

BOARD of SUPERVISORS



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MEMORANDUM

GOVERNMENT AUDIT AND OVERSIGHT COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Dean Preston, Chair
Government Audit and Oversight Committee

FROM: John Carroll, Assistant Clerk

DATE: February 5, 2021

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, February 9, 2021

The following file should be presented as COMMITTEE REPORT at the regular Board meeting on Tuesday, February 9, 2021. This ordinance was acted upon at the regular Government Audit and Oversight Committee meeting on Thursday, February 4, 2021, at 10:00 a.m., by the votes indicated.

Item No. 18 File No. 210052

Reenactment of emergency ordinance (Ordinance No. 59-20, as reenacted by Ordinance Nos. 90-20, 136-20, 217-20, and 270-20) to temporarily require private employers with 500 or more employees to provide public health emergency leave during the public health emergency related to COVID-19, with amendments to prospectively exempt certain non-profit organizations from the emergency ordinance and to strike a provision allowing leave to be taken without regard to employees' work schedules.

RECOMMENDED AS AMENDED AS COMMITTEE REPORT

Vote: Supervisor Dean Preston - Aye
 Supervisor Connie Chan - Aye
 Supervisor Rafael Mandelman - Aye

Cc: Board of Supervisors
Angela Calvillo, Clerk of the Board
Alisa Somera, Legislative Deputy
Anne Pearson, Deputy City Attorney

File No. 210052

Committee Item No. 2

Board Item No. 18

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: February 4, 2021

Board of Supervisors Meeting:

Date: February 9, 2021

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance - VERSION 2 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest - VERSION 2 |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER

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|-------------------------------------|-------------------------------------|--|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Ordinance No. 59-20 – April 17, 2020</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Ordinance No. 90-20 – June 12, 2020</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Ordinance No. 136-20 – August 24, 2020</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Ordinance No. 217-20 – October 30, 2020</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Ordinance No. 270-20 – December 23, 2020</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Chair Preston’s Comm Report Request Memo – February 4, 2021</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Presidential Action Memo – January 28, 2022</u> |

Prepared by: John Carroll

Date: January 29, 2021

Prepared by: John Carroll

Date: February 5, 2021

1 [Emergency Ordinance - Public Health Emergency Leave]

2
3 **Reenactment of emergency ordinance (Ordinance No. 59-20 as reenacted by Ordinance**
4 **Nos. 90-20, 136-20, 217-20, and 270-20) to temporarily require private employers with**
5 **500 or more employees to provide public health emergency leave during the public**
6 **health emergency related to COVID-19, with amendments to prospectively exempt**
7 **certain non-profit organizations from the emergency ordinance and to strike a**
8 **provision allowing leave to be taken without regard to employees' work schedules.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman*;
11 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman*~~.
12 **Board amendment additions** are in double underlined Arial font.
13 **Board amendment deletions** are in ~~Arial font~~.
14 Asterisks (* * * *) indicate the omission of unchanged Code
15 subsections or parts of tables.

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

16 Section 1. Declaration of Emergency Pursuant to Charter Section 2.107.

17 (a) Section 2.107 of the Charter authorizes passage of an emergency ordinance in
18 cases of public emergency affecting life, health, or property, or for the uninterrupted operation
19 of any City or County department or office required to comply with time limitations established
20 by law. An emergency ordinance enacted under Charter Section 2.107 automatically
21 terminates on the 61st day after passage, but may be reenacted upon the same terms and
22 conditions applicable to its initial enactment.

23 (b) Pursuant to Charter Section 2.107, the City enacted an emergency ordinance
24 (Ordinance No. 59-20), the Public Health Emergency Leave Ordinance, which temporarily
25 requires private employers with 500 or more employees to provide public health emergency

1 leave during the public health emergency related to COVID-19. The emergency ordinance
2 became effective when enacted, on April 17, 2020. It would have terminated automatically on
3 June 16, 2020, but Ordinance No. 90-20 reenacted the emergency ordinance prior to its
4 termination. On August 24, 2020, Ordinance No. 136-20 reenacted Ordinance No. 59-20, as
5 reenacted, retroactive to August 15, 2020, the date that Ordinance No. 59-20, as reenacted,
6 expired. On October 30, 2020, Ordinance No. 217-20 reenacted Ordinance No. 59-20, as
7 reenacted, retroactive to October 14, 2020, the date that Ordinance No. 59-20, as reenacted,
8 expired. On December 23, 2020, Ordinance No. 270-20 reenacted Ordinance No. 59-20, as
9 reenacted, retroactive to December 13, 2020, the date that Ordinance No. 59-20, as
10 reenacted, expired. The original emergency ordinance, Ordinance No. 59-20, as most recently
11 reenacted by Ordinance No. 270-20, will terminate automatically on February 11, 2021,
12 unless reenacted.

13 (c) The Board of Supervisors hereby finds that the findings declared in Sections 1 and
14 2 of Ordinance No. 59-20 and reaffirmed in Ordinance Nos. 90-20, 136-20, 217-20, and 270-
15 20 remain valid and compelling, and declares further that an actual emergency continues to
16 exist that requires the reenactment of the Public Health Emergency Leave Ordinance to
17 reduce the spread of COVID-19 and mitigate the economic harm for individuals unable to
18 work due to the public health emergency. COVID-19 continues to present an extremely
19 dangerous public health risk to the community, and the adverse economic impact on workers
20 and their families remains severe, notwithstanding gradual reopening of sectors of the
21 economy. Further, many employees continue to experience family caregiving challenges due
22 to care facility closures, remote learning for school children, and other challenges securing
23 caregiving assistance.

24
25

1 Section 2. Reenactment of Emergency Ordinance.

2 Consistent with Charter Section 2.107, this emergency ordinance reenacts for an
3 additional 60 days the emergency ordinance temporarily requiring private employers with 500
4 or more employees to provide public health emergency leave (Ordinance No. 59-20, as
5 reenacted by Ordinance Nos. 90-20, 136-20, 217-20, and 270-20). and amends Sections 3, 4,
6 and 5 of such emergency ordinance to read as follows. Although both Ordinance No. 59-20
7 and this reenacted emergency ordinance are uncodified, for purposes of clarity, the respective
8 fonts for additions and deletions to the Municipal Code as stated in the "Note" that appears at
9 the beginning of this ordinance are used to show the amendments to Sections 3, 4, and 5 of
10 Ordinance No. 59-20:

11 Section 3. Definitions.

12 * * * *

13 "Employer" means any person, as defined in Section 18 of the California Labor Code,
14 including corporate officers or executives, who directly or indirectly or through an agent or any
15 other person, including through the services of a temporary services or staffing agency or
16 similar entity, employs or exercises control over the wages, hours, or working conditions of an
17 employee. Notwithstanding the prior sentence, "Employer" shall not include any person that is
18 a "Covered Employer," as that term is defined in Section 5110(2)(B) of the Act. Further,
19 "Employer" shall not include a Non-Profit Organization if the majority of the annual revenue of
20 the Non-Profit Organization is program service revenue that is not unrelated business taxable
21 income under 26 U.S.C. § 512, as may be amended from time to time, and the Non-Profit
22 Organization does not engage in Healthcare Operations.

23 "Family Member" means any person for whom an Employee may use paid sick leave to
24 provide care pursuant to Administrative Code Section 12W.4(a).

1 “Healthcare Operations” means the provision of diagnostic and healthcare services and
2 devices including, without limitation, hospitals, medical clinics, diagnostic testing locations,
3 dentists, pharmacies, blood banks and blood drives, pharmaceutical and biotechnology
4 companies, other healthcare facilities, healthcare suppliers, home healthcare services
5 providers, mental health providers, or any related and/or ancillary healthcare services.

