

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

July 31, 2019

The Honorable Gavin Newsom
Governor of the State of California
1303-10th Street, Suite 1173
Sacramento, CA 95814

Re: Board of Supervisors Resolution No. 338-19

Dear Governor Newsom:

On July 16, 2019, the Board of Supervisors of the City and County of San Francisco adopted Resolution No. 338-19 (Supporting California State Assembly Bill No. 5 (Gonzalez) - Worker Status: Employees and Independent Contractors), which was enacted on July 26, 2019.

The Board of Supervisors directs the Clerk of the Board to forward the following document to your attention:

- One certified copy of Resolution No. 338-19 (File No. 190771)

If you have any questions or require additional information, please contact the Office of the Clerk of the Board at (415) 554-5184, or by e-mail: board.of.supervisors@sfgov.org.

Sincerely,


f Angela Calvillo
Clerk of the Board

- c. Member of the Board of Supervisors, Supervisors Rafael Mandelman, Aaron Peskin, Gordon Mar, Shamann Walton, Matt Haney, Vallie Brown, Ahsha Safai, Norman Yee, Hillary Ronen, Sandra Fewer
Sophia Kittler, Mayor's Liaison to the Board of Supervisors
Eddie McCaffrey, Mayor's Manager of State and Federal Legislative Affairs
Andres Power, Mayor's Policy Director
Rebecca Peacock, Mayor's Office
Paul Yoder, Karen Lange, Erica Smith, City Lobbyists - Shaw/Yoder/Antwih Inc.



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Certified Copy

Resolution

190771 [Supporting California State Assembly Bill No. 5 (Gonzalez) - Worker Status: Employees and Independent Contractors]

Sponsors: Mandelman; Peskin, Mar, Walton, Haney, Brown, Safai, Yee, Ronen and Fewer

Resolution supporting California State Assembly Bill No. 5, authored by Assembly Member Lorena Gonzalez, to codify and expand the California Supreme Court's decision in Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018), establishing a presumption that a worker is an employee for purposes of wages and benefits.

7/16/2019 Board of Supervisors - ADOPTED

Ayes: 10 - Brown, Fewer, Haney, Mandelman, Peskin, Ronen, Safai, Stefani, Walton and Yee

Excused: 1 - Mar

7/26/2019 Mayor - RETURNED UNSIGNED

STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO

CLERK'S CERTIFICATE

I do hereby certify that the foregoing Resolution is a full, true, and correct copy of the original thereof on file in this office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City and County of San Francisco.

July 30, 2019

Date

Handwritten signature of Angela Calvillo

fr Angela Calvillo
Clerk of the Board

1 [Supporting California State Assembly Bill No. 5 (Gonzalez) - Worker Status: Employees and
2 Independent Contractors]

3 **Resolution supporting California State Assembly Bill No. 5, authored by Assembly**
4 **Member Lorena Gonzalez, to codify and expand the California Supreme Court's**
5 **decision in Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018),**
6 **establishing a presumption that a worker is an employee for purposes of wages and**
7 **benefits.**

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9 WHEREAS, On April 30, 2018, the California Supreme Court issued a landmark,
10 unanimous decision in the matter of Dynamex Operations West, Inc. v. Superior Court of Los
11 Angeles (2018), which embraced a standard for worker classification that presumes that all
12 workers are employees instead of independent contractors; and

13 WHEREAS, The ruling was one of the most significant legal victories in decades for
14 misclassified workers, who lack a basic safety net when they are sick, laid off, or get injured
15 on the job; and

16 WHEREAS, The Dynamex Case interprets existing law as placing the burden on any
17 entity classifying an individual as an independent contractor of establishing that such
18 classification is proper under the newly adopted "ABC Test"; and

19 WHEREAS, Under the ABC Test, a worker is presumed to be an employee unless their
20 employer establishes each of the following: 1) that the worker is free from the control and
21 direction of the hiring entity in connection with the performance of their work; 2) that the
22 worker performs work that is outside the usual course of the hiring entity's business; and 3)
23 that the worker is customarily engaged in an independently established trade, occupation, or
24 business of the same nature as the work performed; and

