



December 4, 2012

Matthew H. Hymel
COUNTY ADMINISTRATOR

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COUNTY ADMINISTRATOR

Board of Supervisors
County of Marin
San Rafael, CA 94903

**Re: Living Wage Ordinance (LWO) Annual Report for FY 2011-12;
Consideration of 2013 LWO Cost of Living (COLA) Adjustment**

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RECOMMENDATION

It is recommended that your Board:

1. Review and accept the Living Wage Ordinance Annual Report for FY 2011-12; and
2. Consider options concerning a 2013 cost of living wage adjustment to the Living Wage Ordinance

BACKGROUND

The Living Wage Ordinance (LWO) was implemented effective July 1, 2002. It states that “the County Administrator will provide annual reports to the Board of Supervisors on the implementation and effect of the Living Wage Ordinance.” Each year, County departments are surveyed regarding the impact of the LWO, if any, upon their services or operations and the County Administrator reports on these findings. In addition, the County Administrator makes recommendations regarding any LWO wage rate adjustment for the ensuing calendar year. While the LWO includes a component requiring an automatic COLA increase based upon the October-to-October increase in the Bay Area Consumer Price Index (CPI), it also requires a recommendation from the County Administrator incorporating financial conditions.

The LWO wage rate was last increased effective January 1, 2008 to the current \$10.05 per hour with health benefits, and \$11.55 per hour without benefits. The Bay Area Consumer Price Index (CPI) increased by 3.2% from October, 2011 to October, 2012. In this report, we present your Board two options for your consideration regarding a potential COLA adjustment consistent with the requirements of the LWO – one implementing a COLA effective January 1, 2013 and one foregoing a COLA.

Staff is recommending that a 3.2% LWO wage rate adjustment go into effect January 1, 2013. Therefore, your Board need not take action for this CPI adjustment to be implemented. Rates would be automatically increased to \$10.35 per hour including benefits, or \$11.90 per hour not including benefits.

We also update your Board on recent changes to the IHSS program, including the Coordinated Care Initiative and the Community First Choice Option, as well as an update on IHSS bargaining.

ANNUAL REVIEW

Consistent with previous years, departmental input was solicited as to any impact upon services or operations as a result of the LWO in FY 2011-12. No significant or unexpected cost increases or reductions in level of service have been reported. No complaints were filed regarding compliance.

As an informational item, in April of 2012 the Human Rights Commission inquired about the prior year staff recommendation to forego a Cost of Living Adjustment for 2012. The Administrator’s Office responded to the inquiry in May, as well to follow up questions in October.

The County organization as a whole continues to do an excellent job of incorporating the LWO into its work processes. Contract managers throughout the county are aware of the requirements and generally report few issues or negative impacts to the services they provide. In an effort to assure continued compliance with the LWO, the County Administrator’s office acts as a resource to Department Heads, Assistant Department Heads and Administrative Professionals.

POLICY CONSIDERATIONS

In-Home Supportive Services (IHSS) and the LWO Rate

As reported in previous years, the adjustment of wages for approximately 1,200 IHSS service providers in 2002 represented by far the most significant impact of the LWO. The IHSS Public Authority has consistently reported that these wage and benefit increases improved recruitment and retention efforts for providers. Today there are over 1,600 IHSS providers serving Marin residents.

For informational purposes, per a recent California Association of Public Authorities for IHSS (CAPA) survey of California counties, Marin’s IHSS wage rate remains the highest IHSS provider wage among our comparison counties, due in part to the wage floor established by our LWO. Among all 58 California counties surveyed, only Santa Clara County at \$12.20 per hour is higher. The chart below summarizes hourly rates for IHSS providers among our comparison counties as of August, 2012:

Current IHSS Provider Rates (as of August, 2012)	
Comparison Counties	Current Hourly Wage
Marin*	\$11.55
Napa	\$11.50
Santa Cruz	\$11.50
Sonoma	\$11.50
Monterey	\$11.50
San Mateo	\$11.50
Santa Barbara	\$10.00
San Luis Obispo	\$10.00

**A 3.2% CPI Adjustment would increase Marin’s non-benefitted rate from \$11.55 to \$11.90 per hour effective January 1, 2013.*

The Coordinated Care Initiative and the IHSS Program

In previous years, because of the scope of the financial risk to the County, we have noted the potential fiscal impact to the County if the State were to withdraw its share in the costs of the IHSS program. Given the approximately 1,600 providers impacted by the LWO, the IHSS program has traditionally represented a significant factor for the County when considering the fiscal impact of the LWO.

