

Memorandum



Date: February 5, 2013

Agenda Item No. 1(F)4

To: Honorable Rebeca Sosa, Chairwoman
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over a horizontal line.

Subject: Sunset Review of County Boards for 2013 – Living Wage Commission

In accordance with the provisions of Section 2-11.40 of the Code of Miami-Dade County, I am transmitting the 2013 Sunset Review of County Boards Report for the Living Wage Commission. The Board approved the attached report at its meeting of November 27, 2012 and has recommended the continuation of its board.

A handwritten signature in black ink, appearing to read "Jack Osterholt", written over a horizontal line.

Jack Osterholt
Deputy Mayor

mayor02213

Date: November 27, 2012

To: Carlos A. Gimenez
Mayor

From: Arthur Rosenberg
Chairperson, Living Wage Commission

Subject: Sunset Review of County Boards for 2013 – Living Wage Commission

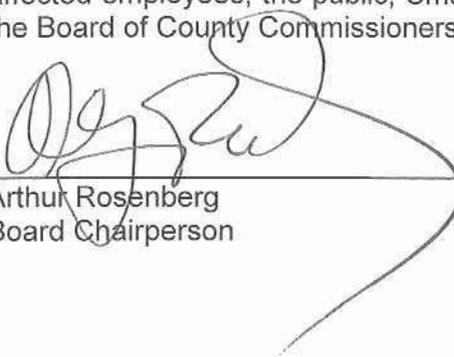
Pursuant to Section 2-11.40 of the Code of Miami-Dade County, I am submitting the 2013 Sunset Review of County Boards Report for the Living Wage Commission for transmittal to the Board of County Commissioners. The Board approved the attached report at its meeting of November 27, 2012.

It is recommended that the Board of County Commissioners approve the continuation of the Living Wage Commission.

BACKGROUND

The Living Wage Commission was established on May 11, 1999 by the Board of County Commissioners through the adoption Ordinance No. 99-44. The purpose of the Living Wage Commission is to review the effectiveness of the Living Wage Ordinance, review certifications submitted by covered employers to the County, and to make recommendations to the Mayor and the County Commission regarding matters relating to the Living Wage Ordinance.

The Living Wage Commission has consistently reviewed the effectiveness of the ordinance and made recommendations to the Mayor and the County Commission with a goal of enhancing effectiveness of the ordinance. In pursuit of this goal the Living Wage Commission has reviewed reports developed by departments charged with enforcement of the ordinance and made recommendations to the staff for procedural changes making the reports more comprehensive and enforcement more effective. Recommendations by the Living Wage Commission to the Board of County Commissioners have led to the adoption of amendments to the ordinance better defining health insurance requirements; revising and making progressive, penalty provisions for violators of the ordinance; and expanding the scope of the ordinance to include "in-warehouse cargo handlers." Recommendations from the Living Wage Commission led to a study of the effects of the Living Wage Ordinance on the Miami-Dade community. The study, commissioned by Commissioner Seijas, and conducted by professors at Florida International University, confirmed the beneficial effects on the community. Since its establishment, the Living Wage Commission has provided the public with confidence that affected employees' right to a living wage under the ordinance will be preserved and protected. In summary, the Living Wage Commission has performed an essential role as a conduit between the business community; the affected employees; the public; Small Business Development staff; the Jackson Health Trust staff; and the Board of County Commissioners.



Arthur Rosenberg
Board Chairperson

**SUNSET REVIEW QUESTIONNAIRE
MIAMI-DADE COUNTY BOARDS
2013**

I. GENERAL INFORMATION

1. Name of Board reporting: Living Wage Commission
2. Indicate number of board members, terms of office, and number of vacancies:
Number of Board Members: 10
Terms of Office: Two (2) years, but no more than eight years. Terms of office coincide with the term of the appointing Commissioner and Mayor.
Number of Vacancies: 5
3. Identify number of meetings and members' attendance (Attach records reflecting activity from **Jan. 1, 2011** through **December 31, 2012**):
Number of Meetings: 8
Number of Meetings with a Quorum: 7
Attendance Records: See Attachment A
4. What is the source of your funding? Staff and supplies for the Living Wage Commission are provided for in the budget of Small Business Development, under the Business Affairs Division of the Department of Regulatory and Economic Resources.
5. Date of Board Creation: May 11, 1999
6. Attach a copy of the ordinance creating the Board (Please include all subsequent amendments).
See Attachment B
7. Include the Board's Mission Statement or state its purpose:
The purpose of the Living Wage Commission is to review the effectiveness of the Living Wage Ordinance, review certifications submitted by covered employers to the County, and to make recommendations to the Mayor and the County Commission regarding matters relating to the Living Wage Ordinance.
8. Attach the Board's standard operating procedures, if any. N/A
9. Attach a copy of the Board's By-Laws, if any. N/A
10. Attach a copy of the Board minutes approving the Sunset Review Questionnaire, **including a vote of the membership**.
See Attachment C

II. EVALUATION CRITERIA

1. Is the Board serving the purpose for which it was created? (Please provide detailed information) The Board is serving the purpose for which it was created by reviewing the effectiveness of Section 2-8.9 of the Miami-Dade County Code.
2. Is the Board serving current community needs? (Please provide detailed information) The Board is serving current community needs by ensuring that the Living Wage Ordinance is applied fairly.
3. What are the Board's major accomplishments?
 - a. Last 24 months. The Board continuously monitors the implementation of Living Wage Ordinances through the review of investigations and reports from Small Business Development and the Miami-Dade Aviation department at Commission

meetings. It has consistently worked to improve the ordinance by serving as a forum for employees, employers and the general public, thereby giving them an opportunity to express their concerns and provide valuable feedback.

b. Since established. The Board has consistently reviewed the effectiveness of the ordinance and made recommendations to the Mayor and the BCC with a goal of enhancing the effectiveness of the ordinance. In pursuit of this goal the Board has reviewed reports developed by departments charged with enforcement of the ordinance and made recommendations to the staff for procedural changes making the reports more comprehensive and enforcement more effective. Recommendations by the Board to the BCC have led to the adoption of amendments to the ordinance better defining health insurance requirements; revising and making progressive penalty provisions for violators of the ordinance; and expanding the scope of the ordinance to include "in-warehouse cargo handlers." Recommendations from the Board led to a study of the effects of the Living Wage Ordinance on the Miami-Dade community. The study, commissioned by Commissioner Seijas, and conducted by professors at Florida International University, confirmed the beneficial effects on the community. Since its establishment, the Board has provided the public with confidence that affected employees' right to a living wage under the ordinance will be preserved and protected. In summary, the Board has performed an essential role as a conduit between the business community; the affected employees; the public; the Department of Small Business Development staff; the Jackson Health Trust staff; and the BCC.

4. Is there any other board, either public or private, which would better serve the function of this board? There is no other public or private board that we are aware of that would better serve the function of the Living Wage Commission Advisory Board.
5. Should the ordinance creating the Board be amended to better enable the Board to serve the purpose for which it was created? (If "Yes", attach proposed changes) No
6. Should the Board's membership requirements be modified? No
7. What is the operating cost of the Board, both direct and indirect? (Report on FY 2011 and FY 2012) \$1,783 per year for staff support and supplies.
8. Describe the Board's performance measures developed to determine its own effectiveness in achieving its stated goals. The Board meets on a quarterly basis to review reports of all contractors in violation of Living Wage provisions. This performance measure allows the Board to gauge its effectiveness in ensuring that the Living Wage is appropriately applied to and enforced on all contracts for covered services as defined in the Ordinance.

