

File No. 210181

Committee Item No. 2

Board Item No. 26

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight
Board of Supervisors Meeting:

Date: February 18, 2021

Date: March 9, 2021

Cmte Board

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance - VERSION 2 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest - VERSION 2 |
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OTHER

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Report Preprint - Yea-Hung Chen, et al. "Excess Mortality</u> <u>Associated with the COVID-19 Pandemic among Californians</u> <u>18-65 Years of Age, by Occupational Sector and Occupation:</u> <u>March through October 2020-2021" - January 21, 2021</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Presidential Action Memo – February 25, 2021</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Presidential Action Memo – March 3, 2021</u> |
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Prepared by: John Carroll

Date: February 26, 2021

Prepared by: John Carroll

Date: March 5, 2021

Prepared by: John Carroll

Date: _____

1 [Emergency Ordinance - COVID-Related Hazard Pay]

2

3 **Emergency ordinance to temporarily require certain grocery stores, ~~drug stores~~ retail**
4 **locations that include pharmacies, and property service contractors for grocery stores**
5 **and ~~drug stores~~ retail locations that include pharmacies to pay employees an**
6 **additional five dollars per hour during the public health emergency related to**
7 **COVID-19.**

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

15 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.

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

1 (c) The Board of Supervisors hereby finds and declares that an actual emergency
2 exists that requires the passage of this emergency ordinance to address the COVID-19
3 pandemic by reducing the likelihood of COVID-19 infection among workers at grocery stores
4 and drug stores, their families and coworkers, and the members of the public with whom they
5 interact.

6
7 Section 2. Findings and Purpose.

8 (a) On March 19, 2020, the California State Public Health Officer designated
9 specific sectors and their workers, including workers supporting grocery stores and
10 pharmacies, as Essential Critical Infrastructure Workers to ensure the continuity of functions
11 critical to public health and safety, as well as economic and national security. These essential
12 workers include grocery store and drug store employees, as well as on-site workers employed
13 by third-party contractors, such as janitorial and security companies. Over the last year,
14 workers in grocery stores and drug stores have continued to report to work and serve their
15 communities, despite the ongoing hazards, including the high risk of contracting COVID-19
16 due to their frequent interaction with members of the public. Their commitment to essential
17 work has ensured that residents of San Francisco and elsewhere have had access to food,
18 medication, and other essential goods during this pandemic.

19 (b) Unlike workers in many sectors of the economy, grocery and drug store workers
20 cannot work from home. The nature of their jobs requires them to come to work at a store,
21 usually indoors, with less air circulation than an open outdoor environment, which presents a
22 heightened risk of contracting COVID-19. Further, at the work site, these workers face
23 heightened risks of contracting COVID-19 due to their frequent interactions with customers
24 and coworkers on an ongoing basis, often in close contact. Security workers incur the
25 additional risk of physical confrontations with individuals posing security risks. Janitorial

1 workers must sanitize surfaces that may harbor viral contaminants. These various risks are
2 so stark that researchers estimate that food and agricultural workers in California have
3 experienced a 39% increase in mortality during the pandemic compared with prior periods, the
4 highest of any sector. Yea-Hung Chen, et al. "Excess Mortality Associated with the COVID-19
5 Pandemic among Californians 18-65 Years of Age, by Occupational Sector and Occupation:
6 March through October 2020-2021," Jan. 21, 2021, on file with the Clerk of the Board of
7 Supervisors in File No. 210181.

8 (c) Many employers have made efforts to protect workers, including requiring
9 workers to wear personal protective equipment, requiring social distancing from each other
10 and from customers, and sanitizing cash registers, food conveyor belts, and shopping carts.
11 To enhance the health and safety of frontline workers, the City enacted Ordinance No. 74-20
12 to require grocery store, drug store, restaurant, and on-demand delivery service employers to
13 provide health and scheduling protections to employees during the public health emergency
14 related to COVID-19. The City reenacted that emergency ordinance in Ordinance Nos. 110-
15 20, 156-20, 230-20, and 010-21. Even with those protections, however, the health threats
16 that these workers face have been and continue to be substantial.

17 (d) It is of paramount importance to the public health to ensure that these workers
18 are able to protect themselves from COVID-19 infection, both to ensure the health of the
19 workers and their families and to minimize the risk of transmission to customers and
20 coworkers at their work sites. It is therefore critical that workers be able to afford protections
21 to avoid exposure to COVID-19. Grocery workers and drug store workers, including janitorial
22 and security workers hired through contractors at grocery stores and stores, are not highly
23 paid. Yet, to maximize protection and reduce risk, many of these workers must take
24 expensive precautions away from the work site. While employers must provide workers
25 personal protective equipment at work, it is in the public interest for workers to purchase and

1 use personal protective equipment when they are not at work, including when they are
2 commuting to and from work. Workers generally must use their own personal funds to pay for
3 off-the-job protective equipment. And, some workers also use personal funds to buy on-the-
4 job protective equipment; reports indicate that front-line workers often have concerns about
5 COVID safety at their workplace, which may lead them to incur additional expenses when
6 they believe that their employers' prevention measures at the workplace are insufficient.
7 Workers may similarly incur extra costs to ensure safe commutes to and from work to
8 minimize exposure to other individuals on public transit. Among other costs, some workers
9 may pay for parking, tolls, and vehicle expenses to provide a safer commute.

10 (e) Public schools in the City and several other Bay Area school districts continue to
11 offer only remote learning opportunities for students. Additionally, child care may be more
12 expensive and difficult to locate due to child care program closures, public health restrictions,
13 and other pandemic-related challenges. These factors have created a child care emergency
14 for grocery and drug store workers and other essential workers who cannot work remotely and
15 thus cannot care for their children during work hours, which is sometimes possible for people
16 who work from home. By offsetting some of the additional child care costs that grocery and
17 drug store workers may incur, this emergency ordinance reduces the risk that children will be
18 left without care or with inadequate care due to pandemic-related school and child care
19 disruptions.

20 (f) Additionally, there is a strong public interest in minimizing the need for workers
21 to have multiple jobs, because working multiple jobs increases their exposure to others and
22 contributes to the spread of COVID-19. Workers who receive lower wages are more likely to
23 need to take on more than one job to support their families and pay bills. This emergency
24 ordinance reduces that need, and therefore reduces that risk, by increasing the wages of low-
25 wage workers in frontline positions.

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Section 3. Definitions.

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

“Agency” means the Office of Labor Standards Enforcement.

“Base Wage” means the hourly wage (or, for salaried Employees, the hourly wage equivalent calculated based on a 40-hour work week) paid to an Employee by a Covered Employer on the effective date of this emergency ordinance, ~~including, when applicable, any wage enhancement provided by the Covered Employer for overtime, holiday, or other premium pay.~~ Base Wage shall not include any Employer-Initiated Hazard Pay, Hazard Pay, or Wage Enhancement.

“City” means the City and County of San Francisco.

“Covered Employer” means any person, as defined in Section 18 of the California Labor Code, including corporate officers or executives, who directly or indirectly or through an agent or any other person, including through the services of a temporary services or staffing agency or similar entity, employs, suffers or permits to work, or exercises control over the wages, hours, or working conditions of 500 or more persons worldwide, including at least 20 Employees of who work on-site at a retail sales and service use that operates any General Grocery, Specialty Grocery, or Pharmacy (excluding pharmacies provided as part of a Hospital or Health Service use) ~~retail store,~~ as each of those terms ~~are~~ defined in Planning Code Section 102, within the geographic boundaries of the City. Further, “Covered Employer” also means any Property Services Contractor.

“Employee” means any person providing labor or services for remuneration for a Covered Employer on-site at a retail sales and service use that operates any General Grocery, Specialty Grocery, or Pharmacy (excluding pharmacies provided as part of a Hospital or Health Service use), as each of those terms is defined in Planning Code Section

1 102, within the geographic boundaries of the City, who is an employee under California Labor
2 Code Section 2775, as may be amended from time to time, including a part-time or temporary
3 employee.

4 “Employer-Initiated Hazard Pay” means a premium pay rate to compensate Employees
5 for the hardships and risks associated with working during the COVID-19 pandemic, that the
6 Covered Employer provided to its Employees on or after February 1, 2020, including
7 collectively bargained Employer-Initiated Hazard Pay. “Employer-Initiated Hazard Pay”
8 additionally includes a premium pay rate provided under a collective bargaining agreement
9 predating February 1, 2020, that clearly and unambiguously requires the Covered Employer to
10 pay increased compensation to Employees working under hazardous conditions including
11 conditions that could expose Employees to contagious disease. If a Covered Employer pays
12 such Employer-Initiated Hazard Pay on any basis other than an hourly rate, such as a flat rate
13 per week, the premium hourly rate shall be determined by dividing the Employer-Initiated
14 Hazard Pay for the applicable pay period by the number of Hours Worked during such pay
15 period.

16 “Hazard Pay” means a \$5 per hour wage bonus in addition to an Employee’s Base
17 Wage, ~~including any premium pay applicable at the time~~ and any Wage Enhancement in
18 effect for each hour worked (or, for salaried Employees, for 40 hours per week); except that
19 for Employees whose Base Wage plus any Wage Enhancement in effect is between \$30 per
20 hour and \$34.99 per hour, “Hazard Pay” means a wage bonus for each hour worked in an
21 amount calculated to increase the Employee’s hourly wage to \$35 per hour.

22 “Hours Worked” means the time during which an Employee is subject to the control of a
23 Covered Employer, including all the time the Employee is suffered or permitted to work, and
24 all the time the Employee is on-call.

1 “Property Services Contractor” means a contractor or subcontractor that provides on-
2 site janitorial or security services for a Covered Employer at any retail sales and service use
3 that operates any General Grocery, Specialty Grocery, or Pharmacy retail store (excluding
4 pharmacies provided as part of a Hospital or Health Service use), as each of those terms
5 are defined in Planning Code Section 102, within the geographic boundaries of the City, ~~who~~
6 ~~directly or indirectly or through an agent or any other person, including through the services of~~
7 ~~a temporary services or staffing agency or similar entity, employs, suffers or permits to work,~~
8 ~~or exercises control over the wages, hours, or working conditions of 500 or more persons~~
9 ~~worldwide, including at least 20 Employees within the geographic boundaries of the City.~~

10 “Wage Enhancement” means premium or additional wages paid to an Employee by a
11 Covered Employer above the Base Wage, including without limitation additional pay for
12 overtime or holiday work, but excluding Employer-Initiated Hazard Pay and Hazard Pay.

