MEMORANDUM

Amended
Agenda Item No. 7(I)

(Second Reading 05-09-06)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: March 21, 2006

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Ordinance amending Section 2-8.9 of the Code relating to the Living Wage Ordinance to refine health benefit eligibility requirements

O#06-67

The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Natacha Seijas and Commissioner Dorrin D. Rolle.

Murray A. Greenberg
County Attorney

MAG/bw

Memorandum

MIAMI-DADE COUNTY

Date: May 9, 2006

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Ordinance Amending Section 2-8.9 of the Code Relating to the Living Wage Ordinance to Refine Health Benefit Eligibility Requirements

---

This ordinance amending Section 2-8.9 of the Code of Miami-Dade County refines health benefit requirements, including provisions for a Health Benefit Plan with standard health benefits meeting requirements set forth in State Statute 627.6699(12)(a). The fiscal impact cannot be determined at this time.

Assistant County Manager

cmo06906

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: May 9, 2006

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Amended Agenda Item No. 7(I)

Please note any items checked.

_____ **"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Amended
Agenda Item No. 7(I)
5-9-06

ORDINANCE NO. **06-67**

ORDINANCE AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY (THE LIVING WAGE ORDINANCE) TO REFINE HEALTH BENEFIT ELIGIBILITY REQUIREMENTS; AUTHORIZING ADDITIONAL PENALTIES FOR NON-COMPLIANCE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, the Board of County Commissioners on May 11, 1999, enacted Ordinance 99-44 establishing a Living Wage requirement for specified County service contracts, specified permittees and for County employees, which was codified in the County Code as Section 2-8.9 ("Living Wage Ordinance"); and

WHEREAS, the Board of County Commissioners in the Living Wage Ordinance established an advisory board known as the Living Wage Commission to make recommendations to the Board of County Commissioners regarding the effectiveness of the Living Wage Ordinance; and

WHEREAS, after much discussion by the Living Wage Commission Advisory Board, it is apparent that refining the health benefits requirements and strengthening the penalties for non-compliance will enhance the effectiveness of the Living Wage Ordinance,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 2-8.9 of the Code of Miami-Dade County, Florida, is hereby amended as follows:[1]

Sec. 2-8.9. Living Wage Ordinance For County Service Contracts and County Employees.

* * *

LIVING WAGE

(A) Living Wage Paid

(1) Service contractors.

All Service Contractors as defined by this Chapter, including MIA General Aeronautical Service Permittees (subject to restrictions if any applicable to such permit), performing Covered Services with Miami-Dade County shall pay to all of its employees providing Covered Services, a Living Wage of no less than $8.56 per hour with a health >>benefit plan<< [[~~benefits~~]] as described in this section, or otherwise $9.81 per hour, >>or the current rate for the given year in the manner provided for herein for the adjustment of the Living Wage rate<<.

* * *

(B) Health >>Benefit Plan<< [[~~Benefits~~]].

>>(1)<< For a Covered Employer or the County to comply with the Living Wage provision by choosing to pay the lower wage scale available when a Covered Employer also provides >a<< Health Benefit >>Plan<<, such Health Benefit >>Plan<< shall consist of payment of at least $1.25 per hour towards the provision of a >>Health Benefit Plan<< [[~~health care benefits~~]] for employees and >>, if applicable,<< their dependents. [[~~If the health benefit plan of a covered employer or the County requires an initial period of employment for a new employee to be eligible for health~~

[1] Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

5

~~benefits (eligibility period) such covered employer or the County may qualify to pay the $8.56 per hour wage scale during a new employee's initial eligibility period provided the new employee will be paid health benefits upon completion of the eligibility period.~~]]. >>The minimum amount of payment by a Service Contractor for the provision of a Health Benefit Plan on a per-hour basis will be calculated based on a maximum of a 40-hour work week. Overtime hours will not require additional payments towards the provision of a Health Benefit Plan. If the Service Contractor pays less than the required amount for providing a Health Benefit Plan provided in this section, then the Service Contractor may comply with the Living Wage requirements by paying the difference between the premium it pays for the Health Benefit Plan of the Covered Employee and the minimum amount required by this section for a qualifying Health Benefit Plan. The Service Contractor may require that all employees enroll in a Health Benefit Plan offered by the Service Contractor, provided that the employee is not required to pay a premium contribution for employee-only coverage.<< Proof of the provision of a Health >>Benefit Plan<< [[~~Benefits~~]] must be submitted to the awarding authority to qualify for the wage rate for employees with a Health Benefit Plan. [[~~health benefits~~]]. >>Health Benefit Plan for purposes of complying with this section shall qualify if it includes the benefits contained in a standard health benefit plan meeting the requirements set forth in §627.6699(12)(a) Florida Statutes.

