



**COUNTY OF SAN MATEO**  
Inter-Departmental Correspondence  
County Manager



**Date:** December 9, 2015  
**Board Meeting Date:** December 15, 2015  
**Special Notice / Hearing:** None  
**Vote Required:** Majority

**To:** Honorable Board of Supervisors

**From:** John Maltbie, County Manager

**Subject:** Living Wage White Paper

**RECOMMENDATION:**

Accept this report on living wage ordinances.

**BACKGROUND:**

This white paper outlines the components of living wage ordinances and details and compares the terms of ordinances approved by six California counties: Los Angeles, Marin, San Francisco, Santa Cruz, Ventura and Santa Clara. A detailed summary of the six county ordinances is included in Attachment A. The paper also includes a summary of ordinance components and term options. The final section of the paper discusses fiscal impacts including very rough cost estimates for both county contracts and county employee salaries and also notes the potential impacts of a living wage ordinance on Affordable Care Act (ACA) coverage.

**DISCUSSION:**

The general purpose of a living wage ordinance is to ensure that employers who hold contracts or undertake certain other types of business with a local government agency pay employees performing significant work under such contracts a wage that allows these employees to support themselves above the poverty level. These ordinances require payment of a minimum wage that exceeds, sometimes significantly, the State minimum wage which is currently \$9.00 an hour and will increase to \$10.00 an hour on January 1, 2016. Living wage ordinances may also require covered employers to provide certain other benefits, such as health care and sick leave. Some ordinances include an offset to the wage amount for providing these, or other benefits.

While living wage ordinances vary in their particulars among jurisdictions, they share similarities in that they typically do the following things:

- Identify employers who are covered by the ordinance based on the extent of their business/financial relationship with the local government agency
- Exclude, in many cases, certain categories of employers (e.g., small businesses, non-profit employers, other government agencies, etc.)
- Identify employees who are covered by the ordinance, often based on the amount of total time that an employee spends working on matters related to the employer's business with the government agency or the employee classification (volunteer, intern, part-time, etc.)
- Exclude, in many cases, employees who are covered by collective bargaining agreements
- Set the living wage based on local conditions
- Provide for adjustment of the living wage over time to reflect changes in the cost of living
- Provide employers with credit, in many cases, against their obligation to pay a living wage, for some of the costs associated with providing covered employees with health and welfare or other benefits
- Describe enforcement mechanisms

#### What Employers Are Required to Comply With Living Wage Ordinances?

California living wage ordinances typically require employers who are “service contractors” to pay their covered employees a “living wage.” A “service contract” is commonly defined as a contract given by the local government agency for the furnishing of services to the agency. “Services” are defined broadly to include the full range of professional, technical, or non-technical services provided under contract with the local agency, but do not include the provision of goods, products, information technology programs/systems, or real estate. Many ordinances exclude certain specific types of contracts from the definition of “service contracts.” For example, Ventura County’s living wage ordinance exempts small employers, collective bargaining units (note: living wage ordinances routinely exclude from the law’s coverage employees covered by a labor union and who have a collective bargaining agreement that set the terms and conditions of their employment), in-home support service workers (IHSS), board and care services, and printing/copying services.

Living wage ordinances most frequently apply only to service contracts that provide for payments that exceed a prescribed minimum in a twelve month period. Some ordinances also set a higher minimum threshold amount for contracts with non-profit employers. See the following table for a comparison of living wage contract exemptions across California counties:

## LWO EXEMPTIONS - EXEMPTED CONTACTORS, CONTRACTS, AND SERVICES

<u>Los Angeles Co.</u>	Collective bargaining agreement superseding LWO; non-profits; contracts < \$25,000/12 month period; small businesses
<u>Marin Co.</u>	Other government entities; in-patient facilities; apprentices/trainees may be paid 75% of wage required by ordinance, but employer must retain employee for one year
<u>San Francisco City/Co.</u>	Purchase or lease of goods or for guarantees, warranties, shipping or delivery; in-home support service workers; agency may grant exemption in unusual circumstances (sole source); necessary to provide emergency services; no qualified bidders; nonprofits may seek waiver; any requirements may be waved in a collective bargaining agreement
<u>Santa Cruz Co.</u>	Contractors with fewer than five employees; BoS may grant an exemption based on economic hardship or if exemption in best interest of the County (requires written statement from employer supporting the request and describing alternative solutions pursued)
<u>Ventura Co.</u>	Small employers; collective bargaining; in-home support service workers (IHSS); board and care services; printing/copying services
<u>Santa Clara Co.</u>	Contracts for goods and products; Community-based nonprofits; revenue contracts; contracts with other governmental entities; contracts with employers whose employees performing the direct service are subject to the terms of a collective bargaining agreement; contracts under \$100,000; contracts with IHSS workers; contracts for "public works"; contracts for which the law prohibits such limitations

Living wage ordinances also generally apply to lessees and licensees of public property, as well as government agency concessionaires and franchisees that have a certain minimum number of employees and annual gross receipts above a certain threshold.

Further, living wage ordinances are often applied to agencies/employers that receive more than a certain amount of financial aid from the local agency. For example, some agencies require such aid recipients to comply with the living wage ordinance for one twelve month period for each \$100,000 in financial assistance received from the local agency, up to a maximum period of five years.

### What Employees Must Be Paid a Living Wage Under These Ordinances?

With respect to employers with local agency service contracts, some ordinances provide for payment of a living wage to *all employees* for *all hours worked* under the service contract. Other ordinances require payment of living wages only to employees who work a prescribed percentage of their total time with the employer (frequently 25% of the employee's total compensated time for a for-profit employer or 50% of the employee's total compensated time for a non-profit employer) providing services under

contracts for the government agency. These employees must be paid a living wage for *all hours that the covered employee works* for the employer (including on matters unrelated to the service contracts). See the following table for a comparison of covered employees under living wage ordinances across California counties:

**LIVING WAGE ORDINANCE - COVERED EMPLOYEES**

<u>Los Angeles Co.</u>	Full-time contract employees; part-time only if contractor demonstrates necessity based on staffing efficiency or the County requirements of an individual job
<u>Marin Co.</u>	Full and part-time employees; employees directly involved in providing the contracted service
<u>San Francisco City/Co.</u>	Full-time, part-time, and temporary employees; minimum 4 hours/week on County funded contract within the boundaries of the city
<u>Santa Cruz Co.</u>	Any employee of a covered contractor or subcontractor who is assigned to work on a County contract; can be full and part-time, temporary, or seasonal
<u>Ventura Co.</u>	Minimum 4 hours/week on County funded contract; does not include: student age 21, anyone earning academic credits regardless of age, volunteers
<u>Santa Clara Co.</u>	Permanently or temporarily employed by a contractor or subcontractor and performing at least 5 hours/week directly on contract (see full list of exemptions in Attachment A)

Covered lessees, licensees, concessionaires, and franchisees must typically pay living wages to their employees who spend a prescribed minimum percentage of their compensated time (e.g. 25% or more of such compensated time) working on the leased premises or engaged in work directly related to the license, concession, or franchise.

Current Living Wages

Existing living wages vary among jurisdictions to reflect differing economic conditions, with Santa Clara County, Marin County and Los Angeles County, for example, setting their living wages at \$19.06, \$13.35, and \$11.84 per hour, respectively. Employers that provide employees with health care and/or retirement benefits are generally entitled to a credit against the living wage to reflect the value of these benefits. For example, employers covered by the Santa Clara County living wage ordinance are entitled to have \$2.00 per hour credited toward payment of a living wage when they provide the covered employee health care benefits, as well as another \$2.00 credited toward the living wage payment when they provide retirement benefits. As mentioned above, the possible implications of ACA in County contracts will inform the use of this benefits credit.

Some ordinances, either on a permanent basis or as a temporary, transitional measure, set a lower living wage for small employers (for example, employers with fewer than 50 employees) and non-profit organizations.

These ordinances uniformly provide for the periodic adjustment of the living wage rate to reflect changes in the cost of living in the relevant locale. For example, Santa Clara County's living wage ordinance requires an annual review of the living wage level, based on consideration of the federal poverty level standard, the geographic cost of living differential provided by the Economic Research Institute's Geographic Assessor, and the Department of Labor's Consumer Price Index.