13
14 Section 4. Hazard Pay Requirement.

15 (a) Hazard Pay. Beginning on the effective date of this emergency ordinance, every
16 Covered Employer shall pay Hazard Pay to all Employees whose Base Wage plus any Wage
17 Enhancement in effect is less than \$35 per hour.

18 (b) Credit for Employer-Initiated Hazard Pay. If a Covered Employer provides
19 Employer-Initiated Hazard Pay to an Employee, the Covered Employer may reduce the
20 amount of Hazard Pay required under subsection 4(a) by the amount of Employer-Initiated
21 Hazard Pay for the Hours Worked.

22 (1) Illustrative Examples. By way of example and not limitation, if a Covered
23 Employer provides Employer-Initiated Hazard Pay of \$4 per hour to an Employee with a Base
24 Wage of \$20 per hour, such that the Employee’s total wage is \$24 per hour, then the Covered
25 Employer must provide an additional \$1 Hazard Pay under subsection (a) to bring the

1 Employee's total wage to \$25 per hour. As another illustrative example, if a Covered
2 Employer provides Employer-Initiated Hazard Pay of \$4 per hour to an Employee with a Base
3 Wage of \$32 per hour, such that the Employee's total wage is \$36 per hour, then the Covered
4 Employer has no obligation to provide additional Hazard Pay under subsection (a).

5 (2) Past Payments and Payments for Past Work. A Covered Employer may
6 not reduce the amount of Hazard Pay under this subsection (b) to account for Employer-
7 Initiated Hazard Pay that the Covered Employer owed or previously paid to a Covered
8 Employee for work previously performed.

9

10 Section 5. Notice to Employees.

11 (a) The Agency shall, within seven days of the effective date of this emergency
12 ordinance, publish and make available on its website a notice suitable for Covered Employers
13 to inform Employees of their rights under this emergency ordinance. The Agency shall
14 publish such notice in English, Spanish, Chinese, and Filipino. The Agency shall make best
15 efforts to provide such notice to each Covered Employer through electronic communication on
16 the same date that it is published.

17 (b) A Covered Employer shall within three days after the Agency has published and
18 made available the notice described in subsection (a), provide the notice to Employees in a
19 manner calculated to reach all Employees: by posting in a conspicuous place at the
20 workplace, via electronic communication, and/or by posting in a conspicuous place in a
21 Covered Employer's web-based or app-based Employee platform. Every Covered Employer
22 shall provide the notice in English, Spanish, Chinese, Filipino, and any language spoken by at
23 least 5% of the Employees at the workplace or job site.

24 (c) To the extent feasible, on the same written notice that a Covered Employer is
25 required to provide under Section 226(a) of the California Labor Code, a Covered Employer

1 shall set forth the amount of Hazard Pay paid to the Employee under this emergency
2 ordinance.

3

4 Section 6. Exercise of Rights Protected; Retaliation Prohibited.

5 (a) It shall be unlawful for a Covered Employer or any other person to interfere with,
6 restrain, or deny the exercise of, or the attempt to exercise, any right protected under this
7 emergency ordinance.

8 (b) It shall be unlawful for a Covered Employer or any other person to discharge,
9 threaten to discharge, demote, suspend, reduce other Employee benefits, or in any manner
10 discriminate or take adverse action against any person in retaliation for exercising rights
11 protected under this emergency ordinance. Such rights include but are not limited to the right
12 to receive Hazard Pay pursuant to this emergency ordinance; the right to file a complaint or
13 inform any person about any Covered Employer's alleged violation of this emergency
14 ordinance; the right to cooperate with the Agency in its investigations of alleged violations of
15 this emergency ordinance; and the right to inform any person of that person's potential rights
16 under this emergency ordinance.

17 (c) Protections of this emergency ordinance shall apply to any person who
18 mistakenly but in good faith alleges violations of this emergency ordinance.

19 (d) Taking adverse action against a person within 90 days of the person's filing a
20 complaint with the Agency or a court alleging a violation of any provision of this emergency
21 ordinance; informing any person about a Covered Employer's alleged violation of this
22 emergency ordinance; cooperating with the Agency or other persons in the investigation or
23 prosecution of any alleged violation of this emergency ordinance; opposing any policy,
24 practice, or act that is unlawful under this emergency ordinance; or informing any person of
25 that person's rights under this emergency ordinance, shall raise a rebuttable presumption that

1 such adverse action was taken in retaliation for the exercise of one or more of the
2 aforementioned rights.

3
4 Section 7. Records, Implementation, and Enforcement.

5 (a) Covered Employers shall retain records related to Hazard Pay in the same
6 manner and to the same extent as records that must be retained under Administrative Code
7 Section 12R.5(c) and Agency rules and guidelines governing retention of such records.

8 (b) Additionally, Covered Employers shall retain and disclose to the Agency upon
9 request any records related to Employer-Initiated Hazard Pay, including but not limited to (1)
10 copies of the Covered Employer's Employer-Initiated Hazard Pay policy; (2) copies of written
11 notifications to Employees regarding the policy; and (3) for any Employee as to whom a
12 Covered Employer seeks credit under section 4(b) of this emergency ordinance,
13 documentation reflecting that Employer-Initiated Hazard Pay payments were made for each
14 hour claimed.

15 (c) The Agency is authorized to implement and enforce this emergency ordinance
16 and may promulgate rules and guidelines for such purposes. Except as otherwise provided by
17 Agency rules or guidelines, the administrative and civil enforcement provisions of
18 Administrative Code Sections 12R.7 and 12R.16-24 apply to this emergency ordinance. Until
19 such time as the Agency promulgates any additional rules or guidelines, the rules and
20 guidelines adopted by the Agency interpreting Administrative Code ~~Section~~Chapter 12R-7
21 shall apply to this emergency ordinance.

22
23 Section 8. Waiver Through Collective Bargaining.

24 (a) All or any portion of the applicable requirements of this emergency ordinance
25 shall not apply to Employees covered by a bona fide collective bargaining agreement to the

1 extent that such requirements are expressly waived in a collective bargaining agreement in
2 clear and unambiguous terms.

3 (b) The requirements of this emergency ordinance may not be waived by
4 agreement between an individual Employee and a Covered Employer.

5

6 Section 9. Preemption.

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

10

11 Section 10. City Undertaking Limited to Promotion of the General Welfare.

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

18

19 Section 11. Severability.

20 If any section, subsection, sentence, clause, phrase, or word of this emergency
21 ordinance, or any application thereof to any person or circumstance, is held to be invalid or
22 unconstitutional by a decision of a court of competent jurisdiction, such decision shall not
23 affect the validity of the remaining portions or applications of this emergency ordinance. The
24 Board of Supervisors hereby declares that it would have passed this ordinance and every
25 section, subsection, sentence, clause, phrase, and word not declared invalid and

1 unconstitutional without regard to whether any other portion of this emergency ordinance or
2 application thereof would be subsequently declared invalid or unconstitutional.

3
4 Section 12. Effective Date; Operative Date; Expiration.

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

12
13 Section 13. Suspension of Charter Section 14.101.

14 To address the emergency conditions described above, and to the extent this
15 emergency ordinance temporarily modifies the City's Minimum Wage Ordinance, the Board of
16 Supervisors finds that it is necessary to temporarily modify the Minimum Wage Ordinance,
17 Section 12R.13, which provides that the Board of Supervisors may not amend the substantive
18 requirements or scope of that Ordinance, and to suspend the restriction in Charter Section
19 14.101 for that limited purpose.

20
21 Section 14. 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.

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

[Emergency Ordinance - COVID-Related Hazard Pay]

Emergency ordinance to temporarily require certain grocery stores, ~~drug stores~~ retail locations that include pharmacies, and property service contractors for grocery stores and ~~drug stores~~ retail locations that include pharmacies to pay employees an additional five dollars per hour during the public health emergency related to COVID-19.

Existing Law

The Minimum Wage Ordinance, Administrative Code Chapter 12R, requires employers of employees in the City to pay a minimum hourly wage rate, which is adjusted annually and is currently \$16.07 per hour.

Amendments to Current Law

The proposed emergency ordinance temporarily requires certain grocery stores, drug stores, and janitorial and security contractors whose employees work on-site at these grocery stores or drug stores to provide \$5 per hour hazard pay to employees (up to a total wage of \$35 per hour). The emergency ordinance applies to grocery stores and drug stores with 500 or more employees worldwide including at least 20 employees in the City, and employees of janitorial and security contractors at such stores. Covered employers that voluntarily provided hazard pay may offset the employer-initiated hazard pay.

Background Information

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

The Office of Labor Standards Enforcement (OLSE) will, within seven days of the effective date of the emergency ordinance, publish and make available on its website and through email to employers a notice suitable for employers to inform employees of their rights under this emergency 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 must provide the notice to employees, in English, Spanish, Chinese, Filipino, and any language spoken by at least 5% of the employees at job site, within three days after it is published. The OLSE will implement and enforce the emergency ordinance.

The proposed ordinance was amended in committee to:

- Clarify that salaried workers whose pay when calculated on an hourly basis is below the hazard pay cap must receive hazard pay, through an amendment to “Base Wage.”
- Separately define “Wage Enhancement” such as overtime or holiday pay premiums, for clarity.
- Amend the definition of “Covered Employer” and make corresponding changes in other places to make clear (1) that employees of a store that contains a grocery or pharmacy are covered, such as employees of a large drug store rather than just the employees of the pharmacy within it; and (2) that non-retail pharmacies, such as a pharmacy that serves a hospital, are not covered.
- Add relevant cross-references to existing Administrative Code provisions in Section 7, pertaining to OLSE enforcement.
- Make the operative date on the third day from the effective date to allow employers to adjust wages.
- For the expiration date, add the end of the local health emergency as an alternate date for sunset.

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Excess mortality associated with the COVID-19 pandemic among Californians 18–65 years of age, by occupational sector and occupation: March through October 2020

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Abstract

Background

Though SARS-CoV-2 outbreaks have been documented in occupational settings and though there is speculation that essential workers face heightened risks for COVID-19, occupational differences in excess mortality have, to date, not been examined. Such information could point to opportunities for intervention, such as workplace modifications and prioritization of vaccine distribution.