6 “Healthcare Operations” also includes veterinary care and all healthcare services provided to
7 animals. “Healthcare Operations” excludes fitness and exercise gyms and similar facilities.

8 “Nonprofit Organization” means a nonprofit corporation, duly organized, validly existing
9 and in good standing under the laws of the jurisdiction of its incorporation and (if a foreign
10 corporation) in good standing under the laws of the State of California, which corporation has
11 established and maintains valid nonprofit status under 26 U.S.C. § 501(c)(3), as may be
12 amended from time to time, and all rules and regulations promulgated under such Section.

13 * * * *

14 Section 4. Public Health Emergency Leave Requirements.

15 * * * *

16 (h) The amendments contained in the reenacted emergency ordinance in Board File
17 No. 210052, to the definition of Employer, excluding certain Non-Profit Organizations, and to
18 Section 5, striking a provision allowing leave to be taken without regard to Employees’ work
19 schedules, are prospective only. Such amendments do not extinguish the right of a person to
20 pursue a complaint pursuant to Section 8 that arose prior to the effective date of such
21 amendments.

22 * * * *

23 Section 5. Public Health Emergency Leave Use.

24 * * * *

1 (c) Public Health Emergency Leave shall be available for immediate use for the
2 purposes described in Section 5(a) or Section 5(b), as applicable, regardless of how long the
3 Employee has been employed by the Employer; the employee's status as full-time, part-time,
4 permanent, temporary, seasonal, salaried, paid by commission, or any other status; or any
5 other consideration pertaining to the Employee. ~~Public Health Emergency Leave may be
6 taken regardless of whether and when the Employee is scheduled to work, provided that the
7 total number of hours of leave taken in a week may not exceed the average number of hours
8 over a one-week period that the Employee was scheduled over the previous six months
9 ending on February 25, 2020, including hours for which the Employee took leave of any type.~~

10
11 Section 3. Effective Date; Retroactive Application; Expiration.

12 (a) If enacted prior to the expiration of Ordinance No. 59-20, as reenacted by
13 Ordinance Nos. 90-20, 136-20, 217-20, and 270-20, this reenacted emergency ordinance
14 shall become effective immediately upon the date of expiration of Ordinance No. 59-20, and
15 shall itself expire on the 61st day following its effective date unless reenacted as provided by
16 Charter Section 2.107, or upon the termination of the Public Health Emergency, whichever
17 occurs first.

18 (b) If enacted after the expiration of Ordinance No. 59-20, as reenacted by Ordinance
19 Nos. 90-20, 136-20, 217-20, and 270-20, this reenacted emergency ordinance shall become
20 effective immediately upon enactment, shall have operative effect retroactively to the date that
21 Ordinance No. 59-20, as reenacted, expired, and shall expire on the 61st day following the
22 date that Ordinance No. 59-20, as reenacted, expired, unless reenacted as provided by
23 Charter Section 2.107, or upon the termination of the Public Health Emergency, whichever
24 occurs first.

1 Section 4. Directions to Clerk.

2 The Clerk of the Board of Supervisors is hereby directed to place a copy of this
3 reenacted emergency ordinance in File No. 200355 for Ordinance No. 59-20, File No. 200576
4 for Ordinance No. 90-20, File No. 200733 for Ordinance No. 136-20, File No. 201055 for
5 Ordinance No. 217-20, and File No. 201264 for Ordinance No. 270-20, and to make a
6 notation cross-referencing this emergency ordinance where Ordinance Nos. 59-20, 90-20,
7 136-20, 217-20, and 270-20 appear on the Board of Supervisors website as legislation
8 passed.

9

10 Section 5. Supermajority Vote Required.

11 In accordance with Charter Section 2.107, passage of this reenacted emergency
12 ordinance by the Board of Supervisors requires an affirmative vote of two-thirds of the Board
13 of Supervisors.

14

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

17 By: /s/ _____
18 LISA POWELL
19 Deputy City Attorney

20

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23

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25

REVISED LEGISLATIVE DIGEST
(Amended in Committee – February 4, 2021)

[Emergency Ordinance - Public Health Emergency Leave]

Reenactment of emergency ordinance (Ordinance No. 59-20 as reenacted by Ordinance Nos. 90-20, 136-20, 217-20, and 270-20) to temporarily require private employers with 500 or more employees to provide public health emergency leave during the public health emergency related to COVID-19, with amendments to prospectively exempt certain non-profit organizations from the emergency ordinance and to strike a provision allowing leave to be taken without regard to employees' work schedules.

Existing Law

An emergency ordinance, the Public Health Emergency Leave Ordinance, Ordinance No. 59-20, reenacted by Ordinance No. 90-20, Ordinance No. 136-20, Ordinance No. 217-20, and Ordinance No. 270-20, temporarily requires private employers with 500 or more employees to provide paid public health emergency leave during the public health emergency related to COVID-19.

The federal Families First Coronavirus Response Act (FFCRA), Public Law No. 116-127, temporarily required employers to provide emergency paid sick leave to certain employees who are unable to work or telework due to the COVID-19 public health emergency, but it exempted private employers with 500 or more employees. The emergency ordinance addressed the gap created by FFCRA's exemption of private employers with 500 or more employees. Although FFCRA's emergency paid sick leave requirement lapsed on January 1, 2021, Congress extended employer tax credits for paid sick leave voluntarily provided to employees through March 31, 2021.

The legislative digest for Ordinance No. 59-20 is found in Board File No. 200355. Slightly edited, it summarizes the ordinance as follows:

Under the ordinance, employees may use up to 80 hours of paid public health emergency leave if unable to work (including telework) because:

- (1) The employee is subject to a quarantine or isolation order related to COVID-19, including but not limited to the City or other Bay Area shelter-in-place or "stay-safer-at-home" orders. This includes an employee who is a member of a "vulnerable population" as defined in Order No. C19-05 who is unable to work due to recommendations in any City health order, or any order issued by Governor Newsom or Bay Area jurisdictions recommending or requiring additional restrictions for vulnerable or high-risk populations.
- (2) The employee has been advised by a health care provider to quarantine.
- (3) The employee is experiencing symptoms associated with COVID-19 and seeking a medical diagnosis.

- (4) The employee is caring for a family member who is subject to an order as described in (1), has been advised as described (2), or is experiencing symptoms as described in (3).
- (5) The employee is caring for a family member if the school or place of care of the family member has been closed, or the care provider of such family member is unavailable, due to the public health emergency.
- (6) The employee is experiencing any other substantially similar condition specified by the Local Health Officer, or under Section 5102(a)(6) of the FFCRA, by the United States Secretary of Health and Human Services.

The ordinance allows an employer of an employee who is a health care provider or an emergency responder to limit this leave, but requires such employers to provide such leave when the employee is unable to work: (1) due to a health care provider's advice to self-quarantine; or (2) because the employee is experiencing symptoms associated with COVID-19, seeking a medical diagnosis, and does not meet the Centers for Disease Control and Prevention guidance for criteria to return to work for healthcare personnel with confirmed or suspected COVID-19.

Public health emergency leave must be provided in addition to paid leave the employer provided before the date of enactment of the ordinance, except employers that voluntarily provided additional paid leave in response to the COVID-19 outbreak may count that leave toward the required public health emergency leave. The ordinance required public health emergency leave to be available for immediate use, and it expires with the expiration of the ordinance, unless reenacted.

The Office of Labor Standards Enforcement ("OLSE") has implemented and is enforcing the ordinance. OLSE published a notice suitable for employers to inform employees of their rights under the ordinance, as well as information about City, state, and federal resources that employees negatively impacted by the public health emergency may qualify to receive. Employers were required to provide the notice to employees, in English, Spanish, Chinese, and any language spoken by at least 5% of the employees who are, or prior to the public health emergency were, at the workplace or job site, within three days after it was published.