### Living Wage Ordinance Enforcement

Living Wage ordinances vary with respect to enforcement mechanisms. Some ordinances, such as Santa Clara County's rely, to a great extent, on employees themselves, to ensure compliance by creating private rights of action for employees improperly denied a living wage and providing for attorneys fees for successful suits challenging a failure to pay living wages.

Other agencies, such as Los Angeles County, actively monitor compliance by requiring county departments to review contractor staffing plans and health insurance information, mandating that covered employers complete county-provided payroll forms for all contractor employees working on a county contract, and periodically reviewing contractors' payroll-related documents.

### Summary of Living Wage Components and Term Options

To summarize the options for a living wage ordinance, three possible approaches are presented below. A detailed matrix comparing the components of living wage ordinances in other California counties is presented in Attachment A.

HIGH CONTRACTOR COST*					
<i>Covered Contractor</i>	<i>Wage Rate</i>	<i>Benefits</i>	<i>Covered Employee</i>	<i>Exemptions</i>	<i>Wage Rate Increase Method</i>
All contracts greater than \$25,000/fiscal year	\$16/hour+	Paid leave; minimum 12 compensation days off per year for sick leave, vacation, personal necessity	Any employee of a covered contractor or subcontractor who is assigned to work on a County contract (can be full and part-time, temporary, or seasonal)	None	CPI; Board does not have the option to defer subsequent increases

## MEDIUM CONTRACTOR COST\*

Covered Contractor	Wage Rate	Benefits	Covered Employee	Exemptions	Wage Rate Increase Method
All contracts greater than \$50,000/fiscal year	\$15/Hour	12 days compensated sick and vacation leave (combined) annually for full-time employees, prorated for part-time; payment of at least \$1/hour toward health insurance for the employee	Full-time, part-time, and temporary employees; minimum 4 hours/week on County funded contract	Collective bargaining agreement superseding LWO; non-profits; small businesses; other government entities	CPI; Board retains option to defer increase per fiscal year based on economic conditions

## LOW CONTRACTOR COST\*

Covered Contractor	Wage Rate	Benefits	Covered Employee	Exemptions	Wage Rate Increase Method
All contracts greater than \$100,000/ fiscal year	\$14/hour	Provision of benefits optional	Minimum 4 hours/week on County funded contract; <i>does not include</i> : student age 21, anyone earning academic credits regardless of age, volunteers, seasonal	Board reserves the right to grant exemption based on economic hardship or if exemption is in the best interest of the County (requires written statement from employer supporting the request and describing alternative solutions)	CPI; Board retains option to defer increase per fiscal year based on economic conditions

\*Costs do not reflect healthcare benefits

### **FISCAL IMPACT:**

To develop a reasonably accurate estimate of the costs of a living wage ordinance, staff would need to first know the terms of the ordinance and then survey all County contractors. Since that work could not be done for this paper, a very rough estimate has been developed.

To develop the estimate, Purchasing, Human Services and the Health System were asked which of their contractors would be effected by a living wage ordinance. The response was community based organizations (CBOs). To calculate a range of estimated costs for a living wage ordinance, we took three percentages of \$68.9 million, the total FY 2016-17 CBO contract budget for both the Health System and the Human Services Agency.

- .05% increase: \$337,772
- 1% increase: \$675,445
- 2% increase: \$1,350,889

This is a very rough estimate, as we don't know how many staff would be effected, what the increase would be to their salaries and if there would be any compaction issues in CBO salary ranges.

Preliminary work has also been conducted to determine the effect of a living wage on the cost of County staff. Initial analysis indicates that approximately 180 staff (including extra help and seasonal staff) earn under \$16/hour and implementing a living wage of \$16/hour would cost the County approximately an additional \$1million annually.

Finally, a living wage ordinance could also affect Affordable Care Act (ACA) eligibility because ACA eligibility is determined by income. Increasing wages may make some employees ineligible for fully subsidized health care. They would still be eligible for insurance but may have to pay higher deductibles and/or premiums.