File No. 120431

Committee Item No. 1
Board Item No. 23

COMMITTEE/BOARD OF SUPERVISORS

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Completed by: Gail Johnson Date 5/14/12
Completed by: GJ Date 5/31/12

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[Administrative Code - Establishing a Wage Theft Task Force]

Ordinance amending the San Francisco Administrative Code by adding Sections 5.260 through 5.260-5 to: 1) establish a Wage Theft Task Force to make recommendations to the Board of Supervisors regarding how the City may best address wage theft in San Francisco; 2) provide for the Task Force's membership, organization, and duties; and 3) set a sunset date for the Task Force.

NOTE: Additions are *single-underline italics Times New Roman*; deletions are ~~*strike-through italics Times New Roman*~~. Board amendment additions are double-underlined; Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. **Findings.** The Board of Supervisors finds and declares as follows:

1. Wage theft occurs when employers do not pay workers the wages to which the workers are legally entitled. Common forms of wage theft are non-payment of overtime, failure to pay for all hours worked, under-payment of the minimum wage rate, misclassification of employees as independent contractors, misclassification of type of work performed on a public works contract, illegal deductions from worker paychecks, failure to pay for "training time", and complete non-payment of wages.

2. National and local studies report that wage theft is a pervasive problem that disproportionately affects immigrant and low-wage workers. For example, a national study of 4,000 workers in Chicago, New York, and Los Angeles conducted by the National Employment Law Project (NELP) found that 26 percent of those workers had been paid less

than the minimum wage in the preceding week, and 76 percent had either been underpaid or not paid at all for their overtime hours.

3. In San Francisco, a 2011 report by the Chinese Progressive Association (CPA) on workers in Chinatown restaurants found that one out of every two workers was paid less than the minimum wage. A 2006 national study of day laborers, that included hundreds of interviews with day laborers in San Francisco, conducted by University of California, Los Angeles, University of Illinois, and New School University, found that one out of every two day laborers experienced wage theft in the two months prior to being surveyed.

4. Since the San Francisco Minimum Wage Ordinance became effective in February 2004, the Office of Labor Standards Enforcement (OLSE) has recovered over $4.8 million for 2,761 employees who were denied minimum wage and overtime pay by employers in San Francisco. Since beginning prevailing wage enforcement in 2002, OLSE has recovered over $4.3 million for workers who were not paid prevailing wages on City & County of San Francisco public works contracts. OLSE has also recovered over $675,000 for employees who were denied the wages and paid time off to which they were entitled under the Minimum Compensation Ordinance (since 2001) and about $155,000 for workers who have been denied paid sick leave (since 2007).

5. According to NELP as stated in their recent manual entitled *An Advocate's Guide to State and City Policies to Fight Wage Theft*, "Wage theft is not incidental, aberrant or rare, or committed by a few rogue employers at the periphery of the labor market. It takes place in industries that span the economy—including retail, restaurants and grocery stores; caregiver industries such as home health care and domestic work; blue collar industries such as manufacturing, construction and wholesalers; building services such as janitorial and security;

and personal services such as dry cleaning and laundry, car washes, and beauty and nail salons."

6. Wage theft causes significant harm to San Franciscans. Worker victims of wage theft cannot make ends meet individually or for their families, responsible businesses face unfair competition from employers paying below legal wages, and our city government loses significant tax revenue during a time of large annual budget deficits.

7. Wage theft negatively impacts the health of individuals and communities in San Francisco. Extensive research shows that income is one of the most important determinants of health. By negatively impacting income earned, wage theft impacts workers' ability to meet basic needs such as rent, groceries, and health care, which can increase their risk of homelessness, overcrowding, hunger and inability to pay medical bills. Wage theft can also increase stress on individuals and families and increase risk of depression, anxiety, high blood pressure, and substance use. Additionally, employers who disregard wage and hour laws are more likely to disregard other laws, including consumer safety laws, which may increase consumers' risk of food borne illness or accidental injuries.

8. San Francisco has been a consistent leader in passing groundbreaking legislation to improve working standards for low-wage workers. San Francisco can continue its work at the cutting edge by further engaging in interdepartmental and department/community collaborations to best leverage resources to address wage theft. There are numerous promising examples of inter-agency collaboration that promote more efficient use of limited resources. At the state level, California recently created the Labor Enforcement Task Force involving six state bodies and local district attorneys to target the underground economy; New York and Michigan have established inter-agency bodies to address worker misclassification;

and Coalitions on Occupational Safety and Health in various states have helped bring together local labor, health and safety organizations.

Section 2. The San Francisco Administrative Code is hereby amended by adding Chapter 5, Article XXVI, Sections 5.260 through 5.260-5, to read as follows:

SEC. 5.260. ESTABLISHMENT.

The Board of Supervisors hereby establishes a Wage Theft Task Force ("the Task Force") to make recommendations to the Board of Supervisors about how the City can best address wage theft.

SEC. 5.260-1. MEMBERSHIP.

(a) Voting members of the Task Force shall be drawn from City departments that have the power to address wage theft, as well as individuals from businesses, community-based organizations and labor unions with experience and understanding of low-wage workers, low-wage industries, and the problem of wage theft.

(b) The Task Force shall consist of fifteen voting members, with Seats 8 through 15 appointed by the Board of Supervisors as follows:

(1) Seat 1: A representative from the City Attorney's Office.

(2) Seat 2: A representative from the Office of Labor Standards Enforcement.

(3) Seat 3: A representative from the District Attorney's Office.

(4) Seat 4: A representative from the Police Department.

(5) Seat 5: A representative from the Department of Public Health.

(6) Seat 6: A representative from the Treasurer's Office.

