

1 **COMMITTEE SUBSTITUTE**
2 **BOARD BILL # 43** **INTRODUCED BY ALDERMAN JAMES F. SHREWSBURY**
3

4 An ordinance establishing the St. Louis Living Wage Law requiring employers
5 benefiting from certain taxpayer-funded contracts with the City of St. Louis or benefiting from
6 multi-million dollar awards of taxpayer-funded financial assistance to pay their employees a
7 living wage equal to 130% of the Federal Poverty Guidelines for a family of three. Also
8 prohibiting such recipients and contractors from using City funds to support or oppose
9 unionization, requiring that such employers make best efforts to fill new positions with City
10 residents, providing for a City Compliance Official, and containing definitions, implementation
11 and enforcement provisions, a private right of action, a severability clause and an effective date.

12 WHEREAS, the City of St. Louis each year awards millions of dollars of contracts in
13 order to provide services to the public and to City government; and

14 WHEREAS, too often the firms receiving these service contracts do not pay their
15 employees adequate wages or health benefits; and

16 WHEREAS, research nationally shows that low pay for service contractors often results
17 in high employee turnover and workforce instability, compromising the quality of the services
18 provided to the public; and

19 WHEREAS, the City has long recognized the benefits of ensuring that its service
20 contractors pay decent wages, and since 1990 has gone beyond state requirements and asked that
21 businesses performing City service contracts pay at least the prevailing industry wage; and

1 WHEREAS, the City also expends substantial taxpayer funds each year to provide grants,
2 loans, tax incentives and other forms of financial assistance to businesses for the purpose of
3 retaining or attracting jobs to St. Louis; and

4 WHEREAS, it is not fiscally prudent to expend millions of dollars in scarce City funds to
5 subsidize the creation of jobs that pay poverty wages; and

6 WHEREAS, cities and states across the United States – including the State of Missouri –
7 have increasingly adopted policies to target taxpayer-funded economic development subsidies
8 toward employers that in exchange commit to create jobs that pay family-supporting wages; and

9 WHEREAS, asking employers that benefit from very large awards – \$20 million or more
10 – of City financial assistance to pay a living wage is therefore a first step toward ensuring that
11 these limited public dollars are targeted where they will do the greatest good by expanding the
12 pool of family-supporting jobs for St. Louis residents; and

13 WHEREAS, when significant amounts of taxpayer funds are spent to maintain or create
14 unique facilities such as the Lambert-St. Louis International Airport or sports arenas, businesses
15 that enjoy the privilege of operating there benefit significantly by gaining exclusive access to a
16 desirable customer base; and

17 WHEREAS, other major American cities have found that businesses operating at such
18 taxpayer-funded facilities can afford to pay a living wage in light of the significant business
19 advantages the location affords them; and

20 WHEREAS, it is therefore fair for the City to ask in return that employers benefiting
21 from major taxpayer investments in such facilities pay their employees a living wage; and

1 WHEREAS, poverty-level wages deny hard-working St. Louis residents the resources
2 they need to support their families. When employers do not pay a living wage, their employees’
3 families are forced to rely on the public social services system for support, increasing the burden
4 on the city, state, and federal governments and taxpayers. By contrast, jobs paying an adequate
5 wage will increase consumer income, decrease poverty and invigorate businesses in the City’s
6 low-income neighborhoods; and

7 WHEREAS, a targeted St. Louis Living Wage Law will help and not hurt the City’s
8 economy. Businesses will remain free to set wages as they see fit. But employers that seek the
9 privilege of benefiting from significant expenditures of taxpayer funds should in exchange be
10 asked to pay a living wage;

11 **NOW THEREFORE BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

12 **SECTION ONE. DEFINITIONS AND APPLICABILITY**

13 (A) This Ordinance applies to any individual, proprietorship, partnership, corporation, trust,
14 association or other entity that is a Contractor or City Financial Assistance Recipient (CFAR), as
15 defined:

16 (i) A Contractor is a party to a contract with the City of St. Louis and/or a City Agency
17 that is entered into after the effective date of the provisions of this Ordinance and that is
18 primarily for the furnishing of services (provided that contracts for the purchase or lease of
19 goods and public works contracts for construction shall not constitute the furnishing of services
20 for purposes of this Ordinance), and where the total value of such contract(s) is \$50,000 or more
21 in a twelve-month period. Where during any twelve-month period an entity receives more than
22 one contract from the City for the provision of the same or similar services, the value of the

1 contracts shall be aggregated to determine whether this threshold is met. Any subcontractor that
2 assists a Contractor in furnishing the services that are the subject of such a contract shall be
3 deemed a Contractor for the purposes of this definition. An entity that receives or enters into one
4 or more contracts triggering coverage under this definition shall be deemed a Contractor for the
5 duration of the contracts.

6 (ii) This definition of Contractor shall include any party to a written agreement
7 (including, without limitation, any lease, concession, franchise or easement agreement) with the
8 St. Louis Airport Commission, the City of St. Louis and/or a City Agency that is entered into
9 after the effective date of the provisions of this Ordinance, that is for the use of real property that
10 is under the jurisdiction of the St. Louis Airport Commission, and where the total value of such
11 agreement (including all lease or concession payments and other payments made) over a twelve-
12 month period is \$20,000 or more, regardless whether such value accrues to the benefit of the
13 party or to the City of St. Louis as in the case of a lease or concession agreement. This definition
14 of Contractor shall also include (a) any party to a sublease or other agreement with a Contractor
15 allowing the party the use of real property that is under the jurisdiction of the St. Louis Airport
16 Commission, or (b) any party to a subcontract or contract with a Contractor to perform services
17 on property that is under the jurisdiction of the St. Louis Airport Commission.

18 (iii) A City Financial Assistance Recipient (CFAR) is a recipient of any financial
19 assistance from the City of St. Louis and/or a City Agency awarded after the effective date of the
20 provisions of this Ordinance that has a projected value of at least \$20,000,000 over the term of
21 the assistance, and where the primary purpose of the assistance is economic development or job
22 growth. Financial assistance includes any financial assistance approved, administered or

1 awarded by the City or a City Agency including any federal- or state-funded grant or loan
2 program, tax increment financing, revenue bond financing, tax abatements, tax credits, grants,
3 loans or any other form of financial assistance. Where an entity receives more than one award of
4 City financial assistance within a twelve-month period, the value of the financial assistance
5 awards shall be aggregated to determine whether this threshold is met. Any contractor,
6 subcontractor, tenant or concessionaire of a CFAR that employs persons at a CFAR's subsidized
7 site and that benefits significantly from the City-awarded financial assistance shall be deemed a
8 CFAR for the purposes of this definition. Where an entity receives City financial assistance to
9 retain or create jobs or to provide a service, and then contracts with another entity to retain or
10 create those jobs or to provide that service, the contracting firm will be presumed to benefit
11 significantly from the City financial assistance. Where City financial assistance is awarded to
12 support a facility intended to be occupied chiefly by a single major tenant, that tenant will be
13 presumed to benefit significantly from the City financial assistance. Where City financial
14 assistance is awarded to finance the construction of a stadium and/or related entertainment or
15 retail facilities, any contractor, subcontractor, tenant or concessionaire operating at the
16 subsidized stadium or related facilities will be presumed to benefit significantly from the City
17 financial assistance in light of the unique business location and customer base that the City-
18 financed project makes available to them. Beyond these enumerated circumstances, a contractor,
19 subcontractor, tenant or concessionaire of a CFAR will be deemed to benefit significantly from
20 the City-awarded financial assistance and will therefore be subject to the requirements of this
21 Ordinance only where the City determines that such would be the case at the time the financial
22 assistance is awarded and appraises the recipient CFAR of that determination. An entity that

June 27, 2002

Page 5 of 16

Board Bill # 43CS

Sponsor: Alderman Shrewsbury

1 receives City financial assistance triggering coverage under this definition shall be deemed a
2 CFAR for the period of time during which the financial assistance that triggers coverage is
3 received or, if the financial assistance has no specified duration, for five years.

