



Written by [Steve Byas](#) on March 6, 2024

Oklahoma Supreme Court Allows Minimum Wage Petition Effort to Continue

In a 6-3 decision on Monday, the Oklahoma Supreme Court ruled that the initiative petition effort to raise the state's minimum wage will be allowed to continue. [State Question 832](#) proposes to gradually raise the state's minimum wage from its present \$7.25 per hour to \$15 per hour by 2029. After that, the rate will be tied to the Consumer Price Index (CPI), which measures the effects inflation has on the general rise in prices of various goods and services.



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Oklahoma's state Constitution was enacted in 1907 at statehood, in the midst of the "Progressive Era." Among the ideas of the early 20th-century "progressives" was to allow more-direct democracy, in which the people could make laws directly through an initiative petition process. In Oklahoma, once a certain number of signatures of registered voters is obtained, the proposition is placed on a statewide ballot. The number of signatures required — presently 92,263 to enact a new law, and 172,993 to amend the state Constitution — is determined by the number of voters in the last gubernatorial election, with an eight-percent requirement. For a constitutional amendment, 15 percent is required to force a statewide vote.

The petition to raise the minimum wage is a proposed statutory change, not a constitutional amendment.

The Oklahoma Farm Bureau and the Oklahoma Chamber of Commerce had challenged the constitutionality of the effort to raise the minimum wage through the initiative petition process, arguing that tying the government-imposed wage control to the CPI was an unconstitutional delegation to the CPI of the state Legislature's authority to make law.

"The Court hereby assumes original jurisdiction," the [Supreme Court decision read](#), "and denies all relief" on the grounds that the initiative petition language "does not clearly or manifestly violate either the Oklahoma or United States Constitution."

Justice Dana Kuehn dissented, arguing that in 1910, the Court had "concluded that the judiciary should



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not interfere with the initiative petition process by determining the constitutionality of the merits of a petition before it was put to a vote.” But then, she added, “in 1975 our previous path of restraint ended. We decided that where an initiative petition violated the Oklahoma Constitution, this Court could prevent a costly and unnecessary election, and we may intervene in the initiative petition process before an election is held.”

Justice Dustin Rowe wrote, “Of course, this Court has the authority to hear a constitutional challenge to any measure which is passed and enacted into law. But neither the Oklahoma Constitution nor the initiative petition statute compels this Court to address such a challenge before it is ripe — before there is any law to discuss.”

At least that was the understanding for more than a half-century, but it seems that the Court, much like the federal courts, is not always consistent in its legal reasoning. For example, a few years ago, an initiative petition effort to place multiple restrictions on the practice of abortion was halted by the Supreme Court before it could go to a vote of the people. The Court argued that those restrictions were “unconstitutional” because of the 1973 Supreme Court case *Roe v. Wade*.

At the time, since the state Constitution held that “the people” were a part of the legislative branch of state government via the initiative petition process, that decision was mocked, with some asking if that could mean the Supreme Court could stroll onto the floor of the Oklahoma Legislature and halt a vote in process if they believed the lawmakers were passing something unconstitutional.

The Farm Bureau had urged the Supreme Court to nix the effort to increase the government-mandated minimum wage because it undermines the organization’s efforts to “support freedoms of farmers and ranchers, the promotion of individual liberties, private property rights and free enterprise.”

As if the judges would care about such concepts as individual liberties, private property rights, and free enterprise.

The fact that the supporters of this petition are desirous of tying the minimum wage to the CPI is illustrative of the problem. They obviously would not want the minimum wage to be cut, if the CPI were to go down. This indicates that the group — Raise the Wage Oklahoma — expects the CPI to go up, not down.

Prices — and wages — continue to rise because the government keeps increasing the volume of money. This is inflation, and it is what causes prices and wages to rise. It has been said that arguing that increased prices cause inflation is like saying wet streets cause rain.

One would hope that a belief in liberty, private property and free enterprise would be sufficient argument against the government setting any prices at all. This is the moral argument against the government controlling prices and wages. After all, it is really a form of stealing.

The practical argument against the minimum wage is that it violates the economic law of supply and demand. These laws tell us that when demand falls, prices tend to fall as well, and when supply falls, prices tend to increase. In regard to the minimum wage, when the price of labor is set higher than the market price, this results in unemployment. Violating this natural law is sort of like passing a law to repeal the law of gravity.

Ben Lepak, the executive director of the Oklahoma Chamber of Commerce’s Research Foundation, explained the practical problems associated with such a government-mandated wage increase. “Study after study has demonstrated that when a state or city’s minimum wage is hiked, the result is lower



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employment, higher costs for consumers, increased business failure, or some combination of those.”

Small businesses are those most negatively impacted by such a mandate. While larger retailers such as Walmart and Target can better manage such increases in their labor costs, small-business owners are often not able to do so. While they can raise their prices in an effort to pay wages higher than the market, this could simply cause many customers to not buy from them at all. Business owners can try to conform to the mandate by reducing the number of employees, through either laying off some or not hiring others, but this could then lead to customer frustration of longer delays in being “waited on.” Frustrated customers will then take their business elsewhere, such as to one of the big chain stores or chain restaurants, maybe even causing a small business to fail and their employees to become unemployed. The employee’s wage would then fall to zero dollars per hour.

Those wanting the government to impose such market controls are essentially wanting the government to impose a lie. And, as the old saying goes, Oh what a tangled web we weave, when first we practice to deceive.

Some of those supporting a minimum wage are simply ignorant of economic reality, while others are just demagogues.



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