

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
INDUSTRIAL WELFARE COMMISSION

August 9, 2006

Wage Board Report: Minimum Wage

Introduction: The 2006 Minimum Wage Board met as instructed, and thoroughly discussed the issues in the charge. Although no recommendation was forthcoming, the discussion shed significant light on the issues. Rather than try to recap and summarize the discussion, this report includes the entire transcript by reference, and I recommend its review by any interested party.

August 4, 2006
Department of Health Services Auditorium, 1500 Capitol Avenue
Sacramento, California

On August 4, 2006, the 2006 Wage Board regarding minimum wage convened at the Department of Health Services Auditorium, 1500 Capitol Avenue, Sacramento, California.

The following persons were in attendance:

Chairperson: Paul Cohen

Wage Board Members:

Employee Representative

Jovan G. Agee
Barry Broad
Angie Wei
Chris Jones
Josefa Mercado
Mark S. Schacht
Lee Sandahl (alternate)
Allan D. Clark (alternate)

Employer Representative

Julianne Broyles
Acie Davis
Kevin Dayton
Lara Diaz Dunbar
James O. Abrams
Heidi DeJong Barsuglia
Gary Monahan (alternate)
Thomas J. Martin (alternate)

IWC Staff: Stephanie Leach
Deanna Fong, Legal Counsel

Meeting Reporter: Capitol Reporters

Call to Order

Chairperson Paul Cohen called the meeting to order at 10:15 a.m.

Roll Call

Chairperson Cohen called the roll. Six employee representatives and two employee alternates were present, and six employer representatives and two employer alternates were present.

Chairperson's Remarks

Chairperson Cohen welcomed the wage board and read the charge to be addressed by the 2006 Minimum Wage Board, which is summarized as follows:

- "1. The adequacy of the current minimum wage of \$6.75 per hour and whether the state minimum wage should be increased.
2. If you determine that the minimum wage should be increased, you should make recommendations as to:
 - (a) How much the minimum wage should increase;
 - (b) The timing of such an increase (ie. will the increase occur at one time or be phased in over a period of time); and
 - (c) Whether the minimum wage should be indexed.
3. If you determine that the minimum wage should be increased, you should make recommendations as to the adequacy of the amount which may be credited against the minimum wage for meals and lodging in Section 10 of IWC wage orders 1 through 15 and Section 9 of IWC wage order 16."

Opening Statements

Chairperson Cohen invited representatives from both sides to make brief opening statements. Opening statements and all other discussions are set forth in the transcript attached to this report.

Employee Representatives who gave opening statements:

Angie Wei – California Labor Federation

Barry Broad – California Teamsters Public Affairs Council

Mr. Broad's presentation included a prepared statement which was read into the record and distributed in hard copy to members of the wage board. A copy of the statement entitled "Statement of the Employee Representatives of the Minimum Wage Board" is attached to this report.

Employer representatives who gave opening statements:

Julianne Broyles – California Chamber of Commerce

Jim Abrams – California Hotel and Lodging Association

Motions and Votes:

The wage board discussed the items listed in the Findings and Charge from the IWC and a number of motions were made with the following resulting votes:

Motion #1: The wage board finds that the current minimum wage is adequate and should not be increased.

Mover of motion: Jim Abrams

Seconded by: Lara Diaz Dunbar

Vote: 6 – 6; motion failed. (See transcript, Page 81, Line 10)

Employee Representative

Jovan G. Agee - No

Barry Broad - No

Angie Wei - No

Chris Jones - No

Josefa Mercado - No

Mark S. Schacht - No

Employer Representative

Julianne Broyles - Yes

Acie Davis - Yes

Kevin Dayton - Yes

Lara Diaz Dunbar - Yes

James O. Abrams - Yes

Heidi DeJong Barsuglia - Yes

Motion #2: The minimum wage of \$6.75 is not adequate and should be raised.

Mover of motion: Jovan Agee

Seconded by: Angie Wei

Vote: 6 – 6; motion failed. (See transcript, Page 86, Line 11)

Employee Representative

Jovan G. Agee - Yes

Barry Broad - Yes

Angie Wei - Yes

Chris Jones - Yes

Josefa Mercado - Yes

Mark S. Schacht - Yes

Employer Representative

Julianne Broyles – No

Acie Davis - No

Kevin Dayton - No

Lara Diaz Dunbar - No

James O. Abrams – No

Heidi DeJong Barsuglia - No

Motion #3 (Open): The minimum wage should reflect the proper cost of living and the purchasing power increase needed for low wage workers.

Mover of motion: Angie Wei

Seconded by: Chris Jones

Motion #3(a): Motion to call to question whether to close debate on Motion #3.

Mover of motion: Julianne Broyles

Seconded by: Jim Abrams

Vote: 6 – 6; motion failed. (See transcript, Page 98, Line 17)

Employee Representative

Jovan G. Agee - No

Barry Broad - No

Angie Wei - No

Chris Jones - No

Josefa Mercado - No

Mark S. Schacht - No

Employer Representative

Julianne Broyles - Yes

Acie Davis - Yes

Kevin Dayton - Yes

Lara Diaz Dunbar - Yes

James O. Abrams - Yes

Heidi DeJong Barsuglia - Yes

Motion #3 (Vote): The minimum wage should reflect the proper cost of living and the purchasing power increase needed for low wage workers.

Mover of motion: Angie Wei

Seconded by: Chris Jones

Vote: 6 – 6; motion failed. (See transcript, Page 140, Line 16)

Employee Representative

Jovan G. Agee - Yes

Barry Broad - Yes

Angie Wei - Yes

Chris Jones - Yes

Josefa Mercado - Yes

Mark S. Schacht - Yes

Employer Representative

Julianne Broyles – No

Acie Davis - No

Kevin Dayton - No

Lara Diaz Dunbar - No

James O. Abrams – No

Heidi DeJong Barsuglia - No

Motion #4: If the Industrial Welfare Commission chooses to raise the minimum wage, that the amount of meal and lodging credits that may be taken against the employer's minimum wage obligation be increased proportionately.

Mover of motion: Jim Abrams

Seconded by: Julianne Broyles

Vote: 6 – 6; motion failed. (See transcript, Page 146, Line 7)

Employee Representative

Jovan G. Agee - No

Barry Broad - No

Angie Wei - No

Chris Jones - No

Josefa Mercado - No

Mark S. Schacht - No

Employer Representative

Julianne Broyles - Yes

Acie Davis - Yes

Kevin Dayton - Yes

Lara Diaz Dunbar - Yes

James O. Abrams - Yes

Heidi DeJong Barsuglia - Yes

Motion #5: The Industrial Welfare Commission should update Minnie's Budget.

Mover of motion: Mark Schacht

Seconded by: Chris Jones

Vote: 6 – 6; motion failed. (See transcript, Page 154, Line 7)

Employee Representative

Jovan G. Agee - Yes

Barry Broad - Yes

Angie Wei - Yes

Chris Jones - Yes

Josefa Mercado - Yes

Mark S. Schacht - Yes

Employer Representative

Julianne Broyles – No

Acie Davis - No

Kevin Dayton - No

Lara Diaz Dunbar - No

James O. Abrams – No

Heidi DeJong Barsuglia - No

Motion #6: If the minimum wage is increased, the increase should be in 12-month increments.

Mover of motion: Julianne Broyles

Seconded by: Acie Davis

Vote: 6 – 6; motion failed. (See transcript, Page 161, Line 22)

Employee Representative

Jovan G. Agee - No

Barry Broad - No

Angie Wei - No

Chris Jones - No

Josefa Mercado - No

Mark S. Schacht - No

Employer Representative

Julianne Broyles - Yes

Acie Davis - Yes

Kevin Dayton - Yes

Lara Diaz Dunbar - Yes

James O. Abrams - Yes

Heidi DeJong Barsuglia - Yes

Motion #7: The minimum wage should be raised to \$9.78 per hour and indexed to the cost of living using the Urban Counties Index from the Department of Finance.

Mover of motion: Angie Wei

Seconded by: Barry Broad

Vote: 6 – 6; motion failed. (See transcript, Page 194, Line 11)

Employee Representative

Jovan G. Agee - Yes

Barry Broad - Yes

Angie Wei - Yes

Chris Jones - Yes

Josefa Mercado - Yes

Mark S. Schacht - Yes

Employer Representative

Julianne Broyles – No

Acie Davis - No

Kevin Dayton - No

Lara Diaz Dunbar - No

James O. Abrams – No

Heidi DeJong Barsuglia - No

Motion #8: Motion to adjourn.

Mover of motion: Jim Abrams

Seconded by: Lara Diaz Dunbar

Vote: 6 – 6; motion failed. (See transcript, Page 205, Line 8)

Employee Representative

Jovan G. Agee - No

Barry Broad - No

Angie Wei - No

Chris Jones - No

Josefa Mercado - No

Mark S. Schacht - No

Employer Representative

Julianne Broyles - Yes

Acie Davis - Yes

Kevin Dayton - Yes

Lara Diaz Dunbar - Yes

James O. Abrams - Yes

Heidi DeJong Barsuglia - Yes

Motion #9: If any federal legislation passes with regard to the tip credit, the wage board requires that the Industrial Welfare Commission do everything it can legally to oppose it.

Mover of motion: Barry Broad

Seconded by: Angie Wei

No vote. Chair ruled motion out of order and outside the scope of the charge.

Motion #10: Motion to adjourn.

Mover of motion: Julianne Broyles

Seconded by: Kevin Dayton

Vote: 6 – 6; motion failed. (See transcript, Page 210, Line 4)

Employee Representative

Jovan G. Agee - No

Barry Broad - No

Angie Wei - No

Chris Jones - No

Josefa Mercado - No

Mark S. Schacht - No

Employer Representative

Julianne Broyles - Yes

Acie Davis - Yes

Kevin Dayton - Yes

Lara Diaz Dunbar - Yes

James O. Abrams – Yes

Heidi DeJong Barsuglia - Yes

Motion #11: The Industrial Welfare Commission should consider the cost of housing when they determine the adequacy of the minimum wage.

Mover of motion: Jovan Agee

Seconded by: Chris Jones

Vote: 6 – 6; motion failed. (See transcript, Page 221, Line 6)

Employee Representative

Jovan G. Agee - Yes

Barry Broad - Yes

Angie Wei - Yes

Chris Jones - Yes

Josefa Mercado - Yes

Mark S. Schacht - Yes

Employer Representative

Julianne Broyles – No

Acie Davis - No

Kevin Dayton - No

Lara Diaz Dunbar - No

James O. Abrams – No

Heidi DeJong Barsuglia - No

Motion #12: All twelve wage board members decline to adjourn and notify the Industrial Welfare Commission we have not been able to conclude our deliberations and want one additional day to meet, properly noticed.

Mover of motion: Mark Schacht

No vote. Chair ruled motion out of order.

Motion #13: Motion to adjourn.

Mover of motion: Angie Wei

Seconded by: Julianne Broyles

Vote: 9 – 3 in favor of Adjournment. (See transcript, Page 224, Line 7)

Employee Representative

Jovan G. Agee - Yes

Barry Broad - No

Angie Wei - Yes

Chris Jones - No

Josefa Mercado - Yes

Mark S. Schacht - Yes

Employer Representative

Julianne Broyles - Yes

Acie Davis - No

Kevin Dayton - Yes

Lara Diaz Dunbar - Yes

James O. Abrams - Yes

Heidi DeJong Barsuglia - Yes

Adjournment

There being no further business of the wage board and the above motion and vote being taken in favor of adjournment, the wage board meeting was adjourned at 4:59 p.m.

Attached is a copy of the transcript of the wage board meeting of August 4, 2006, prepared by Capitol Reporters for your reference.

As stated in the introduction to this report, all members of the Wage Board participated in a serious and thoughtful discussion of the issues raised by each of these motions. Their deliberations, as reported in the attached transcript, deserve careful consideration by the Industrial Welfare Commission, and anyone else interested in this matter. I thank all the members and alternates to the 2006 Minimum Wage Board for their dedication.

Respectfully submitted,

A handwritten signature in cursive script that reads "Paul Cohen".

Paul Cohen
Chairperson

ATTACHMENTS:

1. Transcript of Wage Board Meeting of August 4, 2006
2. Barry Broad statement entitled "Statement of the Employee Representatives of the Minimum Wage Board"

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
INDUSTRIAL WELFARE COMMISSION
2006 WAGE BOARD

PUBLIC MEETING
FRIDAY, AUGUST 4, 2006

DEPARTMENT OF HEALTH SERVICES BUILDING
FIRST FLOOR AUDITORIUM
1500 CAPITOL AVENUE
SACRAMENTO, CALIFORNIA

REPORTED BY:

KATHY L. SWINHART
CSR NO. 10150
ELIZABETH TEKLINSKY
CSR. NO. 7895

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1 PARTICIPANTS

2 IWC 2006 WAGE BOARD:

3 Non-voting Representative:

4 PAUL M. COHEN, Chair

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Employer Representatives:

- JULIANNE BROYLES
- ACIE DAVIS
- KEVIN DAYTON
- LARA DIAZ DUNBAR
- JAMES O. ABRAMS
- HEIDI DEJONG BARSUGLIA
- GARY MONAHAN, Alternate
- THOMAS J. MARTIN, Alternate

Employee Representatives:

- JOVAN G. AGEE
- BARRY BROAD
- ANGIE WEI
- CHRIS JONES
- JOSEFA MERCADO
- MARK S. SCHACHT
- LEE SANDAHL, Alternate
- ALLAN D. CLARK, Alternate

STAFF:

- DEANNA FONG, Legal Counsel
- STEPHANIE E. LEACH

ALSO PRESENT:

- DIANA MENDOZA, Translator

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1 PROCEEDINGS
2 FRIDAY, AUGUST 4, 2006
10:15 A.M.
3 ---oOo---
4 CHAIRPERSON COHEN: All right. Good morning,
5 everyone. I'm going to call to order the meeting of the
6 2006 Minimum Wage Board. Apologize for the late start.
7 There was some severe traffic problems on Interstate 80.
8 But, in any case, here we are and we will begin.
9 I'm going to start with a roll call of the employee
10 and employer representatives. When I call your name,
11 please indicate you're here.
12 Employee representative Jovan Agee.
13 MEMBER AGEE: Here.
14 CHAIRPERSON COHEN: Barry Broad.
15 MEMBER BROAD: Here.
16 CHAIRPERSON COHEN: Angie Wei.

17 MEMBER WEI: Here.
18 CHAIRPERSON COHEN: Chris Jones.
19 MEMBER JONES: Here.
20 CHAIRPERSON COHEN: Josefa Mercado.
21 MEMBER MERCADO (In English): Here.
22 CHAIRPERSON COHEN: Mark Schacht.
23 MEMBER SCHACHT: Here.
24 CHAIRPERSON COHEN: I'll probably say this again
25 later, but remember, folks, that we have a Court Reporter.

5

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1 And out of respect, please speak, not just nod, wave like
2 that and identify yourself when you're speaking.
3 Lee Sandahl, alternate.
4 ALTERNATE MEMBER SANDAHL: Here.
5 CHAIRPERSON COHEN: Allan Clark, alternate.
6 ALTERNATE MEMBER CLARK: Here.
7 CHAIRPERSON COHEN: For the employer representatives,
8 Julianne Broyles.
9 MEMBER BROYLES: Present.
10 CHAIRPERSON COHEN: Acie Davis.
11 MEMBER DAVIS: Here.
12 CHAIRPERSON COHEN: Kevin Dayton.
13 MEMBER DAYTON: Here.
14 CHAIRPERSON COHEN: Lara Diaz Dunbar.
15 MEMBER DUNBAR: Here.
16 CHAIRPERSON COHEN: James Abrams.
17 MEMBER ABRAMS: Here.
18 CHAIRPERSON COHEN: Heidi DeJong Barsuglia. I'm
19 sorry help me with that.
20 MEMBER BARSUGLIA: Barsuglia. Here.

21 CHAIRPERSON COHEN: I'll work on that, I promise.
22 Gary Monahan, alternate.
23 ALTERNATE MEMBER MONAHAN: Here.
24 CHAIRPERSON COHEN: And Tom Martin, alternate.
25 ALTERNATE ALTERNATE MEMBER MARTIN: Here.

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1 CHAIRPERSON COHEN: All right. Thank you very much.
2 And I am Paul Cohen, the non-voting chair of this
3 wage board.

4 I'd like to welcome you all to this meeting. Thank
5 you for participating on this wage board and considering an
6 issue that is of great significance both to employers and
7 employees in the state of California.

8 After considering all of the evidence related to its
9 minimum wage investigation, on July 5th, 2006, the
10 Industrial Welfare Commission found the minimum wage may be
11 inadequate to supply the cost of proper living and selected
12 this wage board consisting of an equal number of employer
13 and employee representatives and a non-voting chairperson
14 to consider and make recommendations regarding the adequacy
15 of the State's minimum wage.

16 Pursuant to Labor Code Section 1178.5, the wage board
17 shall make the recommendation to the IWC, quote, "of a
18 minimum wage adequate to supply the necessary cost of
19 proper living to and maintain the health and welfare of
20 employees in this state."

21 This is a one-day meeting to consider the specific
22 IWC charge as follows:

23 The IWC charges us to consider all materials provided
24 to us for review; and after review, to report to the IWC
25 recommendations on the following matters consistent with

1 basic statutory responsibility to ensure the minimum wage
2 is adequate to supply the cost of proper living:

3 (1) The adequacy of the current minimum wage of 6.75
4 per hour and whether the State minimum wage should be
5 increased;

6 (2) If the minimum wage should be increased, should
7 make recommendations as to: (A) how much the minimum wage
8 should increase; (B) the timing of such an increase -- for
9 example, would it occur at one time or be phased in over a
10 period of time; and (C) whether the minimum wage should be
11 indexed.

12 (3) If you determine the minimum wage should be
13 increased, should make a recommendation as to the adequacy
14 of the amount which may be credited against the minimum
15 wage for meals and lodging in Section 10 of IWC Wage Orders
16 1 through 15 and Section 9 of IWC Wage Order 16.

17 In investigating this matter and making
18 recommendations to the Industrial Welfare Commission, you
19 may consider but are not bound by the IWC's traditional
20 determination to raise these credits by the percentage
21 increase in the State minimum wage.

22 That is the specific charge to the wage board. A
23 couple of questions.

24 First of all, just a general question, and that is
25 that I am assuming that all wage board members have had an

1 opportunity to review the background materials sent to them
2 in preparation of today's meeting.

3 Does anyone feel they have not had an opportunity to
4 do so?

5 Any member who has not reviewed the materials should
6 voluntarily relinquish their role as a wage board member
7 and allow an alternate to take his or her place if that
8 alternate has reviewed the materials.

9 Seeing no one, we'll assume that everyone feels
10 adequately prepared.

11 We are here today to consider the finding and charge
12 of the Commission to make a recommendation to the IWC by
13 way of written report completed by the Chair, myself, which
14 will be delivered to the IWC and will be copied to all wage
15 board members.

16 Although present, alternates to the wage board will
17 not be allowed to vote or make motions during the wage
18 board proceedings. Based on past practice, I've reviewed
19 the minutes of previous wage boards, I will allow
20 alternates to participate in the discussion, although I ask
21 you to be respectful in the manner in which you do that.
22 Since the alternates are required to be present during the
23 entirety of the wage board proceeding today, I think it
24 would be -- it would not make much sense to ask you to sit
25 up here but remain mute the entire time.

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1 The public is welcome to observe the wage board
2 proceedings. And I see we have an overwhelming number of
3 public present here, but there are -- there is no public
4 comment, no oral testimony to be submitted to the wage
5 board today.

6 The wage board consists of six employee

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7 representatives and six employer representatives for a
8 total of 12 votes. Thus a quorum of the wage board is six
9 members, and a two-thirds majority would consist of eight
10 votes.

11 A couple of reminders before we get started here, I
12 will stop talking and turn this over to the rest of you.
13 Again, we have a Court Reporter. I would ask you to use
14 the microphone and identify yourself each time that you
15 speak, particularly the alternates since the Reporter can't
16 see you based on where the table arrangement is.

17 And I also would call to your attention -- you may
18 already have noticed -- we have a member of the wage board
19 who is being assisted by a translator, and I would ask you
20 to keep that in mind.

21 And I will say that -- to the translator, if you are
22 having difficulty, please let someone know if they need to
23 speak more slowly or take a pause.

24 And at this time I'm going to invite both sides to
25 make brief opening statements, and we will begin to

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1 consider the first question. I'll start with the employee
2 representatives.

3 MEMBER WEI: Good morning. Angie Wei representing
4 the California Labor Federation.

5 we're very happy to be here this morning representing
6 the -- for us, over two million members covered by
7 collective bargaining agreements. On the employee side, I
8 am honored to have representatives of the workers whose
9 lives we're going to discuss today: Domestic workers, farm
10 workers, janitors, cooks, school employees, warehouse
11 workers, drivers. These are the workers who work in our

12 low-wage economy.

13 we take today's deliberations very seriously. We're
14 going to enter them with deep deliberation. We've reviewed
15 the empirical evidence and hope that this will be both a
16 passionate but yet data driven discussion. And we look
17 forward to a boisterous and respectful day together.

18 And I think on behalf of us, we'd actually now like
19 to take a second collectively to ask Barry Broad, one of
20 our representatives, to read into the record a position
21 brought forward by the employee representatives this
22 morning and recognizing that after we read this statement,
23 we will be prepared to begin.

24 CHAIRPERSON COHEN: Mr. Broad.

25 MEMBER BROAD: Let me pass this down to the employer

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11

1 representatives.

2 The employee members of the minimum wage board are
3 concerned that the meeting of this wage board and all
4 actions taken by the Industrial Welfare Commission may be
5 unlawful because the Legislature has defunded the IWC.
6 While we don't know exactly from which funds the budget of
7 the IWC is being drawn, we understand that it is the
8 general budget of the Department of Industrial Relations.
9 There is considerable legal doubt whether funds transferred
10 to an agency that has been defunded for use for which the
11 Legislature has intentionally failed to appropriate money
12 is lawful.

13 This is based on the doctrine of separation of powers
14 set forth in Article III, Section 3 of the California
15 Constitution and Government Code Section 13332.15. The

IWC Wage Board 8 4 06 Part I of III.txt
16 separation of powers does not allow for the executive
17 branch of government to appropriate funds for a purpose
18 that the Legislature has not appropriated funds.

19 Article III, Section 3 of the California Constitution
20 provides the powers of state government are legislative,
21 executive and judicial. Persons charged with the exercise
22 of one power may not exercise either of the others except
23 as permitted by this Constitution.

24 The general principle is easily stated. The
25 executive branch in expending public funds may not

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1 disregard legislatively prescribed directives and limits
2 pertaining to the use of such funds. That's quoting from a
3 case called Superior Court versus County of Mendocino.

4 In addition, Government Code Section 1332.15 [sic]
5 provides no appropriation may be combined or used in any
6 manner to avoid budgeting the salary or operational expense
7 of any position or to achieve any purpose which has been
8 denied by any formal action of the Legislature.

9 The action of the Legislature to defund the IWC was
10 as formal an action as to the Legislature could take.
11 After years of funding the IWC, the Legislature stopped
12 doing so.

13 We remain extremely concerned that any action that
14 this wage board -- that the IWC takes to increase the
15 minimum wage is subject to legal challenge and could be
16 reversed by court order. As such, to avoid a strong
17 possibility of a minimum wage increase -- that a minimum
18 wage increase will be subject to legal challenge, we
19 believe that the minimum wage should be raised by action of
20 the Legislature.

21 That being said, we fully intend to participate today
22 in this -- in this meeting, but we're very concerned that
23 were the IWC to raise the minimum wage, some employer in
24 particular who doesn't want to see it raised -- and we
25 recognize that there are many -- could bring a lawsuit

13

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1 to -- basically arguing that the Legislature had defunded
2 the IWC, that it was operating in a manner that was
3 unconstitutional, and the Court could strike down the
4 minimum wage increase, in which case the workers of the
5 state of California could be left with nothing.

6 So it's our strong opinion, and we'd like that
7 opinion to be made known to the IWC through its Chair and
8 through the Chair of this wage board, that -- that we are
9 of -- we have these very significant concerns which may
10 render anything we do here today moot.

11 So with that, we're prepared to move forward.

12 CHAIRPERSON COHEN: Okay. Thank you, Mr. Broad.

13 I just would note that I appreciate your submitting
14 that in writing. I assure you that both the transcript and
15 my report will include reference to your concerns and will
16 document that you -- that the written version of that
17 statement will be included and that issue will be raised.

18 Before I go to the employers, I've been remiss. I
19 would like to introduce -- although they might be subject
20 to legal challenge, I would like to introduce Stephanie
21 Leach from IWC staff, who's been of great assistance to me,
22 and Deanna Fong, who I've just met in person for the first
23 time, but spoken on the phone, legal counsel. Thank you
24 both for assisting us today.

25 IWC Wage Board 8 4 06 Part I of III.txt
And with that, I'll call on the employer

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1 representatives for their opening statement.

2 MEMBER BROYLES: Good morning, Mr. Chairman, members
3 of the 2006 Minimum Wage Board here today to discuss a very
4 significant issue to both employers and employees.

5 I am very pleased to have along with myself, Julianne
6 Broyles from the California Chamber of Commerce, a number
7 of employers and employer representatives who will also be
8 directly affected by issues surrounding the minimum wage.
9 It is their companies that provide the jobs to workers here
10 in California, and keeping a strong economic base here in
11 California is our goal. Our job is to provide jobs for
12 California workers and to do so in a manner that both
13 prevents -- that permits us to provide jobs and also make a
14 living for ourselves and our families along with that.

15 We have a strong coalition of employers who look at
16 the issue in a -- probably a different way from the
17 employee representatives on the Industrial Welfare
18 Commission wage board today, but we think that there is a
19 way that California can be made better for all citizens
20 here in California, just not a small -- not just one small
21 segment of the employee population.

22 We think it would benefit for all citizens and all
23 employees and employers to have lower housing costs, to
24 have affordable benefits, to have lower taxes, to have
25 better roads, better transportation infrastructure and to

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1 have access for all to lifelong learning, which is really

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2 the one key issue to lifelong earnings and the ability to
3 ascend the earning ladder.

4 We are very committed to finding ways to increase
5 take-home pay and better job opportunities for all
6 Californians, and we support the policies that help workers
7 gain the abilities to earn better wages and to improve
8 their chances of both finding and keeping a job here in
9 California.

10 For that reason, we do come here today in a spirit of
11 listening to what all the members of the wage board have to
12 say on this issue and look forward to working with all of
13 you in a -- as Ms. Wei said, a boisterous and spirited
14 discussion of the issues.

15 At this time, I would like to introduce Mr. Abrams
16 from the California Hotel and Lodging Industry Association
17 to make the first motion.

18 CHAIRPERSON COHEN: Go ahead, Mr. Abrams.

19 MEMBER ABRAMS: Thank you, Mr. Chairman.

20 And the motion I'm about to make is in the context of
21 what Ms. Wei said, that we need a very I think passionate
22 but honest discussion of all the facts and circumstances
23 that come to bear on what the level of the minimum wage
24 should be.

25 The motion I am making is -- really has two goals.

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1 One is a matter of substance and position, but also it is
2 the starting point for what I believe will be a discussion
3 that we need to have here today about all of the parameters
4 and aspects of the minimum wage.

5 With that said, I make a motion that the minimum wage
6 not be increased at this time by any amount.

7 MEMBER DUNBAR: I second the motion. This is Lara
8 Diaz Dunbar.

9 CHAIRPERSON COHEN: Okay. So consistent with our
10 charge to consider whether the minimum wage is adequate to
11 supply the necessary cost of proper living and maintain the
12 health and welfare of the employees in the state, on the
13 adequacy of the minimum wage, the motion is that no
14 raise -- that no increase should be given at this time.

15 I guess we'll proceed to discussion on that motion.
16 Yes, Mr. Abrams.

17 MEMBER ABRAMS: Mr. Chairman, if it would be
18 appropriate, I would like to explain the reasoning behind
19 the motion, however you would wish to proceed.

20 CHAIRPERSON COHEN: Why don't you go ahead and make a
21 brief statement and then allow --

22 MEMBER ABRAMS: That's fine. In part this is to --
23 is to foster the discussion.

24 The papers that have been submitted by the various
25 parties and organizations point out -- as part of this

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1 proceeding, point out some of the fundamental differences
2 of opinion and philosophy approach that pertain to the role
3 of the minimum wage and considerations that pertain to
4 setting what the proper level of the minimum wage should
5 be.

6 And I think there are several issues that, not by
7 design to be accusing on anybody's part, but I think
8 they're often overlooked. And I think typically what has
9 happened and what is certainly the case of the discussion
10 before the Industrial Welfare Commission to date in this

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11 proceeding is the fact that the minimum wage is looked at
12 in an isolated fashion. And I want to speak to why it's
13 important to take the whole issue of the minimum wage in
14 the context of the employer, employment and economic
15 situation, the relationship between employer and employee
16 in California, and you can't just divorce out the minimum
17 wage without looking at all of the other things that go
18 into that relationship.

19 There is a -- a significant issue, and I would ask
20 the Chair, if you -- when we get through, if you could read
21 back something very critical that you said in your opening
22 comments, that the goal of the minimum wage is to make sure
23 that the necessary cost of proper living are provided for
24 all employees in the state of California. I believe that's
25 pretty much a verbatim quote of what you said.

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1 There has been an ongoing debate as to whether the
2 minimum wage in fact should be focused upon -- just looking
3 at this one aspect of the question, on the necessary cost
4 of proper living for an individual employee. And I would
5 submit the language you read, which is from the Labor Code
6 if I'm not mistaken, talks about the cost of proper living
7 for employees. Not employees single, not employees with
8 families, not employees with families with two-wage
9 earners, one-wage earner, seven children, two children, no
10 children or anything else.

11 Now, I do appreciate from some of the documentation
12 that was submitted in conjunction with this proceeding that
13 it has been pointed out that discussions in these
14 proceedings before prior wage boards has focused on and
15 arguments have been made in favor of looking at the minimum

16 wage in the context of a family. And the family of three
17 has recently been the -- kind of the benchmark used by a
18 lot of people.

19 We submit that the minimum wage is not a minimum wage
20 dependent upon whether you're single or whether you have a
21 family or whether you have one children, two children,
22 dependents or not. It's to provide the proper -- the cost
23 of proper living for an employee.

24 Now, we certainly will discuss and we are happy to
25 discuss what that amount or amounts should be. But, number

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1 one, we feel it's very important to look at the whole
2 minimum wage debate in terms of what a single employee
3 needs for his or her necessary cost of proper living.

4 Secondly, one of the issues that the IWC has always
5 faced and I'm sure the Legislature will acknowledge it
6 faces, too, is that whatever action it takes, while it
7 might achieve some good, should not do any harm.

8 And the debate has been very heavy in the academic
9 arena over the last 15 to 20 years whether an increase in
10 the minimum wage in fact helps or hurts employees,
11 especially those at the minimum wage or lower income
12 levels. And there are academics on both sides of the
13 equation.

14 One of the things that I think is often missed in
15 that equation, and we will discuss it, in this way we need
16 to look at all of the statistics and all of the data
17 because it makes --

18 CHAIRPERSON COHEN: Excuse me a moment, Mr. Abrams.

19 Is there someone here that can assist --

20 MS. LEACH: Can you hear the buzz?
21 (Brief interruption in proceedings.)
22 CHAIRPERSON COHEN: Sorry. Continue.
23 MEMBER ABRAMS: Thank you very much, Mr. Chairman.
24 The question is, is are there factors of harm that
25 would be caused by an increase in the minimum wage?

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1 One aspect of this is whether an increase in the
2 minimum wage will harm individuals who it is intended to --
3 supposedly to help. And --

4 UNIDENTIFIED SPEAKER: Excuse me. I'm sorry to
5 interrupt your program.

6 (Brief interruption in proceedings.)

7 CHAIRPERSON COHEN: Thank you.

8 MEMBER ABRAMS: Just to close this piece of the
9 issue, we need you to look at what is -- what is going to
10 happen if we in fact raise the minimum wage.

11 I will point out in that regard, the report that was
12 prepared by the industrial -- the Department of Industrial
13 Relations, the Division of Labor Statistics and Research,
14 their research Report 2002-1 found a couple of things
15 and -- of importance, and I don't want to take this out of
16 context at all.

17 The author of this report says that I find that
18 during the latter stage of the lengthy economic
19 expansion -- and I want to point out that the statistics
20 that are derived about the impact of the minimum wage
21 increase during periods of expansion are far different than
22 those results will be if you look at it during a period of
23 stagnant economic growth or declining economic growth.

24 But to continue, the rise in the minimum wage had

25 little impact on employment, again in the context of an

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1 expanding economy, yet a greater effect on hours worked.

2 And you can read into the -- into the body of this
3 report the conclusion is, is that while the minimum wage
4 increase at that point in time in an expanding economy
5 didn't necessarily show a decrease in employment, that
6 hours worked did go down. And employers -- in fact, there
7 is a statement later on, there was a significant movement
8 by employers. Firms may redesign jobs by using more
9 capital relative to labor, increasing their capital labor
10 ratio in response to consistent minimum wage increases.

11 So the issue really needs to be looked at in a
12 broader context, which is the point I keep trying to come
13 back to.

14 And in fact, in a rising economy, employment may grow
15 but that should not be taken as proof that an increase in
16 the minimum wage didn't harm people. Nor does it look at
17 the -- what I would call the disemployment effect, that
18 employees who might keep their jobs nonetheless find that
19 they suffer harm.

20 Employers -- and I think you will hear testimony
21 here -- not testimony, but input from the wage board
22 members today to the effect that shifts are cut, hours are
23 reduced, benefits are cut, and the crisis that we're all
24 facing today, all of us here at this table in different
25 arenas dealing with employee health care and the whole

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1 issue of how we go about providing employee health care,
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2 those employers who now provide it are going to have a
3 harder time providing it, are going to have a harder time
4 paying for all of or as much as they do. So we're very
5 concerned about the disemployment effect that a minimum
6 wage increase will bring about.

