

The Times

Superior Court judge denies bid for minimum-wage hike on ballot **Local officials lack power to change state standard, jurist says**

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BY LISA RICH

TRENTON -- An effort to place a minimum wage proposal on the November ballot was dealt a blow yesterday.

State Superior Court Judge Linda Feinberg ruled in a case involving Lawrence that local officials do not have the power to change minimum wage standards.

The ruling stems from a proposed ordinance in Lawrence that if approved, would have required large retail stores to pay employees \$11.08 an hour instead of the state-mandated \$6.15. Feinberg said yesterday the proposal conflicts with the minimum wage standards set in April 2005 and therefore cannot be brought to voters in November.

"That's not for a local government to decide," said Feinberg, adding that municipalities cannot create rules that conflict with state legislation. "The state statute sets a floor and employers decide whether to go higher."

The "Large Retail Living Wage and Benefits Ordinance" was brought to the township council Aug. 15 by petitioners who hoped the proposal would make it on the November ballot. If passed, the ordinance would have also required large retailers to provide benefits equivalent to \$3.50 an hour.

Large retailers are companies that have a gross annual revenue of more than \$1 billion or have more than 10,000 square feet, according to the proposed ordinance.

The council tabled the ordinance after the township attorney, Kevin Nerwinski, said that putting it on the ballot would violate state and federal law.

Nerwinski then filed suit against five members of the Committee of Ordinance Petitioners, requesting a judge to block the proposal from the ballot.

Citing several cases where New Jersey courts allowed local governments to make state laws more stringent, defense attorney Jennifer Sung argued the minimum wage law does not say that local governments cannot increase the standard wage.

"This is a minimum wage law -- not a minimum law," Sung said. "The cost of living in the state greatly varies in different areas and the voters in Lawrence should have the right to say whether they think their wage should be more."

Because the ordinance would only apply to two entities -- the Quaker Bridge Mall and a proposed Wal-Mart -- Feinberg said the ordinance did not equally protect all of the township's businesses.

The precedent that would be set by passing the ordinance was also troubling, Feinberg said.

"Can you imagine how it would be if all 566 municipalities adopted a living wage?" she asked. "There would be chaos."

Feinberg's opening statements paralleled much of her comments at the end of the hearing. The judge's comments disturbed Christe McCoy-Lawrence and Edith Pike, two of the petitioners who filed the proposed ordinance.

"It's very disappointing," Pike said. "She came in and basically said she already made up her mind. What does that say about our democracy?"

The women are not sure whether they will appeal Feinberg's decision.

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