

The Impact of the Lincoln Living Wage Ordinance

Increased Wages Result in No Additional Cost to Taxpayers

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NEBRASKA APPLESEED CENTER FOR LAW IN THE PUBLIC INTEREST

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LOW INCOME SELF SUFFICIENCY

Overview

On March 1, 2004 the City of Lincoln enacted the Living Wage Ordinance. The law is intended to ensure that taxpayer dollars are only awarded to businesses that provide quality jobs. A recent study conducted by Nebraska Appleseed regarding the impact of the living wage ordinance has found that the ordinance has resulted in no unwanted costs to taxpayers.

The Nebraska Appleseed Center for Law in the Public Interest is a non-profit, non-partisan law project, committed to equal justice for all Nebraskans. It focuses on policies impacting working poor families, welfare recipients, new immigrants, family farmers, and struggling communities seeking justice for their citizens. Appleseed's mission is to effect and enable constructive systemic change leading to a more just and equitable society through public interest solutions.

An extensive review of Lincoln's City projected budget and actual expenditures indicates that while the number of dollars devoted to service increased between FY 2003-2004 and FY 2005-2006, the percentage of total expenditures committed to service payments actually decreased by 1.90%. Within the contractual service payments, budgeted costs actually decreased over the two year period. This results in a .80% decrease in service payments devoted to contractual expenses, and a .25% decrease in the proportion of total costs used for contractual service expenditures. These numbers would be even more significant if inflation were considered.

Such figures indicate that overall service payments, as a percentage of the budget, decreased over the past three finance periods. Even though these decreases were minimal, this data provides evidence that the Lincoln Living Wage Ordinance has not caused an increase in service payments or contract costs for the government.

While there have been individual contracts that have seen increased costs, such increased costs for certain contracts demonstrate the need for the living wage ordinance. Employees for these entities are now either being paid a higher wage, or such businesses are no longer being subsidized by the city through their contract.

Other unwanted effects anticipated by critics of the living wage have also not been seen. Prior to enactment of the ordinance critics had warned that unemployment would ensue if employers were forced to pay a higher wage. However, the United States Bureau of Labor Statistics shows that unemployment in Nebraska was at 4% in February 2004, just before the living wage was enacted, and has since declined to 3.4% in February 2006.

The living wage for Lincoln is measured as the Federal Poverty Level for a family of four which is adjusted on July 1 every year. For firms covered by the living wage ordinance, from July 1, 2005 – June 30, 2006 the annual rate that employers should pay their workers is \$9.30 per hour with health benefits, or \$10.23 per hour without health benefits. The ordinance applies to all city employees, as well as some services contracted and subcontracted by the city.

The Lincoln Living Wage Ordinance ensures that the limited public dollars that are paid to public employees are not poverty-wage salaries. It has had a positive effect on Lincoln's working poor, at no additional cost to taxpayers.

Changes in Service Costs

The 2005-2006 Annual Operating Budget was used to determine changes in service costs. For each division (and subsequent section) of each department I entered total expenditures, service expenditures and contractual service expenditures for the periods of 2003-2004, 2004-2005, and 2005-2006. These numbers were then used to calculate the percentage of payments that were service payments, the percentage of the service payments that were contractual, and the percentage of the total that were contractual payments.

It is worthy of note, that these figures do not show a direct effect of the living wage impact. The contractual payments is not an all-inclusive list of service contracts, there may be some service contracts listed in other categories. Contractual payments also do not factor out contracts of less than \$25,000 or that employ fewer than 10 employees. On the other hand, the service payments figure is much too broad. However, these numbers can paint a general picture of how service payments and contractual service payment costs have changed since the Living Wage Ordinance was enacted. Another key factor to consider is that 2003-2004 numbers are actual expenditures, whereas 2004-2005 and 2005-2006 numbers are budgeted expenditures.

Using these numbers I also calculated the change in total expenditures, change in service payments, and change in contractual payments from 2003-2004 to 2005-2006. My findings show that government expenditures overall increased by \$25,972,248. Of that, 4.97%, or \$1,291,865 was devoted to service payments. While the number of dollars devoted to service increased, the percentage of total expenditures committed to service payments actually decreased by 1.90%. Within the contractual service payments, budgeted costs actually decreased \$5,256 over the two year period. This results in a .80% decrease in service payments devoted to contractual expenses, and a .25% decrease in the proportion of total costs used for contractual service expenditures. These numbers would be even more significant if inflation were considered.

Such figures indicate that overall service payments, as a percentage of the budget, decreased over the past three finance periods. Such findings provide evidence leading to the conclusion that the Lincoln Living Wage Ordinance has not caused an increase in service payments or contract costs for the government.