7 And lastly in this regard, and understanding we will
8 certainly have a discussion around the table, we firmly
9 believe that the minimum wage at 6.75 an hour is exactly
10 where it ought to be in the state of California.

11 It has gone up. If you look at it over time, the
12 minimum wage, while it doesn't go up as rapidly as some
13 parties here would like it to, has gone up over time. And
14 if you look at it in terms of inflation generally, we are
15 right at -- adjusting for inflation, right where we ought
16 to be.

17 We are also concerned that one size fits all is
18 really very problematic because the minimum wage, as has
19 been pointed out by a number of groups, is very blunt. It
20 affects everybody regardless of size, regardless of family,
21 if you even look at that arrangement regardless of whether
22 you're living at home and all of these other factors.

23 So for those reasons, we feel that it's important
24 that the wage board conclude that it's inappropriate to
25 raise the minimum wage at this time.

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1 Thank you very much.

2 CHAIRPERSON COHEN: Thank you, Mr. Abrams.

3 At the risk of turning this into a tennis match back
4 and forth -- it may inherently lend itself to that -- I'm
5 going to see if there's an employee representative that

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6 chooses to respond to that statement.

7 MEMBER BROAD: Well, I just have a couple questions
8 for Mr. Abrams.

9 So basically you believe that the current minimum
10 wage is adequate.

11 MEMBER ABRAMS: With the under -- yes, sir, with the
12 understanding -- at this time, with the understanding that
13 the focus is on an individual employee. Yes, sir.

14 MEMBER BROAD: So then why -- I guess I'm confused.
15 Then why did the employers in the last minimum wage board
16 make the same motion you're making today, not to raise the
17 minimum wage at that date? If actually going to 6.75 was
18 the appropriate thing, why were they opposed to raising it
19 then? And why were they opposed to raising it each of the
20 previous minimum wage boards going back to the minimum wage
21 that went in effect in 1916?

22 So that effectively if the motion had passed, the
23 minimum wage today would be 16 cents an hour and that the
24 employers would believe it should never change.

25 MEMBER ABRAMS: With respect, Mr. Broad, the last

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1 minimum wage increase that resulted in the 6.75 an hour, if
2 I'm not mistaken, was a result of Prop 210.

3 MEMBER BROAD: No. That's wrong.

4 MEMBER ABRAMS: Okay. Then --

5 MEMBER BROAD: It was when I was on the IWC, and it
6 was done by wage board. And -- it was done by the IWC, but
7 there as a wage board and a similar motion was made.

8 Therefore, what you're saying is that the employers
9 that were on that wage board -- some of them may be people
10 that are here today -- they were in fact -- you believe

11 they were in fact wrong. They should have voted to raise
12 the minimum wage to 6.75 as of this date because it would
13 have turned out to be the correct amount, as you concede.

14 MEMBER ABRAMS: No, I do think you're confused, Mr.
15 Broad.

16 MEMBER BROAD: I don't know. It's just my
17 simplemindedness.

18 If you said it's adequate today, then it should have
19 obviously been raised to what it is today and that
20 employers should have agreed to that. Therefore, you
21 should be agreeing to raise it to what it should be
22 tomorrow, if you will, so that you don't repeat the same
23 mistake that you repeated last time around and all the
24 other times back to 1916.

25 I -- you know, correct -- I mean, you know, I'm just

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1 a confused guy.

2 CHAIRPERSON COHEN: I think we have a response.

3 MS. BROYLES: With all due respect, Mr. Broad, I have
4 rarely found you confused. Misinformed, but not confused.

5 In nineteen --

6 CHAIRPERSON COHEN: If anybody has got a cell phone
7 or blackberry on --

8 (Brief interruption in proceedings.)

9 CHAIRPERSON COHEN: One thing I will point out, these
10 microphones are not equipped with an on/off switch so your
11 mic is live at all times. Something to keep in mind.

12 MEMBER BROYLES: Thank you, Mr. Chairman. Julianne
13 Broyles from California Chamber.

14 First of all, there was agreement, if I recall

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15 correctly, Mr. Broad, in the late 1980s on an increase by a
16 minimum wage board. And I believe it was 1988, so please
17 be sure of your facts.

18 Second of all, I think what we have had happen, in
19 other venues and in other ways the minimum wage has gone
20 up. The Legislature has enacted minimum wage increases
21 over time. There has been ballot propositions such as
22 Proposition 210. There has been action by the Industrial
23 Welfare Commission, which takes information not just from
24 the wage board, but from the public, from employers, from
25 employees and other people who are interested in the issue

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1 over that time and have made decisions both to and not to
2 increase the minimum wage.

3 what I believe most employers have as a concern,
4 particularly if we're going to go to the issue of indexing,
5 which seems to have segwayed into this discussion, is the
6 issue of appropriateness of timing and economic cycles at
7 times of increases and what that means to the actual
8 economy as a whole, job development as a whole and whether
9 or not Californians can continue to look forward to having
10 a job.

11 CHAIRPERSON COHEN: Before further comment, let me
12 just ask us to focus a little bit in this discussion. We
13 have been given a specific charge by the Industrial Welfare
14 Commission, and I'd like to take that charge in its
15 component pieces in a somewhat orderly fashion.

16 So the specific charge given to this wage board is
17 not to discuss or debate the philosophy of a minimum wage
18 and its economic impact, but specifically, again quoting
19 from the Labor Code, "a recommendation of a minimum wage

20 adequate to supply the necessary cost of proper living to
21 and to maintain the health and welfare of employees in this
22 state."

23 And the first question before us and the one that the
24 motion speaks to is the adequacy of the current minimum
25 wage of 6.75 per hour and whether the State minimum wage

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1 should be increased.

2 Issues of timing, indexing and so forth are issues
3 raised later in the charge, and we'll have an opportunity
4 to discuss that. But the motion before us does reflect
5 that first question, whether or not the current minimum
6 wage of 6.75 per hour is adequate. And the motion is that
7 it is and should not be increased.

8 MEMBER WEI: Mr. Chair, I speak to -- in opposition
9 to this motion.

10 This is a pretty cynical motion to assume that being
11 able to survive in the state of California on 6.75 an hour,
12 whether you're an individual or you're raising a family is
13 adequate seems to be very cynical.

14 California has fallen behind other west coast states
15 and other states throughout the country in terms of our
16 minimum wage. Just factually speaking, I don't know that
17 there's any of us who could document why California -- how
18 California is not the most expensive state to live in in
19 this country.

20 Given that we are the most expensive, you look
21 around, you look at all the states with a higher minimum
22 wage. We're stuck at 6.75 when Alaska is at 7.15 an hour;
23 Connecticut is at 7.40; the District of Columbia is at

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24 7.00; Oregon at 7.50; Washington state at 7.63 -- our
25 direct neighbors; Vermont at 7.25; Rhode Island at 7.10.

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1 These states, small and large, urban and rural across
2 the country now have a higher minimum wage than California
3 where we have the highest cost of living. Even this
4 Congress and this President are discussing in serious
5 deliberations raising the minimum wage to 7.25 an hour
6 across the country.

7 7.25 an hour is good enough for -- is what's needed
8 for workers in Louisiana or Kansas or Idaho. Is 6.75 truly
9 adequate, do these employer representatives believe it's
10 truly adequate for workers in California? Look at any
11 standard of adequacy, and we could not point to how 6.75
12 would meet that adequacy standard.

13 whether it's a self-sufficiency budget put together
14 by the California Budget Project -- if you take in the real
15 cost of what it means to survive in California, housing
16 cost, child care cost, food and health care cost, at a
17 minimum a single individual, not a single individual with
18 two kids -- an individual with two kids, a single
19 individual by the self-sufficiency standard would require
20 \$12.44 an hour for the bare necessities. 6.75 doesn't even
21 come close.

22 Can any of us around this table or in this room
23 imagine surviving on \$14,000 a year before taxes, before
24 Social Security withholdings, before having to pay for
25 health insurance or your child care costs or your rent,

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1 never mind your food? This is a cynical motion that's
2 disappointing that this is where the employer
3 representatives would start.

4 If you look at a different standard, Minnie's
5 Budget -- the Industrial Welfare Commission over four
6 decades ago put together a Minnie's Budget. A Minnie's
7 Budget, which we're going to talk later about updating it,
8 if you took -- I think they started out with a
9 self-sufficiency standard at a dollar sixteen. And if you
10 were to adjust that to today's dollars, we'd be looking at
11 a minimum wage equivalent of 9.78 an hour, \$9.78 an hour.

12 By any standard, we cannot measure that the minimum
13 wage is inadequate, and we oppose this motion.

14 MEMBER DAYTON: Mr. Chairman, Kevin Dayton
15 representing Association Builders and Contractors.

16 There are some fundamental problems with the charge
17 that's been given to the wage board. And I think the
18 fundamental problem, number one, was best stated in the
19 brief we received from the Employment Policy Institute.

20 Quote, "The minimum wage is a blunt policy unable to
21 determine between the low-wage teenager who may live in a
22 wealthy family and a low-income employee supporting a
23 family."

24 Is the minimum wage inadequate for a 21-year-old
25 working in a restaurant with tips, not owning a car and

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1 living with two roommates in a rental apartment in San
2 Francisco? Is the minimum wage inadequate for a
3 17-year-old working in retail who is living at home with a
4 parent and using the money for car insurance and
5 entertainment purposes?

6 The statistics we received from the Department of
7 Industrial Relations show that 24.6 percent of all workers
8 receiving minimum wage are age 16 to 19; another 12.8
9 percent are age 20 to 24.

10 We were provided with information showing that some
11 individuals are struggling to raise large families on their
12 own while receiving minimum wage. Many of the arguments
13 provided in support of a minimum wage increase refer to
14 family and household budgets based on the size of the
15 family or household. One could conclude from this
16 (unintelligible) that perhaps a minimum wage is supposed to
17 be graduated based on the size of the employee's household.
18 However, there's nothing in the Labor Code that authorizes
19 such calculations.

20 Another fundamental problem with the charge before
21 us, that the Labor Code has not authorized the wage board
22 to make recommendations about the adequacy of the minimum
23 wage based on the geographic area. Obviously the cost of
24 living in San Francisco is much higher than in the rural
25 parts of the state, yet there's no provision for adjustment

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1 based on locality.

2 And in fact, when I look at the U.S. Department of
3 Commerce map showing degrees of noncompliance with the
4 minimum wage and I see that noncompliance is much higher in
5 rural areas, it makes me wonder if perhaps this straight
6 across the board, one wage for the entire state is just not
7 keeping with true economic conditions.

8 And I will note that in the construction industry for
9 prevailing wage, even the flawed way that prevailing wage

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10 is determined in the state, there is recognition there
11 that, you know, wages are different in different parts of
12 the state. Wages are obviously higher in a place like San
13 Francisco and Los Angeles than in rural areas depending on
14 the trade.

15 In addition, we weren't provided any information to
16 show what percentage of workers receiving minimum wage at
17 one point in time are still at the minimum wage level a few
18 years later.

19 I quote from the July 18th, 2006 letter from the
20 Antelope Valley Board of Trade. They write that this
21 mandated wage is intended to provide workers entry level
22 opportunities that can provide skills, training and
23 experience that will enable a worker to move up or move on
24 to better paying jobs.

25 I note that looking at all of these problems, why

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1 isn't the Industrial Welfare Commission perhaps asking for
2 a recommendation about, you know, possible changes in how
3 minimum wage is calculated? Why aren't we talking about
4 such things as the earned income tax credit, which I noted
5 that both the liberal California Budget Project and the
6 conservative Employment Policy Institute said, you know,
7 this might be a good thing to look at standing onto the
8 state level.

9 There are some fundamental problems with this, and
10 for this reason I would agree with the motion, and also I
11 call for the question on this.

12 CHAIRPERSON COHEN: A couple of things in response.

13 First of all, it's my intent that everybody be given
14 an opportunity to participate and speak, and I'm going to

15 do my best to allow that.

16 That being said, I'm going to again ask members of
17 the wage board, however -- whatever framework you use to
18 make your decision on the motions, we are here with a
19 specific charge, and that is why we have convened and asked
20 to consider the charge. Whether or not you think there is
21 something wrong with the charge and the decision that the
22 IWC gave in giving us this assignment, we are here to
23 consider the assignment that we have been given. And that
24 is not to consider whether the minimum wage is good
25 economic policy or whether the IWC erred in appointing this

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1 wage board. It is to consider the specific charge.

2 And so I would ask you to, number one, keep that in
3 mind; number two, frame your remarks with response to the
4 motion under discussion.

5 And then thirdly, as a procedural matter, I don't
6 believe that under Robert's Rules of Order and certainly
7 not under Chairman Cohen's rules of order that it is
8 appropriate to speak to a motion and then call for the
9 question. So I'm going to allow for a response, and then
10 if someone who has not spoken to the issue wishes to
11 proceed to a vote, they can call for the question.

12 But I will allow --

13 MEMBER SCHACHT: Mark Schacht, California Rural Legal
14 Assistance Foundation. Just on the issue of the
15 differences in the cost of living between rural and urban
16 California.

17 We did a survey five years ago of 1,110 raisin
18 harvest workers in the five-county raisin belt of Kern,

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19 Tulare, Fresno, Kings and Madera County. And we asked them
20 a number of questions, but we focused on the adequacy of
21 their wage to provide for their basic living necessities.
22 And at that time, the minimum wage was six dollars and 25
23 percent -- \$6.25 per hour.

24 6 percent of the respondents said that the 6.25 was
25 adequate to provide for their basic life necessities; 43

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1 percent said it would have to be between one and two
2 dollars more per hour; and 51 percent said it would have to
3 be between three and five dollars more per hour.

4 when we asked them what were the basic needs that
5 would be met with that increased wage if it could be
6 provided to them, 43 percent said they would seek out
7 better or less crowded housing; 4 percent wanted regular
8 doctor visits; 6 percent wanted health insurance; 6 percent
9 wanted better clothes for their family; 3 percent wanted
10 regular dental visits; 5 percent wanted healthier food; 7
11 percent would pay off credit debts; 10 percent would buy a
12 new or used car; 5 percent would get car insurance.

13 Those are exactly the kinds of expenses that would be
14 in any real Minnie's Budget. And if you cost out the costs
15 of living in rural California, I think you're going to find
16 that they are very similar to the cost of living in much of
17 the rest of California with the possible exception of the
18 heavily urban centers.

19 So I would oppose this motion, and I won't call for
20 the question, but I hope somebody else does.

21 CHAIRPERSON COHEN: Anyone else?

22 MEMBER DUNBAR: This is Lara Diaz Dunbar with the
23 California Restaurant Association.

24 You say that we are tasked with looking at the
25 adequacy of the minimum wage, but the minimum wage, what is

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1 that? I think that there is a view that it is supposed to
2 be a starting wage, not a maximum wage. You know, we've
3 heard comments that, you know, families of three or more
4 cannot survive on the minimum wage, but minimum wage is
5 supposed to be a starting wage, someplace to start. And
6 many employees pay higher than that.

7 And we believe that if you go back to 1956 and if
8 you're actually looking at the cost-- or adjusting for
9 inflation, there's highs and lows. If you take the actual
10 average since 1956, we're about where we should be.

11 And so we don't believe that -- that the minimum wage
12 is inadequate at 6.75.

13 MEMBER WEI: To the Chair, question to the maker of
14 the motion.

15 CHAIRPERSON COHEN: Please.

16 MEMBER WEI: By what standard do you use to measure
17 adequacy?

18 MEMBER ABRAMS: That -- that is a very good question.

19 CHAIRPERSON COHEN: Mr. Abrams, let me -- and I
20 should get you as well. Please again identify yourself
21 when you're speaking.

22 MEMBER ABRAMS: Jim Abrams of the California Hotel
23 and Lodging Association.

24 That is part of the real challenge. And I respect
25 what Mr. Schacht just said.

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1 I've read the, in some cases, affidavits of a number
2 of people from the agricultural part of California, and
3 they laid out a number of expenses on various items of just
4 daily living. And in most of, I think if not all -- I have
5 to go back and double check -- again, those were a function
6 of family.

7 So I don't know, Mr. Schacht, if the -- the
8 statistics that you just presented were -- were clarified
9 to take family size out of the equation. I don't know if
10 that was the case or not. I don't think it was.

11 And I think the -- I think one of the issues for us
12 all, and I think it's an issue that we can certainly
13 discuss here today, is what the proper measure is.

14 It has been debated and there have been papers
15 presented to the IWC, to the wage board on both sides. I
16 do also believe, in response to your question, that in
17 looking at the adequacy of the minimum wage, that, again, I
18 don't look at it as an isolated phenomenon.

19 The earned income tax credit is there, and it goes --
20 and it applies to many people who earn more than the
21 minimum wage, if I'm not mistaken, the last time I did the
22 calculations, which entitles them to a tax credit; I mean,
23 just money in their pockets. And so I look at that as a
24 factor, and that has not been discussed here.

25 Minnie's Budget -- and I'd need to go back and look

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1 at all of the various items that were in that. There was a
2 lot of debate back and forth between the employer community
3 and the employee community, for lack of a better term, over
4 whether that market basket was too large or too small.

5 That said, if you -- I do look at it as -- I guess as
6 a quick rule of thumb starting point, that if you take the
7 minimum wage that's been in existence and you adjust it for
8 inflation over time, we are where the numbers ought to be.
9 So that's part of the reason for my motion.

10 MEMBER JONES: Mr. Chairman, Chris Jones here from
11 ACORN.

12 I'm getting confused because in the original motion
13 he essentially said, oh, you look at the employee, that
14 it's blind. There was no determination about what the
15 family size was, if you're single or whatever age. Now it
16 seems to me that the arguments are going to everything else
17 but just focusing on the original motion, employee.

18 Here we talk about an employee making 6.75. Well,
19 every time the price of a gallon of gas doubles, does that
20 still say -- make the minimum wage accurate?

21 Every time the housing goes up -- five years ago I
22 can remember maybe paying two to three hundred dollars less
23 in rent than I pay today, but the minimum wage is still the
24 same.

25 I mean, if -- the word "employee" just means

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1 employee. All these things have happened to the employee,
2 and you going to tell me over five years that it's still
3 the accuracy -- that it's still the same?

4 MEMBER BROYLES: Mr. Chairman, Julianne Broyles from
5 the California Chamber of Commerce.

6 Adequacy of the minimum wage, again, is the question
7 of the hour. And if I recall correctly, ACORN brought suit
8 in 1995 against the State of California charging just that
9 problem, that if the minimum wage was increased, it would

10 have a deleterious effect on their employment of their
11 employees; it was too high, and they'd have to cut
12 employees. So the issue of adequacy goes to many different
13 areas.

14 Adequacy can be, is it sufficient for certain
15 purposes? Is it sufficient for people to maintain
16 employment?

17 Small employers, in particular -- most of the members
18 of the California Chamber have less than 20 employees. And
19 our members look at the issues of whether or not we can
20 continue to supply jobs to those people in our employ.
21 That is one of the measures of adequacy.

22 When you look at where California stands -- and it
23 was brought up by one of the representatives, Ms. Wei, on
24 the issue of whether or not the U.S. Congress was examining
25 whether or not to increase the federal minimum wage to --

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1 to 7.25 per hour. Again, that's an adequacy measurement
2 across the board.

3 In some ways that might be a more fair way to look at
4 making sure that all employers are on an equal footing, a
5 level footing for paying minimum-wage workers across the
6 nation, rather than some states having significantly higher
7 than others and some states using the federal measure of --
8 of an adequate minimum wage, which today is 5.15 per hour.

9 Adequacy of the minimum wage to our members, our
10 small members and our small employers is whether or not
11 they can keep their doors open. They operate on very slim
12 profit margins.

13 And when you have that, when you keep your paychecks

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14 in the bottom drawer -- my mother, for instance, recently
15 has become a small business owner, has two part-time
16 employees. She's 72 years old. She decided out of the
17 blue, surprise, I'm buying a business and was very
18 surprised when she heard many of the issues that I've
19 worked on over the years that she's done so.

20 what's been interesting is that -- when she figured
21 out after her first year of business here in California
22 that her profit is \$17 a day.

23 Raising the minimum wage to 6.75 -- and she has two
24 part-time, minimum-wage employees -- again, will, you know,
25 be a very big cost to her business after she finishes

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1 paying workers' Comp, paying health insurance, paying her
2 unemployment insurance, paying all of the other issues that
3 go along. But whether or not adequate is for a business
4 the same thing as adequate for a minimum-wage worker means
5 whether or not one or two of her employees may not -- if
6 she has to go to just running the business by herself
7 without any employees, and is that an adequate minimum
8 wage?

9 Minimum wage almost always goes to no- and
10 low-skilled workers, people who have a difficult time
11 moving up the employment ladder because of language
12 challenges, because of literacy challenges, because of
13 other impediments such as whether or not they have
14 established correct residency status. All of those things
15 figure into somebody's ability to move up the employment.
16 As you gain skills, you move farther up.

17 And almost every study that we have seen over the
18 years shows that within one year almost all minimum-wage

19 workers receive an increase from their employer or they
20 move to other employers who can pay them more for their
21 expanded skills that they've gained on that job. I don't
22 know of any report that goes counter to that.

23 Again, adequacy is always based in minimum wage, and
24 wages as a whole are based on your skill level, your
25 ability to be flexible in terms of learning new skills and

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1 moving forward.

2 MEMBER SCHACHT: Mr. Chairman, Mark Schacht. I'd
3 like to respond --

4 CHAIRPERSON COHEN: Briefly. I think we have a new
5 speaker, so if you'll defer.

6 MEMBER SCHACHT: Sure.

7 MEMBER AGEE: Jovan Agee representing United Domestic
8 Workers of America, AFSCME.

9 In 2002, the 6.75 which we're currently at was
10 implemented. At that time, whatever the adequacy was
11 defined to be was determined that 6.75 is adequate. In
12 2006, 6.75 has lost the purchasing power of 88 cents or
13 equivalent to 11.5 percent decline to what it was in 2002.

14 So considering that in 2002, 6.75 was adequate, I
15 would assume that 6.75 today is not adequate based on the
16 cost of living increases and the purchasing power declining
17 by 11.5 percent. So I have to speak in opposition to the
18 motion.

19 MEMBER DAVIS: Mr. Chairman, Acie Davis, Davis &
20 Adams Construction.

21 The minimum wage to me in the construction business
22 is a beginning wage. And most of the people that I would

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23 hire at that wage would be laborers that want to learn a
24 trade. It's an opportunity for them to learn a business,
25 to learn a trade, learn a skill and be able to move up in

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1 their ability to make money. So they would start at that
2 wage with the idea that over time, as they gain skills,
3 they'll make more money. And I find that to be generally
4 true in the construction business.

5 Increasing the minimum wage makes it more difficult
6 for me and others to hire people at that beginning wage.

7 The other thing is, we're talking about in general a
8 dollar an hour, which doesn't really equate to a dollar.
9 It probably is closer to a dollar fifty, again, if you take
10 into consideration Social Security taxes, insurance costs
11 and other costs that get added to that dollar to make it
12 more than a dollar.

13 we're also talking about people being able to have a
14 standard of living at 6.75. If it goes to a higher number
15 and people don't hire people or hire fewer people or even
16 lay people off, I would argue that you're much worse off to
17 not have a job than to have a job at the minimum wage.

18 I'm sure that everyone who is earning minimum wage
19 would want to make more money per hour. I don't think
20 there's anybody on minimum wage that doesn't want to make
21 more money. The question is, is it -- does it make
22 economic sense for an employer to pay them more money and
23 stay in business? Or does it make more sense to say, if it
24 gets to a certain cost, I'm going to have to let some
25 people go and require others to be more productive?

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1 Therefore, those that are the newest or the trainees
2 are going to be the first to go or the last to get hired.
3 And those that have the greatest skill are going to be
4 those that will be retained.

5 So I do think that we make it difficult for people to
6 start work when we make the minimum wage higher.

7 CHAIRPERSON COHEN: Okay.

8 MEMBER WEI: Question of the speaker.

9 CHAIRPERSON COHEN: I asked Mr. Schacht to defer, so
10 I'd like to give him an opportunity --

11 MEMBER WEI: I have a question to the speaker.

12 Respectfully, Mr. Davis, do you offer health
13 insurance to your employees?

14 MEMBER DAVIS: I'm sorry. I didn't hear it.

15 MEMBER WEI: Do you offer health insurance to your
16 employees?

17 MEMBER DAVIS: Yes, I do.

18 MEMBER WEI: Can you tell me a little bit about your
19 health care structure.

20 MEMBER DAVIS: The health care structure is based on
21 each individual person. There's a menu of health care
22 providers, Sharp, Blue Cross, all of those. The company
23 pays 100 percent of each individual's health care at the --
24 at whatever is the minimum on the menu.

25 In other words, if the Sharp plan is the least

1 expensive, than the company pays 100 percent of that. If
2 you want Blue Cross for some reason, you have to pay the
3 difference.

4 The company also has a 401(k) plan, that if you've

5 been there for a year, you can participate in that and we
6 contribute 10 percent. And then we also have paid
7 holidays.

8 MEMBER WEI: Have your health care costs gone up?

9 MEMBER DAVIS: Yes, they have, considerably.

10 MEMBER WEI: And how has that cost premium been
11 split? Have you absorbed all of the increases in the
12 health care cost or have they been shared by the workers?

13 MEMBER DAVIS: I've absorbed them all.

14 MEMBER WEI: Thank you.

15 MEMBER SCHACHT: Mr. Chairman, Mark Schacht.

16 On the issue of entry wage, minimum-wage workers,
17 agriculture employs about 1.1 million workers a year and
18 primarily in counties stretching from the Mexican border to
19 the Sacramento Valley that have near double-digit
20 unemployment even at the peak of harvest.

21 There are tens of thousands of agricultural workers
22 who work at the minimum wage whose only realistic chance of
23 an increase in their wages is either a union contract or an
24 action by the IWC or the Legislature.

25 Agriculture itself has -- has reached a record high

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1 in cash receipts in 2004 -- these are the most recent
2 data -- of 31.8 billion dollars, and the commodities that
3 contributed the most to the increase were milk, almonds and
4 grapes.

5 Milk production increased 2.9 percent, cash receipts
6 went up to 5.3 billion, and the average return to the -- to
7 the dairy farmer rose 29 percent per hundred pounds of
8 milk. Almonds, California's number one export crop, total

9 cash receipts rose from 1.6 billion to 2.2 billion. Grapes
10 rose 19 percent to 2.76 billion.

11 Other notable increases in the 20 top commodities,
12 beans up 59 percent in cash receipts; chickens up 33
13 percent; corn, sweet corn up 47 percent; hogs up 44
14 percent; lemons up 32 percent; milk up 33 percent; onions
15 35 percent; peaches 30 percent; pears up 46 percent;
16 peppers up 49 percent; pistachios up 206 percent; squash up
17 38 percent.

18 You know, the bounty of this state's agriculture
19 production is -- is in fact the result of a veritable army
20 of impoverished workers. There are estimates by the
21 University of California and others that as many as
22 three-quarters of the entire work force makes less than
23 \$10,000 a year.

24 They have no option to get better wages out of better
25 jobs in the counties that they work. The only options they

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1 have are to continue working at substandard wages and --
2 and they're -- you're the only protection that they can --
3 they can hope for.

4 Because their employers -- although they're making
5 adequate and seemingly are quite profitable in recent
6 years, their employers aren't sharing that bounty with
7 them. And this IWC has got to force those employees to
8 share some of those profits with the people who create
9 the -- the wealth of the industry.

10 MEMBER DUNBAR: This is Lara Diaz Dunbar on behalf of
11 the California Restaurant Association.

12 And while we appreciate your views in one industry, I
13 can certainly say that that is not the case for all

14 industries.

15 when you look at the adequacy of the minimum wage, it
16 seems that there's a lot of indication that you are having
17 to look at what the impact is on the employee. And, you
18 know, we may or may not agree on this, but you're looking
19 at whether they can -- the employee can survive at a
20 certain minimum wage. You have to look at all impacts on
21 the employee in that same token.

22 And I have to agree with Mr. Davis, that if employers
23 cannot just afford the minimum wage increase, which would
24 certainly be the case with a lot of the restaurants,
25 they're going to be forced to cut shifts, cut jobs. And

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1 I -- all employees would rather have a job than not have a
2 job.

3 And so you just have to look at the total impacts.
4 And in our industry, it definitely wouldn't -- it would
5 have that impact.

6 MEMBER WEI: Question to the speaker of the motion.
7 Question to the speaker, the prior speaker. I'm sorry.

8 Ms. Dunbar, after the last minimum wage increase in
9 2002, do you have figures on the growth or lack thereof of
10 the restaurant industry in California?

11 MEMBER ABRAMS: I'm sorry. I couldn't quite hear --

12 MEMBER WEI: I'm sorry, Mr. Abrams. I misspoke. Not
13 to the maker of the motion, but to the prior speaker, Ms.
14 Dunbar.

15 Looking at the restaurant industry that you
16 represent, can you talk to jobs, the number of jobs in the
17 restaurant industry after the last minimum wage increase?

18 MEMBER DUNBAR: well, I can tell you that there is --
19 what happens is that basically the potential for new jobs
20 and the employees per unit goes down. And the people who
21 end up suffering are the back-of-the-house folks who get
22 lesser.

23 If they're -- if they're expected to get a higher
24 increase, they actually lose out on the benefit to the
25 tipped employees who are the ones paid minimum wage. They

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1 get --

2 MEMBER WEI: I'm speaking to just in terms of the
3 number of jobs. My question is, what happened after the
4 last minimum wage increase in California in your industry?

5 MEMBER DUNBAR: The number of potential jobs
6 decreased.

7 MEMBER WEI: The number of the jobs in your
8 industry decreased?

9 MEMBER DUNBAR: Potential jobs. I just mentioned
10 that every year there's an estimate, and the number of
11 potential jobs decreased.

12 MEMBER WEI: what I heard you arguing is that the
13 back-of-the-house employees may not enjoy the benefits of a
14 minimum wage increase, not necessarily that there would be
15 less jobs created in the back of the house.

16 MEMBER DUNBAR: I would have to argue that. It's
17 both. I think that you lose employees per unit, which
18 means less jobs, and the potential for new jobs are
19 decreased as well as the amount that the back-of-the-house
20 folks can enjoy in higher wages --

21 MEMBER WEI: In terms of the jobs in your industry in
22 the state --

23 CHAIRPERSON COHEN: Let her finish.

24 MEMBER DUNBAR: I think I just answered that. Yes,
25 lower jobs.

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1 MEMBER WEI: -- jobs versus the number of jobs in
2 2004 in the restaurant industry.

3 By California or --

4 MEMBER DUNBAR: I don't have the specific figures,
5 but that's what happens in the industry.

6 MEMBER WEI: What about, do you have figures for what
7 happened in the city and county of San Francisco after
8 their minimum wage increase?

9 MEMBER DUNBAR: No, none.

10 CHAIRPERSON COHEN: Ms. Broyles.

11 MEMBER BROYLES: Actually, Mr. Chairman, I was going
12 to ask the favor of the Chair to permit one of our employer
13 members who actually runs a specific restaurant, Mr.
14 Monahan, to respond to Ms. Wei.

15 CHAIRPERSON COHEN: As I said before, alternates are
16 permitted to participate in the discussion. So --

17 ALTERNATE MEMBER MONAHAN: Would that be okay, Mr.
18 Chair?

19 CHAIRPERSON COHEN: Yes.

20 ALTERNATE MEMBER MONAHAN: Thank you. My name is
21 Gary Monahan representing basically myself and hopefully
22 some other small restaurant owners --

23 CHAIRPERSON COHEN: Excuse me just a moment. Can you
24 hear him?

25 THE REPORTER: Hardly.

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1 CHAIRPERSON COHEN: You really need to get the
2 microphone close and speak loudly perhaps.

3 ALTERNATE MEMBER MONAHAN: They've got us back in
4 these holes here, so I'll try and speak up for everybody.

5 Thank you, Mr. Chair, one for recognizing me now and
6 the opportunity as an alternate to speak today. Coming in
7 we weren't sure if we were just going to sit here like
8 bumps on a log as you mentioned earlier and be mute.

9 My name is Gary Monahan, and I own a -- for the past
10 six years I've owned my own restaurant in Orange County.
11 Prior to that I have managed several restaurants and also
12 worked as a bartender and several other positions, many of
13 which were at minimum wage.

14 The question I believe, too, is if the minimum wage
15 were to increase, how would that affect a small business, a
16 restaurant such as myself? In our case, I have 20
17 employees including myself as a working manager. The
18 minimum-wage employees I have are at the front of the house
19 and they're all tipped employees.

20 what the minimum wage increase would do is would
21 force a raise to my most capable employees that are mostly
22 part-time employees earning tips, but also have other ways
23 of supporting themselves, whether it's school grants,
24 whether they live at home, whether they have a second job.

25 The folks that most would need the raises are the

1 ones that hopefully employers like myself pay more money to
2 across the board statewide. And unfortunately I would be
3 unable to raise those wages because we'd be forced to put

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4 whatever money we may have in profits into wage increases
5 for the front of the house. Secondly, this would force up
6 our workers' Comp costs, our insurance costs, and our tax
7 costs.

8 On top of that, the restaurant industry is very
9 difficult to make a profit. And when you have a forced
10 increase in costs, then your profit margin is going to go
11 down and you're going to have to find another way to
12 survive. And that may mean cutting staff, cutting hours.
13 It could be in the front of the house, it could be in the
14 back of the house, but frankly it would probably be in
15 both.

16 Again, I can't give you figures from 2002 statewide,
17 but what I can say is that it would be very devastating to
18 a small business owner such as myself to have to take in
19 this type of a minimum wage increase.