Living Wage Commission Meetings and Member Attendance

NAME	January 1/27/11	April 4/28/11	July 7/28/11	October 10/27/11	January 1/26/12	April 4/26/12	July 7/26/12	November 11/27/12
Gary Waters, Chairman (Resigned 3/16/11)	X							
Arthur Rosenberg, Chairman	X	X	X	X	X	X	X	X
Dennis Caserta, Vice Chairman	X	X	X	X	X	X	Excused	X
Jonathan L. Fried (Appointed 2/1/11)		X	X	X	X	X	Excused	X
Steve Hope (Appointed 1/20/11)		X	X		X	X	Excused	Excused
Angelique Lambert-Dawkins	X		Excused	X	X	X		
Alex Lichtenstein (Resigned 5/31/11)		X						
Glenford Malcolm, Jr.	X	X	X	Excused	X	Excused	X	X
Roslind Martin	X			X		X		
Annette E. Masdeu-Vergara	X	X			X			X
Lovette McGill	X	X	Excused	X	X	X	X	X
Paola Pierre	X	X	x	Excused	X		X	X



**Miami-Dade Legislative Item
File Number: 991160**

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File Number: 991160	File Type: Ordinance	Status: Adopted
Version: 0	Reference: 99-44	Control: County Commission
File Name: ORDINANCE RELATING TO LIVING WAGE ON COUNTY SERVICE CONTRACT		Introduced: 5/4/1999
Requester: NONE	Cost:	Final Action: 5/11/1999
Agenda Date: 5/11/1999		Agenda Item Number: 4BSUBSTITUTE

Notes:
Title: ORDINANCE CREATING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA ESTABLISHING A LIVING WAGE REQUIREMENT FOR COUNTY SERVICE CONTRACTS AND FOR COUNTY EMPLOYEES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

Indexes: CONTRACTS LIVING WAGE	Sponsors: Natacha Seijas Millan , Prime Sponsor Miguel Diaz de la Portilla , Co-Sponsor Dorrin D. Rolle , Co-Sponsor Javier D. Souto , Co-Sponsor
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Sunset Provision: No	Effective Date:	Expiration Date:
Registered Lobbyist: None Listed		

LEGISLATIVE HISTORY

Acting Body	Date	Agenda Item	Action	Sent To	Due Date	Returned	Pass/Fail
Board of County Commissioners	5/11/1999	4B SUBSTITUTE	Adopted				P
<p>REPORT: In response to Commissioner Carey-Shuler's inquiry, the Assistant County Attorney advised that State and Federal Agencies that provided services to the county would not be required to comply with the provisions of the foregoing ordinance unless the agency was responding to an RFP for one of the services specified within the ordinance. Commissioner Diaz de la Portilla spoke in support of the foregoing ordinance and addressed concerns raised regarding the impact implementation of the foregoing ordinance would have on the county's budget. He stated the county's budget would best benefit from improvement of oversight, ensuring that the bid process was truly competitive and exposing and correcting fraud, mismanagement and corruption. Commissioner Moss requested the county investigate using any additional resources available for the purpose of hiring the unemployed in the community.</p>							
County Attorney	5/4/1999		Assigned	Eric A. Rodriguez			

LEGISLATIVE TEXT

TITLE

ORDINANCE CREATING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA ESTABLISHING A LIVING WAGE REQUIREMENT FOR COUNTY SERVICE CONTRACTS AND FOR COUNTY EMPLOYEES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BODY

WHEREAS, the County awards private firms contracts to provide services for the public. The County also provides financial assistance to promote economic development and job growth. Such expenditures of public money also serve the public purpose by creating jobs, expanding the County's economic base, and promoting economic security for all citizens;

WHEREAS, such public expenditure should be spent only with deliberate purpose to promote the creation of full-time, permanent jobs that allow citizens to support themselves and their families with dignity. Sub-poverty level wages do not serve the public purpose. Such wages instead place an undue burden on taxpayers and the community to subsidize employers paying inadequate wages by providing their employees social services such as health care, housing, nutrition, and energy assistance. The County has a responsibility when spending public funds to set a community standard that permits full-time workers to live above the poverty line. Therefore, contractors and subcontractors of County service contracts should pay their employees nothing less than the living wage herein described; and

WHEREAS, in addition to requiring living wages for County services provided by private firms, the County wishes to serve as an example by providing a living wage to County employees to be determined consistent with budgetary, pay plan and bargaining unit considerations.

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 created as follows:
 Sec. 2-8.9. Living Wage Ordinance For County Service Contracts and County Employees.

DEFINITIONS

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(A) "Applicable Department" means the County department using the service contract.

(B) "County" means the government of Miami-Dade County or the Public Health Trust.

(C) "Covered Employee" means anyone employed by any Service Contractor, as further defined in this Chapter either full or part time, as an employee with or without benefits that is involved in providing service pursuant to the Service Contractor's contract with the County.

(D) "Covered Employer" means any and all Service Contractors and subcontractors of Service Contractors.

(E) "Service Contractor" is any individual, business entity, corporation (whether for profit or not for profit), partnership, limited liability company, joint venture, or similar business that is conducting business in Miami-Dade County or any immediately adjoining county and meets the following criteria:

(1) the Service Contractor is paid in whole or part from one or more of the County's general fund, capital project funds, special revenue funds, or any other funds either directly or indirectly, whether by competitive bid process, informal bids, requests for proposals, some form of solicitation, negotiation, or agreement, or any other decision to enter into a contract;

(2) the Service Contractor is engaged in the business of, or part of, a contract to provide, a subcontractor to provide, or similarly situated to provide, Covered Services, either directly or indirectly for the benefit of the County. However, this does not apply to contracts related primarily to the sale of products or goods; or

(3) the Service Contractor is a General Aeronautical Service Permittee (GASP) at Miami International Airport.

(F) "Covered Services" are the type of services purchased by the County that are subject to the requirements of the Living Wage Ordinance which are one of the following:

(1) County Service Contracts

Such Covered Services are contracts involving the County's expenditure of over \$100,000 per year for the following types of services:

(i) food preparation and/or distribution;

(ii) security services;

(iii) routine maintenance services such as custodial, cleaning, refuse removal, repair, refinishing, and recycling;

(iv) clerical or other non-supervisory office work, whether temporary or permanent;

(v) transportation and parking services including airport and seaport services;

(vi) printing and reproduction services; and,

(vii) landscaping, lawn, and/or agricultural services.

(2) GASP Permittee

Any service that is provided by a GASP permittee at MIA is a Covered Service without reference to any contract value.

(3) Services Performed by County Employees

Should any services that are being performed by County employees at the time this Ordinance is enacted be solicited in the future by the County to be performed by a Service Contractor, such services shall be Covered Services subject to this Ordinance regardless of the value of the Contract.

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 health benefits as described in this section, or otherwise \$9.81 per hour.

(2) County Employees

For County employees under the County pay plan, the County will begin to pay a living wage consistent with the goals of this Ordinance on a phase-in basis beginning in the 2000-2001 County budget year increasing on an annual basis incrementally so that the Living Wage is fully implemented for County employees in the 2002-2003 County budget year as adjusted for inflation pursuant to subsection (C) below. Thereafter, the Living Wage to be paid by the County to its employees shall not be subject to the annual indexing required under subsection (C) below and instead is subject to negotiation within the collective bargaining structure.

(B) Health Benefits. 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 Health Benefits, such Health Benefits shall consist of payment of at least \$1.25 per hour towards the provision of health care benefits for employees and 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 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. Proof of the provision of Health Benefits must be submitted to the awarding authority to qualify for the wage rate for employees with health benefits.

(C) Indexing. The Living Wage will be annually indexed to inflation as defined by the Consumer Price Index calculated by the U.S. Department of Commerce as applied to the County of Miami-Dade. The first indexing adjustment shall occur for the 2001-2002 County budget year using the Consumer Price Index figures provided for the calendar year ended December 31, 2000, and thereafter on an annual basis.

(D) Certification required before payment. Any and all contracts for Covered Services shall be void, and no funds may be released, unless prior to entering any agreement with the County for a service contract, the employer certifies to the Applicable Department that it will pay each of its employees no less than the living wage described in (A). A copy of this certificate must be made available to the public upon request. The certificate, at a minimum, must include the following:

(1) the name, address, and phone number of the employer, a local contact person, and the specific project for which the service contract is sought;

(2) the amount of the contract and the Applicable Department the contract will serve;

(3) a brief description of the project or service provided;

(4) a statement of the wage levels for all employees; and

(5) a commitment to pay all employees a living wage, as defined by paragraph (A).

