

File No. 230835

Committee Item No. 6

Board Item No. 38

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Rules Committee

Date Oct 2, 2023

Board of Supervisors Meeting

Date Oct 17, 2023

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Completed by: Victor Young Date Sept 28, 2023

Completed by: _____ Date _____

[Administrative, Police Codes - Establishing the Labor and Employment Code]

Ordinance establishing the Labor and Employment Code; redesignating worker protection ordinances and ordinances related to employees of City contractors, currently in the Administrative Code and the Police Code, as provisions of the new Labor and Employment Code; and directing the City Attorney to renumber the provisions added to the Labor and Employment Code and to update cross-references throughout the Municipal Code.

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

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

Section 1. Findings and Purpose.

(a) Purpose. As the City's Municipal Code, including the expansive Administrative and Police Codes, grows lengthier and more complex over time, its organizational structure needs to be periodically updated, including by subdividing portions of the Municipal Code by subject matter. City ordinances governing employment and work practices of businesses and other entities within the City limits, and of contractors, lessees, and others that do business with the City, are scattered in various Chapters of the Administrative Code and various Articles of the Police Code. These ordinances have proliferated over the last two decades or more. This ordinance establishes a new subdivision of the Municipal Code, the Labor and Employment Code, to consolidate and better organize such ordinances within the Municipal Code.

1 (b) No Change in Law. This ordinance is enacted solely for the purpose of
2 reorganizing the Municipal Code. It does not effect any change in the substance or meaning
3 of any City ordinance or provision thereof. Neither the removal of an ordinance from, nor the
4 retention of an ordinance in, the Administrative Code or Police Code alters the substance or
5 meaning of the ordinance. Nor does the specific placement of an ordinance within the Labor
6 and Employment Code alter its substance or meaning. The Board of Supervisors intends that
7 this ordinance not be considered a “reenactment” of the various provisions being transferred
8 to the Labor and Employment Code, to avoid any court inferring a substantive legislative
9 intent from reenacted provisions, such as inferring legislative approval of past judicial or
10 administrative interpretations of those provisions. In approving this ordinance, the Board of
11 Supervisors’ sole intent is to better organize the Municipal Code.

12 (c) Organization of the Labor and Employment Code. In general, Division I of the
13 Labor and Employment Code consists of ordinances that protect employees (and in a few
14 instances individuals who perform services by contract) who work within the geographic
15 boundaries of the City. In general, Division II consists of ordinances that provide standards
16 for employees of contractors and certain other employers that do business with the City,
17 directly or indirectly. Employment-related ordinances that exclusively or primarily pertain to
18 the City’s internal practices with respect to its employees are not included in the Labor and
19 Employment Code.

20 (d) Hybrid Ordinances. There are a few ordinances in the Municipal Code that include
21 both distinct employment provisions and distinct non-employment provisions. These include,
22 for example, Police Code Article 33, a broad anti-discrimination ordinance that includes
23 employment provisions, housing provisions, and provisions addressing discrimination in other
24 contexts; Police Code Article 49, the Fair Chance Ordinance, which includes both
25 employment provisions and housing provisions; Administrative Code Chapter 6, which, among

1 many provisions regarding public works, includes prevailing wage requirements; and
2 Administrative Code Chapter 23, which in part imposes prevailing wage requirements on
3 purchasers or lessees of the City's real property. The Board of Supervisors intends to move
4 the employment provisions in such ordinances to the Labor and Employment Code through
5 enactment of one or more ordinances subsequent to the enactment of this ordinance.
6

7 Section 2. Establishment, Structure, Format, and Content of the Labor and
8 Employment Code.

9 (a) Establishment of Code. The Labor and Employment Code is hereby established
10 as a subdivision of the Municipal Code. The Labor and Employment Code will serve as the
11 new location for existing ordinances pertaining to labor and employment, and for future
12 ordinances most appropriately placed there because of their relationship to labor and
13 employment.

14 (b) Structure and Format of Code. The Labor and Employment Code shall be
15 structured as follows:

16 (1) There will be Division I, titled "Protection of Workers in the City" and Division
17 II, titled "City Contractor Employee Provisions."

18 (2) Certain current Chapters of the Administrative Code and Articles of the
19 Police Code will be redesignated as Articles of the Labor and Employment Code, as provided
20 more specifically in subsections (c) and (d) below. This does not preclude the future
21 designation of other Chapters and Articles, or provisions thereof, that are currently in the
22 Administrative Code, Police Code, or any other subdivision of the Municipal Code as Articles
23 of the Labor and Employment Code,

24 (3) Division I will begin with Article 1; Division II will begin with Article 101.
25 There will be gaps between some of the Article numbers to accommodate hybrid ordinances,

as described in Section 1(d) of this ordinance, to be partially incorporated into the Labor and Employment Code in the future, to accommodate the future enactment of ordinances in the Labor and Employment Code, and to allow room for any future reorganization of provisions within the Labor and Employment Code that may become advisable.