20 We would much rather be able to -- in my case, the
21 mention earlier was on health care, I do provide health
22 care for my full-time employees. They are mostly from the
23 kitchen staff. And, again, a minimum wage increase would
24 be forced on those not needing that increase in our
25 industry, and that would be the wait staff.

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1 CHAIRPERSON COHEN: Mr. Broad.

2 MEMBER BROAD: Well, I don't know. I would be
3 prepared to put up a bet of, say, five grand against any of
4 you that restaurant employment has increased in total since
5 the last time. Anybody want to bet?

6 Anyone looked at the statistics? You think the total
7 employment has gone down in the restaurant industry or gone
8 up? Are there fewer restaurants or more restaurants?

9 You know, it used to be -- I remember one time
10 debating the minimum wage on the floor of the Legislature.
11 And Dick Floyd, old Dick Floyd, a former legislator said,
12 you know, when the same issue came up -- and, of course, if
13 you do this long enough like me, since the same thing gets
14 said every single time at every one of these wage board
15 meeting, every time the debate happens the exact same thing
16 gets said, the faces just change, you know. And, you know,
17 the ingenues show up and the old guys, you know, disappear
18 or whatever.

19 But the -- I remember Dick Floyd saying, Gosh, you
20 know, when I started in the Legislature there was a
21 restaurant every block. Then there was a restaurant every
22 two blocks. Then there was a restaurant on every corner.
23 You know, there's restaurants everywhere.

24 The restaurants aren't going to Taiwan. The
25 restaurants are going to go where the people are. The

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1 people live in California. There's going to be
2 restaurants. There's places to eat and people eat at them.

3 And what I hear from you guys -- you know, and I'd
4 like to reach some kind of consensus on something. Now
5 there's some of you what I would call the unreconstructed
6 troglodytes who are saying the minimum wage as a policy is
7 bad; we shouldn't have it.

8 I believe that was Mr. Dayton. We shouldn't have it.
9 It's a bad idea. And, you know, it's okay, we have it.
10 You know, we have the minimum wage. We got rid of slavery.
11 We did a lot of stuff in this country, and it's the law.

12 My -- to you I would say, if you can't serve here

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13 under the terms of the law, then you should just get one of
14 the alternates to take your position and go home, because
15 what's the point if you don't believe in the law as it's
16 now constituted. I mean, it's fine to try to change it,
17 but it is what it is.

18 For those of you moving -- who have moved, you know,
19 somewhere into the early 20th century and believe that we
20 can have such a thing as a minimum wage, what I've heard
21 from you is it needs to be adequate. It should be
22 adequate. That was Ms. Dunbar's point. 6.75 is an
23 adequate amount. It may be or it may not be depending on
24 the measure.

25 So I think where we need to find some consensus is

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1 that the minimum wage does need to be raised when it's
2 inadequate. Clearly it follows if it's adequate now and it
3 was raised from a prior amount, it was obviously inadequate
4 then. Therefore, the question is, if it's adequate now --
5 this is the question I would put for you -- when will it
6 become inadequate? Tomorrow? The next day?

7 And then the question is, if we were to vote for a
8 minimum wage that went up by one penny today, would that
9 have a substantial effect on the economy? Two pennies?
10 Three pennies? I think we would probably agree three
11 pennies wouldn't have any effect on the economy, 3 cents an
12 hour, 4 cents an hour, 5 cents an hour. How many cents an
13 hour before it -- it bothers you?

14 And so that's -- let's talk about it in terms of what
15 we can do, not what we can't do.

16 I've heard you say, I think correctly, the minimum
17 wage sometimes can be adequate and sometimes it can't. So

18 let's figure out what the adequate amount is and when --
19 the timing that it should go up. That's the charge that we
20 have together to do. Not to figure out what the Congress
21 should do or not to figure out what the Legislature should
22 do, but what we should do. They'll all do what they're
23 going to do.

24 And to the best of my knowledge, the Legislature -- I
25 don't know when the last time they raised the minimum wage.

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1 I don't recall it. It's been raised once by ballot
2 initiative. The other times it's been raised by the
3 Industrial Welfare Commission in this state. And then
4 occasionally it gets raised by the U.S. Congress when it
5 raises the federal minimum wage.

6 So I'd like to reach for where we have some
7 consensus, and I think that that consensus is that the
8 minimum wage sometimes is inadequate. And the question is,
9 if it's not inadequate today in your opinion, in your
10 opinion when does it become inadequate and how much do we
11 raise it by when that time comes?

12 MEMBER DAVIS: Mr. Chairman?

13 CHAIRPERSON COHEN: Yes.

14 MEMBER DAVIS: I liked Barry's comment about a
15 restaurant on every corner because we probably also
16 remember when there was a gas station on every corner. And
17 I think that today -- or when I was young and I pulled into
18 a gas station and three guys jumped up and serviced my car,
19 raised the hood, checked the oil, checked the pressure in
20 the tires, did all those things, today you pull in, you get
21 to pump your own gas and there's one guy sitting behind a

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22 glass screen that you hand your money to, or you can put
23 the credit card in the machine and it's done automatically,
24 you don't even talk to anybody.

25 MEMBER BROAD: It is a shame the burden of memory.

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1 MEMBER DAVIS: That's it.

2 But my point is, is that you couldn't afford to run a
3 gas station today even at minimum wage and pay three people
4 to run out and service everybody's car that pulled in. And
5 there are many industries in this country that are moving
6 overseas and out of this country because they can no longer
7 be competitive.

8 And the farm workers in the United States on minimum
9 wage may not have a job. If it becomes cheaper to import
10 everything from South America or Mexico or somewhere else,
11 those people either have to move there to get a job, which
12 I doubt, or they're going to be out of a job.

13 And I would be more concerned that as the minimum
14 wage increases, there are more people who cannot find a
15 job, there are more people that become a burden on society
16 and cost us more money in our tax dollars than we've
17 actually benefited.

18 CHAIRPERSON COHEN: Mr. Abrams.

19 MEMBER ABRAMS: The gentleman over there.

20 CHAIRPERSON COHEN: Oh, I'm sorry. Yes, please.

21 State your name --

22 ALTERNATE MEMBER SANDAHL: Everybody hear me okay?

23 CHAIRPERSON COHEN: Yes.

24 ALTERNATE MEMBER SANDAHL: You know, I have some real
25 concerns here. And like --

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1 CHAIRPERSON COHEN: Could you state your -- excuse
2 me. Please state your name.

3 ALTERNATE MEMBER SANDAHL: Lee Sandahl.

4 And I'm looking at this wage, I'm looking at this
5 \$6.75 an hour, which translates into \$54 a day, which after
6 taxes probably gets you down to \$38 a day. We're talking
7 about \$185 a week.

8 And the gentleman in the back, the other alternative
9 that said that he has some restaurant employees that are
10 part time that he feels are his best employees, but, you
11 know, the part-time employees are not getting probably any
12 health and welfare benefits. And like he also said,
13 they're working second jobs.

14 what are we doing here? We're expecting people to
15 work -- live on \$37 a day, \$38 a day after taxes? We're
16 expecting them to buy food? Where are you going to live?
17 Are you going to live in a house with other people? But
18 you're not going to pay less than \$400 a month to live
19 anywhere here in California. And then you're going to have
20 to buy some food, you're going to have to buy some clothes.
21 You're damn well not going to have a car. You're certainly
22 not going to be able to afford car insurance.

23 Let's -- let's try to take care of these people. I
24 mean, these people that we're trying to take care of are
25 the people that are making the profits for the business

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1 people here.

2 MEMBER BROYLES: Julianne Broyles, California Chamber
3 of Commerce. And this is, first of all, a question to the

4 Chair.

5 I believe that honest is part -- as to the issue --
6 is really important. And I would ask the Chair if personal
7 comments or derogatory comments are made from one side or
8 the other, that the Chair immediately step in in the future
9 instead of the questions as to somebody's ability to serve
10 on a wage board based on their opinion be challenged by the
11 other side. That's already been decided. We are here and
12 we are serving and we are here to look at the adequacy of
13 the minimum wage here in California.

14 MEMBER BROAD: Well, excuse me. Point of personal
15 privilege.

16 I don't think it's personally offensive to say that
17 if someone says that they philosophically oppose the idea
18 of having a minimum wage, that really from an ethical point
19 of view --

20 MEMBER BROYLES: My question is to the Chair.

21 MEMBER BROAD: -- they ought to step down.

22 That's not personally offensive, Ms. Broyles. That's
23 just reality.

24 CHAIRPERSON COHEN: Mr. Broad, first of all, let her
25 finish her remarks.

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1 MEMBER BROYLES: It was a request to the Chair, not
2 to anyone else, sir.

3 And second of all, I would like to ask -- ask Mr.
4 Sandahl, who had raised the issue of living today in
5 California and what is and what is adequate and to bring --
6 and he is correct to bring the discussion back to point,
7 that we are looking at what works and what doesn't work

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8 here in California, and what is appropriate and what isn't
9 appropriate in terms of what we have as a measure of
10 adequacy.

11 Yes, economic conditions change. They go up, and
12 they go down. Mr. Schacht had brought up the issue of farm
13 profits. In the last three-and-a-half to four weeks, many
14 farmers have lost all profits for the year based on cattle
15 dying, based on milk production dying, drying up. Six
16 months ago, other produce commodities suffered great
17 devastation with continuing rains during part of their
18 critical -- part of their growing season. So any industry
19 has cycles up and down.

20 Mr. Broad was correct in raising the issue of do we
21 talk sometimes the minimum wage is adequate and sometimes
22 the minimum wage is not adequate. The point raised in the
23 initial motion made by Mr. Abrams was we believe today, at
24 this time, the minimum wage is adequate here in California.
25 We believe, the California Chamber, that is so and would

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1 like to call the question.

2 CHAIRPERSON COHEN: A couple things.

3 MEMBER BROAD: Rule of order.

4 CHAIRPERSON COHEN: First of all, if you have spoken
5 to the motion, I'm not going to let you call the question.

6 MEMBER BROYLES: I'm sorry. I apologize, Mr. Chair.

7 CHAIRPERSON COHEN: So if somebody else wants to call
8 the question, they -- also I would point out that you asked
9 a question of a prior speaker, and I am going to give that
10 speaker in a moment the opportunity to respond.

11 I will say that I think -- although I didn't
12 recognize it was merely rhetorical, I think it's a

13 legitimate question to say that if any member of this wage
14 board really questions the appropriateness of this wage
15 board or thinks that the IWC erred in appointing this
16 board, it's legitimate to say, do you believe it's
17 inappropriate to continue and participate? I think that's
18 the legitimate question.

19 On your other point, I will speak to this in a
20 general way. I do not believe that it is expected that we
21 will agree on the issues. Inherently when they appoint
22 these wage boards, setting it up as employer and employee
23 representatives, they're presumably appointing sides, if
24 you will. So I don't know that it's expected that we will
25 all agree on the issues we are confronting.

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1 we're not expected to agree. We do not certainly
2 have to like one another. I don't know that it's required
3 that we particularly respect one another. But I would ask
4 everyone who's a member of this wage board to treat one
5 another in a respectful manner. I don't think the
6 discussion and the debate is enhanced in any way by terms
7 that people may consider to be derogatory.

8 So I would ask everyone to keep that decorum in mind.
9 I think we can vehemently disagree with one another over
10 the issues of the day without descending to personal
11 comments. And I think we'll get through our task, however
12 it may come out, in a more reasonable fashion if everyone
13 keeps that in mind, and I would ask you all to do so.

14 There was a question to Mr. Sandahl. I don't know if
15 you care to respond?

16 ALTERNATE MEMBER SANDAHL: Could I have Ms. Broyles

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17 repeat the question for me, please.

18 MEMBER BROYLES: You were discussing the issue of
19 whether or not at 6.75 per hour and you were breaking out
20 pieces of rent and other basic requirements, and you -- you
21 said that that was not adequate.

22 what do you consider adequate?

23 ALTERNATE MEMBER SANDAHL: What I consider adequate
24 for one person supporting himself would probably be
25 somewhere between -- between --

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1 CHAIRPERSON COHEN: Okay. Mr. Sandahl --

2 ALTERNATE MEMBER SANDAHL: -- twelve and fifteen
3 dollars an hour.

4 CHAIRPERSON COHEN: -- could I ask you to hold that
5 thought for a moment. We want to get it on the record, and
6 I believe I'm being told that the recording device needs a
7 break. So hold on just a second. I'll ask you to repeat
8 that last bit.

9 (Off the record.)

10 CHAIRPERSON COHEN: Okay. We are back on the record,
11 and I will return the floor to Mr. Sandahl who was
12 responding to a question about what he would consider to be
13 an adequate minimum wage.

14 ALTERNATE MEMBER SANDAHL: And I'm talking about a
15 single person here, not -- not a family situation, not a
16 single wage earner with a -- one parent at home, looking at
17 two children. I'm looking at one single person, somewhere
18 between twelve and fifteen dollars an hour.

19 MEMBER BROYLES: Thank you, Mr. Sandahl.

20 MEMBER AGEE: I would like to ask a question.

21 we've heard a lot of discussion on what would happen

22 if we increase the minimum wage. But according to a study
23 done by the Public Policy Institute of California, it's
24 showing that in 2004 the California Restaurant Association,
25 the sector most affected by minimum wage increases,

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1 employment actually increased by 8.9 percent. So obviously
2 there are other alternatives to when the minimum wage is
3 increased other than laying off employees.

4 So can you provide me with other alternatives that
5 you might have if we do increase the minimum wage other
6 than laying off your employees?

7 MEMBER DUNBAR: This is Lara Diaz Dunbar of the
8 California Restaurant Association.

9 I just want to say that a lot of the statistics don't
10 take into account the fact that while there may be more
11 units, there are less employees per units. But if there
12 are more units, you're looking at, you know, more units,
13 more restaurants, but there are less employees per unit.
14 And it doesn't take into account the hours that are cut.
15 You may have more part-time workers.

16 Overall if you're looking at the detriment to the
17 employee, those one statistics, oh, there's more jobs,
18 there's more restaurants do not take into account the fact
19 that, you know, health care was taken out, there's less
20 hours, there's more part-time workers, there are less --
21 you know, more employees are servicing more restaurant -- I
22 mean, tables as opposed to more employees per unit.

23 MEMBER AGEE: Is there some type of study to refute
24 what we have here? Because other than what I've seen, it
25 seems like there's other ways other than laying off

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1 employees when we increase the minimum wage.

2 I mean, I understand what you guys are saying, but I
3 haven't seen any documentation to refute the studies that
4 are saying just the opposite.

5 MEMBER DUNBAR: Oh, sure. You can -- well, you
6 can -- you know, unfortunately a lot of people have to
7 choose how to absorb the labor costs. Do they increase
8 prices? Do they offer health care? Can they afford to
9 offer health care? Can they afford to give the
10 back-of-the-house employees raises as they should when the
11 compression factor goes into play.

12 All those answers typically they're being -- you
13 know, they're cut from those aspects as well. And there's
14 not a lot of studies on that, but that is what happens, as
15 Mr. Monahan said, in reality.

16 MEMBER AGEE: Okay. Thank you.

17 CHAIRPERSON COHEN: Ms. Broyles.

18 MEMBER BROYLES: There have been a number of studies,
19 and usually there are studies that both sides have -- have
20 favored institutes or foundations that perform these
21 studies. But there has been studies.

22 There was a study done under the -- in 2001 under the
23 Davis administration that showed the impact of -- the
24 economic impact of the 2001 minimum wage increase.

25 There was a -- an additional study. There is the

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1 Milton study from 1995 that talked about what happens in
2 employment instances. And they were looking at the Card &

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3 Krueger studies that have been done in the past that says
4 it's important to understand that the traditional argument
5 that raising the minimum wage reduces employment among
6 low-skilled workers.

7 And in the Milton Institute study for job --

8 CHAIRPERSON COHEN: Excuse me, Ms. Broyles. Could
9 you slow down just --

10 MEMBER BROYLES: I'm so sorry, Ms. Mercado. I will
11 go slower.

12 They said that the demand for labor, the number of
13 man-hours, not workers, to produce the product or service
14 that the employers are basically purchasing at that wage
15 rate, if you -- if it gets out of synchronization, it's
16 determined by the productivity of those given workers.

17 If they rise by a decree, by a government mandate, by
18 IWC action, by ballot initiative rather than because the
19 workers can produce more per hour, employers will just hire
20 fewer hours of work. That's the Milton Institute on job
21 productivity and capital formation of '95.

22 The Levy Institute noted that -- at about the same
23 time that unskilled workers faced increased unemployment
24 whenever minimum wage rates go up because, again, they're
25 going to keep the people with the most skills and either

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1 take the wages you would have paid that one lowest skilled
2 worker and divide it into raises for those with the better
3 skills that you keep on staff.

4 I know for a fact that most employers have -- when
5 you look at their health care costs, when you look at their
6 workers' Compensation costs or their -- or any other type
7 of employment benefit they provide, it is based on their

8 base wage in total. The first thing that an insurer looks
9 at is how much do you pay in wages? When that base wage
10 goes up, that overall pool of wages that you pay goes up,
11 there is a percentage increase that goes up in those wage
12 costs as well.

13 And so you -- you do have to find some way to -- to
14 either absorb the cost, cut some hours, change somebody's
15 designation as either an exempt from overtime worker or a
16 nonexempt from overtime worker. And when you do that,
17 you -- again, you change the fringe benefits they receive.

18 You might decide to stop matching 401(k) payments.
19 You might not be able to offer health care benefits. All
20 those things you do, rather than let somebody go, an
21 employer has to look at all of those different pieces and
22 decide what is going to work best in their particular
23 economic sense.

24 But -- but nothing makes it any -- the worst possible
25 decision that most employers have to face is to let

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1 somebody go because they can no longer afford to keep them
2 on staff. That is the worst decision an employer is going
3 to have to make.

4 CHAIRPERSON COHEN: Mr. Broad.

5 MEMBER BROAD: Well, unlike my past experience as a
6 wage board member, technology does come to the rescue, and
7 here I am on the EDD website with --

8 THE REPORTER: I'm sorry. You need to use the
9 microphone.

10 MEMBER BROAD: I'm sorry.

11 And if you look at 2001 employment in food services

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12 and drinking places, you get around 940,391 employees. And
13 if you get to the fourth quarter of 2005, you get
14 1,039,855. So whatever happens, there has been an increase
15 in the total of number of people employed.

16 Now, I can probably mess around here and find out how
17 many hours they worked and at what wage level they worked
18 and so forth. I'm perfectly prepared to do that. I
19 suspect that the total number of hours has increased.

20 Now, were I to prove to you that in fact the total
21 numbers of hours has increased and the total number of
22 employment has increased, would then somebody be prepared
23 to concede that raising the minimum wage did not in any way
24 harm the employees in terms of their level of employment or
25 number of hours that they worked in the restaurant industry

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1 the last time we went around? Just -- or are we just so
2 fixed in our view that we won't let reality intervene?

3 CHAIRPERSON COHEN: Mr. Abrams.

4 MEMBER ABRAMS: Well, let me have some reality
5 intervene.

6 MEMBER BROAD: Please.

7 MEMBER ABRAMS: I think the number of -- everything
8 you said is absolutely true, Mr. Broad, and therein lies
9 the problem.

10 what that doesn't adjust for are two very important
11 factors. The fact that we have now more employees in the
12 restaurant or hotel or any other industry needs to be
13 looked at in the context of whether the economy is rising
14 or falling.

15 Since -- if you look at that we started to have a
16 recession in late 2000, early 2001 and then everything fell

17 off the chart on September 11, and we have been digging out
18 since then.

19 If you look at San Francisco -- I think Ms. Wei, you
20 know, I think appropriately brought this up -- you know,
21 business is booming in San Francisco if you look at the
22 hotel and the restaurant industry because we are on an
23 upswing. And for that reason, because there is increased
24 demand, there will be a need to provide increased numbers
25 of labor to serve that demand.

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1 The problem, though, is, is that by arguing solely
2 that because employment in a particular industry -- and
3 I'll just take the hotel industry -- is higher today than
4 it was two years ago or whatever doesn't answer the
5 question of whether it would have been higher still but for
6 the impact of a variety of things, including wage costs,
7 including -- and if you go to look at some of these
8 studies, I've never seen -- I've never -- I haven't looked
9 at it this way, but I don't recall ever seeing anybody look
10 at it and say, let's adjust for whether the economy is
11 expanding or contracting.

12 Because people will hire more if the economy is
13 expanding and more business is being done. People are
14 eating in more restaurants, they're going to stay in more
15 hotels, they're getting on airplanes. They're doing
16 whatever they're doing.

17 The question -- the real question is and what the
18 studies that the employer side looks at and the employee
19 side would dispute or discount, the studies indicate that
20 there is in fact an impact. And so while employment may

21 grow in a rising, expanding economy, the number of jobs
22 that would have been there but for the countervailing
23 impediments, the minimum wage and other issues -- there is
24 workers' Comp and whatever else -- that has to be taken
25 into effect. Are we nonetheless losing jobs that would

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1 have been there?

2 Secondly I think it's very critical to point out that
3 we compete just as agriculture does. Agriculture competes
4 with people who grow in Mexico, people who grow all over
5 the world often at cheaper cost. That's not good or bad;
6 it's just a reality.

7 Similarly, the California economy -- and I'm just
8 looking at the lodging industry, the convention, the
9 business, the tourism, the travel business -- competes
10 around the -- with people in -- in I don't care what city.
11 San Francisco fights with New York, fights with Chicago.
12 Sacramento fights with Tucson and Phoenix and everything
13 else.

14 And research that we have done in the past -- and I
15 need to update it, and I will say that -- the cost -- we
16 took a hypothetical, everyday convention and we priced it
17 out in different cities in California and in the markets
18 where we compete the most with. We compete all over the
19 world. And at that time, the cost of that convention in
20 California was -- depending on where you were, the time of
21 year -- between 40 and 50 percent more in California for
22 the exact same number of rooms and meals and bagels and
23 whatever else as elsewhere.

24 And so to that extent it's fine to say -- well,
25 strike that.

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1 while one might argue that -- you know, let's assume
2 that we say that the minimum wage for agricultural workers
3 ought to be X instead of 6.75. At some point the fact that
4 it is so much lower in other countries means that jobs are
5 going to get lost because people just can't compete;
6 similarly in the lodging industry.

7 So what happens as a result is that employers are
8 forced more and more to do whatever they can to reduce the
9 cost of labor, which means I'm going to automate, so -- and
10 I'll leave this up to Gary Monahan and others in the
11 restaurant industry -- so people aren't hiring people to
12 chop up lettuce and to chop up vegetables. They're buying
13 it in bags. So somebody's -- somebody's not working those
14 hours.

15 Automation -- and I go back to the study, it wasn't
16 the one Mr. Agee referred to, but the minimum wage -- the
17 economic impact of the 2001 minimum wage increase that was
18 done by the Division of Labor Standards and Statistics, you
19 know, points out that -- that, in their view, it did not
20 hurt employment. I would dispute that because I don't
21 think they factored for the state of the economy, but they
22 did find that there was impact on the hours worked; i.e.
23 you may have more workers, but the total number of hours
24 worked by people went down.

25 And then they also pointed out a few pages later that

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1 this is one of the pressures and, in fact, occurred at that
2 time to cause employers to start utilizing machinery,

3 automation to whatever extent they maximally appropriately
4 can to cut down on the number of people. Because a
5 machine -- and I don't think this will sound facetious --
6 doesn't carry taxes, it doesn't carry workers'
7 compensation, et cetera.

8 So I do with respect, Mr. Broad -- and I mean this
9 sincerely, I do feel that the sense of reality that you
10 need to insert here is not quite as simple as you first put
11 it.

12 MEMBER SCHACHT: Could I talk a little bit about
13 reality?

14 Attached to our submission to the IWC was a
15 declaration from Alfredo Silva, who is an irrigator from
16 Riverside County where he's lived for 24 years. He works
17 at a minimum wage job. He's had to take a second job in
18 order to make ends meet. He's working 13 hours a day.

19 We asked him to prepare a budget which we submitted
20 as part of his affidavit. And it -- it shows that his
21 average monthly budget in 2005 was \$1,700. His average
22 monthly budget in 2006 is 2,193. And that reflects
23 increases of \$6 a month in water; \$4.80 in gas; \$40 a month
24 in electricity; \$120 a month in gasoline; car pay --
25 insurance is the same; there are no car payments, he drives

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1 an old car; \$140 a month in food. He's allocated \$70 a
2 month for clothing and shoes; he has no health insurance.

3 He does have a \$52 cost related to his
4 granddaughter's Pampers, but those -- the clothing and the
5 Pampers seem to be the only discretionary funds. There's
6 nothing in here for fun or entertainment. And that 2,193

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7 comes very close to what 13 hours a day at 6.75, five days
8 a week, is. And that's the reality that clients of ours
9 face at 6.75 an hour.

10 It's clearly inadequate and obviously should be
11 adjusted upward significantly.

12 CHAIRPERSON COHEN: Just a moment.

13 Ms. Wei, you had --

14 MEMBER WEI: I'm prepared to defer to the Chair if
15 you want to hear from the other side.

16 CHAIRPERSON COHEN: Okay. We have another alternate
17 who has not spoken.

18 ALTERNATE MEMBER MARTIN: Well, I was going to
19 mention --

20 CHAIRPERSON COHEN: Please state your name for the
21 Reporter.

22 ALTERNATE MEMBER MARTIN: I'm sorry. I'm Thomas
23 Martin, Small Manufacturers Association of California. And
24 I'd like to talk about one industry that has consistently
25 lost jobs over the last ten years, and that is

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1 manufacturing. And the minimum wage has had an impact
2 there.

3 Grant you a lot of the larger manufacturers are way
4 above the minimum wage, but a lot of the smaller
5 manufacturers are tied in, especially if they don't have
6 government contracts. If they are competing with what's
7 coming in on the docks, they are having a hard time
8 competing with the -- with the exports and imports coming
9 in.

10 In some particular fields you have employees that are
11 working near the minimum wage. They are impacted by this.

12 And the alternative for those employers, as they have done
13 over the last ten years, is when it becomes too expensive
14 for them to do business in California, they leave. In some
15 cases they leave to go to Iowa or Ohio or other states. In
16 many cases they go across the border. They create
17 maquiladoras or they go across the sea.

18 So you're losing jobs on a regular basis of
19 low-income workers who have one choice: They can either
20 follow those jobs across the border or they're going to be
21 looking for other jobs here in the state at the minimum
22 wage.

23 Manufacturers are having a hard time meeting the
24 costs, and you're going to continue to raise these costs.
25 And if you look at your -- your list there, you'll see that

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1 manufacturers over the past ten years have lost more than a
2 quarter million jobs.

3 MEMBER WEI: The loss of manufacturing jobs in our
4 state and in our country is a tragedy that we share, and
5 that's exactly the problem with this economy. Those
6 good-paying, middle class jobs are gone. But not because
7 we've increased the minimum wage. Not because
8 manufacturers in California can't compete against
9 manufacturers in Nevada or Washington state or Arizona.
10 Those jobs are gone beyond our borders. They will never
11 compete with jobs in developing countries that pay a dollar
12 an hour, that pay three dollars an hour.

13 A loss of manufacturing jobs is a concern that we
14 share, but it's not because the minimum wage has increased.
15 This is the exact problem with what's wrong in our economy.

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16 we have an hourglass economy where the middle class is
17 squeezed out because those jobs are fleeing this country,
18 and the rich continue to get rich and the poor are stuck
19 where they are.

20 It's a tragedy that those jobs are gone and other
21 people are working now full time and still living in
22 poverty. Whether it's the federal poverty level or a
23 Minnie's Budget or self-sufficiency standard, they're still
24 working full time and living in poverty.

25 So we're concerned about the loss of manufacturing

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1 jobs, but increasing the minimum wage will do nothing to
2 either stem the tide of those losses or make a difference
3 in those -- the number of jobs that might leave.

4 If you look at -- it's the same Public Policy
5 Institute of California study that Mr. Agee already cited.
6 Both in December 2005 and October of 2005 the loss of jobs
7 across state borders to other states from California is
8 negligible, and those jobs that are measured to be lost
9 come from the manufacturing industry.

10 we consistently hear from the employer community the
11 sky is falling when we increase the minimum wage, when we
12 have to pay a prevailing wage. Some of us have called it
13 respectfully the Chicken Little caucus, the sky will fall
14 whenever these things happen, and the data just doesn't
15 prove it.

16 Again, the Public Policy Institute of California
17 study -- you know, I agree with Ms. Broyles, everybody has
18 their favorite think tanks. The PPIC is not one of ours.
19 And they have also documented that the loss of jobs across
20 state borders is negligible even in a time when workers'

21 Comp premiums were skyrocketing.

22 So I want to speak to the issue of the manufacturing
23 jobs, but what it means is a bigger problem for our economy
24 not around the minimum wage.

25 I do want to take a second and go back to the

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1 restaurant industry figures. Mr. Broad has laid out kind
2 of the longitude of annual figures. I want to add in both
3 from Oregon, the restaurant industry, since indexing of the
4 minimum wage has happened in the state of Oregon, the
5 restaurant industry has grown 91,500 jobs, almost a hundred
6 thousand jobs in Oregon. There are not that many people in
7 Oregon, so that's got to be a very significant increase.

8 I'll also look at -- point to what's in the members'
9 materials, the Economics of Citywide Minimum Wage is
10 looking at the city and county of San Francisco.

11 You know, San Francisco does have a minimum wage that
12 I believe now is at 8.60 an hour and indexed. And this
13 study --

14 ALTERNATE MEMBER MARTIN: 8.82.

15 MEMBER WEI: 8.82 and indexed. Thank you.

16 And this study looks at the impact -- the direct
17 impact on employment after the higher minimum wage was
18 elected by the voters in San Francisco. And it shows not
19 only the number of restaurants in San Francisco increasing,
20 the amount of full-time employment increased by 2.5
21 percent. The average job tenure in the actually affected
22 restaurants that were paying the higher minimum wage, the
23 job tenure increased by 3.5 months. And 6 percent of the
24 work force moved from part-time to full-time jobs.

25 So looking at the overall effect, there seems to be a

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1 positive overall impact on each of those fronts for the
2 workers of San Francisco and for the restaurant industry in
3 San Francisco. So, again, the empirical evidence proves
4 that -- documents in this case that a higher minimum wage
5 has helped to create jobs.

6 And if we look back at Mr. Abrams' statements from
7 prior, post 9/11 -- you know, the hospitality industry has
8 taken a significant -- took a significant hit post 9/11.
9 Since that time, the economy has recovered, jobs have gone
10 up and unemployment rates have gone down both in California
11 and across this country.

12 One could then reasonably and rationally conclude
13 that an increased minimum wage actually leads to and is the
14 economic generator for a growing economy, because that is
15 the experience that we've seen at least in terms of the
16 facts in California.

17 CHAIRPERSON COHEN: At this point, allow me to point
18 out to the body, it is about -- just about noon by my
19 watch, and I think we have two choices. We can take a
20 break and come back and continue to debate on this motion,
21 or we can decide -- we've been debating this motion for
22 roughly an hour and a half. We've heard eloquent points on
23 both sides. If the body wants to go ahead and take a vote
24 on the motion that is before us, we could come back and
25 pick up from that point. It's really your choice.

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1 I'd ask for comments on whether or not you're ready

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2 to take a vote or do you want to just stop -- I'm not going
3 to -- I don't want to have any more debate at this point.
4 So my question merely is, are you prepared to take a vote
5 or do you want to come back and have further discussion on
6 this motion?

7 Mr. Abrams.

8 MEMBER ABRAMS: Jim Abrams.

9 I would suggest that we take a vote. I -- and for
10 those that might say that that ought to end the whole
11 process, I would suggest that we are one small piece of the
12 overall puzzle dealing with minimum wage, so I think we
13 have the other issues in the charge that definitely need to
14 be discussed. But I would submit that this would be an
15 appropriate time to take a vote.

16 CHAIRPERSON COHEN: Anyone -- how do you feel about
17 taking a vote on the motion that's in front of us?

18 MEMBER BROAD: My clairvoyant self tells me that
19 we're okay as long as we go to lunch immediately afterward.

20 CHAIRPERSON COHEN: That's the plan.

21 MEMBER BROAD: Okay.

22 MEMBER BROYLES: To support the restaurant industry.

23 MEMBER BROAD: In that case, I would move the
24 previous question.

25 CHAIRPERSON COHEN: Is there a second?

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1 MEMBER BROYLES: Second.

2 CHAIRPERSON COHEN: The question has been called.
3 Does anyone object to voting on the motion? I will restate
4 the motion. Mr. Abrams, please listen carefully.

5 The motion was that the wage board finds that the
6 minimum wage, the current minimum wage of 6.75 per hour is

7 adequate and should not be increased.
8 Is that accurate?
9 MEMBER ABRAMS: Yes, sir.
10 CHAIRPERSON COHEN: Okay. On the motion, I will call
11 the roll starting with the employer representatives.
12 Ms. Broyles.
13 MEMBER BROYLES: Yes.
14 CHAIRPERSON COHEN: Mr. Davis.
15 MEMBER DAVIS: Yes.
16 CHAIRPERSON COHEN: Mr. Dayton.
17 MEMBER DAYTON: Yes.
18 CHAIRPERSON COHEN: Ms. Dunbar.
19 MEMBER DUNBAR: Yes.
20 CHAIRPERSON COHEN: Mr. Abrams.
21 MEMBER ABRAMS: Yes.
22 CHAIRPERSON COHEN: Ms. Barsuglia.
23 MEMBER BARSUGLIA: Yes.
24 CHAIRPERSON COHEN: Okay. That was not a real shock.
25 For the employee representatives, Mr. Agee.

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1 MEMBER AGEE: No.
2 CHAIRPERSON COHEN: Mr. Broad.
3 MEMBER BROAD: No.
4 CHAIRPERSON COHEN: Ms. Wei.
5 MEMBER WEI: No.
6 CHAIRPERSON COHEN: Mr. Jones.
7 MEMBER JONES: No.
8 CHAIRPERSON COHEN: Mr. Schacht.
9 MEMBER SCHACHT: No.
10 CHAIRPERSON COHEN: Ms. Mercado.

