

MEMORANDUM

Substitute
Agenda Item No. 5(C)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: September 1, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to paid sick leave for employees of certain County contractors; creating section 2-8.11 and amending section 2-8.9 of the Code; establishing paid leave requirements for certain County service contracts; requiring covered employers to certify compliance and submit documents and reports; amending jurisdiction of Living Wage Commission to include additional responsibilities; establishing private right of action; authorizing sanctions; barring retaliation and discrimination against covered employees; directing the County Mayor to develop an overview of the requirements of this ordinance for posting at work sites; authorizing the County Mayor to propose implementing orders consistent with this ordinance

Ordinance No. 21-82

This substitute differs from the original version in that it revises the definition of “covered services” in paragraph (1)(F) to remove all types of service contracts except security services, thus limiting the ordinance to contracts for security services.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Vice-Chairman Oliver G. Gilbert, III.



Geri Bonzon-Keenan
County Attorney

GBK/uw

Memorandum



Date: September 1, 2021

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava". The signature is written in a cursive style and is positioned to the right of the printed name.

Subject: Fiscal Impact Statement for Ordinance Relating to Paid Leave for Employee Contractors

The proposed ordinance seeks to create Section 2-8.11, and amend Section 2-8.9 of the Code of Miami-Dade County, establishing paid sick leave requirements for certain County service contracts; requiring covered employers to certify compliance and submit documents and reports; amending jurisdiction of Living Wage Commission to include additional responsibilities; establishing private right of action; authorizing sanctions; barring retaliation and discrimination against covered employees; directing the County Mayor to develop an overview of the requirements of this ordinance for posting at work sites; and authorizing the County Mayor to propose implementing orders consistent with this ordinance.


The implementation of this ordinance will have a fiscal impact to Miami-Dade County, as vendors will likely pass this expense to the County by including these costs in newly established contracts. The specific fiscal impact of this ordinance is difficult to determine at this time, and will vary with each contract as staff would need to estimate the number of employees under each County security guard service contract. Further, although the employees can earn at least seven days of paid sick leave annually, the number of hours actually requested by each employee would need to be known in order to ascertain the fiscal impact.

A handwritten signature in blue ink that reads "Edward Marquez". The signature is written in a cursive style and is positioned above a horizontal line.

Edward Marquez
Chief Financial Officer

Date: September 1, 2021

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

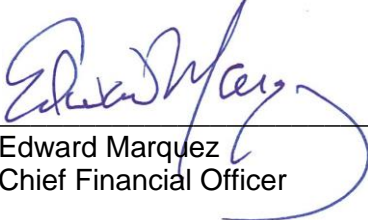
From: Daniella Levine Cava 
Mayor

Subject: Social Equity for Ordinance relating to paid sick leave for employees of certain County contractors; creating section 2-8.11 and amending section 2-8.9 of the Code; establishing paid leave requirements for certain County service contracts

The proposed Ordinance pertains to the creation of Section 2-8.11 and amending section 2-8.9 of the code of Miami-Dade County, Florida. The implementation of this ordinance is related to contracts awarded by the County to a service contractor that involve a total contract value of over \$100,000 requiring paid sick leave for employees.

The implementation of this ordinance may have a positive social equity benefit for eligible employees that do not currently receive these paid leave benefits. Paid sick leave could lead to an overall community benefit such as:

- Allow workers to avoid having to choose between caring for themselves or their families and keeping their jobs.
- Allowing employees to earn paid sick leave reduces going to work while sick which is bad for businesses and potentially harmful to workers.
- Employees are more likely to receive preventive care which reduces long-term health care costs.
- Providing paid sick leave benefits businesses by boosting productivity making workplaces more attractive for potential employees and increasing retention.


Edward Marquez
Chief Financial Officer



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: September 1, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Substitute
Agenda Item No. 5(C)

Please note any items checked.