Methods and findings

Using death records from the California Department of Public Health, we estimated excess mortality among Californians 18–65 years of age by occupational sector and occupation, with additional stratification of the sector analysis by race/ethnicity. During the COVID-19 pandemic, working age adults experienced a 22% increase in mortality compared to historical periods. Relative excess mortality was highest in food/agriculture workers (39% increase), transportation/logistics workers (28% increase), facilities (27%) and manufacturing workers (23% increase). Latino Californians experienced a 36% increase in mortality, with a 59% increase among Latino food/agriculture workers. Black Californians experienced a 28% increase in mortality, with a 36% increase for Black retail workers. Asian Californians experienced an 18% increase, with a 40% increase among Asian healthcare workers. Excess mortality among White working-age Californians increased by 6%, with a 16% increase among White food/agriculture workers.

Conclusions

Certain occupational sectors have been associated with high excess mortality during the pandemic, particularly among racial and ethnic groups also disproportionately affected by COVID-19. In-person essential work is a likely venue of transmission of coronavirus infection and must be addressed through strict enforcement of health orders in workplace settings and protection of in-person workers. Vaccine distribution prioritizing in-person essential workers will be important for reducing excess COVID mortality.

Introduction

More deaths are occurring during the COVID-19 pandemic than predicted by historical trends [1-4]. In California, per-capita excess mortality is relatively high among Blacks, Latinos, and individuals with low educational attainment [4]. An explanation for these findings is that these populations face unique occupational risks because they may disproportionately make up the state's essential workforce and because

essential workers often cannot work from home [4-6]. Additionally, due to historical structural inequities, low-wage essential workers may be more likely to live in crowded housing [5-7], resulting in household transmission.

Despite the inherent risks that essential workers face, no study to date has examined differences in excess mortality across occupation. Such information could point to opportunities for intervention, such as workplace modifications and prioritization of vaccine distribution. Using time-series models to forecast deaths from March through October 2020, we compare excess deaths among California residents 18–65 years of age across occupational sectors and occupations, with additional stratification of the sector analysis by race/ethnicity.

Methods

We obtained data from the California Department of Public Health on all deaths occurring on or after January 1, 2016.

To focus on individuals whose deaths were most plausibly linked to work, we restricted our analysis to decedents 18–65 years of age. Death certificates include an open text field for “Decedent’s usual occupation,” described as “type of work done during most of working life.” Retirement is not separately recorded. We processed the occupation information listed on the death certificates using an automated system developed by the National Institute for Occupational Safety and Health, which converts free-text occupational data to 2010 US Census codes. A team of 3 researchers manually categorized the resulting 529 unique codes into occupational sectors, with a focus on the 13 sectors identified by California officials as comprising the state’s essential workforce[8] and retail workers; we anticipated that these sectors would be most at risk. To ease presentation, we combined or eliminated some sectors, placing the defense, communications/IT, and financial sectors in the not-essential category (under the logic that it was particularly difficult to ascertain which workers in these sectors fully met the state’s definitions for essential work) and placing chemical, energy, and water sectors in the facilities category. This resulted in the following 9 groups: facilities, food/agriculture, government/community, health/emergency, manufacturing, retail, transportation/logistics, not essential, and unemployed/missing. We defined 4 racial/ethnic groups: Asian, Black, Latino, and White, with the definition of Latino overwriting any racial designation in the death records. Our definition of Asian, Black, and White excludes individuals identified on the death certificate as multiracial.

We defined pandemic time as beginning on March 1, 2020. In some time-stratified analysis, we compared the months of March through May to the months of June and July. We chose the cutoff of June 1 because it is

roughly 3 weeks after the state's post-shutdown reopening in early May, and because we anticipate lags between policy, infection, and death. Similarly, the ending date of July 31 is roughly 3 weeks after the state ordered restaurants and indoor businesses to close in early July.

We conducted time-series analysis for each occupational sector, with additional stratification by race/ethnicity. For each group of interest (for example, each occupational sector of interest), we repeated the following procedure. We aggregated the data to months or weeks, using the weekly analysis for visualizations and the monthly analysis to derive summary measures. Following our previous work [4], we fit dynamic harmonic regression models with autoregressive integrated moving average (ARIMA) errors for the number of monthly/weekly all-cause deaths, using deaths occurring among the group prior to March 1, 2020. For each iteration, we used a model-fitting procedure described by Hyndman and Khandakar [9]. Using the final model, we forecast the number of deaths for each unit of time, along with corresponding 95% prediction intervals (PI). To obtain the total number of excess deaths for the entire time window, we subtracted the total number of expected (forecast) deaths from the total number of observed deaths. We obtained a 95% PI for the total by simulating the model 10,000 times, selecting the 97.5% and 2.5% quantiles, and subtracting the total number of observed deaths. We report in our tables the observed number of deaths divided by the expected number of deaths, as predicted by our models. We interpret these ratios as risk ratios for mortality, comparing pandemic time to non-pandemic time. We also estimated excess mortality for all specific occupations; for individual occupations, we defined excess mortality and risk ratios by comparing 2020 deaths to the arithmetic mean of 2018 and 2019 deaths.

We conducted all analyses in R, version 4.04.

Results

We estimate that from March 2020 through October 2020, there were 10,047 (95% PI: 9,229–10,879) excess deaths among Californians 18–65 years of age (Table 1). Relatively large numbers of excess deaths were recorded among workers in the facilities sector (1,681; 95% PI: 1,447–1,919) and the transportation/logistics sector (1,542; 95% PI: 1,350–1,738). Relative to pre-pandemic time, mortality increased during the pandemic by 39% among food/agriculture workers (risk ratio RR=1.39; 95% PI: 1.32–1.48), 28% among transportation/logistics workers (RR=1.28; 95% PI: 1.24–1.33), 27% among facilities workers (RR=1.27; 95% PI: 1.22–1.32), and 23% (RR=1.23; 95% PI: 1.18–1.28) among manufacturing workers.

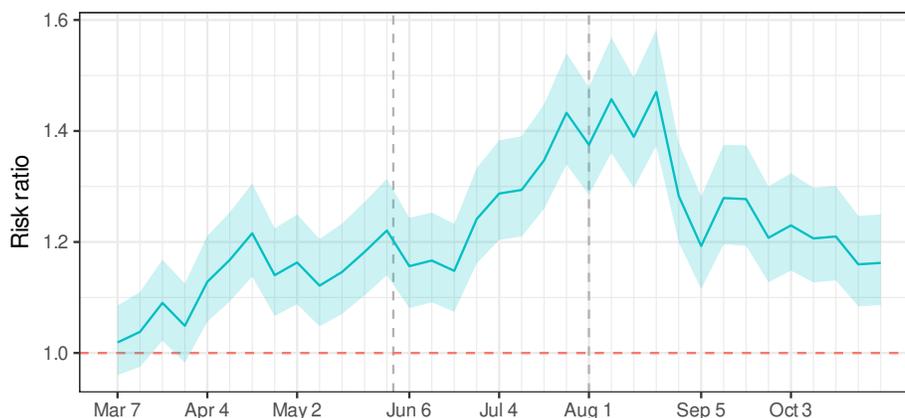
Table 1. Excess mortality among Californians 18–65 years of age, by occupational sector: March through October 2020.

| | Excess deaths | Risk ratio ^a |
|-----------------------------|-----------------------|-------------------------|
| Entire state | 10,047 (9,229–10,879) | 1.22 (1.20–1.24) |
| Facilities | 1,681 (1,447–1,919) | 1.27 (1.22–1.32) |
| Food or agriculture | 1,050 (897–1,204) | 1.39 (1.32–1.48) |
| Government or community | 422 (324–520) | 1.14 (1.11–1.18) |
| Health or emergency | 585 (523–647) | 1.19 (1.17–1.22) |
| Manufacturing | 638 (530–749) | 1.23 (1.18–1.28) |
| Retail | 646 (517–778) | 1.18 (1.14–1.23) |
| Transportation or logistics | 1,542 (1,350–1,738) | 1.28 (1.24–1.33) |
| Not essential | 1,167 (910–1,428) | 1.11 (1.08–1.14) |
| Unemployed or missing | 1,969 (1,718–2,225) | 1.23 (1.19–1.27) |

^a Risk ratios are defined as the observed number of deaths divided by the expected number of deaths. They are interpretable as the risk ratio for mortality, comparing pandemic time to non-pandemic time.

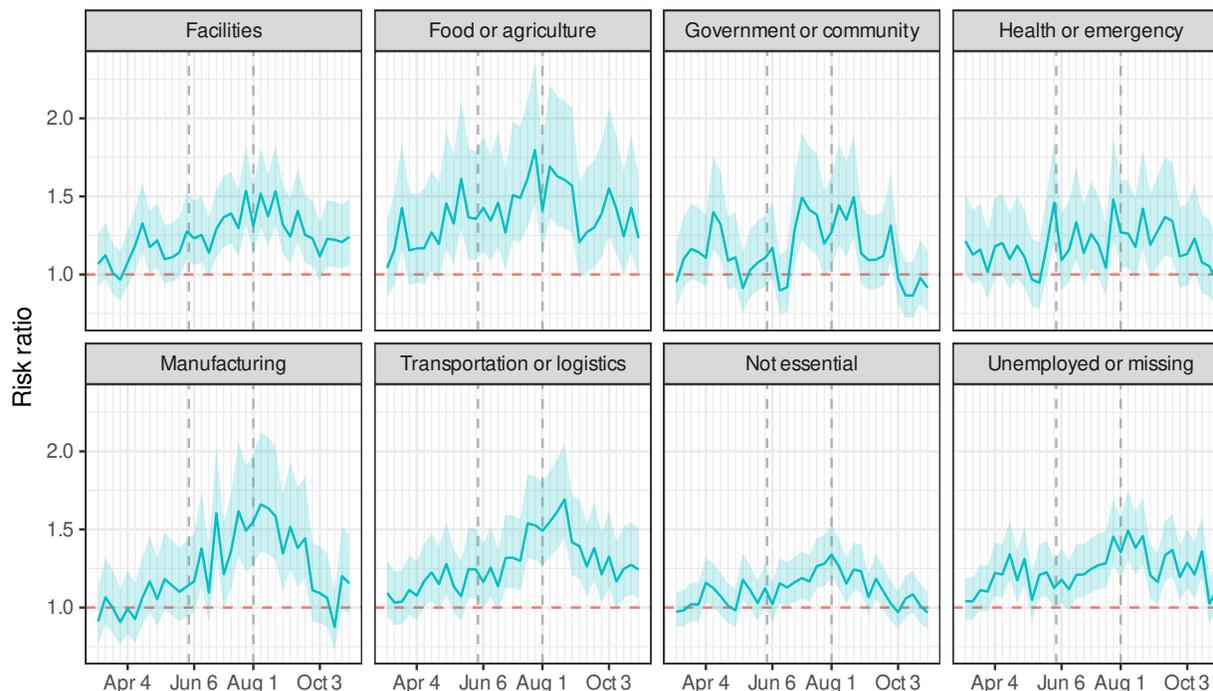
Relative increases in mortality varied over time (Fig 1) and by occupational sector (Fig 2). In March through May, there was a 14% increase in mortality among all working-age Californians (RR=1.14; 95% PI: 1.09–1.20) compared to a 31% increase among workers in the food/agriculture (RR=1.31; 95% PI: 1.17–1.49). In the months of June and July, the RR were particularly high in the food/agriculture (RR=1.61; 95% PI: 1.44–1.83), transportation/logistics (RR=1.52; 95% PI: 1.38–1.69), manufacturing (RR=1.52; 95% PI: 1.37–1.72), and facilities sectors (RR=1.44; 95% PI: 1.31–1.61).