(Information is compiled in "Service Payments." Data was collected from the City of Lincoln 2005-2006 Annual Operating Budget Book.)

A Glimpse of High-Impact Industry: Custodial Services

It is assumed that even if it is shown that service costs have declined over the time period studied, opponents will still argue that the effect was particularly detrimental to certain industries. The next step then, was to look at so-called “high-impact” industries. One service that historically pays workers low wages is custodial services.

In analyzing custodial service contracts there is no apparent undesired effects due to the living wage ordinance. In fact, in FY 2003-2004 the city of Lincoln paid \$241,958.79 for custodial services. In FY 2004-2005 this number decreased 18.62% to \$203,969.99. This trend continued in FY 2005-2006 with a further 8.65% decrease to a payment of only \$187,726.25.

Further analyses shows that over the 3 year period only 3 firms met the \$25,000 minimum value of a contract to be covered under the Living Wage Ordinance. Payments to these firms are described below:

- Honest Clean received \$25,020 in FY 2003-2004, but payment declined to well below half the \$25,000 threshold in both FY 2004-2005 and FY 2005-2006.
- Lincoln Janitorial Service earned only \$15,217.90 in FY 2003-2004, exceeded the \$25,000 minimum in FY 2004-2005 receiving \$26,635.60 from the City, and then dropped once again below the threshold at only \$19,490 for FY 2005-2006.
- X-tra-Kleen Inc. was the only contractor to exceed the \$25,000 minimum for the 3 consecutive payment periods, and it did so with a large margin. In FY 2003-2004, X-tra-Kleen received payment totaling \$96,670.95. In FY 2004-2005 X-tra-Kleen received \$97,162.90. And for the FY 2005-2006 X-tra-Kleen received payment for \$102,398.25. Further research is needed to determine the cause for the increased cost of services.

Note: This report was created before the conclusion of fiscal year 2005-2006. An updated analysis should be made at the conclusion of the fiscal year in September 2006.

(Information is obtained from City of Lincoln, reports of “Custodial Services Expends,” FYs 2003-2004, 2004-2005, and 2005-2006 created by Jane Tillman, Assistant City Auditor, Accounting Department, 441-8300.)

Ensuring Compliance:

The Lincoln Living Wage Ordinance explicitly indicates the actions that should be taken by the Finance Department to ensure compliance. The specific actions are outlined below as they are taken from the ordinance (the numbers that follow each bullet indicate the page of the ordinance on which this particular statement can be found.)

- “The Finance Department shall promulgate rules and regulations subject to review and adoption by the City Council for the preparation of bid specifications, contracts and preparations for contract negotiations subject to this Ordinance.” (p. 6) “All implementing rules, regulations, and procedures promulgated by the Finance Department shall be *presented to the City Council for approval within sixty days* of adoption of this Ordinance” (p. 15)
- “The Finance Department shall *submit periodic reports* to the City Council” (p. 7)
- “The Finance Department shall develop an administrative procedure and appeal process subject to review and adoption by the City Council for *determining compliance* with this Ordinance.” (p. 7)
- “The Finance Department shall *maintain records* pertaining to all complaints, hearings, determinations and findings, and shall *submit a regular report* on compliance with this Ordinance *no less than annually* to the City Council. Special reports and recommendations on significant issues of interest to the Council will be submitted as deemed appropriate.” (p. 7)
- “All proposed contractors subject to the provisions of this Ordinance shall submit a completed *Declaration of Compliance* form, signed by an authorized representative, along with each proposal. The completed Declaration of Compliance form certifying compliance with this article shall be made a part of the executed contract.” (p. 11)
- “All requests for proposals, City contracts and financial assistance agreements subject to this Ordinance shall contain the following two paragraphs or substantially equivalent language: “This contract is subject to the Living Wage Ordinance of the Lincoln Municipal Code. The Ordinance requires that, unless specific exemptions apply or a waiver is granted, all employers (as defined) under service contracts, shall provide payment of a minimum living wage to employees. Such rate shall be adjusted annually pursuant to the terms of the Lincoln Living Wage Ordinance of the Lincoln Municipal Code.” (p. 10)
- Employee Complaint forms (p. 14)

Our findings show that the Finance Department did not exactly comply with these stipulations. In order to “really do” what is outlined in the ordinance Finance Director Don Herz discussed the need for hiring another employee, which simply was not budgeted for. Instead, the Finance Department included the following instructions in the “Instructions to Bidders” which then becomes a part of the contract.

“17. Living Wage

17.1 The bidders agree to pay all employees employed in the performance of this contract, a base wage of not less than the City Living Wage per

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section 2.81.010 of the Lincoln Municipal Code. This wage is subject to change every July.”