1 WHEREAS, The question of whether a worker is an employee has considerable
2 impacts on the livelihood of the worker, including whether the employer bears the
3 responsibility of paying Social Security and payroll taxes, unemployment insurance taxes and
4 state employment taxes, providing worker's compensation insurance, and complying with
5 State and Federal laws governing wages, hours, and working conditions; and

6 WHEREAS, The relatively recent rise of the so-called "gig economy," wherein
7 employers contract with purportedly independent workers for ostensibly short-term
8 engagements, has predicated itself on the exploitation of many workers who have been
9 denied the opportunity to be classified as employees and therefore denied the basic benefits
10 that all employees are entitled to, such as unemployment insurance, health care subsidies,
11 paid parental leave, overtime pay, workers' compensation, a guaranteed minimum hourly
12 wage, and the right to organize to better their working conditions; and

13 WHEREAS, California's low-wage and immigrant workers, such as domestic workers,
14 day laborers, restaurant workers, and janitors, among others, are some of the most vulnerable
15 workers also subjected to misclassification and wage theft; and

16 WHEREAS, For years, worker organizations, advocates and city officials in San
17 Francisco worked together and passed laws to establish strong labor protections, fair
18 minimum wages, healthcare security, paid sick leave and other benefits for employees in San
19 Francisco; and

20 WHEREAS, Assembly Bill No. 5 would codify existing case law as established by the
21 California Supreme Court in the Dynamex Case, and apply the Dynamex "ABC Test" to
22 determine the status of a worker as an employee or independent contractor for all provisions
23 of the Labor Code and the Unemployment Insurance Code, unless another definition or
24 specification of "employee" is provided; and

1 WHEREAS, By codifying the law established by the Dynamex Case, Assembly Bill No.
2 5 would give the State of California stronger enforcement tools and make it harder for
3 companies to label workers as independent contractors instead of employees, a common
4 practice that has allowed businesses to skirt local, state and federal labor laws; and

5 WHEREAS, Assembly Bill No. 5 would likely impact a number of companies that have
6 risen to prominence in the past decade in large part by exploiting tens of thousands of
7 workers, depriving those workers of a basic social safety net and passing along costs to
8 taxpayers, costing the State of California in excess of \$7 billion annually; and

9 WHEREAS, Assembly Bill No. 5 would help to address widening income inequality that
10 has allowed a small number of executives to profit immensely while subjecting workers to
11 poverty wages and unsustainable working conditions; now, therefore, be it

12 RESOLVED, That the City and County of San Francisco stands with workers,
13 community groups and labor unions in strong support of Assembly Bill No. 5; and, be it

14 FURTHER RESOLVED, That the Board of Supervisors hereby directs the Clerk of the
15 Board to transmit copies of this Resolution to San Francisco's State Legislative Delegation
16 and the Office of the Governor of California accordingly.



City and County of San Francisco

Tails

Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 190771

Date Passed: July 16, 2019

Resolution supporting California State Assembly Bill No. 5, authored by Assembly Member Lorena Gonzalez, to codify and expand the California Supreme Court's decision in Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018), establishing a presumption that a worker is an employee for purposes of wages and benefits.

July 16, 2019 Board of Supervisors - ADOPTED

Ayes: 10 - Brown, Fewer, Haney, Mandelman, Peskin, Ronen, Safai, Stefani, Walton and Yee
Excused: 1 - Mar

File No. 190771

I hereby certify that the foregoing Resolution was ADOPTED on 7/16/2019 by the Board of Supervisors of the City and County of San Francisco.

Handwritten signature of Angela Calvillo
Angela Calvillo
Clerk of the Board

Insighed
London N. Breed
Mayor

7/26/19
Date Approved

I hereby certify that the foregoing resolution, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, or time waived pursuant to Board Rule 2.14.2, became effective without her approval in accordance with the provision of said Section 3.103 of the Charter or Board Rule 2.14.2.

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July 31, 2019

The Honorable Scott Wiener
California State Senator
California State Capitol, Room 5100
Sacramento, CA 95814-4900

Re: Board of Supervisors Resolution No. 338-19

Dear Senator Wiener:

On July 16, 2019, the Board of Supervisors of the City and County of San Francisco adopted Resolution No. 338-19 (Supporting California State Assembly Bill No. 5 (Gonzalez) - Worker Status: Employees and Independent Contractors), which was enacted on July 26, 2019.

