Economic
Policy
Institute

City governments are raising standards for working people—and state legislators are lowering them back down

Report • By Marni von Wilpert • August 26, 2017

SECTIONS

Executive Summary

On August 28, 2017, low-wage workers in St. Louis, Missouri, became the latest victims of state preemption laws. "Preemption" in this context refers to a situation in which a state law is enacted to block a local ordinance from taking effect—or dismantle an existing ordinance. In this case, St. Louis had raised its minimum wage above the state minimum—but was then forced to lower it back down when the Missouri state legislature preempted the local ordinance.

Ironically, state preemption of labor standards has historically been used for good: to ensure that minimum labor standards are applied statewide. It is only in recent years that it has been so frequently used to take earnings and protections away from workers.

This report looks at the rising use of preemption by state legislatures to undercut local labor standards. It provides an overview of five key areas of labor and employment policy affected by preemption—including minimum wage, paid leave, fair work scheduling, prevailing wage, and project labor agreements—and details the extent and impact of such preemption practices throughout the United States. Finally, it presents ways local governments can push back against state preemption in their efforts to raise the living standards of their residents.

Introduction

In 2015, the City of St. Louis passed an ordinance establishing a minimum wage that was higher than Missouri's statewide minimum wage.[1] In the bill's preamble, the City's leaders explained the need for a wage increase for the working people of St. Louis:

> WHEREAS, the defining issues of our time include the increase in income inequality, the growing gap between rich and poor, and the obstacles preventing people from rising into the middle class; and . . .
>
> WHEREAS, low-wage workers in the St. Louis region struggle to meet their most basic needs and to provide

> their children a stable foundation, a safe dwelling, and an opportunity to obtain a high-quality education; and . . .
>
> WHEREAS, minimum wage laws promote the general welfare, health, and prosperity of the City of St. Louis by ensuring that workers can better support and care for their families and fully participate in the community[.]

In 2015, Missouri's state minimum wage was $7.65 per hour. By passing its local ordinance, St. Louis sought to raise it to $8.25 for many employees working within the city limits, with scheduled increases to $9 in 2016, $10 on January 1, 2017, and $11 on January 1, 2018. Meanwhile, the state's minimum wage barely budged, rising to just $7.70 during that same time period (and rising only because of an automatic index to rise with inflation).

The city's minimum wage ordinance did not go into effect until 2017, because an employer group sued the city and had it tied up in litigation for two years. The Missouri Supreme Court upheld the city's minimum wage increase and, on May 5, 2017, low-wage workers within the city limits finally got their first raise, to $10 per hour.[2]

But on May 22, 2017, the Republican-dominated Missouri state legislature passed a preemption law that prohibits cities from establishing a minimum wage higher than the state's.[3] When Missouri's law went into effect on August 28, 2017, St. Louis's $10 minimum wage sunk back down to the state's $7.70 per hour. By nullifying St. Louis's ordinance, state lawmakers have potentially undone raises for the roughly 31,000 workers in St. Louis who had received a raise to $10 when the city's ordinance took effect in May. With this action, the state lawmakers have also blocked additional scheduled raises for those same 31,000 workers plus another 7,000 workers who would have received a pay increase when the city's minimum wage was scheduled to rise to $11 in January, 2018—that's a total of 38,000 workers affected by the state's decision to preempt St. Louis's minimum wage law.[4] Because of the state representatives' actions, it's now unclear if any of St. Louis's low-income workers will receive the pay increase their local elected officials intended to give them.

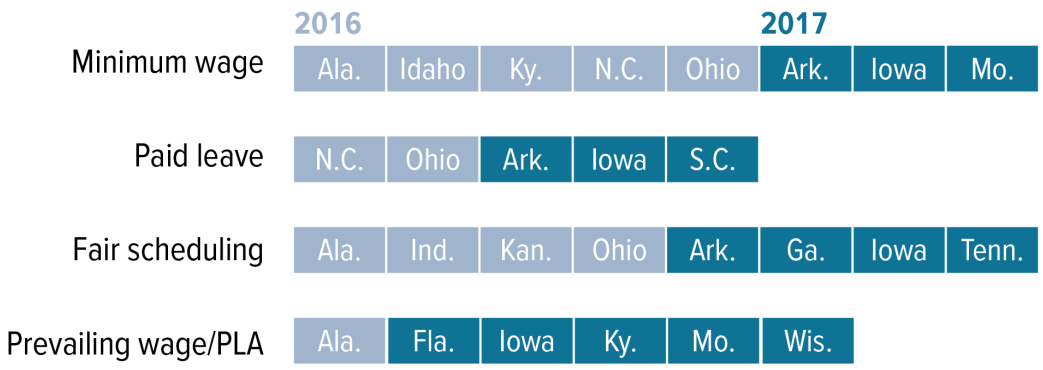
State preemption of local government labor standards is on the rise

St. Louis's struggle to give the low-income workers in its city a pay raise is not an isolated story. Since the 2010 midterm elections, when Republicans began to gain control over an increasing number of state legislatures, states have been using "preemption laws" to strike down local government efforts to improve the working conditions of their residents.[5] Preemption laws allow state governments to supersede any city or county laws the state does not agree with. Now that the Republican Party controls 33 governorships and has majority representation in both chambers of most state legislatures, conservative state legislators have increasingly used preemption laws to strike down local government efforts to increase the quality of life for working people in their municipalities.[6] In fact, many states are stripping away an entire package of basic labor and employment rights

Figure A

In the last year and a half alone, 15 states have passed 27 laws preempting local labor standards

States passing preemption laws, by type of labor standard affected, January 2016–July 2017



Notes: Gray boxes represent laws passed in 2016. Blue boxes represent laws passed in 2017. PLA stands for project labor agreement.