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MEMBER MERCADO (In English): No.

12 CHAIRPERSON COHEN: Okay. The motion does not carry.
13 we're deadlocked at six to six.

14 with that, we've reached an excellent break point,
15 and I would suggest a one-hour break. We will reconvene at
16 one o'clock.

17 (Off the record.)

18 CHAIRPERSON COHEN: Oh, yes. Thank you.

19 Before we break -- this should be on the record,
20 please -- I do want to remind everyone that we are
21 operating under the provisions of the Bagley-Keene Open
22 Meeting Act. Since this is a 12-member board, 12 voting
23 members, six members represent a quorum and, therefore, six
24 members of this board may not meet in any place outside of
25 the public arena to discuss the matters before this board.

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1 So it would be imprudent for six -- any six of you to
2 go have lunch and continue this discussion because it would
3 be in violation of Bagley-Keene Open Meeting Act.

4 So with that said, enjoy your lunch. See you all at
5 one o'clock.

6 (Lunch recess taken.)

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CHAIRPERSON COHEN: I think we're going to go
4 ahead and get going. I'm going to call this meeting of the
5 2006 Minimum Wage Board back to order.

6

You probably all remember, but when we left, there
7 was a motion we had voted on. The motion was the minimum
8 wage should not be increased, and the panel deadlocked.
9 That motion was introduced by employer representatives.
10 I'm going to offer to the employee representatives an
11 opportunity to introduce a motion on the question of the
12 adequacy of the current minimum wage.

13

MEMBER AGEE: I'd like to make the motion the
14 minimum wage of 6.75 should be increased.

15

MEMBER WEI: Second.

16

CHAIRPERSON COHEN: It's been moved and seconded.

17

The motion was -- to put it in the same language,
18 the motion was the current minimum wage of 6.75 is not
19 adequate and should be increased.

20

MEMBER ABRAMS: Thank you.

21

CHAIRPERSON COHEN: The motion made speaks
22 specifically to question number 1. That is the motion.
23 You want to go ahead and make any statement to back that
24 up? I'll let Mr. Abrams make a statement after you. You
25 want to state your reasons why everybody else on the
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1 employee side wishes to do so?

2

MEMBER AGEE: The reason for my motion here is off
3 of reference to earlier statements that were made that
4 purchasing powers since 6.75 was implemented has diminished
5 88 cents, or 11.5 percent, since 2002. Based off the
6 information, I make my motion.

7 CHAIRPERSON COHEN: Any discussion from the
8 employer side?

9 MEMBER ABRAMS: With respect -- based -- for the
10 reasons articulated this morning -- I would oppose the
11 motion, for the reasons articulated.

12 CHAIRPERSON COHEN: I appreciate both of your
13 remarks. I think, frankly, the issues were pretty
14 thoroughly discussed. I think people's positions are
15 fairly clear on this question. Does anyone wish to make a
16 comment to this motion, specifically?

17 MEMBER BROYLES: Question to the maker of the
18 motion: If 6.75 is inadequate, what do you wish to raise
19 it to? Maybe I didn't hear him.

20 CHAIRPERSON COHEN: He did not state that. Again,
21 I'm going to point to -- I'm really going to try to follow
22 the charge pretty directly. The charge the Wage Board asks
23 us, the first question is to the adequacy of the minimum
24 wage and whether or not it should be increased. The second
25 question is, should it be increased, what's the appropriate
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1 amount?

2 MEMBER BROYLES: You want that as a separate --

3 CHAIRPERSON COHEN: No. This motion has been made
4 in that fashion, recommending a finding that the minimum
5 wage -- current minimum wage is not adequate and should be
6 increased, without any statement as to what the increase
7 might be.

8 Further discussion on the motion? Seeing none,
9 I'm going to go ahead and call the question. The motion is
10 that the current minimum wage of 6.75 is not adequate, and
11 the state minimum wage should be increased. At this time

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12 I'll start with the employee representatives.
13 Mr. Agee?
14 MEMBER AGEE: Yes.
15 CHAIRPERSON COHEN: Mr. Broad?
16 MEMBER BROAD: Yes.
17 CHAIRPERSON COHEN: Ms. Wei?
18 MEMBER WEI: Yes.
19 CHAIRPERSON COHEN: Mr. Jones?
20 MEMBER JONES: Yes.
21 CHAIRPERSON COHEN: Mr. Schacht?
22 MEMBER SCHACHT: Yes.
23 CHAIRPERSON COHEN: Ms. Mercado?
24 MEMBER MERCADO: Yes.
25 CHAIRPERSON COHEN: Remember, we have a court
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1 reporter, so speak clearly.
2 Employer Representative Ms. Broyles?
3 MEMBER BROYLES: No.
4 CHAIRPERSON COHEN: Mr. Davis?
5 MEMBER DAVIS: No.
6 CHAIRPERSON COHEN: Mr. Dayton?
7 MEMBER DAYTON: No.
8 CHAIRPERSON COHEN: Ms. Dunbar?
9 MEMBER DUNBAR: No.
10 CHAIRPERSON COHEN: Mr. Abrams?
11 MEMBER ABRAMS: No.
12 CHAIRPERSON COHEN: Ms. Barsuglia?
13 MEMBER BARSUGLIA: No.
14 CHAIRPERSON COHEN: Okay. Again we deadlock. The
15 motion does not carry.
16 The charge next asks us to make recommendations on
17 a series of specifics.

18 MEMBER WEI: Mr. Chair, as back draft to leading
19 us to item number 2 in the charge, we'd also offer a motion
20 on the floor. I move that the minimum wage should reflect
21 the purchasing power and reflect the cost of living.

22 MEMBER JONES: I second it.

23 CHAIRPERSON COHEN: The motion was that the
24 minimum wage should --

25 MEMBER WEI: My motion would be to move that the
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1 minimum wage reflects the true purchasing power of low-wage
2 workers as well as the cost-of-living standard in
3 California.

4 MEMBER JONES: I second.

5 MEMBER BROYLES: Mr. Chairman, is that out of
6 order? I was corrected on asking what the amount was. Is
7 this asking for an indexing?

8 CHAIRPERSON COHEN: It's -- frankly, it is not
9 clear to me. Before I accept the motion, let me back up a
10 step and just say, again, the charge was specific and led
11 us through several specific points. The first question was
12 the adequacy. We have failed to reach agreement on
13 adequacy in either direction.

14 There are three questions -- four questions,
15 really, remaining: If there is an increase, what should it
16 be? what the timing of some increase should be, whether it
17 should all be in one or if it should be a phase increase
18 over a period of time, and whether or not the minimum wage
19 should be indexed. And the final question is whether or
20 not -- should the minimum wage be increased, whether or not
21 the amount credited against meals and lodging should be
22 increased as well.

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23 MEMBER BROAD: Mr. Chairman, I think, perhaps,
24 you're taking a somewhat narrow view of the Wage Board's
25 power with regard to the charge. The Wage Board, as I
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1 understand the law, is a separate entity from the IWC, with
2 its own set of powers to operate independently of the IWC.
3 To some extent, we can kind of make our own rules and
4 operate under them and hold as many hearings as we want or
5 not or start or stop.

6 while we can't, for example, legally vote to
7 change the overtime standard, we're pretty much, I think,
8 free to operate fully within the confines of a discussion
9 related to the minimum wage and the minimum wage order.
10 The IWC actually doesn't have the power to control the IWC
11 through the charge to the degree that I think you may be
12 thinking it does.

13 I certainly -- it's never been -- I've never seen
14 a wage board where there are a series of issues related in
15 the charge, you just vote on those issues, and then you're
16 done. I'm kind of seeing the employers, on the other side,
17 agreeing to that. I think we might find it to be a little
18 more clear on this discussion that, okay, we're done with
19 item number 1. We're moving to item number 2. We vote on
20 item number 2. We're done with item number 2.

21 Things may evolve. The intent of this is to try
22 to reach an agreement. Maybe the agreement cannot be
23 reached. There's a lot of ways to probe toward agreement.
24 It may happen at 9:00 in the morning. It may happen at
25 4:45 in the afternoon. I would just caution that we not be
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1 too proscriptive here.

2 MEMBER SCHACHT: Mr. Chair, just to concur with
3 both Julie and Barry, as a former Wage Board member twice,
4 it's really up to the Wage Board to decide how to dispose
5 of the charge, whether to add other items or not. So
6 you're obviously in a position to rule.

7 MEMBER BROYLES: And if I might be recognized.
8 Again, it's rare that Mark Schacht, Barry Broad, and Julie
9 Broyles agree on anything. I would agree with their
10 reading that the Wage Board has latitude.

11 MEMBER BROAD: Maybe we can vote on something,
12 then, about ourselves.

13 CHAIRPERSON COHEN: A couple responses: First of
14 all, I will agree that I have been sticking to a fairly
15 narrow reading.

16 A couple things I would not agree: that the Wage
17 Board, for example, could decide to hold a multiday
18 hearing. The IWC, it is charged -- the Chair of the IWC,
19 in his discussion of this, was particularly concerned about
20 the timing of this, and the vote was for a meeting on this
21 day. So on that, certainly, I think we need to -- however
22 far you want to probe or what you think may be the
23 agreement, I think we need to do that today.

24 I am willing to, if both sides think it will help
25 discussion, be a little less structured in how we address
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1 the questions and entertain the motion that was offered.

2 Staff has put in front of me California Code of
3 Regulations, and it does say specifically that the Wage
4 Board shall limit its deliberations to those matters
5 specified by the Commission in its charge to the Wage
6 Board.

7 So like I said, I'm willing to veer off of the

8 path I've been steering us on, which is to take them sort
9 of 1, 2, 3, 4, but I think we need to limit the scope to
10 the charge that we have been given by the IWC, even if we
11 consider them, if you will, out of order.

12 MEMBER BROYLES: Mr. Chairman, again, as a member
13 of past wage Boards, there are a number of issues that come
14 underneath the purview of minimum wage, and issues, even if
15 they weren't in the charge, have been sometimes dealt with
16 by the wage Board, even if they were not on a specific
17 charge; specifically, things such as learning wages and the
18 application of minimum wage to somebody in their first
19 three months of employment, such as issues that went along
20 that venue that were left to a wage Board to consider,
21 along with items that were listed in the wage for a charge
22 such as meal and lodging credits and of those ilk.

23 I really just would -- again, having been a member
24 of a number of other wage Boards, both minimum wage and
25 nonminimum wage issues, usually, historically, the Chair
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1 kept, basically, both sides equal in terms of time to speak
2 on their issues and didn't try to dictate the discussion
3 and what they could and could not discuss. It really is
4 what our experience has been in the past.

5 And again, the IWC, when it was put together, was
6 very specifically -- in their wage orders were very
7 specifically exempted from the APA because of their very
8 extensive process of including the public in their
9 deliberations. So I would just add that as an item of
10 information if you're trying to limit us to APA process.

11 CHAIRPERSON COHEN: No. Again, what I'm
12 specifically referring to is language in the California --

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13 I can give you the reference, if you like. In the
14 California Code of Regulations, in the Administrative Code,
15 it speaks specifically to Department of Industrial
16 Relations, the Industrial Welfare Commission, regulations
17 governing Wage Boards. It talks about the scope of the
18 Wage Board's deliberations.

19 I quote: The Commission shall define the scope of
20 the industry, trade, or occupation to be considered by each
21 Wage Board. Any person may at any time recommend to the
22 Commission the scope of that Commission [unintelligible] be
23 designated by the community at large, modified or
24 restricted. B: The Wage Board shall limit its
25 deliberation to those matters specified by the Commission
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1 in its charge to the Wage Board.

2 So I think that language is pretty clear.
3 Regardless of past practice, I think the language is really
4 clear.

5 I did discuss the issue with Chairman Curtin. Not
6 this specific issue, but just how he thought this should be
7 voted. He was interested in ensuring there was as much
8 opportunity for discussion and debate as we could allow.
9 So I am willing to entertain the motion and see where this
10 takes us. I am going to keep an eye on the topic of the
11 conversation.

12 Again, while I'm willing to sort of let go of this
13 notion we're going to go A, B, C, D, we are going to go
14 through the charge in order as its listed. I think I am
15 going to stick to saying we have a fairly narrowly asked
16 charge. I'm going to ask you to try to stick to that
17 question of whether or not the minimum wage should be
18 increased; if it were to be increased, how much? and

19 whether or not it should be indexed.

20 The motion speaks clearly to those concepts. I
21 wouldn't move the motion out of order on that basis. Since
22 the body seems willing to let us meander a little on the
23 order we take the question, I'm willing to entertain this
24 motion and have a discussion about that and see where it
25 takes us, if that's okay with you, Mr. Broad. If I'm
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1 cutting off something in error, you can raise the issue
2 again.

3 MEMBER BROAD: I just want to add, the charge of
4 the Wage Board is to deal with the minimum wage. Minimum
5 wage covers all employees of California and all employers
6 subject to the minimum wage. And unlike the other wage
7 Boards which are industry or occupation specific, the
8 Minimum Wage Board is not, and so anything that touches on
9 the minimum wage, I think, is fair game for discussion and
10 is relevant.

11 whether -- the Wage Board, if it votes by a
12 two-thirds vote, can bind the Commission as to -- that's
13 it. It's over. It's decided. If we decide to raise the
14 minimum wage here to \$32 an hour, it's done, unless there's
15 no evidence to support it. Therefore, the question of the
16 jurisdiction of our deliberations is really an issue for
17 whether we've acted lawfully on a particular motion and
18 whether the motion binds the IWC.

19 In terms of a discussion, discussion is far
20 ranging. The agenda is our own to create, with our own
21 power. With all due respect, the position of the neutral
22 Chair in this forum is fairly limited, and I just don't
23 think you really want to get into cutting off debate. Let

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24 me put it that way.

25 I also -- notwithstanding the Chair's Chair of the
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1 IWC's view, if the Wage Board wants to go do this five days
2 in a row, it can as well. There's really -- it's out of
3 the control of the IWC. I don't care what Mr. Curtin's
4 timing is, or not timing, or anybody's timing. He is
5 not -- he has no jurisdiction at this moment over the
6 operation of this Wage Board, and that's stated as someone
7 who was on that IWC. It's a unique process in which
8 citizens are given full governmental power to operate.

9 If we come to the end of the day and we want to
10 meet tomorrow or the next day or a week from now or
11 whenever we can do it with proper notice, I think that's
12 fully within the authority of this Wage Board to decide as
13 a group, notwithstanding anybody's agenda.

14 So having said that, I will not say any more on
15 that subject.

16 CHAIRPERSON COHEN: Your comments are noted,
17 Mr. Broad. If you want to introduce a motion as a result
18 of this discussion, I will entertain that motion. Do you
19 want to restate it?

20 MEMBER WEI: Thank you, Mr. Chair. I move that
21 the minimum wage should reflect the proper cost of living
22 and reflect the purchasing-power increase needed for
23 low-wage workers.

24 The reason for my motion is, if we were to return
25 to the Chair's goal and look at the framework of the
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1 charge, whether or not you agree with that charge, it's a
2 big leap between number 1 and number 2. We just deadlocked

3 as the wage Board on whether or not the minimum wage is
4 adequate or inadequate. Therefore, before we can begin the
5 discussions of what the minimum wage should be, presuming
6 that it's inadequate, we need to talk about some concepts.
7 The concept there is being able to maintain purchasing
8 power for the lowest of wage earners.

9 Again, I make this motion because we cannot get to
10 the -- an accurate dollar amount of what should be an
11 adequate minimum wage unless we discuss the concept of a
12 minimum wage that reflects the proper cost of living.

13 CHAIRPERSON COHEN: Is there a second to the
14 motion?

15 MEMBER JONES: Second.

16 CHAIRPERSON COHEN: Seconded by Mr. Jones.
17 Response? Mr. Abrams?

18 MEMBER ABRAMS: Yes. Regardless of how people
19 choose to move on this, I think Ms. Wei's motion is a
20 proper one. I think where we might be hung up a little bit
21 is, notwithstanding the fact there have been two votes over
22 the adequacy of minimum wage, period, that doesn't then
23 drive, necessarily, all of our subsequent discussions into
24 the next step judged by whether or not we've agreed there
25 ought to be an increase.

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1 The IWC will take whatever input, even if it's a
2 deadlock, when they consider all of these issues. It's
3 quite possible that the IWC might elect to increase the
4 minimum wage. That -- if that happens, then I think any
5 guidance that they get out of this wage Board, whether we
6 vote it's two-thirds majority or deadlock, is extremely
7 useful and is, in fact, part of the function the wage
8 Boards are to decide. However I might choose to vote on

9 Ms. Wei's motion, I think it is exactly the kind of thing
10 we should be doing. I say that with respect to the Chair.

11 I would, then -- to the motion itself, I think the
12 Devil is in the details, and this is one of the things we
13 discussed a bit this morning. What is the, quote,
14 purchasing power, and what is the cost-of-living standards?
15 I understand the concept, but depending upon what one
16 chooses as his or her definition of purchasing power and
17 cost-of-living standards, the result will be dramatically
18 different, obviously. And for that reason I would oppose
19 the motion. I say that with respect to the maker of the
20 motion.

21 MEMBER BROYLES: Call a question.

22 CHAIRPERSON COHEN: A question has been called
23 for. Is there an opposition to voting on the motion?

24 MEMBER BROAD: We object.

25 CHAIRPERSON COHEN: Do you want to continue
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1 discussion? I saw no hands over here, so who would like to
2 respond? She called the question, and Mr. Broad objected,
3 if I understood it correct. If you have some more
4 discussion, then please respond.

5 ALT. MEMBER MARTIN: It's my understanding when
6 the question is called, the question is called.

7 CHAIRPERSON COHEN: Excuse me, sir. I'll take
8 procedural questions from the body, but with respect to the
9 alternates -- well, if you want to be that procedural, we
10 can be that procedural. Having just been chastised that
11 you all ought to be able to discuss what you want, is there
12 a second to call for the question?

13 MEMBER ABRAMS: I'll second it.

14 CHAIRPERSON COHEN: We'll now vote on whether or
15 not to call the question. The vote is whether to close
16 debate and vote on the main motion. We'll call roll on the
17 closing debate on this motion. We will start with the
18 employer representative Ms. Broyles.

19 MEMBER BROYLES: No.

20 CHAIRPERSON COHEN: Since we're being technical,
21 we have to take a vote on closing debate.

22 MEMBER BROYLES: I apologize, Mr. Chair. Yes.

23 CHAIRPERSON COHEN: Mr. Davis? The vote is on
24 closing debate.

25 MEMBER DAVIS: Yes.
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1 CHAIRPERSON COHEN: Mr. Dayton?

2 MEMBER DAYTON: Yes.

3 CHAIRPERSON COHEN: Ms. Dunbar?

4 MEMBER DUNBAR: Yes.

5 CHAIRPERSON COHEN: Mr. Abrams?

6 MEMBER ABRAMS: Yes.

7 CHAIRPERSON COHEN: Ms. Barsuglia?

8 MEMBER BARSUGLIA: Yes.

9 CHAIRPERSON COHEN: Mr. Agee?

10 MEMBER AGEE: No.

11 CHAIRPERSON COHEN: Mr. Broad?

12 MEMBER BROAD: No.

13 CHAIRPERSON COHEN: Ms. Wei?

14 MEMBER WEI: No.

15 CHAIRPERSON COHEN: Mr. Jones?

16 MEMBER JONES: No.

17 CHAIRPERSON COHEN: Ms. Mercado?

18 MEMBER MERCADO: No.

19 CHAIRPERSON COHEN: Mr. Schacht?

20 MEMBER SCHACHT: No.

21 CHAIRPERSON COHEN: We deadlocked on whether or
22 not to close debate, so debate is not closed. The
23 employers' stated position on the motion would be -- anyone
24 from the employee representatives care to respond?

25 MEMBER WEI: Yes. Angie Wei.
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1 The reality is the cost of daily goods of
2 California and across this country goes up every year.
3 From 2000 to 2005 -- this is now old data, and you'll know
4 why I say that when I read it -- a gallon of gas went up
5 from a dollar sixty-six a gallon to 2.39 a gallon. All of
6 us have seen gas prices posted up at over \$3 a gallon. A
7 buck sixty-six to 2.39, that's already a 44-percent
8 increase in the cost of a gallon of gas. Taking the
9 reality of over \$3 a gallon, that's a two-thirds, 66
10 percent, increase in the price of a gallon of gas.

11 A gallon of milk has gone up from \$2.91 a gallon
12 to 3.59 a gallon, up 23 percent; a two-bedroom apartment at
13 fair market rate in urban counties in California, up 45
14 percent from 2000 to 2005. Tuition at Cal State University
15 went up from 1328 a year to 1572 a year, up 18 percent;
16 child-care costs up \$8,494 a year, up to \$9,691 a year, up
17 14 percent.

18 The price of day-to-day goods and services goes up
19 every year, and yet the minimum wage does not reflect those
20 annual or sometimes monthly increases. Therefore, the
21 minimum wage should be increased and potentially should
22 change depending on what the cost of living is in
23 California.

24 Now, we have maintained that the proper standard

1 is the Consumer Price Index. In fact, the measure that
2 we've utilized is the Consumer Price Index of urban
3 counties in California, which is the indexing mechanism
4 that the state's Department of Finance uses.

5 It's also, in looking across the states that
6 index, the similar conceptual index, urban counties, used
7 in the state of Washington as well as in the state of
8 Oregon. Therefore, we believe the minimum wage -- without
9 getting into how much the index should be or what the wage
10 should be, we believe the minimum wage should reflect the
11 proper cost of living on an annual basis.

12 CHAIRPERSON COHEN: Mr. Abrams?

13 MEMBER ABRAMS: Yes. I now have a better
14 understanding of the motion, and I would like to add an
15 additional ground for opposition.

16 I had inferred from the motion, and I should have
17 listened more carefully to the word "reflect," that the
18 suggestion in the motion was that when one looks at what
19 the minimum wage should be, one ought to take into
20 consideration, among other things, purchasing power, etc.

21 But the motion, Ms. Wei has made it very clear, is
22 that whenever the cost of living goes up, purchasing power,
23 otherwise, would go down; if minimum wage would not
24 increase, that it should go up to reflect those changes,
25 which is indexing.

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1 For the reasons we stated -- and we need to
2 discuss this issue here, but the issue has been discussed,
3 the legality of the IWC doing the mixing, all of those

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4 things need to be discussed here. On the basis I
5 understand the more motion fully, I strongly oppose it on
6 that basis.

7 CHAIRPERSON COHEN: Mr. Broad?

8 MEMBER BROAD: I don't know that I see Ms. Wei's
9 motion actually determining whether there's indexing of the
10 minimum wage. I don't think we're at that point. I think
11 we're discussing whether -- by whatever mechanism the
12 minimum wage is raised, whether by the people, by the
13 Legislature, by the IWC, by God, in his or her infinite
14 wisdom, however it gets raised, whether it should reflect
15 the proper cost of living by some measurement, whatever
16 that is.

17 Now let me step back and just ask Ms. Dunbar a
18 question, because she said earlier in the day that 6.75,
19 looking at it historically from 1959 -- that 6.75 was about
20 right, and I just would like to know why she thinks it's
21 about right; in other words, what is the measurement?

22 She said she looked at it -- or they, the
23 restaurant association, has looked at it historically as
24 it's gone from 1959, '57, to now and decided it is about
25 right. What is the measurement that you used to determine
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1 that it was about right?

2 MEMBER DUNBAR: This is Lara Dunbar, from the
3 California Restaurant Association.

4 All I said is since 1956 the minimum wage, if you
5 adjust the minimum wage every year for inflation, it goes
6 up and down. If you take the average of all that, then --
7 and add them together and take the average of all the
8 different adjustments, you come to about right where we are
9 now. So that's what I meant.

10 Does that answer your question?

11 MEMBER BROAD: Does that mean you believe a proper
12 way of looking at it is to adjust the minimum wage by that
13 standard so that it maintains that level of average
14 adjusted for inflation? If it's about right, I assume you
15 meant that's where it ought to be, and if it was wrong, it
16 would go up.

17 MEMBER DUNBAR: No. I said it's about where we
18 are right now, and I also said that 6.75, I believe, is not
19 inadequate.

20 MEMBER BROAD: Is not inadequate. Okay.

21 MEMBER DUNBAR: I never said 6.75 was right. I
22 said 6.75 was inadequate. If you look at the historic
23 average over the years since 1956, whenever minimum wage
24 was applied to women as well, then it's about where we
25 should be, and that was just a statement.

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1 MEMBER BROAD: I'm trying to understand, though,
2 from your view, how do you -- is there an actual
3 mathematical calculation that you and your group came up
4 with that determined that it's about right at 6.75?

5 MEMBER DUNBAR: Yes. We adjusted for inflation
6 every single year, added those up, and then took the
7 average.

8 MEMBER BROAD: So if in six months from now the
9 IWC was to look at it and do exactly that calculation and
10 determine that it was lower than it was from 1956 or
11 whatever arbitrary date we're going to take -- starting
12 date -- we can go back to 1916, if we want -- and adjust
13 it, you would be favorable to adjusting it up at that
14 point, right?

15 MEMBER DUNBAR: No. I just said 6.75 is about
16 where the state would be if you took the average of the
17 historical minimum wage. This is mainly in response to the
18 argument that we are below where we should be.

19 MEMBER BROAD: So you're actually against raising
20 it even if we're below -- I just want to understand your
21 personal point of view; that if we came in here and it
22 turned out to be different and it was actually 20 percent
23 lower in real-dollar buying terms than it was in 1956,
24 you'd still be opposed to raising it to the 1956 level?

25 MEMBER DUNBAR: I think it's inappropriate, first
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1 of all, to state my personal point of view. I am here as
2 an employer representative.

3 And that being said, I think, basically, all that
4 is being said is that 6.75 is not inadequate to -- when we
5 view it. We see that -- there's all this talk about, well,
6 right now you're below -- we should be, what, 8.44 -- I've
7 heard figures -- if you adjust it for inflation since 1968,
8 stuff like that.

9 We're just saying that is an inaccurate way to
10 look at it; rather, a better way, if you want to see where
11 we should be or should not be, just so you know, the
12 average of the historical minimum wage since 1966 is around
13 6.75.

14 MEMBER BROAD: Where do you think it should be?
15 What purchasing power should we be trying to keep the
16 minimum wage at? You have an opinion. You're on here.
17 What do you think it should be: 0?

18 MEMBER DUNBAR: On behalf of the industry, we feel
19 the minimum wage is the starting wage, first of all. That
20 being said, there are a lot of employers who pay more or

21 less. I think if you look at the adequacy of the minimum
22 wage, there's a lot that goes into that. You have to look
23 at different factors. Putting a dollar amount, right now
24 our view is 6.75 is not inadequate. We do not think the
25 minimum wage should be raised.

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1 MEMBER BROAD: Do you think it should be lowered?

2 MEMBER DUNBAR: I'm not prepared to say that
3 either. Is that a question here we're supposed to be
4 voting on?

5 MEMBER BROAD: You can make a motion to lower it.
6 You can make it disappear, if you want.

7 MEMBER DUNBAR: I'm not doing that. Are you
8 making a motion to lower it?

9 MEMBER BROAD: No. I'm for raising it. I'm
10 trying to find out what you're actually for.

11 MEMBER DUNBAR: We're not for raising the minimum
12 wage.

13 MEMBER ABRAMS: Point of order. With all due
14 respect to Ms. Dunbar and Mr. Broad, what a particular
15 association or employee representative's organization's
16 point of view is, if there's a motion on the floor -- and I
17 think the question is, let's discuss the merits of the
18 motion, which I, quite frankly, still am not sure whether
19 it's indexing or not indexing -- what Ms. Dunbar might feel
20 is an adequate level of minimum wage, what role inflation
21 should play in it, with all due respect, is not subject to
22 debate here in this body today.

23 CHAIRPERSON COHEN: Let me say this: I think, in
24 light of Mr. Broad's earlier comments about an effort to
25 find common ground, if some exists, as opposed to a series

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1 of 6-6 motions, I think it's important to explore, a little
2 bit, each person's opinions, trying to draw out whether or
3 not there's grounds to a common ground that gets past 6-6
4 on each question. I think a back-and-forth, if it devolves
5 into that, isn't particularly productive. We have at least
6 one other member of the Wage Board patiently waiting to
7 speak.

8 Mr. Broad, it's my sense you have an answer as
9 much as you're going to get.

10 MEMBER WEI: Mr. Chairman, when it's appropriate,
11 I do have some follow-up questions.

12 MEMBER BROYLES: Thank you, Mr. Chairman. First,
13 a comment and a question. As I understand the motion to
14 this point, what is really before the Board -- or the
15 Commission -- the Wage Board at the moment is whether or
16 not we should be tying this to some sort of increase
17 mechanism. And I know from the California Chambers' point
18 of view, we do have great concern about tying anything to
19 an auto-pilot factor that doesn't take into account what is
20 happening in the economy at that time.

21 Again, whatever you may believe in or not believe
22 in, if indexing had been part of the equation of the
23 minimum wage calculation prior to September -- to September
24 11th, it could have had great damaging effect if there was
25 no way to also examine at that point in time whether the

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1 minimum wage should be going up that following January, if
2 such a mechanism had been in effect.

3 So we would have great concerns and urge great
4 caution against ever putting something like the minimum

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5 wage because of its wide effects on other parts of the
6 economy, on many industry, many businesses, and many
7 employees at that time, and would not want to see that
8 happen, if that is what is being said.

9 That being said, I would like to make a question
10 to Ms. Wei, asking her to more fully explain what kind of
11 mechanism she would envision, and would that mechanism also
12 look at downturns as well as upturns in the economy as that
13 mechanism?

14 MEMBER WEI: Let me try and clarify, because I do
15 sense some confusion. As the maker of the motion, I have
16 not moved that we should index the minimum wage yet. What
17 I'm trying to get at here is to have a conceptual
18 discussion about whether or not the minimum wage should
19 reflect something rather than it be an arbitrary dollar
20 amount that's put forward or whether it should be a
21 political football that politics dictates it sounds great
22 to increase the minimum wage by a dollar-fifty or \$2,
23 whatever it is.

24 And I think it's probably a frustration that's
25 shared, potentially by both labor and management, about the
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1 standard of adequacy. We have yet to come up with a
2 standard of how do you measure adequacy.

3 What I'm trying to get at here is a discussion
4 about whether or not one measurement of adequacy is --
5 whether or not the minimum wage reflects the true cost of
6 living. We are not at the indexing question yet, but we
7 are at a conceptual question about how do we judge
8 adequacy. I can't get to pegging what a dollar amount
9 should be until we have some conceptual framework questions
10 about how to judge that adequacy.

11 So in terms of, I think, Ms. Broyles' question,
12 what's it to be tied to, I think that's right for our
13 discussion here. If we do agree and we do get to a
14 unanimous 12-0 vote on the concept that the minimum wage
15 should reflect cost of living, then we can have a fruitful
16 discussion about what kind of index, for lack of a better
17 term, we'll be able to tie it to.

18 MEMBER BROYLES: That still avoids the point I was
19 asking you about, Ms. Wei, which was, should any kind of
20 mechanism, in looking at whether something is adequate or
21 inadequate to supply the proper cost of living -- would
22 that be a mechanism that could go down as well as up?

23 MEMBER WEI: If fair-market rents plummeted, then
24 it's likely that we could see a lowering of wages,
25 including the minimum wage. If the cost of gas plummets --

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1 I think the discussion I'm trying to engender here is, what
2 should the minimum wage reflect? If that's fair rents
3 going down in California, those can be reflected in
4 whatever the marketplace of goods is to determine what the
5 index is.

6 MEMBER BROYLES: So you would support the minimum
7 wage going down?

8 MEMBER WEI: I'm here to support an increase in
9 the minimum wage.

10 MEMBER BROYLES: I wanted to be sure we had that
11 on record.

12 MEMBER WEI: I did at some point, Mr. Chair, just
13 have some clarifying questions for Ms. Dunbar when that's
14 appropriate.

15 CHAIRPERSON COHEN: I have two other members of

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16 the wage Board that would like to make a comment. I'm
17 going to go first to Mr. Schacht.

18 MEMBER SCHACHT: Mark Schacht, California Rural
19 Legal Assistance Foundation.

20 I'm looking at Labor Code section 1178, which is
21 the statutory basis upon which the Commission has appointed
22 this wage Board. In order to justify statutorily the
23 appointment of the wage Board, the Commission has to find
24 that wages paid to employees may, quote, be inadequate to
25 supply the cost of proper living, end quote.

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1 In the section that describes the composition and
2 duties of the wage Board, 1178.5, the statute states: The
3 wage Board shall report to the Commission its
4 recommendation of a, quote, minimum wage adequate to
5 support the necessary costs of proper living.

6 If you go back in time, I have here a 1967 interim
7 report by the Assembly Industrial Relations Committee
8 trying to make some recommendations about how to discharge
9 that statutory requirement, and it proposes some -- a
10 definition for proper living, for example, that reflects
11 that it necessarily changes as the general standard of
12 living changes. And the definition they propose -- this
13 did not become law, but this was as a result of an interim
14 hearing -- that the proper living shall meet at least a
15 subsistent standard of living and may exceed that standard
16 to the extent that the Commission, in its discretion, finds
17 appropriate considering the standard of living prevailing
18 among all waged and salaried workers.

19 So I think these concepts of cost of living,
20 what's proper living, what's adequate are all fluid and all
21 evolve as this society evolves. For example, in some of

22 the early stages of Minnie's budget, Minnie didn't even
23 have a wristwatch.

24 So I think it's fair for us to be suggesting that
25 people shouldn't have to live as some of my clients live,
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1 ten to a garage. They ought to be able to be in reasonable
2 habitable housing, and you can't get reasonable habitable
3 housing at eight hours a day at 6.75. This wage needs to
4 reflect those kinds of reality. I think at some point
5 we're going to get to a discussion about Minnie's budget.
6 Are we? Yeah.