(E) Observance of other laws. Every employee shall be paid not less than bi-weekly, and without subsequent deduction or rebate on any account (except as such payroll deductions as are directed or permitted by law or by a collective bargaining agreement). The employer shall pay employees wage rates in accordance with federal and all other applicable laws such as overtime and similar wage laws.

(F) Posting. A copy of the living wage rate shall be kept posted by the employer at the site of the work in a prominent place where it can easily be seen by the employees and shall be supplied to the employee within a reasonable time after a request to do so. In addition, Service Contractors shall forward a copy of the requirements of this Ordinance to any person submitting a bid for a subcontract on any Service Contract covered by this Chapter. Posting requirements will not be required where the employer prints the following statements on the front of the individual's first paycheck and every six months thereafter: "You are required by Miami-Dade County law to be paid at least [insert applicable rate under this Chapter] dollars an hour. If you are not paid this hourly rate, contact your supervisor or a lawyer." All notices will be printed in English, Spanish, and Creole.

(G) Collective Bargaining. Nothing in this Chapter shall be read to require or authorize any employer to reduce wages set by a collective bargaining agreement or as required under any prevailing wage law.

IMPLEMENTATION

(A) Procurement Specifications. The Living Wage shall be required in the procurement specifications for all County service contracts for Covered Services on which bids or proposals shall be solicited on or after the effective date of this Ordinance. The procurement specifications for applicable contracts shall include a requirement that Service Contractors agree to produce all documents and records relating to payroll and compliance with this Ordinance upon request from the Applicable Department or as otherwise provided by the County Manager by Administrative Order.

(B) Information distributed. All requests for bids or requests for proposals for service contracts, whether advertised or informally solicited, shall include appropriate information about the requirements of this Ordinance.

(C) Maintenance of Payroll Records. Each Covered Employer shall maintain payrolls for all Covered Employees and basic records relating thereto and shall preserve them for a period of three (3) years. The records shall contain:

(1) the name and address of each Covered employee;

(2) the job title and classification;

(3) the number of hours worked each day;

(4) the gross wages earned and deductions made;

(5) annual wages paid;

(6) a copy of the social security returns and evidence of payment thereof;

(7) a record of fringe benefit payments including contributions to approved plans; and

(8) any other data or information the Living Wage Commission should require from time to time.

(D) Reporting payroll. Every six (6) months, the Covered Employer shall file with the Applicable Department a complete payroll showing the employer's payroll records for each Covered Employee working on the contract(s) for Covered Services for one payroll period. Upon request, the Covered Employer shall produce for inspection and copying its payroll records for any or all of its Covered Employees for the prior three (3) year period. It shall be the responsibility of the Applicable Department to examine all payrolls for compliance within sixty (60) days of receipt.

(E) Reporting employment activity. Every six (6) months, the Covered Employer will file with the Applicable Department reports of employment activities to be made publicly available, including:

(1) race and gender of employees hired and terminated; and

(2) zip code of employees hired and terminated; and

(3) wage rate of employees hired and terminated.

COMMISSION ON A LIVING WAGE, ESTABLISHMENT AND RESPONSIBILITY

(A) Establishment. The County Commission shall establish a fifteen (15) person commission entitled the "Living Wage Commission" the purpose of which shall be to review the effectiveness of this Chapter, review certifications submitted by Covered Employers to the County, review complaints filed by employees and to make recommendations to the County Mayor and the County Commission regarding the above listed matters.

(B) Members. The Commission shall be composed of fifteen (15) members provided that no more than six (6) members are representatives of the business community or affected employer groups selected for a term of two (2) years in the following manner:

(1) Two (2) members of the commission shall be selected by the County Mayor; and

(2) One (1) member shall be selected by each of the County Commissioners.

(C) Meetings. The Living Wage Commission shall meet quarterly and in special session as required. All meetings of the Living Wage Commission shall be open to the public and will allow for public testimony on policies or conduct relating to this Chapter.

(D) Staff Support. The County Manager as more fully delineated by Administrative Order shall provide staff support for the compliance and enforcement of this Ordinance and as is necessary to support the activities of the Living Wage Commission.

COMPLIANCE AND ENFORCEMENT

(A) Service Contractor to Cooperate. The Service Contractor shall permit County employees, agents, or representatives to observe work being performed at, in, or on the project or matter for which the Service Contractor has a contract. The County representatives may examine the books and records of the Service Contractor relating to employment and payroll to determine if the Service Contractor is in compliance with the provisions of this Chapter.

(B) Complaint Procedures and Sanctions. An employee who believes that this Chapter applies or applied to him or her and the Service Contractor is or was not complying with the requirements of this Chapter has a right to complain by filing a written complaint. The County Manager shall establish by Administrative Order the procedures and requirements for filing a complaint and for the processing and resolution of complaints under this Ordinance including the sanctions to be imposed for violations of this Ordinance. The County Manager shall also by Administrative Order establish a procedure applicable to complaints by County employees regarding non-compliance with this Ordinance.

(C) Private Right of Action Against Service Contractors. Any Covered Employee of a Service Contractor, or any person who was formerly a Covered Employee of a Service Contractor, may instead of the County administrative procedure set forth in this Ordinance but not in addition to such procedure, bring an action by filing suit against the Covered Employer in any court of

competent jurisdiction to enforce the provisions of this Chapter and may be awarded back pay, benefits, attorney's fees, and costs. The applicable statute of limitations for such a claim will be two (2) years as provided in Florida Statutes section 95.11(4) (c) in an action for payment of wages. The court may also impose sanctions on the employer, including those persons or entities aiding or abetting the employer, to include wage restitution to the affected employee and damages payable to the Covered employee in the sum of up to \$500 for each week each employer is found to have violated this Chapter.

(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.

(E) Retaliation and Discrimination Barred. An employer shall not discharge, reduce the compensation or otherwise discriminate against any employee for making a complaint to the Living Wage Commission, the Applicable Department, the County, or otherwise asserting his or her rights under this Chapter, participating in any of its proceedings or using any civil remedies to enforce his or her rights under the Chapter. Allegations of retaliation or discrimination, if found by the County Manager pursuant to procedures set forth by Administrative Order or by a court of competent jurisdiction under paragraph (C), shall result in an order of restitution and reinstatement of a discharged employee with back pay to the date of the violation or such other relief as deemed appropriate. In addition, the County Manager or the Court may impose an additional sanction of up to \$500 for each week since the Covered Employee was discharged as a result of prohibited retaliation under this Chapter.

(F) Remedies Herein Non-Exclusive. No remedy set forth in this Chapter is intended to be exclusive or a prerequisite for asserting a claim for relief to enforce the right under this Chapter in a court of law.

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 one hundred eighty days (180) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

Section 5. This ordinance does not contain a sunset provision.

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**Miami-Dade Legislative Item
File Number: 001631**

Print this page

File Number: 001631	File Type: Ordinance	Status: Adopted
Version: 0	Reference: 00-85	Control: County Commission
File Name: AMENDMENT TO LIVING WAGE ORDINANCE		
Requester: NONE	Cost:	Introduced: 6/13/2000
Agenda Date: 7/6/2000		Final Action: 7/6/2000
		Agenda Item Number: 4C

Notes:

Title: ORDINANCE AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY (THE LIVING WAGE ORDINANCE) TO CLARIFY DEFINITIONS AND MAKE TECHNICAL CORRECTIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

Indexes: LIVING WAGE	Sponsors: Natacha Seijas Millan , Prime Sponsor
Sunset Provision: No	Effective Date:
	Expiration Date:

Registered Lobbyist: None Listed

LEGISLATIVE HISTORY

Acting Body	Date	Agenda Item	Action	Sent To	Due Date	Returned	Pass/Fail
Board of County Commissioners	7/6/2000	4C	Adopted				P
Board of County Commissioners	6/20/2000	13J	Adopted on first reading		7/6/2000		P
County Attorney	6/13/2000		Assigned	Eric A. Rodriguez			

LEGISLATIVE TEXT

TITLE

ORDINANCE AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY (THE LIVING WAGE ORDINANCE) TO CLARIFY DEFINITIONS AND MAKE TECHNICAL CORRECTIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BODY

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; and

WHEREAS, it is necessary to clarify certain definitions and make other technical corrections for the effectiveness and proper administration 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.