Figure 1. Risk ratios for death, comparing pandemic time to non-pandemic time, among Californians 18–65 years of age, March through October 2020.



The dashed vertical lines mark boundaries between phases of California’s major pandemic policies, lagged to acknowledge time from policy decisions to infection to death. The first phase corresponds to a period of sheltering in place, while the second phase corresponds to a period of reopening.

Figure 2. Risk ratios for death, comparing pandemic time to non-pandemic time, among Californians 18–65 years of age, by occupational sector, March through October 2020.



The dashed vertical lines mark boundaries between phases of California’s major pandemic policies, lagged to acknowledge time from policy decisions to infection to death. The first phase corresponds to a period of sheltering in place, while the second phase corresponds to a period of reopening.

RR also varied by race/ethnicity (Table 2). Latino Californians experienced a 36% increase in mortality during the pandemic (RR=1.36; 95% PI: 1.29–1.44), with a 59% increase among Latino food/agriculture workers (RR=1.59; 95% PI: 1.47–1.75). Black Californians experienced a 28% increase in mortality (RR=1.28; 95% PI: 1.24–1.33), with a 36% increase for Black retail workers (RR=1.36; 95% PI: 1.21–1.55). Asian Californians experienced an 18% increase (RR=1.18; 95% PI: 1.14–1.23), with a 40% increase among Asian healthcare workers (RR=1.40; 95% PI: 1.33–1.49). Mortality among White working-age Californians increased by 6% (RR=1.06; 95% PI: 1.02–1.12) with a 16% increase among White food/agriculture workers (RR=1.16; 95% PI: 1.09–1.24).

Table 2. Risk ratios for mortality, comparing pandemic time to non-pandemic time, among California residents 18–65 years of age, by occupational sector and race/ethnicity, March through October 2020.

| | All races | Asian | Black | Latino | White |
|-----------------------------|------------------|------------------|------------------|------------------|------------------|
| All sectors | 1.22 (1.20–1.24) | 1.18 (1.14–1.23) | 1.28 (1.24–1.33) | 1.36 (1.29–1.44) | 1.06 (1.02–1.12) |
| Food or agriculture | 1.39 (1.32–1.48) | 1.18 (1.05–1.33) | 1.34 (1.19–1.54) | 1.59 (1.47–1.75) | 1.16 (1.09–1.24) |
| Transportation or logistics | 1.28 (1.24–1.33) | 1.26 (1.12–1.44) | 1.35 (1.26–1.46) | 1.40 (1.31–1.52) | 1.10 (1.02–1.20) |
| Facilities | 1.27 (1.22–1.32) | 1.24 (1.08–1.46) | 1.25 (1.17–1.34) | 1.38 (1.27–1.51) | 1.11 (1.04–1.20) |
| Unemployed or missing | 1.23 (1.19–1.27) | 1.08 (1.04–1.14) | 1.31 (1.22–1.40) | 1.31 (1.22–1.41) | 1.09 (1.01–1.20) |
| Manufacturing | 1.23 (1.18–1.28) | 1.18 (1.06–1.33) | 1.13 (1.01–1.30) | 1.44 (1.34–1.57) | 1.00 (0.92–1.10) |
| Health or emergency | 1.19 (1.17–1.22) | 1.40 (1.33–1.49) | 1.27 (1.17–1.40) | 1.32 (1.18–1.51) | 1.02 (0.96–1.10) |
| Retail | 1.18 (1.14–1.23) | 1.10 (1.00–1.22) | 1.36 (1.21–1.55) | 1.40 (1.28–1.55) | 1.08 (1.04–1.13) |
| Government or community | 1.14 (1.11–1.18) | 1.22 (1.07–1.41) | 1.20 (1.09–1.33) | 1.42 (1.32–1.53) | 0.96 (0.89–1.04) |
| Not essential | 1.11 (1.08–1.14) | 1.14 (1.06–1.23) | 1.23 (1.15–1.33) | 1.29 (1.20–1.41) | 1.00 (0.95–1.07) |

Per occupation (Table 3), risk ratios for mortality comparing pandemic time to non-pandemic time were highest among cooks (RR=1.60), packaging and filling machine operators and tenders (RR=1.59), miscellaneous agricultural workers (RR=1.55), bakers (RR=1.50), and construction laborers (RR=1.49).

Table 3. Risk ratios for mortality, comparing pandemic time to non-pandemic time, among California residents 18–65 years of age, by occupation, March through October 2020.

| Code | Description | Deaths ^a | Risk ratio |
|------|---|---------------------|------------|
| 4020 | Cooks | 828 | 1.60 |
| 8800 | Packaging and filling machine operators and tenders | 172 | 1.59 |
| 6050 | Miscellaneous agricultural workers | 617 | 1.55 |
| 7800 | Bakers | 104 | 1.50 |
| 6260 | Construction laborers | 1,587 | 1.49 |
| 8965 | Production workers, all other | 452 | 1.46 |
| 8320 | Sewing machine operators | 127 | 1.44 |
| 5610 | Shipping, receiving, and traffic clerks | 146 | 1.44 |
| 4250 | Grounds maintenance workers | 712 | 1.40 |
| 5240 | Customer service representatives | 562 | 1.37 |
| 4000 | Chefs and head cooks | 532 | 1.35 |
| 1107 | Computer occupations, all other | 136 | 1.35 |
| 9600 | Industrial truck and tractor operators | 364 | 1.34 |
| 3500 | Licensed practical and licensed vocational nurses | 109 | 1.34 |
| 0410 | Property, real estate, and community association managers | 157 | 1.33 |
| 4230 | Maids and housekeeping cleaners | 378 | 1.33 |
| 3930 | Security guards and gaming surveillance officers | 707 | 1.32 |
| 9130 | Driver/sales workers and truck drivers | 1,962 | 1.32 |
| 9830 | Military, rank not specified | 111 | 1.32 |
| 9620 | Laborers and freight, stock, and material movers, hand | 2,550 | 1.31 |
| 5940 | Office and administrative support workers, all other | 123 | 1.30 |
| 7750 | Miscellaneous assemblers and fabricators | 354 | 1.29 |
| 2010 | Social workers | 217 | 1.28 |
| 4040 | Bartenders | 148 | 1.28 |
| 2540 | Teacher assistants | 183 | 1.28 |

^a Number of deaths in pandemic time. The table is restricted to occupations with 100 or more pandemic-time deaths.

Discussion

Our analysis of deaths among Californians between the ages of 18 and 65 shows that the pandemic's effects on mortality have been greatest among essential workers, particularly those in the food/agriculture, transportation/logistics, facilities, and manufacturing sectors. Such workers experienced an increased risk of mortality of greater than 20% during the pandemic, with an increased risk of greater than 40% during the first two full months of the state's reopening. Excess mortality in high-risk occupational sectors was evident in analyses stratified by race/ethnicity, especially for Latino, Black, and Asian workers.

Our findings are consistent with a small but growing body of literature demonstrating occupational risks for SARS-CoV-2 infection. For example, a study of the UK Biobank cohort found that essential workers, particularly healthcare workers, had high risks for COVID-19 [10]. Similarly, numerous studies have documented SARS-CoV-2 infection among healthcare workers [11]. Our study, however, is unique in examining excess mortality and multiple occupational sectors. Though our work is in agreement with prior studies in finding pandemic-related risks among healthcare workers [11], it suggests that the risks are even higher in other sectors, such as food/agriculture and transportation/logistics.

This study is also among the first to examine deaths by both occupation and race/ethnicity. Occupational exposures have been postulated as an important contributor for disparities in excess mortality by race ethnicity, particularly because certain occupations require in-person work [4]. Though we tended to find the largest relative increases in mortality in each racial/ethnic group in the food/agriculture and transportation/logistics sectors, there was variation across race/ethnicity. For example, among Asians, the largest RR was in the health/emergency sector, even though the relative risk increases in that sector were relatively low among other racial/ethnic groups. Such differences may reflect cross-sector differences in demographics. There are, for example, a large number of Latinos who work in meat-processing facilities [12], consistent with data that show that Latinos make up a large proportion of COVID-19 cases in such settings [13]. Similarly, the large RR among Asians in the health/emergency sector could be due to the relatively large number of Filipino Americans in nursing professions [14]. During the pandemic in particular, such disproportionate representation may easily lead to cross-race variability in risk. A recent study found, for example, that Black workers are more likely to be employed in occupations that frequently require close proximity to others [15]. Inequalities in risk may be exacerbated by underlying structural inequities, such as immigration status or poverty [16].

Though non-occupational risk factors may be relevant, it is clear that eliminating COVID-19 will require addressing occupational risks. In-person essential workers are unique in that they are not protected by

shelter-in-place policies. Indeed, our study shows that excess mortality rose sharply in the food/agriculture sector during the state's first shelter-in-place period, from late March through May; these increases were not seen among those working in non-essential sectors. Complementary policies are necessary to protect those who cannot work from home. These can and should include: free personal protective equipment, clearly defined and strongly enforced safety protocols, easily accessible testing, generous sick policies, and appropriate responses to workplace safety violations. As jurisdictions struggle with difficult decisions regarding vaccine distribution, our findings offer a clear point of clarity: vaccination programs prioritizing workers in sectors such as food/agriculture are likely to have disproportionately large benefits for reducing COVID-19 mortality.