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Sponsors: Mandelman; Peskin, Mar, Walton, Haney, Brown, Safai, Yee, Ronen and Fewer

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Excused: 1 - Mar

7/26/2019 Mayor - RETURNED UNSIGNED

STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO

CLERK'S CERTIFICATE

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IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City and County of San Francisco.

July 30, 2019

Date

Handwritten signature of Angela Calvillo

Angela Calvillo

Clerk of the Board

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9 WHEREAS, On April 30, 2018, the California Supreme Court issued a landmark,
10 unanimous decision in the matter of Dynamex Operations West, Inc. v. Superior Court of Los
11 Angeles (2018), which embraced a standard for worker classification that presumes that all
12 workers are employees instead of independent contractors; and

13 WHEREAS, The ruling was one of the most significant legal victories in decades for
14 misclassified workers, who lack a basic safety net when they are sick, laid off, or get injured
15 on the job; and

16 WHEREAS, The Dynamex Case interprets existing law as placing the burden on any
17 entity classifying an individual as an independent contractor of establishing that such
18 classification is proper under the newly adopted "ABC Test"; and

19 WHEREAS, Under the ABC Test, a worker is presumed to be an employee unless their
20 employer establishes each of the following: 1) that the worker is free from the control and
21 direction of the hiring entity in connection with the performance of their work; 2) that the
22 worker performs work that is outside the usual course of the hiring entity's business; and 3)
23 that the worker is customarily engaged in an independently established trade, occupation, or
24 business of the same nature as the work performed; and

1 WHEREAS, The question of whether a worker is an employee has considerable
2 impacts on the livelihood of the worker, including whether the employer bears the
3 responsibility of paying Social Security and payroll taxes, unemployment insurance taxes and
4 state employment taxes, providing worker's compensation insurance, and complying with
5 State and Federal laws governing wages, hours, and working conditions; and

6 WHEREAS, The relatively recent rise of the so-called "gig economy," wherein
7 employers contract with purportedly independent workers for ostensibly short-term
8 engagements, has predicated itself on the exploitation of many workers who have been
9 denied the opportunity to be classified as employees and therefore denied the basic benefits
10 that all employees are entitled to, such as unemployment insurance, health care subsidies,
11 paid parental leave, overtime pay, workers' compensation, a guaranteed minimum hourly
12 wage, and the right to organize to better their working conditions; and

13 WHEREAS, California's low-wage and immigrant workers, such as domestic workers,
14 day laborers, restaurant workers, and janitors, among others, are some of the most vulnerable
15 workers also subjected to misclassification and wage theft; and

16 WHEREAS, For years, worker organizations, advocates and city officials in San
17 Francisco worked together and passed laws to establish strong labor protections, fair
18 minimum wages, healthcare security, paid sick leave and other benefits for employees in San
19 Francisco; and

20 WHEREAS, Assembly Bill No. 5 would codify existing case law as established by the
21 California Supreme Court in the Dynamex Case, and apply the Dynamex "ABC Test" to
22 determine the status of a worker as an employee or independent contractor for all provisions
23 of the Labor Code and the Unemployment Insurance Code, unless another definition or
24 specification of "employee" is provided; and

1 WHEREAS, By codifying the law established by the Dynamex Case, Assembly Bill No.
2 5 would give the State of California stronger enforcement tools and make it harder for
3 companies to label workers as independent contractors instead of employees, a common
4 practice that has allowed businesses to skirt local, state and federal labor laws; and

5 WHEREAS, Assembly Bill No. 5 would likely impact a number of companies that have
6 risen to prominence in the past decade in large part by exploiting tens of thousands of
7 workers, depriving those workers of a basic social safety net and passing along costs to
8 taxpayers, costing the State of California in excess of \$7 billion annually; and

9 WHEREAS, Assembly Bill No. 5 would help to address widening income inequality that
10 has allowed a small number of executives to profit immensely while subjecting workers to
11 poverty wages and unsustainable working conditions; now, therefore, be it

12 RESOLVED, That the City and County of San Francisco stands with workers,
13 community groups and labor unions in strong support of Assembly Bill No. 5; and, be it

14 FURTHER RESOLVED, That the Board of Supervisors hereby directs the Clerk of the
15 Board to transmit copies of this Resolution to San Francisco's State Legislative Delegation
16 and the Office of the Governor of California accordingly.



