

October 18, 2016

Matthew H. Hymel
COUNTY ADMINISTRATOR

Board of Supervisors
County of Marin
San Rafael, CA 94903

Daniel Eilerman
ASSISTANT COUNTY
ADMINISTRATOR

Re: Living Wage Ordinance (LWO) Annual Report for FY 2015-16

Angela Nicholson
ASSISTANT COUNTY
ADMINISTRATOR

RECOMMENDATION

Review and accept the Living Wage Ordinance Annual Report for FY 2015-16; including direction regarding future amendment to the Ordinance and a cost of living (COLA) adjustment for 2017

Marin County Civic Center
3501 Civic Center Drive
Suite 325
San Rafael, CA 94903
415 473 6358 T
415 473 4104 F
CRS Dial 711
www.marincounty.org/cao

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 based on financial conditions.

The LWO wage rate was last increased effective January 1, 2016 to the current \$13.35 per hour without benefits (\$11.70 per hour including benefits). The Bay Area Consumer Price Index (CPI) is estimated to increase by 3.0% from October, 2015 to October, 2016 – but will not be known until mid-November. If your Board accepts the staff recommendation, rates will be automatically increased to an estimated \$13.75 per hour not including benefits, or \$12.05 per hour including benefits, assuming a 3.0% CPI increase.

ANNUAL REVIEW

The County organization continues to do an excellent job of incorporating the LWO into its work. Contract managers throughout the County are aware of the requirements and 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. Consistent with previous years, no complaints were filed regarding compliance during the last fiscal year.

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

As reported in previous years, the adjustment of wages for IHSS service providers represents nearly all of the financial 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 1,550 IHSS providers serving Marin clients.

Marin’s IHSS provider wage rate is the highest in California. Per a recent California Association of Public Authorities for IHSS (CAPA) survey of California counties, Marin’s IHSS hourly wage rate remains the highest IHSS provider wage among our comparison counties, due largely to the wage floor established by our LWO since 2002. Among all 58 California counties surveyed, Marin County is currently highest at \$13.35 per hour, with San Francisco and Santa Clara County tied for second at \$13.00 per hour. The chart below summarizes hourly rates for IHSS providers among Marin’s comparison counties:

Current IHSS Provider Rates (as of August, 2016)	
Comparison Counties	Current Hourly Wage
Marin	\$13.35
San Mateo	\$12.65
Sonoma	\$12.50
Monterey	\$12.25
Napa	\$12.10
Santa Cruz	\$11.90
San Luis Obispo	\$11.85
Santa Barbara	\$11.30

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).

Statewide Collective Bargaining for IHSS

SB 1036 and AB 1471 transferred collective bargaining to the State in 2013 – beginning with eight pilot counties. 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 pilot counties has been slow.

While Marin County is not included among these pilot counties, the Legislature has stated its intent to ultimately expand the CCI to all 58 counties over time. Marin could be included in the second of three phases of implementation, but this would require new legislation that has not been introduced to date by the State. Marin County will be monitoring the outcome of State negotiations with these pilot counties.

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

SB 1036 and AB 1471 also established a County IHSS 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, regardless of membership in the pilot project mentioned above.

The MOE caps each county’s contribution going forward to the nonfederal costs of the IHSS program at the county’s FY 2011-12 expenditure level, including a 3.5% annual inflation factor to ensure that counties share in costs associated with increasing IHSS caseload growth. Counties have generally been supportive of this approach, as caseload growth can well exceed 3.5% per year.

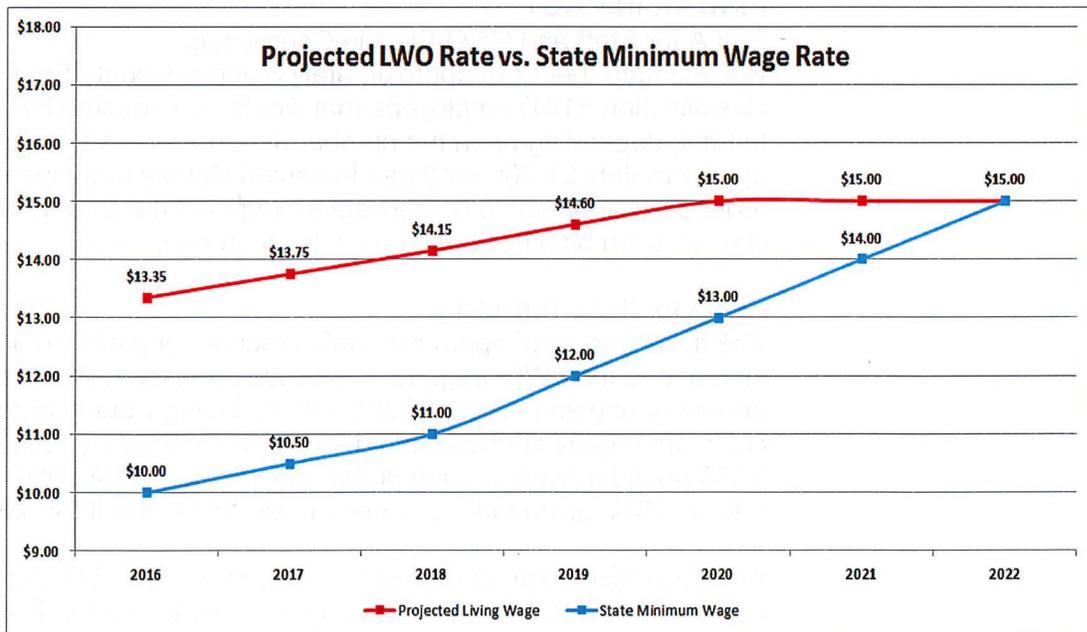
LONG-TERM POLICY ISSUE: State will not pay for wage increases ahead of statewide minimum wage schedule.

