

17 A) Possible Future Agenda Items

Options related joining the Flagstaff Living Wage Coalition’s legal action challenging the constitutionality of ARS 23-204 regarding local authority to regulate local compensation and benefits.

In 2006 the voters of Arizona passed an initiative entitled “Raise the Minimum Wage for Working Arizonans Act or Proposition 202.” That proposition authorizes cities, towns or counties to regulate local minimum wages and benefits as long as those wages are no lower than the state minimum wage. (A.R.S. 23-364(I)).

The Voter Protection Act prohibits the repeal by the legislature of such initiatives and the legislature cannot supersede or amend an initiative except by a 3/4ths super majority of each legislative house and then only if such law furthers the objectives of the referendum or initiative. (See Ariz. Const., Art. 4, pt. 1, Section 1, (6)(B)-(C), (14).

In 2013, the Arizona Legislature, by majority vote, adopted A.R.S. 23-204 which attempts preempt for the state the sole authority to regulate local compensation and benefits.

These two laws – one granting local authority on the issue of wages and benefits and the other attempting to take it away are still in the Arizona Revised Statutes and are in direct conflict.

On April 10, 2015, the Flagstaff Living Wage Coalition filed a complaint to declare A.R.S. 23-204 passed by the Arizona Legislature in 2013 unconstitutional in order to restore local control over local issues. The lawsuit is **not about increasing minimum wage**; it is about clearing up the confusion that exists in Flagstaff (and other communities) about the City’s authority to legislate in this area.

Options for future discussion:

1. The City may seek permission or claim a right to join the lawsuit as a plaintiff along with the Flagstaff Living Wage Coalition. The attorneys representing the Coalition have offered to **represent the City in this litigation without charge of attorneys’ fees.**
2. The City may wait for the ruling of the Superior Court. If the Superior Court rules against the Flagstaff Living Wage Coalition, then the City could decide to write an amicus brief in support of municipal control of setting minimum wages. This could be handled in-house, displacing other work, or sent to outside counsel.
3. The City could adopt a resolution supporting or opposing the litigation.