

ANALYSIS

This ordinance enacts Chapter 2.201 of the Los Angeles County Code relating to a Living Wage Program. It will be applicable to specified contracts or their amendments which commence three months or more after the ordinance's effective date.

The ordinance establishes a minimum living wage of \$9.46 per hour. It requires that specified services contractors and cafeteria contractors with the County of Los Angeles, and their subcontractors, pay at least the living wage to their full time employees, as defined, who perform work under County contracts. The ordinance allows a credit toward the living wage for bona fide health benefits furnished to a contractor's employees of \$1.14 per hour. Employers who provide health care benefits to their employees through the County's Community Health Plan are deemed to qualify for such credit. It also provides for contractor reporting of pay and health benefits to County departments for purposes of monitoring compliance with these requirements.

The ordinance requires included contractors to use full time employees to furnish services under County contracts, unless the use of part time employees can be justified to the County.

The ordinance also regulates other aspects of included contractors' relationships with their employees. It prohibits the use of funds paid to included contractors by the County to further or hinder employee organization activities for the purpose of collective bargaining, except for

activities in the course of good faith collective bargaining or otherwise permitted by federal labor law.

The ordinance authorizes the Chief Administrative Officer, in conjunction with the Affirmative Action Compliance Officer, to administer the implementation of the chapter by issuing interpretations of its provisions with the concurrence of County Counsel and by issuing written instructions on an ongoing basis. It also requires the Affirmative Action Compliance Officer in conjunction with the Chief Administrative Officer to report annually to the Board of Supervisors on contractor compliance.

The ordinance also requires that included contractors demonstrate a history of business stability, employee relations integrity, and financial ability to pay the living wage.

The ordinance prohibits retaliation by included contractors against any person who reports a violation of its provisions to specified County officials.

The ordinance creates specified job retention opportunities for employees of included contractors whose contracts are terminated by the County prior to expiration. Successor contractors must, except for identified exceptions, offer employment in available jobs to qualified employees of the predecessor contractor. The ordinance also prevents the successor contractor from discharging such employees for a period of 90 days, except for cause.

The ordinance also establishes legal and administrative remedies in the event of its violation. It authorizes included employees to sue for damages caused by their employer's violations of the chapter. County department heads administering included contracts may assess liquidated damages specified in the contract, may recommend contract termination to the Board of Supervisors, and/ or may recommend to the Board of Supervisors debarment for a period of up to three years.

The ordinance provides that its provisions may be expressly superseded by a collective bargaining agreement. It also excepts from its coverage non profit corporations qualified under Section 501 (c)(3) of the Internal Revenue Code.

LLOYD W. PELLMAN
County Counsel

By Daniel B. Kealey
Deputy

ORDINANCE NO. 99-0048

An Ordinance amending Title 2 - Administration, of the Los Angeles County Code relating to a Living Wage Program for certain Proposition A and cafeteria services contracts.

The Board of Supervisors of the County of Los Angeles ordains as follows:

Section 1. Chapter 2.201 is added to title 2., Administration, to read as follows:

Chapter 2.201

Living Wage Program

2.201.010 Findings. The board of supervisors finds that the county of Los Angeles is the principal provider of social and health services within the county, especially to persons who are compelled to turn to the county for such services. Employers' failure to pay less than a living wage to their employees causes them to use such services thereby placing an additional burden on the county of Los Angeles.

2.201.020 Definitions. The general definitions contained in chapter 2.02 shall be applicable to this article unless inconsistent with the following definitions:

A. "County" includes the County of Los Angeles, any County officer or body, any County department head, and any County employee authorized to enter into a Proposition A contract or a cafeteria services contract with an Employer.

B. "Employee" means any individual who is an employee of an Employer under the laws of California, and who is providing full time services to an Employer, some or all of which are provided to the county of Los Angeles under a Proposition A contract, or under a cafeteria services contract at a county of Los Angeles owned or leased facility.

C. "Employer" means:

1. an individual or entity who has a contract with the County.

a. for services which is required to be more economical or feasible under section 44.7 of the charter of the County of Los Angeles, and is not listed as an excluded contract in section 2.121.250B of the Los Angeles County Code, referred to in this chapter as a "Proposition A contract;" or

b. for cafeteria services, referred to in this chapter as a "cafeteria services contract;"

and

c. who has received or will receive an aggregate sum of \$25,000.00 or more in any 12 month period under one or more Proposition A contracts and/or one or more cafeteria services contracts.

2. or, an individual or entity that enters into a subcontract with an Employer, as defined in subsection C.1. and who employs Employees to provide services under the Employer's contract with the County.

D. "Full time" means a minimum 40 hours worked per week, or a lesser number of hours, if the lesser number is a recognized industry standard and is approved as such by the chief administrative officer, but in no event less than 35 hours worked per week.