The ordinance includes anti-retaliation protections that, among other provisions, prohibit interfering with any right protected under the ordinance and taking any adverse action against an employee for exercising these rights.

The ordinance became effective on April 17, 2020, was reenacted by Ordinance No. 90-20, on June 16, 2020; by Ordinance No. 136-20, on August 24, 2020, retroactive to August 15, 2020, the date that Ordinance 59-20, as reenacted, expired; by Ordinance No. 217-20, retroactive to October 14, 2020, the date that Ordinance 59-20, as reenacted, expired; and by Ordinance No. 270-20, retroactive to December 13, 2020, the date that Ordinance 59-20, as reenacted, expired. The ordinance will terminate automatically on February 11, 2021, unless reenacted.

Amendments to Existing Law

The proposed emergency ordinance reenacts Ordinance No. 59-20, as reenacted, with the result that it does not terminate on February 11, 2021, but rather is extended for an additional 60 days. The proposed emergency ordinance was amended in committee to include two amendments to Ordinance No. 59-20, each of which is prospectively only. These amendments exempt certain non-profit organizations from the ordinance's requirements, and they strike a provision that allows employees to use public health emergency leave regardless of when they are scheduled to work.

If the ordinance is enacted after the expiration of Ordinance No. 59-20, as reenacted, it will have operative effect retroactively to the date that Ordinance No. 59-20, as reenacted, expired, and will expire on the 61st day following that date, unless reenacted.

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1 [Emergency Ordinance - Public Health Emergency Leave]

2
3 **Emergency ordinance to temporarily require private employers with 500 or more**
4 **employees to provide public health emergency leave during the public health**
5 **emergency related to COVID-19.**

6 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
7 **Additions to Codes** are in *single-underline italics Times New Roman*;
8 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman*~~.
9 **Board amendment additions** are in double underlined Arial font.
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11 Asterisks (* * *) indicate the omission of unchanged Code
12 subsections or parts of tables.

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

14 Section 1. Declaration of Emergency Pursuant to Charter Section 2.107.

15 (a) Section 2.107 of the Charter authorizes passage of an emergency ordinance in
16 cases of public emergency affecting life, health, or property, or for the uninterrupted operation
17 of any City or County department or office required to comply with time limitations established
18 by law. The Board of Supervisors hereby finds and declares that an actual emergency exists
19 that requires the passage of this emergency ordinance.

20 (b) On February 25, 2020, Mayor London Breed proclaimed a state of emergency in
21 response to the spread of the novel coronavirus COVID-19. On March 3, 2020, the Board of
22 Supervisors concurred in the February 25 Proclamation and in the actions taken by the Mayor
23 to meet the emergency.

24 (c) To mitigate the spread of COVID-19, on March 16, 2020, the Local Health Officer
25 issued Order No. C19-07, replaced by Order No. C19-07b on March 31, 2020, directing San
Franciscans to “shelter in place.” This Order generally requires individuals to stay in their

1 homes through May 3, and requires businesses to cease all non-essential operations at
2 physical locations in the City.

3 (d) Due to the public health emergency related to COVID-19 and the actions required
4 to respond to the emergency, a growing number of workers across the City are unable to work
5 (including telework) due to illness, exposure to others with the coronavirus, business closures,
6 and family caregiving obligations related to closures of schools and care facilities and an
7 inability to secure caregiving assistance. These conditions pose a severe and imminent threat
8 to the health, safety, and economic well-being of San Franciscans and those who work in San
9 Francisco.

10 (e) This emergency ordinance is necessary to reduce the spread of COVID-19 and
11 mitigate the economic harm for individuals unable to work due to the Public health
12 emergency.

13
14 Section 2. Findings and Purpose.

15 (a) Pursuant to Order No. C19-07b, businesses with a facility in the City, except
16 Essential Businesses as defined in the Order, are required to cease all activities at facilities
17 located within the City except Minimum Basic Operations, as defined in the Order. Although
18 some businesses are able to continue operations exclusively via teleworking, many
19 employees are in positions that cannot be fulfilled through teleworking or are unable to
20 perform the required telework hours because of the need to care for a child or other family
21 member.

22 (b) President Trump signed into law the Families First Coronavirus Response Act, H.R.
23 6201, Public Law No. 116-127 ("Act") on March 18, 2020. The Act provides emergency paid
24 sick leave to certain employees who are unable to work or telework due to the COVID-19
25

1 public health emergency, but it exempts employers with 500 or more employees, leaving their
2 employees without the critical protections included in the Act.

3 (c) This emergency ordinance addresses the emergency paid leave coverage gap
4 created by the Act by extending paid leave to employees in the City who are employed by
5 businesses with 500 or more employees.

6 (d) By providing public health emergency leave to these employees, this measure will
7 address the current emergency in several regards:

8 (1) Order No. C19-07b and similar shelter-in-place orders in other Bay Area
9 counties were issued to ensure that the maximum number of people self-isolate at home to
10 slow the spread of COVID-19 to the extent possible. This emergency ordinance will ensure
11 that employees in San Francisco who are permitted to work under Order No. C19-07b and
12 other such orders are financially able to stay home and isolate if exposed to COVID-19 or
13 exhibiting symptoms related to COVID-19. This need is particularly critical to ensure that
14 workers for certain essential businesses, including food service and grocery employees, are
15 able to stay home if exposed to COVID-19 or exhibiting symptoms related to COVID-19.
16 Studies have shown that employees with lower rates of access to paid leave are more likely to
17 go to work sick than those with higher rates of access to paid leave. By increasing employee
18 access to paid leave during the current COVID-19 emergency, this emergency ordinance will
19 reduce the likelihood that infected employees will report to work, and will therefore decrease
20 the spread of COVID-19 through interactions with fellow employees or members of the public.

21 (2) Employees in San Francisco have access to paid sick leave under the City's
22 Paid Sick Leave Ordinance (Administrative Code Chapter 12W), and can use that leave for
23 many of the same purposes as public health emergency leave under this emergency
24 ordinance. However, the Act extends additional leave in the form of emergency paid sick
25 leave only to employees of businesses with fewer than 500 employees and employees of

1 public agencies. The Act does not cover employees of businesses with 500 or more
2 employees. This emergency ordinance will address this gap in coverage and provide
3 necessary additional protection for employees of businesses with 500 or more employees,
4 and thereby help contain the spread of COVID-19.

5 (3) With the closure of schools by the San Francisco Unified School District and
6 other Bay Area school districts, as well as the closure of other facilities providing education,
7 childcare, elder care, or other family caregiving support, workers across the City are facing a
8 growing caregiving emergency. By extending public health emergency leave to employees not
9 protected by the Act, this emergency ordinance makes it more likely that those employees will
10 be able to care for their loved ones and ensure those loved ones stay home, and thereby
11 minimize the spread of COVID-19 in the community.

12 (4) This emergency ordinance will also address the current financial crisis of
13 those employees in San Francisco not protected by the Act who are struggling to make ends
14 meet due to widespread closures, lack of access to childcare and elder care, and other
15 workplace disruptions, which are likely to continue to affect employees after the expiration of
16 Order No. C19-07b and other shelter-in-place orders in Bay Area counties.

17
18 Section 3. Definitions.

19 For purposes of this emergency ordinance, the following definitions apply.

20 "Act" means the federal Families First Coronavirus Response Act, H.R. 6201, Public
21 Law No. 116-127, signed into law by the President on March 18, 2020.

22 "Agency" means the Office of Labor Standards Enforcement.

23 "City" means the City and County of San Francisco.