(2) To the extent a Covered Employer seeks to pay the lower Living Wage rate for employers providing a qualifying Health Benefit Plan during the initial eligibility period applicable to new employees, the Living Wage requirement may be complied with as follows during the eligibility period:

(a) Provided the Covered Employer will be providing a qualifying Health Benefit Plan to a new employee upon the completion of such employee's eligibility period required under the Covered Employer's Health Benefit Plan and the Covered Employer has taken the necessary steps to effectuate coverage for such employee, a Covered Employer may only qualify to pay the Living Wage rate applicable to employees with a Health Benefit Plan for a term not to exceed the first ninety (90) days of the new initial employee's eligibility period, said term commencing on the employee's date of hire.

(b) If the Covered Employee is not provided with a qualifying Health Benefit Plan within ninety (90) days of initial hire, then the Covered Employer commencing on the ninety first (91st) day of the new employee's initial eligibility period,

must commence to pay the applicable Living Wage rate for Covered Employees without a Health Benefit Plan and must retroactively pay the Covered Employee the difference between the two Living Wage rates for the term of the eligibility period.<<

* * *

COMPLIANCE AND ENFORCEMENT

* * *

(D) **Sanctions Against Service Contractors**. For violations of this Ordinance as determined pursuant to the procedures set forth by Administrative Order, the County may sanction a Service Contractor for violations of this Ordinance by requiring the Service Contractor to pay wage restitution to the affected employee. The County may also sanction the Service Contractor in at least one of the following additional ways:

(1) Damages payable to the County in the sum of up to $500 for each week for each Covered Employee found to have not been paid in accordance with this Chapter;

(2) The County may suspend or terminate payment under the contract or terminate the contract with the Service Contractor;

(3) The County may declare the Covered Employer ineligible for future service contracts for three (3) years or until all penalties and restitution have been paid in full, whichever is longer. In addition all employers shall be ineligible under this section where principal officers of the employer were principal officers of an employer who has been declared ineligible under this Chapter; and.

(4) All such sanctions recommended or imposed shall be a matter of public record.

>>(5) A Service Contractor who fails to respond to a notice of noncompliance, fails to attend a Compliance Meeting, or who does not timely

request an administrative hearing from an adverse compliance determination made by DBD after a Compliance Meeting shall be deemed not to have complied with the requirements of this section as stated in the notice or determination of non-compliance and, in the case of underpayment of the Living Wage required, an amount sufficient to pay any underpayment shall be withheld from contract proceeds and remitted to the employee and the Service Contractor may be fined the applicable penalty for such underpayment as follows. In the case of underpayment of the required Living Wage rate, the amount equal to the amount of such underpayment may be withheld from the Service Contractor and remitted to the employee and in addition, the Service Contractor may also be fined for such noncompliance as follows:

(A) for the first underpayment, a penalty in an amount equal to 10% of the amount

(B) for the second underpayment, a penalty in an amount equal to 20% thereof;

(C) for the third and successive underpayments, a penalty in an amount equal to 30% thereof.

(D) A fourth violation, shall constitute a default of the subject contract and may be cause for suspension or termination in accordance with the contract's terms and debarment in accordance with the debarment procedures of the County. Monies received from payment of penalties imposed hereunder shall be deposited in a separate account and shall be utilized solely to defray DBD's costs of administering the Living Wage provisions. If the required payment is not made within

a reasonable period of time, the noncomplying Service Contractor and the principal owners thereof shall be prohibited from bidding on or otherwise participating in County Living Wage contracts for a period of three (3) years.<<

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as to form and legal sufficiency: Ernay

Prepared by: ER

Eric A. Rodriguez

Sponsored by Commissioner Natacha Seijas and Commissioner Dorrin D. Rolle