(4) Sections within each Article will incorporate the Article number in the section number; for example, sections in Article 1 will be numbered 1.1, 1.2, 1.3, and so forth.

(5) For redesignated Administrative Code Chapters and Police Code Articles, each section within an Article of the Labor and Employment Code will be individually renumbered in the sequence it currently appears in the Administrative Code or Police Code, as applicable, except as otherwise stated in this ordinance.

(c) Division I. The City Attorney shall cause provisions of the Administrative Code and Police Code, as applicable, identified in this subsection (c), to be redesignated as Articles within Division I of the Labor and Employment Code, as follows:

(1) Redesignate Administrative Code Chapter 12R: Minimum Wage, consisting of Sections 12R.1 through 12R.26, as Article 1, consisting of Sections 1.1 through 1.26.

(2) Redesignate Administrative Code Chapter 12V: Personal Services Minimum Contractual Rate Ordinance, consisting of Sections 12V.1 through 12V.5, as Article 2, consisting of Sections 2.1 through 2.5.

(3) Redesignate Administrative Code Chapter 12W: Sick Leave, consisting of Sections 12W.1 through 12W.16, as Article 11, consisting of Sections 11.1 through 11.16.

(4) Redesignate Police Code Article 33N: Domestic Workers' Equal Access to Paid Sick Leave, consisting of Sections 3300N.1 through 3300N.12, as Article 12, consisting of Sections 12.1 through 12.12.

1 (5) Redesignate Police Code Article 33P: Public Health Emergency Leave
2 Ordinance, consisting of Sections 3300P.1 through 3300P.14, as Article 13, consisting of
3 Sections 13.1 through 13.14.

4 (6) Redesignate Police Code Article 33H: Paid Parental Leave, consisting of
5 Sections 3300H.1 through 3300H.15, as Article 14, consisting of Sections 14.1 through 14.15.

6 (7) Redesignate Police Code Article 33Q: Military Leave Pay Protection Act,
7 consisting of Sections 3300Q.1 through 3300Q.8, as Article 15, consisting of Sections 15.1
8 through 15.8.

9 (8) Redesignate Administrative Code Chapter 14: San Francisco Health Care
10 Security Ordinance, consisting of Sections 14.1 through 14.7, as Article 21, consisting of
11 Sections 21.1 through 21.7.

12 (9) Redesignate Police Code Article 33I: Lactation in the Workplace, consisting
13 of Sections 3300I.1 through 3300I.10, as Article 31, consisting of Sections 31.1 through 31.10.

14 (10) Redesignate Administrative Code Chapter 12Z: San Francisco Family
15 Friendly Workplace Ordinance, consisting of Sections 12Z.1 through 12Z.18, as Article 32,
16 consisting of Sections 32.1 through 32.18.

17 (11) Redesignate Police Code Article 33F: Hours and Retention Protections for
18 Formula Retail Employees, consisting of Sections 3300F.1 through 3300F.19, as Article 41,
19 consisting of Sections 41.1 through 41.19.

20 (12) Redesignate Police Code Article 33G: Predictable Scheduling and Fair
21 Treatment for Formula Retail Employees, consisting of Sections 3300G.1 through 3300G.18,
22 as Article 42, consisting of Sections 42.1 through 42.18.

23 (13) Redesignate Police Code Article 33A: Prohibition of Employer Interference
24 with Employee Relationships and Activities and Regulations of Employer Drug Testing of
25

1 Employees, consisting of Sections 3300A.1 through 3300A.11, as Article 51, consisting of
2 Sections 51.1 through 51.11.

3 (14) Redesignate Police Code Article 40: Drug Free Workplace Ordinance,
4 consisting of Sections 4001 through 4007, as Article 52, consisting of Sections 52.1 through
5 52.7.

6 (15) Redesignate Police Code Article 33J: Parity in Pay, consisting of Sections
7 3300J.1 through 3300J.8, as Article 61, consisting of Sections 61.1 through 61.8.

8 (16) Redesignate Police Code Article 33C: Displaced Worker Protection,
9 consisting of Sections 3300C.1 through 3300C.7, as Article 71, consisting of Sections 71.1
10 through 71.7.

11 (17) Redesignate Police Code Article 33D: Grocery Worker Retention,
12 consisting of Sections 3300D.1 through 3300D.9, as Article 72, consisting of Sections 72.1
13 through 72.9.