4 (iv) Notwithstanding the foregoing, a not-for-profit organization that provides social or
5 human services for disadvantaged residents of St. Louis pursuant to a contract or with financial
6 assistance from the City and the contractors and subcontractors of such an organization shall not
7 be deemed a Contractor or CFAR for the purposes of this Ordinance. “Not-for-profit
8 organization” means a corporation having tax-exempt status under section 501(c)(3) of the
9 United States Internal Revenue Code and recognized under Missouri state not-for-profit law. An
10 organization is deemed to be providing social or human services for disadvantaged residents if
11 the primary purpose of its work is to provide in-home or agency-based services such as food,
12 housing, health care or training to vulnerable residents such as youth, low-income, elderly, ill or
13 disabled individuals. Organizations with a mission that is primarily commercial, cultural or
14 artistic will not be considered exempt from this Ordinance.

15 (B) The wage and benefits requirements of this ordinance shall apply (i) to any employee of a
16 Contractor for all hours that the employee is employed performing work related to the covered
17 contract or concession agreement (but shall include hours employed performing general
18 overhead or administrative services related to the City contract only where such hours total at
19 least 10 hours for the employee in a given week and can be clearly identified and allocated to the
20 City contract); and (ii) to any employee of a CFAR for all hours that the employee is employed
21 performing work in connection with any job site covered or subsidized in whole or in part by a
22 covered award of financial assistance from the City. An employee is any person who performs

1 work on a full-time, part-time, temporary, or seasonal basis, and includes employees,
2 independent contractors, and contingent or contracted workers, including persons made available
3 to work through the services of a staffing, temporary, or employment agency.

4 (C) For purposes of this Ordinance, a “City Agency” shall include any agency, office, position,
5 administration, department, division, bureau, board, commission, or other unit, affiliate, or
6 subdivision of the City, and any other entity over which majority control is exercised by officers
7 or employees of the City or by their appointees, or which awards contracts or financial assistance
8 that is funded by the City. This definition shall include any Department of the City, the City of
9 St. Louis Airport Authority, the Planned Industrial Expansion Authority, the Land Clearance for
10 Redevelopment Authority, the Industrial Development Authority, the Community Development
11 Agency, the Local Development Company and the St. Louis Development Corporation.

12 SECTION TWO. LIVING WAGE AND OTHER REQUIREMENTS

13 (A) Each Contractor and CFAR shall pay its employees wages that are no less than a living
14 wage as defined in this Ordinance.

15 (B) A living wage means an hourly wage rate which on an annual basis (based on forty hours
16 per week, fifty-two weeks per year) is equivalent to 130% of the federal Poverty Guidelines for a
17 family of three, as updated annually in the Federal Register by the U.S. Department of Health
18 and Human Services, if the employee also receives from the employer. Health benefits, for the
19 purposes of this ordinance, means receipt of health care benefits for the covered employee and/or
20 his or her dependents where the employer’s contribution to the benefits package, for each hour
21 worked, is valued at no less than the hourly prevailing fringe benefits rate defined under the
22 City’s prevailing wage law, chapter 6.20 of the revised code of the City of St. Louis, as adjusted

1 periodically. In determining the living wage an employer is required to pay a tipped employee,
2 the amount paid such employee shall be an amount equal to:

3 (1) The hourly cash wage paid such employee which for purposes of such determination
4 shall be not less than 50% of the value of the living wage required for non-tipped employees as
5 defined herein and adjusted annually;

6 (2) An additional amount on account of the tips received by such employee which
7 amount is at least equal to 50% of the value of the living wage required for non-tipped
8 employees. The additional amount on account of tips may not exceed the value of the tips
9 actually received by an employee. The preceding two (2) sentences shall not apply with respect
10 to any tipped employee unless such employee has been informed by the employer of the
11 provisions of this subsection, and all tips received by such employee have been retained by the
12 employee, except that this subsection shall not be construed to prohibit the pooling of tips among
13 employees who customarily and regularly receive tips.