DEFINITIONS

(C) "Service Contractor" is any individual, business entity, corporation (whether for profit or not for profit), partnership, limited liability company, joint venture, or similar business that is conducting business in Miami-Dade County or any immediately adjoining county and meets the following criteria:

(1) the Service Contractor is paid in whole or part from one or more of the County's general fund, capital project funds, special revenue funds, or any other funds either directly or indirectly, whether by competitive bid process, informal bids, requests for proposals, some form of solicitation, negotiation, or agreement, or any other decision to enter into a contract;

(2) the Service Contractor is engaged in the business of, or part of, a contract to provide, a subcontractor to provide, or similarly situated to provide, Covered Services, either directly or indirectly for the benefit of the County[. However, this does not apply to contracts related primarily to the sale of products or goods]; or

(3) the Service Contractor is a General Aeronautical Service Permittee (GASP) at Miami International Airport.

(F) "Covered Services" are [(the type of)] services purchased by the County that are subject to the requirements of the Living Wage Ordinance which are one of the following:

(1) County Service Contracts

[(Such Covered Services are)] [(c)]>>C<< awarded by the County that involve a total contract value<< [(involving the County's expenditure)] of over \$100,000 per year for the following [(types of)] services:

(i) food preparation and/or distribution;

(ii) security services;

(iii) routine maintenance services such as custodial, cleaning, refuse removal, repair, refinishing, and recycling;

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- (v) clerical or other non-supervisory office work, whether temporary or permanent;
- (v) transportation and parking services including airport and seaport services;
- (vi) printing and reproduction services; and,
- (vii) landscaping, lawn, and/or agricultural services.

LIVING WAGE

(D) Certification required before payment. Any and all contracts for Covered Services shall be void, and no funds may be released, unless prior to entering any agreement with the County for a service contract, the >>Covered << [[e]]>>E<>L<>W<***

(5) a commitment to pay all employees a [[i]]>>L<>W<***

(F) Posting. A copy of the [[i]]>>L<>W<***

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 within 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.

Section 5. This ordinance does not contain a sunset provision.

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.

□

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**Miami-Dade Legislative Item
File Number: 021992**

Print this page

File Number: 021992	File Type: Ordinance	Status: Adopted
Version: 0	Reference: 02-147	Control: County Commission
File Name: AMEND SEC 2-8.9 LIVING WAGE TO INCLUDE SRVS AT AVIATION DEPT		Introduced: 6/27/2002
Requester: NONE	Cost:	Final Action: 9/12/2002
Agenda Date: 9/12/2002		Agenda Item Number: 4B

Notes:
Title: ORDINANCE AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY (THE LIVING WAGE ORDINANCE) TO CLARIFY COVERAGE OF THE ORDINANCE TO INCLUDE SERVICE PROVIDERS AT AVIATION DEPARTMENT FACILITIES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE [SEE AGENDA ITEM NO. 9A2]

Indexes: ORDINANCE AMENDING LIVING WAGE	Sponsors: Natacha Seijas , Prime Sponsor Jimmy L. Morales , Co-Sponsor
Sunset Provision: No	Effective Date:
Registered Lobbyist: None Listed	Expiration Date:

LEGISLATIVE HISTORY

Acting Body	Date	Agenda Item	Action	Sent To	Due Date	Returned	Pass/Fail
Board of County Commissioners	9/12/2002	4B	Adopted				P
<p>REPORT: Chairperson Margolis relinquished the Chair to Commissioner Carey-Shuler and left the Chamber. The public hearing was opened by Commissioner Carey-Shuler on the foregoing proposed ordinance and the following individuals appeared and spoke in support of the foregoing ordinance: Mr. Gary Waters, 1425 NW 36 Street Dr. Thomas Pender, Vice Chair of The Living Wage Commission Advisory Board. Attorney Arthur Rosenberg, PA and Member of The Living Wage Advisory Board Hearing no other persons in connection with the foregoing item, the public hearing was closed. Commissioner Seijas noted the foregoing ordinance was indicative of a labor of love and had been thoroughly reviewed and analyzed to ensure fairness. She asked that the related Agenda Item 9A2 be considered with Item 4B. Responding to Commissioner Cancio's comments that all businesses must adopt consistent laws including the airport, Commissioner Seijas noted the language of the proposed ordinance stated "across the board level playing field". Hearing no further discussion, the Board proceeded to vote on the foregoing proposed ordinance as presented.</p>							
Transportation Infrastructure & Environment Cmte	9/4/2002	2C	Forwarded to BCC with a favorable recommendation				P
<p>REPORT: Commissioner Seijas, sponsor, appeared before the committee in support of the foregoing proposed ordinance. The Assistant County Attorney confirmed that the foregoing proposed ordinance did not provide for exemptions and included airlines providing a service, such as fuel services, to other airlines. Staff responded to Commissioner Cancio's inquiry regarding the fiscal impact of the proposed ordinance. Commissioner Cancio noted at the Board's meeting of July 23, 2002, he had made a motion to defer an item requesting approval to advertise for bids on the gas matter, for a period of 12 months. He requested clarification as to whether that motion provided for the extension of the existing contract. Assistant County Attorney Abigail Price Williams advised that a specific motion would have to be made by the Board of County Commissioners to approve an extension of the current agreements, which would expire in October 2002. Commissioner Cancio requested a resolution be prepared that would extend the gas contract for 12 months.</p>							
Transportation Infrastructure & Environment Cmte	7/16/2002	2E	Deferred				
Board of County Commissioners	7/11/2002	13P	Adopted on first reading		9/12/2002		P
Board of County Commissioners	7/9/2002	13P	Carried over.		7/11/2002		
<p>REPORT: (See Legistar Meeting Key Number 1144).</p>							
County Attorney	6/27/2002		Assigned	Eric A. Rodriguez			

LEGISLATIVE TEXT

TITLE

ORDINANCE AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY (THE LIVING WAGE ORDINANCE) TO CLARIFY COVERAGE OF THE ORDINANCE TO INCLUDE SERVICE PROVIDERS AT AVIATION DEPARTMENT FACILITIES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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BODY

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; and

WHEREAS, it is necessary to clarify the coverage of the Ordinance to include service providers at Aviation Department facilities to ensure 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:
 Sec. 2-8.9. Living Wage Ordinance For County Service Contracts and County Employees.

DEFINITIONS

(C) "Service Contractor" is any individual, business entity, corporation (whether for profit or not for profit), partnership, limited liability company, joint venture, or similar business that is conducting business in Miami-Dade County or any immediately adjoining county and meets the following criteria:

(1) the Service Contractor is paid in whole or part from one or more of the County's general fund, capital project funds, special revenue funds, or any other funds either directly or indirectly, whether by competitive bid process, informal bids, requests for proposals, some form of solicitation, negotiation, or agreement, or any other decision to enter into a contract;

(2) the Service Contractor is engaged in the business of, or part of, a contract to provide, a subcontractor to provide, or similarly situated to provide, Covered Services, either directly or indirectly for the benefit of the County; or

(3) the Service Contractor is a General Aeronautical Service Permittee (GASP) >>or otherwise provides any of the Covered Services as defined herein at any Miami-Dade County Aviation Department facility including << [[at]] Miami International Airport, >>pursuant to a permit, lease agreement or otherwise.<<

(F) "Covered Services" [[are services purchased by the County that are subject to the requirements of the Living Wage Ordinance which]] are >>any<< ***

(2) [[GASP Permittee]] >>Service Contractors at Aviation Department Facilities<<
 Any of the following services provided by a [[GASP Permittee at MIA]] >>Service Contractor at a Miami-Dade County Aviation Department Facility<< is a Covered Service without reference to any contract value:

>>(A) Ramp Service:

Guiding aircraft in and out of Airport; aircraft loading and unloading positions, designated by the Aviation Department; placing in position and operating passenger, baggage and cargo loading and unloading devices, as required for the safe and efficient loading and unloading of passengers, baggage and cargo to and from aircraft; performing such loading and unloading; providing aircraft utility services, such as air start and cabin air; fueling; catering; towing aircraft; cleaning of aircraft; delivering cargo, baggage and mail to and from aircraft to and from locations at any Miami-Dade County Aviation Department facility; and providing such other ramp services approved in writing by the Aviation Department;

(B) Porter Assistance Services:

Handling and transportation through the use of porters, or other means, of baggage and other articles of the passengers of contracting air carriers or aircraft operators, upon request of the passenger, in public access areas of the Airport Terminal Complex. The Living Wage shall not apply to employees performing tip-related porter assistance services, including curbside check-in;

(C) Passenger Services:

Preparing such clearance documents for the baggage and cargo of aircraft passengers, as may be required by all governmental agencies; furnishing linguists for the assistance of foreign-speaking passengers; passenger information assistance; arranging in-flight meals for departing aircraft with persons or companies authorized by the Department to provide such meals; and providing assistance to handicapped passengers;

(D) Dispatching and Communications Services:

Providing ground to aircraft radio communication service; issuing flight clearances; sending and receiving standard arrival, departure and flight plan messages with appropriate distribution of received messages; providing standby radio flight watch for aircraft in flight; and calculation of fuel loads and take-off and landing weights for aircraft;

(E) Meteorological Navigation Services:

Providing information based on the analysis and interpretation of weather charts; planning aircraft flights in accordance with the latest accepted techniques; providing appropriate prognostic weather charts; and generally providing information appropriate for enroute aerial navigation;

(F) Ticket Counter and Operations Space Service:

The operation of ticket counter and airlines' operations space; ticket checking, sales and processing; weighing of baggage; operation of an information, general traffic operations and communications office for air carriers and aircraft operators with whom the Service Contractor has contracted to supply such

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services;

(G) Janitorial Services;

(H) Delayed Baggage Services;

(I) Security Services unless provided by federal government or pursuant to a federal government contract; and,

(J) Any other type of service that a GASP permittee is authorized to perform at any Miami-Dade County Aviation Department Facility will be considered a Covered Service, regardless of whether the service is performed by a GASP permittee or other Service Contractor.<<

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 November 1, 2002, unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

Section 5. This ordinance does not contain a sunset provision.

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

Section 1. The County Manager is hereby directed to provide the Community Empowerment and Economic Revitalization Committee (CEERC) a report regarding the administrative decision to require cargo companies operating at Miami International Airport to comply with Living Wage Ordinance requirements for in-warehouse cargo employees at the meeting of May 10, 2005. The report shall at least identify the specific provisions of the Living Wage Ordinance being applied to in-warehouse cargo services and if deemed advisable, include suggested language to clarify the application of the Living Wage Ordinance and note any additional areas of concern for consideration by CEERC. The County Manager shall also invite members of the Living Wage Commission to attend and provide comments on these issues at the May 10, 2005 CEERC meeting.

Section 2. This Board urges the Florida Legislature to adopt minimum wage legislation consistent with the intent of the constitutional amendment.

Section 3. The Clerk of the Board is directed to transmit a certified copy of this resolution to the Chair and members of the Miami-Dade County State Legislative Delegation.

Section 4. This Board directs the County's state lobbyists to advocate for the passage of the legislation set forth in section 2 above, and directs the Office of Intergovernmental Affairs to include this item in the state legislative package.

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Miami-Dade Legislative Item
File Number: 061487

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File Number: 061487	File Type: Ordinance	Status: Adopted
Version: 0	Reference: 06-67	Control:
File Name: LIVING WAGE		Introduced: 5/11/2006
Requester: NONE	Cost:	Final Action: 5/9/2006
Agenda Date: 5/9/2006		Agenda Item Number: 71

Notes: THIS IS FINAL VERSION AS ADOPTED. (also see 060830)
 Title: 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 [SEE ORIGINAL ITEM UNDER FILE NO. 060830]

Indexes: LIVING WAGE	Sponsors: Natacha Seijas , Prime Sponsor Dorrin D. Rolle , Co-Sponsor
Sunset Provision: No	Effective Date: Expiration Date:
Registered Lobbyist: None Listed	

LEGISLATIVE HISTORY

Acting Body	Date	Agenda Item Action	Sent To	Due Date Returned	Pass/Fail
County Attorney	5/11/2006	Assigned	Eric A. Rodriguez	5/11/2006	
Board of County Commissioners	5/9/2006	71 Amended Adopted as amended			P

REPORT: During consideration of changes to today's agenda, Commissioner Rolle requested to be listed as a co-sponsor of the foregoing proposed ordinance. Assistant County Attorney Eric Rodriguez advised the Living Wage Advisory Board had recommended the foregoing proposed ordinance be amended to add the following language to Section B, Health Benefit Plan, on handwritten page 6: "..., provided that the employee is not required to pay a premium contribution for employee-only coverage." The sentence would now read: "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." It was moved by Commissioner Seijas that the foregoing proposed ordinance be adopted as amended. This motion was seconded by Commissioner Jordan for discussion. Commissioner Sosa expressed concern regarding the cost of health insurance and the impact on small businesses. She noted while the County had a responsibility to offer health care options, she questioned who would be affected by the foregoing proposed ordinance. Responding to Commissioner Sosa, Assistant County Attorney Rodriguez advised the foregoing proposed ordinance did not mandate that any of the contractors who were subject to the ordinance, pay health insurance. Commissioner Edmonson asked what would be the effect if the language on handwritten page 8 under (D) relating to the violation was switched from "may" to "shall." Assistant County Attorney Rodriguez advised the difference between "may" and "shall" would be to remove the discretion from the Department of Business Development in terms of imposing a violation and granting a notice of violation. Commissioner Moss said small businesses and non-profit organizations were experiencing a health care crisis because of spiraling health care costs. Commissioner Seijas asked Assistant County Attorney Rodriguez to discuss with the Living Wage Advisory Board the possibility of joining with Miami-Dade County and utilizing the County's insurance providers. Referring to health care in general, Commissioner Barreiro suggested the Board study Massachusetts' model for developing a statewide insurance coverage plan. Upon being put to a vote, the motion to adopt the foregoing proposed ordinance passed by a vote of 11-0, (Commissioners Sosa and Souto were absent).

LEGISLATIVE TEXT

TITLE

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

BODY

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,

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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 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.

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.

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**Miami-Dade Legislative Item
File Number: 063143**