Source: EPI analysis of preemption laws in all 50 states

Economic Policy Institute

from workers in cities, including the ability for workers to earn paid sick days, work under fair shift-scheduling practices, and earn prevailing wages in safe, stable conditions on local government-funded construction projects.

This paper examines the rise of state preemption in five key areas of local innovation in labor and employment laws: 1) minimum wage; 2) paid leave; 3) fair work schedules; 4) prevailing wages; and 5) project labor agreements.

In 2016 and in the first half of 2017 alone, state legislatures significantly increased their use of preemption laws as a tool to strip local governments of their authority to enact ordinances improving workers' lives, **Figure A** shows which states passed such preemption laws during 2016 and the first half of 2017.

How state preemption of local government works

In law, the term "preemption" refers to situations in which a law passed by a higher government authority supersedes a law passed by a lower one. So, a law passed by a state legislature (or a provision of the state Constitution) supersedes an ordinance passed by a local government, such as a city council. In these situations, when a statewide law conflicts with a local ordinance or rule, the statewide law prevails.

In general, states either follow *Dillon's Rule*—which grants only narrow governing authority to cities—or *Home Rule*—which grants broad governing authority to cities. Whether a state

follows Dillon's Rule or Home Rule is defined in the state constitution and/or by statute enacted by the legislature.[7]

Dillon's Rule

Dillon's Rule, named for Iowa Supreme Court Justice John F. Dillon more than 100 years ago, is a method of interpreting state constitutions so that the scope of local government power is very narrow. In states that follow Dillon's Rule, a municipal corporation generally possesses only those powers that (1) the state has granted in express words; (2) that are necessarily or fairly implied in or incident to the powers expressly granted; and (3) that are essential and indispensable to the municipal governance. If there is any doubt concerning a whether a municipal corporation possesses a certain governing power, courts in Dillon's Rule states will generally find in favor of the state.[8]

Home Rule

Home Rule provisions in state constitutions enhance the power of local governments to regulate their own affairs. Home Rule provisions give cities the power to draft their own charters and determine for themselves which responsibilities they wish to assume and which powers to exercise.[9]

In the labor and employment field, states have always used preemption laws to establish state dominance over local governments, but historically these laws were used to set minimum statewide standards that established a floor on workers' rights that no local government could lower.[10] Recent state preemption laws are different; conservative state legislatures are now using preemption to eliminate the authority of a lower level of government to regulate a certain issue.[11] In practice, these laws are being used to strip authority from local governments who seek to increase protections for workers; the laws do so by prohibiting these local governments from increasing their labor/employment standards above the state floor.

State legislatures' dramatic shift in the use of preemption to forbid local governments from enhancing protections for workers above the state level has resulted in actually lowering labor and employment standards in some cases. And in other cases, state legislatures have used preemption to prevent their local governments from improving workers' wages or benefits in the first place.

State preemption in action

These are just a few examples of how state preemption has been used to lower labor standards or prevent improved labor standards from going into effect:

- **In 2011, the Wisconsin legislature passed a preemption law to repeal Milwaukee's paid sick leave ordinance**—even though Milwaukee voters had approved the ordinance in a 2008 ballot initiative with 69 percent support.[12] Milwaukee's paid sick leave standards dropped back down to the state law's requirements, which only provides for *unpaid* sick days.[13]
- In 2015, the Birmingham City Council passed an ordinance raising the city's minimum wage to $8.50 effective July 2016 and to $10.10 effective July 2017. **At the beginning of the 2016 session, the Alabama state legislature fast-tracked a minimum wage preemption law,** which Governor Robert Bentley signed 16 days after the bill was first introduced, **nullifying Birmingham's ordinance and knocking the minimum wage back down to $7.25.**[14]
- **In 2016, Ohio Governor John Kasich signed a minimum wage preemption law blocking Cleveland's local minimum wage proposal from being placed on the ballot in 2017.**[15] Cleveland's local ordinance proposed to raise the minimum wage citywide to $12 an hour in January 2018, and eventually to $15 in 2021. But the state's preemption law ensures that Cleveland's minimum wage will remain at $8.10 an hour, like the rest of the state.[16]

State preemption of local minimum wage laws

Pay for the vast majority of America's workers has been stagnant for decades. America's workers are working more productively, and have more education than ever, but they are barely keeping up with the rising cost of living—as an enormous and ever-increasing share of income growth goes to corporate profits, executive pay, and pay of earners at the highest end of the income distribution. Reversing this trend of ever-expanding income inequality requires policies that will strengthen wage growth for ordinary workers.

One of the simplest ways to accelerate wage growth for low- and moderate-wage workers is to raise minimum wages. Unfortunately, the federal minimum wage has not increased since 2009. Since then, the purchasing power of the federal minimum wage has fallen as inflation has slowly eroded its value. In 2017, the federal minimum wage of $7.25 was worth 12 percent less than when it was last raised in 2009, after adjusting for inflation, and is 27 percent below its peak value in 1968.[17] Since national policymakers have failed to preserve this basic labor standard, a parent working full time does not earn enough at the minimum wage to live above the federal poverty line.[18]

As of July 2017, twenty-nine states (and Washington, D.C.) have instituted a minimum wage higher than the federal level, but 21 states remain at the federal floor of $7.25 an hour. Workers in those 21 states make up 39.2 percent of the nonfarm workforce.[19] While