(7) Seat 7: A representative from the Office of Small Business.

(8) Seats 8, 9, 10 & 11: Persons with significant experience confronting the issue of wage theft, who work at, serve on the Board of Directors of, or are a member of a non-profit community based organization that organizes or represents low-wage workers.

(9) Seat 12: A person who works at a labor union who has experience with an industry where widespread wage theft occurs or has occurred.

(10) Seats 13, 14, & 15 Persons representing responsible business(es) or employer(s) in San Francisco in an industry where wage theft is prevalent.

SEC. 5.260-2. ORGANIZATION AND TERM OF OFFICE.

(a) The term of office of voting members of the Task Force shall be one year. The terms of office for all fifteen seats shall start from the date the last of the fifteen voting members of the Task Force is appointed and sworn in.

(b) Voting members of the Task Force in Seats 1 through 7 shall serve at the pleasure of the appointing authority.

(c) The representative from the Office of Labor Standards Enforcement (Seat 2) shall co-chair the Task Force together with one Task Force member from Seats 8 through 11 selected by the Task Force. The co-chairs of the Task Force, assisted by a staff member from the office of the Supervisor representing District 9, will have the responsibility to schedule Task Force meetings, create the agenda for each meeting, invite guest presenters, and perform any other administrative or other support needed for the Task Force.

(d) In the event a vacancy occurs during the term of office of any member, the appointing authority shall appoint a successor having the same qualifications for the unexpired term of the office vacated.

(e) Services of the voting members of the Task Force shall be voluntary and members will serve without compensation. Task Force members otherwise employed by the City shall receive no additional compensation for their service on the Task Force.

SEC. 5.260-3. POWERS AND DUTIES.

(a) The Task Force shall hold meetings regarding the problem of wage theft.

(b) The Task Force shall invite outside experts to present on the crisis of wage theft and on strategies and policies used by other government agencies to address wage theft.

(c) The Task Force shall develop recommendations on:

(1) Legislation needed to address wage theft;

(2) Studies, research, or data needed to better understand wage theft;

(3) Additional resources needed by City departments in order to implement new strategies to address wage theft;and,

(4) Hearings that the Board should conduct to further understand how City departments or community groups are addressing wage theft.

(d) No later than twelve months from the date that all fifteen voting members of the Task Force have been appointed, the Task Force shall submit its recommendations, including recommendations regarding legislation and appropriations, to the Board of Supervisors.

SEC. 5.260-4. MEETINGS.

The place, date and time of meetings of the Task Force shall be prescribed by rule of the Task Force; provided, however that the Task Force shall hold regular meetings not less than once every month for a minimum of six months. Except as provided by law, all meetings of the Task Force shall be open to the public.

SEC. 5.260-5. SUNSET.

The Task Force shall terminate by operation of law on December 31, 2013, unless the Board of Supervisors by resolution extends its term.

Section 3. Effective Date. This ordinance shall become effective 30 days from the date of passage.

Section 4. This section is uncodified. In enacting this Ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any other constituent part of the Administrative Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the legislation.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
THOMAS J. OWEN
Deputy City Attorney

FILE NO. 120431

LEGISLATIVE DIGEST

[Administrative Code – Establishing a Wage Theft Task Force]

Ordinance amending the San Francisco Administrative Code by adding Sections 5.260 through 5.260-5 to: 1) establish a Wage Theft Task Force to make recommendations to the Board of Supervisors regarding how the City may best address wage theft in San Francisco; 2) provide for the Task Force's membership, organization, and duties; and 3) set a sunset date for the Task Force.

Existing Law

The City currently does not have a body charged with studying wage theft in San Francisco.

Amendments to Current Law

The proposal would amend the Administrative Code to establish a Wage Theft Task Force ("the Task Force") to make recommendations to the Board of Supervisors about how the City can best address wage theft.

The Task Force would have 15 voting members. The first seven seats would be filled by representatives from the City Attorney's Office, the Office of Labor Standards Enforcement, the District Attorney's Office, the Police Department, the Department of Public Health, the Treasurer's Office, and the Office of Small Business. Seats 8 through 15 would be filled by the Board of Supervisors, from the following categories:

- Four people with significant experience confronting the issue of wage theft who work at, serve on the board of directors of, or are a member of a non-profit community based organization that organizes or represents low-wage workers;
- A person who works at a labor union who has experience with an industry where widespread wage theft occurs;
- Three people representing responsible businesses or employers in San Francisco in an industry where wage theft is prevalent

The term of office of the Task Force members would be one year, starting from the date the last member was sworn in. The representative from the Office of Labor Standards Enforcement would co-chair the Task Force together with another Task Force member from Seats 8 through 11 selected by the Task Force. The co-chairs of the Task Force, assisted by a staff member from the office of the District 9 Supervisor, would schedule and set the agenda for Task Force meetings and provide any other administrative support needed. Task Force members would serve without compensation.

The Task Force would hold meetings regarding the problem of wage theft and invite outside experts to speak on the crisis of wage theft and on strategies and policies used by other government agencies to address wage theft. The Task Force would hold regular meetings not less than once every month for a minimum of six months.

The Task Force would develop recommendations to the Board of Supervisors on: legislation needed to address wage theft; studies, research, or data needed to better understand wage theft; additional resources needed by City departments to implement new strategies to address wage theft; and, hearings that the Board should conduct on how City departments and community groups are addressing wage theft. The Task Force would submit its recommendations to the Board no later than twelve months from the date that all 15 voting members of the Task Force had been appointed.

The Task Force would terminate by operation of law on December 31, 2013, unless the Board of Supervisors by resolution extended its term.