AGN. NO.

MOTION BY SUPERVISOR HILDA L. SOLIS & SUPERVISOR

MARK RIDLEY-THOMAS July 7, 2015

Wage theft is the illegal refusal by an employer to pay the wages and benefits that an employee has legally earned. The most common forms of wage theft include minimum wage violations, overtime violations, meal and rest break violations, illegal paycheck deductions, failure to provide a final pay check, and misclassification of workers as independent contractors. Wage theft is a crime, and in addition to depriving workers of their rightful property, it gives an unfair advantage to businesses that do not abide by the law, pushes commercial activity into the underground economy, and allows perpetrators to avoid paying their fair share of public costs.

Wage theft is widespread in Los Angeles County (County). A 2014 report by the University of California, Los Angeles Labor Center found that, in a given week, 655,000 low-wage workers in the County experience at least one violation. A staggering 80 percent of low-wage workers who work overtime are not compensated at the lawful rate of pay. Another 80 percent of these workers are denied their right to meal and rest breaks. Nearly 1 in 5 low-wage workers in the County works off the clock.

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Victims are disproportionately immigrants, women, and people of color. Immigrants suffer minimum wage violations at twice the rate of their native-born counterparts, African Americans at twice their white counterparts. More than half of low-wage immigrant Latinas in the County currently earn less than minimum wage.

As with many crimes, the key to deterrence is enforcement. But federal and state enforcement agencies invariably receive insufficient funding to address the problem. The consequences of this underfunding are felt with particular acuity in Los Angeles. As California Labor Commissioner Julie Su explained in a recent letter to the Mayor of the City of Los Angeles:

> The growth in employers, employees and the underground economy in the State challenges our staff. We have fewer than 60 field investigators to cover the whole state. In addition to field enforcement and Public Works enforcement, we process more than 30,000 new wage claims, seeking over $100,000,000 in unpaid wages, every year. Our Los Angeles office is our busiest by far, with over 5,000 wage claims filed a year.

Rather than wait for the state to properly fund these efforts, many local governments have chosen to act by promulgating their own wage theft ordinances and creating local agencies to enforce them. In 2011, Miami-Dade County became the nation's first county to adopt a countywide wage theft law. The ordinance, which applies to private sector employees and employers, prohibits wage theft and provides administrative procedures and private causes of action. The ordinance requires violating employers to pay the hearing costs as well as restitution, which includes not only back wages but also liquidated damages of double (and possibly treble) the back pay owed. Other local governments who have moved to address wage theft include Seattle, which in 2011 adopted an ordinance that made wage theft a misdemeanor, and Houston, which in 2013 barred any person or firm who had been criminally convicted of wage theft from renewing 46 types of city permits and licenses for five years.

The national model for local enforcement agencies is the Office of Labor Standards Enforcement (OLSE), created by the City and County of San Francisco. Since inception, OLSE has collected 90.5% of all the wages plus interest owed to residents of that County who have filed claims. The City of Los Angeles recently voted to follow suit and establish its own Office of Labor Standards to enforce labor standards throughout the city.

The County, too, must act. Ideally, the County would be able to enforce labor standards throughout the County. Economies are regional and do not adhere to the political and geographical borders of the 88 municipalities within the County. To the consumer driving down Venice Boulevard, there is no difference between the furniture stores on the Culver City side of the street and those on the City of Los Angeles side of the street. To the hungry pedestrian, there is no difference between the restaurants east or west of Indiana Street on Cesar Chavez Avenue. But the attendant legal questions are complex and require research into what regulatory models are permissible under law.

In addition to its regulatory powers, the County possesses numerous other tools that could enhance its enforcement ability. As perhaps the region’s largest consumer of goods and services, the County can limit its business dealings to those enterprises that scrupulously adhere to local labor laws. As a service provider, the County has access to many members of the vulnerable populations most likely to fall victim to wage theft. The

County should educate these men and women about their rights and remedies should they be or become victims of wage theft.

As the County and cities across the region increase their minimum wage, it becomes a moral and economic imperative to put strong enforcement infrastructure and tools in place. The County's geographical and jurisdictional position may make the County part of a regional solution to the problem of wage theft.

I, THEREFORE MOVE that the Board of Supervisors:

1. Direct the Interim County Counsel to report back to the Board of Supervisors in writing within 60 days with an analysis of the County's legal authority to regulate wage theft (including employer retaliation) in Los Angeles County and its authority to enforce municipal, state, and federal wage theft laws. The report should also include a menu of the tools available to the County for combatting wage theft, including, if feasible, new and/or stricter criminal penalties against employers that commit wage theft or retaliation; revocation or application denial of permits, contracts, concessions, or licenses issued by the County to violators; new and/or increased administrative penalties and fines for employers that commit wage theft; liens that preserve assets pending resolution of a claim; and any other enforcement tools that County Counsel deems permissible and potentially effective.
2. Direct the Interim Chief Executive Officer, in consultation with Superior Court leadership, the Department of Consumer and Business Affairs, the

District Attorney, the Sheriff, County Counsel, Treasurer and Tax Collector, and other relevant County departments, to report back to the Board of Supervisors via written report and oral presentation within 90 days with its recommendation for the most effective and efficient model by which the County can enforce wage theft regulations. The report back should also include an inventory and analysis of the County's existing wage theft enforcement efforts, as well as recommendations for how these might be coordinated with or relocated into the enforcement agency. The report back should also include a description of state and federal wage theft enforcement efforts and should consider potential collaborations, especially on a cost-recovery basis, with municipal governments; federal, state, and local wage enforcement and criminal justice agencies; and local community based organizations who might conduct outreach, victim identification, and education regarding wage standards and enforcement procedures. The report back should also include an estimate of the resources, including staff and funding, necessary to establish and operate such an enforcement agency.

3. Direct the Interim Chief Executive Officer to direct legislative advocates to proactively advocate for increased state and federal funding for wage theft enforcement and to support initiatives that contemplate the same.

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