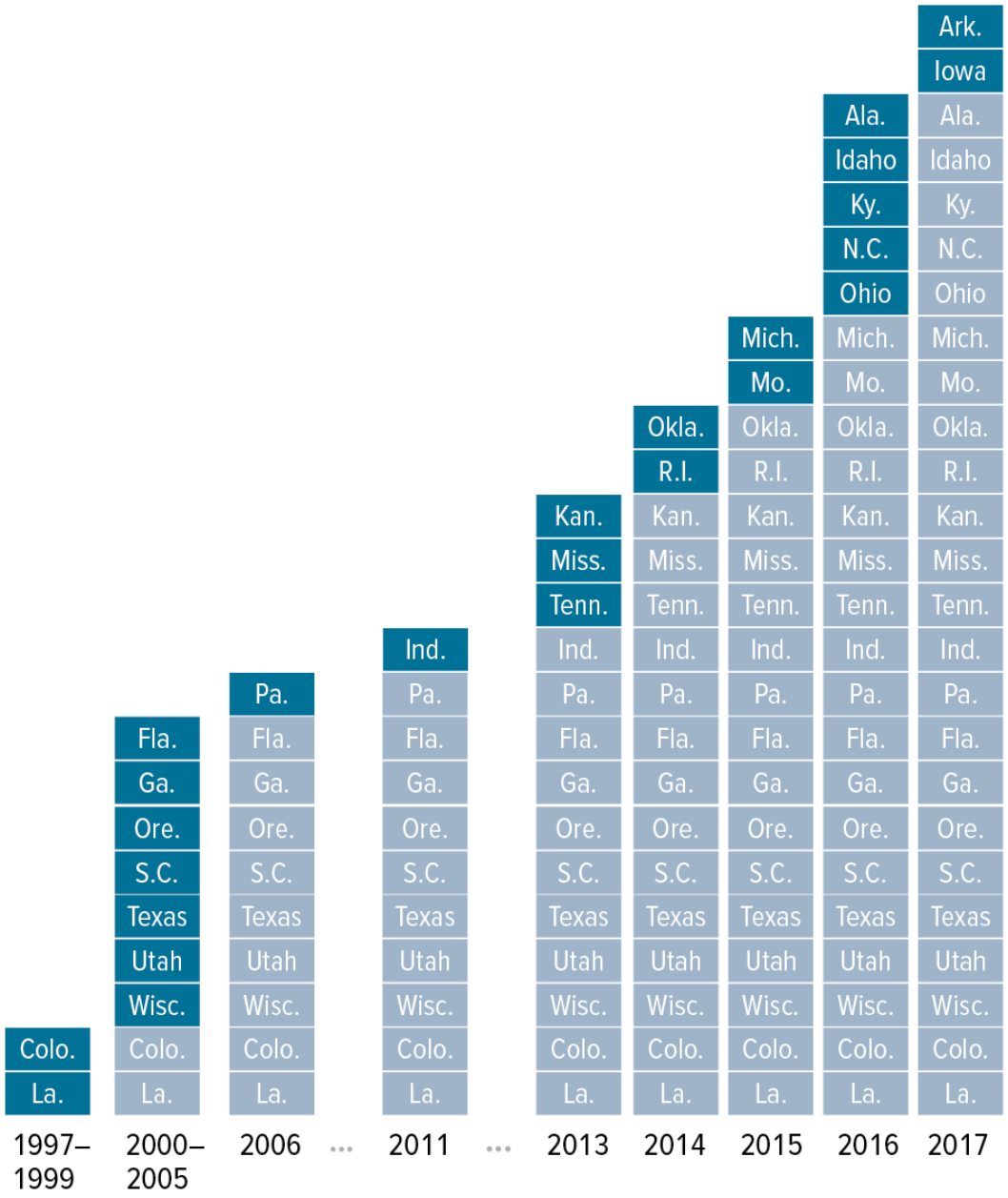
waiting for state and federal governments to act, local governments (such as cities and counties) have increasingly taken action to raise minimum wages on their own. Before 2012, only five localities had enacted their own local minimum wage laws, but as of 2017, forty counties and cities have done so.[20]

Republican-dominated state governments have met this local action with fierce resistance and have increasingly passed preemption laws to ban local governments from raising their minimum wages.[21] At least 25 states have passed laws taking away local authority to enact minimum wage ordinances, and state legislatures' efforts to block local minimum wage increases is on the rise: more than half (15) of these states have enacted their preemption laws since 2013 (see **Figure B**).[22]

Figure B

Minimum wage preemption is on the rise

States passing laws preempting local minimum wages, 1997–2017



Note: In each column, blue boxes represent minimum wage preemption laws passed in the given year(s). Gray boxes represent minimum wage preemption laws in effect (passed in previous years).

Source: EPI analysis of preemption laws in all 50 states

Economic Policy Institute

Minimum wage preemption case studies

In some cases, state legislatures have actually taken back minimum wage raises from workers who had already received them:

- **St. Louis and Kansas City, Missouri**: On August 28, 2017, Missouri's retroactive minimum wage preemption law took effect, repealing any local ordinance that has raised the locality's own minimum wage above the state's. When the preemption law goes into effect, St. Louis's minimum wage will drop from $10 down to $7.70. With this preemption law, state lawmakers have potentially undone raises for roughly 31,000 workers in St. Louis who received a raise when the city's ordinance first took effect in May 2017,[23] and likely stopped additional scheduled raises for those same 31,000 workers plus another 7,000 workers, for a total of 38,000 workers who would have gotten a pay increase when the city's minimum wage was scheduled to rise to $11 an hour in January.

  The majority of St. Louis's affected workers are women (56 percent), and the overwhelming majority (over 90 percent) are adults, age 20 or older. The majority of these workers work full time, but roughly half are either in poverty or living with family incomes at less than 200 percent of the poverty line. More than one in four have children—which means that state lawmakers have taken away dollars that would have benefited nearly 23,000 children in the St. Louis area.[24]

  In Kansas City, on August 8, 2017, sixty-nine percent of voters approved a ballot initiative that sought to raise the city's minimum wage to $10 an hour effective August 24, 2017. The initiative would have implemented annual increases of $1.25 an hour, beginning Sept. 1, 2019, until the minimum reached $15 an hour in 2022.[25] Kansas City's low-wage workers will likely never get the pay raises the city's residents voted for, because of the state's preemption law that will nullify the voters' choice on August 28.