- "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
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Substitute
Agenda Item No. 5(C)
9-1-21

ORDINANCE NO. 21-82

ORDINANCE RELATING TO PAID SICK LEAVE FOR EMPLOYEES OF CERTAIN COUNTY CONTRACTORS; CREATING SECTION 2-8.11 AND AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; ESTABLISHING PAID LEAVE REQUIREMENTS FOR CERTAIN COUNTY SERVICE CONTRACTS; REQUIRING COVERED EMPLOYERS TO CERTIFY COMPLIANCE AND SUBMIT DOCUMENTS AND REPORTS; AMENDING JURISDICTION OF LIVING WAGE COMMISSION TO INCLUDE ADDITIONAL RESPONSIBILITIES; ESTABLISHING PRIVATE RIGHT OF ACTION; AUTHORIZING SANCTIONS; BARRING RETALIATION AND DISCRIMINATION AGAINST COVERED EMPLOYEES; DIRECTING THE COUNTY MAYOR OR MAYOR’S DESIGNEE TO DEVELOP AN OVERVIEW OF THE REQUIREMENTS OF THIS ORDINANCE FOR POSTING AT WORK SITES; AUTHORIZING THE COUNTY MAYOR OR MAYOR’S DESIGNEE TO PROPOSE IMPLEMENTING ORDERS CONSISTENT WITH THIS ORDINANCE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, Miami-Dade County awards contracts to private firms for many purposes, including procuring services for various County functions (“County service contracts”); and

WHEREAS, awarding these contracts also achieves additional public purposes of creating jobs and expanding the County’s economic base, resulting in increased economic security for residents of Miami-Dade County; and

WHEREAS, the employees of County service contractors provide the services which are the subject of these contracts; and

WHEREAS, consequently, the health and welfare of the employees of County service contractors is of vital importance to the County; and

WHEREAS, paid sick leave allows employees to take leave from work to care for themselves or family members with serious health conditions, including pregnancy, or care for a newborn, newly-adopted child or newly-placed foster child, while earning a portion of their pay; and

WHEREAS, the coronavirus disease 2019 (“COVID-19”) pandemic, which has led to more than 500,000 deaths in the United States in one year, is one of the largest public health crises our nation has faced in one hundred years, and to mitigate the spread of COVID-19 and more contagious variants of the virus, we must mitigate the spread of COVID-19 at work; and

WHEREAS, research has shown that access to paid sick time has helped to reduce the spread of COVID-19 in the United States, and the previous emergency paid sick leave protections passed—but not extended—by Congress have led to 400 fewer confirmed cases per day in states that lack any paid sick time requirements; and

WHEREAS, Black and Hispanic workers are less likely to receive paid sick time and more likely to experience retaliation than their White counterparts during the COVID-19 pandemic, making Black and Hispanic workers more likely than White workers to continue to work despite believing that they are seriously risking their health or their family’s health; and

WHEREAS, essential workers and workers in jobs with high levels of public contact, such as security workers, are less likely to have paid sick time than the workforce as a whole, leaving many such workers with no choice but to go to work ill or with COVID-19 and thereby increasing the risk of passing illnesses on to co-workers and customers while also jeopardizing their own health and recovery; and

WHEREAS, paid sick leave allows workers to meet their health needs without jeopardizing their economic security; and

WHEREAS, unpaid leave under the federal Family and Medical Leave Act provides important job protections, but is not available to all workers and many cannot afford to take it; and

WHEREAS, on September 7, 2015, the White House issued an Executive Order establishing paid sick leave for federal contractors, including paid leave allowing for family care; and

WHEREAS, requiring County service contractors to provide paid sick leave for employees who work on County service contracts will improve the health and performance of their employees; and

WHEREAS, requiring County service contractors to provide paid sick leave will also bring their employee benefits packages in line with other employers which provide paid sick leave, ensuring that County service contractors will be able to compete for dedicated and talented employees; and

WHEREAS, adoption of the measures proposed by this ordinance will increase efficiency and cost savings in the work performed by County service contractors by ensuring that their employees who work on County service contracts can earn at least seven days of paid sick leave annually,

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

Section 1. Section 2-8.11 of the Code of Miami-Dade County, Florida, is hereby created as follows:¹

>>**Sec. 2-8.11. Paid Sick Leave Requirement for County Service Contracts.**

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.

(1) Definitions.

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

(B) County means the government of Miami-Dade County.

(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 a service contractor with 15 or more employees.