24 "Employee" means any person providing labor or services for remuneration who is an
25 employee under California Labor Code Section 2750.3(a), as may be amended from time to

1 time, including a part-time and temporary employee workers, who has performed 56 or more
2 hours of who performs work as an employee within the geographic boundaries of the City
3 during the 365 days immediately preceding the effective date of this emergency ordinance.

4 “Employee” includes an employee who performs limited work within the geographic
5 boundaries of the City if the employee would be considered an Employee under Rule 6 of the
6 rules implementing the Paid Sick Leave Ordinance (Administrative Code Chapter 12W).

7 Further, “Employee” includes a participant in a Welfare-to-Work Program when the participant
8 is engaged in work activity that would be considered “employment” under the federal Fair
9 Labor Standards Act, 29 U.S.C. §§ 201 et seq., and any applicable U.S. Department of Labor
10 Guidelines. “Welfare-to-Work Program” includes any public assistance program administered
11 by the Human Services Agency, including but not limited to CalWORKS and the County Adult
12 Assistance Program (CAAP), and any successor programs that are substantially similar to
13 them, that require a public assistance applicant or recipient to work in exchange for their
14 grant.

15 “Employer” means any person, as defined in Section 18 of the California Labor Code,
16 including corporate officers or executives, who directly or indirectly or through an agent or any
17 other person, including through the services of a temporary services or staffing agency or
18 similar entity, employs or exercises control over the wages, hours, or working conditions of an
19 employee. Notwithstanding the prior sentence, “Employer” shall not include any person that is
20 a “Covered Employer,” as that term is defined in Section 5110(2)(B) of the Act.

21 “Family Member” means any person for whom an Employee may use paid sick leave to
22 provide care pursuant to Administrative Code Section 12W.4(a).

23 “Public Health Emergency” means the local emergency Mayor London Breed
24 proclaimed on February 25, 2020, with the concurrence of the Board of Supervisors on March
25 3, 2020.

1 "Public Health Emergency Leave" means paid leave provided by an Employer to an
2 Employee for the uses described in Section 5(a) or Section 5(b), as applicable, of this
3 emergency ordinance.

4
5 Section 4. Public Health Emergency Leave Requirements.

6 (a) ~~Except as provided in subsection (b),~~ Beginning on the effective date of this
7 emergency ordinance, an Employer shall provide each Employee with Public Health
8 Emergency Leave for all purposes specified in Section 5(a) or Section 5(b), as applicable, in
9 amounts calculated as ~~specified in Sections 5102(b)(2) and 5110(5)(C) of the Act, as may be~~
10 ~~amended from time to time~~ follows:

11 (1) For an Employee who was a full-time employee as of February 25, 2020, 80
12 hours.

13 (2) For an Employee who was a part-time employee as of February 25, 2020,
14 the number of hours shall be equal to the average number of hours over a two-week period
15 that the Employee was scheduled over the previous six months ending on February 25, 2020,
16 including hours for which the Employee took leave of any type.

17 (b) ~~An Employer of an Employee who is a health care provider or an emergency~~
18 ~~responder may elect to exclude such Employee from the application of this emergency~~
19 ~~ordinance. "Health care provider" has the meaning given to such term in section 101 of the~~
20 ~~Family and Medical Leave Act of 1993, 29 U.S.C. § 2611, as may be amended from time to~~
21 ~~time.~~

22 (e) Public Health Emergency Leave shall be made available to Employees of the
23 Employer in addition to any paid time off that the Employer offered or provided to Employees
24 on or before the effective date of this emergency ordinance, provided however that an
25 Employer's obligation to provide Public Health Emergency Leave under Section 4(a) shall be

1 reduced for every hour an Employer allowed an Employee to take paid leave or paid time off
2 consistent with the requirements of Section 4(g), not including previously accrued hours, on or
3 after February 25, 2020, for any of the reasons described in Section 5(a) or Section 5(b), as
4 applicable. An Employer may not change any paid time off policies on or after the effective
5 date of this emergency ordinance except to provide additional paid leave.

6 (cd) An Employee may use Public Health Emergency Leave for the purposes described
7 in Section 5(a) or Section 5(b), as applicable, before using other accrued paid time off. An
8 Employee may voluntarily choose, but an Employer may not require the Employee, to use
9 other accrued paid time off provided by the Employer to the Employee before the Employee
10 uses Public Health Emergency Leave.

11 (de) This emergency ordinance provides minimum requirements pertaining to Public
12 Health Emergency Leave and shall not be construed to prevent an Employer from providing or
13 advancing additional paid time off to an Employee, and shall not be construed to limit the
14 amount of paid time off that may be provided to an Employee.

15 (ef) Upon an Employee's separation from employment, an Employer is no longer
16 obligated to provide or pay for any Public Health Emergency Leave not used prior to
17 separation.

18 (fg) Public Health Emergency Leave as required by this emergency ordinance shall
19 expire upon the expiration of this emergency ordinance, unless an Employer extends an
20 Employee's access to such leave.

21 (gh) An Employer shall compensate Employees for Public Health Emergency Leave in
22 the manner set forth for calculating paid sick leave under Administrative Code Section
23 12W.3(h).

24
25 Section 5. Public Health Emergency Leave Use.

1 (a) Except as provided in subsection (b), aAn Employee may use Public Health
2 Emergency Leave to the extent that the Employee is unable to work (either at the Employee's
3 customary place of work or telework) due to any of the following:

4 (1) The Employee is subject to an individual or general Federal, State, or local
5 quarantine or isolation order related to COVID-19. This includes, but is not limited to, an
6 Employee who is unable to work due to Governor Newsom's Executive Order N-33-20, the
7 shelter-in-place Order No. C19-07b or any succeeding order requiring residents to stay in their
8 homes during the emergency, or shelter-in-place orders issued in other Bay Area jurisdictions.
9 Further, this includes an Employee who is a member of a "vulnerable population" as defined in
10 Order No. C19-05 who is unable to work due to recommendations in Order No. C19-05, C19-
11 07b, or any order issued by Governor Newsom or Bay Area jurisdictions recommending or
12 requiring additional restrictions for vulnerable or high-risk populations.

13 (2) The Employee has been advised by a health care provider to self-quarantine.

14 (3) The Employee is experiencing symptoms associated with COVID-19 and
15 seeking a medical diagnosis.

16 (4) The Employee is caring for a Family Member who is subject to an order as
17 described in subsection (a)(1), has been advised as described in subsection (a)(2), or is
18 experiencing symptoms as described in subsection (a)(3).

19 (5) The Employee is caring for a Family Member if the school or place of care of
20 the Family Member has been closed, or the care provider of such Family Member is
21 unavailable, due to the Public Health Emergency.

22 (6) The Employee is experiencing any other substantially similar condition
23 specified by the Local Health Officer, or under Section 5102(a)(6) of the Act, by the United
24 States Secretary of Health and Human Services.

25

1 (b) An Employer of an Employee who is a health care provider or an emergency
2 responder (as each term is defined in 29 C.F.R. § 826.30(c), as may be amended from time to
3 time) may elect to limit such an Employee's use of Public Health Emergency Leave, but at a
4 minimum such an Employee may use Public Health Emergency Leave to the extent that the
5 Employee is unable to work (either at the Employee's customary place of work or telework)
6 due to either of the following:

7 (1) The Employee has been advised by a health care provider (as that term is
8 defined in 29 C.F.R. § 825.102) to self-quarantine.

9 (2) The Employee is experiencing symptoms associated with COVID-19,
10 seeking a medical diagnosis, and does not meet the Centers for Disease Control and
11 Prevention guidance for criteria to return to work for healthcare personnel with confirmed or
12 suspected COVID-19.

