

REVISED LEGISLATIVE DIGEST

(Substituted, 9/4/2018)

[Administrative Code - Labor Peace Agreements for Excursion Vessel Operations Under Lease with the Port]

Ordinance amending the Administrative Code to require Labor Peace Agreements between employers operating excursion vessels under a Port lease and labor organizations seeking to represent their employees to protect the City's ongoing proprietary interest.

Existing Law

Since 1998, the City has had a card check ordinance in Administrative Code §§ 23.50-23.56. That Chapter requires hotel and restaurant employees working in projects in which the City has a proprietary interest, including on property under the Port's jurisdiction, to enter into agreements providing an expedited "card check" process for recognizing a bargaining representative as an alternative to the formal election procedures in the NLRA and, if they cannot agree, to participate in binding arbitration. The card check ordinance is intended to address the concern that labor-management conflict may cause delay, reduce revenues, or increase costs in the completion of real estate developments or other projects in which the City has a proprietary interest.

Amendments to Current Law

The proposed ordinance would impose similar requirements on certain employers operating under a lease of Port property in which the City has a proprietary interest. The ordinance would apply to employers, or their subcontractors, with 40 or more employees, that operate Excursion Vessels under a lease of Port property, under leases entered into after the effective date of the ordinance, and pre-existing leases that are substantially amended in specified ways after that date. "Excursion Vessel" means a passenger vessel used for transporting the public to or from Port property for sightseeing and similar activities.

The ordinance would require the employers to agree, upon request by their employees' labor representative, to enter into a labor peace agreement. The agreement would apply to the period when the union is seeking recognition as the employees' labor representative; and when, if the union is recognized, the parties are negotiating their first contract setting one or more terms of conditions of employment. Although the ordinance largely permits the parties to negotiate the content of the agreement, at a minimum the agreement must: (1) prohibit the labor organization from, during the periods noted above, bringing economic pressure to bear on the employer, such as striking, picketing, or boycotting; and (2) require the parties to engage in mediation and arbitration if they are unable to reach agreement on a first contract. The ordinance also requires the parties to engage in mediation and arbitration if they are not able to agree on the terms of the labor peace agreement.

Employers would be required to notify the Office of Labor Standards Enforcement (OLSE) upon receiving a request from a labor organization to enter into a labor peace agreement, and provide evidence if the employer claimed an exemption. The ordinance would also require the employer to provide a report, upon OLSE's request, attesting to the status of the employer's compliance with the requirements.

OLSE would investigate complaints that the ordinance was violated, and issue a determination of violation to any employer that violated the ordinance. Violators would be subject to \$100 in civil penalties for each day that the violation continues. The City Attorney could also initiate a civil suit to enforce the ordinance.

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