2.201.030 Prospective Effect. This chapter shall be applicable to Proposition A contracts and cafeteria services contracts and their amendments the terms of which commence three months or more after the effective date of this chapter. It shall not be applicable to Proposition A contracts or cafeteria services contracts or their amendments in effect before this chapter becomes applicable.

2.201.040 Payment of Living Wage.

A. Employers shall pay Employees a Living Wage for their services provided to the County of no less than the hourly rates set under this chapter. The rates shall be \$8.32 per hour with health benefits, or \$9.46 per hour without health benefits.

B. To qualify for the Living Wage rate with health benefits, an Employer shall pay at least \$1.14 per hour towards the provision of bona fide health care benefits for each Employee and any dependents during the term of a Proposition A contract or a cafeteria services contract. Proof of the provision of such benefits must be submitted to the County for evaluation during the procurement process to qualify for the lower Living Wage rate in subsection A. Employers who provide health care benefits to Employees through the County Department of Health Services Community Health Plan are deemed to have qualified for the lower Living Wage rate in subsection A.

C. The board of supervisors may, from time to time, adjust the amounts specified in subsections A and B, above for future contracts.

2.201.050 Other provisions

A. Full Time Employees. An Employer shall assign and use full time Employees to provide services under a Proposition A contract or a cafeteria services contract, unless the Employer can demonstrate to the County the necessity to use non-full time employees based on staffing efficiency or the County requirements of an individual job.

B. Neutrality in Labor Relations. An Employer shall not use any consideration received under a Proposition A contract or a cafeteria services contract to hinder, or to further, organization of, or collective bargaining activities by or on behalf of an Employer's employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining agreement, or which would otherwise be permitted under the provisions of the National Labor Relations Act.

C. Administration. The chief administrative officer shall be responsible for the administration of this chapter. The chief administrative officer may, with the advice of county counsel, issue interpretations of the provisions of this chapter. The chief administrative officer in conjunction with the affirmative action compliance officer shall issue written instructions on the implementation and on-going administration of this chapter. Such instructions may provide for the delegation of functions to other county departments.

D. Compliance Certification. An Employer shall, during the term of a Proposition A contract, or a cafeteria services contract, report for each Employee and certify the hours worked, wages paid, and amounts the Employer paid for health benefits, and provide other information deemed relevant to the enforcement of this chapter by the County. Such reports shall be made at the times and in the manner set forth in instructions issued by the chief administrative officer in conjunction with the affirmative action compliance officer. The affirmative action compliance officer in conjunction with the chief administrative officer shall report annually to the board of supervisors on contractor compliance with the provisions of this chapter.

E. Contractor Standards. An Employer shall demonstrate during the procurement process and for the duration of a Proposition A contract or a cafeteria services contract a history of business stability, integrity in employee relations, and the financial ability to pay a Living Wage.

2.201.060 Employer Retaliation Prohibited. No Employer shall take an adverse action causing a loss of any benefit of employment, of any contract benefit, or any statutory benefit to any Employee, person, or other entity, who has reported a violation of this chapter to the board of supervisors or to one or more of their offices, to the County chief administrative officer, or to the County auditor controller, or to the County department administering the Proposition A contract or cafeteria services contract.

2.201.070 Employee Retention Rights. In the event that any Proposition A contract or cafeteria service contract is terminated by the County prior to its expiration, any new contract with a Subsequent Employer for such services shall provide for the employment of the predecessor Employer's employees as provided in this section.

A. A "Retention Employee" is an employee of a predecessor Employer:

1. who is not an exempt employee under the minimum wage and maximum hour exemptions defined in the federal Fair Labor Standards Act;
2. who has been employed by an Employer under a predecessor Proposition A contract or a predecessor cafeteria services contract for at least 6 months prior to the date of a new contract; and
3. who is or will be terminated from his or her employment as a result of the County entering into a new contract.

B. Subsequent Employers shall offer employment to all Retention Employees who are qualified for such jobs.

C. A Subsequent Employer is not required to hire a Retention Employee who:

1. has been convicted of a crime related to the job or his or her job performance; or
2. fails to meet any other County requirement for employees of a contractor.

D. A Subsequent Employer may not terminate a Retention Employee for the first 90 days of employment under a new contract, except for cause. Thereafter a Subsequent Employer may retain a Retention Employee on the same terms and conditions as the Subsequent Employer's other employees.

2.201.080 Enforcement and Remedies. For violation of any of the provisions of this chapter:

A. An Employee may bring an action in the courts of the State of California for damages caused by an Employer's violation of this chapter.

B. The County department head responsible for administering a Proposition A contract or a cafeteria services contract may do one or more of the following in accordance with such instructions as may be issued by the chief administrative officer:

1. assess liquidated damages as provided in the contract; and/or
2. recommend to the board of supervisors the termination of the contract; and/or
3. recommend to the board of supervisors that an Employer be barred from award of future County contracts for a period of time consistent with the seriousness of the Employer's violation of this chapter, not to exceed three years.