City and County of San Francisco
Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 190771

Date Passed: July 16, 2019

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July 16, 2019 Board of Supervisors - ADOPTED

Ayes: 10 - Brown, Fewer, Haney, Mandelman, Peskin, Ronen, Safai, Stefani,
Walton and Yee
Excused: 1 - Mar

File No. 190771

I hereby certify that the foregoing
Resolution was ADOPTED on 7/16/2019 by
the Board of Supervisors of the City and
County of San Francisco.

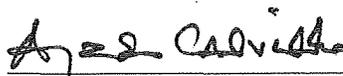


Angela Calvillo
Clerk of the Board

Unsigned
London N. Breed
Mayor

7/26/19
Date Approved

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Angela Calvillo
Clerk of the Board

7/26/19
Date

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Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

July 31, 2019

The Honorable Phil Ting
California State Assembly Member
California State Capitol, Room 6026
P.O. Box 942849
Sacramento, CA 94249-0019

Re: Board of Supervisors Resolution No. 338-19

Dear Assembly Member Ting:

On July 16, 2019, the Board of Supervisors of the City and County of San Francisco adopted Resolution No. 338-19 (Supporting California State Assembly Bill No. 5 (Gonzalez) - Worker Status: Employees and Independent Contractors), which was enacted on July 26, 2019.

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Clerk of the Board

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Certified Copy

Resolution

190771

[Supporting California State Assembly Bill No. 5 (Gonzalez) - Worker Status: Employees and Independent Contractors]

Sponsors: Mandelman; Peskin, Mar, Walton, Haney, Brown, Safai, Yee, Ronen and Fewer

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Excused: 1 - Mar

7/26/2019 Mayor - RETURNED UNSIGNED

STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO

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July 30, 2019

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Handwritten signature of Angela Calvillo

for Angela Calvillo
Clerk of the Board

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9 WHEREAS, On April 30, 2018, the California Supreme Court issued a landmark,
10 unanimous decision in the matter of Dynamex Operations West, Inc. v. Superior Court of Los
11 Angeles (2018), which embraced a standard for worker classification that presumes that all
12 workers are employees instead of independent contractors; and

13 WHEREAS, The ruling was one of the most significant legal victories in decades for
14 misclassified workers, who lack a basic safety net when they are sick, laid off, or get injured
15 on the job; and

16 WHEREAS, The Dynamex Case interprets existing law as placing the burden on any
17 entity classifying an individual as an independent contractor of establishing that such
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17 Francisco worked together and passed laws to establish strong labor protections, fair
18 minimum wages, healthcare security, paid sick leave and other benefits for employees in San
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20 WHEREAS, Assembly Bill No. 5 would codify existing case law as established by the
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City and County of San Francisco

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Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
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Excused: 1 - Mar

File No. 190771

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Clerk of the Board

Unsigned
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July 31, 2019

The Honorable David Chiu
California State Assembly Member
California State Capitol, Room 4112
P.O. Box 942849
Sacramento, CA 94249-0017

Re: Board of Supervisors Resolution No. 338-19

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Sincerely,

A handwritten signature in blue ink that reads "Angela Calvillo".

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Clerk of the Board

- c. Member of the Board of Supervisors, Supervisors Rafael Mandelman, Aaron Peskin, Gordon Mar, Shamann Walton, Matt Haney, Vallie Brown, Ahsha Safai, Norman Yee, Hillary Ronen, Sandra Fewer
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12 workers are employees instead of independent contractors; and

13 WHEREAS, The ruling was one of the most significant legal victories in decades for
14 misclassified workers, who lack a basic safety net when they are sick, laid off, or get injured
15 on the job; and

16 WHEREAS, The Dynamex Case interprets existing law as placing the burden on any
17 entity classifying an individual as an independent contractor of establishing that such
18 classification is proper under the newly adopted “ABC Test”; and

19 WHEREAS, Under the ABC Test, a worker is presumed to be an employee unless their
20 employer establishes each of the following: 1) that the worker is free from the control and
21 direction of the hiring entity in connection with the performance of their work; 2) that the
22 worker performs work that is outside the usual course of the hiring entity’s business; and 3)
23 that the worker is customarily engaged in an independently established trade, occupation, or
24 business of the same nature as the work performed; and