14 (C) If health benefits are not provided, each Contractor and CFAR shall pay its covered
15 employees a wage no less than an hourly wage equal to the sum of the living wage for employees
16 with health benefits as defined in (B) above, plus the prevailing fringe benefits rate defined under
17 the City's prevailing wage law, chapter 6.20 of the revised code of the City of St. Louis, as
18 adjusted periodically.

19 (D) The City Compliance Official (CCO) shall adjust the living wage rate annually no later than
20 April 1 to incorporate changes in the federal poverty guidelines. The CCO shall publish a
21 bulletin announcing any change in the amount of the living wage and in the prevailing fringe
22 benefits rate defined under the City's prevailing wage law, and shall inform each Contractor and

1 CFAR of such changes in writing prior to such adjustment becoming effective. In the event that
2 the City ever ceases determining the prevailing fringe benefits rate currently defined under the
3 City's prevailing wage law, the prevailing fringe benefits rate for the purposes of this Ordinance
4 shall be the hourly prevailing fringe benefits rate for employees in the St. Louis metropolitan
5 area as determined pursuant to the federal Service Contract Act, 41 U.S.C. Section 351 et seq.,
6 as amended.

7 (E) It shall be unlawful for any employer, an employer's agent or representative, or any other
8 party to take any action against an individual in retaliation for the exercise of rights protected
9 under this Ordinance. Rights protected under this Ordinance shall include the freedom to inform
10 others of their potential rights under this Ordinance, and to assist them in asserting those rights.
11 This protection shall also apply to any individual who mistakenly, but in good faith, alleges
12 noncompliance with this Ordinance. Taking adverse action against an individual within sixty
13 (60) days of the individual's exercise of rights protected under this Ordinance shall raise a
14 rebuttable presumption of having done so in retaliation for the exercise of those rights.

15 Contractors and CFAR's shall also be in compliance with other applicable federal, state and local
16 labor and workplace laws.

17 (F) To the greatest extent feasible, covered Contractors and CFAR's shall attempt to fill all new
18 positions created as a result of a contract or financial assistance with employees who are
19 residents to the City of St. Louis. The foregoing shall not be interpreted as a residency
20 requirement, nor shall it cause any Contractor or CFAR to terminate, transfer, or lay off any
21 employee who is on the payroll at the time of coverage under this ordinance becomes effective
22 for that employer.

1 (G) No Contractor or CFAR shall, directly or indirectly, use any City financial assistance or
2 payments for the purpose of persuading employees to support or oppose unionization. In
3 particular, financial assistance or payments received from City of St. Louis shall not be used to
4 schedule or hold meetings related to union representation during employees' working hours.
5 However, this restriction shall not apply to any expenditure made in the course of good faith
6 collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide
7 collective bargaining agreement. Where a Contractor or CFAR operates on property owned or
8 controlled by the City then, in order to ensure that publicly owned or controlled space is used in
9 a viewpoint-neutral fashion, a labor union shall be allowed the same opportunity to communicate
10 with employees as is enjoyed by the Contractor or CFAR, including the right to have access to
11 the premises, post notices, distribute literature, and use the premises to hold meetings with
12 employees.

13 (H) All of the provisions of this Ordinance, or any part hereof, may be waived in a bona fide
14 collective bargaining agreement, but only if the waiver is explicitly set forth in such agreement in
15 clear and unambiguous terms.