(E) Service contractor means any individual, business entity, corporation whether for profit or not for profit, partnership, limited liability company, joint venture, or similar business, including any subcontractor of the service contractor, that 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; and

2. The service contractor or subcontractor is engaged in the business of, or is part of, a contract to provide covered services, either directly or indirectly for the benefit of the County.

(F) Covered services means contracts awarded by the County to a service contractor that involve a total contract value of over \$100,000 per year for << [~~the following services:~~

- ~~1. Food preparation, distribution or both;~~
- ~~2. Security]]² >>security<< services[[;~~
- ~~3. Routine or recurring maintenance services such as custodial, cleaning, refuse removal, repair, refinishing, and recycling;~~
- ~~4. Clerical or other non-supervisory office work, whether temporary or permanent;~~
- ~~5. Transportation and parking services including, but not limited to, airport and seaport services;~~
- ~~6. Printing and reproduction services; or~~
- ~~7. Landscaping, lawn, or agricultural services]]>>.~~

(G) Service contract means a contract for covered services.

(H) Child means a biological, adopted or foster child, a stepchild, a legal ward, or a child of an employee standing in the place of a parent as a temporary guardian of a child.

(I) Parent means a biological, adoptive, foster parent or stepparent of an employee, or of an employee's spouse, or other individual who stands or stood in the place of a parent as a temporary guardian of an employee when the employee was a child.

(2) Establishing paid sick leave for County service contractors.

(A) Covered employees shall earn not less than one hour of paid sick leave for every 30 hours worked, or alternatively, be awarded no less than 56 hours of paid time off at the beginning of each 12-month period of employment to be used for purposes

² The differences between the substitute and the original item are indicated as follows: Words double stricken through and/or [[double bracketed]] are deleted, words double underlined and/or >>double arrowed<< are added.

enumerated under this ordinance. A covered employer may not set a limit on the total award or accrual of paid sick leave per fiscal year at less than 56 hours.

(B) Application.

1. The requirements of this ordinance shall be incorporated into solicitations and contracts that are subject to this section. This ordinance shall apply to contracts, and any renewals or extensions to existing contracts, that are: (1) effective on or after September 11, 2021; or (2) effective before September 11, 2021, if the covered employer and the County have entered into a written amendment requiring the covered employer to comply with the requirements of this section, or the covered employer has otherwise agreed in writing to comply with the requirements of this ordinance. The County Mayor or County Mayor's designee is delegated the authority to negotiate and approve amendments to the price paid by the County under any such renewal or extension of a contract subject to this ordinance provided that: (1) the covered employer certifies in writing that any such price increase equals or is less than the increased costs for compliance with this ordinance; (2) the County concurs with the covered employer's certification; and (3) the price increase is within the budget of the department or departments utilizing such contract renewal or extension.
2. The County Mayor or Mayor's designee shall not exercise any option to renew, extend or modify a contract that is scheduled to renew on or after September 11, 2021, unless the contractor agrees to include the requirements of this section upon renewal, extension, or modification.
3. Should any services that are being performed by County employees as of September 11, 2021, be solicited in the future by the County to be performed by a service contractor, such services

shall be covered services subject to the provisions of this section regardless of the value of the contract or the number of employees.

(C) Paid sick leave earned pursuant to the preceding subparagraph may be used by a covered employee for an absence resulting from:

1. Physical or mental illness, injury, or medical condition;
2. Obtaining diagnosis, care, or preventive care from a health care provider, including, but not limited to, obtaining an immunization whether or not related to a public health emergency or recovering from any injury, disability, illness, or condition related to such immunization;
3. Caring for a child, parent, spouse, domestic partner, or any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship who has any of the conditions or needs for diagnosis, care, or preventive care described in subparagraphs (2)(C)(1) or (2)(C)(2), or self-isolating due to an order or determination as described in subparagraph (2)(C)(6);
4. Pregnancy or care for the employee's own newborn, newly-adopted child or newly-placed foster child or children. This leave shall apply equally to parents regardless of gender, as well as to same-sex couples, in the event of a natural birth by any method, adoption, surrogacy, stillbirths, or pre-adoptive foster care placement in the employee's home;
5. Domestic violence, sexual assault, or stalking, if the time absent from work is for the purposes otherwise described in subparagraphs (2)(C)(1) or (2)(C)(2), to obtain additional counseling, to seek relocation, to seek assistance from a victim

services organization, to take related legal action, including preparation for or participation in any related civil or criminal legal proceeding, or to assist an individual related to the employee as described in subparagraph (2)(C)(3) in engaging in any of these activities;

