

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

BILL NO. 2014-34

Living Wage Requirements

SPONSOR(S): Councilor Maestas

SUMMARY: The proposed ordinance amends:

- The Business License Ordinance, §18-1 SFCC 1987, to require businesses that apply for a business license to affirm that such businesses are and will continue to be in compliance with the Living Wage Ordinance
- The Business Registration Ordinance, §18-2 SFCC 1987, to require businesses that apply for a business registration or renew a business registration to affirm that such businesses are in compliance with the Living Wage Ordinance

PREPARED BY: Melissa Byers, Legislative Liaison

FISCAL IMPACT: Yes

DATE: November 6, 2014

ATTACHMENTS: Action Sheets
Bill
FIR

ACTION SHEET
CITY COUNCIL COMMITTEE MEETING OF 11/12/14
ITEM FROM FINANCE COMMITTEE MEETING OF 11/03/14

ISSUE:

14. Living Wage. (Councilor Maestas) (Zachary Shandler)

A. Request for Approval of an Ordinance Amending the Business License Ordinance, Section 18-1 SFCC 1987 and the Business Registration Ordinance, Section 18-2 SFCC 1987 to Require Businesses that Apply for a Business License or Registration or Renew a Business License or Registration to Affirm That Such Businesses are in Compliance With the Living Wage Ordinance, Section 28-1 SFCC 1987.

Committee Review:

Immigration Committee (approved)	10/07/14
City Business & Quality of Life (approved)	10/08/14
City Council (request to publish)	11/12/14
City Council (public hearing)	12/10/14

Fiscal Impact – Yes

B. Request for Approval of a Resolution Relating to the Living Wage Ordinance, §28-1 SFCC 1987; Directing Staff to Explore and Recommend to the Governing Body a Living Wage Program That Will Educate and Assist Santa Fe Businesses in Complying With the Living Wage Requirements and a Mechanism for City Staff to Perform Field Compliance Reviews of Businesses to Ensure Compliance With the Living Wage Ordinance.

Committee Review:

City Council (scheduled)	12/10/14
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Fiscal Impact – Yes

FINANCE COMMITTEE ACTION: APPROVED AS DISCUSSION ITEM

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS

STAFF FOLLOW-UP:

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR TRUJILLO	X		
COUNCILOR RIVERA	X		
COUNCILOR LINDELL	X		
COUNCILOR MAESTAS	X		
CHAIRPERSON DOMINGUEZ			

1 CITY OF SANTA FE, NEW MEXICO

2 BILL NO. 2014-34

3 INTRODUCED BY:

4
5 Councilor Joseph Maestas

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10 AN ORDINANCE

11 AMENDING THE BUSINESS LICENSE ORDINANCE, SECTION 18-1 SFCC 1987 AND
12 THE BUSINESS REGISTRATION ORDINANCE, SECTION 18-2 SFCC 1987 TO REQUIRE
13 BUSINESSES THAT APPLY FOR A BUSINESS LICENSE OR REGISTRATION OR
14 RENEW A BUSINESS LICENSE OR REGISTRATION TO AFFIRM THAT SUCH
15 BUSINESSES ARE IN COMPLIANCE WITH THE LIVING WAGE ORDINANCE,
16 SECTION 28-1 SFCC 1987.

17
18 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

19 Section 1. Subsection 18-1.4 SFCC 1987 (being Ord. #1981-64, §4, as amended) is
20 amended to read:

21 18-1.4 License Application; Information Required.

22 A. Applicants for licenses under this section shall file with the city a sworn application
23 in writing, on a form to be furnished by the city, which shall include, but is not limited to the
24 following:

25 (1) Name;

- 1 (2) Address;
- 2 (3) Current state revenue division taxpayer identification number or evidence of
- 3 application for a current state revenue division taxpayer identification number;
- 4 (4) A brief description of the nature of the business;
- 5 (5) Proof of insurance coverage, when applicable; ~~and~~
- 6 (6) Proof of bond, when applicable; and
- 7 (7) An attestation clause that states that the business shall comply with the
- 8 requirements of the Living Wage Ordinance, 28-1 SFCC 1987.