- **Johnson, Linn, and Polk Counties, Iowa:** On January 1, 2017, the low-wage workers in Johnson County got a pay raise, from the statewide minimum of $7.25 to $10.10 an hour, when a local minimum wage ordinance—passed in 2015—went into effect.[26] Linn County workers got a raise to $8.25 on the same date; this minimum was scheduled to rise incrementally until it reached $10.25 on January 1, 2019.[27] And in Polk County, a local ordinance provided for the minimum wage to increase to $8.75 per hour in April 2017, $9.75 in January 2018, and $10.75 in January 2019.[28] But on March 30, 2017, Iowa Governor Terry Branstad signed a minimum wage preemption bill into

law, prohibiting counties and cities from raising the minimum wage and rendering Johnson and Linn Counties' January 2017 wage raises null and void.[29] Through this preemption law, the Iowa state legislature dropped the wage floor back to $7.25, rolling back minimum wage requirements for the approximately 11,000 workers who were making $10.10 in Johnson County; blocking approximately 18,000 working people in Linn County from receiving pay raises to $10.25 by 2019; and preventing another 38,000 workers in Polk County from getting pay raises to $10.75 by 2019.[30]

State preemption of local paid leave laws

Paid leave (which includes sick and family medical leave) is a fundamental need for workers who become ill, have a family member who becomes ill, or have a new child.

Without paid sick days, workers lose money when they need to take time off during an illness, causing millions of workers to have little choice but to go to work while sick. The ability to earn paid sick leave is also contributing to the widening compensation gap in the United States. Higher-wage workers have much greater access to paid sick days than lower-wage workers do: 87 percent of private-sector workers in the highest-earning 10 percent have the ability to earn paid sick days, compared with only 27 percent of private-sector workers in the lowest-earning 10 percent.[31] And for low-wage workers, having to take off a couple of days for an illness can lead to significant financial consequences, such as not having enough monthly income for groceries, gas, and auto insurance.[32]

Without paid family leave, millions of workers are also forced to choose between their paychecks and caring for a new child or an ill family member. At some point, nearly every worker will need to take time away from the job to care for a seriously ill family member, new child, or aging parent, but only 13 percent of workers in the U.S. have access to paid family leave through their employers.[33]

There is no federal law that provides workers with the right to earn paid leave—the federal Family Medical Leave Act simply allows workers to take up to 12 weeks of *unpaid* leave.[34] In the absence of federal action, seven states have passed paid sick days laws, and five states (and the District of Columbia) have passed paid family leave laws.[35] Local governments, however, have taken up the cause of providing workers with this fundamental need: at least 30 cities and two counties have enacted their own paid leave ordinances in various forms.[36]

But state governments have begun blocking local government efforts to give workers the opportunity to earn paid time off—at least 20 states have passed paid leave preemption laws (see **Figure C**).

Figure C

Paid leave preemption is on the rise

States passing laws preempting local paid leave laws, January 2004–July 2017

Note: In each column, blue boxes represent fair scheduling preemption laws passed in the given year. Gray boxes represent fair scheduling preemption laws in effect (passed in previous years).

Source: EPI analysis of preemption laws in all 50 states

Economic Policy Institute

State preemption of local fair scheduling laws

For hourly workers, not knowing when they will be scheduled to work each week makes scheduling the rest of the obligations in their lives challenging. An estimated 17 percent of the workforce face unfair and unpredictable scheduling practices.[37] Not having predictable work hours undermines workers' ability to budget for basic expenses, arrange for child care, continue their education, or maintain a second job to make ends meet.[38]

Currently, there is no federal law governing unpredictable scheduling practices. The

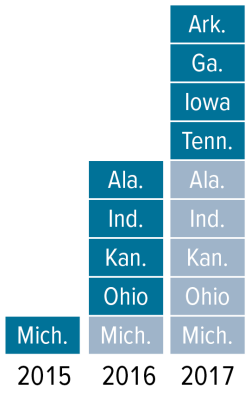
Schedules That Work Act, reintroduced in 2017 by Senator Elizabeth Warren (D-Mass.) and Representative Rosa DeLauro (D-Conn.), would address schedule predictability on a national level by, among other things, giving workers the right to request more stable schedules and advance notice of working hours, with protections against employer retaliation for doing so.[39] While waiting for the federal government to act, four cities and two states have passed various forms of fair work schedules legislation.[40]

But in the last few years, as local governments have begun to innovate in the arena of fair scheduling, state governments have stripped local governments' abilities to do so—at least nine states have passed work scheduling preemption laws since 2015 (see **Figure D**).

Figure D

Fair scheduling preemption is on the rise

States passing laws preempting local fair scheduling laws, January 2015–July 2017



Note: In each column, blue boxes represent fair scheduling preemption laws passed in the given year. Gray boxes represent fair scheduling preemption laws in effect (passed in previous years).

Source: EPI analysis of preemption laws in all 50 states

Economic Policy Institute

State preemption of local prevailing wages and project labor agreements

Prevailing wages and project labor agreements help ensure workers are treated fairly and paid a living wage while performing jobs under government contracts.

