

November 10, 2015

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Board of Supervisors
County of Marin
San Rafael, CA 94903

**Re: Living Wage Ordinance (LWO) Annual Report for FY 2014-15;
Consideration of 2016 LWO Cost of Living (COLA) Adjustment**

RECOMMENDATION

It is recommended that your Board review and accept the Living Wage Ordinance Annual Report for FY 2014-15; including consideration of an automatic cost of living (COLA) adjustment for 2016.

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 requires 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, 2015 to the current \$13.00 per hour without benefits or \$11.40 with benefits. The Bay Area Consumer Price Index (CPI) is estimated to increase by 2.5% from October, 2014 to October, 2015 – but will not become certain until mid-November. 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, 2016 and one foregoing a COLA based on financial conditions. We are recommending implementation of the COLA effective January 1, 2016.

If your Board takes no action to forgo a COLA, rates will be automatically increased to \$13.30 per hour not including benefits or \$11.70 per hour including benefits, assuming a 2.5% CPI increase. If your Board takes action to forgo a COLA, rates would remain unchanged.

We also update your Board annually on any statutory, policy or budget changes impacting the In-Home Supportive Services (IHSS) program.

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 2014-15. 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 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 improve recruitment and retention efforts for providers. Today there are approximately 1,600 IHSS providers serving Marin clients.

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, Marin County is currently highest at \$13.00 per hour. The chart below summarizes hourly rates for IHSS providers among our comparison counties:

| Current IHSS Provider Rates (as of March, 2015) | |
|--|----------------------------|
| Comparison Counties | Current Hourly Wage |
| Marin | \$13.00 |
| Napa | \$12.10 |
| Santa Cruz | \$11.90 |
| Sonoma | \$11.65 |
| Monterey | \$11.50 |
| San Mateo | \$11.50 |
| Santa Barbara | \$11.05 |
| San Luis Obispo | \$11.05 |

We expect Santa Clara County to adjust its IHSS provider rate to \$13.00 effective February 1, 2016. Assuming an automatic COLA adjustment is approved by your Board, Marin would still remain the highest statewide with its adjusted IHSS provider rate.

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. Below is an update regarding several policy issues impacting the IHSS program.

New FLSA Overtime Rule Revision

Last year, the US Department of Labor revised Fair Labor Standards Act regulations so that the law will now apply to direct care workers, such as in-home caregivers. While this regulation was litigated, as of 30 days after an October 13, 2015 US Supreme Court ruling, IHSS Providers will now be required to 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, however, 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. We will review potential fiscal impacts as part of the County's mid-year budget review process. However, guidance from the State thus far indicates that the State would absorb any increased costs. We will keep your Board updated as we learn new information, and will monitor the State's January budget proposal on this issue.

The Coordinated Care Initiative and the IHSS Program

You may recall that, 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).

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 ultimately transfer from these counties to the State, however the State's bargaining transition with the initial eight pilot counties has been very 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 that has not been introduced to date.

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 is anticipated to ultimately be transferred to the State, and because Marin County incurred a MOE based on FY 2011-12 expenditures, we would 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 creates relatively greater certainty in IHSS net county costs going forward.

While an estimated 2.5% CPI increase effective January 1, 2016 would increase net county costs relative to the IHSS MOE on an ongoing basis, estimated to cost an additional \$400,000 ongoing, the County should not face the same exposure as in

previous years of up to an additional \$3.9 million annually, due to the floor established by the LWO, were the State to reduce its participation to the minimum wage – anticipated to adjust to \$10.00 per hour in January. The recommended CPI adjustment will, however, increase County costs beyond the new MOE.

The State Department of Finance may decide in December of this year whether or not to continue the Coordinated Care Initiative and the Maintenance of Effort that is linked to that initiative. If it were to be discontinued, the County would have six months to determine how it would budget for this change in how IHSS is funded. We will continue to monitor the Coordinated Care Initiative with Health and Human Services and the IHSS Public Authority, and will keep your Board apprised.

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, 2014 and a new 24-month contract was negotiated in December 2014, which does not expire until December 31, 2016. The current contract included minor changes while incorporating any LWO wage adjustments going forward, and also splits the health care cost increases equally between members and the Authority.

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, 2015 to the current \$13.00 per hour without benefits or \$11.40 per hour with health benefits. Your Board has two options for consideration regarding an estimated 2.5% CPI change effective January 1, 2016:

Staff Recommendation: Based on your Board's past policy direction, and given recent board approval of contracts with various County bargaining groups which include COLA adjustments, we are recommending an automatic LWO rate increase consistent with the October-October change in the Bay Area CPI effective January 1, 2016, or as soon thereafter as possible given require State approval of rate adjustments to IHSS providers.

The adjusted LWO rates, inclusive of the estimated 2.5% COLA, would be \$13.30 per hour not including benefits or \$11.70 per hour including benefits. This would result in additional ongoing General Fund costs of approximately \$400,000 annually for Marin's approximately 1,600 IHSS providers. If the actual October-October CPI change is greater or less than the estimated 2.5%, staff would proceed consistent with the ordinance to implement the actual change rounded to the nearest five cent increment.

We also estimate there are approximately 80 active County employees in four job classifications that would be impacted by the increased LWO rate, including County Service Worker (1181), Library Aide (0831), Library Technology Aide I (1350), and Performance Attendant (1180). In total, depending upon the number of hours worked, we estimate an annual cost of approximately \$12,000 for these impacted County employees. Ongoing costs would 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 this increase.

Given recently adopted contracts with several of our bargaining units, in which COLAs are tied to an annual CPI increase of 2% to 4% through FY 2017-18, staff recommends a CPI adjustment effective January 1, 2016 to increase rates to an estimated \$13.30 per hour not including benefits or \$11.70 per hour including benefits, despite the additional cost relative to the County's IHSS MOE – or the actual CPI change once known, rounded to the nearest 5 cent increment.

We will advise contract managers to ensure their LWO-eligible contractors comply with the new rates effective January 1st. Because IHSS providers are paid by the State, staff will work with the California Department of Social Services to implement the change at the earliest possible date, expected to be February 1st.

Alternative Option: Take action today to forgo a COLA adjustment to the LWO rate effective January 1, 2016. In light of the increased cost relative to the County's IHSS MOE, and continued uncertainty regarding the Coordinated Care Initiative more broadly, rates would remain unchanged at \$13.00 per hour (non-benefitted) and \$11.40 per hour if health benefits are provided.

FISCAL IMPACT

The fiscal impact of approving staff's recommendation to allow an estimated 2.5% increase to the LWO wage rate effective January 1, 2016 is additional General Fund costs of up to \$206,000 for the balance of FY 2015-16, with estimated annual or ongoing costs of up to \$412,000 in subsequent years, including County employee impacts.

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 an estimated \$412,000 annually.

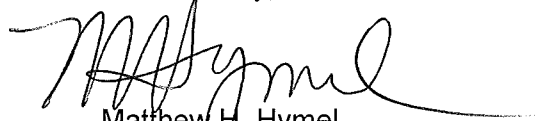
If your Board should have any questions, please feel free to contact Jacalyn Mah of my office at 473-6358, or you may contact me directly.

Sincerely,



Jacalyn Mah
Management and Budget Analyst

Reviewed by,



Matthew H. Hymel
County Administrator