Were the State to reduce its participation in funding to the IHSS program, which had been proposed several times though never ultimately implemented, inclusion of IHSS providers at the current LWO rate had the potential to significantly increase net county costs – by up to nearly \$3 million annually if the State reduced its share to the minimum wage of \$8.00 per hour and the County’s LWO wage rate remained unchanged.

However, as part of the FY 2012-13 State budget, the State implemented the ‘Coordinated Care Initiative’ (CCI), which includes a number of changes to the IHSS program - including statewide collective bargaining for IHSS and the creation of a County IHSS Maintenance of Effort (MOE) – both of which will impact the program going forward.

Statewide Collective Bargaining for IHSS

SB 1036 and AB 1471 specify that collective bargaining will transfer to the State no sooner than March 1, 2013 – with eight counties participating in an expanded pilot project this fiscal year. While Marin County is not included among the initial eight pilot counties, the Legislature has stated its intent to expand the CCI to all 58 counties within the next three years.

With this change, the State will form a single joint powers authority (JPA), called the California In-Home Supportive Services Authority, to be the employer of record for IHSS providers. Authority to negotiate IHSS workers’ wages and benefits will transfer from counties, including the IHSS Public Authority of Marin, to the State.

Maintenance of Effort (MOE) Based on FY 2011-12 Expenditures

SB 1036 and AB 1471 also establish a County maintenance of effort (MOE) based on FY 2011-12 actual expenditures in-lieu of a nonfederal share of cost in the program. This MOE applies to all 58 counties regardless of when a County begins to implement the CCI. The Department of Health & Human Services and the IHSS Public Authority of Marin are awaiting further information and confirmation from the State on the Marin County MOE.

Because collective bargaining will be transferred to the State, and because Marin County will incur a MOE based on FY 2011-12 expenditures, the County should not face the same exposure previously faced when the State threatened to reduce or withdraw its participation in the IHSS program. A County MOE should create relatively greater certainty in IHSS net county costs going forward.

While a 3.2% CPI increase effective January 1, 2013 would increase net county costs relative to the IHSS MOE on an ongoing basis, estimated to cost an additional \$398,000 ongoing assuming a 3.5% increase in paid provider hours relative to the prior year, the County should not face the same exposure as in previous years up to an additional \$3 million in ongoing costs were the State to reduce its participation to the minimum wage. The recommended CPI adjustment will, however, increase County costs beyond the new MOE.

Update on Bargaining Between IHSS Public Authority and SEIU

The contract between the IHSS Public Authority and SEIU-United Healthcare Workers-West expired December 31, 2010 but was rolled over into 2011 and again into 2012 pending further labor negotiations.

Community First Choice Option (CFCO)

On September 4, 2012 the Federal government approved California’s Community First Choice Option (CFCO) State plan amendment, which will allow a 6% increase in federal financial participation for IHSS services (but not towards IHSS Administration or local Public Authority Administration) through June 30, 2013. The County is anticipated to receive its CFCO refund for the period December 1, 2011 through June 30, 2012 in the amount of \$308,402 for this seven month period. It is expected that County MOE base, when it is calculated by the State, will be reduced permanently based upon the CFCO award.

While administrative details have yet to be finalized at the State level, SEIU has recently requested discussions regarding a new contract. Once CFCO and MOE details are finalized by the State, staff will relate CFCO savings to the County’s baseline investment in the IHSS program. Any negotiated wage and benefit increases for IHSS providers approved after July 1, 2012 and before the transfer of collective bargaining to the State will increase net county costs relative to the MOE.

