

City law on wages upheld: Judge Sumi issues ruling

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By Judith Davidoff

April 21, 2005, *The Capitol Times*

Madison's minimum wage law was upheld this morning by Dane County Circuit Judge Maryann Sumi.

The judge wrote in a 20-page decision that a "municipality's power to enact ordinances for the welfare of its citizens is broad, even in matters of statewide concern."

In December the Main Street Coalition for Economic Growth, a coalition of trade and business groups, filed a lawsuit claiming that Madison's minimum wage law violated state law when it raised its minimum wage above the state standard.

The coalition includes the Wisconsin Restaurant Association, the Greater Madison Chamber of Commerce, Wisconsin Manufacturers & Commerce, the Wisconsin Grocers Association and the Dane County Tavern League.

The group had also claimed having a "patchwork quilt" of ordinances around the state is bad for business.

Sumi noted in her decision that people may disagree about when and whether the minimum wage should increase, but that political and policy choice is not the court's prerogative.

"This lawsuit requires the court to decide whether Wisconsin law authorizes a municipality to independently establish a 'living wage' for its inhabitants."

City Attorney Michael May said today he was very pleased with the judge's ruling.

"We think the court applied the proper legal analysis," May said. "We are pleased the court supports the action of the Madison Common Council and agrees with our legal view of our authority."

Though state statute refers to a "living wage," the colloquial term is minimum wage, explained May.

The coalition's attorney, Thomas Pyper, said this morning he was disappointed, but not surprised by the lower court decision.

"We realized all along the ultimate decision will be made by a higher court or preferably the Legislature and governor."

Pyper said his clients will be evaluating their options.

"I'm certain we will appeal if we can't get the Legislature to resolve it, which we think is the best place to get it resolved."

The judge wrote that Madison's ordinance is valid for three reasons:

"First, the Legislature has not revoked municipal authority to enact a minimum wage ordinance. Second, the ordinance complements and does not conflict with state law because state law requires workers to be paid not less than a living wage. Finally the ordinance promotes and does not defeat the legislative purpose of protecting workers from substandard wages."

In March 2004, Madison became the first Wisconsin city to create its own minimum wage, exceeding the state and federal minimum of \$5.15 an hour.

On Jan. 1, the minimum wage for Madison's lowest wage workers increased to \$5.70, with increases phased in over the next four years until 2008, when the minimum wage would be set at \$7.75 an hour, plus inflation. After that wages would be indexed to inflation each year.

Employees who receive tips saw their minimum wage increase to \$2.57 an hour in January. These employees will receive increases over the next four years until their minimum wage reaches \$3.50 a hour, plus inflation, in 2008.

Other cities have followed Madison's lead, including Milwaukee, which approved an ordinance raising its minimum wage to \$5.70 this past October and \$6.50 the following year.

The La Crosse City Council approved a similar proposal last week.

Gov. Jim Doyle has proposed raising the state minimum wage to \$6.50 an hour, but Republican leaders have stalled any efforts for that to take place.

Also pending in the state Legislature is a bill that would allow the state to preempt local ordinances, such as those passed by Milwaukee and Madison.