6. The employee's need to comply with an order or determination to self-isolate, on the basis that the employee's physical presence on the job or in the community would jeopardize the employee's health, the health of other employees, or the health of an individual in the employee's household because of: (i) possible exposure to a communicable illness related to a declared public health emergency; or (ii) exhibiting of symptoms of a communicable illness related to a declared public health emergency, regardless of whether the employee has been diagnosed with such illness;
7. The employee's inability to work because the employee is prohibited from working by the employer due to health concerns related to the potential transmission of a communicable illness related to a declared public health emergency in the County.
8. An order or determination pursuant to subparagraph (2)(C)(6) shall be made by a local, state, or federal public official, a health authority having jurisdiction, a health care provider, or the employer of the employee or employee's family member. Such order or determination need not be specific to such employee or family member.
9. Covered employees must exhaust all paid sick leave pursuant to this section before requesting unpaid domestic leave pursuant to chapter 11A.

- (D) If a covered employer chooses not to award 56 hours of paid sick leave to covered employees at the beginning of every 12-month period of employment, then up to 56 hours of any earned paid sick leave accrued under subparagraph (2)(A) shall carry over from one year to the next. In either case, any paid sick leave awarded or accrued shall be reinstated for employees:
1. who remain employed by an employer who by virtue of merger, corporate reorganization, the sale of an entire business or the sale of an entire portion of a business sale, is the complete successor in interest to its predecessor covered employer; or
 2. who are hired or rehired by a covered employer or successor employer within 12 months after a job separation.
- (E) A covered employer is prohibited from making the use of paid sick leave contingent on the requesting employee finding a replacement to cover any work time to be missed.
- (F) The paid sick leave required by this section is in addition to a covered employer's obligations under this Code, including but not limited to the Domestic Leave and Reporting Ordinance, Article VIII of Chapter 11A, and the Living Wage Ordinance, section 2-8.9. Service contractors may not receive credit toward their prevailing wage or fringe benefit obligations for any paid sick leave provided in satisfaction of the requirements of this section.
- (G) Paid sick leave shall be provided upon the oral or written request of an employee that includes the expected duration of the leave. Where the need for leave is foreseeable, a covered employer may require reasonable advance notice of the intention to use such leave not to exceed three calendar days prior to the date the leave is to begin. Where the need for such leave is not foreseeable, a covered employer may require an employee to provide notice of the need for the use of leave as soon as is practicable.

(H) Certification.

1. A contractor may only require certification issued by a health care provider for paid sick leave used for the purposes listed in subparagraphs (2)(C)(1), (2)(C)(2), (2)(C)(3), or (2)(C)(4) for employee absences of three or more consecutive workdays, to be provided no later than 30 days from the first day of the leave. An employee may certify their need for leave by utilizing virtual or telephonic appointments with their healthcare provider.
2. If three or more consecutive days of paid sick leave is used for the purposes listed in subparagraph (2)(C)(5), documentation may be required to be provided from an appropriate individual or organization with the minimum necessary information establishing a need for the employee to be absent from work. The covered employer shall not disclose any verification information and shall maintain confidentiality about the domestic violence, sexual assault, or stalking, unless the employee consents or when disclosure is required by law.
3. If three or more consecutive workdays of paid sick leave is used for the purposes listed in subparagraphs (2)(C)(6), (2)(C)(7), or (2)(C)(8), documentation including, but not limited to, a copy of the relevant order or determination or a written statement by the employee may be required to be provided from an appropriate individual, health care provider, or organization with the minimum necessary information establishing a need for the employee to be absent from work. Such employee statement need not be notarized or in any particular format.

