition, the bill provides that no political subdivision of the state may establish, mandate, or otherwise require an employer to pay a minimum wage related to employee wages that are exempt under the Fair Labor Standards Act.

The bill does, however, provide three exceptions from its general prohibition. It allows a local jurisdiction to require an employer to pay a wage higher than the federal minimum wage if it is:

(1) For its (the local government's) own employees;

(2) Pursuant to the terms of any contract in which the political subdivision is a party procuring goods or services; or

(3) As a condition of the political subdivision providing a direct tax abatement or subsidy to an employer.

D. SECTION-BY-SECTION ANALYSIS:

See effect of proposed changes.

III. <u>FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT</u>:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. <u>Revenues</u>:

None.

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[15] Examples as set forth in: <u>Living Wage Policy: The Basics, Employment Policies Institute</u> : *The Baltimore Living Wage Study: Omissions, Fabrications and Flaws, The Employment Policies Institute, October 1998*. Also, *The Employment Impact of a Comprehensive Living Wage Law: Evidence from California, The Employment Policies Institute, July 1999.*

[16] Specifically, the Employment Policies Institute published a report in March 1998, by Florida State economist Dr. David Macpherson, finding the overall impact of the 1998 California increase in minimum wage (from $5.15 to $5.75 per hour) to result in more than 25,000 lost jobs opportunities, approximately $230 million in lost annual California worker income, and an increase in yearly labor costs of $790 million. This study also examined the potential effects of California raising its minimum wage from $5.15 to $10.75, and found: 612,783 workers could lose their jobs; annual income loss to all affected workers would be $8.3 billion; labor costs would raise by $22.8 billion per year. See *The Employment Impact of a Comprehensive Living Wage Law: Evidence from California, The Employment Policies Institute, July 1999.*

Another study which surveyed 336 U.S. labor economists asking them to rate the efficiency of three proposed policies (a living wage ordinance, Earned Income Tax Credit and general welfare grants), only 7% “believe a living wage ordinance is a very efficient way to address the income needs of poor families, 24 % think it is somewhat efficient, and 69% think it is not at all efficient.” Forty-three percent of the economists believed that a national living wage policy would actually lead to increased poverty rates. See *The Living Wage: Survey of Economists, The Employment Policies Institute, August 2000.*

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

On the one hand, by preventing local governments from requiring private sector employers to pay a higher minimum wage, the bill may have a positive impact on businesses in general, in that these businesses will not be in danger of experiencing a significant increase in labor costs, allowing them to keep employment levels of entry level workers unaffected.

On the other hand, entry-level employees who might otherwise receive a higher initial wage would not receive that extra money. Those employees may be adversely impacted in general, in that there is no opportunity for a higher local minimum wage, even though they would have the same wages to spend as before. However, that adverse impact is mitigated by the fact that cash-poor businesses would be expected to reduce employment levels if required to pay entry-level workers at a significantly higher wage.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

Prepared by:	Staff Director:
Gip Arthur	J. Marleen Ahearn, Ph.D., J.D.

AS REVISED BY THE COMMITTEE ON FISCAL POLICY & RESOURCES:

Prepared by:	Staff Director:
Douglas Pile	Lynne Overton

AS FURTHER REVISED BY THE COUNCIL FOR READY INFRASTRUCTURE:

Prepared by:	Council Director:
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