

## POLICY NOTE

### Key Findings

1. The Initiative would increase costs and reduce available hours for employees to work.
2. Scheduling decisions would be forced by government oversight, rather than set voluntarily by workers and employers.
3. Initiative 4 would force employers to pay hazard pay that would destroy jobs.
4. Employers would be reluctant to hire employees for more than a few hours at a time to reduce the risk of being required to pay for unneeded work hours.
5. The initiative places employers in a position of unwittingly committing a felony and being unfairly punished by city officials.
6. Some employers would likely be forced to close or relocate outside of the Bellingham city limits to avoid the regulations.
7. The harm caused by Initiative 4 would fall hardest on low-income workers and the most vulnerable families in the community.
8. The requirements placed on employees and employers by Initiative 4 would cost both the employees and employers more money, destroy jobs and create an uncompetitive job market in Bellingham that would slow economic growth in the region.

# Citizens' Guide to Initiative 4, to impose work restrictions and limit job opportunities for Bellingham Workers

*Forcing hazard pay, requiring schedules to be defined too far in advance and requiring pay for hours not worked will destroy jobs.*

by Mark Harmsworth, Director, Center for Small Business

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### Introduction

This November, voters in the City of Bellingham will consider ballot Initiative 4 which if passed would:

- Force employers to schedule work hours one year in advance without any knowledge of the work that might be available.
- Mandate an employer provide working hour estimates in multiple languages even when the employer's business requires English as a function of employment.
- Ban employees from working certain shifts even when the employees ask for more hours to earn more money.
- Allow employees to determine when they would like to work, regardless of when work needs to be completed.
- Require an employer to pay employees half of their hourly wage if they were scheduled to work, but no work was available.
- Require an employer to schedule work hours 14 days in advance even when business conditions change.
- Ban employers from creating new jobs without getting written permission from current employees first.
- Require all employers to pay \$4 more per hour during a declared "state of emergency," even for people working from home.
- Force employers to hire people who are in the country illegally and deny job opportunities to other members of the community.

The requirements placed on employees and employers by Initiative 4 would cost both the employees and employers more money, destroy jobs and create an uncompetitive job market in Bellingham that would slow economic growth in the region. It would also deny earning opportunities to those who are seeking jobs and want to work.

## Summary of Initiative 4 and for and against statements

Initiative Title: Fair Treatment of Hourly-Wage Employees and Gig Workers.

Initiative 4 is sponsored by a political action committee called People First Bellingham, labor groups and local activists. In a statement in support of the measure, People First Bellingham said:

This measure would require certain employers to pay their employees a hazard pay supplement of \$4 per hour during a declared State of Emergency; require employers to provide good faith estimates of weekly hours to new employees upon hire, require employers to provide work schedules to hourly-wage employees two weeks in advance, require advance notice of any schedule changes, require employers to compensate employees for changing their work schedules without sufficient notice, and prohibit adverse actions by employers.<sup>1</sup>

In opposition to the measure, the Washington Retail Association described the initiative this way:

Imposes \$4/hour hazard pay for all hourly workers when the city boundaries are included in any declared state of emergency, regardless of whether there is any risk to the employee. For example, all hourly employees would receive an additional \$4/hour hazard pay due to the drought emergency recently declared by Governor Inslee. The hazard pay requirement applies to all employers – government, schools, universities, non-profits, businesses, and agriculture and imposes restrictive scheduling requirements similar to the City of Seattle’s ordinance. The requirement to provide advance scheduling, predictive pay, and additional compensation upon change of a work schedule would apply to all employers in the City of Bellingham, including government, schools, universities, non-profits, businesses, and agriculture.<sup>2</sup>

## The harmful effects of Initiative 4 on employers and workers

Washington has one of the highest minimum wage levels already in the United States, a policy that already restricts job creation and work opportunities, especially for low-income workers.

Imposing a further “hazard pay” will result in fewer jobs and working hours for employees living in the Bellingham area.<sup>3</sup>

Nowhere is the harm imposed on workers by a high minimum wage and hazard pay demonstrated more clearly than in Seattle. The city council there has aggressively increased the minimum wage and implemented hazard pay over the last few years. The rash of restaurant closures and lost jobs can be attributed, in many cases, directly to the additional fiscal cost the wage increases have caused.

1 “People First Bellingham Website,” People First Bellingham, accessed on September 19, 2021, at <https://peoplefirstbellingham.org/>.

2 “Washington Retail Association,” accessed on September 19, 2021, at <https://washingtonretail.org/hazard-pay-and-restrictive-scheduling-on-the-bellingham-city-ballot/>.

3 “The Seattle City Council forces grocery stores to pay more for its workers,” Mark Harmsworth, Washington Policy Center, accessed on September 19, 2021, at <https://www.washingtonpolicy.org/publications/detail/the-seattle-city-council-forces-a-grocery-stores-to-pay-more-for-its-workers>.