- (I) Nothing in this section shall require a covered employer to make a financial payment to an employee upon a separation from employment for accrued sick leave that has not been used, but unused leave is subject to reinstatement as set forth in paragraph (2)(D).
 - (J) A covered employer may not interfere with or in any other manner discriminate against an employee for taking, or attempting to take, paid sick leave as provided for under this section or in any manner asserting, or assisting any other employee in asserting, any right or claim related to this section.
 - (K) Employees shall determine how much paid sick leave time they need to use, provided that covered employers may set a reasonable minimum increment for the use of sick leave time not to exceed four hours per day.
- (3) Certification required before payment.
- (A) 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 employer certifies to the applicable department that it will provide paid sick leave to its employees as described in subsection (2). 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 commitment to provide all employees paid sick leave as described in subsection (2).

- (B) Posting. An overview of the requirements of this section, as developed by the County Mayor or Mayor's designee, 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 section to any person submitting a bid for a subcontract on any service contract covered by this section. Covered employers are also required to print the following statements on the front of the individual's first paystub and every six months thereafter: "Miami-Dade County requires your employer to provide certain employees who work on County service contracts at least 1 hour of paid sick leave for every 30 hours worked, under certain conditions. If you are not being provided this leave, contact your supervisor or a lawyer." All notices shall be printed in English, Spanish, and Creole.
- (C) Observance of other laws and collective bargaining. Nothing in this section shall be read to require or authorize noncompliance with or to supersede any applicable Federal or State law, any applicable law or municipal ordinance, or a collective bargaining agreement requiring greater paid sick leave or leave rights than those established under this section.
- (4) Implementation.
- (A) Procurement specifications and contracts. The paid sick leave requirement described in subsection (2) shall be included in the procurement specifications and contract language for all County service contracts. 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 compliance with this section upon request from the applicable department or as otherwise provided by the County Mayor by Implementing Order.

- (B) Information distributed. All requests for bids or requests for proposals for service contracts, whether advertised or informally solicited, for covered services shall include appropriate information about the requirements of this section.
- (C) Maintenance of leave records. Each covered employer shall make, keep, and preserve payroll, leave, and attendance records for all covered employees and basic records relating thereto as necessary and appropriate for the enforcement of the provisions of this section and shall preserve them for a period of three years from the expiration, suspension or termination date of the contract in which the requirements of this section 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;
 8. The number of paid and unpaid sick leave hours accrued and used each pay period;
 9. The stated reason(s) for the covered employee using any paid or unpaid sick leave hours;

10. Any certifications, statements, or other documentation provided by a health care or other provider as described in paragraph (2)(H); and
 11. Any other data or information the County should require from time to time.
- (D) Reporting Payroll, Leave & Attendance Records. The covered employer shall by the 10th of each month, submit to the County (or if by request within the requested time frame) certified payroll showing the employer's payroll records for each Covered Employee working on the contract(s) for covered services for the previous month via the County's web-based system. Upon request by the County, the covered employer shall produce for inspection and copying its payroll, leave, and attendance records for any or all of its covered employees for the prior three-year period.
- (E) Reporting employment activity. Upon request by the County but in any event no less frequently than every six months, the covered employer must submit to the County an Employment Activity Report Form containing the following information:
1. Race and gender of employees hired and terminated;
 2. Zip code of employees hired and terminated; and
 3. Wage rate of employees hired and terminated.
- (5) Living Wage Commission. The Living Wage Commission, as established in section 2-8.9, shall, in addition to its responsibilities under that section, have the additional purpose and responsibility to review the effectiveness of this section, to review certifications submitted by covered employers to the County under this section, to review complaints filed by employees pursuant to this section, and

to make recommendations to the applicable department, County Mayor and the County Commission regarding compliance and enforcement of this section.

(6) 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, payroll, leave, and attendance to determine if the service contractor is in compliance with the provisions of this section.

(B) Complaint procedures and sanctions. An employee who believes that this section applies or applied to him or her, and the service contractor is or was not complying with the requirements of this section has a right to file a written complaint. The County Mayor shall establish by Implementing Order the procedures and requirements for filing a complaint and for the processing and resolution of complaints under this section including the sanctions to be imposed for violations of this section. The County Mayor shall also by Implementing Order establish a procedure applicable to complaints by County employees regarding noncompliance with this section.