13 (c) Public Health Emergency Leave shall be available for immediate use for the
14 purposes described in Section 5(a) or Section 5(b), as applicable, regardless of how long the
15 Employee has been employed by the Employer; ~~regardless of whether or when the employee~~
16 ~~is scheduled to work;~~ the employee's status as full-time, part-time, permanent, temporary,
17 seasonal, salaried, paid by commission, or any other status; or any other consideration
18 pertaining to the Employee. Public Health Emergency Leave may be taken regardless of
19 whether and when the Employee is scheduled to work, provided that the total number of hours
20 of leave taken in a week may not exceed the average number of hours over a one-week
21 period that the Employee was scheduled over the previous six months ending on February 25,
22 2020, including hours for which the Employee took leave of any type.

23 (d) An Employer may not require, as a condition of an Employee's taking Public
24 Health Emergency Leave, that the Employee search for or find a replacement worker to cover
25 the hours during which the Employee is on Public Health Emergency Leave.

1 (e~~d~~) An Employer may not require, as a condition of an Employee's taking Public
2 Health Emergency Leave, that the Employee take Public Health Emergency Leave in
3 increments of more than one hour.

4 (f~~e~~) An Employer may require the Employee to follow reasonable notice procedures in
5 order to use Public Health Emergency Leave, but only when the need for Public Health
6 Emergency Leave is foreseeable.

7 (g~~f~~) An Employer may require an Employee to identify the basis for requesting Public
8 Health Emergency Leave, but may not require the disclosure of health information or other
9 documentation (including but not limited to a doctor's note) for absences due to the purposes
10 described in subsection (a).

11 (h~~g~~) An Employer shall provide payment for Public Health Emergency Leave taken by
12 an Employee no later than the payday for the next regular payroll period after the Public
13 Health Emergency Leave is taken.

14
15 Section 6. Notice to Employees.

16 (a) The Agency shall, within seven days of the effective date of this emergency
17 ordinance, publish and make available on its website and through electronic communication to
18 Employers a notice suitable for Employers to inform Employees of their rights under this
19 emergency ordinance as well as of City, State, or Federal resources that Employees
20 negatively impacted by the Public Health Emergency may qualify to receive.

21 (b) Every Employer shall, within three days after the Agency has published and made
22 available the notice described in subsection (a), provide the notice to Employees in a manner
23 calculated to reach all employees: by posting in a conspicuous place at the workplace, via
24 electronic communication, and/or by posting in a conspicuous place in an Employer's web-
25 based or app-based platform. Every employer shall provide the notice in English, Spanish,

1 Chinese, and any language spoken by at least 5% of the Employees who are, or prior to the
2 Public Health Emergency were, at the workplace or job site.

3 (c) To the extent feasible, on the same written notice that an Employer is required to
4 provide under Section 246(i) of the California Labor Code, an Employer shall set forth the
5 amount of Public Health Emergency Leave that is available to the Employee under this
6 emergency ordinance. If an Employer provides unlimited paid time off to an Employee, the
7 Employer may satisfy this subsection (c) by indicating on the notice or the Employee's
8 itemized wage statement "unlimited." This subsection (c) shall apply only to Employers that
9 are required by state law to provide such notice to Employees regarding paid sick leave
10 available under California law.

11
12 Section 7. Exercise of Rights Protected; Retaliation Prohibited.

13 (a) It shall be unlawful for an Employer or any other person to interfere with, restrain, or
14 deny the exercise of, or the attempt to exercise, any right protected under this emergency
15 ordinance.

16 (b) It shall be unlawful for an Employer or any other person to discharge, threaten to
17 discharge, demote, suspend, reduce other Employee benefits, or in any manner discriminate
18 or take adverse action against any person in retaliation for exercising rights protected under
19 this emergency ordinance. Such rights include but are not limited to the right to use Public
20 Health Emergency Leave pursuant to this emergency ordinance; the right to file a complaint or
21 inform any person about any Employer's alleged violation of this emergency ordinance; the
22 right to cooperate with the Agency in its investigations of alleged violations of this emergency
23 ordinance; and the right to inform any person of that person's potential rights under this
24 emergency ordinance.

1 (c) It shall be unlawful for any Employer absence control policy to count an Employee's
2 use of Public Health Emergency Leave as an absence that may lead to or result in discipline,
3 discharge, demotion, suspension, or any other adverse action.

4 (d) Protections of this emergency ordinance shall apply to any person who mistakenly
5 but in good faith alleges violations of this emergency ordinance.

6 (e) Taking adverse action against a person within 90 days of the person's filing a
7 complaint with the Agency or a court alleging a violation of any provision of this emergency
8 ordinance; informing any person about an Employer's alleged violation of this emergency
9 ordinance; cooperating with the Agency or other persons in the investigation or prosecution of
10 any alleged violation of this emergency ordinance; opposing any policy, practice, or act that is
11 unlawful under this emergency ordinance; or informing any person of that person's rights
12 under this emergency ordinance shall raise a rebuttable presumption that such adverse action
13 was taken in retaliation for the exercise of one or more of the aforementioned rights.

14
15 Section 8. Records, Implementation, and Enforcement.

16 (a) Employers shall retain records related to Public Health Emergency Leave in the
17 same manner and to the same extent as records that must be retained under Administrative
18 Code Section 12W.6 and Agency rules and guidelines governing retention of such records.

19 (b) The Agency is authorized to implement and enforce this emergency ordinance and
20 may promulgate rules and guidelines for such purposes. Except as otherwise provided by
21 Agency rules or guidelines, the administrative and civil enforcement provisions of
22 Administrative Code Section 12W.8(b)-(e) apply to this emergency ordinance. Until such time
23 as the Agency promulgates any additional rules or guidelines, the rules and guidelines
24 adopted by the Agency interpreting Administrative Code Section 12W.8 shall apply to this
25 emergency ordinance.

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Section 9. Waiver Through Collective Bargaining.

All or any portion of the applicable requirements of this emergency ordinance shall not apply to Employees covered by a bona fide collective bargaining agreement to the extent that such requirements are expressly waived in the collective bargaining agreement in clear and unambiguous terms.

Section 10. Preemption.

Nothing in this emergency ordinance shall be interpreted or applied so as to create any power or duty in conflict with federal or state law. The term "conflict," as used in this Section 9 means a conflict that is preemptive under federal or state law.

Section 11. City Undertaking Limited to Promotion of the General Welfare.

In undertaking the adoption and enforcement of this emergency ordinance, the City is undertaking only to promote the general welfare. The City is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. This emergency ordinance does not create a legally enforceable right by any member of the public against the City.

Section 12. Severability.

If any section, subsection, sentence, clause, phrase, or word of this emergency ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of this emergency ordinance. The

1 Board of Supervisors hereby declares that it would have passed this ordinance and every
2 section, subsection, sentence, clause, phrase, and word not declared invalid and
3 unconstitutional without regard to whether any other portion of this emergency ordinance or
4 application thereof would be subsequently declared invalid or unconstitutional.

5
6 Section 13. Effective Date; Expiration.

7 Consistent with Charter Section 2.107, this emergency ordinance shall become
8 effective immediately upon enactment, and shall expire on the 61st day following enactment
9 unless reenacted as provided by Section 2.107, or upon the termination of the Public Health
10 Emergency, whichever occurs first. Enactment occurs when the Mayor signs the ordinance,
11 the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of
12 receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

13
14 Section 14. Suspension of Charter Section 14.101.

15 To address the emergency conditions described above, the Board of Supervisors finds
16 that it is necessary to temporarily modify the Paid Sick Leave Ordinance (Administrative Code
17 Section 12W.16(a)), which provides that the Board of Supervisors may not amend the
18 substantive requirements or scope of that Ordinance, and to suspend the restriction in Charter
19 Section 14.101 for that limited purpose.

20
21 Section 15. Supermajority Vote Required.

22 In accordance with Charter Section 2.107, passage of this emergency ordinance by the
23 Board of Supervisors requires an affirmative vote of two-thirds of the Board of Supervisors.