We acknowledge limitations to the study, including misclassification of occupation in death certificates due to coarse categories or inaccurate reports. The decedent's primary occupation is typically reported by the next of kin who may not be able to precisely describe the work. The primary occupation, which is reported on the death certificate, may not match the most recent occupation, which is more likely to drive occupational risk. These limitations would in general attenuate apparent differences across occupational sectors but are unlikely to account for our primary results.

Our study places a powerful lens on the unjust impact of the COVID-19 pandemic on mortality of working age adults in different occupations. Our analysis is among the first to identify non-healthcare in-person essential work, such as food and agriculture, as a predictor of pandemic-related mortality. Essential workers—especially those in the food/agriculture, transportation/logistics, facilities, and manufacturing sectors—face increased risks for pandemic-related mortality. Shutdown policies by definition do not protect essential workers and must be complemented with workplace modifications and prioritized vaccine distribution. If indeed these workers are essential, we must be swift and decisive in enacting measures that will treat their lives as such.

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From: [BOS Legislation, \(BOS\)](#)
To: [Carroll, John \(BOS\)](#)
Cc: [BOS Legislation, \(BOS\)](#)
Subject: FW: Grocery Pay Ordinance
Date: Wednesday, March 3, 2021 12:02:40 PM
Attachments: [SF Grocery Pay LTR 3-3-21.pdf](#)
[CGA - Letter to SF Board - 4438749.pdf](#)
[2021-Extra-Pay-Mandates-Economic-Study.pdf](#)
[image001.png](#)

For File No. 210181 [Emergency Ordinance - COVID-Related Hazard Pay].

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From: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Sent: Wednesday, March 3, 2021 12:00 PM
To: BOS-Supervisors <bos-supervisors@sfgov.org>
Cc: Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>; Ng, Wilson (BOS) <wilson.l.ng@sfgov.org>; BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Subject: FW: Grocery Pay Ordinance

From: Tim James <tjames@CAGrocers.com>
Sent: Wednesday, March 3, 2021 11:51 AM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Grocery Pay Ordinance

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Supervisors, please accept the attached letters and documents regarding the grocery pay ordinance. Please contact me directly to discuss. Thank you for your consideration. Tim

Timothy James
Director, Local Government Relations
California Grocers Association
916-448-3545

Consumer and Community Impacts of Hazard Pay Mandates

January 2021

Prepared for:

California Grocers Association

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The authors are partners with Capitol Matrix Consulting (CMC), a firm that provides consulting services on a wide range of economic, taxation, and state-and-local government budget issues. Together, they have over 80 years of combined experience in economic and public policy analysis.

Mike Genest founded Capitol Matrix Consulting (originally Genest Consulting) in 2010 after concluding a 32-year career in state government, which culminated as Director of the California Department of Finance (DOF) under Governor Arnold Schwarzenegger. Prior to his four-year stint as the Governor's chief fiscal policy advisor, Mr. Genest held top analytical and leadership positions in both the executive and legislative branches of government. These included Undersecretary of the Health and Human Services Agency, Staff Director of the Senate Republican Fiscal Office, Chief of Administration of the California Department of Corrections and Rehabilitation, and Director of the Social Services section of California's Legislative Analyst's Office.

Brad Williams joined Capitol Matrix Consulting in 2011, after having served in various positions in state government for 33 years. Mr. Williams served for over a decade as the chief economist for the Legislative Analyst's Office, where he was considered one of the state's top experts on the tax system, the California economy, and government revenues. He was recognized by the Wall Street Journal as the most accurate forecaster of the California economy in the 1990s, and has authored numerous studies related to taxation and the economic impacts of policy proposals. Immediately prior to joining CMC, Mr. Williams served as a consultant to the Assembly Appropriations Committee, where he advised leadership of the majority party on proposed legislation relating to taxation, local government, labor, and banking.

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Executive Summary

Hazard-pay mandates passed in the City of Long Beach and under consideration in the City of Los Angeles and in other local jurisdictions would raise pay for grocery workers by as much as \$5.00 per hour. Since the average pay for grocery workers in California is currently about \$18.00 per hour, a \$5.00 increase would raise store labor costs by 28 percent, and have major negative impacts on grocery stores, their employees and their customers. Specifically:

- Average profit margins in the grocery industry were 1.4% in 2019, with a significant number of stores operating with net losses. While profits increased temporarily to 2.2% during early to mid 2020, quarterly data indicates that profit margins were subsiding to historical levels as 2020 drew to a close.
- Wage-related labor expenses account for about 16 percent of total sales in the grocery industry. As a result, a 28 percent increase in wages would boost overall costs 4.5 percent under the City of Los Angeles proposal of \$5.00 per hour. *This increase would be twice the size of the 2020 industry profit margin and three times historical grocery profit margins.*
- In order to survive such an increase, grocers would need to raise prices to consumers and/or find substantial offsetting cuts to their controllable operating expenses, which would mean workforce reductions. As an illustration of the potential magnitude of each of these impacts, we considered two extremes:
 - 1) All of the higher wage costs (assuming the \$5.00/hour proposal) are passed through to consumers in the form of higher retail prices:
 - This would result in a \$400 per year increase in grocery costs for a typical family of four, an increase of 4.5 percent.
 - If implemented in the City of Los Angeles, its residents would pay \$450 million more for groceries over a year.
 - The increase would hit low- and moderate-income families hard, particularly those struggling with job losses and income reductions due to COVID-19.
 - If implemented statewide, additional grocery costs would be \$4.5 billion per year in California.
 - 2) Retail prices to consumers are not raised and all the additional costs are offset through a reduction in store expenses:
 - Given that labor costs are by far the largest controllable expense for stores, it is highly likely that the wage mandates will translate into fewer store hours, fewer employee hours, and fewer jobs.
 - For a store with 50 full-time equivalent employees, it would take a reduction of 11 employees to offset the increased wage costs, or a 22% decrease in staff.
 - If the mandate were imposed statewide at \$5.00 per hour, the job loss would be 66,000 workers.

Consumer and Community Impacts of Hazard Pay Mandates

- If imposed in the City of Los Angeles, the job loss would be 7,000 workers.
- And in the City of Long Beach, the job impact of its \$4.00 per hour mandate would be 775 jobs.
- Stores could alternatively avoid job reductions by cutting hours worked by 22 percent.
- For the significant share of stores already operating with net losses, a massive government-mandated wage increase would likely result in store closures, thereby expanding the number of “food deserts” (i.e. communities with no fresh-food options).

Introduction

The Long Beach City Council has passed an ordinance that mandates grocers to provide a \$4.00 per hour pay increase – “hazard pay” – to grocery workers. The mandate expires in 120 days. Two members of the Los Angeles City have introduced a similar measure for a \$5.00 per hour increase for companies that employ more than 300 workers nationwide. Grocery workers in California currently earn about \$18.00 per hour.¹ Therefore, the Los Angeles proposal would increase average hourly pay to \$23.00 per hour, an increase of 28 percent. Several other cities in California have discussed \$5.00/hour proposals similar to Los Angeles.

This report focuses on the impact of hazard pay mandates on grocery store profitability and on the sustainability of an industry with traditionally low profit margins. It also assesses the potential impact of the proposed wage increases on consumers, especially lower-income consumers (a cohort already hit hard by the COVID lockdowns and business closures).

Background — Grocery is a Low-Margin, High-Labor Cost Business

The grocery business is a high-volume, low-margin industry. According to an annual database of public companies maintained by Professor Damodaran of New York University (NYU),² net profit margins as a percent of sales in the grocery industry are among the lowest of any major sector of the economy. Earnings Before Interest, Taxes, Depreciation, and Amortization (EBITDA) averaged 4.6 percent of sales in 2019, and the net profit margin (which accounts for other unavoidable expenses such as rent and depreciation) was just 1.4 percent during the year. This compares to the non-financial, economy-wide average of 16.6 percent for EBITDA and 6.4 percent for the net profit margin. The NYU estimate for public companies in the grocery industry is similar to the 1.1 percent margin reported by the Independent Grocers Association for the same year.³

COVID-19 temporarily boosted profits

In the beginning of the COVID-19 pandemic, sales and profit margins spiked as people stocked up on household items and shifted spending from eating establishments to food at home. According to data compiled by NYU, net profit margins in the grocery industry increased to 2.2 percent in early to mid 2020.⁴ Although representing a substantial year-to-year increase in profits, the 2.2 percent margin remains quite small relative to most other industries. This implies that even with the historically high rates of profits in 2020, there is little financial room to absorb a major wage increase.

¹ \$18.00 per hour is consistent with the responses we received to our informal survey. It is also consistent with published contract agreements we reviewed. See, for example, the “Retail Food, Meat, Bakery, Candy and General Merchandise Agreement, March 4, 2019 - March 6, 2022 between UFCW Union Locals 135, 324, 770, 1167, 1428, 1442 & 8 - GS and Ralphs Grocery Company.” In this contract, hourly pay rates starting March 2, 2021 for food clerks range from \$14.40 per hour (for first 1,000 hours) up to \$22.00 per hour (for workers with more than 9,800 hours), The department head is paid \$23.00 per hour. Meat cutter pay rates range from \$14.20 (for the first six months) to \$23.28 per hour (for those with more than 2 years on the job). The department manager is paid \$24.78 per hour. <https://ufcw770.org/wp-content/uploads/2020/08/Ralphs-Contract-2020.pdf>

² Source: Professor Aswath Damodaran, Stern School of Business, New York University. <http://pages.stern.nyu.edu/~adamodar/>

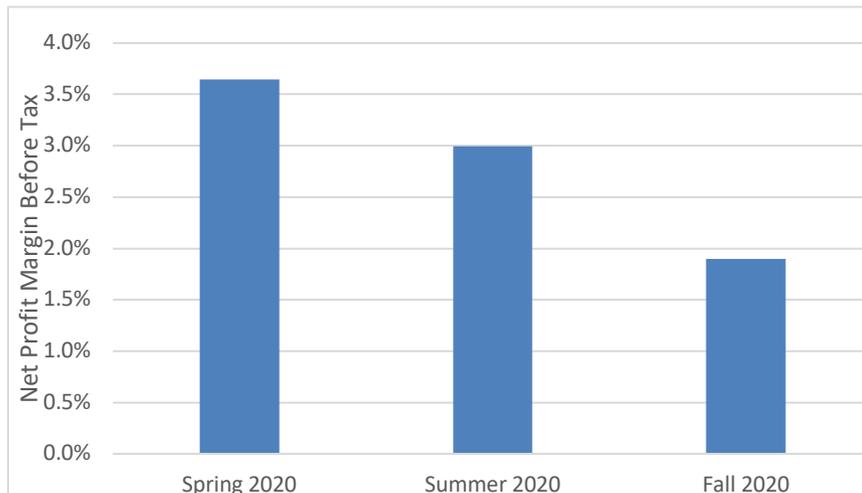
³ Source: “2020 Independent Grocer Financial Survey.” Sponsored by the National Grocer’s Association and FMS Solutions Holding, LLC

⁴ Supra 2.