7 But I think this all anticipates that. 6.75
8 doesn't begin to reflect the increases in the cost of gas,
9 the increases in the cost of -- and that is inherent, and
10 some reflection and recognition of those costs of proper
11 living are in the statutory construct under which we're all
12 operating.

13 CHAIRPERSON COHEN: Mr. Abrams.

14 MEMBER ABRAMS: Jim Abrams.

15 I think this is an appropriate discussion. No
16 question about it. I think the challenge when you use the
17 word "reflect," that implies, or connotes, that if the cost
18 of living goes up, ergo, the minimum wage ought to go up.

19 what I would suggest instead, and the reason I
20 oppose the motion as it's presented, is that -- I would
21 agree that if you take a look at all the factors and
22 considerations that should be analyzed in deciding what the
23 minimum wage level should be, the cost of living is
24 certainly one of them. The problem is that we end up
25 typically stopping the discussion at that point because

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1 there's been inflation, cost of living has gone up. I'm
2 not going to sit here and pretend it hasn't.

3 But I want to go back to what I said in the very
4 beginning this morning. One cannot just look at that in a
5 vacuum. The debate over what the minimum wage should be
6 needs to take into consideration not only the cost of
7 living. I don't know I would use exactly the words Ms. Wei
8 would use, but we're all on the same page, I think. But we
9 need to look at whether or not action the IWC takes or
10 whether actions it would take would cause harm. That's
11 when we get into the discussion of all the other factors
12 making businesses viable to provide jobs to people.

13 We have had debate after debate after debate
14 whether raising minimum wage causes people to lose jobs. I
15 think it's implicit. The fact the employee community
16 argues that it doesn't is the fact if it did, they would
17 rethink their position; that in fact if we could establish
18 once and for all that raising the wage decreased overall
19 employment and didn't create any more unemployment, loss
20 of benefits, loss of hours, loss of shifts, go to
21 automation, things like that.

22 These are all proper considerations, but to take
23 one of them, cost of living, quote/unquote, or purchasing
24 power, quote/unquote, and to say that, if it changes, will
25 drive by itself and be a defining mechanism to drive

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1 minimum wage, I think, is totally inappropriate because it
2 leaves out all the other relevant factors. For that reason
3 I continue to oppose the motion.

4 MEMBER SCHACHT: In response to that, the statute
5 compels the Wage Board to report on a minimum wage adequate

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6 to supply the necessary cost of proper living to and
7 maintain the health and welfare of employees in this state.

8 MEMBER ABRAMS: If you look at the intent
9 language -- I don't know which enactment it might be,
10 Mr. Schacht. In the intent language, there is a very clear
11 statement. I wish I could show it to you today. I don't
12 have it with me. You won't find it in the Labor Code. It
13 was the intent of the Legislature: Do no harm. Do what
14 we're telling you to do, but be sure you don't do harm when
15 you do it.

16 CHAIRPERSON COHEN: Mr. Broad?

17 MEMBER BROAD: I just want to say, injecting some
18 serious reality into this, the Governor proposed raising
19 the minimum wage by a buck. There's no rational basis for
20 it at all. Just a buck. The Davis Administration proposed
21 raising it by a buck because it's a nice round number, a
22 dollar; same thing, same calculation.

23 Probably where we agree is that the decision to
24 raise the minimum wage and how much to raise it to is
25 fairly arbitrary. I'm sure that these federal Congressmen

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1 who came up with their number, they dithered around back
2 and forth like, you know, debating between the guys who
3 didn't want to raise it at all and the ones who wanted to
4 raise it even more. Okay. Let's get in the middle and
5 raise it by something. It's inherently a political
6 process. The question is whether we can advise the IWC,
7 even if we agree on nothing else, that the minimum wage
8 ought to not be arbitrary.

9 Now, whether the mechanism to actually raise it is
10 automatic, which I recognize the employers virulently
11 oppose, is a wholly different question than whether the

12 number you get to reflects some calculation of something.

13 Now, frankly, I think this is an area where we all
14 actually agree, that it shouldn't be arbitrary, and
15 embedded in that agreement is about a thousand
16 disagreements. I understand that. But I actually think
17 that it probably serves the labor and business interests of
18 this state equally if the minimum wage was not a political
19 football that arose every few years when it couldn't be
20 avoided any longer and was something that more or less all
21 the parties could, if it was possible, agree was based on
22 some formula that reflected a reality that had enough of a
23 buy-in that people generally said, well, yeah, that kind of
24 makes sense.

25 And I think that that is the heart of Ms. Wei's
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1 motion. And however it was articulated and however scary
2 it might have sounded, I think that's the heart of her
3 motion. Whether we believe that once you reach that number
4 it should be indexed automatically every year, every two
5 years, every 15 seconds, whatever it is, that's an entirely
6 different question.

7 MEMBER ABRAMS: Just a question to the Chair. I'd
8 like to revisit the announcement you made at the beginning
9 of the day, because I think it is critical to where we are
10 right now. It has been your opinion that six people
11 constitutes a quorum. I would like to respectfully
12 question that, because I think -- and I do appreciate what
13 Ms. Fong has said, that it is probably, under the
14 Bagley-Keene Act, better to be safe than sorry -- I think
15 it is very important we be able to caucus at this point.
16 Otherwise, I can predict how things are going to come out.

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17 If groups -- as new things come up, if we are
18 unable -- the six of us and the two alternatives or the six
19 employee representatives and their two alternates can't
20 caucus and discuss things, I would respect whatever
21 decision you make, but it would be helpful.

22 MEMBER BROAD: May I speak to this? In the past
23 the two sides have always been able to caucus. I would be
24 willing to offer a motion of a procedural sort basically
25 saying that in the absence of both sides -- that we be
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1 permitted to caucus.

2 First of all, a caucus doesn't mean you lose the
3 quorum, since you could be in the back of the room, if
4 that's a real problem; and secondly, that we bind ourselves
5 that no party will make a motion while a caucus is in
6 effect.

7 MEMBER ABRAMS: I also do think -- Ms. Fong raised
8 the point that if we caucus -- does the Bagley-Keene Act
9 require that whatever our office, for example, discusses
10 [unintelligible] -- is that part of your concern?

11 MS. FONG: That is correct. Under the regulations
12 specified, 50 percent of appointed voting members does
13 constitute a quorum.

14 MEMBER ABRAMS: We are here in a public meeting,
15 and any result of what we're going to do is going to be in
16 a public meeting.

17 MS. FONG: The purpose of the Bagley-Keene is also
18 to give the public an opportunity to view the discussion,
19 the dialogue that goes on and takes place between the Board
20 and its members, so if you were to caucus outside of the
21 public's view, that would kind of defeat that purpose.

22 MEMBER ABRAMS: What if we do it right here? I'm

23 not trying to be funny, not how many angels can dance on
24 the head of a pin. If the eight employer representatives
25 were just to go in this corner here, talk quietly among
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1 themselves right here, and we just chatted off the record,
2 so to speak --

3 MS. FONG: The problem is Bagley-Keene requires
4 everything on the record.

5 MEMBER ABRAMS: If that's how we're going to
6 operate, I respect that, but that drives a certain result.

7 MEMBER BROYLES: Question on the same issue: If
8 one of the six stands away from the caucus, can five of the
9 people on that voting side still meet separate and away
10 from the dais?

11 CHAIRPERSON COHEN: I'll hear what counsel has to
12 say. I would also point to the fact that in the 2000 wage
13 Board, this question came up. Mr. Abrams, it might have
14 been you, or somebody with your name raised it. Were you
15 on the 2000 Wage Board?

16 MEMBER ABRAMS: I believe so.

17 CHAIRPERSON COHEN: The question of the ability to
18 caucus came up, and the Chair of that wage Board cautioned
19 that the members should remain in the room so the
20 deliberations could be observed by the public.

21 MEMBER ABRAMS: We have no problem with that,
22 being in the room, letting the public observe us.

23 CHAIRPERSON COHEN: However, I have to tell you
24 that I'm leery of -- I'm warned and rely on the advice of
25 counsel that -- I think it's appropriate for me to do so in
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1 my role as Chair, and I do have a role. I think if five of
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2 you wish to talk, I don't think there's any -- I would ask
3 you to do it sort of under the same umbrella. I'd ask you
4 to do it off the side, in the room.

5 I don't see any reason why five members of the
6 wage Board couldn't gather together to discuss a point,
7 particularly if any of you think that that's going to move
8 the discussion along and find any kind of common ground
9 about any point that we're discussing. I'm all in favor of
10 it. So if you think it would be fruitful to talk at the
11 moment --

12 MEMBER ABRAMS: I would ask for a break of five
13 minutes to be taken in place up here, please. Whoever
14 wants to talk, anybody else can talk to them.

15 MEMBER WEI: That's fine with us. We're all about
16 rest breaks.

17 CHAIRPERSON COHEN: Let's do five minutes. We'll
18 take a break in place.

19 (Recess.)

20 CHAIRPERSON COHEN: It does appear that we're all
21 back in the room, anyway. We went a little over five
22 minutes, but you all did a good job. Thank you all for
23 being quick and getting back.

24 I guess it's the employer representatives
25 requesting an opportunity to discuss among some of
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1 themselves. I wonder if any of you --

2 MEMBER ABRAMS: Jim Abrams.

3 On behalf of some of the employer -- we have
4 discussed not only what Ms. Wei has said with regard to her
5 motion and what Mr. Schacht said and others. At this
6 point, with respect, we are opposed to the motion.

7
8 MEMBER WEI: Mr. Chair, I have taken another
9 moment to flip through the packet of materials that have
10 been presented to the Wage Board, and I've pulled some of
11 the reports that I believe the employer community has cited
12 in discussing the adequacy of the minimum wage. I want to
13 just take a second to run through, quickly, these reports.

14 My premise here is -- my contention is that none
15 of these reports are actually an evaluation of what has
16 happened to jobs, both in terms of number of jobs,
17 full-time versus part-time work, number of hours. None of
18 them are an evaluation-type study of increases in the
19 minimum wage.

20 The 2001 DLSR DIR study is a prospective look at
21 the potential implications with the 2001/'02 minimum wage
22 increase. The NCPA study is a theoretical model study
23 based on -- I think these are supply-and-demand curves. I
24 don't even know what these are -- about the possibilities
25 of a minimum wage increase.

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1 I reviewed, yet again, the Chamber of Commerce and
2 the members of the California Employees Coalition, and they
3 do not cite any studies that are a direct evaluation of
4 what has happened to jobs in California opposed to a
5 minimum wage increase, whether it's an evaluation after the
6 passage of prop 210 by the voters or the last minimum wage
7 increase carried forward by the Industrial welfare
8 Commission in '01 and '02.

9 On the flip side, if you look at the other dead
10 trees on our table, we have submitted a number of reports
11 that are direct evaluations of the minimum wage increases
12 both in California and across the country, and have

13 presented both in a petition filed by the state federation
14 and in our testimony today that there's well-documented
15 evidence of the diminuous impact on the number of jobs,
16 the quality of jobs, or the number of hours of the jobs
17 worked postminimum wage studies.

18 we submitted a study from UC Berkeley looking at
19 the evaluation of the San Francisco minimum wage and the
20 actual impacts of that. We've submitted a study from
21 Florida looking at the impacts of the -- Florida's increase
22 in the minimum wage and what's happened to jobs there.
23 We've submitted the PPIC studies that have looked at actual
24 number of jobs, state-by-state migration, that evaluates
25 pre- and postjob figures.

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1 So if we were to return to the charge of the Wage
2 Board to review the documentation that's submitted before
3 us, I am challenged to find where the empirical evidence
4 comes forward that shows the deleterious consequences of
5 the increase of minimum wage that the employers are
6 arguing.

7 MEMBER DAYTON: Mr. Chairman, Kevin Dayton,
8 Associated Builders & Contractors of -- I did not caucus
9 with the employer group. I actually agree with what I
10 believe is the original sentiment that we on the Wage Board
11 have been given a very strict direction from the Industrial
12 Welfare Commission what to do.

13 I can tell you -- I actually thought maybe
14 appealing the decision -- I do believe this motion is out
15 of order. I am a little uncomfortable that we seem to be
16 moving into an area which, perhaps, is better suited for
17 the Legislature. I don't think I came here representing

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18 the ABC [unintelligible] thinking over policy issues and
19 what the various definitions are and things like that.
20 with all the competing material we have here, it's as
21 difficult as it is just to fulfill the strict
22 responsibility that the Wage Board gave us. So I just
23 wanted to make that feeling known.

24 CHAIRPERSON COHEN: Thank you, Mr. Dayton.

25 MEMBER SCHACHT: Just in response to that, again,
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1 the charge is specific to the extent that it's asking us to
2 consider some specific items and to make recommendations.
3 It is not exclusive, however. It doesn't say the Wage
4 Board cannot consider any other matters or take votes or
5 issue recommendations to the Board that relate to this
6 subject matter. I think that's the point that Ms. Broyles
7 and Mr. Broad made earlier and which we all find ourselves
8 in concurrence.

9 MEMBER DAYTON: I disagree with that too.

10 MEMBER BROAD: Can I make a comment? This is
11 really -- just so you all really think about this, there is
12 no other place in California government, that I'm aware of,
13 where regular people, wherever they come from, are actually
14 given the power to do something. So it probably behooves
15 us, whether we reach agreement or not, not to spend part of
16 the time just saying, "I don't want to do it. I don't want
17 to exercise that power."

18 This is a unique opportunity. There's no other
19 group of people that get it except the people that do this.
20 So while I understand the limits and the anxieties and
21 concerns and fears, whatever, of overstepping our
22 boundaries, supplying information to the IWC about what our
23 opinion is of anything is what our job is related to the

24 minimum wage. And I think at the core of the minimum wage
25 debate, always, is, how much should the minimum wage be,
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1 and what goes into the decision?

2 Now, the reason these Wage Boards are always
3 deadlocked is because we're deadlocked in the political
4 script that gets written; that is to say -- I don't know
5 that we ever get out of this because of the way it works,
6 but the deadlock is this: The employers vote no on
7 everything, no matter how reasonable it is. The union
8 votes yes on everything, no matter -- or the labor side --
9 however unreasonable it is, to raise the minimum wage,
10 because neither side has any faith that the ultimate
11 determination of the minimum wage will be based on anything
12 except something arbitrary.

13 Therefore, the best way from the employers' side
14 to minimize the increase -- it's not like you guys actually
15 believe it's not going to go up -- it's the best way to
16 minimize the increase and do what your side wants, and the
17 best is for you to vote no, and the best position for us in
18 a political process, ultimately, is to vote yes.

19 It actually doesn't advance the real policy issue,
20 which is what I was trying to raise before and which I
21 think Ms. Wei is raising, and which Mr. Abrams actually
22 agrees, in fact, we all actually agree; is that the minimum
23 wage, when it goes up, ought to reflect something related
24 to the reality of workers' lives, the economy, whatever the
25 standard is; and that that is sort of a good thing.
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1 Now, we may -- I think you could probably predict,
2 maybe, we're not going to get there today. We may not get

3 there the next day. Whatever. We may get there. We may
4 not get there. Even if we predict we won't get there, this
5 discussion has never actually been held at one of these
6 Wage Boards, where the group sort of hammered out -- you
7 don't even have to do it by a two-thirds vote. You could
8 be doing it by a majority vote, in which you said, to the
9 IWC, "IWC Members, when you look at this minimum wage
10 thing, base it on something rational, not arbitrary."

11 And I don't think -- I think that's reachable with
12 this group, whether or not we could reach any other
13 agreement on any other issue.

14 CHAIRPERSON COHEN: Ms. Broyles.

15 MEMBER BROYLES: First of all, thank you, Barry.
16 I think that was a very fair description of -- you do. And
17 the peeking into the mind of Barry Broad is always
18 illuminating. And I agree with you, and I agree with
19 Ms. Wei, that the arbitrariness of some political
20 discussions can be a problem, depending on what side and
21 what issue is being discussed.

22 I would be speaking solely for the California
23 Chamber. I doubt -- and I agree with you -- I doubt this
24 is, today, a decision possibility. We would be more than
25 open to continuing the discussion over the coming months on
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1 just that one factor, on deciding and looking at what
2 rational process you go into -- regardless of the forbidden
3 zone of indexing, what goes into a discussion of raising
4 the minimum wage, and what calculation might be brought to
5 bear?

6 when you look at those things -- because I've
7 heard on our side, the employers' side, today, many times

8 mentioned starter wage, beginner's wage, no-skill wage, and
9 other -- on the employees' side, I've heard cost of living,
10 I've heard other -- cost of housing, and all of those
11 things. I don't think it's an unreasonable discussion to
12 have. I just do not see it occurring and coming to a
13 fruitful conclusion today.

14 So while today there may be no agreement on what
15 the cost of proper living or the living -- or any of those
16 factors that we come to agreement today, I do believe it's
17 a viable avenue for us to look at. Even if we come to no
18 agreement, I think it's a discussion that needs to be held
19 at some point.

20 CHAIRPERSON COHEN: I'm going to let Mr. Dayton
21 respond, and then I'll come back to you, sir.

22 MEMBER DAYTON: I'm going to respond. I think
23 it's going down the wrong road to say let's open up the
24 Wage Board discussion to anything having to do with minimum
25 wage. You know how many issues you can tie into minimum
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1 wage. You can tie in welfare. You can tie in immigration.
2 Once again, these are responsibilities that our
3 representative legislators should be talking about.

4 We talk about, why is there a deadlock? Well, you
5 know, when you look at this -- and I don't open myself up
6 for criticism in pointing this out here, but the reality is
7 we're talking about at least two different types of groups
8 here being affected by minimum wage. We recognize first
9 there seems to be a group that has a starter wage, and it's
10 economically mobile and increases wages over time as the
11 worker gains work proficiency. Then there is the segment
12 of the work force that's perpetually at the minimum wage.
13 These are two different groups.

14 what we're talking about here is one broad policy
15 that applies to both of them with no distinction between
16 the two. No wonder you look at all the materials and have
17 a deadlocked group. You're really talking about two
18 different categories of people.

19 In addition, I mentioned before, obviously, one
20 person who is trying to support a household of several
21 people on minimum wage, I don't know how high that wage
22 would actually be for that sort of thing. You have a
23 person working at a restaurant as a single person, a young
24 person. That's an entirely new condition.

25 Once we've gotten into all these discussions --
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1 this properly belongs in the Legislature -- that's my
2 opinion -- this particular type of discussion. We should
3 stick to what the Industrial Welfare Commission told us to
4 do.

5 CHAIRPERSON COHEN: We have two alternates that
6 would like to speak.

7 MR. MARTIN: Speaking on behalf of the Small
8 Manufacturers' Association --

9 CHAIRPERSON COHEN: Mr. Martin, I'll remind you --

10 MR. MARTIN: I'm sorry. Tom Martin, speaking on
11 behalf of the Small Manufacturers' Association.

12 Our concern is responsibility. We are very upset
13 that the Legislature has a free ride, where they have
14 raised their wages from \$40,000 to a hundred and twelve
15 thousand dollars in 15 years, and now you want to do the
16 same thing with the minimum wage by tying it into an index
17 that has no controls and no responsibility. Then there's
18 nobody that's going to be responsible.

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19 Yes, if you have an index like that, you're
20 automatically going to get an increase every year. It's
21 going to go up. You're going to have inflation. It's
22 going to be self-perpetuating. That's what we're concerned
23 with. We want there to be some responsibility. You can
24 call it arbitrary, if you like. I won't argue that. The
25 bottom line is we need to have somebody responsible that we
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1 can point the finger at when they make a mistake.

2 Under the system you propose for an indexing, it
3 would never go down. It would never go down; so that if
4 the cost of living in the state went down, it can't
5 decrease. This would bankrupt companies. This would
6 certainly cost companies a lot.

7 But the bottom line is nobody would be
8 responsible, and there'd be nobody to point a finger at,
9 the same thing we're doing with the Legislature.

10 CHAIRPERSON COHEN: Over here. Same reminder for
11 you for the reporter.

12 MR. SANDAHL: Lee Sandahl.

13 Chairman Cohen, this actually is a question for
14 you. As I read here in this first paragraph -- and I've
15 been reading it off and on throughout the whole day -- the
16 way I'm interpreting this is, if we were to make a decision
17 here on a minimum wage, which I don't want to say it's
18 highly unlikely, but it seems somewhat unlikely today that
19 that's going to happen, that we would also be responsible
20 to ensure that that wage is adequate to supply the cost of
21 proper living. Am I correct?

22 CHAIRPERSON COHEN: That is the language. There's
23 simply no question. The charge reads, specifically, IWC
24 charge 2: Consider all material provided for review.

25 After your review, report to the IWC your recommendations
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1 on the following matter consistent with the basic statutory
2 responsibility to ensure the minimum wage is adequate to
3 supply the cost of proper living.

4 So that notion is itself contained within the
5 charge. Now, the motion that we have been discussing and
6 debating for a good hour now incorporates that concept and
7 adds an additional concept. I do think it falls within the
8 parameters. It doesn't follow the strict framework I
9 suggested this morning, but I do think it falls within the
10 limits of the charge of this body.

11 To restate the motion -- and tell me if I miss
12 it -- I have it as the minimum wage should reflect the
13 proper cost of living, which is statutory, what the
14 language says, and should consider purchasing power of
15 low-wage workers.

16 Do I have that right? So that's introducing a
17 concept beyond merely the cost of living, and whether or
18 not that concept should be considered or whatever it means
19 has been the subject for debate for an hour.

20 One question I have for the group is whether or
21 not it's productive to continue debating this particular
22 motion or whether we should again test a vote on this and
23 see if anyone has been swayed.

24 MEMBER ABRAMS: I was going to call for the
25 question.

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1 CHAIRPERSON COHEN: I think we did that once.

2 MEMBER BROYLES: I tried.

3 CHAIRPERSON COHEN: I will -- I'm going to repeat

4 myself; and that is, it is my understanding of the charge
5 that we have today is to do this: I know we have the room
6 until no later than five o'clock. I personally would just
7 as soon be out of here a little earlier than that, but it
8 is my interpretation and my understanding from staff that
9 we are not, despite Mr. Broad's comments, empowered to
10 decide that we're going to take days, weeks, or months to
11 discuss this. We were assigned a day to discuss this. So
12 the time -- I'm perfectly willing to allow time to have a
13 discussion of this particular motion, but at some point I
14 need to tend discussions of other motions people may want
15 to introduce.

16 With that said, Ms. Wei, you indicated you're not
17 done. I'm going to allow you to comment, if you have more
18 to say, on the motion.

19 MEMBER WEI: I felt, potentially naively, a little
20 glimmer of hope from Mr. Abrams' comments to recognize that
21 the cost of living should be one factor in deliberating a
22 rational increase in the minimum wage. And he's offset
23 that by what he considered, I believe, mitigating economic
24 factors, whether there's job loss, whether there's loss of
25 hours, whether there's movements to more part-time work.

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1 I want to take us back to the materials that have
2 been presented for investigation before the Wage Board, and
3 I want to find out, where is the empirical evidence? If
4 we're looking at what all the factors are to go into a
5 rational databased minimum wage increase, what are those
6 other factors, and how do we measure them? How do we find
7 the empirical data to document there are, potentially,
8 mitigating impacts to an increase of the minimum wage?

9 what's in the basket of goods? I mean this not as a
10 facetious comment, but really to push us to look at the
11 data. I want this to be a data-driven conversation.

12 MEMBER ABRAMS: Jim Abrams.

13 Very fair question. And I will start my comment
14 or my response by agreeing with what Ms. Broyles said.
15 Today, in this setting, is probably not the best -- in
16 terms of productiveness, not the best forum to discuss
17 these issues. And to whatever extent you got a glimmer of
18 hope from some things I said, they were sincere and
19 heartfelt, and I think Ms. Broyles has put her finger on
20 it. These are issues going to all of the things you were
21 leading up to in your original motion, are all fair game
22 for discussion, and ought to be discussed. What I came
23 back and said was today is not -- for whatever reasons --
24 is not the day to do that.

25 But with that said, in response to your question,
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1 I would just point out, for example, the study that was
2 done by the Division of Labor Statistics and Research. I
3 do take, as appropriate, your comments on the study of
4 that, but I point out, as an example, the comment on page
5 4, in the second paragraph at the top. I don't know who
6 the "aye" was. I think there were several people involved.

7 I find, during the later stage of the lengthy
8 economic expansion -- so one issue I keep bringing up is,
9 if you look at unemployment that might be caused by raising
10 the minimum wage or disemployment, you have to look at
11 whether the economy is expanding or contracting. I would
12 offer that out as an issue. The offer of this study, I
13 think, implies that might be a factor.

14 Then he talks about the rise of the minimum wage

15 and the full impact on employment. Again, I would suggest
16 to you that if all you do is look at whether there are more
17 jobs today than there were before the minimum wage increase
18 without adjusting for whether the economy is expanding or
19 contracting and other factors, you're not really getting to
20 the answer whether or not people lost hours, people lost
21 shifts, people got replaced by packaged produce in the
22 restaurant or something like that.

23 But there was -- he did notice that there was a
24 greater effect on work hours. If you read through, it's my
25 understanding work hours went down.

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1 Just to close the loop on this, if you go to page
2 12, the middle paragraph, the last half, it says: The
3 decline in short-term employment for firms appears
4 negligible.

5 This all comes down to jobs, how people can afford
6 to pay people. Over the long run, firms may redesign jobs
7 by using more capital relative to labor that gets it in the
8 bag, lettuce and everything else.

9 In response to your question where is the evidence
10 to refute the conclusions reached in some of the studies
11 that increases in the minimum wage do not negatively impact
12 employment, I would just point these out as examples of the
13 kind of debate that needs to be -- the kind of
14 consideration that needs to be given to this issue.

15 MEMBER WEI: Mr. Abrams, I appreciate your
16 thoughtfulness. My point here, to be on point for me, is
17 that the author says this research report predicts the
18 impact of 2001. These are forward-looking prediction
19 studies, not backwards-looking evaluation studies. I think

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20 that's what's missing, frankly, from the employer side; is
21 that we don't have anything in the record to document
22 either the evaluation of either the '88 or the 2001/'02
23 increases and their effects on the economy.

24 Again, on the flip side of it, we have
25 documentation both postminimum wage increases in California
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1 and across the country that are actually "looks back,"
2 evaluations, longitudinal studies occurring pre- and
3 postminimum wage increases.

4 So I appreciate the predictions and the potential
5 theoretical supply-and-demand models that some of these
6 academics have put forward, but in terms of real
7 quantitative evaluation, what the real impacts have been, I
8 yet to see that in the record.

9 MEMBER BROYLES: Mr. Chairman, in response to
10 Ms. Wei -- and I apologize if they did not get in, but I
11 will have them submitted for the actual Industrial Welfare
12 Commission members to take a look at -- if I might refer
13 you to a few studies. First of all, there was the 1993
14 study carried out by Lowell Taylor, of Carnegie Melon
15 University, that looked at fast-food studies that had been
16 done prior by Card-Krueger --

17 MEMBER WEI: Respectfully, Mr. Chair, with all due
18 respect --

19 CHAIRPERSON COHEN: If these haven't been
20 submitted --

21 MEMBER ABRAMS: They are referred to in the
22 materials that are in our packets. That said --

23 MEMBER BROAD: Can I say something here? I
24 actually think it probably makes sense for us to have the
25 benefit of whatever is out there and [unintelligible] find

1 a way to ask the IWC, the staff, to go to the Commission,
2 and at the soonest possible time, if there's more
3 information out there the employer-side representatives
4 would like the whole group to listen to, or vice versa,
5 that we should have the Commission submit those back to the
6 Wage Board in accordance with the regulations so that we
7 can consider them and go through them.

8 I really think it's -- if we're policymakers for
9 the day or couple days or whatever this turns out to be, we
10 shouldn't be bereft of information of information that any
11 member of this Wage Board thinks is relevant.

12 MEMBER BROYLES: What I was trying to do was give
13 a list of some reports you might find of help. Again,
14 there's the 1993 --

15 CHAIRPERSON COHEN: I don't know if it's
16 productive.

17 MEMBER BROYLES: Fine, Mr. Chairman. I tried.

18 CHAIRPERSON COHEN: I take the thrust of your
19 comment to be there are studies out there that you believe
20 to validate your position.

21 MEMBER BROYLES: Yes. And I do say, and they are
22 specific to the California experience with the minimum
23 wage, we have submitted them in the past to the Industrial
24 Welfare Commission itself, if not to the Wage Board. I
25 apologize if they are not available today to Ms. Wei. But
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1 there is some very specific work that has been done, and it
2 has been submitted in the past, and is the record of the
3 IWC. It is part of their records and should be part of
4 their consideration.

5 I was trying to make sure they were at least noted
6 today. Again, recommendations go back to the IWC
7 themselves. It might be something they find useful to
8 examine. I was trying to give you the names of the
9 reports.

10 CHAIRPERSON COHEN: I think you're certainly going
11 to be entitled to submit those to the IWC -- resubmit.
12 It's unfortunate they're not part of the written record.

13 MEMBER WEI: Were they submitted to the Wage
14 Board? They're not cited. I'm looking and relooking at
15 the employers' comments, and I don't see any of the studies
16 that have been cited.

17 MEMBER ABRAMS: They're not in the written
18 comments from different organizations but in the materials
19 that were in there, articles from magazines and other
20 documents. Some of the studies that are in here refer to
21 other studies. But the studies themselves --

22 MEMBER BROYLES: And I will make sure they're
23 submitted to the IWC prior to their next meeting.

24 MEMBER AGEE: Not the ones you're giving to Angie,
25 the ones you referred to earlier --
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1 CHAIRPERSON COHEN: The language is pretty clear
2 when stuff needs to be submitted by for our consideration
3 today. Anything for future discussions or debates are fine
4 and should be included.

5 MEMBER SCHACHT: Mr. Chair, I can't cite you the
6 case, but the counsel may be able to do that for us. It's
7 clear that this Wage Board is not permitted to take into
8 consideration matters that were not submitted to the IWC,
9 but it is also clear that individual Wage Board members may

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10 bring any materials they want to the Wage Board and talk
11 about that. Ms. Broyles, to continue the love feast, I
12 think, is entitled to give us the list, if she wants to
13 give it to us, for whatever value it may serve us or her.

14 MEMBER BROYLES: I was trying to respond to
15 Ms. Wei's request for studies.

16 CHAIRPERSON COHEN: I understand that. I think
17 you could make your point without being quite as specific
18 as to give a list. If you want to make an argument based
19 on saying there are studies you believe there are
20 [unintelligible], I would agree you're entitled to discuss
21 whatever you wish within this framework.

22 If you want to state you believe the data backs up
23 X, Y, and Z, I would encourage you to go ahead and state X,
24 Y, and Z, and you can later on submit specific studies. I
25 want to walk that fine line and not introduce evidence that

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1 was not submitted within the deadline. I'm going to give
2 the floor back to you.

3 MEMBER BROYLES: Very briefly, Mr. Chair. I was
4 trying to say that there was a 1993 study by Carnegie
5 University -- Melon University that looked at the fast-food
6 studies and the actual impact on employment. There was a
7 1995 study that followed up on that. I will make sure the
8 information is submitted. The study -- they did a specific
9 study in 19- -- looking at the 1988. The name of the study
10 is "The Employment Effect on the Retail Trade of
11 California's 1998 Minimum Wage Increase," and the industry
12 where the minimum wage increased had more bite, suffered
13 large employment losses. For every one percent of the
14 increase in minimum wage, employment fell by nearly the
15 same amount, .9 percent; of the 2000 study by the Public

16 Policy Institute, by Margaret O'Brien-Strain and Thomas
17 McCurty, titled "Increasing the Minimum Wage, California's
18 winners and Losers," looking at the various -- again, the
19 specific minimum wage increase empirically in California,
20 found that the very people that were supposed to be helped
21 by the minimum wage actually paid more in taxes and goods
22 and services and ended up actually losing dollars in the
23 long run.

24 Those are three studies you might want to take a
25 look at; again, along with the 2001 minimum wage study done
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1 by the Division of Labor Standards [unintelligible], which
2 actually refers to some of these reports in their own data.

3 CHAIRPERSON COHEN: Comments? Response?

4 MEMBER WEI: Thank you, and I'll look forward to
5 reviewing them.

6 MEMBER ABRAMS: At this point I think we've
7 discussed the motion and would hope perhaps parts of this
8 dialogue can go on outside of this meeting. I would call
9 for the question.

10 CHAIRPERSON COHEN: Is there any objection? I
11 don't think we need a vote. Just by observing your
12 reactions to my left, I think I'll accept the call for the
13 question. We'll go ahead and vote on the motion. The
14 motion is that the statement that the minimum wage should
15 reflect the proper cost of living and should consider
16 purchasing power of low-wage workers. I'll start with the
17 employee representatives.

18 Mr. Agee?

19 MEMBER AGEE: Yes.

20 CHAIRPERSON COHEN: Mr. Broad?

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21 MEMBER BROAD: Yes.
22 CHAIRPERSON COHEN: Ms. Wei?
23 MEMBER WEI: Yes.
24 CHAIRPERSON COHEN: Mr. Jones?
25 MEMBER JONES: Yes.
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1 CHAIRPERSON COHEN: Mr. Schacht?
2 MEMBER SCHACHT: Yes.
3 CHAIRPERSON COHEN: Ms. Mercado?
4 MEMBER MERCADO: Yes.
5 CHAIRPERSON COHEN: Employer representatives.
6 Ms. Broyles?
7 MEMBER BROYLES: No.
8 CHAIRPERSON COHEN: Mr. Davis?
9 MEMBER DAVIS: No.
10 CHAIRPERSON COHEN: Mr. Dayton?
11 MEMBER DAYTON: No.
12 CHAIRPERSON COHEN: Ms. Dunbar?
13 MEMBER DUNBAR: No.
14 CHAIRPERSON COHEN: Mr. Abrams?
15 MEMBER ABRAMS: No.
16 CHAIRPERSON COHEN: Ms. Barsuglia?
17 MEMBER BARSUGLIA: No.
18 CHAIRPERSON COHEN: It was an interesting
19 discussion. Again, I don't know we need to necessarily get
20 to a back-and-forth. Mr. Abrams beat me to it.
21 MEMBER ABRAMS: Jim Abrams.
22 I would like to make a motion that if the IWC
23 chooses to raise the minimum wage, that the amount of meal
24 and lodging credits that may be taken against the
25 employer's minimum wage obligation be increased
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1 proportionately. That is item 3 on your chart. I'm taking
2 it out of order.

