



OFFICE OF THE  
**COUNTY ADMINISTRATOR**

November 4, 2014

Matthew H. Hymel  
COUNTY ADMINISTRATOR

Board of Supervisors  
County of Marin  
San Rafael, CA 94903

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**Re: (A) Living Wage Ordinance (LWO) Annual Report for FY 2013-14, and (B) First Reading of Ordinance to Amend Marin County Code Section 2.50.050 – “Living Wage Rate,” and Section 2.50.200 – “Effective Date,” to Increase the Living Wage Rate to \$13.00 per Hour**

**RECOMMENDATION**

It is recommended that your Board:

1. Review and accept the Living Wage Ordinance Annual Report for FY 2013-14; and
2. Conduct First Reading of Ordinance to Amend Marin County Code Section 2.50.050 – “Living Wage Rate,” and Section 2.50.200 – “Effective Date,” to Increase the Living Wage Rate to \$13.00 per Hour; and
3. Set Merit Hearing on November 25, 2014 to Amend Ordinance at Merit Hearing.

**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. 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 current LWO wage rate is \$10.50 per hour with health benefits, and \$12.10 per hour without benefits. The Bay Area Consumer Price Index (CPI) is estimated to increase by 3.0% from October, 2013 to October, 2014. Typically, we return to your Board to present options and associated fiscal impacts regarding a CPI increase, or to recommend that a COLA be withheld based upon financial conditions, consistent with Marin County Code Section 2.50.050.

**Minimum Wage vs. Living Wage**

Some questions have been raised as to whether Marin County should impose a minimum wage requirement within the County. We have consulted with County Counsel and, as a general law county, we have confirmed that Marin County does not have the legal authority to make adjustments to the minimum wage as this

authority is solely within the purview of the State of California – or within the purview of a city with its own charter.

Minimum wage laws typically apply to all workers in a given jurisdiction, whether in the public or private sector. A living wage, adopted by a number of cities and counties in the country, typically requires a higher minimum wage for employers that receive contracts or subsidies from the local government – with the policy goal of increasing the minimum hourly wage to a level sufficient for workers to meet the basic needs of their families.

There have been efforts elsewhere in the country and the state to increase the minimum wage – including Measure J in San Francisco to be considered by voters today, which would increase the minimum wage in San Francisco from \$10.74 to \$15.00 per hour by 2018 if approved. There have also been similar efforts in San Diego, Los Angeles, and Oakland. In June, voters in Seattle approved a \$15.00 minimum wage with a three to four year phase-in. It is important to note that all of these efforts have occurred in jurisdictions with a charter form of government.

### **Increasing the Marin County Living Wage**

In October of this year, your Board gave direction to staff to increase the LWO rate to \$13.00 per hour (without benefits) effective January 1, 2015 - or as soon thereafter as possible given that the State must approve new rates for In-Home Supportive Services (IHSS) providers. Maintaining the current \$1.60 per hour contribution toward health benefits will result in a revised LWO benefited rate of \$11.40 per hour next calendar year.

Consistent with your direction, we return to your Board at this time with a first reading of an ordinance to implement the new LWO rates of \$13.00 per hour (non-benefited) and \$11.40 per hour (including benefits) effective January 1, 2015 or as soon thereafter as possible. The estimated fiscal impact of a 3% COLA is approximately \$430,000 on an annualized basis. Increasing the LWO rate to \$13.00 per hour represents approximately an additional \$600,000 ongoing, for a total fiscal impact of \$1.0 million ongoing. Including County employee impacts of approximately \$50,000, the total estimated fiscal impact of a LWO rate increase to \$13.00 per hour is approximately \$1.1 million per year (or \$550,000 in the current fiscal year, January 1 through June 30, 2015).

The FY 2014-15 Budget includes sufficient funding for a COLA. Consistent with direction from your Board's October 21, 2014 workshop, \$650,000 in one-time reserves is available over the next 18 months to fund the incremental cost of increasing the LWO rate beyond the estimated COLA adjustment.

### **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 2013-14. No significant or unexpected cost increases or reductions in level of service have been reported. No complaints were filed regarding compliance.

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 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 1,500 IHSS providers serving Marin residents.

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 \$12.44 per hour is higher. The chart below summarizes hourly rates for IHSS providers among our comparison counties:

<b>Current IHSS Provider Rates (as of August, 2014)</b>	
<b>Comparison Counties</b>	<b>Current Hourly Wage</b>
Marin	<b>\$12.10</b>
Santa Cruz	<b>\$11.90</b>
Sonoma	<b>\$11.65</b>
Napa	<b>\$11.50</b>
Monterey	<b>\$11.50</b>
San Mateo	<b>\$11.50</b>
Santa Barbara	<b>\$11.05</b>
San Luis Obispo	<b>\$11.05</b>

Increasing the LWO rate to \$13.00 per hour effective January 1, 2015 will result in Marin County IHSS providers receiving the highest IHSS wage in the State, until an anticipated February, 2015 COLA adjustment for Santa Clara County's IHSS providers - expected to result in \$13.00 per hour as well.

Given the approximately 1,500 IHSS 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. Below is an update regarding several policy issues impacting the IHSS program.