The obvious result of a high minimum wage and hazard pay is the pressure it puts on small business owners trying to make payroll.

For many service industries such as restaurants, retail or hospitality, profit margins are as low as 3%. Minimum wage mandates wipe out that profit and can put a business into negative fiscal territory. Business owners are forced to cut operational costs and use more automation. In other words, they are forced to lay off workers or reduce work hours.

Instead of a salary bump, many workers instead find their work hours cut or their jobs gone completely. For some employees, if they fall below a minimum hour threshold required for benefits, they lose benefits too.

For unionized workers, the problem is more acute. Labor contracts that prevent staffing changes leave companies with few options, to increase prices or go out of business. An increase in prices negates any benefit to the employee as the new higher wages the employee is receiving no longer buys as much as it used to.

Seattle's mandatory wage increases eliminated the jobs of all employees at two stores recently. Quality Food Centers (QFC) closed two outlets in Seattle as a direct result of the Seattle City Council passing \$4 an hour "Hazard Pay" mandated wage increase which was applied during the COVID-19 pandemic.<sup>4</sup>

Additionally, the Northwest Grocery Association (NWGA) and the Washington Food Industry Association (WFIA) have filed a lawsuit against Seattle accusing officials of violating both the constitution and collective bargaining rights by passing the \$4 an hour "Hazard Pay."<sup>5</sup>

The NWGA and WTIA lawsuit claims the new Seattle ordinance violates the equal protection clause under the U.S. constitution. Bellingham will most likely see similar lawsuits, should Initiative 4 pass, costing city taxpayers more money in defending the lawsuits.

The Initiative 4 requirement to require additional language translations is similar to Senate Bill 6122 that failed to pass the Washington State legislature in 2019.<sup>6</sup> The language requirement would create an impossible situation by forcing an employer to provide notice in several foreign languages based on the language preference of the employee.

Initiative 4 would require employers to make a guess about future work hours, but then hold the employer liable for any mistake. When scheduling work hours, if the employer overestimates and the work is not required, the employer must still pay the employee 50% of the hourly wage for not working. This will result in employers cutting work hours to reduce the risk of paying for work that isn't required.

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4 "QFC to close 2 Seattle stores, blames City Council's extra pay mandate," MSN, accessed on September 19, 2021, at <https://www.msn.com/en-us/money/companies/qfc-to-close-2-seattle-stores-blames-city-council-s-extra-pay-mandate/ar-BB1dJXSQ>.

5 "Grocers Association Lawsuit," Washington Grocers Association, accessed on September 19, 2021, at <https://beta.documentcloud.org/documents/20470244-grocers-association-lawsuit>.

6 SB 6122, "Protecting temporary workers," Washington state legislature, introduced December 31, 2019, at <https://app.leg.wa.gov/billsummary?BillNumber=6122&Initiative=false&Year=2019>.



**Mark Harmsworth** joined WPC as its Center for Small Business director in 2020 after serving two terms in the Washington State House of Representatives. His focus was on transportation and technology, including serving as the ranking member on the House Transportation Committee.

Prior to the legislature, Mark served two terms on the Mill Creek City Council and was elected Mayor Pro-Tem in his last year.

He recently finished serving as a Director on the Everett Community College Foundation Board and currently serves as a Director on the Boys and Girls Club of Snohomish County.

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Mark and his family live in Mill Creek, Washington.

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Another restriction that Initiative 4 would impose is preventing an employer from hiring more workers when demand increases without getting written approval from existing employees first. This restriction would impose particular harm during the holiday season when employers need to hire quickly to cover customer demand.

With the additional requirement that an employee can refuse to work additional hours that were not scheduled 14 days in advance, a situation can occur in which disgruntled employees prevent an employer from hiring new employees for a prolonged period of time.

Initiative 4 places an employer in a position of violating US Immigration law and open to prosecution for hiring illegal aliens without proper work authorization as the employer can no longer ask for proof of work authorization in the United States. If the employer hires an illegal alien, they are committing a felony.<sup>7</sup>

## Conclusion

Washington employers are still struggling with COVID-19 restrictions, the mandated government shutdowns and continued economic uncertainty. Adding additional, and unnecessary cost increases and restrictions would not help the Bellingham economy recover and would destroy jobs and available working hours for existing employees. The harm caused by Initiative 4 would fall hardest on low-income workers and the most vulnerable families in the community.

Some employers would likely be forced to close or relocate outside of the Bellingham city limits to avoid the regulations. Overall, passage of Initiative 4 would harm the area's business climate and impose direct hardship on employers and workers in the city.

<sup>7</sup> "The Law Against Hiring or Harboring Illegal Aliens," Fair, accessed on September 19, 2021, at <https://www.fairus.org/issue/illegal-immigration/law-against-hiring-or-harboring-illegal-aliens>.