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City of Dallas, county split on issue of ‘living wage’ for contractors’ workers

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Cities and counties across Texas can require vendors and contractors to pay a “living wage” to workers and can favor companies that pay higher wages when it comes to bids for government work. Or they can’t.

It depends on whom you ask and where you’re asking.

Dallas County dropped plans this month to require wages of at least \$10.25 an hour for contract workers like janitors and security guards because commissioners feared lawsuits.

The city of Dallas, on the other hand, is looking into doing exactly what the county’s lawyers have advised against. Specifically, the council is interested in adding wages as a criterion for considering contract proposals. Mayor Mike Rawlings and City Manager A.C. Gonzalez backed away from talk of requiring a \$10.37 minimum wage for contracts because of cost concerns, not legal ones.

The City Council on Wednesday will discuss adding criteria to bids that give companies points for higher wages. Many city workers hired via contract make only the federal minimum wage of \$7.25.

But at both the county and city levels, elected officials have broadly supported the idea of raising wages for the lowest-paid contract employees. They just can’t seem to figure out how.

Government opinions on the issue vary across the state. Travis County has not adopted a living wage, but officials are trying to figure out whether they can legally require contractors to pay at a higher rate.

But for about two decades, Tarrant County has had a policy that requires companies seeking janitorial contracts to pay at least \$8.78 an hour.

Tarrant County requires about a dollar more than the federal minimum wage to attract reliable employees, said David Phillips, director of facilities management. The wage requirement has led to cleaner buildings, lower turnover and fewer cases of theft, he said.

Austin requires contractors working on city property or vehicles to pay workers the same as city employees. That minimum wage was raised this year to \$13.03 per hour, said Austin council member Greg Casar.

Casar said Austin's policy allows companies to compete on the quality of their work, rather than by undercutting wages.

Dallas County's decision not to consider wages in bids was based on legal advice from the county district attorney's office, which cited a 2014 opinion by then-Attorney General Greg Abbott, now the Texas governor, that local jurisdictions cannot overrule the state minimum wage.

That analysis concluded that contracts must be awarded to the "lowest and best" bid, and that criteria added to the bidding process must benefit either competition or quality of work.

Instead of using wages as a factor in the bid process, Dallas County will weigh factors such as training and employee turnover along with price. Commissioners say they hope that will encourage higher pay.

The county's view contrasts with the considerations at Dallas City Hall. City Attorney Warren Ernst told council members in August that they could not establish a minimum wage on all private employers. But Ernst said the city was free to set a wage floor on city contracts or to consider wages when awarding contracts.

Ernst said Abbott's opinion applied only to counties, which do not have the same home-rule powers as cities.

He said the state labor code says the federal minimum wage supersedes local laws, but he added, "This section does not apply to a minimum wage established by a government entity that applies to a contract or agreement" with a private entity.

Bexar County recently set a minimum contract wage of \$9.50 an hour. The county kicked in

about \$200,000 toward janitors' wages this year, since it couldn't change the current contract until it expires, Bexar County Judge Nelson Wolff said. He said janitors responded with a photo with their signatures and a note of appreciation.

"If there is a threat [of a lawsuit] it wouldn't stop me from doing it," Wolff said. "It's what's right."

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