9 B. In addition to the information required in paragraph A, the following businesses shall
10 also include the following information with their applications:

- 11 (1) Carnival operators shall submit a copy of their special use permit, as required
- 12 by subsection 18-7.2 SFCC 1987;
- 13 (2) Circus operators shall submit a copy of their special use permit, as required
- 14 by subsection 18-7.2 SFCC 1987;
- 15 (3) Itinerant vendors seeking to conduct sales as defined under subsection 18-5.1
- 16 SFCC 1987 shall submit a copy of their petition as approved by the governing body, as
- 17 required in subsection 18-5.1 SFCC 1987;
- 18 (4) Jewelry auction operators, as defined in subsections 18-5.1 through 18-5.23
- 19 SFCC 1987, shall provide information required by subsections 18-5.12 and 18-5.14 SFCC
- 20 1987, including a notarization of the application;
- 21 (5) Mobile home park operators shall submit a copy of their certificate of
- 22 occupancy;
- 23 (6) Private day-care nurseries, facilities and kindergarten operators, when
- 24 approval is required by the board of adjustment, as per the provisions of Table 14-6.1-1
- 25 SFCC 1987, shall include a sworn affidavit stating that they have received such approval; and

1 (7) Septic tank cleaners shall submit a sworn affidavit stating that they have
2 conformed to the requirements set forth in subsection 22-4.9 SFCC 1987.

3 (8) Flea market operators shall submit:

4 (a) A copy of a current certificate of occupancy. The certificate of
5 occupancy shall be reissued annually; and

6 (b) A sworn affidavit stating that they have conformed to the
7 requirements set forth in subsection 14-6.2(c) SFCC1987.

8 (9) Alarm installation companies and monitoring companies, as defined in
9 subsection 20-5.4 SFCC 1987, shall submit the following documents as required by
10 subsection 20-5.8 SFCC 1987;

11 (a) A copy of a valid license issued by the construction industries
12 division of the regulation and licensing department of the state of New Mexico; and

13 (b) Proof of bonding.

14 **Editor's Note:** Santa Fe City Code references in paragraphs B(6) and B(8)(b) are corrected to
15 conform with Ordinance No. 2011-37.

16 **Section 2. Subsection 18-1.5 SFCC 1987 (being Ord. #1981-64, §5, as amended) is**
17 **amended to read:**

18 **18-1.5 Payment of License Fees Required; Assessments; Protest.**

19 A. On or before March 15 of each year, all businesses engaging in a type of business
20 enumerated as requiring business licenses under this section shall apply for a business license for that
21 year. These businesses shall:

22 (1) ~~include~~ Include payment with the application; and

23 (2) ~~show~~ Show proof of insurance and bond, if the business is so required; and

24 (3) Attest that the business shall comply with the requirements of the Living
25 Wage Ordinance, 28-1 SFCC 1987.

1 B. Upon payment of the business license fee, the city shall issue a business license to the
2 applicant unless refused pursuant to Section 3-28-2 NMSA 1978.

3 C. Any business may protest the amount of the business license fee assessment by filing
4 a written protest with the city clerk, on or before March 15. The finance committee shall give the
5 protesting business no less than five (5) days notice of a hearing, at which time the protest shall be
6 heard by the finance committee.

7 D. The finance committee shall have the same authority and power as that of the
8 governing body as contained in subsection 18-1.6 SFCC 1987.

9 E. Any business which must have a business license as enumerated in this section,
10 which begins operations after March 15, shall apply to the city for a business license prior to
11 engaging in business.

12 **Section 3. Subsection 18-2.4 SFCC 1987 (being Ord. #1981-63, §6, as amended) is**
13 **amended to read:**

14 **18-2.4 Application; Required.**

15 A. Any person proposing to engage in business after the effective date of this section,
16 shall apply to the city for a certificate of occupancy and pay a business registration fee of thirty-five
17 dollars (\$35.00), for each outlet, branch, location, or person doing business in the municipal limits of
18 the city, prior to engaging in business, unless such person is required to pay for and obtain a business
19 license, as specified in Section 18-1, Business Licenses.