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File Number: 063143	File Type: Ordinance	Status: Adopted
Version: 0	Reference: 06-151	Control:
File Name: LIVING WAGE ORD.-IN-WAREHOUSE CARGO AT AVIATION FACILITIES		Introduced: 10/31/2006
Requester: NONE	Cost:	Final Action: 10/10/2006
Agenda Date: 10/10/2006		Agenda Item Number: 7E
Notes: THIS IS FINAL VERSION AS ADOPTED. (also see 061280)		
Title: ORDINANCE AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY (THE LIVING WAGE ORDINANCE) TO ADD IN-WAREHOUSE CARGO HANDLING AT MIAMI-DADE COUNTY AVIATION DEPARTMENT FACILITIES AS A COVERED SERVICE; AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE [SEE ORIGINAL ITEM UNDER FILE NO. 061280]		
Indexes: LIVING WAGE	Sponsors: Natacha Seijas , Prime Sponsor Audrey M. Edmonson , Co-Sponsor Barbara J. Jordan , Co-Sponsor Katy Sorenson , Co-Sponsor	
Sunset Provision: No	Effective Date:	Expiration Date:
Registered Lobbyist: None Listed		
LEGISLATIVE HISTORY		
Acting Body	Date	Agenda Item Action
County Attorney	10/31/2006	Assigned
Board of County Commissioners	10/10/2006	7E Amended Adopted as amended
Sent To	Due Date	Returned
Eric A. Rodriguez	10/31/2006	
		Pass/Fail
		P
REPORT: County Attorney Greenberg read the foregoing proposed ordinance into the record. Attorney Miguel Diaz de la Portilla, 2525 Ponce De Leon Boulevard, appeared before the Board and expressed concern regarding the 90-day effective date. He asked the Commission to consider allowing some relief for the small minority-owned businesses. The Board adopted the foregoing ordinance as amended to include a 90-Day Effective Date.		
LEGISLATIVE TEXT		
TITLE		
ORDINANCE AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY (THE LIVING WAGE ORDINANCE) TO ADD IN-WAREHOUSE CARGO HANDLING AT MIAMI-DADE COUNTY AVIATION DEPARTMENT FACILITIES AS A COVERED SERVICE; AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE		
BODY		
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, the Living Wage Ordinance includes ramp services such as loading and unloading cargo to and from aircraft at Miami-Dade Aviation Department ("MDAD") facilities as a covered service; and WHEREAS, since the loading and unloading of cargo to and from aircraft is already a covered service, it is advisable to add in-warehouse cargo handling as a specified covered service and thereby bring the warehouse portion of the cargo handling process within the ambit 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: Sec. 2-8.9. Living Wage Ordinance For County Service Contracts and County Employees.		
DEFINITIONS		
...		
(F) "Covered Services" are any one (1) of the following: ...		

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(2) Service Contractors at Aviation Department Facilities.

Any service provided by a Service Contractor at a Miami-Dade County Aviation Department Facility is a covered service without reference to any contract value:

>>(K) In-warehouse cargo handling<<

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 ninety (90) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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.

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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA**

MEMORANDUM

Agenda Item No. 7(D)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

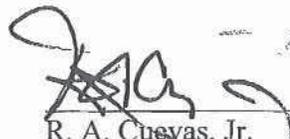
DATE: (Second Reading 3-3-09)
December 2, 2008

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance amending Section
2-8.9 of the Code relating to
the Living Wage Ordinance

Ordinance No. 09-15

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Natacha Seijas and Co-Sponsor Vice-Chairman Jose "Pepe" Diaz.



R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum



Date: March 3, 2009
To: Honorable Chairman Dennis C. Moss
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

The ordinance relating to the Living Wage Ordinance will not have a fiscal impact to Miami-Dade County as all projects subject to Living Wages are part of the FY 2008-09 Adopted Budget.

This ordinance if implemented would require unpaid sanctions for violations of the ordinance to bear interest. This ordinance also clarifies that contractors shall pay the current living wage rate applicable at the time covered services are performed and adjusted each fiscal year.

A handwritten signature in black ink, appearing to read "Susanne M. Torriente", written over a horizontal line.

Susanne M. Torriente
Assistant County Manager

Fis02309

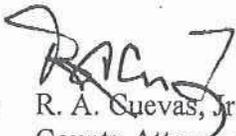


MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: March 3, 2009

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 7(D)

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 Mayor'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 _____

Agenda Item No. 7(D)
3-3-09

ORDINANCE NO. 09-15

ORDINANCE AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA (THE LIVING WAGE ORDINANCE) TO CLARIFY COVERED SERVICES, DEFINITIONS, AND APPLICATION OF PENALTIES AND SANCTIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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 to read as follows:¹

Sec. 2-8.9. Living Wage Ordinance for County service contracts and County employees.

Definitions.

* * *

Living >>W<<[[w]]age.

(A) *Living wage paid.*

- (1) *Service contractors.* All service contractors as defined by this Chapter, ~~[[including 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]]~~ >>the current<< Living Wage >>rate<<, ~~[[of no less than \$8.56 per hour with a health benefit plan as described in this section, or otherwise \$9.81 per hour, or the current~~

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.

~~rate for the given year]] >>applicable to the time when the covered service is performed as that rate is adjusted each fiscal year<< in the manner provided for herein for the adjustment of the Living Wage rate.~~

* * *

(B) *Health Benefit Plan.*

- (1) For a covered employer or the County to comply with the ~~[[H]]>>L<<iving [[w]]>>W<<age provision by choosing to pay the lower wage scale 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]] >>the current rate applicable to the time when the covered service is performed as that rate is adjusted each budget year in the manner provided for herein for the adjustment of the Living Wage rate<< towards the provision of a Health Benefit Plan for employees and, if applicable, their dependents. 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 covered employee<< 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 must be submitted to the >>County<< ~~[[awarding authority]]~~ to qualify >>to pay<< ~~[[for]]~~ the >>applicable<< wage rate for employees with a >>qualifying<< Health Benefit Plan. 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.

* * *

- (F) *Posting.* A copy of the ~~[[I]]>>L<<iving~~ ~~[[w]]>>W<<age rate >>notice issued by the County<<~~ shall be kept posted by the employer at the site of the work in a prominent place where it can easily be seen by the employees and shall be supplied to the employee within a reasonable time after a request to do so. In addition, Service Contractors shall forward a copy of the requirements of this Ordinance to any person submitting a bid ~~>>or issued a permit or lease agreement<<~~ for a subcontract on any service contract covered by this Chapter. ~~[[Posting requirements will not be required where the]] >>Covered<< employer>>s~~ are also required to<< print[[s]] the following statements on the front of the individual's first paycheck and every six months thereafter: "You are required by Miami-Dade County law to be paid at least [insert applicable rate under this Chapter] dollars an hour. If you are not paid this hourly rate, contact your supervisor or a lawyer." All notices will be printed in English, Spanish, and Creole.

* * *

Implementation.

- (A) *Procurement Specifications >>and Contracts<<.* The Living Wage shall be required in the procurement specifications ~~>>and contract language<<~~ for all County service contracts for covered services ~~[[on which bids or proposals shall be solicited on or after the effective date of this Ordinance]].~~ The procurement specifications ~~>>and contract language<<~~ for applicable contracts shall include a requirement that Service Contractors agree to produce all documents and records relating to payroll and compliance with this Ordinance upon request from the Applicable Department or as otherwise provided by the County Manager by Administrative Order.
- (B) *Information distributed.* All requests for bids or requests for proposals for service contracts, whether advertised or informally solicited, ~~>>and permits, leases and any other~~

agreement issued by the Miami-Dade Aviation Department for covered services<< shall include appropriate information about the requirements of this Ordinance.

- (C) *Maintenance of* ~~[[p]]~~>>P<<*ayroll* ~~[[r]]~~>>R<<*ecords*. Each covered employer shall maintain payrolls for all covered employees and basic records relating thereto and shall preserve them for a period of three (3) years >>from the expiration, suspension or termination date of the contract in which the requirements of this Chapter were applicable<<. The records shall contain >>at a minimum<<:
- (1) the name and address of each covered employee;
 - (2) the job title and classification;
 - (3) the number of hours worked each day;
 - (4) the gross wages earned and deductions made;
 - (5) annual wages paid;
 - (6) a copy of the social security returns and evidence of payment thereof;
 - (7) a record of fringe benefit payments including contributions to approved plans; and
 - (8) any other data or information ~~[[the Living Wage Commission]]~~ >>the County<< should require from time to time.
- (D) *Reporting payroll.* >>No less frequently than<< ~~[[E]]~~>>e<<very six (6) months >>or otherwise at the County's request<<, the covered employer shall ~~[[file]]~~ >>submit to the County (or if by request within the requested time frame)<< ~~[[the Applicable Department]]~~ a complete >>certified<< payroll showing the employer's payroll records for each ~~[[e]]~~>>C<<covered ~~[[e]]~~>>E<<mployee working on the contract(s) for covered services for ~~[[one]]~~ >>the applicable<< payroll period. Upon request >>by the County<<, the covered employer shall produce for inspection and copying its payroll records for any or all of its covered employees for the prior three (3) year period. It shall be the responsibility of the

Applicable Department to examine all payrolls for compliance within sixty (60) days of receipt.