1 WHEREAS, The question of whether a worker is an employee has considerable
2 impacts on the livelihood of the worker, including whether the employer bears the
3 responsibility of paying Social Security and payroll taxes, unemployment insurance taxes and
4 state employment taxes, providing worker's compensation insurance, and complying with
5 State and Federal laws governing wages, hours, and working conditions; and

6 WHEREAS, The relatively recent rise of the so-called "gig economy," wherein
7 employers contract with purportedly independent workers for ostensibly short-term
8 engagements, has predicated itself on the exploitation of many workers who have been
9 denied the opportunity to be classified as employees and therefore denied the basic benefits
10 that all employees are entitled to, such as unemployment insurance, health care subsidies,
11 paid parental leave, overtime pay, workers' compensation, a guaranteed minimum hourly
12 wage, and the right to organize to better their working conditions; and

13 WHEREAS, California's low-wage and immigrant workers, such as domestic workers,
14 day laborers, restaurant workers, and janitors, among others, are some of the most vulnerable
15 workers also subjected to misclassification and wage theft; and

16 WHEREAS, For years, worker organizations, advocates and city officials in San
17 Francisco worked together and passed laws to establish strong labor protections, fair
18 minimum wages, healthcare security, paid sick leave and other benefits for employees in San
19 Francisco; and

20 WHEREAS, Assembly Bill No. 5 would codify existing case law as established by the
21 California Supreme Court in the Dynamex Case, and apply the Dynamex "ABC Test" to
22 determine the status of a worker as an employee or independent contractor for all provisions
23 of the Labor Code and the Unemployment Insurance Code, unless another definition or
24 specification of "employee" is provided; and

1 WHEREAS, By codifying the law established by the Dynamex Case, Assembly Bill No.
2 5 would give the State of California stronger enforcement tools and make it harder for
3 companies to label workers as independent contractors instead of employees, a common
4 practice that has allowed businesses to skirt local, state and federal labor laws; and

5 WHEREAS, Assembly Bill No. 5 would likely impact a number of companies that have
6 risen to prominence in the past decade in large part by exploiting tens of thousands of
7 workers, depriving those workers of a basic social safety net and passing along costs to
8 taxpayers, costing the State of California in excess of \$7 billion annually; and

9 WHEREAS, Assembly Bill No. 5 would help to address widening income inequality that
10 has allowed a small number of executives to profit immensely while subjecting workers to
11 poverty wages and unsustainable working conditions; now, therefore, be it

12 RESOLVED, That the City and County of San Francisco stands with workers,
13 community groups and labor unions in strong support of Assembly Bill No. 5; and, be it

14 FURTHER RESOLVED, That the Board of Supervisors hereby directs the Clerk of the
15 Board to transmit copies of this Resolution to San Francisco's State Legislative Delegation
16 and the Office of the Governor of California accordingly.

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City and County of San Francisco

Tails

Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 190771

Date Passed: July 16, 2019

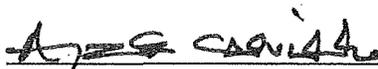
Resolution supporting California State Assembly Bill No. 5, authored by Assembly Member Lorena Gonzalez, to codify and expand the California Supreme Court's decision in Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018), establishing a presumption that a worker is an employee for purposes of wages and benefits.

July 16, 2019 Board of Supervisors - ADOPTED

Ayes: 10 - Brown, Fewer, Haney, Mandelman, Peskin, Ronen, Safai, Stefani, Walton and Yee
Excused: 1 - Mar

File No. 190771

I hereby certify that the foregoing Resolution was ADOPTED on 7/16/2019 by the Board of Supervisors of the City and County of San Francisco.

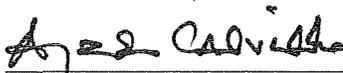


Angela Calvillo
Clerk of the Board

Unsigned
London N. Breed
Mayor

7/26/19
Date Approved

I hereby certify that the foregoing resolution, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, or time waived pursuant to Board Rule 2.14.2, became effective without her approval in accordance with the provision of said Section 3.103 of the Charter or Board Rule 2.14.2.



Angela Calvillo
Clerk of the Board

7/26/19
Date