Terry Werner indicates that he remembers the Finance Department presenting to the council for approval of their procedures. This occurred on August 23, 2004 at which time the council adopted the “rules and regulations for living wage ordinance.” These rules indicate that in addition to providing a living wage to employees, (and among other things,) that the contractor agrees:

- “To inform appropriate employees of their possible rights to Federal Earned Income Tax Credit (EITC) and make available the IRS Form and instructions (W-5) required to secure advance EITC payments from the employer.”
- “To provide written notification to each current and new employee at the time of hire of his/her rights under the provisions of this Ordinance... A copy of the notice shall be posted prominently in communal areas of the work site, and a copy of the notice shall be forwarded to the City Finance Department within 30 days of entering into a contract subject to the provisions of the Ordinance.”
- “To furnish to the City Finance Department, upon request, a true and correct copy of any and all payroll records of any and all employees who are employed under the contract, either by the contractor or any and all subcontractors. Such records shall show the number of hours worked by each covered worker employed under contract, hourly pay for such worker, any deductions made from pay and the net amount of pay received by each employee.”

Mr. Werner does not, however, remember periodic reports. He also does not recall any annual regular reports. The Declaration of Compliance form does not exist except in the form of the bidder’s instructions, which does not contain the verbatim indicated in the ordinance. Specifically, the declaration of compliance form should indicate whether or not a contract falls under living wage ordinance regulations, instead of generically implying that all contractors are fulfilling their obligations surrounding the living wage.

Don Herz and Vince Mejer (Purchasing) also noted that there were no complaints surrounding the living wage, and no waivers granted or even requests for waivers by employers. However, Capital Humane Society applied for such a waiver, and the Finance Department even recommended approval of the waiver. While this waiver was withdrawn from debate by the city council, it is nonetheless still important to understand that at least one waiver has been requested.

The Finance Department cited Madison, Wisconsin as an exemplar upon which Lincoln’s system of ensuring compliance with the Living Wage Ordinance was based. Madison, Wisconsin also functions in a self-regulating manner, with little emphasis placed on ensuring compliance. However, there are slight differences between Lincoln and Madison’s ordinances. Letters and copies of the notice to be posted by employers are mailed periodically to high impact contract sectors, especially human service sectors.

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(Sources: Dan Bohrod, City Comptroller's Office, 608.266.4030, dbohrod@cityofmadison.com, and <http://www.cityofmadison.com/comp/livewage/lw-web.htm>.)

The lack of effort on behalf of the Finance Department made creating this study extremely difficult. Ideally, the Finance Department would have initially started a rolling database of all contracts that are required to comply with the ordinance. More importantly, the Finance Department's inactivity makes it extremely difficult to know if the living wage is truly reaching its full potential. Extensive communication with the Finance Department regarding their obligations to ensure compliance has ensued. All things considered, the Finance Department has done very little in its role as the primary enforcer of compliance for this ordinance.

Unemployment:

Lincoln:	Civilian Labor Force*	Number Unemployed*	Percent Unemployed	Nebraska Percent Unemployed
February '06	167.2	5.8	3.5	3.4
August '05	166.6	5.6	3.4	3.8
February '05	167.4	6.7	4.0	3.9
August '04	155.7	5.2	3.4	3.9
February '04	155.0	6.4	4.2	4.0
August '03	154.1	6.0	3.9	4.0
February '03	156.0	6.4	4.1	3.9
August '02	148.5	4.5	3.0	3.7
February '02	147.0	5.2	3.6	3.7
August '01	147.7	4.1	2.7	3.2
February '01	144.7	4.1	2.9	2.8

* in thousands.

Data acquired from the Bureau of Labor Statistics. www.bls.org

- Archived State and Local Unemployment Rates
http://www.bls.gov/schedule/archives/metro_nr.htm
- Current State and Local Unemployment Rates
<http://www.bls.gov/news.release/metro.t01.htm>
- Unemployment Rate: Nebraska
<http://data.bls.gov/cgi-bin/surveymost?r5>

From the given values for unemployment obtained from the Bureau of Labor Statistics, it is evident that unemployment rates in Lincoln began to fall when the living wage ordinance was enacted (passed March 1, 2004, operative 60 days later on May 1, 2004.) When analyzing these figures it is important to look at seasonal unemployment rates, thereby comparing August unemployment rates of one year to August unemployment rates of another year and so on.

We also see that the Nebraska unemployment rate follows the same pattern. This indicates that the living wage ordinance is likely not the cause of the decline in unemployment. However, these figures are important to show that the living wage did not cause unemployment.