

LIVING WAGE ORDINANCE HHSAB RECOMMENDATIONS AND REPORT

INTRODUCTION

Does application of the Living Wage Ordinance (LWO) create a significant barrier to Ann Arbor-funded Non-Profit Human Service Providers (NPHS)? If so, what proposed amendments should be adopted?

Under this heading, HHSAB has been confronted with a number of questions and assertions regarding the LWO that might justify the question or possibly justify certain amendments. They fall under two main headings: (1) LWO creates limitations on NPHS ability to provide services; (2) LWO is unenforced and possibly not observed among NPHS. These conclusions have led to a number of proposed amendments that could be considered including: (1) exempting NPHS entirely from the LWO; (2) exempting seasonal or college student employees of NPHS from the LWO; (3) changing the amount of City funding that would trigger application of the LWO from \$10,000 to \$25,000; or (4) transferring the procedure for a hardship waiver of the LWO from City Council to an administrative function of the City's procurement officer.

The City Council has asked the HHSAB to examine and provide recommendations on the various LWO amendment proposals as they would affect the NPHS funded by the City. The HHSAB has studied the issue, and City staff with the OCED undertook a preliminary survey of the City's NPHS in November 2012. The HHSAB followed up on the issue with a commissioned study by Professor Ian Robinson and students in the University of Michigan School of Social Work in the first half of 2013, with a final report provided to the HHSAB in July 2013.

The resulting "Report on the Impact of Ann Arbor's Living Wage Ordinance on Washtenaw County Non-Profit Human Services Providers" provided a wealth of anonymous survey information on NPHS and is attached to these recommendations for background and reference.

SHORT Q & A:

Q. Does the Ann Arbor LWO create such a significant barrier to NPHS ability to provide services that would justify a wholesale exemption for NPHS?

A. No, the survey data collected does not support the LWO as a meaningful threat to NPHS or their ability to provide services.

DISCUSSION AND GENERAL RECOMMENDATIONS OF THE HHSAB

According to survey data, the Ann Arbor LWO directly affects only a total of 10 NPHS in Washtenaw County. There are 14 NPHS that receive City funding, only 12 meet current LWO criteria of employing more than 10 people and receiving more than

\$10,000 in funding (see page 2 of report). Of the 12 affected, two have sought and received hardship exemptions from City Council through the current process in the LWO; one additional NPHS has received an exemption since the survey.

GENERAL RECOMMENDATIONS:

Of the 11 NPHS directly affected by the LWO at the time of the survey, 3 to 6 were subject to overlapping regulations of the City and County LWOs; Washtenaw County has a similar LWO (see page 5 of report). The overlapping requirements highlight a need for coordination with the County, especially given the current Coordinated Funding (COFU) model for NPHS in which funding is shared and NPHS are unaware of the ultimate funding source at the time of COFU applications. The HHSAB therefore recommends that any potential amendments to the City LWO that would affect NPHS should be adopted in coordination with the County. Ideally the application to NPHS should be similar or identical for both funding bodies.

Of the 11 NPHS directly affected by the LWO at the time of the survey, only 2 NPHS indicated that some wages were raised specifically to comply with the LWO. Additional NPHS surveyed responded that their main reasons for setting or raising wages were tied to the labor market; setting or raising wages to stay competitive (see pages 7 and 8 of report). The HHSAB therefore recommends that the hardship created by LWO enforcement is minimal and should not justify wholesale exemption or other amendments to the LWO.

The LWO already exempts students working in a bona fide work-study or internship role, although the survey data reflects some confusion about that exemption. Therefore the HHSAB does not recommend any changes or amendments to the LWO that would create an additional exemption for students or any other class of people.

Of the 11 NPHS directly affected by the LWO at the time of the survey, some respondents indicated that (while not directly affecting wages) the LWO did provide a useful “benchmark” or had previously been “institutionalized” such that current wage scales naturally have come to exceed the minimum set by the LWO (see pages 7 and 8 of report). Therefore the HHSAB finds that the intended affect of the LWO is being met without undue hardship to NPHS and alleged hardship should not be used to justify changes or amendments. The OCED biennial report addressing the impact of NPHS funding on the local economy is also attached for reference on this issue.