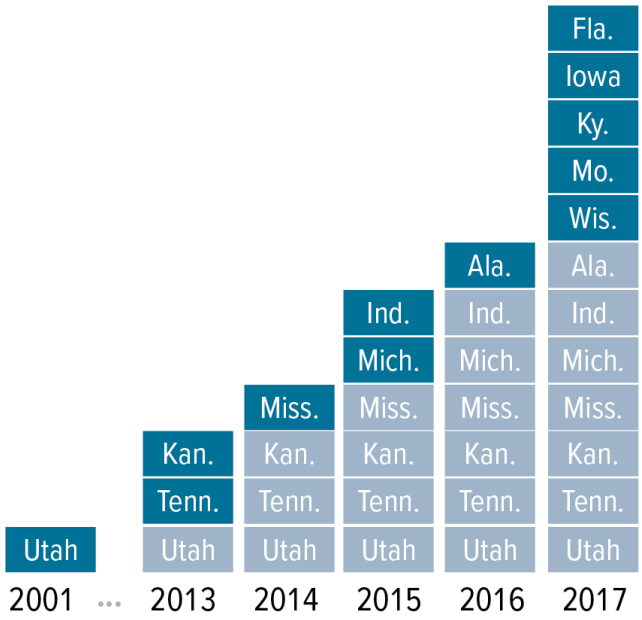
Prevailing wage laws require contractors to bid and pay at least the average wage in their locality when working on public construction contracts. Without prevailing wage requirements, contractors can opt to reduce their workers' wages to win bids on government contracts, rather than competing on the basis of efficiency and management skills, materials costs, or the productivity of their workforce. Even after taking into account cost-of-living differences, median wages are almost 7 percent lower in states where there is no prevailing wage law.[41]

Project labor agreements (PLAs) are a type of contract used in the construction industry to set the terms and conditions of employment on major projects such as roads, bridges, and power grids. PLAs can help keep projects on task—saving local governments time and money—by coordinating large numbers of individual contractors and their workforces. Both union and nonunion employers can enter into PLAs when bidding for city contracts, and PLAs can include provisions that seek to improve conditions on the worksite (e.g., health and safety rules) and provide benefits to the community, e.g., by including jobs and training opportunities for disadvantaged workers and support for small or minority-owned

Figure E

Prevailing wage/PLA preemption is on the rise

States passing laws preempting local prevailing wage/PLA ordinances, January 2001–July 2017



Note: PLA stands for project labor agreement. In each column, blue boxes represent prevailing wage/PLA preemption laws passed in the given year. Gray boxes represent prevailing wage/PLA preemption laws in effect (passed in previous years).

Source: EPI analysis of preemption laws in all 50 states

Economic Policy Institute

businesses.[42]

But in the last few years, state governments have stripped local governments' abilities to award projects funded with their own local government funds to bidders who pay prevailing wages or participate in project labor agreements. At least 12 states have passed prevailing wage or PLA preemption laws. See **Figure E**.

Local governments should be allowed to improve labor and employment standards for their own residents

A common argument conservative state legislators use in favor of preemption is that they want to maintain "uniformity" of labor regulations and avoid a "patchwork" of different laws throughout the state. For example, a corporate-backed lobbying group, the American Legislative Exchange Council (ALEC), drafted a model law called the "Living Wage Mandate Preemption Act" with sample legislative language that proclaims "private enterprises in this state must be allowed to function in a uniform environment with respect to mandated wage rates."[43] The 2017 Arkansas minimum wage and "employment

benefits" preemption law prohibiting local governments from raising their labor standards was clearly influenced by ALEC's model—it stated that "allowing localities to mandate employer-provided benefits would create a patchwork of local regulations" that would burden businesses.[44]

But ALEC easily discards its patchwork argument when seeking to push local labor standards down. When it comes to implementing local legislation to weaken labor rights, groups such as ALEC affirmatively advocate *in favor* of local labor ordinances.[45] Such ordinances—misleadingly labeled "right to work"—don't create opportunities or improve conditions for workers, but rather act to undermine unions' collective bargaining power. Indeed, ALEC published its model "Local Right to Work Ordinance" in 2015, arguing for cities and counties to adopt local right-to-work ordinances that are different from the statewide standard.[46]

Moreover, businesses have long operated under rules that differ across cities and counties. Cities and counties throughout the nation have local rules that businesses have successfully operated under—including rules that regulate zoning, business licenses, construction permits, and other local concerns. Businesses have also successfully adapted to differing local labor and employment standards. For example, cities and counties have long used different living wage standards, requiring businesses that contract with them to pay various wage rates in different localities, including Baltimore's living wage law passed in 1994 and Los Angeles's living wage proposal passed in 1997.[47] And businesses in multistate regions have also successfully adapted to varying minimum wages across close geographic areas—for example, the Washington, D.C., metropolitan area includes Virginia with a $7.25 minimum wage, Maryland at $8.75, and Washington, D.C. at $12.50. The corporate-backed lobbying groups' complaints that businesses need uniform statewide labor standards in order to be successful is belied by the decades of experience proving otherwise.

It is also important to note that there are racial and economic class undertones in the debate over labor and employment preemption laws. For example, when Alabama State Representative David Faulkner introduced the "Alabama Uniform Minimum Wage and Right-To-Work Act,"[48] the law was perceived to target Birmingham, the only city in Alabama to have raised its minimum wage above the federal floor (which the state follows).[49] Alabama's preemption law blocked approximately 65,000 workers in Birmingham from receiving a raise to $10.10 by 2017, as Birmingham's local elected officials had intended.[50] Faulkner resides in the town of Mountain Brook, which is 97 percent white and one of the wealthiest communities in the country, while Birmingham is 73 percent African American and 30 percent of its residents live in poverty.[51] The NAACP filed a lawsuit charging Alabama with "racial animus" in using preemption to overturn the Birmingham wage raise, which had been passed by a majority black city council and would have benefited the 40,000 lowest-paid workers in the city—most of whom are black.[52] A federal judge in Birmingham dismissed the suit in February 2017.[53] The case is now on appeal to the 11th Circuit.