14 (18) Redesignate Police Code Article 33E: Hospitality Industry Worker
15 Retention, consisting of Sections 3300E.1 through 3300E.11, as Article 73, consisting of
16 Sections 73.1 through 73.11.

17 (19) Redesignate Police Code Article 33O: Residential Construction Wage
18 Theft Prevention Ordinance, consisting of Sections 3300O.1 through 3300O.10, as Article 81,
19 consisting of Sections 81.1 through 81.10.

20 (d) Division II. The City Attorney shall cause provisions of the Administrative Code
21 identified in this subsection (d) to be redesignated as Articles within Division II of the Labor
22 and Employment Code, as follows:

23 (1) Redesignate Administrative Code Chapter 21C: Miscellaneous Prevailing
24 Wage Requirements, consisting of Sections 21C.1 through 21C.11, as Article 102, consisting
25 of Sections 102.1 through 102.11. Notwithstanding subsection 2(b)(5) of this ordinance,

1 above, the City Attorney may exercise discretion to re-sequence the sections within Article
2 102.

3 (2) Redesignate Administrative Code Chapter 12P: Minimum Compensation,
4 consisting of Sections 12P.1 through 12P.16, as Article 111, consisting of Sections 111.1
5 through 111.19.

6 (3) Redesignate Administrative Code Chapter 12Q: Health Care Accountability,
7 consisting of Sections 12Q.1 through 12Q.12, as Article 121, consisting of Sections 121.1
8 through 121.14. Notwithstanding subsection 2(b)(5) of this ordinance, above, the City
9 Attorney shall consolidate the definitions sections starting with Administrative Code Section
10 12Q.2 (and including Sections 12Q.2.1 through 12Q.2.22) into one definitions section, Section
11 121.2 of the Labor and Employment Code.

12 (4) Redesignate Administrative Code Chapter 12B: Nondiscrimination in
13 Contracts, consisting of Sections 12B.1 through 12B.6, as Article 131, consisting of Sections
14 131.1 through 131.7.

15 (5) Redesignate Administrative Code Chapter 12C: Nondiscrimination in
16 Property Contracts, consisting of Sections 12C.1 through 12C.6, as Article 132, consisting of
17 Sections 132.1 through 132.7.

18 (6) Redesignate Administrative Code Chapter 12K: Salary History, consisting of
19 Sections 12K.1 through 12K.9, as Article 141, consisting of Sections 141.1 through 141.9.

20 (7) Redesignate Administrative Code Chapter 12T: City
21 Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment
22 Decisions, consisting of Sections 12T.1 through 12T.11, as Article 142, consisting of Sections
23 142.1 through 142.11.

1 (8) Redesignate Administrative Code Chapter 12U: Sweatfree Contracting,
2 consisting of Sections 12U.1 through 12U.11, as Article 151, consisting of Sections 151.1
3 through Sections 151.13.

4 (9) Redesignate Administrative Code Chapter 12O: Earned Income Credit
5 Information, consisting of Sections 12O.1 through 12O.4, as Article 161, consisting of
6 Sections 161.1 through 161.4.

7 (e) Updating Cross References.

8 (1) The City Attorney shall cause all cross-references in the Municipal Code to
9 any sections and subsections in the Administrative Code or the Police Code that this
10 ordinance redesignates within the Labor and Employment Code, to be updated to reflect the
11 new designation of the section or subsection in the Labor and Employment Code, and to
12 reflect that the term "Chapter" referencing former Administrative Code ordinances be changed
13 to "Article" in accordance with the Labor and Employment Code designation. Any such
14 updates in cross-references shall not otherwise alter the cross-references being updated.

15 (2) For updates to cross-references made in the Municipal Code pursuant to
16 subsection (e)(1), the City Attorney shall prepare one or more documents specifically showing
17 the cross-reference changes effected by this ordinance. The documentation required by this
18 subsection (e)(2) shall be filed with the Clerk of the Board of Supervisors in the file for this
19 ordinance, File No. 230835.

20 (f) Authorization for City Attorney's Office to Make Nonsubstantive Changes. The City
21 Attorney's Office is authorized, but not required, to make textual changes that are entirely
22 nonsubstantive in the process of moving the various ordinances from the Administrative and
23 Police Codes into the Labor and Employment Code. The Board of Supervisors intends that
24 this authority be used sparingly and only for the purpose of easing the transition, not for any
25 broader purpose such as correcting errors in Code text.

1 (g) Expired Ordinances. Several ordinances pertaining to labor and employment,
2 enacted in response to the COVID-19 pandemic, have expired by operation of law and hence
3 are not included in this ordinance. For informational purposes only, these include, but are not
4 limited to, the following ordinances:

5 (1) