



Testimony of Paul Sonn

National Employment Law Project

Hearing Before New York State Fast Food Wage Board

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Good morning and thank you for the opportunity to testify today before the Fast Food Wage Board. My name is Paul Sonn and I am General Counsel at the National Employment Law Project.

The National Employment Law Project (NELP) is a non-profit, non-partisan research and advocacy organization specializing in employment policy. We are based in New York with offices across the country, and we partner with federal, state, and local lawmakers on a wide range of workforce issues.

My colleague Irene Tung testified at the first hearing of this wage board in Buffalo on June 5. In this testimony I supplement her comments and address additional questions that have been raised over the course of the hearings.

1. A Number of Cities in the U.S. Already Have \$15 Minimum Wages for Key Low-Wage Industries, and There Is No Evidence That They Have Cost Jobs or Been Unmanageable

As NELP’s earlier testimony at the Buffalo hearing detailed, five U.S. cities have already approved \$15 minimum wages, and a growing number of cities and states are considering adopting the same. These include ballot initiatives for state-wide \$15 minimum wages that could go before voters in California,¹ Washington, D.C.,² Missouri³ and Oregon⁴ next year, and a bill filed in Massachusetts⁵ which, similar to New York’s wage board proposal, would raise the minimum wage to \$15 for fast food and large retail workers in the state.

But in addition to these recently approved \$15 wages and current proposals, there are in fact at least a half dozen places in the U.S. that have for several years been implementing minimum wages of approximately \$15 for workers in key low-wage industries. As detailed in Table 1 of my testimony, these range from Washington, DC’s \$16.73 minimum wage for security guards in large office buildings, to Los Angeles’s \$15.37 minimum wage for hotel workers, to Syracuse’s \$15.78 minimum wage for restaurant, retail and service workers at the Syracuse airport. All of these policies are currently in effect for these targeted industries and every indication is that the industries have manageably transitioned to the higher wages. The most recent example is Los Angeles’ hotel industry, where the \$15.37 minimum wage was phased in very quickly last year with no indication that it has hurt the city’s strong hotel development market.⁶

City	Year Adopted	Current Minimum Wage (2015)	Industry Covered
Washington, DC	2007	\$16.73 (\$12.71 + \$4.02 in benefits or add'l wages)	Security guards in large buildings
Los Angeles, CA	2014	\$15.37	Hotel workers ⁷
St. Louis, MO	2002	\$16.58 (\$12.56 + \$4.02 in benefits or add'l wages)	Restaurant, retail & service workers at St. Louis airport ⁸
San Jose, CA	2008	\$15.78 (\$14.53 + \$1.25 in benefits or add'l wages)	Restaurant, retail & service workers at San Jose airport ⁹
SeaTac, WA	2013	\$15	Hotel & parking lot workers
Syracuse, NY	2012	\$15.08 (\$12.77 + \$2.31 in benefits or add'l wages)	Restaurant, retail & service workers at Syracuse airport ¹⁰

2. The Restaurant Industry Has Thrived in Areas of the U.S. with Significantly Higher Minimum Wages and Predictions That Restaurants Would Close or Lay Off Workers Have Not Materialized

This week *Crain's New York Business* interviewed Jack Bert, the owner of seven McDonalds restaurants in Queens, who said that "I can tell you unequivocally three or four would close" if this wage board were to raise the minimum wage for fast food workers in New York to \$15 as has been proposed.¹¹ Two weeks ago, the fast food-industry-backed Employment Policies Institute released a "survey" of fast food employers in the state, in which a majority predicted that they would lay off workers if the minimum wage were increased significantly for their industry.¹²

Such predictions by business owners are common when cities or states propose raising the minimum wage. However, the real world results in places that have actually raised wages – as documented by the business press and rigorous academic studies -- have proven such predictions unfounded:

- In San Jose, *The Wall Street Journal* reported, "Fast-food hiring in the region accelerated once the higher wage was in place. By early this year, the pace of employment gains in the San Jose area beat the improvement in the entire state of California."¹³
- In San Francisco, a University of California study found, as reported by *Bloomberg Business*, that after the city phased in what was at the time the highest minimum wage in the nation, "[a]mong food-service workers, who are more likely to be affected by minimum-wage laws, employment grew 17.7 percent in San Francisco, faster than either of the other [neighboring] Bay Area counties."¹⁴
- In SeaTac, Washington, *The Puget Sound Business Journal* reported that "none of these dire warnings [of business closures or job cuts] have come to pass." *The Washington Post* reported that a major hotel that predicted it would have to lay workers off instead decided to expand.¹⁵
- In Seattle, the number of food service businesses increased in the first month after the higher minimum wage took effect, continuing its growth trend of recent years.¹⁶

Such real world evidence is far more probative of what actually happens when the minimum wage is increased substantially than are predictions beforehand by individual employers.

3. The Fast Food Industry Is Dominated By Large Chains Which Pay Even Lower Wages Than the Industry as a Whole

Contrary to suggestions by certain industry groups, the fast food industry both nationally and in New York is dominated by large chains. Moreover, those large chains pay even lower wages than the industry as a whole – highlighting the need for targeted action to raise wages significantly in the industry.

NELP's Buffalo testimony provided an overview of the industry, but the key points are:

- Nationally, firms that own multiple establishments employ 63 percent of fast food restaurant workers and have on average 209 employees. Very large firms, owning 10 establishments or more, represent almost half of employment in the industry and on average have 991 employees.
- In New York, 62 percent of fast food restaurant workers are employed in establishments that are part of franchised chains.
- But workers at franchised fast food restaurants in New York earn 8 percent less a year, on average, than workers in the industry as a whole.¹⁷

4. Fast Food Franchisees Enjoy Significant Economic Advantages Over Independent Small Restaurants

Representatives of the fast food industry have argued that fast food restaurants operating under franchise agreements with the national chains are economically the equivalent of small, independent businesses. They argue that even if chains and large employers may reasonably be asked to pay a significantly higher minimum wage, franchisees should not be treated in the same fashion.

In reality, however, it is widely recognized in the business literature that fast food franchisees enjoy significant economic advantages over independent small restaurants. It is therefore reasonable to hold them to the same standards as large and chain employers. Moreover, the fact that franchised and chain fast food restaurants in New York pay even less than the industry's overall low wages highlights that they are not doing their part and should appropriately be the subject of a significantly higher minimum wage.

It is the fundamental economic theory of franchising that participation in a franchise system allows franchisees to achieve greater profitability than they would as independent businesses.¹⁸ If that were not true, fast food franchisors would not be able to charge the very significant initial purchase fees and ongoing royalty and other fees that they require of their franchisees. The very significant profitability advantages that franchise members enjoy are illustrated by case studies of individual fast food restaurants that have left the McDonald's franchise system. Even where such restaurants continued to be operated by the same people at the same locations selling similar menu items, they nonetheless saw sales decline substantially and tended to go out of business.¹⁹

Some examples of the services and other advantages that allow franchisees to achieve greater profitability than independent, non-franchised fast food establishments include:

- *Access to an established, quality brand with widespread recognition* -- According to the International Franchise Association: "A franchise provides an established product or service which may already enjoy widespread brand-name recognition. This gives the franchisee the benefits of a pre-sold customer base which would ordinarily take years to establish."²⁰
- *An overall proven "system"* -- Again, according to the IFA: "The major advantage of buying a business format franchise is that the 'system,' the means for distributing goods and or services, has been developed, tested, and associated with the trademark."²¹

- *Real estate/site selection* -- “Many franchisors provide location assistance, which can range from finding the right site to help with sales or rental negotiation,”²² according to a leading website for potential franchisees.
- *Employee and/or management training* -- Another major website for potential franchisees states, “Typically franchises will have extensive training programs that help their franchisees efficiently hire and train new employees. This eliminates a time-consuming step in getting your business started”²³
- *Systems/software* -- According to Franchise Business Review, “Franchisors provide the technology platforms and materials operators need to handle tasks like invoicing, scheduling, marketing, and customer service.”²⁴

The net result of access to these brand and systems advantages is that franchised fast food restaurants enjoy strong revenue and profits – and can reasonably be expected to pay a significantly higher minimum wage. This is why jurisdictions such as Seattle that have differing minimum wage rates for large versus small employers have elected to treat franchisees as economically comparable to large employers and therefore require them to pay the higher wage.

5. Economic Modeling Indicates That the Fast Food Industry Could Manageably Transition to a \$15 Minimum Wage

In addition to the evidence from other regions of the U.S. that have successfully phased in minimum wages of up to \$15, economic modeling by University of Massachusetts researchers provides a road map for how New York’s fast food industry could manageably transition to a \$15 minimum wage. The U. Mass. study indicates that this transition could be achieved without any reduction in employment and with only modest price adjustments – and without necessarily any reduction in profits.

According to this study, a combination of increased revenue from the fast food industry’s projected 2.5 percent annual growth in sales, increased revenue from modest 3% annual price adjustments, and significant savings from the reduced employee turnover that higher paying fast food employers are likely to see, could fully cover the cost of a \$15 minimum wage for fast food workers nationally. This would translate to just a 12 cent annual increase in the price of a Big Mac. Moreover, this model does not assume any reduction in franchisor or franchisee profit levels. Any such reductions would further smooth the transition and reduce the other identified impacts.²⁵

Moreover, it is worth highlighting that the transition would be even easier in New York than this national modeling indicates, since fast food wages are currently slightly higher in New York than nationally, and sales are stronger.

In summary, the economic experiences of other regions of the country with significantly higher minimum wages – including \$15 minimum wages for specific low-wage industries – and economic modeling indicate that such a minimum wage is realistic for New York’s fast food industry.

Thank you so much for the opportunity to testify today. I’d be happy to answer any questions that you may have.

For more information, please contact NELP General Counsel Paul Sonn at psonn@nelp.org. For more about NELP, visit www.nelp.org or www.raisetheminimumwage.org.

¹ [http://ballotpedia.org/California \\$15 Minimum Wage Initiative %282016%29](http://ballotpedia.org/California_$15_Minimum_Wage_Initiative_%282016%29)

² “Campaign to begin for a \$15 minimum wage in D.C.,” Washington Post (Apr. 15, 2015), available at http://www.washingtonpost.com/local/dc-politics/campaign-to-begin-for-a-15-minimum-wage-in-dc/2015/04/15/ea0852b2-e357-11e4-b510-962fcfab310_story.html

³ <http://s1.sos.mo.gov/CMSImages/Elections/Petitions/2016-045.pdf>

⁴ [http://ballotpedia.org/Oregon \\$15 Minimum Wage Initiative %282016%29](http://ballotpedia.org/Oregon_$15_Minimum_Wage_Initiative_%282016%29)

⁵ <https://malegislature.gov/Bills/189/Senate/S1024>

⁶ See, e.g., National Real Estate Investor, “Investors Favor U.S. Hotels Development in Los Angeles and New York” (Apr. 23, 2015), available at <http://nreionline.com/hotel/investors-favor-us-hotels-development-los-angeles-and-new-york>

⁷ Los Angeles Ordinance 183241, http://clkrep.lacity.org/onlinedocs/2014/14-0223_ord_183241.pdf

⁸ <https://www.stlouis-mo.gov/government/departments/supply/documents/upload/4-1-15-Living-Wage.pdf>

⁹ http://www.flysanjose.com/fl/business/training/ALWO_Adj.pdf

¹⁰ City of Syracuse Living Wage Ordinance, Chapter 50 of the Revised General Ordinance of the City of Syracuse, available at: http://www.syracuse.ny.us/Living_Wage.aspx; Rick Moriarty, “Syracuse lawmakers extend living wage law to airport,” Syracuse Post Standard, July 30, 2012.

¹¹ http://www.crainsnewyork.com/article/20150616/BLOGS04/150619912/fast-food-pay-hike-would-kill-half-of-my-restaurants-mcdonalds#utm_medium=email&utm_source=cnyb-dailyalert&utm_campaign=cnyb-dailyalert-20150616

¹² “Measuring the Cost of a Higher Minimum Wage for New York’s Fast Food Restaurants,” Employment Policies Institute. (June 2015), available at https://www.epionline.org/wp-content/uploads/2015/06/NY_MINWAGE21.pdf

¹³ Eric Morath, “What Happened to Fast-Food Workers When San Jose Raised the Minimum Wage? Hold the Layoffs”, Wall Street Journal (April 9, 2014).

¹⁴ Bloomberg Business, “San Francisco’s Higher Minimum Wage Hasn’t Hurt the Economy,” (Jan. 22, 2014), available at <http://www.bloomberg.com/bw/articles/2014-01-22/san-franciscos-higher-minimum-wage-hasnt-hurt-the-economy>. Michael Reich, Ken Jacobs & Miranda Dietz (eds.), *When Mandates Work: Raising Labor Standards at the Local Level*, Univ. of Calif. Press (2014), at 31, available at <http://irle.berkeley.edu/publications/when-mandates-work/>; “S.F. praised as model for U.S. on increasing minimum wage,” SF Gate (January 28, 2014), available at <http://www.sfgate.com/politics/article/S-F-praised-as-model-for-U-S-on-increasing-5183378.php>

¹⁵ <http://www.bizjournals.com/seattle/blog/2014/12/once-controversial-15-an-hour-minimum-wage-now-a.html>; http://www.washingtonpost.com/opinions/dana-milbank-no-calamity-yet-as-seatac-wash-adjusts-to-15-minimum-wage/2014/09/05/d12ba922-3503-11e4-9e92-0899b306bbea_story.html

¹⁶ <http://www.ritholtz.com/blog/2015/04/a-pizza-place-closes-in-seattle/>

¹⁷ Economic Census 2007.

¹⁸ Roger Blair & Francine Lafontaine, “The Economics of Franchising” (Cambridge Univ. Press 2005).

¹⁹ *Canterbury et al v. Commissioner of Internal Revenue*, 99 T.C. 223 (1992).

²⁰ International Franchise Association, “WHAT ARE THE ADVANTAGES AND DISADVANTAGES OF OWNING A FRANCHISE.” <http://www.franchise.org/what-are-the-advantages-and-disadvantages-of-owning-a-franchise>

²¹ International Franchise Association, “FAQs About Franchising.” <http://www.franchise.org/faqs-about-franchising>

²² “The Advantages of Franchising: Why Buy a Franchise?” October 3, 2013.

<http://www.franchisedirect.com/information/guidetobuyingafanchise/whyinvestinafranchise/29/342/>

²³ Ben Baggett, “Starting Your Own vs. Building A Business,”

<http://www.franchise.com/articles/starting-your-own-vs-building-a-business-11761/> See also: Joel Libava, “FRANCHISE OWNERSHIP: THE PROS AND CONS.” <http://www.thefranchiseking.com/franchise-ownership-pros-cons>

²⁴ “Top Franchises 2014,” Franchise Business Review, March 20, 2014.
<http://www.franchisebusinessreview.com/franchise-reports/top-franchises-2014/> See also: Joel Libava,
“FRANCHISE OWNERSHIP: THE PROS AND CONS.” <http://www.thefranchiseking.com/franchise-ownership-pros-cons>

²⁵ Robert Pollin and Jeannette Wicks-Lim, “A \$15 U.S. Minimum Wage: How the Fast-Food Industry Could Adjust Without Shedding Jobs,” University of Massachusetts Amherst Political Economy Research Institute Working Paper Series Number 373 (2015).