(E) *Reporting employment activity.* >>Upon request by the County but in any event no less frequently than<< ~~[[E]]>>e<<very six (6) months, the covered employer ~~[[will file with the Applicable Department reports of]]~~ >>must submit to the County<< ~~[[within the specified time frame~~ ~~an]]~~ ~~[[e]]>>an E<<employment ~~[[a]]>>A<<ctivit[[ies]] >>y Report Form containing the following information:<< ~~[[be made publicly available, including:]]~~~~~~~~

- (1) race and gender of employees hired and terminated; and
- (2) zip code of employees hired and terminated; and
- (3) wage rate of employees hired and terminated.

Commission on a Living Wage, Establishment and Responsibility

(A) *Establishment.* The County Commission shall establish a fifteen (15) person commission entitled the "Living Wage Commission" the purpose of which shall be to review the effectiveness of this Chapter, review certifications submitted by covered employers to the County~~[[;]] >>to include<< review>>ing<< complaints filed by employees and to make recommendations to the >>Applicable Department,<< County Mayor and the County Commission regarding >>same<<[[the above listed matters]].~~

* * *

Compliance and ~~[[e]]>>E<<nforcement~~

* * *

(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 >>for violations<< in at least one of the following additional ways:

- (1) ~~[[Damages payable to the County in the sum of up to five hundred dollars \$(500.00) for each week for each covered employee found to have not been paid in accordance with this Chapter]]~~ >> Penalties payable to the County in an amount equal to 10% of the amount of the underpayment of wages and/or benefits for the first instance of underpayment; 20% for the second instance; and for the third and successive instances 30% of the amount of underpayment. A fourth violation shall constitute a default of the contract where the underpayment occurred 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 to defray costs of administering the Living Wage provisions. <<

- (2) ~~[[The County may suspend or terminate payment under the contract or terminate the contract with the service contractor]]~~ >> The sum of up to five hundred dollars \$(500.00) for each week for each covered employee found to have not been paid in accordance with this Chapter; <<

- (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]]~~ >> Suspend payment or terminate payment under the contract or terminate the contract with the service contractor; <<

- (4) ~~[[All such sanctions recommended or imposed shall be a matter of public record.]]~~ >> If a service contractor fails to cure a Notice of Violation or pay any sanctions that are assessed by the County, such service contractor and all officers, principals, directors, shareholders owning or controlling ten (10) percent or more of the stock, partners,

qualifiers, divisions or other organizational elements of the non-complying service contractor may be declared by the County to be ineligible for bidding on or otherwise participating in Living Wage contracts and permits until all required payments have been paid in full and regardless of whether such payment has been made may also be declared ineligible for bidding or otherwise participating in Living Wage contracts for a period of up to three (3) years. In addition all covered employers shall be ineligible for Living Wage contracts and permits under this section where any officers, principals, directors, shareholders owning or controlling ten (10) percent or more of the stock, partners, qualifiers, divisions or other organizational elements of the covered employer were officers, principals, directors, shareholders owning or controlling ten (10) percent or more of the stock, partners, qualifiers, divisions or other organizational elements of a covered employer who has been declared ineligible under this Chapter;<<

- (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:]]>>~~In addition to any other sanctions provided for herein, for violations other than underpayment of wages and/or benefits, damages payable to the County in the

10

amount of \$500/week for each week in which the violation remains outstanding.<<

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

~~(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, 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.]]~~

>>(6) A service contractor who fails to timely and adequately respond in the manner and within the timeframe set forth in a written request from the County to a notice of noncompliance, or fails to attend a Compliance Meeting, or who does not timely request an administrative hearing from an adverse compliance determination made by the County 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 to include any deposits, and/or bonds and remitted to the employee and the Service Contractor may be fined the

applicable penalty for such underpayment as defined herein.

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

(E) Interest on Unpaid Sanctions. All sanctions imposed pursuant to the authority of this Chapter shall bear interest at the same rate as the State of Florida statutory rate for judgments provided by Florida Statutes §55.03.<<

~~[(E)]~~>>(F)<<Retaliation and discrimination barred. An employer shall not discharge, reduce the compensation or otherwise discriminate against any employee for making a complaint to the Living Wage Commission, the applicable department, the County, or otherwise asserting his or her rights under this Chapter, participating in any of its proceedings or using any civil remedies to enforce his or her rights under the Chapter. Allegations of retaliation or discrimination, if found by the County Manager pursuant to procedures set forth by Administrative Order or by a court of competent jurisdiction under paragraph (C), shall result in an order of restitution and reinstatement of a discharged employee with back pay to the date of the violation or such other relief as deemed appropriate. In addition, the County Manager or the Court may impose an additional sanction of up to five hundred dollars (\$500.00) for each week since the covered employee was discharged as a result of prohibited retaliation under this Chapter.

~~[(F)]~~>>(G)<<Remedies herein non-exclusive. No remedy set forth in this Chapter is intended to be exclusive or a prerequisite for asserting a claim for relief to enforce the right under this Chapter in a court of law.

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: **March 3, 2009**

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Eric A. Rodriguez

Prime Sponsor: Commissioner Natacha Seijas

Co-Sponsor: Vice-Chairman Jose "Pepe" Diaz

**LIVING WAGE COMMISSION MEETING
SUMMARY MINUTES
Thursday, November 27, 2012**

MEMBERS PRESENT: Arthur Rosenberg, Esq., Chairman, Dennis Caserta, Vice-Chairman, Jonathan L. Fried, Glenford Malcolm Jr., Annette E. Masdeu-Vergara, Lovette McGill, Paola Pierre

MEMBERS ABSENT: Steve Hope – EXCUSED, Angelique Lambert-Dawkins, Roslind Martin

MIAMI-DADE COUNTY STAFF PRESENT: Milton Collins, MDAD, Alice Hidalgo-Gato, SBD, Shelia Hoilett MDAD, Myrtle Richards, SBD, Miguel Southwell, MDAD

OTHERS PRESENT: Edward Sawyer of White & Case

I. Opening/Attendance

Chairman Rosenberg called the meeting to order at 3:05 PM.

II. Summary of Minutes

Vice Chairman Caserta moved to approve the minutes of the January 26, 2012 meeting. Mr. Malcolm seconded the motion which was unanimously approved.

Vice Chairman Caserta moved to approve the minutes of the April 26, 2012 meeting. Ms. Pierre seconded the motion which was unanimously approved.

Mr. Malcolm moved to approve the minutes of the July 26, 2012 meeting. Ms. Pierre seconded the motion which was unanimously approved.

III. Reports

Ms. Hidalgo-Gato presented the following reports:

- A. Open Violations Report and Violation History for firms with open violations
- B. Living Wage Complaints
- C. Penalties Assessed/Collected

IV. Task Log

Ms. Hidalgo-Gato reported that the submittal of Implementing Order No. 3-30, Living Wages Requirement for County Service Contracts to the Board of County Commissioners for approval was postponed until staff drafted an amendment to the Living Wage adding a fee for appeal hearing requests. Ms. McGill made a motion to recommend the Mayor proceed with the submittal of Implementing Order No. 3-30 to the Board of County Commissioners for approval. Mr. Caserta seconded the motion which was unanimously approved.

Mr. Fried made a motion to request staff draft the appeal fee amendment and present it to the Living Wage Commission for review and discussion at the January 25, 2013 meeting. Ms. McGill seconded the motion which was unanimously approved.

It was agreed by the Living Wage Commission to review the affects, if any, of the federal health care reforms on the Living Wage health benefit plan requirements after the State legislative session next year.

V. Old Business

A. Discussion concerning Gate Safe/Gate Gourmet/LKG Sky Chef

Ms. McGill reported that Mr. Andy Madtes of Unite Here!, the union that represents the employees of Gate Safe and Gate Gourmet had agreed to attend today's meeting. Since he was not in attendance she agreed to request Mr. Madtes provide a copy of the collective bargaining agreement prior to the next meeting.