(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 section but not in addition to such administrative procedure, bring an action by filing suit against the covered employer in any court of competent jurisdiction to enforce the provisions of this section and may be awarded compensatory damages including back pay, future paid sick leave, benefits, attorney's fees, and costs. The applicable statute of limitations for such a claim shall be two years 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 section as determined pursuant to the procedures set forth by Implementing Order, the County may sanction a service contractor for violations of this section by requiring the service contractor to pay wage restitution to the covered employee. The County may also sanction the service contractor for violations in one or more of the following additional ways:

1. Penalties payable to the County in an amount equal to 20 percent of the amount of the underpayment of paid sick leave for the first instance of underpayment; 40 percent for the second instance; and for the third and successive instances 60 percent 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 provisions in this section.
2. The sum of up to \$500 for each week for each covered employee found to have not been paid or granted leave in accordance with this section;
3. Suspend payment or terminate payment under the contract or terminate the contract with the service contractor;

4. 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 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 Paid Sick Leave contracts 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 Paid Sick Leave contracts for a period of up to three years. In addition, any covered employer shall be ineligible for Paid Sick Leave contracts under this section where any officers, principals, directors, shareholders owning or controlling 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 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 section.
5. In addition to any other sanctions provided for herein, for violations other than nonpayment of paid sick leave, damages payable to the County in the amount of \$500 per week for each week in which the violation remains outstanding.
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 noncompliance and, in the case of nonpayment of the paid sick leave required, an amount sufficient to pay any nonpayment 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 in section 55.03, Florida Statutes, as such may be amended from time to time.

(F) Retaliation and discrimination barred. A covered employer shall not discharge, reduce the compensation of, 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 section, participating in any of its proceedings or using any civil remedies to enforce his or her rights under this section. Allegations of retaliation or discrimination, if found by the County Mayor pursuant to procedures set forth by Implementing Order or by a court of competent jurisdiction under paragraph (6)(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 Mayor or the Court may impose an additional sanction of up to \$500 for each week after the date that the covered employee was discharged as a result of prohibited retaliation under this section.

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

Section 2. Section 2-8.9 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

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

* * *

Commission on a Living Wage, Establishment and Responsibility.

(A) *Establishment.* The County Commission shall establish a fifteen-person commission entitled the "Living Wage Commission" the purpose of which shall be to review the effectiveness >>of sections 2-8.9 and 2-8.11<< of this Chapter, review certifications submitted by covered employers to the County to include reviewing complaints filed by employees and to make recommendations to the Applicable Department, County Mayor and the County Commission regarding same.

Section 3. This ordinance shall apply to covered employers that either: (1) submit a bid or proposal to enter into a new contract for covered services on or after September 11, 2021; or (2) if the contract was not procured via a competitive process, enter into a contract for covered services on or after September 11, 2021. This ordinance shall not apply to employers whose service contracts were bid, were in the process of an award, or were entered into before September 11, 2021, nor shall it apply to the exercise of options to renew such contracts that are scheduled to renew before September 11, 2021, unless the parties mutually agree to the requirements of this ordinance upon renewal, extension or modification of the contract. To facilitate such agreement, the County Mayor or County Mayor's designee is delegated the authority to negotiate and approve

amendments to the price paid by the County under any such renewal, extension or modification, provided that: (1) the covered employer certifies in writing that any such price increase equals or is less than the increased costs for compliance with this ordinance; (2) the County concurs with the covered employer's certification; and (3) the price increase is within the budget of the department or departments utilizing such contract renewal or extension. The County Mayor or Mayor's designee shall not exercise any option to renew a contract that is scheduled to renew on or after September 11, 2021, unless the contractor agrees to include the requirements of this section upon renewal, extension, or modification.

Section 4. Should any services that are being performed by County employees as of September 11, 2021, be solicited in the future by the County to be performed by a service contractor, such services shall be covered services subject to the provisions of this ordinance regardless of the value of the contract or the number of employees.

Section 5. The County Mayor or Mayor's designee is directed to develop an overview of the requirements of this ordinance for the purposes of the posting requirements in paragraph (3)(B), and shall have full authority to create Implementing Orders and other procedures necessary to carry out the requirements of this ordinance.

Section 6. 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 7. 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 8. 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: September 1, 2021

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Marlon D. Moffett

Prime Sponsor: Vice-Chairman Oliver G. Gilbert, III