**New FLSA Overtime Rules Will Impact the IHSS Program**

The US Department of Labor recently revised Fair Labor Standards Act regulations so that the law will now apply to direct care workers, such as in-home caregivers. As of January 1, 2015, IHSS Providers will now be compensated at 1.5 times the regular rate of pay for all hours worked over 40 hours. In order to work more than 40 hours per week, an IHSS Provider will need to have in place a work agreement with the County, approved by an IHSS Social Worker. It is anticipated that some impacted clients will have to find more providers to cover their authorized hours. As a result, the IHSS Public Authority will be faced with the challenge of recruiting more providers to serve Marin clients. We will review potential fiscal impacts as part of the County's mid-year budget review process, however new guidance from the State

indicates that the State has committed to funding any increased cost. We will keep your Board updated as we learn new information.

**The Coordinated Care Initiative and the IHSS Program**

As part of the FY 2012-13 State budget, the State implemented the 'Coordinated Care Initiative' (CCI), which included 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 impact the IHSS program.

Statewide Collective Bargaining for IHSS

SB 1036 and AB 1471 transferred collective bargaining to the State in 2013 – with eight counties participating in an expanded pilot project in 2013. With this change, the State formed 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 these counties to the State, however the State's transition with the initial eight pilot counties has been slow.

While Marin County is not included among the initial eight pilot counties, the Legislature stated its intent to expand the CCI to all 58 counties within the next several years. Marin County could be included in the second of three phases of implementation, but this would require new legislation.

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

SB 1036 and AB 1471 also established 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 requirement applies to all 58 counties.

Because collective bargaining may ultimately be transferred to the State, and because Marin County incurred a MOE based on FY 2011-12 expenditures, we do not expect to 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 an increase in the LWO rate to \$13.00 per hour in 2015 will increase net county costs relative to the IHSS MOE going forward, estimated to cost an additional \$1.0 million ongoing, the County should not face the same exposure as in previous years, due to the floor established by the LWO, were the State to reduce its participation to the State minimum wage. The recommended LWO rate adjustment does, however, increase the MOE and, therefore, will commit the County to an estimated \$1.0 million in additional IHSS costs on an ongoing basis.

**Update on Bargaining Between IHSS Public Authority and SEIU**

Finally, the contract between the IHSS Public Authority and SEIU-United Healthcare Workers-West expired December 31, 2010 and a new 18-month contract was negotiated in July 2013 which will expire December 31, 2014. Meetings will be scheduled this fall to begin negotiations for the next contract period. The current contract includes minor changes while incorporating any LWO wage adjustments going forward, and also splits the health care cost increases equally between members and the Authority. A re-opener was included to deal with the potential impacts of the Affordable Care Act.

### **COST OF LIVING ADJUSTMENT**

As mentioned at the outset of this report, 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, 2014 to the current \$10.50 per hour with health benefits, and \$12.10 per hour without benefits.

In October of this year, your Board provided direction to staff to increase the LWO wage rate to \$13.00 per hour without benefits. Maintaining the same \$1.60 per hour contribution toward benefits will result in a revised benefited rate of \$11.40 per hour effective January 1, 2015 (or as soon thereafter as is practical given the requirement that the State must approve changes to IHSS provider rates, typically up to a 90 day process).

We also estimate there are up to 180 active County employees in five job classifications that would be impacted by the increased LWO rate, including County Service Worker (1181), Library Aide (0831), Library Technology Aide I (1350), Performance Attendant (1180), and Firefighter Seasonal (0220). In total, depending upon the number of hours worked, we estimate an annual cost of approximately \$50,000 for impacted County employees. Ongoing costs will be reflected in the FY 2016-17 Proposed Budget. We are also requesting approval to revise salary ranges of the County classifications directly impacted by the increase.

At this time, we recommend that your Board:

1. Review and accept the Living Wage Ordinance Annual Report for FY 2013-14; and
2. Conduct a First Reading of Ordinance to Amend Marin County Code Section 2.50.050 – “Living Wage Rate,” and Section 2.50.200 – “Effective Date,” to Increase the Living Wage Rate to \$13.00 per Hour; and
3. Set a Merit Hearing on November 25, 2014 to Amend Ordinance at Merit Hearing.

### **FISCAL IMPACT**

The estimated fiscal impact of a 3% COLA is approximately \$430,000 ongoing on an annualized basis. Increasing the LWO rate to \$13.00 per hour represents approximately an additional \$600,000 ongoing, for a total fiscal impact of \$1.0 million ongoing. Including County employee impacts of approximately \$50,000, the total estimated fiscal impact of a LWO rate increase to \$13.00 per hour is approximately \$1.1 million (or \$550,000 in the current fiscal year, January 1 through June 30, 2015).

The FY 2014-15 Budget includes sufficient funding for a COLA. Consistent with direction from your Board’s October 21, 2014 workshop, \$650,000 in one-time reserves is available over the next 18 months to fund the incremental cost of increasing the LWO rate beyond the estimated COLA adjustment. Ongoing costs will be reflected in the FY 2016-17 Proposed Budget.

It should also be noted that increasing the LWO wage rate for approximately 1,500 IHSS providers will increase County costs relative to the IHSS MOE on an ongoing

basis by approximately \$1 million annually, including \$600,000 annually for the increment beyond the estimated 3% COLA.

If your Board should have any questions, please feel free to contact Jacalyn Mah of my office at 473-6358, or you may contact me directly.

Sincerely,



Jacalyn Mah  
Management and Budget Analyst

Reviewed by,



Matthew H. Hymel  
County Administrator