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

3 By: /s/
4 LISA POWELL
5 Deputy City Attorney

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City and County of San Francisco
Tails
Ordinance

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

File Number: 200355

Date Passed: April 14, 2020

Emergency ordinance to temporarily require private employers with 500 or more employees to provide public health emergency leave during the public health emergency related to COVID-19.

April 06, 2020 Rules Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

April 06, 2020 Rules Committee - CONTINUED AS AMENDED

April 13, 2020 Rules Committee - RECOMMENDED AS COMMITTEE REPORT

April 14, 2020 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

April 14, 2020 Board of Supervisors - FINALLY PASSED AS AMENDED

Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

File No. 200355

I hereby certify that the foregoing Ordinance was FINALLY PASSED AS AMENDED on 4/14/2020 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

4/17/2020

Date Approved

1 [Emergency Ordinance - Public Health Emergency Leave]

2
3 **Reenactment of emergency ordinance (Ordinance No. 59-20) to temporarily require**
4 **private employers with 500 or more employees to provide public health emergency**
5 **leave during the public health emergency related to COVID-19.**

6 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
7 **Additions to Codes** are in *single-underline italics Times New Roman*;
8 **Deletions to Codes** are in ~~*striketrough italics Times New Roman*~~.
9 **Board amendment additions** are in double underlined Arial font.
10 **Board amendment deletions** are in ~~striketrough Arial font~~.
11 Asterisks (* * * *) indicate the omission of unchanged Code
12 subsections or parts of tables.

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

14 Section 1. Declaration of Emergency Pursuant to Charter Section 2.107.

15 (a) Section 2.107 of the Charter authorizes passage of an emergency ordinance in
16 cases of public emergency affecting life, health, or property, or for the uninterrupted operation
17 of any City or County department or office required to comply with time limitations established
18 by law. An emergency ordinance enacted under Charter Section 2.107 automatically
19 terminates on the 61st day after passage, but may be reenacted upon the same terms and
20 conditions applicable to its initial enactment.

21 (b) Pursuant to Charter Section 2.107, the City enacted Ordinance No. 59-20, an
22 emergency ordinance, the Public Health Emergency Leave Ordinance, which temporarily
23 requires private employers with 500 or more employees to provide public health emergency
24 leave during the public health emergency related to COVID-19. The emergency ordinance
25 became effective when enacted, on April 17, 2020, and terminates automatically on June 16,
2020, unless reenacted.

1 (c) The Board of Supervisors hereby finds that the findings declared in Sections 1 and
2 2 of Ordinance No. 59-20 remain valid and compelling, and declares further that an actual
3 emergency continues to exist that requires the reenactment of the Public Health Emergency
4 Leave Ordinance to reduce the spread of COVID-19 and mitigate the economic harm for
5 individuals unable to work due to the public health emergency. COVID-19 continues to
6 present an extremely dangerous public health risk to the community, and the adverse
7 economic impact on workers and their families remains severe, notwithstanding gradual
8 efforts to reopen certain sectors of the economy.
9

10 Section 2. Reenactment of Emergency Ordinance.

11 Consistent with Charter Section 2.107, this emergency ordinance reenacts for an
12 additional 60 days the emergency ordinance temporarily requiring private employers with 500
13 or more employees to provide public health emergency leave (Ordinance No. 59-20).
14

15 Section 3. Effective Date; Expiration.

16 This reenacted emergency ordinance shall become effective immediately upon the
17 date of expiration of Ordinance No. 59-20, and shall itself expire on the 61st day following its
18 effective date unless reenacted as provided by Charter Section 2.107, or upon the termination
19 of the Public Health Emergency, whichever occurs first.
20

21 Section 4. Directions to Clerk.

22 The Clerk of the Board of Supervisors is hereby directed to place a copy of this
23 reenacted emergency ordinance in File No. 200355 for Ordinance No. 59-20, and to make a
24 notation cross-referencing this emergency ordinance where Ordinance No. 59-20 appears on
25 the Board of Supervisors website as legislation passed.

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Section 5. Supermajority Vote Required.

In accordance with Charter Section 2.107, passage of this reenacted emergency ordinance by the Board of Supervisors requires an affirmative vote of two-thirds of the Board of Supervisors.

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

By: /s/ _____
LISA POWELL
Deputy City Attorney

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City and County of San Francisco

Tails
Ordinance

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

File Number: 200576

Date Passed: June 09, 2020

Reenactment of emergency ordinance (Ordinance No. 59-20) to temporarily require private employers with 500 or more employees to provide public health emergency leave during the public health emergency related to COVID-19.

June 08, 2020 Rules Committee - RECOMMENDED AS COMMITTEE REPORT

June 09, 2020 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

File No. 200576

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 6/9/2020 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

6/12/20

Date Approved

1 [Emergency Ordinance - Public Health Emergency Leave]

2
3 **Reenactment of emergency ordinance (Ordinance No. 59-20) to temporarily require**
4 **private employers with 500 or more employees to provide public health emergency**
5 **leave during the public health emergency related to COVID-19.**

6 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
7 **Additions to Codes** are in *single-underline italics Times New Roman*;
8 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman*~~.
9 **Board amendment additions** are in double underlined Arial font.
10 **Board amendment deletions** are in ~~strikethrough Arial font~~.
11 Asterisks (* * * *) indicate the omission of unchanged Code
12 subsections or parts of tables.

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

14 Section 1. Declaration of Emergency Pursuant to Charter Section 2.107.

15 (a) Section 2.107 of the Charter authorizes passage of an emergency ordinance in
16 cases of public emergency affecting life, health, or property, or for the uninterrupted operation
17 of any City or County department or office required to comply with time limitations established
18 by law. An emergency ordinance enacted under Charter Section 2.107 automatically
19 terminates on the 61st day after passage, but may be reenacted upon the same terms and
20 conditions applicable to its initial enactment.

21 (b) Pursuant to Charter Section 2.107, the City enacted Ordinance No. 59-20, an
22 emergency ordinance, the Public Health Emergency Leave Ordinance, which temporarily
23 requires private employers with 500 or more employees to provide public health emergency
24 leave during the public health emergency related to COVID-19. The emergency ordinance
25 became effective when enacted, on April 17, 2020. It would have terminated automatically on
June 16, 2020, but Ordinance No. 90-20 reenacted the emergency ordinance prior to its

1 termination. The emergency ordinance will terminate automatically on August 15, 2020,
2 unless reenacted.

3 (c) The Board of Supervisors hereby finds that the findings declared in Sections 1 and
4 2 of Ordinance No. 59-20 remain valid and compelling, and declares further that an actual
5 emergency continues to exist that requires the reenactment of the Public Health Emergency
6 Leave Ordinance to reduce the spread of COVID-19 and mitigate the economic harm for
7 individuals unable to work due to the public health emergency. COVID-19 continues to
8 present an extremely dangerous public health risk to the community, and the adverse
9 economic impact on workers and their families remains severe, notwithstanding gradual
10 efforts to reopen sectors of the economy. Further, many employees continue to experience
11 family caregiving challenges due to care facility closures, challenges securing caregiving
12 assistance, and the likelihood that many schools will continue relying at least in part on
13 remote learning during the upcoming academic year.

14

15 Section 2. Reenactment of Emergency Ordinance.

16 Consistent with Charter Section 2.107, this emergency ordinance reenacts for an
17 additional 60 days the emergency ordinance temporarily requiring private employers with 500
18 or more employees to provide public health emergency leave (Ordinance No. 59-20), as
19 reenacted by Ordinance No. 90-20.