But the increases are subsiding

Moreover, quarterly data indicates that the sales and profit increases experienced in early 2020 were transitory and were settling back toward pre-COVID trends as 2020 drew to a close. This quarterly trend is evident in quarterly financial reports filed by California's two largest publicly traded companies in the grocery business: The Kroger Company (which includes Ralphs, Food for Less, and Fred Meyers, among others) and Albertsons (which includes Safeway, Albertsons, and Vons, among others). Figure 1 shows that the average profit margin for these two companies was 3.6 percent of sales in the Spring of 2020, declining to 1.9 percent by the fourth quarter of the year.⁵ Monthly sales data contained in the 2020 Independent Grocer's Financial Survey showed a similar pattern, with year-over-year sales peaking at 68 percent in mid-March 2020, but then subsiding to 12 percent as of the first three weeks of June (the latest period covered by the survey).⁶

Figure 1
Combined Net Profit Margins During 2020
Albertsons and The Kroger Companies



While grocers continued to benefit from higher food and related sales during the second half of 2020, they also faced higher wholesale costs for food and housing supplies, as well as considerable new COVID-19 related expenses. These include expenses for paid leave and overtime needed to cover shifts of workers affected by COVID-19, both those that contracted the virus and (primarily) those that were exposed and needed to quarantine. Other COVID-19 costs include those for intense in-store cleaning, masks for employees, new plastic barriers at check-outs and service counters, and additional staffing and capital costs for scaling up of e-commerce, curbside and home delivery.

⁵ In their SEC 10-Q quarterly report for the four-month period ending in June 2020, Albertsons reported that consolidated sales were up 21.4 percent from the same period of 2019 and before-tax profits were 3.5 percent of total sales. In the three-month period ending in mid-September, the company reported year-over-year sales growth of 11.2 percent and before-tax profits equal to 2.5 percent of sales. In their 10-Q report filed for the three-month period ending in early December, Albertsons showed year-over-year sales growth of 9.3 percent, and profits as a percent of sales of just 1.0 percent. Data for the Kroger Company indicates that year-over-year sales growth subsided from 11.5 percent for the three-month period ending in May 2020 to 8.2 percent for the three-month period ending in August, and further to 6.3 percent for the three-month period ending in November. Profits as a percent of sales fell from 3.8 percent to 3.5 percent, and further to 2.8 percent during the same three quarterly periods. (Source: EDGAR Company Filings, U.S. Securities and Exchange Commission. <https://www.sec.gov/edgar/searchedgar/companysearch.html>.)

⁶ Supra 3

Many stores incur losses in normal years

The 1- to 2-percent net profit levels cited above reflect industry averages. There is considerable variation around these averages among individual stores, with some doing better and some doing worse. As one indication of this variation, the 2020 Independent Grocer Financial Survey found that, while the nationwide average profit before tax for all stores was 1.1 percent of sales in 2019, about 35 percent of the respondents reported negative net profits during the year.⁷ This national result is consistent with feedback we received from California grocers, which reported that even in profitable years, anywhere from one-sixth to one-third of their stores show negative earnings. While chain operations can subsidize some store losses with earnings from other stores, a major mandated wage increase would eliminate earnings for even the most profitable stores, making cross-subsidies within supermarket chains much less feasible. As discussed below, the consequence would likely be a closure of some unprofitable stores.

Mandated wage increases would push most stores into deficits

The grocery business is very labor intensive. Labor is the industry's second largest cost, trailing only the wholesale cost of the food and other items they sell. According to a benchmark study by Baker-Tilly, labor expenses account for 13.2 percent of gross sales of grocers nationally.⁸ The Independent Grocer Survey, cited above, found that labor costs account for 15 percent of sales nationally and 18.4 percent for independent grocers in the Western region of the U.S.⁹

Respondents to our survey of California grocers reported that labor costs equate to 14 percent to 18 percent of sales revenues. For purposes of this analysis, we are assuming that the wage base potentially affected by the mandated hourly pay increase is about 16 percent of annual sales.¹⁰

A mandatory \$4-\$5 per hour increase, applied to an average \$18.00 per hour wage base, would increase labor costs by between 22 percent and 28 percent. This would, in turn, raise the share of sales devoted to labor costs from the current average of 16 percent up to between 19 percent and 20.5 percent of annual sales. The up-to-4.5 percent increase would be double the 2020 profit margin reported by the industry, and three times the historical margins in the grocery industry.

Potential Impacts on Consumers, Workers and Communities

In order to survive such an increase, grocers would need to raise prices to consumers and/or find substantial offsetting cuts to their operating expenses. As an illustration of the potential magnitude of each of these impacts, we considered two extremes: (1) all of the higher wage costs are passed through to consumers in the form of higher retail prices; and (2) prices are not passed forward and all the additional costs are offset through a reduction of jobs or hours worked.

⁷ Supra 3

⁸ White Paper, "Grocery Benchmarks Report", November 5, 2019, Baker Tilly Virchow Krause LLP.

⁹ Supra 3

¹⁰ This recognizes that not all labor costs would be affected by the hazard pay proposal. Grocers report that both in-store and warehouse staff would receive the increase, as would supervisors and managers, although some executive and administrative staff may not. In addition, costs for health coverage would probably not be affected, at least not immediately, but payroll taxes and some other benefit costs would be.

Higher costs passed along to consumers

Aggregate impacts. If a \$5.00 per hour wage increase were imposed statewide and all of the increase were passed along to customers in the form of higher product prices, Californians would face a rise in food costs of \$4.5 billion annually. If imposed locally, the City of Los Angeles's \$5 per hour proposal would raise costs to its residents by \$450 million annually, and the \$4.00 per hour increase in Long Beach would raise grocery costs to its residents by about \$40 million annually.¹¹

Impact on household budgets. The wage increase would add about \$400 to the annual cost of food and housing supplies for the typical family of four in California.¹² While such an increase may be absorbable in higher income households, it would hit low- and moderate-income households especially hard. The impact would be particularly harsh for those who have experienced losses of income and jobs due to the pandemic, or for those living on a fixed retirement income including many seniors. For these households, the additional grocery-related expenses will make it much more difficult to cover costs for other necessities such as rent, transportation, utilities, and healthcare.

According to the BLS Consumer Expenditure Survey, California households with annual incomes of up to \$45,000 already spend virtually all of their income on necessities, such as food, housing, healthcare, transportation and clothing.¹³ For many of these households, a \$33 per month increase in food costs would push them into a deficit.

These increases would add to the severe economic losses that many Californians have experienced as a result of government-mandated shutdowns in response to COVID-19. According to a recent survey by the Public Policy Institute of California, 44 percent of households with incomes under \$20,000 per year and 40 percent with incomes between \$20,000 and \$40,000 have reduced meals or cut back on food to save money.¹⁴ Clearly, imposing a \$4.5 billion increase in grocery prices would make matters worse, especially for these lower-income Californians.

Higher costs are offset by job and hours-worked reductions

If grocers were not able to pass along the higher costs resulting from the additional \$5/hour wage requirement, they would be forced to cut other costs to avoid incurring financial losses.¹⁵ Given

¹¹ Our estimates start with national U.S. Census Bureau estimates from the Annual Retail Trade Survey for 2018 (the most current data available), which indicates that nationwide sales by grocers (excluding convenience stores) was \$634 billion in 2018. We then apportioned this national data to California as well as the cities of Los Angeles and Long Beach based on relative populations and per-household expenditure data from the Consumer Expenditure Survey. We then updated the 2018 estimate to 2021 based on actual increases in grocery-related spending between 2018 and 2020, as reported by the U.S. Department of Commerce, and a projection of modest growth in 2021. Our estimate is consistent with the industry estimate of \$82.9 billion for 2019 that was by IBISWorld, as adjusted for industry growth in 2020 and 2021. (See IBISWORLD Industry Report, Supermarkets & Grocery Stores in California, Tanvi Kumar, February 2019.)

¹² Capitol Matrix Consulting estimate based on U.S. Bureau of Labor Statistics, Consumer Expenditure Report, 2019. <https://www.bls.gov/opub/reports/consumer-expenditures/2019/home.htm>

¹³ U.S. Bureau of Labor Statistics, Consumer Expenditure Survey, State-Level Expenditure Tables by Income. <https://www.bls.gov/cex/csxresearchtables.htm#stateincome>.

¹⁴ "Californians and Their Well-Being", a survey by the Public Policy Institute of California. December 2020. <https://www.ppic.org/publication/ppic-statewide-survey-californians-and-their-economic-well-being-december-2020/>

¹⁵ Circumstances where stores would not be able to pass forward high costs include communities where customers are financially squeezed by pandemic-related losses in jobs or wages, or where the increased is imposed locally and customers are able to avoid higher prices by shifting purchases to cross-border stores.

that labor costs are by far the largest controllable expense for stores, it is highly likely that the wage mandates will translate into fewer store hours, fewer employee hours, and fewer jobs. For a store with 50 full-time equivalent employees, it would take a reduction of 11 employees to offset the increased wages, which is about a 22 percent decrease in staff/hours.

Aggregate impacts. As an illustration, if the full California grocery industry were to respond to a statewide \$5.00 wage mandate by reducing its workforce, we estimate that up to 66,000 industry jobs would be eliminated. This is about 22 percent of the 306,000 workers in the grocery industry in the second quarter of 2020 (the most recent quarter for which we have detailed job totals).¹⁶ If the mandate were imposed locally in the City of Los Angeles, the impact would be about 7,000 workers, and in the City of Long Beach (at \$4.00 per hour), the impact would be about 775 jobs. Stores could alternatively avoid job reductions by cutting hours worked by 22 percent across-the-board.

Under these circumstances, some workers receiving the wage increases would be better off, but many others would be worse off because of reduced hours or layoffs. Customers would also be worse off because of reduced store hours, and fewer food choices and services.

Without any external constraints imposed by the local ordinances, it is likely some combination of higher prices and job and hour reductions would occur. Stores within some jurisdictions imposing the mandatory wage increase might be able to raise retail prices sufficiently to cover a significant portion of the mandated wage increase, thereby shifting the burden onto customers. However, the degree to which this would occur would vary from jurisdiction to jurisdiction, depending on the price-sensitivity of their customers and (if the mandate is imposed locally) the availability of shopping alternatives in neighboring communities that have not imposed the wage mandate.

Of course, if the local ordinances contain provisions prohibiting stores from cutting hours, then stores would be forced to pass costs on to consumers in the form of higher prices, or to close stores in those jurisdictions.

Some communities would become food deserts

Many of the up-to one third of stores already incurring losses may find it impossible to raise prices or achieve savings that are sufficient to offset the higher wage costs. For these stores, the only option would be store closure. Indeed, a consistent theme of feedback we received from California grocer representatives is that it would be extremely difficult, if not impossible, to justify continued operation of a significant portion of their stores following a government-mandated 28-percent increase in wages. This would leave some communities with fewer fresh food options.

According to the Propel LA: “The United States Department of Agriculture (USDA) defines a food desert as ‘a low-income census tract where either a substantial number or share of residents has low access to a supermarket or large grocery store.’ There are a large number of census tracts in Los Angeles County, including Antelope Valley and San Fernando Valley, that are considered to be food deserts. The population of food deserts is predominantly Hispanic or Latino, followed by Black and White, respectively.”¹⁷ The map also shows several food deserts in and around the City of Long Beach. The hazard pay proposal would exacerbate this problem.

¹⁶ Employment Development Department. Labor Market Information Division. Quarterly Census of Employment and Wages. <https://www.labormarketinfo.edd.ca.gov/qcew/cew-select.asp>

¹⁷ “Food deserts in LA, an Interactive Map.” Propel LA, <https://www.propel.la/portfolio-item/food-deserts-in-los-angeles-county/>

Closing even one supermarket in many neighborhoods would result in residents having to commute significantly farther to find fresh and healthy food at reasonable prices. Tulane University studied the impact of food deserts and concluded that while the majority of items at smaller stores are priced higher than at supermarkets, price is a consideration in deciding where to purchase staple foods, and transportation from a food desert to a supermarket ranges from \$5 to \$7 per trip.¹⁸

Thus, mandating hazard pay would likely impose significant hardships on some communities, especially in lower-income areas. The loss of a grocery store means both fewer jobs for members of the community and higher costs for all residents in the community, who must pay higher local prices or incur additional time and expense to shop.

Conclusion

Hazard pay initiatives like those passed in the City of Long Beach, and proposed in the City of Los Angeles and in other local jurisdictions, would have far-reaching and negative consequences for businesses, employees and customers of grocery stores in the jurisdictions where levied. They would impose an up-to-28 percent increase in labor costs on an industry that is labor-intensive and operates on very thin profit margins. The increases would be more than double the average profit margins for the grocery industry in 2020, and triple the margins occurring in normal years, and thus would inevitably result in either retail price increases or major employment cutbacks by grocery stores, or a combination of both. If the increased costs were passed forward to consumers, a typical family of four in California would face increased food costs of \$400 per year. This would intensify financial pressures already being felt by millions of low- and moderate-income families, many of whom are already cutting back on basic necessities like food due to COVID-19-related losses in jobs and income. Establishments not able to recoup the costs by raising prices would be forced to reduce store hours and associated jobs and hours worked by employees. For a significant number of stores that are already struggling, the only option may be to shutter the store. This would be a “lose-lose” for the community. It would mean fewer jobs with benefits, less local access to reasonably-priced food, and more time and expense spent by customers that would have to travel greater distance to find grocery shopping alternatives.

¹⁸ “Food Deserts in America (Infographic),” Tulane University, School of Social Work, May 10, 2018. <https://socialwork.tulane.edu/blog/food-deserts-in-america>

March 2, 2021

Writer's Direct Contact
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WTarantino@mofocom

Via Email

The Honorable Shamann Walton
Board of Supervisors
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102

Re: COVID Related Hazard Pay Emergency Ordinance

Dear Board Members:

We write on behalf of our client, the California Grocers Association (the "CGA"), regarding the proposed COVID Related Hazard Pay Emergency Ordinance (the "Ordinance") that singles out a specific group of grocery stores (i.e., those companies with 500+ employees worldwide and more than 20 employees per grocery store in the City of San Francisco) and requires them to implement mandatory pay increases. The Board's rushed consideration of this Ordinance would, if passed, lead to the enactment of an unlawful, interest-group driven ordinance that ignores large groups of essential retail workers. It will compel employers to spend less on worker and public health protections in order to avoid losses that could lead to closures. In addition, the Ordinance, in its proposed form, interferes with the collective-bargaining process protected by the National Labor Relations Act (the "NLRA"), and unduly targets certain grocers in violation of their constitutional equal protection rights. We respectfully request that the Board reject the Ordinance as these defects are incurable.

The Ordinance fails to address any issue affecting frontline workers' health and safety.

The purported purpose of the Ordinance is to protect and promote the public health, safety, and welfare during the Covid-19 pandemic. (§ 2.) The Ordinance is devoid of any requirements related to the health and safety of frontline workers or the general public and instead imposes costly burdens on certain grocers by requiring them to provide an additional Five Dollars (\$5.00) per hour wage bonus ("Hazard Pay"). (§ 3.) A wage increase does not play any role in mitigating the risks of exposure to COVID-19, nor is there any suggestion that there is any risk of interruption to the food supply absent an increase in wages. If anything, the Ordinance could increase those risks, as it may divert funds that otherwise would have been available for grocers to continue their investments in public health measures recognized to be effective: enhancing sanitation and cleaning protocols, limiting

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store capacity, expanding online orders and curbside pickup service, and increasing spacing and social distancing requirements.

The Ordinance also inexplicably chooses winners and losers among frontline workers in mandating Hazard Pay. The Ordinance defines “covered employer” as any person employing “50 or more persons worldwide, including at least 20 [e]mployees” of any “General Grocery” or “Specialty Grocery” store. (§ 3.) Other retail and health care workers are ignored, despite the fact that those same workers have been reporting to work since March. The Ordinance grants Hazard Pay for select employees while ignoring frontline employees of other generic retailers and other frontline workers in San Francisco that face identical, if not greater, risks.

The Ordinance is unlawful. By mandating Hazard Pay, the Ordinance would improperly insert the City of San Francisco into the middle of the collective bargaining process protected by the National Labor Relations Act. The Ordinance suggests that the certain grocery workers require this “relief” on an emergency basis and that passage of this emergency ordinance is authorized “in cases of public emergency affecting life, health, or property, or for the uninterrupted operation of the City or County...” (§ 1(a).) San Francisco employers and workers in many industries have been faced with these issues since March 2020. Grocers have continued to operate, providing food and household items to protect public health and safety. In light of the widespread decrease in economic activity, there is also no reason to believe that grocery workers have been working multiple jobs but even if there were such a concern, grocers would have every incentive to increase the workers’ compensation or otherwise bargain with them to improve retention. The Ordinance would interfere with this process that Congress intended to be left to be controlled by the free-play of economic forces. *Machinists v. Wisconsin Employment Relations Comm’n*, 427 U.S. 132 (1976). Such ordinances have been found to be preempted by the NLRA.

For example, in *Chamber of Commerce of U.S. v. Bragdon*, the Ninth Circuit Court of Appeals held as preempted an ordinance mandating employers to pay a predetermined wage scale to employees on certain private industrial construction projects. 64 F.3d 497 (9th Cir. 1995). The ordinance’s purported goals included “promot[ing] safety and higher quality of construction in large industrial projects” and “maintain[ing] and improv[ing] the standard of living of construction workers, and thereby improv[ing] the economy as a whole.” *Id.* at 503. The Ninth Circuit recognized that this ordinance “differ[ed] from the [a locality’s] usual exercise of police power, which normally seeks to assure that a minimum wage is paid to all employees within the county to avoid unduly imposing on public services such as welfare or health services.” *Id.* at 503. Instead, the ordinance was an “economic weapon” meant to influence the terms of the employers’ and their workers’ contract. *Id.* at 501-04. The Ninth Circuit explained that the ordinance would “redirect efforts of employees not to bargain with employers, but instead, to seek to set specialized minimum wage and benefit

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packages with political bodies,” thereby substituting a “free-play of economic forces that was intended by the NLRA” with a “free-play of political forces.” *Id.* at 504.

The same is true of this Ordinance. While the City has the power to enact ordinances to further the health and safety of its citizens, it is prohibited from interfering directly in employers’ and their employees’ bargaining process by arbitrarily forcing certain grocers to provide Hazard Pay that is both unrelated to minimum labor standards, or the health and safety of the workers and the general public. While minimum labor standards that provide a mere backdrop for collective bargaining are consistent with the NLRA, local laws such as this Ordinance which effectively dictate the outcome of the collective bargaining process are preempted. The Ordinance here imposes unusually strict terms on a narrow band of businesses without any allowance for further bargaining. By enacting an ordinance such as this, the City would end any negotiations by rewriting contracts.

The Ordinance also violates the U.S. Constitution and California Constitution’s Equal Protection Clauses (the “Equal Protection Clauses”). The Equal Protection Clauses provide for “equal protections of the laws.” U.S. Const. amend. XIV, § 1; Cal. Const. art I, § 7(a). This guarantee is “essentially a direction that all persons similarly situated should be treated alike” and “secure[s] every person within the State’s jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of a statute or by its improper execution through duly constituted agents.” *City of Cleburne v. Cleburne Living Center*, 473 U.S. 432, 439 (1985); *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000). No law may draw classifications that do not “rationally further a legitimate state interest.” *Nordlinger v. Hahn*, 505 U.S. 1, 10 (1992). By requiring that any classification “bear a rational relationship to an independent and legitimate legislative end, [courts] ensure that classifications are not drawn for the purpose of disadvantaging the group burdened by law.” *Romer v. Evans*, 517 U.S. 620, 633 (1996).