3 CHAIRPERSON COHEN: Is there a second to that
4 motion?

5 MEMBER BROYLES: Second.

6 CHAIRPERSON COHEN: Seconded by Ms. Broyles.

7 AS we've been doing, do you want to make an
8 opening statement?

9 MEMBER ABRAMS: Yes, I would.

10 Notwithstanding the fact that it is historically
11 always been the case that when the minimum wage goes up,
12 there are proportional increases in the meal and lodging
13 credits that employers can take, I'm not making this motion
14 solely because it historically has been the case that
15 happens. It's because providing meals and lodging for
16 employees is a very good way for employers to augment the
17 overall level of compensation employees get.

18 This is particularly true in the hospitality
19 industry. Restaurants and motels provide meals not only to
20 food-service employees, but in the motel, certainly room
21 cleaners and everybody else. These are valuable benefits
22 for employees. To make it possible and to provide
23 incentives to employers to continue doing this at the
24 maximum level possible is to -- would be to permit them to
25 have a proportional increase. Not greater than the
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1 increase of minimum wage, but a proportional increase in
2 those threads.

3 CHAIRPERSON COHEN: Any response? Mr. Broad?

4 MEMBER BROAD: Mr. Abrams, I do believe you
5 proposed to index something related to the minimum wage.

6 MEMBER ABRAMS: No, sir, I am not. Indexing is,
7 in the context that we have been discussing, with respect,
8 Mr. Broad, contemplates an automatic mechanism that would
9 occur without any vote by the IWC. I am proposing that if
10 they decide to raise the minimum wage and concurrently with
11 it, only for that increase, that they change the values for
12 the meal and lodging credits. I'm not arguing for anything
13 other than that.

14 MEMBER BROAD: I would respectfully suggest to you
15 that that is an index, because it's going up by an amount
16 that's indexed to something that's independent of the true
17 costs of those things to the employer. Why do we think the
18 cost of food or lodging has gone up by the same percent
19 that the minimum wage goes up? What factual basis is that?

20 MEMBER ABRAMS: I base it on everything you have
21 said -- not you personally, but you and your colleagues
22 have said today -- about the cost of living going up,
23 housing going up, food going up, and everything else.

24 And I think, whether you want to call it indexing
25 or not, if you don't think that having better meal and
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1 lodging credits and the incentive that gives employers to
2 provide maximum benefit to employees, then vote no against
3 the motion. Whether it's called indexing or toad stooling
4 or broad jumping, with all due respect, is irrelevant.

5 MEMBER WEI: With that being said, I would speak
6 an opposition to the motion. Not necessarily because at
7 the end result we may disagree. I think it's too early to
8 tell right now without knowing what level the minimum wage
9 would be increased to, without knowing what Congress may be
10 doing. There could be some severe potential changes for

11 workers who receive the meal and lodging credits from what
12 comes out of Congress. I think that will potentially make
13 a change in how we handle these credits in the state of
14 California.

15 I would oppose this motion. Potentially not
16 because of the substantive matter in which it was offered,
17 but more of a procedural question that it's too early to
18 tell right now.

19 MEMBER DAVIS: If I understand -- Acie Davis -- if
20 I understand if the meal credit was worth a dollar-fifty
21 and the raise was a dollar, you would still be opposed to
22 the meal credit and lodging credit?

23 MEMBER WEI: I don't know yet.

24 MEMBER DAVIS: It seems there's more value in the
25 meal and lodging credit than there is in the increase of
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1 the minimum wage.

2 MEMBER WEI: I don't know the answer to that, both
3 to the fact we don't know what the increase in the minimum
4 wage would be, but also, Congress is discussing things that
5 are going to affect workers like tipped employees, who
6 would be benefit or be availed of the meal and lodging
7 credit. If things change for those service employees,
8 things may have to change with the meal and lodging
9 credits. I believe it's too early for us as the Wage Board
10 to reach a policy decision on that without knowing what
11 Congress will be doing when they return.

12 MR. MARTIN: I'm Tom Martin, Small Manufacturers'
13 Association.

14 Are you aware the Senate, yesterday, voted against
15 the increase of minimum wage?

16 MEMBER WEI: Yes, I'm aware of that loss, and I'm

17 also aware the leadership in Congress is wanting to come
18 back after recess, the month of September, to continue to
19 deliberate on the minimum wage, as it seems the tip penalty
20 issue was a hang-up and may be something they return with
21 when they come back in September post-Labor Day. Again,
22 given that we are not sure what Congress will do, and
23 neither will I trust what Congress does, it's too early for
24 us to weigh in and support that motion of Mr. Abrams.

25 CHAIRPERSON COHEN: Other comments on the motion?
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1 If there's no objection, Mr. Abrams, check me, the motion
2 is that if the Industrial welfare Commission chooses to
3 raise the minimum wage, the amount credited against the
4 minimum wage for meals and lodging provided by the employer
5 should increase proportionate to the increase?

6 MEMBER ABRAMS: Yes, sir.

7 CHAIRPERSON COHEN: On that motion, starting with
8 the employer representatives, Ms. Broyles?

9 MEMBER BROYLES: Yes.

10 CHAIRPERSON COHEN: Mr. Davis?

11 MEMBER DAVIS: Yes.

12 CHAIRPERSON COHEN: Mr. Dayton?

13 MEMBER DAYTON: Yes.

14 CHAIRPERSON COHEN: Ms. Dunbar?

15 MEMBER DUNBAR: Yes.

16 CHAIRPERSON COHEN: Mr. Abrams?

17 MEMBER ABRAMS: Yes.

18 CHAIRPERSON COHEN: Ms. Barsuglia?

19 MEMBER BARSUGLIA: Yes.

20 CHAIRPERSON COHEN: Employee Representative Mr.

21 Agee?

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22 MEMBER AGEE: No.
23 CHAIRPERSON COHEN: Mr. Broad?
24 MEMBER BROAD: No.
25 CHAIRPERSON COHEN: Ms. Wei?
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1 MEMBER WEI: No.
2 CHAIRPERSON COHEN: Mr. Jones?
3 MEMBER JONES: No.
4 CHAIRPERSON COHEN: Mr. Schacht?
5 MEMBER SCHACHT: No.
6 CHAIRPERSON COHEN: Ms. Mercado?
7 MEMBER MERCADO: No.
8 CHAIRPERSON COHEN: That motion deadlocks as well.
9 MEMBER SCHACHT: Mr. Chair, my motion?
10 CHAIRPERSON COHEN: Sure.
11 MEMBER SCHACHT: I move that the IWC updates
12 Minnie's budget. I have a few things to say about that in
13 support of it.
14 MEMBER JONES: I second it.
15 MEMBER SCHACHT: Minnie's -- the concept of
16 Minnie's budget has been used by the IWC since 1916, and
17 it's basically a list of items necessary to maintain good
18 health and welfare. It hasn't been updated in quite some
19 time. I'm not quite sure exactly when the last time was.
20 I do know from looking at this interim report on the
21 proposed increases in the '60s that the AFL pointed out
22 that Minnie's budget -- Minnie didn't own a wrist watch,
23 she only went to eight movies per year, and she shared an
24 apartment with another girl. That's a quote. The
25 employers at that time thought that Minnie's budget was
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1 adequate; the employee side didn't.

2 I think to the extent we're going to get back to
3 try to give some meaning to the statutory language of what
4 proper living is, and I think we have to embrace the notion
5 that it necessarily -- that the definition of proper living
6 necessarily changes as standards of living change in this
7 state.

8 I think it's appropriate for the IWC to look again
9 at Minnie's budget as one way to move this toward that
10 objective. And I'm not proposing to include in the motion
11 the mandated use of it. It's just to update it and see
12 where we stand.

13 CHAIRPERSON COHEN: Okay.

14 MEMBER DAYTON: Mr. Chairman, I'm wondering, like
15 a motion from Ms. Wei, if this motion is out of order. We
16 didn't get anything in our packet about Minnie's budget.
17 Nor is it mentioned at all in the federal regulations.

18 CHAIRPERSON COHEN: You are correct. However, I
19 think Mr. Schacht walked a very fine line. He is not
20 asking us to make a recommendation as to a specific
21 content, not asking us to debate what should or should not
22 be included. He very, I thought, deftly tied the issue of
23 Minnie's budget, which has historically been used as a
24 factor in consideration of a point we are told to consider
25 by statute; and that is, how does one determine --

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1 essentially, what we've been debating all afternoon -- how
2 do we determine whether or not minimum wage provides for
3 the cost of proper living?

4 I think it is within the scope to go just this far
5 and no farther a recommendation that the IWC should look at
6 the content what makes up Minnie's budget. It's another

7 way to get at the issue of how does one -- in some sense,
8 how does one determine what it means to determine the cost
9 of proper living? As long as we keep the debate on that
10 very narrow focus, I think it's reasonably tied to our
11 charge.

12 MEMBER DAYTON: I'm wondering, who is Minnie?
13 Maybe you can elaborate on this a little bit.

14 MEMBER SCHACHT: Minnie, I believe, at the time
15 when she was created, was a single, self-sufficient,
16 working woman in good health and welfare.

17 MEMBER BROYLES: Mr. Chairman -- and certainly,
18 Mr. Schacht has the ability to bring up Minnie's budget as
19 one of our -- as an item to be considered as a determiner
20 of a proper cost of living -- if my memory is correct --
21 and it may not go back as far as some -- the issue of
22 Minnie's budget has been one of great contention and has
23 never been adopted as a determiner. It has been suggested
24 as a determiner of looking at what a wage rate might be,
25 but it has never been accepted as a -- and I have to
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1 correct the Chair's statement of saying that it was a de
2 facto mechanism used by the IWC in determining what the
3 wage rate should be. It was a piece of information that
4 was proposed by the employee side and disputed by the
5 employer side during the minimum wage discussions.

6 I just want to make sure, because it does go back
7 and it is one that has had -- have been points of
8 disagreement historically between the two sides.

9 CHAIRPERSON COHEN: I thank you for that
10 clarification. If something in my remarks led you to think
11 I was saying it was a de facto mechanism, I did not mean to

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12 suggest that. I merely meant in my ruling whether or not
13 the motion was appropriate, I believe it historically has
14 been within the debate discussion about the minimum wage
15 every time a Wage Board has looked at increasing it.
16 Therefore, the motion narrowly tailored in front of us, I
17 think, is an appropriate one for this board to discuss, as
18 long as we stick to that narrow concept.

19 with that?

20 MEMBER SCHACHT: I don't have anything further.
21 I'd move the question, unless there's an additional
22 comment.

23 MEMBER BROAD: I have an additional comment.
24 Barry Broad.

25 Again, we have to look at what a standard of
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1 adequacy is at some point if we are to move this off into
2 rational policymaking from sheer politics. Again, I would
3 say -- I'll bet you anywhere -- I'll bet you anything -- my
4 guess is that somewhere in the recesses of the Governor's
5 operation, somebody said, "How about a buck?"

6 And somebody said, "Okay. That sounds right to
7 me. Let's make it a buck."

8 And then there's somebody over in the Legislature
9 going, "Let's index it."

10 "No. Let's make it a buck-fifty. That sounds
11 about right."

12 I think that's how this thing is getting done,
13 frequently, over the years. I don't know. I think our
14 goal ought to be to dig into how it ought to be done right.
15 That's why we're here. I don't know why we want to defer
16 the discussion, Mr. Abrams, to a future date. I think we
17 can discuss that now; if we can't finish today, come back

18 tomorrow, next week, or whenever we can come back and
19 finish it. I think it's a worthwhile debate. I think we
20 should move forward and work through the details and advise
21 the IWC of something real, in my own opinion. I'm going to
22 vote for this motion.

23 CHAIRPERSON COHEN: Mr. Abrams?

24 MEMBER ABRAMS: Yes, Jim Abrams.

25 For the reasons we discussed when Ms. Wei
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1 originally made the motion that the minimum wage should
2 reflect purchasing power of lower-wage workers and cost of
3 living -- I can't remember the exact terminology -- I think
4 we all around this table agree that it is extremely
5 important from a public policy standpoint that an
6 intelligent, good-faith discussion take place around the
7 question of what factors should be included in determining,
8 so it's not arbitrary, what the minimum wage should be.

9 I don't disagree with Mr. Schacht. Minnie's
10 budget might be an appropriate factor. If it's determined
11 that it is an appropriate factor after we look at all the
12 things that should be proper considerations, then I think
13 the debate at that point should be, what ought to be in the
14 budget, and how do we -- do we include housing? What kind
15 of housing do we include? Transportation?

16 Those are proper discussions. For the same reason
17 I think it was appropriate to take the result that we had
18 with Ms. Wei's motion and to say that we really need an
19 in-depth analysis, not just with those in this room today,
20 over all the factors that ought to go into determining a
21 nonarbitrary minimum wage amount, that it needs to take
22 place other than in this sitting today. That's the reason

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23 I'm going to vote against it.

24 I will say Mr. Broad is too sanguine. When the
25 people in the Legislature said, "Does a buck sound right, a
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1 buck-fifty?" what they really said is, "How do we shove it
2 to the Governor this November?" But that's arbitrary as
3 well.

4 MEMBER BROAD: Touche.

5 CHAIRPERSON COHEN: It is very, very rapidly
6 approaching three o'clock, at which point we're going to
7 have to give our faithful court reporter a break from this
8 fascinating discussion. My question to all of you is, as
9 we did before lunch, would you like to vote on the motion
10 right in front of us and then break?

11 MEMBER SCHACHT: Could I have one chance to
12 retrieve from the jaws of defeat? If the IWC reconstituted
13 this and updated it, there's no real harm or risk in that,
14 because this motion doesn't mandate that they use it. What
15 it would do is it would give somebody other than you guys
16 or us guys the job of come up with the factors and the
17 criteria that would go into a modern Minnie's budget.

18 And I think that would be a starting point for a
19 discussion, the discussion that we contemplate. That would
20 be a starting point with somebody who has clean hands, who
21 doesn't have a dog in the hunt, kind of a ministerial thing
22 to be done by the agency evenhandedly. And that's what I
23 contemplate. That's what I would hope you could support.

24 MEMBER ABRAMS: Call for the question, Mr.
25 Chairman.

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1 CHAIRPERSON COHEN: Have you had your say?

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2 MEMBER SCHACHT: Yes, I have.
3 CHAIRPERSON COHEN: I don't remember which order I
4 went last time. Did I start with the employers last time?
5 I believe I did. I'll start with the employees. The
6 motion is to recommend that the Industrial welfare
7 Commission should update Minnie's budget. Starting with
8 the employee representatives.
9 Mr. Agee?
10 MEMBER AGEE: Yes.
11 CHAIRPERSON COHEN: Mr. Broad?
12 MEMBER BROAD: Yes. And a brilliant motion it
13 was.
14 CHAIRPERSON COHEN: Ms. Wei?
15 MEMBER WEI: Yes.
16 CHAIRPERSON COHEN: Mr. Jones?
17 MEMBER JONES: Yes.
18 CHAIRPERSON COHEN: Mr. Schacht?
19 MEMBER SCHACHT: Yes.
20 CHAIRPERSON COHEN: Ms. Mercado?
21 MEMBER MERCADO: Yes.
22 CHAIRPERSON COHEN: Employer representatives.
23 Ms. Broyles?
24 MEMBER BROYLES: No, at this time.
25 CHAIRPERSON COHEN: Mr. Davis?
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1 MEMBER DAVIS: No.
2 CHAIRPERSON COHEN: Mr. Dayton?
3 MEMBER DAYTON: No.
4 CHAIRPERSON COHEN: Ms. Dunbar?
5 MEMBER DUNBAR: No.
6 CHAIRPERSON COHEN: Mr. Abrams?
7 MEMBER ABRAMS: No.

8 CHAIRPERSON COHEN: Ms. Barsuglia?

9 MEMBER BARSUGLIA: No.

10 CHAIRPERSON COHEN: With that deadlock, it is
11 three o'clock. We will take a break. Let's try to get
12 back here -- it's about two minutes after. Let's be here
13 in ten minutes.

14 MEMBER ABRAMS: The question is, if I understand
15 correctly, the items still to be questioned are items 2(b)
16 and 2(c). Is that your understanding, Mr. Chairman?

17 CHAIRPERSON COHEN: You know, I tried to hold this
18 to a strict reading of that. The Board wanted to be able
19 to have free range. We have not answered the question of
20 if there's an increase, what the amount should be, what the
21 timing should be, and the indexing.

22 MEMBER ABRAMS: We have answered that we don't
23 agree on whether there should be a minimum wage increase,
24 but I do think we can still discuss if the IWC raises the
25 minimum wage, what our recommendation might be vis-a-vis
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1 timing and what our recommendations might be vis-a-vis
2 indexing.

3 CHAIRPERSON COHEN: I don't think we've, also,
4 discussed an amount. Again, to your point, given that the
5 IWC is -- apparently intends to take up the question --

6 MEMBER ABRAMS: If somebody wants to make a motion
7 for a specific amount, that's fine. We can deal with that.

8 CHAIRPERSON COHEN: We're going to take a break.
9 We're going to come back here at 3:13, ':14, thereabouts.

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CHAIRPERSON COHEN: Okay. It appears that everybody is back at their proper places. We're only a few minutes over what I had hoped to do that.

(Off-the-record discussion with staff.)

CHAIRPERSON COHEN: Okay. Just for the record, one of the employer alternates had to catch a flight. The other employer alternate is giving him a ride to the airport and will be returning.

So hopefully the employer representatives are all --

MEMBER BROYLES: We're all here and ready.

CHAIRPERSON COHEN: -- for the remainder of this afternoon.

Just to remind everybody where we were, there was a motion on a recommendation of updating Minnie's Budget, and that vote went along consistent lines and that was where we stopped.

So at this point the Chair is willing to entertain a motion.

MEMBER BROYLES: Thank you, Mr. Chairman.

We would like to make a motion dealing with the issue of timing.

The motion is that should or if the minimum wage is

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increased by the Industrial Welfare Commission, that the timing of any increase be -- if it is of any substance, an amount of any substance, that it be spread out in 12-month increments: January 1, January 1 or July 1, July 1.

MEMBER DAVIS: I'd like to second the motion.

6 CHAIRPERSON COHEN: I'm sorry. Who was the second?

7 MEMBER DAVIS: Acie Davis.

8 CHAIRPERSON COHEN: Thank you.

9 Do you want to make a comment in support of that to
10 start off the discussion?

11 MEMBER BROYLES: Employers -- in terms of timing of
12 increases, again, when an employer considering -- and I'm
13 basing this on the May 18th request made by the Governor to
14 the Industrial Welfare Commission to increase the minimum
15 wage in a very quick fashion. And I quote -- he was
16 talking about implementing a one-dollar increase in two
17 phases over a nine-month period.

18 We would -- employers have many issues that deal with
19 minimum wage, including posters and other mandates that we
20 are required to change and payroll systems that we are
21 required to update and sometimes in computerized systems.
22 And that when you have such tight increases within a
23 nine-month period, it is difficult to meet one mandate and
24 not violate another mandate such as having the correct
25 poster on the wall.

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1 And I would ask then that, again, the timing be
2 considered in increments of no less than 12-month
3 increments of any increase.

4 CHAIRPERSON COHEN: Okay. Thank you.

5 Any response from any of the employee
6 representatives?

7 MEMBER WEI: Angie Wei to speak in opposition to
8 the -- to the motion.

9 Again, it's not necessarily that we may come out in

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10 disagreement, but without being able to answer the question
11 of how much, we wouldn't be able to agree to an annual
12 increase.

13 For example, a two-dollar increase could be, you
14 know, backend loaded twenty-five, twenty-five, fifty, a
15 dollar, and that may require a different set of
16 decisionmaking than if it were a different increase.

17 So without knowing what the increase is, we wouldn't
18 be able to vote on this motion in terms of a straight time
19 frame for how that, whatever that increase is, is phased
20 in.

21 That wasn't the most articulate way, but basically
22 that the two issues are tied together. How much of an
23 increase could dictate what the timing is of that increase.

24 MEMBER BROYLES: Understood.

25 I do -- again, because the State does require us to

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1 have accurate postings, it is difficult for any employer,
2 whether it is big or large, to make sure that they are up
3 to date.

4 MEMBER WEI: Again, it's not necessarily something
5 that we may disagree with once we figure out what the
6 adequacy level is. Just without that first information,
7 it's hard to make that determination.

8 CHAIRPERSON COHEN: We've had a fair statement of
9 position from both sides. Does anybody else wish to weigh
10 in on the discussion?

11 MEMBER BROAD: Yeah, can I just say one other
12 complicating factor here, is that -- and we've had this
13 happen before -- is that if the federal government raises
14 the minimum wage, you can wind up with these things where

15 it's, like, 15 cents, then 25 cents, then 72 cents, and it
16 might -- it might be impossible to actually space that out
17 that way. Because it's -- with things that are -- with
18 issues and timing questions that are outside the control of
19 the IWC itself.

20 MEMBER BROYLES: If I might respond, Mr. Chairman.

21 In terms of what the federal government does and what
22 the state government does, the IWC and the minimum wage
23 board today can only deal with what the State minimum wage
24 rate is, and that's the point of what -- at least that
25 we're making.

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1 Unless employers are permitted to post online and do
2 it electronically where something like that would be
3 feasible to deal with the federal and the state and any
4 other local ordinance that could be involved, I'm talking
5 about the state mandate and the federal mandate. In many
6 cases we have to have two different posters up today
7 anyway.

8 But in terms of dealing with State-ordered and state
9 government mandated increases, again we would just ask for
10 that very -- for that to be part of the consideration, when
11 the Industrial welfare Commission looks at an increase,
12 that they take into consideration what posting requirements
13 are as well.

14 CHAIRPERSON COHEN: Any other discussion on the
15 motion?

16 Okay. Seeing no one, I will restate the motion. And
17 that is that if the minimum wage is increased by action of
18 the IWC, the recommendation is that it be spread in

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19 12-month increments; for example, on January 1st and the
20 subsequent January 1st, or July 1st and the subsequent July
21 1st.

22 And on the motion, the employer representatives, Ms.
23 Broyles.

24 MEMBER BROYLES: Yes.

25 CHAIRPERSON COHEN: Mr. Davis.

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1 MEMBER DAVIS: Yes.

2 CHAIRPERSON COHEN: Mr. Dayton.

3 MEMBER DAYTON: Yes.

4 CHAIRPERSON COHEN: Ms. Dunbar.

5 MEMBER DUNBAR: Yes.

6 CHAIRPERSON COHEN: Mr. Abrams.

7 MEMBER ABRAMS: Yes.

8 CHAIRPERSON COHEN: Ms. Barsuglia.

9 MEMBER BARSUGLIA: Yes.

10 CHAIRPERSON COHEN: For the employees, Mr. Agee.

11 MEMBER AGEE: No.

12 CHAIRPERSON COHEN: Mr. Broad.

13 MEMBER BROAD: No.

14 CHAIRPERSON COHEN: Ms. Wei.

15 MEMBER WEI: No.

16 CHAIRPERSON COHEN: Mr. Jones.

17 MEMBER JONES: No.

18 CHAIRPERSON COHEN: Mr. Schacht.

19 MEMBER SCHACHT: No.

20 CHAIRPERSON COHEN: Ms. Mercado.

21 MEMBER MERCADO (In English): No.

22 MEMBER WEI: Mr. Chair, I'd like to raise the next
23 motion.

24 I move that we raise the minimum wage to \$9.78 an
25 hour and index it to the cost of living.

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1 CHAIRPERSON COHEN: Let me make sure I got that
2 right.

3 MEMBER WEI: I move --

4 CHAIRPERSON COHEN: The motion is to raise the
5 minimum wage to \$9.78 per hour and index it to the cost of
6 living.

7 MEMBER BROAD: No more messing around.

8 CHAIRPERSON COHEN: Is there a second?

9 MEMBER BROAD: Second. I love that motion.

10 MEMBER WEI: To speak to the motion --

11 CHAIRPERSON COHEN: Please.

12 MEMBER WEI: -- Mr. Chair.

13 I hate to come back to Minnie, but given that we've,
14 you know, spent a little bit of time talking about the
15 adequacy of the minimum wage through a Minnie's Budget, and
16 given that no other form of adequacy has been identified
17 that we can agree to, we're left with the standard of
18 Minnie's Budget.

19 And if we're looking at Minnie's Budget in 1961
20 dollars, the IWC found -- and here's from the IWC report.
21 People are asking what is the Minnie's Budget. It is a
22 little bit more than what Mr. Schacht read earlier.

23 Four decades ago the California Industrial Welfare
24 Commission developed an annual budget sufficient to -- and
25 here's the quote -- "permit a working woman entirely

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1 dependent on her own resources and supporting no dependents
2 to maintain a minimum but adequate mode of living."

3 And Minnie's Budget in 1961 was estimated to be an
4 hourly wage of a dollar thirty-seven, which translated for
5 a full-time wage of \$2,855 in 1961. Taking that to the
6 current value of that dollar -- of that wage in 2006
7 dollars would bring us to the \$9.78 level. So that's the
8 rationale for this motion.

9 And then to tie it back to maintenance of purchasing
10 power, we'd add the cost of living adjustment plus the wage
11 increase.

12 CHAIRPERSON COHEN: Okay.

13 MEMBER BARSUGLIA: Question to the maker of the
14 motion. Heidi Barsuglia on the behalf of the Retailers
15 Association.

16 When you say tie it to cost of living, are you
17 referring to the rate of inflation?

18 MEMBER WEI: I think that's an open discussion we'd
19 be happy to have. We'd love to hear what all the possible
20 ties -- I hesitate to use the word "indexing," but I'm
21 empty of what different word at this point, because I think
22 indexing is such a hot button word. But, yeah, we're happy
23 to discuss what possible indexes could be.

24 MEMBER BARSUGLIA: So just --

25 CHAIRPERSON COHEN: Please.

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1 MEMBER BARSUGLIA: One point of further
2 clarification, then.

3 So cost of living then would be still that open
4 discussion on --

5 MEMBER WEI: Well, I think you raise a legitimate
6 point, and I should be more on point with the motion. And
7 then I would move -- amend my own motion to say tie it to
8 the cost of living using the Urban Counties CPI Index
9 utilized by the Department of Finance.

10 MS. LEACH: (Inaudible.)

11 MEMBER WEI: I'm sorry. It's the Urban Counties
12 index for the Department of Finance.

13 MEMBER BROAD: She's restating her motion.

14 MEMBER WEI: I've got Robert behind me.

15 CHAIRPERSON COHEN: I will allow that for the
16 purposes of clarification.

17 Ms. Dunbar.

18 MEMBER DUNBAR: Lara Diaz Dunbar, California
19 Restaurant Association.

20 I just wanted to bring up a concern that we have over
21 the topic of indexing. And we certainly believe that the
22 IWC or the wage board does not have the authority to index
23 and is prohibited by law to do so.

24 CHAIRPERSON COHEN: I thought this was going to come
25 up.

1 As you are aware, I think probably everyone is aware,
2 the IWC spent some time discussing this in voting on the
3 charge to this wage board. The conclusion of three of the
4 four members -- I'm sorry -- four of the five members of
5 the Industrial Welfare Commission was that whatever legal
6 issues might be raised by the issue of indexing, they would
7 be moot unless or until there was a recommendation
8 specifically for indexing.

9 I take the language specifically reading the

10 transcript of that meeting, which I actually attended, but
11 rereading. It's very clear that the Commission intended,
12 should this body by a two-thirds vote or even in a
13 recommendation or should the Commission decide after their
14 hearings and deliberations to consider indexing, that that
15 would be the appropriate time for the Commission to seek
16 legal review of this question and request a legal opinion
17 on it.

18 You may decide if you believe that indexing is
19 illegal and beyond the power of this board and the IWC,
20 that may inform your vote. But I see no reason to rule any
21 motion out of order since the discussion was clear that
22 they reserved -- the IWC reserved to itself seeking a legal
23 opinion on the issue of indexing at the appropriate time.

24 So I don't think that's a bar to the motion or to a
25 discussion of it. Like I say, you're certainly free to

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1 vote however you wish on this motion. But I don't think we
2 need to defer it for a legal opinion since the IWC -- the
3 Commission will handle that appropriately.

4 MEMBER DUNBAR: Okay. Thank you.

5 And I do respect that, and I just want to say for the
6 record, though, that I do believe that it would be
7 inappropriate for us to consider indexing due to the
8 long-standing laws that govern this. And so to the extent
9 that we could even consider indexing in the context of a
10 minimum wage I think is improper and to the extent it might
11 be against the law.

12 And so that being said, I understand that, you know,
13 there are different opinions as well.

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MEMBER BROAD: Let me respond to that.

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CHAIRPERSON COHEN: Yes.

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MEMBER BROAD: I do believe that we can consider -- I don't know what the long-standing law is that you're referring to, but the IWC has indexed things for a long time, and it's used indices of various sorts.

It -- as we discussed just a couple of motions ago, it has, as it's raised the minimum wage, indexed the -- the credit for meals and lodging to that amount.

In a prior period, the IWC used -- it was a minimum salary amount that an employee had to have in order to be exempt from overtime and other provisions of the wage

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orders as an administrative, executive or professional employee. And that actually -- that dollar amount was actually increased based on the percentage increase of the minimum wage until the Legislature, in its infinite wisdom and -- decided to pass a law that required explicitly that that amount be two times the minimum wage. So, in fact, the Legislature has passed and blessed on such an indexing type of situation.

So -- and there are other provisions of the wage orders that have similar dollar amounts that change related to changes in other dollar amounts and various things. So I don't think an index is an inappropriate way of looking at things.

Now, let -- leaving that for the moment, the question is, why are we for it and why are the employers against it, which I think is -- is a good thing to discuss. Let's try to get to the meat of it.

we're for it primarily because -- and it's a bit of

19 an outgrowth of the discussion we had earlier about the
20 somewhat arbitrary nature of the way the minimum wage has
21 increased over the years, that what we have is a -- and --
22 a script that gets run over and over and over again like a
23 bad dream.

24 which is to say that after some period of agitation
25 from those supporting a minimum wage increase and

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1 resistance depending on who's running the government, which
2 political party is running the government, the minimum wage
3 gets increased. The employers make the argument that it's
4 too much, the labor frequently makes the argument that it's
5 too little, and the matter remains a political football.

6 Then some time passes, the pressure builds up -- we
7 happen to be in one of those moments right now -- and for
8 whatever reason the politicians decide it's time to raise
9 the minimum wage, and it gets raised again. And then it's
10 repeated and repeated and repeated.

11 Now, sometimes the minimum wage doesn't go up for
12 quite a few years. Like, the federal minimum wage hasn't
13 gone up for a really long time because the various branches
14 of government are controlled by the more conservative of
15 the two political parties which doesn't like the minimum
16 wage. So it hasn't gone up in about ten years.

17 Now they're a little on the rocks politically,
18 so they figure --

19 MEMBER DAYTON: Mr. Chairman, these comments are out
20 of order.

21 MEMBER BROAD: why?

22 CHAIRPERSON COHEN: I don't believe they are.

23 MEMBER BROAD: It's a free country. You can trash
24 the Democrats if you want. I'll get to them if you like.
25 Anyway, the -- so we were left in this situation that

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1 then the minimum wage, if you look at the -- in our -- in
2 our packet, you'll see the percentage minimum wage
3 increases that have occurred over time. And, for example,
4 on November 15th, 1957, it went up by 33 percent. On June
5 1, 1947, it went up by 44 percent. On April 1, 1978, it
6 went up by 6 percent. On July 1998 [sic], it went up 26.87
7 percent. You know, on September 1997 it went up 3 percent.

8 The percentages vary, but the general thing that
9 occurs or trend is that the longer the distance between
10 minimum wage increases, the bigger the hit, if you will, on
11 the employers, the larger the percentage increase.

12 So instead of planning for basically smaller and more
13 frequent increases that reflect a commonly agreed upon set
14 of costs that go into it or factors that go into it, if you
15 will, that I believe Ms. Broyles and I, if we lived to 175
16 will probably be able to work it out, but -- but basically,
17 based on some common principles, an index, whatever the
18 index is, would raise -- would remove this sort of process
19 of sort of stressful and cataclysmic politics in which it
20 goes up by sometimes very high percentages, which arguably
21 are going to be more difficult for employers to absorb
22 however well-deserved, it's kind of like making up for the
23 past all at once, it's going to be harder for employers to
24 absorb, and it leaves workers for many years going without
25 increases at all.

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1 So, you know, some days it works for the employees,
2 the day after it's raised by a huge percentage, and some
3 days it works for the employers, all the days leading up to
4 that day.

5 And to me, having casually observed this over the
6 last twenty or so years of my life in a professional
7 capacity and then prior to that in a junior capacity,
8 the -- it's not a very good system. It's just not a very
9 good system.

10 It really doesn't -- it -- it means that workers are
11 constantly falling behind. And probably historically the
12 minimum wage has gone -- it has not kept up with inflation.
13 And employers are faced with less frequent, but more
14 stressful minimum wage increases.

15 Now -- and, frankly, I think our view is that this is
16 one of those things that would be best to take out of the
17 realm of politics as much as possible, and it's obviously
18 not going to be completely the case, but as much as
19 possible to make it work appropriately.