20

21 Section 3. Effective Date; Retroactive Application; Expiration.

22 (a) If enacted prior to the expiration of Ordinance No. 59-20, as reenacted by
23 Ordinance No. 90-20, this reenacted emergency ordinance shall become effective
24 immediately upon the date of expiration of Ordinance No. 59-20, and shall itself expire on the

25

1 61st day following its effective date unless reenacted as provided by Charter Section 2.107, or
2 upon the termination of the Public Health Emergency, whichever occurs first.

3 (b) If enacted after the expiration of Ordinance No. 59-20, as reenacted by Ordinance
4 No. 90-20, this reenacted emergency ordinance shall become effective immediately upon
5 enactment, shall have operative effect retroactively to the date that Ordinance No. 59-20, as
6 reenacted by Ordinance No. 90-20, expired, and shall expire on the 61st day following its
7 effective date the date that Ordinance No. 59-20, as reenacted by Ordinance No. 90-20,
8 expired, unless reenacted as provided by Charter Section 2.107, or upon the termination of
9 the Public Health Emergency, whichever occurs first.

10
11 Section 4. Directions to Clerk.

12 The Clerk of the Board of Supervisors is hereby directed to place a copy of this
13 reenacted emergency ordinance in File No. 200355 for Ordinance No. 59-20 and to make a
14 notation cross-referencing this emergency ordinance where Ordinance No. 59-20 appears on
15 the Board of Supervisors website as legislation passed.

16
17 Section 5. Supermajority Vote Required.

18 In accordance with Charter Section 2.107, passage of this reenacted emergency
19 ordinance by the Board of Supervisors requires an affirmative vote of two-thirds of the Board
20 of Supervisors.

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

23 By: /s/ _____
24 LISA POWELL
25 Deputy City Attorney

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City and County of San Francisco
Tails
Ordinance

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

File Number: 200733

Date Passed: August 18, 2020

Reenactment of emergency ordinance (Ordinance No. 59-20) to temporarily require private employers with 500 or more employees to provide public health emergency leave during the public health emergency related to COVID-19.

August 17, 2020 Rules Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

August 17, 2020 Rules Committee - RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

August 18, 2020 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

File No. 200733

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 8/18/2020 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

8.24.2020

Date Approved

1 [Emergency Ordinance - Public Health Emergency Leave]

2
3 **Reenactment of emergency ordinance (Ordinance No. 59-20) to temporarily require**
4 **private employers with 500 or more employees to provide public health emergency**
5 **leave during the public health emergency related to COVID-19.**

6 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
7 **Additions to Codes** are in *single-underline italics Times New Roman*;
8 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman*~~.
9 **Board amendment additions** are in double underlined Arial font.
10 **Board amendment deletions** are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code
subsections or parts of tables.

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

12
13 Section 1. Declaration of Emergency Pursuant to Charter Section 2.107.

14 (a) Section 2.107 of the Charter authorizes passage of an emergency ordinance in
15 cases of public emergency affecting life, health, or property, or for the uninterrupted operation
16 of any City or County department or office required to comply with time limitations established
17 by law. An emergency ordinance enacted under Charter Section 2.107 automatically
18 terminates on the 61st day after passage, but may be reenacted upon the same terms and
19 conditions applicable to its initial enactment.

20 (b) Pursuant to Charter Section 2.107, the City enacted an emergency ordinance
21 (Ordinance No. 59-20), the Public Health Emergency Leave Ordinance, which temporarily
22 requires private employers with 500 or more employees to provide public health emergency
23 leave during the public health emergency related to COVID-19. The emergency ordinance
24 became effective when enacted, on April 17, 2020. It would have terminated automatically on
25 June 16, 2020, but Ordinance No. 90-20 reenacted the emergency ordinance prior to its

1 termination. Then, on August 24, 2020, Ordinance No. 136-20 reenacted Ordinance No. 59-
2 20, as reenacted by Ordinance No. 90-20, retroactive to August 15, 2020, the date that
3 Ordinance No. 59-20, as reenacted by Ordinance No. 90-20, expired. The original emergency
4 ordinance, Ordinance No. 59-20, will terminate automatically on October 14, 2020, unless
5 reenacted.

6 (c) The Board of Supervisors hereby finds that the findings declared in Sections 1 and
7 2 of Ordinance No. 59-20 and reaffirmed in Ordinance No. 90-20 and Ordinance No. 136-20
8 remain valid and compelling, and declares further that an actual emergency continues to exist
9 that requires the reenactment of the Public Health Emergency Leave Ordinance to reduce the
10 spread of COVID-19 and mitigate the economic harm for individuals unable to work due to the
11 public health emergency. COVID-19 continues to present an extremely dangerous public
12 health risk to the community, and the adverse economic impact on workers and their families
13 remains severe, notwithstanding gradual efforts to reopen sectors of the economy. Further,
14 many employees continue to experience family caregiving challenges due to care facility
15 closures, remote learning for school children, and other challenges securing caregiving
16 assistance.

17

18 Section 2. Reenactment of Emergency Ordinance.

19 Consistent with Charter Section 2.107, this emergency ordinance reenacts for an
20 additional 60 days the emergency ordinance temporarily requiring private employers with 500
21 or more employees to provide public health emergency leave (Ordinance No. 59-20), as
22 reenacted by Ordinance No. 90-20 and Ordinance No. 136-20.

23

24

25

1 Section 3. Effective Date; Retroactive Application; Expiration.

2 (a) If enacted prior to the expiration of Ordinance No. 59-20, as reenacted by
3 Ordinance No. 90-20 and Ordinance No. 136-20, this reenacted emergency ordinance shall
4 become effective immediately upon the date of expiration of Ordinance No. 59-20, and shall
5 itself expire on the 61st day following its effective date unless reenacted as provided by
6 Charter Section 2.107, or upon the termination of the Public Health Emergency, whichever
7 occurs first.

8 (b) If enacted after the expiration of Ordinance No. 59-20, as reenacted by Ordinance
9 No. 90-20 and Ordinance No. 136-20, this reenacted emergency ordinance shall become
10 effective immediately upon enactment, shall have operative effect retroactively to the date that
11 Ordinance No. 59-20, as reenacted, expired, and shall expire on the 61st day following the
12 date that Ordinance No. 59-20, as reenacted, expired, unless reenacted as provided by
13 Charter Section 2.107, or upon the termination of the Public Health Emergency, whichever
14 occurs first.

15
16 Section 4. Directions to Clerk.

17 The Clerk of the Board of Supervisors is hereby directed to place a copy of this
18 reenacted emergency ordinance in File No. 200355 for Ordinance No. 59-20, File No. 200576
19 for Ordinance No. 90-20, and File No. 200733 for Ordinance No. 136-20 and to make a
20 notation cross-referencing this emergency ordinance where Ordinance Nos. 59-20, 90-20,
21 and 136-20 appear on the Board of Supervisors website as legislation passed.

1 Section 5. Supermajority Vote Required.

2 In accordance with Charter Section 2.107, passage of this reenacted emergency
3 ordinance by the Board of Supervisors requires an affirmative vote of two-thirds of the Board
4 of Supervisors.

5

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

8 By: /s/ _____
9 LISA POWELL
Deputy City Attorney

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City and County of San Francisco

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

Tails
Ordinance

File Number: 201055

Date Passed: October 20, 2020

Reenactment of emergency ordinance (Ordinance No. 59-20) to temporarily require private employers with 500 or more employees to provide public health emergency leave during the public health emergency related to COVID-19.

October 15, 2020 Government Audit and Oversight Committee - RECOMMENDED AS COMMITTEE REPORT

October 20, 2020 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

File No. 201055

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 10/20/2020 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

10/30/2020

Date Approved

1 [Emergency Ordinance - Public Health Emergency Leave]

2
3 **Reenactment of emergency ordinance (Ordinance No. 59-20) to temporarily require**
4 **private employers with 500 or more employees to provide public health emergency**
5 **leave during the public health emergency related to COVID-19.**

6 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
7 **Additions to Codes** are in *single-underline italics Times New Roman*;
8 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman*~~.
9 **Board amendment additions** are in double underlined Arial font.
10 **Board amendment deletions** are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code
subsections or parts of tables.