As discussed above, the Ordinance here unfairly targets traditional grocery companies and arbitrarily subjects certain 500-employee grocers to the Hazard Pay mandate while sparing other generic retailers who also employ frontline workers. *See Fowler Packing Co., Inc. v. Lanier*, 844 F.3d 809, 815 (9th Cir. 2016) (“[L]egislatures may not draw lines for the purpose of arbitrarily excluding individuals,” even to “protect” those favored groups’ “expectations.”); *Hays v. Wood*, 25 Cal. 3d 772, 786-87 (1979) (“[N]othing opens the door to arbitrary action so effectively as to allow [state] officials to pick and choose only a few to whom they will apply legislation and thus to escape the political retribution that might be visited upon them if larger numbers were affected.”).

As an ordinance that impinges on fundamental rights to be free of legislative impairment of existing contractual agreements, this ordinance would be subject to heightened scrutiny by courts. *See, e.g., Plyler v. Doe*, 457 U.S. 202, 216 (1982); *Hydrick v. Hunter*, 449 F.3d 978, 1002 (9th Cir. 2006); *Long Beach City Employees Ass’n v. City of Long Beach*, 41 Cal.3d

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937, 948 (1986). The City's unilateral modification of contractual terms governing wages and hours of grocery employees goes to the very heart of bargained-for agreements—it modifies contractual terms and as such impinges on a fundamental right. Regardless, absent from the Ordinance is any requirement that would actually address its purpose of promoting the public's health and safety. Paying grocery workers this Hazard Pay will not protect anyone from contracting coronavirus. Put simply, there is a disconnect between the Ordinance's reach and its stated purpose, making it unlawful and violating the equal protection rights of CGA's members.

CGA disagrees with the Board's characterization of the Ordinance as an "emergency ordinance." There is nothing in the Ordinance that is required to protect life, health, or property. (§ 1.) Even if an emergency ordinance passes, there is no requirement that an emergency ordinance become effective immediately on passage. As this Board has done many times before, an emergency ordinance can become effective at a set date in the future.

Finally, in light of emerging vaccination programs for essential workers, stores' increasing ability to protect patrons and workers from infection using distancing, curbside pickup, and other measures, we strongly encourage the City to set an alternate deadline for expiration of hazard pay ordinance (i.e., 30 days) so that it can be revisited by the Board in light of the rapidly changing pandemic conditions.

For all of the reasons discussed above, we respectfully request that the Board of Supervisors reject the Ordinance.

Sincerely,



William F. Tarantino

cc: San Francisco Board of Supervisors
Connie Chan
Matt Haney
Rafael Mandelman
Gordon Mar
Myrna Melgar
Aaron Peskin
Dean Preston
Hillary Ronen
Ahsha Safai

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Catherine Stefani

March 3, 2021

The Honorable Shamann Walton
Board President, City and County of San Francisco
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102



RE: Grocery Worker Pay

Dear President Walton,

On behalf of San Francisco grocers, I write to ask the Board to not move forward with the proposed grocery worker premium pay ordinance given the numerous negative consequences to grocery workers, neighborhoods and the grocery industry. Based on the consequences experienced in other jurisdictions with similar ordinances, we must oppose the ordinance for both policy and legal reasons.

We agree that grocery workers serve a vital and essential role during the pandemic. They have worked tirelessly to keep stores open for consumers, allowing our communities to have uninterrupted access to food and medications. To protect our employees, grocery stores were among the first to implement numerous safety protocols, including providing PPE and masks, performing wellness checks, enhancing sanitation and cleaning, limiting store capacity, and instituting social distance requirements, among other actions.

On top of increased safety measures, grocery employees have also received unprecedented amounts of supplemental paid leave to care for themselves and their families in addition to already existing leave benefits. Grocers have also provided employees additional pay and benefits throughout the pandemic in various forms, including hourly and bonus pay, along with significant discounts and complimentary groceries. All of these safety efforts and additional benefits clearly demonstrate grocers' dedication and appreciation for their employees. Most importantly the industry has been fierce advocates for grocery workers to be prioritized for vaccinations.

Unfortunately, the Grocery Worker Premium Pay ordinance would mandate grocery stores provide additional pay beyond what is economically feasible, which would severely impact store viability and result in increased prices for groceries, limited operating hours, reduced hours for workers, fewer workers per store, and most concerning, possible store closures. These negative impacts from the ordinance would be felt most acutely by independent grocers, ethnic format stores, and stores serving low-income neighborhoods. The Cities of Long Beach and Seattle, who have passed a similar ordinance, have already suffered the permanent loss of several full-service grocery stores as direct result.

We request the City of San Francisco perform an economic impact report to understand the true impacts of this policy. If you choose not to understand specific impacts for San Francisco, then we refer you to the economic impact report from the City of Los Angeles Legislative Analyst Office. This report makes it clear that the impact of this policy will severely impact workers, consumers, and grocery stores.

In its own words the Los Angeles City Legislative Analyst clearly states that grocery "companies would be required to take action to reduce costs or increase revenue as the labor increase will eliminate all current profit margin." The report recognizes that "affected companies could raise prices to counteract the additional wage cost." This type of ordinance would put "more pressure on struggling stores (especially independent grocers) which could lead to store closures" and that "the closure of stores could lead to an increase in 'food deserts' that lack access to fresh groceries." These are all scenarios we know everyone in the city wants to avoid, especially during a pandemic. This is why we are asking the Council to not move forward with this policy and, instead, focus on making sure all grocery workers are provided the vaccine.

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Specific to ordinance language, there are numerous policy and legal issues which unnecessarily single out the grocery industry and create significant burdens. The ordinance fails to recognize the current efforts grocers are making to support their employees and requires grocers add significant costs on to existing employee benefit programs.

Furthermore, passing this ordinance improperly inserts the city into employee-employer contractual relationships. The ordinance also ignores other essential workers, including city employees, that have similar interaction with the public. Taken in whole, this ordinance is clearly intended to impact only specific stores within a single industry and fails to recognize the contributions of all essential workers. Based on language specifics, this ordinance misses a genuine effort to promote the health, safety and welfare of the public.

Emergency passage of the ordinance also ignores any reasonable effort for compliance by impacted stores, as several grocery stores will be operating at the time of passage. By implementing the ordinance immediately there is literally no time to communicate to employees, post notices, adjust payroll processes, and other necessary steps as required by California law. Coupled with the varied enforcement mechanisms and significant remedies outlined, the passage of this ordinance would put stores into immediate jeopardy. This scenario is yet another negative consequence resulting from the lack of outreach to grocers and the grocery industry to understand real world impacts.

Grocery workers have demonstrated exemplary effort to keep grocery stores open for San Francisco. This why the grocery industry has provided significant safety measures and historic levels of benefits that include additional pay and bonuses. It is also why vaccinating grocery workers has been our first priority. Unfortunately, this ordinance is a significant overreach of policy and jurisdictional control. This will result in negative consequences for workers and consumers that will only be compounded by the pandemic.

We respectfully implore the Council to not move forward with the grocery worker pay ordinance at this time. We encourage you to recognize and understand the impacts of this ordinance on workers and the community by accepting our invitation to work cooperatively with San Francisco grocers. If Council must bring the ordinance forward for a vote at this time we ask you to oppose its passage. CGA is submitting additional information from our legal counsel for your consideration.

Thank you for your consideration and we look forward to being able to combat the pandemic in partnership with the City of San Francisco.

Sincerely,

A handwritten signature in black ink, appearing to read 'Timothy James', is written over a printed name and title.

Timothy James
California Grocers Association

CC: Members, San Francisco Board of Supervisors
Board Clerk, City of San Francisco

From: [Carroll, John \(BOS\)](#)
To: [Carroll, John \(BOS\)](#)
Subject: FW: Hazard pay - File No. 210181
Date: Friday, February 26, 2021 10:46:11 AM

-----Original Message-----

From: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Sent: Wednesday, February 24, 2021 9:12 AM
To: BOS-Supervisors <bos-supervisors@sfgov.org>
Cc: Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>; Ng, Wilson (BOS) <wilson.l.ng@sfgov.org>
Subject: FW: Hazard pay

-----Original Message-----

From: kathleen mcintyre <kate_mcintyre_07@yahoo.com>
Sent: Wednesday, February 24, 2021 1:03 AM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Cc: katie.crespo@yahoo.com
Subject: Hazard pay

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

I work at Lunardi's Market #2 in the deli. Raising the hazard pay is wonderfully helpful, because not only on a daily basis do I encounter people who don't wear their mask properly or at all, just around the neck. But people shove their phones in our faces. If a shield can't be provided to protect those who have to serve food then hazard pay should be increased.

Sincerely
Katie deli #2



SHAMANN WALTON

MEMORANDUM

DATE: March 3, 2021

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: President Shamann Walton 

CC: Chief Economist Ted Egan
Members of the Board of Supervisors
Board Legislative Aides
Board Administrative Aides
City Attorney
Mayor's Office
Retirement Board

SUBJECT: Waive the requirement of the Economic Impact Report for File No. 210181 –
Emergency Ordinance – COVID-Related Hazard Pay

Madam Clerk,

Pursuant to Board Rule 6.10 and Appendix D of the Rules of Order, I hereby waive the requirement that the Economic Impact Report for the following matter be submitted to the Board prior to the legislation being heard in committee and acted upon by the full Board. This waiver does not affect the obligation of the Office of Economic Analysis to prepare and submit the report, which shall require a separate public hearing upon receipt and also placement in the original subject file below.

File No. 210181 Emergency Ordinance - COVID-Related Hazard Pay

Emergency ordinance to temporarily require certain grocery stores, drug stores, and property service contractors for grocery stores and drug stores to pay employees an additional five dollars per hour during the public health emergency related to COVID-19.

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

Shamann Walton

PRESIDENTIAL ACTION

Date: 2/25/2021

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.

210181

Walton

(Primary Sponsor)

Title.

Emergency Ordinance - COVID-Related Hazard Pay

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):

Walton, Haney, Preston, Ronen

Subject:

Emergency Ordinance - COVID-Related Hazard Pay

The text is listed:

Emergency ordinance to temporarily require certain grocery stores, drug stores, and property service contractors for grocery stores and drug stores to pay employees an additional five dollars per hour during the public health emergency related to COVID-19.

Signature of Sponsoring Supervisor: /s/ Shamann Walton