20 Now, we now have indexed minimum wages in the
21 neighboring states of, what, Nevada, Oregon, Washington --
22 they even indexed it in that great repository of
23 progressivism, Florida -- and the world has not come to an
24 end in those states. In fact, Nevada is frequently cited
25 as the place where all the mythical jobs leaving California

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1 are going to as it turns out. Oregon is another one.

2 If I've heard it once, I've heard it a thousand
3 times. Well, we're going to move our business to Nevada
4 because they have a more friendly business, you know,

5 situation than we do in California.

6 So we think it's time, it's high time that we
7 consider this. Other states have done it. We've got a
8 decade or more of experience with it. The world hasn't
9 come to an end, and it's time to have that discussion.

10 So we would ask that you -- that -- with all respect,
11 that you not reject this out of hand, that we talk about
12 it, and we figure out what kind of an index we can have.

13 CHAIRPERSON COHEN: Okay. It -- it appears that the
14 entire employer panel wants to -- wants to respond to --

15 MEMBER BROAD: Excellent.

16 CHAIRPERSON COHEN: And the first one I saw was Mr.
17 Abrams.

18 Are you still --

19 MEMBER ABRAMS: No, I --

20 CHAIRPERSON COHEN: Okay.

21 MEMBER ABRAMS: Ms. Diaz -- Ms. Dunbar, excuse me.

22 CHAIRPERSON COHEN: Ms. Dunbar.

23 MEMBER DUNBAR: Okay. I just wanted to mention that
24 when I was talking about the long-standing rules, I was
25 talking about statute and about case law which supports the

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1 statute. And from my understanding, the IWC has never
2 indexed the minimum wage itself, tied it to inflation, and
3 that's the context that I was referring to.

4 And I think it's pretty clearly laid out in, you
5 know, various sections of the Labor Code that there's a
6 process they have to adhere to. That includes appointing a
7 wage board, having at least one public hearing, having a
8 meaningful investigation, et cetera. And case law supports

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9 that and says, in fact, that if they don't do that, it
10 nullifies their actions.

11 I think this is a pretty strong stance to take, and
12 the purpose is to protect the intent and the purpose behind
13 the IWC and the public hearing process to ensure that when
14 something like the minimum wage that affects all employees
15 is increased, that there is meaningful debate, there are
16 opinions and arguments taken into consideration, that this
17 right of the people to voice their opinions and tell -- and
18 say how it's going to affect them is protected.

19 If you index it, you put it on auto pilot. You're
20 not only, I think, on a slippery slope for so many policy
21 reasons just tying it to one economic factor, but if you do
22 that, you're taking away the right and the public -- public
23 hearing process to debate these types of things that we're
24 doing here today.

25 You are taking it out of the control even of the IWC

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1 and of the wage board and just putting it on auto pilot and
2 putting it on one factor that is not controllable by the
3 IWC, the Legislature or the wage board.

4 And so I think it's -- and going back to employers
5 planning, et cetera, I think it's more irresponsible if
6 they -- they not have a say in how it affects them, because
7 you just can't tie it to one factor without looking at
8 unemployment, without looking at the strength of the
9 overall economy, et cetera. So that's why we're opposed to
10 any type of indexing provision.

11 CHAIRPERSON COHEN: Thank you.

12 Ms. Broyles.

13 MEMBER BROYLES: Thank you, Mr. Chairman.

14 Just looking at what's being proposed with the 9.78
15 per hour increase, it's a \$3.28 increase. Yes, Mr. Broad,
16 it is a big, you know, economic goal for employers to take
17 a look at.

18 I think what you have to also look at is that it does
19 have real world impacts beyond -- not going to the indexing
20 question quite yet, but looking at what it does mean to the
21 average employer in terms of what our overall base costs
22 are.

23 You're looking at a sixty-eight -- a \$6,822.40 per
24 minimum-wage worker increase. For an employer with 20
25 employees, that's a \$136,000 hit. That's an

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1 out-of-business hit. So that's those 20 employees not
2 working at all in some cases. They wouldn't be able to
3 absorb such a hit. For our economy as a whole, you're
4 looking at a 6.8 billion dollar hit.

5 Again, it's -- we're not just saying this is good or
6 bad. You have to look at what the facts say. And
7 economically that would be a very large economic impact.
8 And, again, it's reasonable to question why or if that
9 should be done.

10 So I -- I can't see where raising it that much that,
11 you know, quickly and then indexing on top of that would be
12 the appropriate thing to do to the California economy.

13 Just as Mr. Broad feels capable of predicting what
14 the employer response is, I can predict as well what the
15 employee response is. Let's just go ahead and raise it and
16 hope that the sky doesn't fall.

17 well, if you look at states like Nevada, they don't

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18 have a state income tax. It's a different situation. It's
19 a different economy. It's based on gambling. I don't feel
20 like gambling with the economy here in California. I don't
21 think looking at the economic base of other states that
22 have a far less diversified economy than California does is
23 a responsible thing to do.

24 If you're looking at a million workers
25 approximately -- and we've talked about this number back

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1 and forth over the years of who actually makes the minimum
2 wage, that -- it really does have a significant impact, and
3 I can't see it being one where we would ever agree to a
4 \$3.28 increase -- \$3.28 increase in a fell swoop at any
5 point. It would not be responsible.

6 So I would oppose the motion.

7 CHAIRPERSON COHEN: Mr. Schacht.

8 MEMBER SCHACHT: Mark Schacht. Just a couple of
9 responses. And this I'm going to put on the same hat that
10 Barry sometimes puts on, which is his small employer hat.

11 I'm a small employer. Our law firm has about 25
12 employees. We do all the things you do. We post the
13 notices. We pay workers' Comp insurance. We do -- we're
14 subject to all of the other laws that apply to employers.

15 A few years ago when workers' Comp premiums went up
16 dramatically for many, they went up for us 25 percent in a
17 single year. We had no reported claims in the entire
18 history of our law firm, no workers' Comp claims, in other
19 words, and it was just painful to come up the twenty-five.
20 It was thousands and thousands of dollars to come up with.

21 And even though we don't employ anyone at the minimum
22 wage, it would seem to us that it makes sense from a

23 business standpoint. You know, every year, I'm deputy
24 director and I sit down with the accountant and we do the
25 operational budget and we build in the expenses. What do

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1 we think our liability insurance is going to increase by
2 next year? What do we think the wage package is going to
3 increase by next year?

4 And it seems to me if you knew as a business person
5 what that increase was going to be, that makes it far
6 easier to plan and accommodate those costs than to wait for
7 five years when it goes up 44 percent in one fell swoop.

8 MEMBER BROYLES: As the daughter of a small business
9 owner, this is a small business owner who doesn't have the
10 ability to charge by word as some of the attorneys in the
11 room might be able to do so. She works on a very small
12 profit margin, and this is to supplement her Social
13 Security.

14 \$6,000 would erase all of her profit for most of the
15 year. And, again, that means one of her two part-time
16 minimum-wage employees loses their job, and I just don't
17 see where that's the fairness in your proposal of -- of
18 saying that -- that you're just going to backtrack cost.
19 Sometimes you can't control the cost of your service or the
20 cost of your product. The -- the economy won't bear it.
21 The consumer won't buy it at that level. Those are
22 realities. It just doesn't happen.

23 MEMBER WEI: Question to the speaker, Mr. Chair.

24 CHAIRPERSON COHEN: Please.

25 MEMBER WEI: Ms. Broyles, are you aware of at any

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1 point where the Chamber of Commerce has supported any
2 increase in the minimum wage?

3 MEMBER BROYLES: We were represented on the board,
4 the wage board in the late 1980s where they did agree to a
5 minimum wage increase, Ms. Wei.

6 MEMBER WEI: And that representative did support and
7 vote for a minimum wage increase?

8 MEMBER BROYLES: They came to a compromise agreement.
9 So I will -- I wasn't the lobbyist at the time, Ms. Wei,
10 but I would be happy to get the information for you on it.

11 But I do believe that they came to an agreement, and
12 we were represented -- represented on that wage board, so I
13 believe that that probably was the case.

14 MEMBER DAVIS: Mr. Chairman, I have --

15 CHAIRPERSON COHEN: Yes, a couple other hands.

16 MEMBER BARSUGLIA: Heidi Barsuglia, California
17 Retailers Association.

18 while it sounds like a great idea that we'd be able
19 to forecast what our increased wage costs would be, the
20 problem is we can't also forecast other factors such as
21 high inflation, not always, or a slowed growth productivity
22 or higher unemployment. And unless we take all those
23 factors into account, then we're -- we're gambling with the
24 economy as a whole.

25 And while the wage costs we're being able to forecast

1 them in some way may in some cases be desirable, when you
2 look at the picture as a whole, tying the increase in
3 minimum wage to that -- that single economic factor would

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4 ignore the other factors and could result in -- in
5 situations where there's job losses or decreased hours
6 worked that could be offered by the employers.

7 CHAIRPERSON COHEN: Comments over here? I'm going to
8 go back to the employer side.

9 MEMBER BROAD: There's a signal going on.
10 (Off the record.)

11 CHAIRPERSON COHEN: Okay. We're good.
12 We were about to hear from Mr. Davis.

13 MEMBER DAVIS: Yes, I have a little quick question
14 for Mr. Schacht. He said he didn't have anybody at minimum
15 wage. Do you have anyone that works for you that makes ten
16 dollars an hour?

17 And my question then may be just a rhetorical one,
18 and that is, if you did have someone at ten dollars an hour
19 and the minimum wage went to ten dollars an hour, wouldn't
20 that person want a raise?

21 MEMBER SCHACHT: We don't have anybody that makes as
22 little as ten dollars an hour. Everybody makes somewhat
23 more than that. And raises are based on merit, evaluations
24 every year --

25 MEMBER DAVIS: I understand. But if a person --

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1 MEMBER SCHACHT: -- and our capacity to provide
2 raises.

3 And there are people within the same job
4 classifications making more money than other people. And
5 while they're not supposed to know that, everybody sort of
6 does know that some people are making more than other
7 people. But --

8 MEMBER DAVIS: I understand. But if the minimum --

9 if the wage -- if the minimum wage went up to ten dollars
10 an hour, 9.78, and someone who was already making 9.78 was
11 suddenly making minimum wage, do you think they would want
12 a raise?

13 MEMBER SCHACHT: I think it depends on their personal
14 situation. I mean, if they're making 9.78 and minimum wage
15 is 9.78, I don't know that it follows necessarily that
16 they're going to say, well, I should making 11.78.

17 MEMBER DAVIS: So if you think --

18 MEMBER SCHACHT: Everybody wants a raise.

19 MEMBER DAVIS: Everybody wants a raise, I would agree
20 with that.

21 My point is if you were making -- if the minimum wage
22 is six and it goes to nine and nine is what you are making,
23 I -- I believe that most people are going to go, I'm worth
24 more than the minimum wage. I want to make more money.
25 And that will put pressure on many, many people to give

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1 raises in order to keep that -- to keep the pay above the
2 minimum wage for those that make above minimum wage now.

3 MEMBER SCHACHT: I -- I just don't think that there's
4 a -- that's the -- the stigma of working at the minimum
5 wage isn't because it's the minimum wage. It's because
6 it's 6.75 an hour.

7 MEMBER DAVIS: So if we raised everybody's wages to
8 equal that of an attorney, you wouldn't want to make more
9 money? we could all make --

10 MEMBER SCHACHT: There was actually a proposal like
11 about 20 years ago that the secretaries, the paralegals and
12 the attorneys all make the same amount.

13 MEMBER DAVIS: I think the very reason that there's
14 inflation is because people do demand more money for
15 skills, and that people are not going to be content to find
16 that the person at minimum wage who makes 9.78, and they
17 have a skill which is worth more than minimum wage, are
18 going to go, yeah, that's fine with me, I'll settle for
19 9.78.

20 MEMBER SCHACHT: You know, we pay people according to
21 what we have to pay to get them to get the skill set that
22 we -- we need. And we pay them also because -- in
23 conjunction with labor collective bargaining to the extent
24 that wages go up as a result of that. And there's a
25 constant upward pressure on wages at all levels and in all

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1 businesses, and I don't think it's the disparity between
2 employees that's driving that. I think it's what people
3 need to survive and need to live.

4 And -- and these wages that are at the low end of the
5 spectrum, whether they're seven, eight, nine, ten dollars
6 an hour, you have all these people, they want over time,
7 they want to find some way to do something in addition to
8 what they're doing to increase their wages.

9 So I just think at this end of the labor market that
10 the pressures to increase wages are so strong that they
11 don't arise because of the movement in the minimum wage.
12 They arise because people are in need of more to care for
13 themselves and their children.

14 CHAIRPERSON COHEN: We had a couple other people that
15 wanted to speak. I'm going to Mr. Agee and then Mr.
16 Abrams.

17 MEMBER AGEE: I think Mark pretty well addressed the
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18 comment. I don't have anything else to say.

19 CHAIRPERSON COHEN: Okay. Mr. Abrams.

20 MEMBER ABRAMS: I would like to address the -- two
21 distinctly different pieces of Ms. Wei's motion.

22 One, the portion of it that would raise the minimum
23 wage to 9.78 an hour. For the reasons that we've
24 articulated before during our discussion this morning, I'm
25 going to vote against the motion. And if one were to say,

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1 well, what would you vote for, to kind of forestall that
2 discussion, again, our position is, is that the minimum
3 wage -- and we had a motion on this -- is adequate and
4 should not be increased.

5 I would then address the indexing portion of Ms.
6 Wei's motion. And I think it's important -- Mr. Broad
7 mentioned a number of instances where when one thing
8 happens, something else happens. But the cause of the
9 cause and effect relationship if the minimum wage goes up,
10 then if you want to have an exempt employee, you must pay
11 him or her at least a salary equal to at least two times
12 the minimum wage.

13 But there has been a conscious decision made by a
14 body -- the voters, the Legislature, the IWC -- to raise
15 the minimum wage. There are a lot of other factors that
16 are -- that are cause and effect of minimum wage. The
17 uniform cleaning allowance is a factor. If you provide
18 uniforms for employees, the amount you pay for cleaning is
19 a function of the minimum wage.

20 And I respectfully disagree with Mr. Broad. He says
21 that because the conscious decision has been made to

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22 increase the meal and lodging credits -- which is a
23 conscious decision, it doesn't automatically happen --
24 after there has been a conscious decision that didn't
25 automatically happen to raise the minimum wage is not in

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1 any way, shape or form indexing and is not precedent for
2 any kind of an argument that we ought to set something on
3 auto pilot, which is what the indexing proposal -- and
4 whether you select the Urban Counties CPI or anything else,
5 where it is set on auto pilot, where it happens
6 irrespective of whether people looking at it reasonably
7 would say this isn't the time to do it, that does not now
8 exist, and the IWC has not ever done that.

9 And so aside from the legal issue, which I appreciate
10 we aren't going to debate here and resolve here today but
11 has been raised before the IWC and raised here by the
12 Restaurant Association, we feel that indexing, which is an
13 auto pilot mechanism, has so many inherent problems and
14 takes into consideration so few of all of the different
15 considerations, all the different aspects of whether the
16 minimum wage should go up -- and we've talked about a few
17 of them, unemployment, all of the other factors we've
18 talked about -- it is a very counter-productive public
19 policy to adopt per se.

20 And for that reason, I'm going to vote against the
21 motion for that second reason as well. And if you were to
22 say if we just had a separation motion on indexing, my vote
23 would be the same.

24 MEMBER WEI: Question for Mr. Abrams.

25 CHAIRPERSON COHEN: Go ahead.

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1 MEMBER WEI: They won't be surprised if I ask you
2 this, Mr. Abrams. When would be the time to increase the
3 minimum wage?

4 MEMBER ABRAMS: If you're asking me -- if inherent in
5 your question is would I always say that raising the
6 minimum wage is wrong and we should not do it, no, I won't
7 say that.

8 I will tell you that at the present time and based on
9 the -- this is my own personal view. It is not necessarily
10 my employer's view, and if I get fired tomorrow morning so
11 be it.

12 I think that if we could get to the point where we
13 had a -- a good public policy debate divorced from
14 politics, and I think it is possible -- and I think Ms.
15 Broyles indicated this, too -- that it is possible that
16 good thinking people could sit down and say here are the
17 factors that ought to be considered. And if we came up
18 with a comprehensive list of those factors, and all of
19 those factors taken into consideration indicated that there
20 ought to be a minimum wage increase, my own personal view,
21 one human being, is that's the appropriate time.

22 MEMBER WEI: If I may just follow up here.

23 Understanding, you know, it takes a whole number of
24 different factors for consideration, what would be the
25 focal point for when a minimum wage would be deserved, an

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1 increase?

2 MEMBER ABRAMS: You're asking me to debate -- this is
3 my reading of your question. Forgive me, that's

4 presumptuous.

5 My reading of your question is what's going to be the
6 defining factor for you and --

7 MEMBER WEI: The point in which --

8 MEMBER ABRAMS: -- I don't know that I -- I really am
9 unprepared to answer what the defining -- the straw that
10 breaks the camel's back, however you want to take that, the
11 thing that tips the scale, I don't know how to answer that
12 in a vacuum. And I'm being absolutely honest with you.

13 CHAIRPERSON COHEN: Mr. Schacht.

14 MEMBER SCHACHT: Can I make one point about the
15 automatic nature of the indexing provision.

16 You know, the way I read 1173, which are basically
17 the duties and powers of the Commission, there's a very
18 broad statement that the Commission may on its own motion
19 or upon petition amend or rescind any order or a portion of
20 any order, adopt any order covering any occupation.

21 If this IWC raised the minimum wage a dollar and
22 indexed it to Ms. Wei's indexing, that would only apply
23 until you -- in the next cycle, two years from now, if you
24 decide inflation is 12 percent, the minimum wage shouldn't
25 be going up that much, you could petition the IWC or the

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1 IWC could itself open up the order, change it, lower it,
2 raise it, eliminate it.

3 So it's not truly speaking an automatic --

4 MEMBER ABRAMS: well, but with all due respect, it
5 is. And I think the IWC could certainly say we're going to
6 raise the minimum wage, we're going to raise it 50 cents an
7 hour now and 50 cents an hour next March or whatever,

8 they've made a conscious decision. And it is not something
9 that just happens in default of some conscious decision or
10 action being taken by a body, whether it's the electorate,
11 the Legislature or the IWC. And that is the piece of it,
12 and I'd leave it up to the lawyers to worry about whether
13 or not the IWC has that power.

14 I understand your point, it is taken, and I disagree
15 with your conclusion.

16 CHAIRPERSON COHEN: Not seeing any hands, we've got
17 one alternate to speak. Go ahead.

18 ALTERNATE MEMBER SANDAHL: Lee Sandahl.

19 I'm probably going to get myself in trouble here
20 again, but -- let's see.

21 The 6.75 has been there since 2002, and it's just
22 hard for me to sit here and believe that the cost of
23 everything in the last four years hasn't -- hasn't
24 warranted some sort of raise here in the minimum wage.

25 I don't understand why we're waiting for the straw to

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1 break the camel's back all the time, why we can't do
2 something before that happens.

3 MEMBER ABRAMS: Bad choice of words on my part.

4 CHAIRPERSON COHEN: Okay. We have a motion on the
5 floor. I will restate the motion.

6 The motion is to recommend that the minimum wage be
7 raised to \$9.78 and thereafter be indexed with the cost of
8 living using the urban counties index as used by the
9 Department of Finance.

10 Seeing no further debate on the motion --

11 MEMBER BROYLES: I actually do (unintelligible).

12 CHAIRPERSON COHEN: Carry on.

13 MEMBER BROYLES: I apologize, Mr. Chairman.
14 And it's one that really just got kind of glossed
15 over in the overall discussion of the \$3.28 increase.
16 I do --
17 CHAIRPERSON COHEN: A point of clarification.
18 MEMBER BROYLES: Oh, I'm sorry.
19 CHAIRPERSON COHEN: You want to make it or --
20 MEMBER WEI: It's \$3.03.
21 CHAIRPERSON COHEN: \$3.03.
22 MEMBER BROYLES: \$3.03. I'm sorry.
23 In the \$3.03 increase that you have, I believe no one
24 has talked about the link between exempt and nonexempt
25 workers that you have. And with the minimum wage, with any

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1 increase in the minimum wage, the base wage for exempt
2 workers also must increase by double that amount.
3 And we think as -- as employers, that when you have
4 such a large increase and you're talking somewhere around
5 \$13,000 in an increase that would have to occur to maintain
6 that exempt worker status, a lot of things would occur.
7 Employers already are caught in a catch-22. with
8 exempt workers, you would have to decide whether to
9 increase the wage from where they must be now, which is
10 approximately \$28,000, up to the new base wage amount that
11 a minimum wage increase would -- would require, and then
12 decide whether that was worth keeping that status.
13 Exempt status is -- has a lot of different things
14 that are attached to it. Sometimes it changes the amounts
15 of the 401(k) contributions and other times it changes
16 different types of benefits and accrual of different

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17 benefits based on that manager status. And, again, you
18 would have to increase it with such -- with such a large
19 amount.

20 And we think that, again, is not something that's
21 been examined and, in fact, would want to make a
22 recommendation to the -- to the Industrial welfare
23 Commission that they look at the impact that any increase
24 that they do in the minimum wage, also examine the impact
25 on exempt workers and -- and possibly look at the delinkage

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1 of the two in the future as a recommendation they could
2 make to the Legislature.

3 But we do want to make sure that as this issue is
4 looked at and examined by the Industrial welfare
5 Commission, they also examine the impact on exempt workers
6 as the issue goes back to them for consideration. And
7 that's the only point I wanted to make, Mr. Chairman.

8 CHAIRPERSON COHEN: Thank you.

9 Any further comments?

10 Seeing no one --

11 MEMBER WEI: Well --

12 CHAIRPERSON COHEN: Go ahead.

13 MEMBER WEI: Mr. Chair, I've held my tongue on this
14 point all day, and I feel I would be remiss if I didn't put
15 it on the record.

16 I want to raise issue with the terms no-skilled or
17 low-skilled employment as a justification to earn the
18 minimum wage.

19 I think those are subjective terms and that we should
20 be reminded of who's actually doing work that earns the
21 minimum wage. It's child care workers. It's adult daycare

22 workers. It's people who is taking care of our parents and
23 our kids. It's school employees, school bus drivers, bus
24 drivers, people who have -- paramedics, first responders,
25 people who have our day-to-day lives in their hands, who

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1 have our kids' and our parents' lives in their hands.

2 You know, I can't -- I'm not one to judge if these
3 are low-skill or high-skill jobs, but I sure know that I
4 value them more than calling them low-skill or no-skill
5 jobs.

6 If you look at the agriculture industry, and I
7 draw -- my parents ran a restaurant, and when I was able to
8 work there I had to peel shrimp. One of the only jobs
9 they'd let me do is peel the shrimp. And for every tail of
10 the shrimp I peeled off, my dad said, You're taking a
11 nickel off my money. I didn't have the skills to peel the
12 shrimp correctly.

13 And I think it's a similar situation with the farm
14 workers today. Every miscut you make on a piece of fruit,
15 every scrape that you lose when you pull the bunch,
16 everything that you miss, there's a cost there and that --
17 it takes skill. It takes skill to -- to till the fields in
18 a way that protects our food and bounty and brings the
19 greatest bounty for us that we can here to our tables.

20 So, you know, I just want us to think about -- and I
21 understand where the employer -- the concepts the employers
22 are trying to speak to here. But in terms of how we value
23 the work, that these are in my argument some of the most
24 important jobs in our economy, some of the most protective
25 jobs in our economy, and that I think it's somewhat knee

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1 jerk to call them low skill or no skill just for us to be
2 able to have this debate.

3 MEMBER BROYLES: Mr. Chairman?

4 CHAIRPERSON COHEN: Yes.

5 MEMBER BROYLES: And, again, no denigration is meant
6 by using the terms no skill or low skill. Every
7 profession, every job, every piece of labor performed in
8 this state requires knowledge of some sort.

9 At the beginning of a job, you don't always know an
10 employer's process, you don't always know the tools, and it
11 requires training to get you to a level where you're not
12 reducing the cost of providing that service or that product
13 to the consumer at the end. And, again, you gain that
14 experience and make yourself more valuable as an employee
15 when you gain skills and increase your skill base.

16 So when you talk about the terms no or low skill, it
17 does have value, and it does have meaning within the
18 employment context, and that is how it must be considered.

19 If you do not have knowledge of how a component is
20 put together, if you don't know how to correctly harvest a
21 crop, that means to that employer you don't have the skill
22 base that that employer values in order to pay them anyway
23 regardless of what it is going forward, that it's not worth
24 their -- it's not worth it to the employer for the time and
25 effort it would take to train up a worker to the point

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1 where they would get immediate value for what they're
2 paying per hour for you, for your knowledge base or an

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3 employee's knowledge base.

4 And so, again, that is part of the equation and,
5 again, when we sit down and have a separate discussion at
6 some point in the future on what might go into considering
7 factors for con -- for calculating a base wage rate for
8 California, that might be something that you want to add to
9 your list.

10 ALTERNATE MEMBER SANDAHL: This is just for a little
11 history for where I come from.

12 CHAIRPERSON COHEN: Just -- excuse me. Just let the
13 record note that Mr. Martin has returned.

14 Okay.

15 ALTERNATE MEMBER SANDAHL: This is just a little
16 history to let you all know where I come from.

17 I've been in the longshore industry, I started there
18 in 1962. I was in high school. I was 16 years old.

19 when I first started working on the water front,
20 every single job as a longshoreman whether you drove
21 winches -- I think winches was a 15 cents an hour
22 differential; if you drove a forklift it was 10 cents an
23 hour more; if you worked in the hull on grease cargo, I
24 think you got 25 cents penalty pay. And basically our
25 contracts have always been the same for whether you have

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1 worked there for one minute or whether you've been in it
2 for 40 years. Everybody made the same.

3 CHAIRPERSON COHEN: Seeing no other hands, let me
4 take a run at this again.

5 Are we prepared to vote on the motion? Okay. I'm
6 going to restate the motion.

7 The motion is to recommend a raise in the minimum

8 wage to \$9.78 an hour and index it thereafter to the cost
9 of living using the Urban Counties Index used by the
10 Department of Finance.

11 I will start with the employee representatives. Mr.
12 Agee.

13 MEMBER AGEE: Yes.

14 CHAIRPERSON COHEN: Mr. Broad.

15 MEMBER BROAD: Yes.

16 CHAIRPERSON COHEN: Ms. Wei.

17 MEMBER WEI: Yes.

18 CHAIRPERSON COHEN: Mr. Jones.

19 MEMBER JONES: Yes.

20 CHAIRPERSON COHEN: Mr. Schacht.

21 MEMBER SCHACHT: Yes.

22 CHAIRPERSON COHEN: Ms. Mercado.

23 MEMBER MERCADO (In English): Yes.

24 CHAIRPERSON COHEN: Okay. For the employers, Ms.
25 Broyles.

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1 MEMBER BROYLES: No.

2 CHAIRPERSON COHEN: Mr. Davis.

3 MEMBER DAVIS: No.

4 CHAIRPERSON COHEN: Mr. Dayton.

5 MEMBER DAYTON: No.

6 CHAIRPERSON COHEN: Ms. Dunbar.

7 MEMBER DUNBAR: No.

8 CHAIRPERSON COHEN: Mr. Abrams.

9 MEMBER ABRAMS: No.

10 CHAIRPERSON COHEN: Ms. Barsuglia.

11 MEMBER BARSUGLIA: No.

12 CHAIRPERSON COHEN: Okay. I would like to take this
13 opportunity to point out to you that by my reckoning, we
14 have in fact touched on every aspect of the charge through
15 one or another of the motions presented today. We have
16 discussed the adequacy of the current minimum wage and
17 whether or not it should be increased. We've discussed at
18 least one amount as a recommendation for increasing the
19 minimum wage. We've discussed the timing of such an
20 increase. We've discussed whether or not the minimum wage
21 should be indexed. And we have discussed whether or not
22 any increase, should there be one, should be credited
23 against the meals and lodging provided by the employer.

24 So we have -- although we have not apparently changed
25 anyone's position and moved off in any one of those votes,

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1 a 6-6 deadlock, we have at least had the opportunity to
2 have a discussion and debate about each of the questions
3 we've been charged to address by the Industrial Welfare
4 Commission.

5 I will tell you that as a non-voting observer, I
6 think there have been good points on both sides of those
7 debates. I think the most interesting discussions have
8 been in some of the more philosophical discussions, but at
9 certain points offered glimmers of some agreement, but not
10 in any time frame that fits into our charge.

11 I think that those have been interesting. I would
12 encourage those who wish to participate in those
13 discussions to try to find a venue to pursue those, but I
14 think it comes back -- as Mr. Broad has reminded us several
15 times, this continues to be a political process driven by
16 political agendas, and I'm not sure that this wage board

17 really has any power to alter that.

18 with that said, if someone feels there's a motion
19 that would, you know, hold out a hope of advancing the
20 discussion or covering some topic not covered or somehow
21 find a vote that comes out different than 6-6, I'm not
22 prepared yet to cut off debate. I just would remind you
23 that we have covered each of the topics charged to us by
24 the IWC, and I don't hold out much hope of any different
25 outcome than we've seen in each of the seven votes that

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1 we've taken today.

2 MEMBER WEI: Mr. Chair?

3 CHAIRPERSON COHEN: Yes.

4 MEMBER WEI: Some call me naive, I consider myself
5 eternally hopeful, and I do feel that there is some glimmer
6 of light here in which we may -- both the employee and
7 employer representatives seem to agree that we'd like to
8 see a standard of adequacy to judge the minimum wage
9 against. And while we both also agree we're not going to
10 be able to develop that standard, I believe that the --
11 potentially the wage board is the deliberative body to have
12 that conversation about what -- how to measure adequacy of
13 the minimum wage.

14 And I would, with some caution from the Chair, like
15 to consider putting forward a motion for us to have the IWC
16 Commission and staff charged with developing standards of
17 adequacy to bring back to this wage board for consideration
18 and deliberation.

19 MEMBER BROAD: I'll second that.

20 CHAIRPERSON COHEN: I'm not going to accept it as a

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21 motion in its current fashion. So -- I think that at the
22 end of that statement you took us outside the scope of the
23 charge to this wage board.

24 And I -- as I've said before, I think the -- the
25 language is pretty clear. I know Mr. Broad has disagreed

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1 previously, but I don't believe it's a right to just expand
2 our scope.

3 If you wish to offer a motion that said that there's
4 been discussion that seemed to be some agreement that
5 standards ought to be developed by which there could be
6 some objective measurement and you want to recommend to the
7 IWC that they work on that and put that -- give that as a
8 charge to a wage board and possibly suggest they
9 reconvene -- they appoint this body again with that charge,
10 that's a motion you can offer as part of our recommendation
11 back to the IWC. But I don't think it's appropriate to say
12 that you want more information about something totally
13 outside the charge given to this wage board.

14 MEMBER WEI: Mr. Chair, if I may ask a point of
15 clarification.

16 Do you think that the motion is outside the realm of
17 the charge in either, A, the time frame issues or, B,
18 substantive issues?

19 CHAIRPERSON COHEN: Frankly I think both. We were
20 asked -- you were all asked to determine the adequacy, to
21 make a recommendation as to the adequacy and whether or not
22 there should be an increase and then, subsequent to that,
23 several other subsidiary questions.

24 what you're proposing and what the discussion has
25 touched on at times during the day is whether or not a new

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1 formula not previously used by any previous minimum wage
2 board, that some other objective standard ought to be
3 established or could be established that would take into
4 consideration a number of factors for determining adequacy
5 of the minimum wage in California, that's a recommendation
6 I think well outside the question given to and placed in
7 front of this wage board.

8 It's not a recommendation that's unreasonable to make
9 to the IWC, that they step back and look at a different way
10 of approaching this. But I think it is well outside both
11 in terms of timing and in terms of the scope of the charge
12 given to this wage board to talk about establishing an
13 entirely different method for measuring adequacy.

14 The -- the IWC has followed the current method, which
15 is to say here's all this information, use it to your best
16 judgment, among the parties here make a determination.
17 That's the charge.

18 MEMBER WEI: And with -- in terms of the charge
19 itself, I'm rereading it more carefully now, as carefully
20 as I can, and I don't see anything that references the time
21 frame in terms of the consultation, the maintenance of the
22 wage board. So it's not anything that I see on the charge
23 that would limit us to a day only meeting in terms of the
24 timing issue.

25 On the substantive issue, you know, we deadlocked on

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1 the question of adequacy, and I think that the one
2 potential place of consensus is that we cannot agree to

3 what a standard or benchmark is to measure that adequacy.

4 It could be that this body is the -- should be the
5 body in its public deliberative process, under all of the
6 Bagley-Keene requirements, that we may be the most
7 deliberative body to develop that adequacy standard.

8 CHAIRPERSON COHEN: Again, I think that determination
9 is not for this body to decide. That's for the IWC.

10 As to the timing, the action of the IWC was I believe
11 very clear in appointing this body. The California Code of
12 Regulations states that the wage board shall meet at the
13 time and place designated by the Commission. The IWC set
14 August 4th as the day for this wage board to meet.

15 I understand Mr. Broad doesn't necessarily agree, but
16 the Chairman of the IWC, Mr. Curtin, stated clearly for the
17 record he was concerned about the timing and wanted the
18 IWC -- wanted to allow time for the IWC to have its process
19 and still offer minimum-wage workers a hope of an increase
20 next year should this body not be able to reach a
21 recommendation, a binding recommendation by two-thirds
22 vote.

23 I don't see anything in the discussion today so far
24 that leads me to think there's a motion that can be offered
25 that's going to get us a two-thirds vote on any part of

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1 this topic.

2 I think that, again, if you wish to recommend to the
3 IWC -- if you want to go back and request to the IWC an
4 extension of time because you think there's truthful debate
5 to be had among the members of this wage board, I think
6 you're entitled to make that request. But absent the

7 motion to the IWC to extend the time period or set another
8 meeting of this wage board, I think that we're done today.

