

It's Not About Federalism #3: Living Wage
June 10, 2003

This is the third installment of It's Not About Federalism and the first to go out over the new listserv (those of you on the federalrights list run by Herb Semmel will continue to get these updates via that listserv). Please let us know about any glitches, and please encourage others who may be interested to sign up by sending a blank e-mail to: join-federalism@forums.nyu.edu.

Today's subject is the minimum wage, an area where conservatives' usual affinity for local control often yields to more prosaic interests. The latest example is Florida Gov. Jeb Bush, who recently signed a law prohibiting counties and municipalities from adopting any minimum wage above the floor set by federal law. The federal minimum wage statute expressly states that it does *not* preempt states and localities from requiring higher minimum wages in their jurisdictions. Florida, which has no state minimum wage, has thus passed a state law giving preemptive effect to a federal law that Congress intended not to have such an effect.

As the attached article reflects, Gov. Bush's action also has a security angle: the law will invalidate a Miami-Dade County ordinance requiring employers at the Miami airport to pay workers twice the federal minimum. It is now feared that the wages of some 2,000 security personnel may be cut in half. Gov. Bush has promised to seek legislation to carve the security workers out of the scope of the preemption.

It's not about federalism; it's about protecting profits.

(The following article is online at
<http://www.miami.com/mld/miamiherald/6016050.htm>):

Penelas critical of new pay law

Bush signs bill but shares fears

BY LESLEY CLARK

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TALLAHASSEE - Over the objections of Miami-Dade Mayor Alex Penelas, Gov. Jeb Bush signed into law Wednesday a bill that critics fear could cut pay in half for up to 4,000 workers at Miami International Airport.

Bush signed the bill that prevents cities and counties in some circumstances from forcing local companies to pay wages higher than the federal minimum.

The law doesn't affect rules in Miami-Dade and Broward counties and Miami Beach requiring their own government employees be paid higher than the federal minimum.

But Penelas and others fear companies doing work at the airport could use the law to drop employees' wages. The companies have been operating under a county ordinance requiring that airport workers, particularly those with security-sensitive positions, make twice the federal minimum wage, now \$5.15 an hour. About 4,000 workers -- 2,000 in security-sensitive jobs -- are covered by the county rule.

Bush added in a letter accompanying his signature that he shares Penelas' fears about the airport workers, and called company heads to warn them not to use the law to cut airport workers' pay.

"I am signing this legislation with the express expectation that it will not be used to reduce the wages of any current employee . . ." Bush said in the letter. "I expect employers to honor the law and to honor their commitments to these individuals on both legal and moral grounds. This administration will use its power and resources to ensure that they do."

The announcement took some workers at Miami International Airport's Swissport USA by surprise. Ramp duty manager Claudio Boyett feared for the 500 or so passenger service and cargo workers the company employs there.

He said when the original Miami-Dade County ordinance passed years ago, most employees' paychecks rose, so he expects them to fall now.

"Wow, it's going to affect everyone," said Boyett, 43, a father of three who earns \$16.50 an hour. "Most people are used to their earnings, now they're most likely going to have to look for other jobs."

Swissport executives could not be reached for comment late Wednesday.

Backers of the law said companies shouldn't have to pay different minimum wages in different cities or counties.

Bush said he'll seek legislation to make it clear that security-sensitive jobs should be exempt from the law, but Penelas said in a telephone interview he was disappointed.

"I understand he's going to make an effort to fix the glitch and urge private permit holders not to lower salaries, but this is still going to cause a terrible amount of instability in thousands of households in Miami-Dade County," said Penelas, a Democrat who is running for U.S. Senate and who last week led a rally at the airport calling for Bush to veto the bill. "I appreciate him saying this, but there are no assurances this will happen and we could be looking at tremendous turnover in critical areas as wages get cut."

Broward County attorney Ed Dion said the law will not affect Broward's living wage ordinance, in effect Oct. 1.

"We wrote in a certain language so that a bill like this would not affect it," he said. "Our ordinance can still be enforced." The ordinance dictates that county employees and employees with businesses that contract with Broward for \$100,000 or more must receive at least \$9.57 an hour. It does not apply to workplaces that do not do business with the county.

"It's up to those businesses to decide on their own what they pay their employees," said Dion.

Herald staff writers Charles Rabin and Ashley Fantz contributed to this report.