In Missouri, State Representative Jason Chipman (R) sponsored the minimum wage preemption law that nullified St. Louis's minimum wage increase. Chipman represents

a district southwest of St. Louis that is more than 90 percent white and where the federal poverty rate is approximately 19 percent.[54] It is a wealthier part of the state overall than the City of St. Louis, which has a poverty rate of 25.5 percent and where nearly half the population is African American.[55] Chipman said, "These are supposed to be entry-level jobs," adding, "We understand there are people who rely on these jobs who are not entry-level-type people, but you can't legislate by the exception."[56] Presumably when Chipman refers to "entry-level-type people," he means workers who don't "rely on these jobs" to pay the rent, buy groceries, and support families. But Representative Chipman is wrong about the 38,000 St. Louis minimum wage workers whose pay the city wanted to increase. They are not "entry-level-type people." The *overwhelming majority* (over 90 percent) are adults, age 20 or older. The majority of these workers work full time, and more than one in four of the minimum wage workers affected have children.[57]

Strategies for fighting back: How local governments can improve labor and employment standards in the face of state resistance

While the ultimate goal is to repeal state laws that block local government efforts to raise labor standards, there are steps local governments can take to improve labor and employment standards in their localities even where the state has largely blocked their efforts.

While many cities in states with preemption laws are prohibited from raising the minimum wage for private-sector workers, they can still raise the minimum wage for the city's own employees in most cases. The Indianapolis City Council (which also represents Marion County) has discussed the idea of raising the wages for city-county workers, both to ensure city-county workers are paid a living wage and in the hope that private-sector employers will follow suit.[58]

Another step local governments can take to raise local labor standards is through their local contracting authorities, similar to how the Obama administration raised wages to $10.20 per hour for workers on certain federally contracted projects.[59] In 2014, Chicago Mayor Rahm Emanuel implemented an executive order requiring that all contractors and subcontractors who work with the city pay their workers a minimum of $13 an hour.[60] And in July 2017 San Diego's City Council passed an ordinance requiring city contractors and consultants to pay their employees equally, regardless of gender or ethnicity.[61]

Conclusion

What this whole preemption debate boils down to is this: America's workers need better jobs and better opportunities. Local governments are taking action to help the workers in their cities by raising labor standards to include higher wages and the ability to earn paid

leave to recover from illness or care for family members. But conservative state legislatures are increasingly taking those advances away from the working people who need them most.

If state legislators desire uniform labor and employment standards across their states, rather than undoing the higher standards that cities and counties are implementing for themselves, they should simply raise the statewide standards to match. America's working people deserve better, and these reforms are long overdue.

Appendix

The following tables summarize state preemption activity by state and year. **Table A1** shows which states have passed preemption laws recently—during 2016 and the first half of 2017. **Table A2** provides a comprehensive history of state preemption activity since 1997. Most of this activity occurred between 2011 and 2017.

Table A1

Eighteen state legislatures tried to block local governments from boosting local labor standards in 2016 and 2017—most succeeded

State preemption laws, by type of local ordinance preempted and year preemption bill was passed by the legislature, January 2016–July 2017

State	Minimum wage preemption	Paid leave preemption	Fair work scheduling preemption	Prevailing wage and project labor agreements preemption
Alabama	2016		2016	2016
Arkansas	2017	2017	2017	
Florida				2017
Georgia			2017	
Idaho	2016			
Indiana			2016	
Iowa	2017	2017	2017	2017
Kansas			2016	
Kentucky	2016			2017
Maryland		2017 (vetoed)		
Missouri	2017*			2017
New Mexico			2017 (vetoed)	
North Carolina	2016	2016		
Ohio	2016	2016	2016	
South Carolina		2017		
Tennessee			2017	
Virginia	2016 (vetoed)	2016 (vetoed)		2017 (vetoed)
Wisconsin				2017

* In 2017, Missouri passed an amendment to a minimum wage preemption law that was originally passed in 2015; the 2015 law did not apply to an already-passed St. Louis minimum wage ordinance, but the 2017 amendment made the preemption retroactive to cover the St. Louis ordinance.

Notes: See extended notes for details about vetoed bills.

Source: EPI analysis of preemption laws in all 50 states

Economic Policy Institute

Table A2

Since 1997, thirty state legislatures have passed bills preempting local labor standards—most have become law

State preemption laws and bills, by type of local ordinance and year preemption bill was passed by the legislature, January 1997–July 2017

State	Minimum wage preemption	Paid leave preemption	Fair work scheduling preemption	Prevailing wage and project labor agreements preemption
Alabama	2016	2014	2016	2016
Arizona		2013		
Arkansas	2017	2017	2017	
Colorado	1999			
Florida	2003	2013		2017
Georgia	2004	2004	2017	
Idaho	2016			
Indiana	2011	2013	2016	2015
Iowa	2017	2017	2017	2017
Kansas	2013	2013	2016	2013
Kentucky	2016	2012		2017
Louisiana	1997	2012		
Maryland		2017 (vetoed)		
Michigan	2015	2015	2015	2015
Mississippi	2013	2013		2014
Missouri	2015/2017*	2015		2017
New Hampshire	Dillon's Rule**	Dillon's Rule**		
New Mexico			2017 (vetoed)	
North Carolina	2016	2016		
Ohio	2016	2016	2016	
Oklahoma	2014	2014		
Oregon	2001	2015		
Pennsylvania	2006			
Rhode Island	2014			
South Carolina	2002	2017		

Table A2
(cont.)

State	Minimum wage preemption	Paid leave preemption	Fair work scheduling preemption	Prevailing wage and project labor agreements preemption
Tennessee	2013	2013	2017	2013
Texas	2003			
Utah	2001			2001
Virginia	2016 (vetoed but Dillon's Rule**)	2016 (vetoed but Dillon's Rule**)		2017 (vetoed but Dillon's Rule**)
Wisconsin	2005	2011		2017

* Missouri originally passed a minimum wage preemption law in 2015 but the law did not apply to an already-passed St. Louis minimum wage ordinance; the Missouri state legislature subsequently amended the law in 2017, making the preemption retroactive to cover the St. Louis ordinance.

** Dillon's Rule states (see explanation in report and in extended notes).

Notes: See extended notes for details about vetoed bills and Dillon's Rule states.

Source: EPI analysis of preemption laws in all 50 states

Economic Policy Institute

Endnotes

1. City of St. Louis Ordinance No. 70078 (May 29, 2015).

2. *Cooperative Home Care, Inc., et al., v. City of St. Louis, Missouri*, No. SC95401 (Slip. Op. M.O. Feb. 28, 2017).