9 MEMBER SCHACHT: Can I -- Mr. Chairman, can you point
10 to a page in the transcript which shows that the -- that
11 the IWC considered limiting this to one day? I've got the
12 transcript in front of me, and I'm not sure -- I haven't
13 made my way all the way through it.

14 MEMBER BROAD: One day? One biblical day?

15 MEMBER SCHACHT: One legislative day.

16 MEMBER BROAD: One legislative day.

17 MEMBER BROYLES: One business day.

18 MEMBER SCHACHT: Yeah, the way I'm reading the
19 transcript -- and it's on page 124 -- they adopted the
20 motion with the charge prior to discussing that it would
21 take place on August 4th. And I -- I take the comments of
22 I believe it was Chairperson Curtin to be outside the --
23 the actual charge.

24 CHAIRPERSON COHEN: I'm going to take that statement
25 in the transcript as that the wage board meeting is going

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1 to be August 4th.

2 MEMBER SCHACHT: No, but prior to that he says --
3 Chairman, okay. The motion has passed. The charge has
4 been reviewed and approved.

5 CHAIRPERSON COHEN: I understand that. I understand
6 that.

7 I am going to take the statement in the transcript
8 that the meeting is to be August 4th, combined with
9 Chairman Curtin's comments about his concerns for the
10 timing of this to mean that the IWC -- since no one
11 objected to that, nor was there anything in the charge that

12 said that you shall meet until such time as you reach a
13 resolution, until you have debated every possible motion
14 you can make and deadlock 6-6 on, that the clear intent
15 expressed by the Chairman of the Industrial Welfare
16 Commission was that this wage board meet today, the 4th,
17 and discuss the issues as given to us in the charge, and
18 there's no basis for extending this meeting.

19 And frankly, objectively there's no hope -- I mean,
20 if you can articulate some reason to believe that this wage
21 board as composed could reach agreement even 7-5 on any of
22 the issues here --

23 MEMBER SCHACHT: Well --

24 CHAIRPERSON COHEN: I mean, if you want to go through
25 this just for the sake of going through it, I don't think

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1 that's a compelling enough reason. And, again, I think the
2 transcript is -- is pretty clear, and I believe I'm going
3 to stick to that.

4 MEMBER SCHACHT: I also think it's clear that the
5 charge passed without a date and it's -- and that that was
6 added by the Chairperson, but -- without debating that
7 further, unless Barry or Angie want to debate it.

8 You know, you look at this interim report of the
9 Assembly Industrial Relations Committee, and I read some
10 portions of the proposed bill, it never got enacted, that
11 went into the issues of what is proper living, what is a
12 standard of living that's adequate for a proper living?

13 This is really no different than drafting a
14 regulation or drafting a bill. If we did it correctly and
15 gave it to the IWC, it could include all the factors that

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16 Mr. Abrams has talked about. We could have those
17 discussions about upturn and downturn in the economy, job
18 losses, job creation. We could have those discussions.
19 And it's -- it seems clear from the whole history of
20 this -- this -- of wage boards on this topic that these
21 issues haven't ever been thoroughly resolved, because at
22 the end of the day everybody goes with a political script,
23 and we're deadlocked 6-6, and this never gets resolved.
24 CHAIRPERSON COHEN: I don't dispute that caption of
25 it, but I also don't read the charge to this wage board

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1 proposing that we do anything different. That may be
2 unfortunate. You might be right. This might be a good
3 venue to just sit here for days and days and try to hammer
4 something out that would get us out of this pattern of
5 deadlock.

6 But I don't see that at all in the charge or in the
7 transcript that it was the intent of the IWC that we be
8 charged -- or you all be charged with hammering that out
9 while I tried to run the meeting.

10 So -- Mr. Abrams.

11 MEMBER ABRAMS: To the Chair, it is my understanding
12 that there is currently no motion properly before the wage
13 board. And if I am correct in that understanding, then I
14 would move for adjournment.

15 CHAIRPERSON COHEN: Is there a second?

16 MEMBER WEI: We'll call for a caucus or -- or
17 whatever --

18 CHAIRPERSON COHEN: If five of you wish to talk for a
19 moment, that would be fine.

20 MEMBER DUNBAR: I second the motion.

21 (Whereupon the employee representatives held a
22 caucus consisting of Members Agee, Broad, Wei,
23 Jones and Mercado, and Alternate Members Clark
24 and Sandahl.)
25 (Off the record.)

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1 CHAIRPERSON COHEN: Okay. We do have a motion to go
2 ahead and adjourn. That motion was seconded. I believe
3 under Robert's Rules of Order a motion is not debatable.
4 MEMBER ABRAMS: Exactly.
5 CHAIRPERSON COHEN: But recognizing that there was a
6 caucus, I guess we've got to do this one as a roll call
7 vote as well.
8 We'll start with the employer representatives.
9 Ms. Broyles.
10 MEMBER BROYLES: Aye.
11 CHAIRPERSON COHEN: Mr. Davis.
12 MEMBER DAVIS: Yes.
13 CHAIRPERSON COHEN: Mr. Dayton.
14 MEMBER DAYTON: Yes.
15 CHAIRPERSON COHEN: Ms. Dunbar.
16 MEMBER DUNBAR: Yes.
17 CHAIRPERSON COHEN: Mr. Abrams.
18 MEMBER ABRAMS: Yes.
19 CHAIRPERSON COHEN: Ms. Barsuglia.
20 MEMBER BARSUGLIA: Yes.
21 CHAIRPERSON COHEN: Mr. Agee.
22 MEMBER AGEE: No.
23 CHAIRPERSON COHEN: Mr. Broad.
24 MEMBER BROAD: No.

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1 MEMBER WEI: No.

2 CHAIRPERSON COHEN: Mr. Jones.

3 MEMBER JONES: No.

4 CHAIRPERSON COHEN: Mr. Schacht.

5 MEMBER SCHACHT: No.

6 CHAIRPERSON COHEN: Ms. Mercado.

7 MEMBER MERCADO (In English): No.

8 CHAIRPERSON COHEN: Okay. That motion fails on a
9 deadlock.

10 It's 4:30. Would someone care to introduce a motion
11 for consideration by the wage board.

12 MEMBER BROAD: Mr. Chair.

13 CHAIRPERSON COHEN: Mr. Broad.

14 MEMBER BROAD: I would like to entertain a motion
15 that the -- that the wage board require that the IWC,
16 should any federal legislation pass imposing any tip credit
17 on California, do everything that it can legally do to
18 oppose that tip credit.

19 CHAIRPERSON COHEN: Yeah, I understood it. Yeah, I
20 understood it.

21 Is there a second to the motion?

22 MEMBER WEI: Second.

23 CHAIRPERSON COHEN: You want to make any comment on
24 that, Mr. Broad?

25 MEMBER BROAD: Yes.

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1 There is perhaps no more evil thing in the world of

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2 wage and hour law than the tip credit. Tips are left by
3 all of us for -- for good service for the employees
4 involved. They shouldn't -- they're not left for the owner
5 of the business to rip off for themselves.

6 The fact that 43 states or something allow it and
7 seven don't is no argument for evil. And evil is bad, and
8 we're against evil on our side. And anyone who is for the
9 tip credit is evil. And for that reason, we wish to keep
10 the IWC from straying along the path of evil.

11 So I would urge an "Aye" vote on this motion of mine.

12 MEMBER DUNBAR: I have a comment.

13 CHAIRPERSON COHEN: Mr. Broad --

14 MEMBER BROAD: Yes.

15 CHAIRPERSON COHEN: -- it's late. We're almost done.
16 I'm tempted just to let you take some time up on this
17 because you made such a passionate pitch, but tell me how
18 this is in the charge.

19 MEMBER BROAD: Because tip credit is potentially
20 related to the pending federal legislation which has to do
21 with a credit against the minimum wage, which is related to
22 the minimum wage. And the federal legislation allows
23 states to opt back in to avoid the tip credit. And,
24 therefore, the IWC's action on this could in fact be both
25 timely and necessary in order for it to deal with the

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1 problem that it will face, which is that California law
2 prohibits a tip credit and federal law is attempting to
3 potentially, should it pass, to enforce it.

4 And I think that they should understand the sense of
5 this body, that we would be outraged at such an intrusion
6 by the jackals of the federal government against states'

7 rights. And as people that support the right of states to
8 operate within our constitutional system free of the
9 intermeddling of the evil federal government, we believe
10 that the state should maintain its freedom to act within
11 our constitutional system and have the laws that we choose
12 from our elected officials and not have some guy who's
13 elected from Mississippi decide what we want to do with our
14 tips for our waiters and waitresses when we leave it for
15 them in California.

16 Hell, I just want to, like, start the American
17 Revolution again.

18 CHAIRPERSON COHEN: I got that impression.

19 MEMBER BROAD: And that -- so it's entirely relevant
20 to us because it could be right in the middle of their
21 deliberation.

22 CHAIRPERSON COHEN: Yeah, it's entirely relevant for
23 you to raise the issue with the IWC, but really I'm still
24 listening for you to convince me that it's inside the scope
25 of the charge.

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1 I --

2 MEMBER BROAD: Well, it's how much the minimum wage
3 should be, that's what it is. It's how much the minimum
4 wage should be for some group of workers. That's what it
5 means is there is a sub-minimum wage for tipped employees.
6 And it -- who gets the minimum wage is certainly within the
7 charge.

8 MEMBER DAYTON: Mr. Chairman, I'd like a ruling on
9 whether this is in order. I don't believe this is in our
10 charge nor is any of this material part of the information

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11 that we were (unintelligible). It sounds more theoretical
12 to me.

13 CHAIRPERSON COHEN: I think as stated, Mr. Broad, I'm
14 still finding it outside the charge. We are not charged
15 with considering federal action on tip credits.

16 I'm just -- as the motion is stated, I guess I'm
17 going to have to rule it out of order.

18 MEMBER BROYLES: Motion to adjourn.

19 MEMBER DAYTON: Second.

20 CHAIRPERSON COHEN: I'm not sure that's good, either,
21 at this moment.

22 MEMBER ABRAMS: Well, it is with all due respect to
23 the Chair.

24 MEMBER BROYLES: You just ruled the other motion out
25 of order.

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1 CHAIRPERSON COHEN: That's true. We can do this
2 again.

3 There's a motion and a second to adjourn. It's not
4 debatable. We'll start with the employee representatives
5 this time.

6 Mr. Agee.

7 MEMBER AGEE: Yes.

8 CHAIRPERSON COHEN: Mr. Broad.

9 MEMBER BROAD: No.

10 CHAIRPERSON COHEN: Ms. Wei.

11 MEMBER WEI: No.

12 CHAIRPERSON COHEN: Mr. Jones.

13 MEMBER JONES: No.

14 CHAIRPERSON COHEN: Mr. Schacht.

15 MEMBER SCHACHT: No.

16 CHAIRPERSON COHEN: Ms. Mercado.
17 MEMBER MERCADO (In English): No.
18 CHAIRPERSON COHEN: The motion was to adjourn.
19 Ms. Broyles.
20 MEMBER BROYLES: Yes.
21 CHAIRPERSON COHEN: Mr. Davis.
22 MEMBER DAVIS: Yes.
23 CHAIRPERSON COHEN: Mr. Dayton.
24 MEMBER DAYTON: Yes.
25 CHAIRPERSON COHEN: Ms. Dunbar.

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1 MEMBER DUNBAR: Yes.
2 CHAIRPERSON COHEN: Mr. Abrams.
3 MEMBER ABRAMS: Yes.
4 CHAIRPERSON COHEN: Mr. Barsuglia.
5 MEMBER BARSUGLIA: Yes.
6 MEMBER AGEE: For the record, I'd like to change my
7 vote to a "No."
8 CHAIRPERSON COHEN: I did not restate the motion. I
9 will --
10 MEMBER AGEE: I'd like to make a motion if I can.
11 CHAIRPERSON COHEN: Okay. Hang on just a moment.
12 So are we all caught up on the motions to date?
13 MEMBER ABRAMS: Yes, sir. There is no motion pending
14 that I'm aware of.
15 CHAIRPERSON COHEN: I have a motion being introduced.
16 I just want to make sure that we -- we've been flying fast
17 and loose, and one of our wage board members I think lost
18 track of the motion on the floor, so I want to make sure
19 the record is clear.

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So now we're going to have a motion from --

20

21 MEMBER AGEE: Jovan Agee.

22 I'd like to make a motion to, if we can, come to a
23 consensus on what standards we should forward to the IWC to
24 base their decision off of. I would make a motion that
25 housing be something they consider when they decide what

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1 the minimum wage increase should be.

2 MEMBER JONES: Second.

3 CHAIRPERSON COHEN: Okay. It's been moved and
4 seconded that the --

5 (Off-the-record discussion with staff.)

6 CHAIRPERSON COHEN: Mr. Broad, you second?

7 MEMBER WEI: Mr. Jones.

8 CHAIRPERSON COHEN: Thank you, Mr. Jones. Sorry
9 about that.

10 Okay. So the motion is a recommendation to the IWC
11 that the IWC consider the cost of housing when they discuss
12 how to determine the adequacy of the minimum wage.

13 Is that a fair statement?

14 It's been moved and seconded.

15 Mr. Abrams.

16 MEMBER ABRAMS: With respect, I -- and as we go
17 through this, if we have a seriatim statement of motions to
18 consider housing, consider automobiles, consider health
19 care, et cetera, I would oppose those on the grounds that I
20 think we've all expressed tacitly or implicitly that there
21 needs to be some common understanding of what the factors
22 should be in determining whether the minimum wage is
23 adequate and should go up.

24 And I think whether we all agree with it or not,

25 that, you know, my own view is we're not going to come to a

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1 conclusion on that today. So while I don't dispute that
2 the cost of housing might be a proper consideration, we're
3 going down a path of then saying, well, what about this and
4 what about that and have that discussion.

5 So, for that reason, believing that that's
6 inappropriate to do here today, I'm going to oppose the
7 motion.

8 CHAIRPERSON COHEN: Any other comments on the motion?

9 MEMBER BROAD: I have a comment.

10 CHAIRPERSON COHEN: Go ahead.

11 MEMBER BROAD: Mr. Abrams, with all due respect, I
12 think that's what we're supposed to be doing. In other
13 words, to spend all day saying -- starting in the morning
14 and saying we don't have time to figure out this question
15 means that we -- well, of course we have time to figure out
16 this question. I mean, that's what we're supposed to do is
17 figure out this question.

18 MEMBER ABRAMS: Mr. Broad, that is true. That is
19 true. And I think -- but going back to the reality, and
20 that's when we called for the first rest break that wasn't
21 a rest break, the -- the vote of the employer
22 representatives here, good, bad or indifferent is that's --
23 that we are not willing to enter into a debate on item by
24 item what is a proper factor or not.

25 So whether that's something that might be appropriate

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1 for the wage board to consider or not, I'm just saying

2 until we can go through this motion by motion -- I'm just
3 trying to be realistic and honest with you -- that the
4 employer position will be "No" on those motions. Not that
5 anybody here individually would not at some point agree in
6 a proper context to debate those issues. But -- I don't
7 necessarily disagree with you that this is or isn't the
8 proper forum. But at this point in time, this side of the
9 table speaking is not prepared to do that.

10 MEMBER AGEE: What if it took into consideration
11 market factors? I know that you brought those things up,
12 that those are possible influences of why, you know, you
13 guys are making the decisions that you are making.

14 MEMBER ABRAMS: No, I agree with you. But I am not
15 prepared to sit down today, partly because I didn't come
16 here prepared nor do I suspect anybody on the employer side
17 of the equation came here prepared to discuss a list of
18 factors. Because, quite frankly -- and to come to some
19 sort of conclusion about what might be a good list of
20 considerations to look at.

21 So I'm not prepared to say "Yes" to this one and "No"
22 to that one or anything else.

23 And for that reason --

24 MEMBER WEI: Mr. Abrams --

25 MEMBER ABRAMS: -- I'm not prepared to answer --

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1 MEMBER WEI: -- I believe Mr. Agee's motion is to
2 compel the Industrial Welfare Commission to take into
3 account housing costs as a factor in determining the
4 adequacy of the minimum wage.

5 MEMBER ABRAMS: I understood that it was a

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6 recommendation that they consider that, that's right.

7 MEMBER WEI: And so would you also oppose a
8 recommendation that the IWC take into account the
9 marketplace as factors? Or we could do a list including
10 but not limited to.

11 MEMBER ABRAMS: I would, because that -- because all
12 of them -- even the ones that I think are important, I
13 will -- you're asking me a very fair question, Ms. Wei, and
14 I will vote against that as well. Because we're getting
15 into trying to come up with the definitive, comprehensive
16 list and, quite frankly, I didn't understand that that was
17 something I needed to come here prepared to discuss today.

18 And so --

19 MEMBER WEI: And, sir, if I may, Mr. Abrams, I feel
20 that your position has conceded to the politics of the
21 issue, instead of looking at the policy that should be
22 driving our decisionmaking here today.

23 we are looking for a policy driven, real analysis of
24 what is an adequate minimum wage. And with a "No" vote on
25 such a motion or on a more expansive motion, we are

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1 conceding that this is a political decision of which facts
2 and the economics don't have a role.

3 MEMBER ABRAMS: I respectfully disagree with your
4 characterization.

5 MEMBER BROYLES: Call for the question.

6 CHAIRPERSON COHEN: Seeing no other hands, we'll go
7 ahead and vote on the motion.

8 The motion is that the IWC --

9 MEMBER WEI: I object to the calling of the question.

10 CHAIRPERSON COHEN: Okay. Go ahead and speak.

11 MEMBER WEI: We haven't had -- I don't know that
12 we've had a full deliberation of this specific motion.

13 CHAIRPERSON COHEN: With all due respect, Ms. Wei, I
14 think it's pretty clear to everybody here where we are. We
15 can drag this out for another few minutes. We lose the
16 auditorium at five o'clock.

17 I think you've heard pretty clearly, fairly or
18 unfairly, politically or policy based, the employer
19 representative speak and no one on that side disagreed that
20 they're really not prepared to go any further down this
21 particular road. That may be a good position; it may be a
22 bad one. It may be right; it may be wrong.

23 I just think honestly and objectively we're not going
24 to have any significant discussion here today that's going
25 to get fair consideration, and I just don't see frankly why

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1 you think it's going to be productive to continue to make
2 this particular point.

3 I'm certainly not saying that the point is without
4 merit. I don't think necessarily I understood Mr. Abrams
5 to say the point is without merit. He merely said he's not
6 really prepared to discuss it further today.

7 If you want to insist on discussion, you can object
8 to the call for the question, we can vote, and we can
9 deadlock, and we can drag this out a little further.
10 That's Robert's Rules of Order.

11 MEMBER WEI: I appreciate your caution and your
12 counsel, Mr. Chair.

13 My -- the frustration by which we started today is
14 the frustration with which I leave, and that is there is no

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15 standard to measure the adequacy of the minimum wage. And
16 we have taken no steps today to help us advance on
17 developing that adequacy standard.

18 And as a member of this wage board, I feel that we
19 have failed in that regard. We have deadlocked on every
20 motion. We have made no progress here for coming up with
21 an empirical, data driven way to determine what an adequate
22 minimum wage is. And I feel that as a member of this wage
23 board, we have failed.

24 And I understand and I appreciate Mr. Abrams and his
25 honesty about how the employers would vote on each and

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1 every one of these motions. But I want to take my time to
2 say that I don't believe we've met our charge today in
3 determining whether or not the minimum wage is adequate.

4 And we -- you know, take it or leave it, believe it
5 or not, we are trying to come up with the empirical
6 discussion here. And it's frustrating not at anybody in
7 particular, not at the Chair, at this process that we
8 cannot engage in that conversation or even compel the
9 Commission itself to engage in that conversation.

10 CHAIRPERSON COHEN: Clearly expressed. Thank you.

11 MEMBER BROAD: May I also make a comment?

12 CHAIRPERSON COHEN: Yes, Mr. Broad.

13 MEMBER BROAD: Just for those of you that haven't
14 done this that many times, this is a particularly civil
15 wage board.

16 If any of you go home, especially Mr. Dayton,
17 thinking that something happened here that was nasty, as my
18 grandfather would say, you don't know from nasty. It used
19 to get really nasty in past wage boards.

20 Right, Ms. Broyles?

21 MEMBER BROYLES: If I might for the Chair agree that,
22 yes, there have been more contentious wage boards on many
23 different issues.

24 But, again, I do think that -- and I made this --
25 during the break, I did make the offer to Mr. Broad that at

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1 some point hopefully over the break or at some time in the
2 future of their choosing -- of his choosing, that it wasn't
3 a discussion -- an item of discussion that we thought was
4 without merit, that looking at rational ways of creating a
5 wage or coming to a calculation of a wage rate is
6 definitely worth talking about.

7 No one that I know of on the employer side is
8 prepared to talk about it today. All of us have
9 memberships that we report to and members that we have to
10 also account to. So when you bring a different item into
11 discussion, then we have to talk about it and look at it
12 and explore it, and it can't be done on the instant.

13 And we apologize that that can't be done, but it is a
14 fact of any membership organization. Whether it's a union
15 or a business or a business association, other people have
16 to be consulted and talked and -- and to examine what
17 things mean, what they do mean in a real life -- you know,
18 if you put it to work in real life, what it really means in
19 that situation.

20 So we have -- it's not unreasonable for us to want to
21 talk about it and know what we're talking about and know
22 what the result is for any type of -- of a wage rate factor
23 process.

24

MEMBER SCHACHT: Mr. Chair.

25

CHAIRPERSON COHEN: Yes.

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1

MEMBER SCHACHT: I have a motion.

2

CHAIRPERSON COHEN: We have a motion on the floor,
3 actually.

4

MEMBER SCHACHT: Well, then I'll speak to the
5 existing motion.

6

CHAIRPERSON COHEN: Okay. Just to remind you and
7 everybody --

8

MEMBER SCHACHT: I'm contemplating putting forth a
9 motion that would ask -- in response to the pending motion
10 when it deadlocks, putting forth a motion that would ask
11 all 12 members of the wage board to decline to adjourn and
12 to notify the IWC that we want to have one additional day
13 of meeting, properly noticed, which I think is a 15-day
14 time period, so it would put this like the Friday two weeks
15 or three weeks from now, because we haven't been able to
16 discharge our charge.

17

MEMBER AGEE: I would like to add to that motion.

18

MS. FONG: It's a 30-day notice.

19

MEMBER SCHACHT: Okay. 30 days is even better.
20 Gives us more opportunity for consultation.

21

CHAIRPERSON COHEN: I'm going -- well, first of all,
22 we have a motion on the floor.

23

MEMBER SCHACHT: Okay.

24

CHAIRPERSON COHEN: Okay.

25

MEMBER ABRAMS: I'd like to call for the question on

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1 the motion that's currently on the floor, please.

2 CHAIRPERSON COHEN: The motion is that the cost of
3 housing should be considered in considering the adequacy of
4 the minimum wage.

5 Is that a correct statement of your motion?

6 Mr. Agee. On the motion, your vote.

7 MEMBER AGEE: Yes.

8 CHAIRPERSON COHEN: Okay. Mr. Broad.

9 MEMBER BROAD: Yes.

10 CHAIRPERSON COHEN: Ms. Wei.

11 MEMBER WEI: Yes.

12 CHAIRPERSON COHEN: Mr. Jones.

13 MEMBER JONES: Yes.

14 CHAIRPERSON COHEN: Mr. Schacht.

15 MEMBER SCHACHT: Yes.

16 CHAIRPERSON COHEN: Ms. Mercado.

17 MEMBER MERCADO (In English): Yes.

18 CHAIRPERSON COHEN: Ms. Broyles.

19 MEMBER BROYLES: No.

20 CHAIRPERSON COHEN: Mr. Davis.

21 MEMBER DAVIS: No.

22 CHAIRPERSON COHEN: Mr. Dayton.

23 MEMBER DAYTON: No.

24 CHAIRPERSON COHEN: Ms. Dunbar.

25 MEMBER DUNBAR: No.

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1 CHAIRPERSON COHEN: Mr. Abrams.

2 MEMBER ABRAMS: No.

3 CHAIRPERSON COHEN: Ms. Barsuglia.

4 MEMBER BARSUGLIA: No.

5 MEMBER SCHACHT: Mr. Chair, motion -- I'd like to

6 make a motion.

7 I'd like to make that motion again now that the wage
8 board unanimously vote to not adjourn and to notify the IWC
9 that we have not been able to conclude our deliberations
10 and that we would like to schedule one additional day of
11 discussions and meetings of the wage board to occur at the
12 minimum time period permitted by notice requirements.

13 MEMBER AGEE: I'd like to add to that motion.

14 CHAIRPERSON COHEN: I'm going to rule that motion out
15 of order. I think the IWC -- as I said, I think the record
16 is very clear that we are charged with meeting on one day.
17 If you wish to request to the Commission that they
18 reconvene this wage board, you can certainly do that.

19 MEMBER SCHACHT: Point of parliamentary inquiry.

20 CHAIRPERSON COHEN: Yes.

21 MEMBER SCHACHT: What would happen hypothetically if
22 all the members of the wage board voted "No" on an
23 adjournment motion?

24 CHAIRPERSON COHEN: Hypothetically speaking, do you
25 really think there is a chance of that happening?

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1 MEMBER SCHACHT: I don't know.

2 CHAIRPERSON COHEN: I --

3 MEMBER AGEE: I have a question.

4 CHAIRPERSON COHEN: Yes.

5 MEMBER AGEE: If it is determined to petition the IWC
6 and we are allowed to have another meeting, could every
7 member of the wage board confer with the necessary people
8 so that when we come back together, requests that are made
9 by both sides can be addressed?

10 So, like, how I made (unintelligible) to Mr. Abrams
11 to the situation the proposal, and you still say, you know,
12 no, that's not possible, you have to go back and talk to
13 the right people, can that be done prior to the meeting so
14 we can --

15 MEMBER ABRAMS: I'm going to do this with a great
16 deal of respect, Mr. Agee. I would like the Chair to
17 confirm whether or not we have a motion (unintelligible) on
18 the floor.

19 CHAIRPERSON COHEN: We do not. I ruled the old
20 motion out of order.

21 MEMBER WEI: I move to adjourn.

22 MEMBER BROYLES: Second.

23 CHAIRPERSON COHEN: I have a motion on the floor to
24 adjourn.

25 MEMBER BROYLES: Second.

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1 MS. LEACH: Who made the motion?

2 CHAIRPERSON COHEN: The motion was made by Ms. Wei.

3 MS. LEACH: Second?

4 MEMBER BROYLES: Broyles.

5 CHAIRPERSON COHEN: Okay. The motion is to adjourn.
6 It is not debatable.

7 Mr. Agee.

8 MEMBER AGEE: Yes.

9 CHAIRPERSON COHEN: Motion to adjourn. Mr. Broad.

10 MEMBER BROAD: No.

11 CHAIRPERSON COHEN: Ms. Wei.

12 MEMBER WEI: Yes.

13 CHAIRPERSON COHEN: Mr. Jones.

14 MEMBER JONES: No.

15 CHAIRPERSON COHEN: Mr. Schacht.
16 MEMBER SCHACHT: Yes. Yes.
17 CHAIRPERSON COHEN: Yes.
18 Ms. Mercado.
19 MEMBER MERCADO (In English): Yes.
20 CHAIRPERSON COHEN: Okay. Ms. Broyles.
21 MEMBER BROYLES: Yes.
22 CHAIRPERSON COHEN: Mr. Davis.
23 MEMBER DAVIS: No.
24 CHAIRPERSON COHEN: This motion is to adjourn. You
25 understand that?

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1 MEMBER DAVIS: Yes.
2 CHAIRPERSON COHEN: Mr. Dayton.
3 MEMBER DAYTON: Yes.
4 CHAIRPERSON COHEN: Ms. Dunbar.
5 MEMBER DUNBAR: Yes.
6 CHAIRPERSON COHEN: Mr. Abrams.
7 MEMBER ABRAMS: Yes.
8 CHAIRPERSON COHEN: Ms. Barsuglia.
9 MEMBER BARSUGLIA: Yes.
10 CHAIRPERSON COHEN: Okay. I lost exact track. I'm
11 pretty sure the motion carried.
12 MS. LEACH: Ten to two the motion carried.
13 CHAIRPERSON COHEN: Okay. So the motion carried by a
14 vote of ten to two.
15 A couple of comments, if I might, for members of the
16 wage board.
17 MEMBER BROAD: Yes, sir.
18 CHAIRPERSON COHEN: Just, first of all, I thank you

19 for your efforts and for your patience with me and your, as
20 Mr. Broad pointed out, relative civility with one another.
21 I think the discussion got very interesting at some points
22 today.

23 MEMBER BROYLES: I do, too.

24 CHAIRPERSON COHEN: I think at least earlier we
25 touched on every one of the issues in the charge to this

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1 wage board. I commend you for that.

2 I want to point out I believe, although it's not been
3 publicly noticed, I believe the IWC meeting is on the 24th?

4 MS. LEACH: Of August.

5 CHAIRPERSON COHEN: Of August, yes. And any member
6 of this wage board or any groups represented on this wage
7 board is certainly encouraged to go appear at the IWC,
8 stress any points you feel were inadequately made as part
9 of this wage board and urge them to take that into
10 consideration in their process, which as I understand it
11 will require three subsequent public hearings. But
12 certainly there's nothing that precludes anyone here from
13 making any of these points directly to the IWC at their
14 subsequent meeting.

15 MEMBER WEI: Mr. Chair, question.

16 CHAIRPERSON COHEN: Yes.

17 MEMBER WEI: Will you be presenting the wage board
18 report to the IWC at their meeting on the 24th?

19 CHAIRPERSON COHEN: I will be issuing a report to the
20 IWC and you will all receive a copy of my report at the
21 same time I present it to -- I issue it to the IWC.

22 MEMBER WEI: So we are not allowed the opportunity to
23 make comment on the actual wage board report.

24 CHAIRPERSON COHEN: You are allowed and I would
25 encourage you to respond to my report, if you wish to add

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1 to it, make comments to it, but not as part of my report.

2 AS I read it, I make the report -- that's what it
3 says, I will make the report to the IWC. You will receive
4 a copy. If you want to expand on that or disagree with
5 anything in the report or whatever, you can submit comments
6 to the IWC --

7 MEMBER WEI: And not to say that we're going to, but
8 I just want to be clear about our options here.

9 Are we allowed the opportunity -- is there a minority
10 report?

11 CHAIRPERSON COHEN: No, not that I'm aware of.

12 MS. FONG: No, there is not.

13 CHAIRPERSON COHEN: If there is not a majority
14 report --

15 MEMBER WEI: That's what I'm wondering.

16 MS. FONG: There's an opportunity to submit your
17 dissent.

18 CHAIRPERSON COHEN: Right. So that --

19 MS. WEI: (Unintelligible.)

20 MS. FONG: Separate from his report --

21 THE REPORTER: I'm sorry. Separate from his
22 report -- I can't hear you.

23 MS. FONG: Oh, I'm sorry.

24 Separate from the Chairman's report, anyone who has a
25 different or dissenting opinion can go ahead and submit

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1 that --

2 CHAIRPERSON COHEN: And just so --

3 MEMBER WEI: -- to the Chair.

4 CHAIRPERSON COHEN: Okay. And just so you know and
5 so that the members -- I mean, my intent is, again, not to
6 weigh in on this but to recap the conversation and the
7 motions that were offered and the votes that were taken.

8 So -- and my report I don't think will be -- it will
9 be as substantive as your debate was, no more and no less.

10 Okay. Thank you all very much.

11 (The public meeting was adjourned at 4:58 p.m.)

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1 REPORTER'S CERTIFICATE

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4 STATE OF CALIFORNIA)
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I, KATHY L. SWINHART, certify that I was the official Court Reporter for the proceedings named herein, and that as such reporter, I reported in verbatim shorthand writing those proceedings;

That I thereafter caused my shorthand writing to be reduced to typewriting, and the pages numbered 5 through 83, and pages 157 through 228 herein constitute a complete, true and correct record of the requested proceedings.

IN WITNESS WHEREOF, I have subscribed this certificate at Sacramento, California, on the 8th day of August 2006.

KATHY L. SWINHART
CSR NO. 10150

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STATEMENT OF THE EMPLOYEE REPRESENTATIVES TO THE MINIMUM WAGE BOARD

The Employee members of the Minimum Wage Board are concerned that the meeting of this Wage Board and all actions taken by the Industrial Welfare Commission (IWC) may be unlawful because the Legislature has defunded the IWC. While we don't know exactly from which funds the budget of the IWC is being drawn, we understand that it is from the general budget of the Department of Industrial Relations.

There is considerable legal doubt whether funds transferred to an agency that has been defunded for a use for which the Legislature has intentionally failed to appropriate money is lawful. This is based on the doctrine of separations of powers set forth in Article III, section 3 of the California Constitution and Government Code section 13332.15.

The separation of powers does not allow for the Executive branch of government to appropriate funds for a purpose that the Legislature has not appropriated funds. Article III, Section 3 of the California Constitution provides:

The powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution.

The general constitutional principle is easily stated:

“The executive branch, in expending public funds, may not disregard legislatively prescribed directives and limits pertaining to the use of such funds. (See, e.g. *Assembly v. Public Utilities Comm.* (1995) 12 Cal. 4th 87, 98-104”

Superior Court v. County of Mendocino (1996) 13 Cal.4th 45, 53.

In addition, Government Code section 13332,15 provides:

“No appropriation may be combined or used in any manner to avoid budgeting the salary or operation expenses of any position or to achieve any purpose which has been denied by any formal action of the Legislature.”

The action of the Legislature to defund the IWC was as formal an action as the Legislature could take. After years of funding the IWC, the Legislature stopped doing so.

We remain extremely concerned that, any action that this Wage Board or that the IWC takes to increase the minimum wage is subject to legal challenge and could be reversed by court order.

As such, to avoid the strong possibility of a minimum wage increase will be subject to legal challenge, we believe that the minimum wage should be raised by action of the Legislature.