We will keep your Board apprised of further developments, including any continued negotiations regarding a new bargaining agreement before the California In-Home Supportive Services Authority assumes negotiation authority from our local IHSS Public Authority within the next two-three years. The union is anticipated to meet with the IHSS Public Authority in coming weeks.

COST OF LIVING ADJUSTMENT

Your Board has the option to forego a LWO COLA for the ensuing calendar year based upon financial conditions, a determination informed by a recommendation from the County Administrator as a component of the annual report on the living wage. The LWO wage rate was last increased effective January 1, 2008 to the current \$10.05 per hour with health benefits, and \$11.55 per hour without benefits. Your Board has two options for consideration regarding a potential 3.2% COLA effective January 1, 2013:

Option 1 (Staff Recommended): Take no action today, and allow the LWO to automatically increase the LWO rate consistent with the October-October change in the Bay Area CPI effective January 1, 2013. The increased LWO rates, inclusive of the 3.2% COLA, would be \$10.35 per hour including benefits, or \$11.90 per hour not including benefits. This would result in additional ongoing General fund costs of approximately \$398,000 annually for Marin’s approximately 1,600 IHSS providers (which also assumes a 3.5% increase in projected paid provider hours based upon a review of the previous six months by the IHSS Public Authority).

While there are only about 30-40 active employees in the County at the living wage rate on an annualized basis, with an estimated fiscal impact of less than \$5,000 annually assuming a 3.2% COLA, there could also be compaction issues with the Firefighter II seasonal classification. Being an extra hire classification, there are no positions allocated. Based upon an estimated annual number of incumbents, a 3.2% COLA could result in approximately \$7,500 added cost for County employee compaction issues. In total, there would be an annual cost of up to \$12,500 for County employees.

Given that the LWO wage rate was last increased effective January 1, 2008 to today’s current rates, and because our multi-year budget projections include known

COLAs for staff through June, 2015, staff recommends a CPI adjustment effective January 1, 2013 to increase rates to \$10.35 per hour including benefits, or \$11.90 per hour not including benefits, despite the additional cost relative to the County's IHSS MOE.

Option 2: Based on our projected budget shortfalls, take action today to forgo a COLA adjustment to the LWO rate effective January 1, 2013. In light of the increased cost relative to the County's IHSS MOE as we transition to the new statewide public authority, as well as anticipated additional costs relating to some County employees, rates would remain unchanged at \$11.55 per hour (non-benefitted) and \$10.05 per hour if health benefits are provided.

STAFF RECOMMENDATION

Although Marin County has the highest IHSS wage rate among our comparable counties, and a 3.2% COLA adjustment will increase County costs relative to our IHSS MOE by approximately \$398,000 per year, as well as increase County staff costs by an estimated additional \$12,500 per year, staff is recommending Option #1 given that a COLA adjustment has not been authorized since 2008. We are also requesting approval to revise salary ranges of the County classifications directly impacted by the increase.

FISCAL IMPACT

The fiscal impact of approving staff's recommendation to allow an automatic 3.2% increase to the LWO wage rate effective January 1, 2013 is additional General Fund costs of up to \$205,000 for fiscal year 2013-14, with estimated annual costs of up to \$410,000 in subsequent fiscal years including County employee impacts.

Your Board has the discretion to assume the IHSS MOE savings from the Community First Choice Option (CFO) on an ongoing basis, estimated to be \$308,000. Increasing the LWO wage rate as recommended today for approximately 1,600 IHSS providers would increase County costs relative to the IHSS MOE on an ongoing basis by \$398,000 annually, fully offsetting the CFO credit to the County's MOE.

If your Board accepts the staff recommendation, the net fiscal impact would then be the estimated \$12,500 per year impact to County staff plus approximately an additional \$90,000 annually (the difference between the \$398,000 annual increase in IHSS net county costs less the \$308,000 CFO credit to the County's MOE), for a total net impact of just over \$100,000 annually – or \$50,000 for the balance of FY 2012-13.

If your Board should have any questions regarding the LWO or this report, please feel free to contact Dan Eilerman of my office at 473-6358, or you may contact me directly.

Sincerely,

Reviewed by,

Daniel Eilerman
Deputy County Administrator

Matthew H. Hymel
County Administrator