2.201.090 Exceptions.

A. Other Laws. This chapter shall not be interpreted or applied to any Employer or to any Employee in a manner inconsistent with United States or California laws.

B. Collective Bargaining Agreements. Any provision of this chapter shall be superseded by a collective bargaining agreement that expressly so provides.

C. This chapter shall not be applied to any Employer which is a non profit corporation qualified under section 501 (c)(3) of the Internal Revenue Code.

2.201.100 Severability. If any provision of this chapter is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

Section 2. This ordinance shall be published in

Metropolitan News Enterprise

a newspaper printed and published in the County of Los Angeles.

Don Knabe

Chairman



ATTEST:

Joanne Sturges
Executive Officer - Clerk of the Board of
Supervisors of the County of Los Angeles

I hereby certify that at its meeting of June 22, 1999, the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

Ayes

Noes

Supervisors Gloria Molina

Supervisors Mike Antonovich

Yvonne Brathwaite Burke

Don Knabe

Zev Yaroslavsky



Effective Date: July 22, 1999

~~Operative Date:~~ _____

Joanne Sturges
Executive Officer - Clerk of the Board of
Supervisors of the County of Los Angeles

I hereby certify that pursuant to
Section 25103 of the Government Code,
delivery of this document has been made.

JOANNE STURGES
Executive Officer -
Clerk of the Board of Supervisors

By Raymond G. Forner, Jr.
DEPUTY

FVI-BS22 (Rev 12/98)

APPROVED AS TO FORM:

LLOYD W. PELLMAN

County Counsel

By Raymond G. Forner, Jr.
Chief Deputy County Counsel

ANALYSIS

This ordinance will amend the ordinance adopted on June 22, 1999, which added Chapter 2.201 to the Los Angeles County Code to establish a Living Wage Program for certain Proposition A and cafeteria services contracts, by adding a provision that Chapter 2.201 shall not be applied to small businesses, as defined.

LLOYD W. PELLMAN
County Counsel

By David R. Kelso
Deputy

DBK:vb
6/29/99

ORDINANCE NO. 99-0055

An Ordinance amending Title 2 - Administration, of the Los Angeles County Code relating to a Living Wage Program for certain Proposition A and cafeteria services contracts.

The Board of Supervisors of the County of Los Angeles ordains as follows:

Section 1. Section 2.201.090 is amended to read as follows:

2.201.090 Exceptions.

A. Other Laws. This chapter shall not be interpreted or applied to any Employer or to any Employee in a manner inconsistent with United States or California laws.

B. Collective Bargaining Agreements. Any provision of this chapter shall be superseded by a collective bargaining agreement that expressly so provides.

C. This chapter shall not be applied to any Employer which is a non profit corporation qualified under section 501 (c)(3) of the Internal Revenue Code.

D. Small Businesses. This chapter shall not be applied to any Employer which is a business entity organized for profit, including but not limited to any individual, partnership, corporation, joint venture, association or cooperative, which entity:

1. Is not an affiliate or subsidiary of a business dominant in its field of operation; and

2. Has 20 or fewer employees during the contract period, including full time and part time employees; and

3. Does not have annual gross revenues in the preceding fiscal year which if added to the annual amount of the contract awarded exceed \$1,000,000; or

4. If the business is a technical or professional service, does not have annual gross revenues in the preceding fiscal year which if added to the annual amount of the contract awarded exceed \$2,500,000.

"Dominant in its field of operation" means having more than 20 employees, including full time and part time employees, and more than \$1,000,000 in annual gross revenues or \$2,500,000 in annual gross revenues if a technical or professional service.

"Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation.

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Section 2. This ordinance shall be published in

Metropolitan News Enterprise

a newspaper printed and published in the County of Los Angeles.

Don Knabe

Chairman

ATTEST:

Joanne Sturges

Executive Officer - Clerk of the Board of
Supervisors of the County of Los Angeles



I hereby certify that at its meeting of July 6, 1999, the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

Ayes

Noes

Supervisors Gloria Molina

Supervisors None

Yvonne Brathwaite Burke

Zev Yaroslavsky

Mike Antonovich

Don Knabe



Effective Date: August 5, 1999

~~Operative Date:~~ _____

I hereby certify that pursuant to
Section 25103 of the Government Code,
delivery of this document has been made.

JOANNE, STURGES

Executive Officer -

Clerk of the Board of Supervisors

By Sydney Robinson
DEPUTY

FVI-BS22 (Rev 12/98)

Joanne Sturges
Executive Officer - Clerk of the Board of
Supervisors of the County of Los Angeles

APPROVED AS TO FORM:
LLOYD W. PELLMAN
County Counsel

By Raymond S. Fortner, Jr.
Chief Deputy County Counsel