3. Missouri House Bill Nos. 1194 & 1193 (99th General Assembly, 2017).

4. David Cooper, "State Lawmakers in Missouri Just Undercut Wages for 38,000 Workers in St. Louis," *Working Economics* (Economic Policy Institute blog), July 14, 2017; see also Marni von Wilpert, "Missouri's New Preemption Law Cheats 38,000 Workers out of a Raise," *Working Economics* (Economic Policy Institute blog), July 14, 2017.

5. See, for example, Yuki Noguchi, "As Cities Raise Minimum Wages, Many States Are Rolling Them Back," *All Things Considered* (NPR), July 18, 2017; Emily Badger, "Blue Cities Want to Make Their Own Rules. Red States Won't Let Them," *New York Times*, July 6, 2017; Dave Jamieson, "Republican Lawmakers Take a Raise Away from St. Louis Workers," *Huffington Post*, July 9, 2017.

6. Emily Warren, *When States Interfere with City-Level Innovation: Preemption and Implications for Cities*, 21st Century Cities Initiative, Johns Hopkins University, December 2016.

7. National League of Cities, *Cities 101—Delegation of Power* [fact sheet], December 13, 2016.

8. § 4:11.Delegation of powers by legislature—Municipal powers under Dillon's Rule, 2 McQuillin Mun. Corp. § 4:11 (3d ed.); see also National League of Cities, *City Rights in an Era of Preemption: A State-by-State Analysis*, February 2017.

9. Rick Su, "Have Cities Abandoned Home Rule?," *Fordham Urban Law Journal* vol. 44 (April 2017), 181, 191; § 1:44.Public local corporations—Cities, towns and villages—Home rule—Definition, 1 McQuillin Mun. Corp. § 1:44 (3d ed.).

10. Lori Riverstone-Newell, "The Rise of State Preemption Laws in Response to Local Policy Innovation," *Publis: The Journal of Federalism* vol. 47, no. 3 (July 2017), 403–4.

11. National Policy & Legal Analysis Network to Prevent Childhood Obesity, "Preemption by Any Other Name," [fact sheet], developed in partnership with the Public Health Law Center at William Mitchell College of Law, 2010.

12. Claire Zillman, "The Paid Sick Leave Battle Continues, State by State," *Fortune*, February 11, 2015.

13. State of Wisconsin Department of Workforce Development, "Wisconsin Family and Medical Leave Act" [informational webpage].

14. Mike Carson, "Gov. Robert Bentley Signs Bill to Block City Minimum Wages, Voiding Birmingham Ordinance," *Al.com*, February 25, 2016. Alabama does not have a state-level minimum wage, so employers follow the federal minimum of $7.25 an hour, which was last raised in 2009.

15. Jeremy Pelzer, "Gov. John Kasich Signs Bill Blocking Cleveland's $15 Minimum Wage Proposal," *Cleveland.com*, December 19, 2016.

16. Leila Atassi, "Special Election for Phased-in $15 Minimum Wage Proposal Set for May 2 in Cleveland," *Cleveland.com*, September 12, 2016.

17. David Cooper, *Another Year of Congressional Inaction Has Further Eroded the Federal Minimum Wage*, Economic Policy Institute, July 24, 2017.

18. David Cooper, *Another Year of Congressional Inaction Has Further Eroded the Federal Minimum Wage*, Economic Policy Institute, July 24, 2017.

19. Janelle Jones and David Cooper, *State Minimum Wage Increases Helped 4.3 Million Workers, but Federal Inaction Has Left Many More Behind*, Economic Policy Institute, January 9, 2017.

20. U.C. Berkeley Labor Center, *Inventory of US City and County Minimum Wage Ordinances*.

21. Matthew Sheffield, "Republicans in Several States Are *Lowering* the Minimum Wage—Yes, You Read That Right," *Salon*, July 9, 2017; Emily Badger, "Blue Cities Want to Make Their Own Rules. Red States Won't Let Them," *New York Times*, July 6, 2017.

22. EPI analysis of preemption laws in all 50 U.S. states; see also National Employment Law Project, "Fighting Preemption: The Movement for Higher Wages Must Oppose State Efforts to Block Local Minimum Wage Laws," July 2017; Richard Schragger, *State Preemption Of Local Laws: Preliminary Review Of Substantive Areas, Snapshot as of March 2017*, prepared for the Legal Effort to Address Preemption (LEAP) Project, May 2017.

23. While St. Louis passed the local minimum wage ordinance in 2015, low-wage workers within the city limits did not get their first raise (to $10 per hour) until May 5, 2017, because a group of employers sued the city and had the local ordinance tied up in litigation for nearly two years. The Missouri Supreme Court found in favor of the City. *Cooperative Home Care, Inc., et al., v. City of St. Louis, Missouri*, No. SC95401 (Slip. Op. M.O. Feb. 28, 2017).

24. David Cooper, "State Lawmakers in Missouri Just Undercut Wages for 38,000 Workers in St. Louis," *Working Economics* (Economic Policy Institute blog), July 14, 2017.

25. Diane Stafford, "Higher Minimum Wage Gets KC Voters' Support; Attention Turns to Statewide Campaign," *Kansas City Star*, August 8, 2017.

26. Stephen Gruber-Miller, "County Supervisors Give Final Approval to Wage Increase," *Des Moines Register*, September 10, 2015.

27. *Linn County Minimum Wage Ordinance*, April 9, 2016.

28. Kevin Hardy, "How Polk County's New Minimum Wage Affects You," *Des Moines Register*, October 12, 2016.

29. "Minimum Wage" [informational webpage], Linn County, Iowa, website.