The Governor signed SB 3 (Leno) in April to increase the State’s minimum wage to \$15.00 per hour by 2022. The State has recently taken the position that counties will be solely responsible for the non-federal share of any locally negotiated wage or health benefit increases that exceed the maximum level of State participation (tied to the State minimum wage). Even though the State has committed to future increases in the minimum wage, the State will not pay for any wage increases for IHSS providers that are adopted ahead of the legislative schedule consistent with SB 3.

If the County provides IHSS wage increases ahead of the State schedule, the State will not (now or in the future) increase their contribution towards IHSS wages even though they have agreed to increase the minimum wage up to \$15 per hour by 2022. Therefore, we estimate that if we increase the LWO up to \$15 per hour ahead of the State schedule, and thereafter align wage increases with the State minimum wage, it will cost the County over \$17 million over the next 15 years. If we always stay ahead of the State schedule, it will cost \$39 million over the next 15 years even though the State will be paying for similar rates in other counties. Counties that have historically approved higher local IHSS provider wages, like Marin, are now presented with a strong disincentive to further negotiate wage increases for IHSS providers that exceed the State minimum wage.

STAFF RECOMMENDATION: Approve 2017 Cost of Living Adjustment and Proposed LWO Amendment.

Consistent with past policy direction, staff is recommending a COLA adjustment for 2017. Given the new State policy that does not compensate the County for IHSS provider increases that are ahead of the State schedule, staff is recommending an amendment to the LWO to limit our automatic annual CPI adjustments once we reach the \$15 per hour level. Subsequent adjustments would be consistent with State changes, or require amendments to the LWO. The chart below illustrates the projected path of the recommended LWO action relative to the State minimum wage:



Draft amendments to Section 2.50.50 of the Living Wage Ordinance would include revisions to Subsection (b)(1), (c) and (e) as follows, including revisions to accurately reflect changes to the IHSS program and the addition of a provision that would limit automatic increases to \$15 per hour so that State funding could be used to help pay for IHSS provider wage increases above \$15 per hour.

“(b)(1) Health benefits and wages for IHSS providers are governed by agreement between the In-Home Supportive Services Public Authority of Marin and Service Employees International Union ~~Local 2015 United Healthcare Workers West~~, in consultation with the County of Marin, which certifies available funds.”

“(c) The wage rates required in subsection (a) of this section shall be adjusted annually, effective January 1, to reflect the increase during the preceding year in the Consumer Price Index for all urban consumers in the San Francisco-Oakland-San Jose Consolidated Metropolitan Statistical Area, as published in October of each year by the U.S. Department of Labor, Bureau of Labor Statistics. ~~These annual Consumer Price Index adjustments to the wage rate will be increased up to a wage rate of \$15.00 per hour.~~ The adjustment shall be rounded to the nearest five cent increment; shall become effective every January 1 without need for the board of supervisors to annually adopt an ordinance; and shall be posted by the county administrator on its website for the notice of all county departments, contractors and subcontractors.”

“(e) In addition, ~~since approximately eighty percent of IHSSP program costs are reimbursed by the state of California or the federal government,~~ if the state of California or the federal government significantly reduces or modifies its percentage of participation in the IHSSP program, resulting in a significant increase in net county cost, the board of supervisors may take action to direct that the living wage ordinance be adjusted by reducing or modifying the living wage.”

FISCAL IMPACT:

COLA for Staff and LWO-Eligible Contractors

We estimate there are approximately 8 active County Service Worker (job classification 1181) employees that would be impacted by the increased LWO rate. In total, depending upon the number of hours worked, we estimate an annual cost of approximately \$1,300 for these impacted County employees. We are also requesting approval to revise salary ranges of the County Service Worker classification directly impacted by this increase.

COLA for IHSS Providers

The fiscal impact of approving staff’s recommendation to allow an estimated 3.0% increase to the LWO wage rate effective January 1, 2017 is additional General Fund annual or ongoing costs of \$323,300, including County employee impacts. These costs are largely attributable to Marin’s approximately 1,550 IHSS providers. The IHSS provider wage portion of the ongoing cost (\$322,000) will inflate annually at a rate of 3.5%, given that the increase will add to the IHSS MOE base calculation.

We will advise contract managers to ensure their LWO-eligible contractors comply with the new rates effective January 1st. Because payroll for IHSS providers is administered 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.

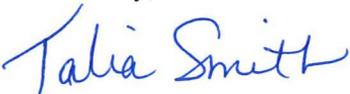
Recommended LWO Amendment

As stated above, we recommend that your Board consider a policy change that would allow for an increase to wages for IHSS providers consistent with change to the CPI, as the LWO is currently written, but otherwise freeze wages for IHSS providers once their wage reaches \$15.00 per hour until the State minimum wage "catches up" with local provider wages. This action to remain ahead of the State schedule will cost approximately \$17 million over the next 15 years. Wage increases above \$15 per hour would then be funded by the State going forward, consistent with other counties.

This amendment would allow local IHSS providers to receive the same LWO consideration as they would have otherwise received for the next several years, but would ensure the IHSS program can merge with the statewide IHSS program once the State minimum wage reach \$15 per hour, when the State will participate in funding above \$15 per hour. This policy option would require staff to return to your Board with an ordinance amendment to clarify treatment of IHSS provider wages and benefits given the State's recent policy guidance regarding its participation in IHSS program funding.

If your Board agrees with staff recommendation, we will return to your Board in November with an amendment to the LWO as outlined above. Please let us know if you have any questions or concerns.

Sincerely,



Talia Smith
Management and Budget Analyst

Reviewed by,



Daniel Eilerman
Assistant County Administrator