20 B. Upon application for a business registration, the person proposing to engage in
21 business shall attest that the business shall comply with the requirements of the Living Wage
22 Ordinance, 28-1 SFCC 1987.

23 **Section 4. Subsection 18-2.5 SFCC 1987 (being Ord. #1981-63, §5) is amended to**
24 **read:**

25 **18-2.5 Renewal of Business Registration.**

1 A. Prior to March 16 of each year, any person engaging in a business within the city and
2 subject to the business registration fee shall apply for renewal of his business registration with the
3 city.

4 B. Upon renewal of a business registration, the person renewing the business
5 registration shall attest that the business shall comply with the requirements of the Living Wage
6 Ordinance, 28-1 SFCC 1987.

7 APPROVED AS TO FORM:

8 
9 _____
10 KELLEY A. BRENNAN, CITY ATTORNEY

City of Santa Fe Fiscal Impact Report (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

Section A. General Information

(Check) Bill: X 2014-34 Resolution: X

(A single FIR may be used for related bills and/or resolutions)

Short Title(s):

- An Ordinance amending the Business License Ordinance, Section 18-1 SFCC 1987 and the Business Registration Ordinance, Section 18-2 SFCC 1987 to require businesses that apply for a business license or registration or renew a business license or registration to affirm that such businesses are in compliance with the living wage ordinance, Section 28-1 SFCC 1987.
- A Resolution directing staff to explore and recommend to the Governing Body a living wage program that will educate and assist Santa Fe businesses in complying with the living wage ordinance and a mechanism for city staff to perform field compliance reviews of businesses to ensure compliance with the living wage.

Sponsor(s): Councilor Maestas

Reviewing Department(s): City Attorney's Office

Persons Completing FIR: Rebecca Seligman Date: 10/27/14 Phone: 955-6501

Reviewed by City Attorney: Kelley A. Brennan Date: 10/29/14
(Signature)

Reviewed by Finance Director: [Signature] Date: 10/30/14
(Signature)

Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution:

The bill amends the business license and business registration ordinances to require businesses that apply for a business license or registration or renew a business license or registration to affirm that such businesses are in compliance with the living wage ordinance, Section 28-1 SFCC 1987. The resolution directs staff to explore and make recommendations to the Governing Body relating to the establishment of a program that will assist Santa Fe businesses in complying with the Living Wage Ordinance and a mechanism for staff to perform field compliance reviews of City businesses.

Section C. Fiscal Impact

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

1. Projected Expenditures:

- a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
- c. Indicate: "R" – if recurring annual costs
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

Finance Director: _____

_____ Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected
	Personnel*	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Professional Services	\$ <u>Cost for Updating Software</u>	_____	_____	\$ _____	_____	_____	_____
	All Other Operating Costs	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Total:	\$ <u>Cost for Updating Software</u>			\$ _____			

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:

- a. To indicate new revenues and/or
- b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
	Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected
	_____	\$ _____	_____	\$ _____	_____	_____
	_____	\$ _____	_____	\$ _____	_____	_____
	_____	\$ _____	_____	\$ _____	_____	_____
	Total:	\$ _____		\$ _____		

3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

There will be a cost to update the software for online renewal of business licenses and registration. The cost would be for inclusion of a checkbox for businesses to certify compliance with the Living Wage. The cost for such service is unavailable at this time.

Section D. General Narrative

1. Conflicts: Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

None staff is aware of

2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this bill/resolution? If so, describe.

If this ordinance is not enacted, the City of Santa Fe could not be able to require businesses that apply for a business license, register or renew a business license to affirm the business is in compliance with the living wage ordinance. Further, City staff would not be able to explore and recommend to the Governing Body living wage compliances processes to assist local businesses in complying with the living wage requirements and a mechanism for City staff to perform field compliance with the living wage ordinance.

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

No

4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

The legislation will have a positive impact in our community because Santa Fe businesses will be reminded when applying for their business license or registration that such businesses are mandated by City ordinance to comply with the Living Wage Ordinance. Once a program is established, staff will take a proactive approach by educating and assisting Santa Fe businesses in complying with the Living Wage Ordinance.