30. EPI analysis of American Community Survey microdata, 2015.

31. Elise Gould and Jessica Schieder, *Work Sick or Lose Pay? The High Cost of Being Sick When You Don't Get Paid Sick Days*, Economic Policy Institute, June 28, 2017.

32. Elise Gould and Jessica Schieder, *Work Sick or Lose Pay? The High Cost of Being Sick When You Don't Get Paid Sick Days*, Economic Policy Institute, June 28, 2017.

33. National Partnership for Working Families, *Paid Family and Medical Leave: An Overview* [fact sheet], March 2015.

34. United States Department of Labor, "Family Medical Leave Act," *dol.gov* (accessed August 23, 2017).

35. Arizona, California, Connecticut, Massachusetts, Oregon, Vermont, and Washington have enacted paid sick days laws; see National Partnership for Working Families, *Current Paid Sick Days Laws*, November 9, 2016. In addition to the District of Columbia, California, New Jersey, New York, Rhode Island, and Washington have enacted family leave laws; see National Partnership for Working Families, *State Paid Family Leave Insurance Laws*, July 2017.

36. National Partnership for Working Families, *Current Paid Sick Days Laws*, November 9, 2016.

37. Lonnie Golden, *Irregular Work Scheduling and Its Consequences*, Economic Policy Institute, April 9, 2015.

38. Heather Boushey and Bridget Ansel, *Working by the Hour: The Economic Consequences of Unpredictable Scheduling Practices*, Washington Center for Equitable Growth, September 6, 2016.

39. Schedules That Work Act, S. 1386 / H.R. 2942, 115th Congress (2017).

40. The cities of Emeryville, San Francisco, and San Jose, California; Seattle, Washington; and the states of New Hampshire and Oregon, have enacted fair scheduling legislation; see National Women's Law Center, *Summary of Fair Scheduling Legislation*, January 2017. In 2016, New Hampshire enacted a law protecting workers' rights to request a flexible work schedule; see An Act Relative to Flexible Working Arrangements in Employment, SB416 Gen. Court, Reg. Sess. (NH 2016) (passed June 10, 2016). In 2017, Oregon enacted its Fair Work Week statute; see An Act Relating to Employee Work Schedules, SB 828 Reg. Sess. (OR 2017) (effective date, August 8, 2017).

41. Ross Eisenbrey and Teresa Kroeger, *Repealing Prevailing Wage Laws Hurts Construction Workers*, *Working Economics* (Economic Policy Institute blog), March 24, 2017.

42. Matthew M. Bodah and Dale Belman, *Building Better: A Look at Best Practices for the Design of Project Labor Agreements*, Economic Policy Institute, August 12, 2010.

43. American Legislative Exchange Council (ALEC), *Living Wage Mandate Preemption Act*, January 28, 2013.

44. An Act to Prohibit Political Subdivisions of the State from Requiring More Than Federal or State Requirements from Employers, SB 688, Gen. Assemb. Reg. Sess. (AR 2017) (passed March 28, 2017).

45. Shaila Dewan, "Foes of Unions Try Their Luck in County Laws," *New York Times*, December 18, 2014.

46. American Legislative Exchange Council (ALEC), *Local Right to Work Ordinance*, January 9, 2015.

47. Jared Bernstein, "The Living Wage Movement: Pointing the Way Toward the High Road," *EPI Viewpoints*, March 4, 2002.

48. HB174, Reg. Sess. (AL 2016) (passed on February 25, 2016).

49. See Karim Lakhani, "Birmingham & The Impact of Race on State Preemption Laws" *OnLabor*, April 3, 2017.

50. EPI analysis of American Community Survey microdata, 2015.

51. Dave Jamieson, "How Republicans Are Blocking Local Minimum Wage Hikes," *Huffington Post*, February 25, 2016; Joe B. Crowe, "Mountain Brook One of Wealthiest Communities in U.S.,"

Al.com, December 30, 2008.

52. Zachary Roth, "Suit Claims Racial Discrimination by Alabama on Minimum Wage," *MSNBC.com*, April 28, 2016.

53. Associated Press, "Federal Judge Dismisses Birmingham Minimum Wage Lawsuit," *WIAT.com*, February 2, 2017.

54. Marni von Wilpert, "Missouri's New Preemption Law Cheats 38,000 Workers out of a Raise," *Working Economics* (Economic Policy Institute blog), July 14, 2017; U.S. Census Bureau, "QuickFacts" statistics for St. Louis city, Missouri (County); Phelps County, Missouri; Crawford County, Missouri; UNITED STATES [data table], accessed August 25, 2017 at *census.gov*.

55. Marni von Wilpert, "Missouri's New Preemption Law Cheats 38,000 Workers out of a Raise," *Working Economics* (Economic Policy Institute blog), July 14, 2017; U.S. Census Bureau, "QuickFacts" statistics for St. Louis city, Missouri (County); Phelps County, Missouri; Crawford County, Missouri; UNITED STATES [data table], accessed August 25, 2017 at *census.gov*.

56. Dave Jamieson, "Republican Lawmakers Take a Raise Away from St. Louis Workers," *Huffington Post*, July 9, 2017.

57. David Cooper, "State Lawmakers in Missouri Just Undercut Wages for 38,000 Workers in St. Louis" *Working Economics* (Economic Policy Institute blog), July 14, 2017.

58. Howard Monroe, "Indy Council Looking to Raise Minimum Wage for City Workers," *wishtv.com*, May 8, 2017.

59. See Department of Labor, Wage and Hour Division, "Final Rule: Executive Order 13658, Establishing a Minimum Wage for Contractors," 79 Fed. Reg. 60634 (October 7, 2014).

60. Bill Ruthhart, "Emanuel Takes Page from Obama's Book on Minimum Wage," *Chicago Tribune*, September 3, 2014.

61. David Garrick, "San Diego Approves Equal Pay Law to Address Persistent Gender Gap," *San Diego Union Tribune*, July 31, 2017.