16 SECTION THREE. IMPLEMENTATION AND ENFORCEMENT

17 (A) The provisions of this Ordinance shall augment the City's normal and customary procedure
18 for administering its contracts and economic development assistance programs. The Mayor shall
19 designate a City Compliance Official (CCO) as the City agency and/or individual with primary
20 responsibility for administering, implementing and enforcing this Ordinance, including
21 coordinating and ensuring effective compliance by all City-affiliated agencies, provided that the

1 CCO shall not be the St. Louis Development Corporation. The CCO shall promulgate
2 implementing rules, regulations, forms, bid and contract provisions, and other materials, as
3 appropriate, consistent with this Ordinance, which shall be binding on City agencies,
4 Contractors, CFAR's, employees, and all other parties affected by this Ordinance. Subject to the
5 requirements of this Ordinance, the rules and regulations shall establish procedures for
6 monitoring the operations of Contractors and CFAR's, and their covered subcontractors and
7 tenants, to ensure compliance with this Ordinance, and shall establish procedures for regular
8 review of payroll records and investigation and resolution of specific concerns or complaints
9 about the employment practices of Contractors and CFAR's, and their covered subcontractors
10 and tenants. The rules and regulations shall require Contractors, CFAR's and their covered
11 subcontractors and tenants to submit reports to the City at least annually identifying: their
12 covered employees and the wages and benefits that they are paid; and the number of employees
13 based at the site that is performing the service contract or receiving the financial assistance that
14 are paid less than the living wage and a brief explanation of why they are believed not to be
15 covered by this Ordinance. Where the CCO deems appropriate or necessary, the implementing
16 rules and regulations may include interpretive or legislative rules and regulations that explain
17 and clarify the substantive requirements of this Ordinance. Implementing rules, regulations,
18 forms, bid and contract provisions, and other materials promulgated by the CCO shall be subject
19 to public hearing, and to review and comment by the Board of Aldermen, before they take effect.
20 Upon receipt of said materials, the Board of Aldermen shall have sixty (60) days to make such
21 review and comment. Where the CCO deems appropriate, and to the extent permitted by law,
22 the CCO may assign its authority over any particular implementation function to another body,

1 agency, or individual. Such rules or regulations shall have the force and effect of law and may
2 be relied on by Contractors and CFAR's and other parties in order to determine their obligations
3 under this Ordinance. By April 1st of each year, the CCO shall make available to the public and
4 submit to the Board of Aldermen annual reports on the implementation and enforcement of this
5 Ordinance during the preceding calendar year.

6 (B) A not-for-profit organization as defined in Subparagraph (A)(iv) above may appeal a
7 determination that it is covered under this Ordinance to the CCO or, if the CCO has made a
8 determination, to the Board of Aldermen.

9 (C) This Ordinance is intended to establish civil obligations on covered parties, and the remedies
10 authorized for violations shall be civil, not penal or criminal. Employers covered under this
11 Ordinance shall be obligated to maintain payroll records documenting wages and benefits
12 received by employees. In the absence of adequate evidence of wages and benefits paid, it shall
13 be presumed that the employer paid no more than the applicable federal or state minimum wage,
14 and did not provide health benefits.

15 (D) The CCO shall monitor and enforce compliance with the requirements of this Ordinance.
16 Where the CCO has reason to believe that a Contractor, CFAR or other person may have
17 violated any of the requirements of this Ordinance, or of the implementing rules and regulations,
18 the CCO shall initiate an investigation. Where the CCO determines that a violation has occurred,
19 it may attempt to negotiate an end to the violation and appropriate relief from the violating party
20 including back-pay for the affected workers or persons. Such appropriate relief may include any
21 of the remedies enumerated in Section Three, E of this Ordinance.

1 (E) Where the CCO determines that a violation of this Ordinance has occurred and determines
2 that a negotiated resolution is not possible or not appropriate, the CCO may initiate a formal
3 administrative complaint against the Contractor, CFAR or other person involved. In addition,
4 any person denied wages or benefits mandated under this Ordinance or aggrieved by an action or
5 non-action of another person or entity in violation of this Ordinance or its implementing rules
6 and regulations, or an organization representing the interests of a person so aggrieved, may also
7 file a formal administrative complaint with the CCO on a Complaint Form provided by the CCO.
8 Complaints must be initiated within one year of the denial of wages or benefits or other violation
9 of the Ordinance. The CCO shall, not later than ten (10) days after initiating or receiving the
10 complaint, mail to the person alleged to have violated the Ordinance a copy of the complaint, and
11 such person alleged to have violated the Ordinance shall have twenty (20) days to file a written
12 response. The CCO shall within ten (10) days after the deadline for filing a response schedule a
13 hearing, which shall be held as soon as possible and within thirty (30) days after the response is
14 due, except for good cause shown. The hearing shall be conducted pursuant to the provisions set
15 forth in Missouri Revised Statutes, Chapter 536. Upon a determination that there has been a
16 violation of this Ordinance, the CCO may order any of the following relief:

- 17 (i) Suspension and/or termination of the contract, subcontract, lease, concession
18 agreement or financial assistance agreement;
- 19 (ii) Forfeiture and repayment of any or all of the financial assistance awarded by
20 the City of St. Louis;
- 21 (iii) Disbarring the Contractor or CFAR from eligibility for future City contracts
22 and/or financial assistance until all ordered relief has been made or paid in full;

1 (iv) Back-pay or restitution for each affected employee for the value of required
2 wages and benefits not provided, and/or reinstatement of any employee
3 wrongly discharged; and

4 (v) Liquidated damages payable to the City of St. Louis in the amount of \$500 for
5 each week that an employee has not been provided wages and benefits in
6 accordance with this Ordinance. Each such weekly violation shall constitute a
7 separate violation of this Ordinance and must be demonstrated separately.

8 Within twenty (20) days after the conclusion of the hearing, the CCO shall render a decision.

9 Any aggrieved party may appeal said decision pursuant to Chapter 536.

10 (F) If a complaint filed with the CCO is not resolved to the complainant's satisfaction through
11 the CCO's administrative process, at the close of such process, rather than pursuing an appeal
12 pursuant to Chapter 536, the complainant or his or her representative may bring an action in a
13 court of competent jurisdiction to enforce the requirements of this Ordinance. In such an action,
14 where a court finds that a respondent has violated any requirements of this Ordinance, the court
15 may award to the complaining party and/or employees whom they represent, back-pay or
16 restitution for the value of required wages and benefits not provided, other equitable or make-
17 whole relief, liquidated damages payable to the City of St. Louis in the amount of \$500 for each
18 week that an employee has been shown not to have been provided wages or benefits in
19 accordance with this Ordinance, and/or any other appropriate remedy at law or equity, including
20 but not limited to reinstatement, injunctive relief, and compensatory damages The court shall
21 award reasonable attorney's fees and costs to any complaining party who prevails in an action
22 brought to enforce the requirements of this Ordinance. This ordinance shall not be construed to

1 limit any party's right to bring legal action for violation of any other laws concerning wages,
2 hours, or other standards or rights. Such an action must be commenced within one year of the
3 completion of the CCO's administrative process.

4 (G) Every Contractor and CFAR shall post in a conspicuous place on any job site subject to this
5 ordinance a copy of the living wage rates required under this Ordinance. The City shall notify
6 Contractors and CFAR's of the current living wage rate, and any adjustments thereto, within a
7 reasonable period before they become effective.

8
9 **SECTION FOUR. SEVERABILITY**

10 If any portion or provision of this ordinance, or its application to any person or circumstance, is
11 declared invalid or unenforceable by a court of competent jurisdiction, it is the intent of the
12 Board of Aldermen that such holding shall not invalidate or render unenforceable any other
13 portions or provisions of this Ordinance or the application of such portions or provisions held
14 invalid to any other person or circumstance. Furthermore, it is the intent of the Board of
15 Aldermen that if a portion or provision of this Ordinance is found invalid or unenforceable, the
16 court should invalidate the smallest possible portion of the Ordinance sufficient to excise the
17 identified legal defect.

18 **SECTION FIVE. EFFECTIVE DATE**

19 This Ordinance shall take effect 90 days after its enactment. The requirements of this Ordinance
20 shall apply to any contract or concession agreement entered into or renewed and any financial
21 assistance granted or renewed after the effective date of this Ordinance. Entering into an

1 agreement for extension of a contract for a period beyond its original term shall be considered
2 entering into a contract for purposes of this Ordinance.

3