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

12
13 Section 1. Declaration of Emergency Pursuant to Charter Section 2.107.

14 (a) Section 2.107 of the Charter authorizes passage of an emergency ordinance in
15 cases of public emergency affecting life, health, or property, or for the uninterrupted operation
16 of any City or County department or office required to comply with time limitations established
17 by law. An emergency ordinance enacted under Charter Section 2.107 automatically
18 terminates on the 61st day after passage, but may be reenacted upon the same terms and
19 conditions applicable to its initial enactment.

20 (b) Pursuant to Charter Section 2.107, the City enacted an emergency ordinance
21 (Ordinance No. 59-20), the Public Health Emergency Leave Ordinance, which temporarily
22 requires private employers with 500 or more employees to provide public health emergency
23 leave during the public health emergency related to COVID-19. The emergency ordinance
24 became effective when enacted, on April 17, 2020. It would have terminated automatically on
25 June 16, 2020, but Ordinance No. 90-20 reenacted the emergency ordinance prior to its

1 termination. On August 24, 2020, Ordinance No. 136-20 reenacted Ordinance No. 59-20, as
2 reenacted by Ordinance No. 90-20, retroactive to August 15, 2020, the date that Ordinance
3 No. 59-20, as reenacted, expired. On October 30, 2020, Ordinance No. 217-20 reenacted
4 Ordinance No. 59-20, as reenacted by Ordinance No. 90-20 and Ordinance No. 136-20,
5 retroactive to October 14, 2020, the date that Ordinance No. 59-20, as reenacted, expired.
6 The original emergency ordinance, Ordinance No. 59-20, will terminate automatically on
7 December 13, 2020, unless reenacted.

8 (c) The Board of Supervisors hereby finds that the findings declared in Sections 1 and
9 2 of Ordinance No. 59-20 and reaffirmed in Ordinance No. 90-20, Ordinance No. 136-20, and
10 Ordinance No. 217-20 remain valid and compelling, and declares further that an actual
11 emergency continues to exist that requires the reenactment of the Public Health Emergency
12 Leave Ordinance to reduce the spread of COVID-19 and mitigate the economic harm for
13 individuals unable to work due to the public health emergency. COVID-19 continues to
14 present an extremely dangerous public health risk to the community, and the adverse
15 economic impact on workers and their families remains severe, notwithstanding gradual
16 reopening of sectors of the economy. Further, many employees continue to experience family
17 caregiving challenges due to care facility closures, remote learning for school children, and
18 other challenges securing caregiving assistance.

19

20 Section 2. Reenactment of Emergency Ordinance.

21 Consistent with Charter Section 2.107, this emergency ordinance reenacts for an
22 additional 60 days the emergency ordinance temporarily requiring private employers with 500
23 or more employees to provide public health emergency leave (Ordinance No. 59-20), as
24 reenacted by Ordinance No. 90-20, Ordinance No. 136-20, and Ordinance No. 217-20.

25

1 Section 3. Effective Date; Retroactive Application; Expiration.

2 (a) If enacted prior to the expiration of Ordinance No. 59-20, as reenacted by
3 Ordinance No. 90-20, Ordinance No. 136-20, and Ordinance No. 217-20, this reenacted
4 emergency ordinance shall become effective immediately upon the date of expiration of
5 Ordinance No. 59-20, and shall itself expire on the 61st day following its effective date unless
6 reenacted as provided by Charter Section 2.107, or upon the termination of the Public Health
7 Emergency, whichever occurs first.

8 (b) If enacted after the expiration of Ordinance No. 59-20, as reenacted by Ordinance
9 No. 90-20, Ordinance No. 136-20, and Ordinance No. 217-20, this reenacted emergency
10 ordinance shall become effective immediately upon enactment, shall have operative effect
11 retroactively to the date that Ordinance No. 59-20, as reenacted, expired, and shall expire on
12 the 61st day following the date that Ordinance No. 59-20, as reenacted, expired, unless
13 reenacted as provided by Charter Section 2.107, or upon the termination of the Public Health
14 Emergency, whichever occurs first.

15
16 Section 4. Directions to Clerk.

17 The Clerk of the Board of Supervisors is hereby directed to place a copy of this
18 reenacted emergency ordinance in File No. 200355 for Ordinance No. 59-20, File No. 200576
19 for Ordinance No. 90-20, File No. 200733 for Ordinance No. 136-20, and File No. 201055 for
20 Ordinance No. 217-20 and to make a notation cross-referencing this emergency ordinance
21 where Ordinance Nos. 59-20, 90-20, 136-20, and 217-20 appear on the Board of Supervisors
22 website as legislation passed.

23
24
25 Section 5. Supermajority Vote Required.

1 In accordance with Charter Section 2.107, passage of this reenacted emergency
2 ordinance by the Board of Supervisors requires an affirmative vote of two-thirds of the Board
3 of Supervisors.

4
5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA, City Attorney

7 By: /s/ _____
8 LISA POWELL
9 Deputy City Attorney

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City and County of San Francisco
Tails
Ordinance

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

File Number: 201264

Date Passed: December 15, 2020

Reenactment of emergency ordinance (Ordinance No. 59-20) to temporarily require private employers with 500 or more employees to provide public health emergency leave during the public health emergency related to COVID-19.

December 15, 2020 Government Audit and Oversight Committee - RECOMMENDED AS COMMITTEE REPORT

December 15, 2020 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

File No. 201264

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 12/15/2020 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

12.23.20

Date Approved



DEAN PRESTON

DATE: February 3, 2021

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Preston
Chairperson

RE: Government Audit and Oversight Committee
COMMITTEE REPORT

Pursuant to Board Rule 4.20, as Chair of the Government Audit and Oversight Committee, I have deemed the following matters are of an urgent nature and request each be considered by the full Board on Tuesday, February 9, 2021, as Committee Reports:

File No. 210052 [Emergency Ordinance - Public Health Emergency Leave]
Reenactment of emergency ordinance (Ordinance No. 59-20 as reenacted by Ordinance Nos. 90-20, 136-20, 217-20, and 270-20) to temporarily require private employers with 500 or more employees to provide public health emergency leave during the public health emergency related to COVID-19.

File No. 210075 [Emergency Ordinance - San Francisco COVID-19 Vaccination Plan]
Emergency ordinance requiring the Department of Public Health to prepare a COVID-19 Vaccination Plan and to make publicly available on its website information relating to the number and availability of COVID-19 vaccines in San Francisco, and the methods by which people who live or work in the City may access vaccines.

These matters will be heard in the Government Audit and Oversight Committee during a regular meeting on February 4, 2021, at 10:00 a.m.

A handwritten signature in blue ink, appearing to read "Dean Preston", enclosed in a thin black rectangular border.

President, District 10
BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. 554-6516
Fax No. 554-7674
TDD/TTY No. 544-6546

PRESIDENTIAL ACTION

Date: 1/28/2021

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No.

210052

Mar

(Primary Sponsor)

Title.

Emergency Ordinance - Public Health Emergency Leave

Transferring (Board Rule No 3.3)

File No.

(Primary Sponsor)

Title.

From:

Committee

To:

Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor:

Replacing Supervisor:

For:

(Date)

(Committee)

Meeting

Start Time:

End Time:

Temporary Assignment: Partial Full Meeting


Shamann Walton, President
Board of Supervisors

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Subject:

The text is listed:

Signature of Sponsoring Supervisor:

For Clerk's Use Only