Mr. Rosenberg summarized the main issues for review. Three permittees, specifically LSG Sky Chefs, Gate Gourmet and Gate Safe, were challenging the living wage requirement as it applies to permittees at the Miami-Dade Aviation Department facilities based on Florida Statute §218.077. Also, if the collective bargaining agreements between these firms and their employees stipulate the employees agree to receive the wages negotiated in their contracts even if the local wage where they are working is higher, does the County living wage apply apply? Once these matters are reviewed the Living Wage Commission would then be able to determine if there is any reason the Living Wage should not be applied, or any reason the County should not proceed to enforce the Living Wage as applied to the three permittees.

Ms. Masdeu-Vergara asked whether Gate Gourmet had been through an administrative appeal hearing on this matter. Ms. Hidalgo-Gato informed that Gate Gourmet had appealed the section of the Living Wage that required they provide complete payroll information and supporting documents to verify compliance with the Living Wage.

Ms. Masdeu-Vergara stated that this challenge applies to all permittees at the airport and not just the three challengers and that it may be beneficial to review what other cities and counties are doing at their airports.

Miguel Southwell, Deputy Director for Business Development, Miami-Dade Aviation Department (MDAD) requested to recap the issues for those that were not in attendance at the last meeting. Mr. Southwell explained that since 2006 three permittees specifically LSG Sky Chefs, and sister companies Gate Gourmet and Gate Safe, were challenging the living wage requirement as it applies to permittees at the Miami-Dade Aviation Department facilities. LSG Sky Chefs and Gate Gourmet are two of the largest meal providers to airlines in the world, and provide 95% of the catering to the airlines operating at Miami International Airport for almost 300 flights per day.

First, the permittees challenged whether the living wage should apply to off-site meal preparers. [The Living Wage Commission and subsequently the County Commission agreed that it should not and amended the living wage to only cover employees working at Miami-Dade Aviation Department facilities.]

Second, the three permittees wanted the monetary value of other benefits provided to employees, such as free lunch, be considered when calculating employee compensation for living wage compliance.

The three permittees then challenged that the living wage did not apply to their permits based on Florida Statute §218.077. The County Attorney opined it does apply to permittees because pursuant to Florida Statute §218.077, Minimum wage requirements by political subdivisions, does not limit the authority of a political subdivision to establish a minimum

wage other than the federal minimum wage for the employees of an employer contracting to provide goods or services for the political subdivision, for the benefit of, or on behalf of the political subdivision. The permittees provide services at Miami International Airport pursuant to permits which are contracts provided for the benefit of a political subdivision, Miami-Dade County. Therefore, permittees are subject to the Living Wage and the provisions set forth therein. Mr. Southwell stated that the permittees position is that the contracts are for the benefit of the airlines they provide service to and not the County.

Mr. Southwell stated that if the Aviation Department, at the direction of the Mayor or Board of County Commissioners, defaults the permittees, they have threatened to sue the County, seek an injunction and go to trial. He stated it did not make business sense to go this route and questioned whether this should be the test case for all covered employees at MDAD given that the number of affected employees for the three firms is less than 100.

Ms. Masdeu-Vergara stated that the Living Wage has benefitted the airport but has economically impacted many small companies working at the airport. Companies have lost business due to the living wage and employees have had work hours reduced because of the living wage. She added that a definitive decision on this matter is needed because if the other airport permittees find out that these three permittees were exempt from the living wage, then all the permittees at the airport will stop paying the living wage.

Ms. Masdeu stated that aviation permits must be renewed annually and asked how MDAD justified allowing Gate Gourmet to operate on an expired permit since 1999.

Mr. Southwell responded that the permits contain language that allows the permits to continue after the expiration date. He added that the entire airport community knows about this issue and is confident that a decision to allow the three permittees to not pay the living wage will not impact the compliance of the remaining permittees that are not challenging the living wage.

Mr. Rosenberg agreed that the County's decision on this matter will affect all permittees.

Mr. Edward Sawyer, counsel for Gate Safe/Gate Gourmet, stated that the collective bargaining agreements for the affected employees stipulate the employees agree to receive the wages negotiated in their contracts even if the local wage where they are working is higher. He added that California Living Wage legislation specifically exempts employers with this language in their collective bargaining agreements. He further added that Gate Gourmet and their competitor LSG Sky Chef understand they are partners with the County and filing a lawsuit is the last resort. He reiterated all the issues they have been working on with the County Administration previously detailed by Mr. Southwell and concluded that the Living Wage Commission is left with the decision to recommend that the County enforce the living wage or conclude that the wage in a collective bargaining agreement supersedes the living wage requirement.

Ms. Masdeu-Vergara confirmed with County staff that Gate Safe had never complied with County requests for certified payrolls. She added that Gate Safe actively competes with the other security guard service providers for work unrelated to catering and is paying a lesser wage. Gate Safe guards communicate the hourly rates they are paid with other security officers at airport. Gate Safe is covered under the living wage and there is a problem if they

are allowed to pay a lesser wage than the other security guard permittees they are competing against for work. She further added that the County cannot have secret negotiations or secret meetings with Gate Gourmet and Gate Safe, and that they should be treated like all other permittees.

In response to a question from Mr. Fried on how many firms would be impacted by a court decision on this matter, Mr. Southwell reported 150 permittees are subject to the living wage. Mr. Fried stated that the issue is whether a collective bargaining agreement should pre-empt the living wage, although it does not given the current language in the living wage; and, whether the living wage is pre-empted by State Statute.

Mr. Rosenberg indicated the idea of allowing the value of different benefits to count towards compliance with the living wage is problematic and stated he did not believe the Living Wage Commission should support it. Mr. Sawyer responded that if they are not credited, some employers may stop providing the in-kind benefits to employees. Ms. Pierre responded that the value of uniforms and meals is minimal compared to that of the living wage.

Ms. McGill confirmed with Mr. Sawyer that all employees of Gate Safe/Gate Gourmet, except for managerial employees, are covered by the collective bargaining agreements even if they do not pay dues. Ms. Masdeu-Vergara stated that regardless of existence of a union agreement, if a permittee is working at the airport and performing work for the benefit of the County, the living wage should apply. Ms. McGill responded that the existence of a union contract should not be minimized and that she will obtain a copy from Mr. Madtes for the next meeting and also have him attend the next meeting.

Mr. Malcolm requested this item be scheduled for discussion on the agenda of the January 25, 2013 meeting. Mr. Rosenberg agreed and added that he would like Assistant County Attorney to review the collective bargaining agreements between Unite Here! and Gate Gourmet/Gate Safe prior to the meeting and opine if the agreements contain language that pre-empt the living wage.

In response to an inquiry from Ms. Masdeu-Vergara, the Aviation Department staff was asked to verify if Flying Foods, the other caterer at the airport, was in compliance with the living wage.

Prior to the January meeting the Commission requested staff obtain a copy of the Unite Here! Collective Bargaining Agreement; provide the agreement to Assistant County Attorney Eric Rodriguez for review; invite Mr. Rodriguez to the next meeting to advise if there is indeed language in the agreements that stipulate the employees agree to receive the wages negotiated in their contracts even if the local wage where they are working is higher, and would that language prevent the County from enforcing the living wage; and, determine and report back as to whether Flying Foods is complying with the Living Wage.

VI. New Business

A. 2012 Sunset Review of County Boards – Living Wage Commission

Vice Chairman Caserta moved to approve the 2012 Sunset Review of County Boards report for the Living Wage Commission. Mr. Malcolm seconded the motion which was unanimously approved.

B. 2013 Meeting Dates – Distributed

C. Living Wage Commission By-Laws – Tabled until the meeting of January 25, 2013.

Ms. McGill requested staff contact County Commissioners about filling vacancies on the Living Wage Commission.

Having no further business, the meeting was adjourned at approximately 4:38 p.m.

MINUTES ARE IN SUMMARY FORM
COPIES OF RECORDINGS OF THIS MEETING ARE AVAILABLE FROM
SMALL BUSINESS DEVELOPMENT AT 305-375-3111