Of the 11 NPHS directly affected by the LWO at the time of the survey, some evidence shows that the Ann Arbor LWO has an impact on increasing wage scales even for employees not working on City projects and therefore not directly covered by the LWO. This is apparently the result of equitable effects of NPHS employers feeling compelled to match wages across similar positions regardless of whether the LWO directly applies (see page 8 of report). Therefore, again, the HHSAB finds that the intended affect of the LWO is being met without undue hardship to NPHS and alleged hardship should not be used to justify changes or amendments.

Of the 11 NPHS directly affected by the LWO at the time of the survey, most respondents saw no negative impact of the ordinance. Most respondents noted positive effects, including reduction in turnover; improved morale; reduction in the number of employees that may otherwise qualify for the NPHS service provided; and favorable public perception of the NPHS (see pages 9 and 10 of report). Therefore, the HHSAB finds and suggests that the LWO as it currently exists is a positive influence on NPHS. It reinforces their general desire to be good employers and community partners.

Of the 11 NPHS directly affected by the LWO at the time of the survey, only one expressed a specific difficulty in complying with the LWO (see page 11 of report). Moreover, the compliance issue may have been related to a lack of education on the LWO as much as enforcement. Therefore the HHSAB again finds and recommends that compliance difficulties should not justify any wholesale overhaul or amendment of the LWO.

HHSAB RECOMMENDATIONS AS TO SPECIFIC LWO AMENDMENT PROPOSALS:

1. One proposal has been to amend the LWO to exempt all NPHS. The HHSAB recommends AGAINST this proposal and concludes that any suggested burden to NPHS ability to provide services is minimal in light of the positive effects. Further, that while a County LWO still imposes similar requirements, City amendments alone would only impact a limited number of NPHS.
2. Another proposal suggested is to raise the minimum threshold for LWO coverage from the \$10,000 level to \$25,000 or more in City funding. Of the 11 NPHS directly affected by the LWO at the time of the survey, only 2 would be affected by such a change (see page 11 of report). HHSAB recommends AGAINST such a proposal and concludes that such an amendment would have no positive affect, but would only exempt agencies that have not asked for an exemption and may not need it.
3. Another proposal suggested is to modify the enforcement mechanism of the LWO. The LWO as written calls for enforcement from the City Living Wage Officer although no such post currently exists. The LWO does also suggest some enforcement powers of the City attorney office or for private attorneys but such enforcement has been minimal if any. Therefore, the HHSAB recommends IN FAVOR OF amending the LWO to provide for a more effective education and enforcement tool. One likely enforcement body may be the City Human Rights Commission, which is already charged with enforcing the City's Human Rights Ordinance for City contracts. Other possibilities included expanded enforcement through the city attorney's office or the procurement office.
4. Another proposal has been to amend the LWO to change the procedure for seeking a hardship waiver from the current process requiring City Council approval to an ability of the City's procurement officer to grant exemptions. In light of the recent history showing two NPHS have been able to seek and obtain three-year hardship waivers from City Council without any apparent

- difficulty, HHSAB recommends AGAINST amending the LWO to change the exemption procedure. The current system seems to provide a natural mechanism where only those truly needing of a waiver were motivated to apply and there is no need to make it easier. It seems to allow for need-based waivers. Even survey respondents in favor of LWO exemptions agreed they should be restricted to true need situations (see page 12 of report).
5. Another alternative amendment proposal explored by the survey is the suggestion that City funding should aspire to keep pace with the annual increases in the LWO minimum wage. The survey points out that that NPHS are forced by the LWO to absorb cost of labor increases while unable to reach similar funding increases (see page 12 of report). One suggestion is that hardship waivers are only made necessary by the lack of increase in human services funding over the last decade. The HHSAB therefore recommends IN FAVOR OF tying future City human services funding to keep pace with the annual LWO increases or cost of living.
 6. One final amendment recommendation arising from the survey is that the burden of the LWO might be more easily absorbed by NPHS if the annual increases in the LWO and the exemption system were more closely aligned with the Coordinated Funding grant cycle (see pages 13 and 14 of report). The survey suggests that NPHS might be able to anticipate budgetary needs or LWO waiver needs if information was available in advance of biennial grant requests. Therefore the HHSAB recommends IN FAVOR OF annual LWO increases and hardship waiver applications being aligned with the COFU process and County LWO requirements.