

## **Working with Allies: Wage Theft Ordinances in Florida**

### **The Problem: Wage Theft**

Wage theft occurs when employers fail to pay employees for work they perform. It can take all sorts of forms, including paying less than the minimum wage, forcing workers to under-report hours, not paying for overtime, and misclassifying workers as independent contractors. Low-wage workers, including restaurant and other tipped workers, day laborers, domestic workers, security guards, farm workers and childcare workers, are particularly at risk, as are undocumented workers or workers for whom English is not their primary language.

Nationwide, this is a serious problem. According to a report by the National Employment Law Project:

“More than two-thirds (68 percent) of our sample experienced at least one pay-related violation in the previous work week. The average worker lost \$51, out of average weekly earnings of \$339. Assuming a full-time, full-year work schedule, we estimate that these workers lost an average of \$2,634 annually due to workplace violations, out of total earnings of \$17,616. That translates into wage theft of 15 percent of earnings.”<sup>1</sup>

In Florida, this problem is particularly severe. On average, over 3,000 wage violations per year are reported in that state.<sup>2</sup> The Florida Wage Theft Task Force formed in 2007 to address the issue, and settled on a strategy of passing ordinances at the county level.

### **The Solution: Ordinances at the local level to prohibit wage theft**

These ordinances, now in force in Miami-Dade, Broward, and Alachua counties, make it illegal for an employer to fail to pay any portion of the wages due to an employee within a reasonable amount of time. The ordinances establish a process for employees who feel they have been a victim of wage theft to file a complaint. The County will attempt conciliation between the parties, and if that is not possible, hold a hearing. If the employer is found to be in violation, they are subject to treble damages and the administrative costs of the hearing.

In 2010, Miami/Dade County passed the first wage theft ordinance in Florida. Experience since then suggests that it was sorely needed, and has been a success: the County has received almost 1,000 complaints and has recovered over \$500,000 for workers.<sup>3</sup>

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<sup>1</sup> Annette Bernhardt, Ruth Milkman, Nik Theodore *et al.*, “Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America’s Cities” (NELP: 2009).

<sup>2</sup> Cynthia S Hernandez and Carol Stepick, “Wage Theft: An Economic Drain on Florida” (RISEP/ Center for Labor Research and Studies, Florida International University: 2012) available at: <http://www.risep-fiu.org/2012/01/wage-theft-how-millions-of-dollars-are-stolen-from-floridas-workforce/>

<sup>3</sup> Cynthia S Hernandez “The Current State of Wage Theft in Miami-Dade” (RISEP/ Center for Labor Research and Studies, Florida International University: 2012)

## The Partnership: Broward County Mayor Kristin Jacobs and the Florida Wage Theft Task Force

After their success in Miami-Dade County, the Task Force was looking to repeat the process in other counties, and identified Broward County as a likely prospect. The U.S. Department of Labor documented nearly 5,000 cases of wage theft in the County over three years. These wage theft violations added up to more than \$2 million dollars in unpaid wages. The Task Force met with the Mayor and her staff, sharing the research and what they knew about the extent of wage theft in Broward County. They made the case for introduction of an ordinance based on Miami-Dade's language to help Broward County workers.

Mayor Kristin Jacobs was sympathetic to the cause – her own son had experienced wage theft in the past.<sup>4</sup> She took a leading role in advocating for the ordinance and bringing other County Commissioners on board. When the inevitable opposition from the business community arose, she helped to counter it, arguing that ordinances such as these help create a level playing field for law-abiding employers, who can suffer a disadvantage if their competitors are able to offer lower prices by not paying their workers.

The ordinance passed in 2012. The Task Force worked with Alachua County to pass a similar ordinance in 2013, and is currently working with Hillsborough County in an effort to pass another ordinance in 2014.

### Lessons Learned

- The Mayor's role as a political champion with other elected officials, the media and the public is crucial.
- Background research, good data, and a compelling argument from a non-profit organization can really help an elected official make the case.
- Model legislative language, from advocates or other jurisdictions, can make it easier to get something introduced.

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<sup>4</sup> Wallman, Brittany. (2012) 'Wage theft' law passes Broward commission". Sun Sentinel.