Form adopted: 01/12/05; revised 8/24/05; revised 4/17/08

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

Resolution No. 2014-____ Living Wage Compliance

SPONSOR(S): Councilor Maestas

SUMMARY: The proposed resolution relates to the living wage ordinance, §28-1 SFCC 1987; directing staff to explore and recommend to the Governing Body a living wage program that will educate and assist Santa Fe businesses in complying with the living wage requirements and a mechanism for city staff to perform field compliance reviews of businesses to ensure compliance with the living wage ordinance.

PREPARED BY: Rebecca Seligman, Legislative Liaison Assistant

FISCAL IMPACT: No

DATE: October 29, 2014

ATTACHMENTS: Resolution

1 **WHEREAS**, in addition, the Living Wage Ordinance mandates City contractors and other
2 entities who receive grants, subsidies or other benefits from the city or benefit from the opportunity to
3 do business in Santa Fe to raise the income of employees and pay the living wage; and

4 **WHEREAS**, for the current year, there are 5,466 standard businesses, including food and
5 construction, that are registered with the City to do business in Santa Fe; and

6 **WHEREAS**, pursuant to Subsection 28-1.5 of the Living Wage Ordinance, the City of Santa
7 Fe, contractors of the City of Santa Fe, businesses receiving assistance relating to economic
8 development, businesses required to have a business license or business registration from the city of
9 Santa Fe and nonprofit organizations are required to pay the living wage; and

10 **WHEREAS**, the city manager is authorized, as appropriate and as resources permit, to
11 enforce the provisions of the Living Wage Ordinance; and

12 **WHEREAS**, currently, violations of the Living Wage Ordinance are brought to the
13 attention of the City through complaints of workers who believe they are not being paid the
14 Living Wage; and

15 **WHEREAS**, the Living Wage Ordinance authorizes the city manager to investigate
16 possible violations of the Living Wage Ordinance; and

17 **WHEREAS**, the city manager, after a proceeding that affords a suspected violator
18 due process, concludes that a violation has occurred, the city manager may issue orders to the
19 employer appropriate to effectuate the complaining person's rights, including but not limited
20 to back pay and reinstatement; and

21 **WHEREAS**, the city manager also has the power to order termination of any and all
22 economic benefit derived by any offending party from the City and has the power to revoke
23 the employer's business license or registration; and

24 **WHEREAS**, in an effort to take a proactive approach and assist businesses in

1 understanding the mandate of the Living Wage Ordinance, on December 12, 2014, the
2 Governing Body adopted Ord. #2014-___ to require businesses that apply for a business
3 license or registration or renew a business license or registration to affirm that such
4 businesses are in compliance with the living wage ordinance; and

5 **WHEREAS**, to further the effort to ensure compliance with the Ordinance, the
6 Governing Body desires that staff explore and recommend to the Governing Body Living Wage
7 compliance processes to assist Santa Fe businesses in complying with the living wage requirements.

8 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
9 **CITY OF SANTA FE** that the Governing Body directs staff to:

- 10 (1) Explore and recommend to the Governing Body a Living Wage program that will
11 educate and assist Santa Fe businesses in complying with the living wage
12 requirements when such businesses apply for or seek to renew a business license or
13 registration; and
- 14 (2) Recommend a proactive mechanism for City staff to perform field compliance
15 reviews of businesses to ensure that such businesses are complying with the Living
16 Wage Ordinance, including the creation of a comprehensive progressive penalty
17 compliance program; and
- 18 (3) Recommend a process to ensure that City contractors and other entities who receive
19 grants, subsidies or other benefits from the city are complying with the Living Wage
20 Ordinance; and
- 21 (4) Recommend administrative procedures for staff to use when performing field
22 compliance reviews and due process through a progressive penalty compliance
23 program; and
- 24 (5) Present their findings and recommendations related to this resolution within 90 days

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of adoption of this resolution.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2014.

JAVIER M. GONZALES, MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:



KELLEY A. BRENNAN, CITY ATTORNEY