

File No. 110525

Committee Item No. 4

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: May 12, 2011

Board of Supervisors Meeting

Date: _____

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <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 (Approved as to Form) |
| <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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Completed by: Andrea S. Ausberry

Date: May 5, 2011

Completed by: _____

Date: _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

I request a hearing on how the city of San Francisco is working to address the crisis of wage theft. Wage theft occurs when employers do not pay workers their legally or contractually promised wages. Common forms of wage theft are non-payment of overtime, not paying for all hours worked, not paying the minimum wage, making illegal deductions from worker paychecks, and not paying a worker at all. Academic studies have found that wage theft costs workers billions of dollars in legally mandated wages each year. Wage theft also harms responsible businesses and government by creating unfair competition and denying tax revenue.

National and local studies report that wage theft is a pervasive problem that disproportionately affects immigrant and low-wage workers. For example, a national study of 4000 workers in Chicago, New York, and Los Angeles conducted by the National Employment Law Project (NELP) found that 26 percent of those workers had been paid less than the minimum wage in the preceding week, and 76 percent had either been underpaid or not paid at all for their overtime hours. Similarly, a recent report by the Chinese Progressive Association on workers in Chinatown restaurants in San Francisco found that one out of every two workers was not earning the minimum wage.

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

We are fortunate in San Francisco to have a local Office of Labor Standards Enforcement (OLSE) that is in charge of enforcing our local minimum wage of \$9.92/hour, our Paid Sick Leave Ordinance, and the employer expenditure requirement of the Health Care Security Ordinance. In fact, since the minimum wage ordinance went into effect in February 2004, OLSE has recovered \$4,199,919 in back wages for 2,598 San Francisco workers.

While OLSE is effectively recovering wages for a large portion of San Francisco workers, the process has been less effective where employers have refused to voluntarily settle cases with the office. I recently requested the Budget Analyst to prepare a report comparing OLSE's investigation and hearing process with the wage claims process conducted by the state Division of Labor Standards Enforcement (DLSE). The budget analyst report found that OLSE has only conducted formal administrative hearings in 5 cases during the 7 years the minimum wage law has been in effect compared to 402 hearings held at the San Francisco office of DLSE in 2009 alone. Furthermore, for the 5 cases that went to hearing, the average amount of time between the date a complaint was received by OLSE and the date a hearing was held was 788 days costing the city an average of \$52,000 per hearing.

Furthermore, while wage theft is a crime under both the California Labor and Penal codes, officers with the San Francisco Police Department often tell worker advocates that wage theft is a civil matter that the department will not address. Similarly, the district attorney has investigated few cases of wage theft and has only arrested employers after tremendous delay and after losing contact with many victims.

Finally, OLSE does not investigate claims of San Francisco workers who do not have an obvious San Francisco minimum wage violation. These workers include day laborers and other workers who may have been promised wages above the San Francisco minimum wage, but were not paid their promised wages.

I request a hearing to examine the following:

1. Does the OLSE investigative and hearing process serve all workers, especially those who work for employers that do not immediately cooperate with the agency?
2. How can the City improve the OLSE hearing process so it no longer involves such long delays and great expense?
3. What is the San Francisco Police Department and District Attorney doing to address the crisis of wage theft?
4. Why do investigations by the District Attorney involving wage theft involve such long delays? What are effects of those delays on the victims' ability to recover their unpaid wages through restitution?
5. How can other San Francisco agencies like the Department of Public Health, City Attorney, and Treasurer/Tax Collector address the crisis of wage theft?

I request this hearing before the Government Audit and Oversight Committee.

INTRODUCTION FORM

By a member of the Board of Supervisors or the Mayor

Time Stamp or
Meeting Date

I hereby submit the following item for introduction:

- 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 Committee hearing on a subject matter
- 4. Request for letter beginning "Supervisor _____ inquires..."
- 5. City Attorney request
- 6. Call file from Committee
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File Nos.
- 9. Request for Closed Session
- 10. Board to Sit as A Committee of the Whole
- 11. Question(s) submitted for Mayoral Appearance before the BOS on _____

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

- | | |
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| <input type="checkbox"/> Small Business Commission | <input type="checkbox"/> Youth Commission |
| <input type="checkbox"/> Ethics Commission | <input type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Building Inspection Commission | |

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

Sponsor(s): Supervisors Campos and Mar

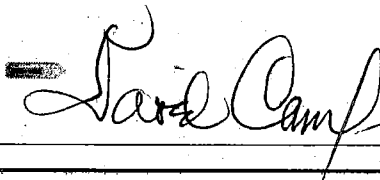
How the city is responding to the crisis of wage theft

SUBJECT: _____

The text is listed below or attached:

See attached

Signature of Sponsoring Supervisor: _____



For Clerk's Use Only:

110525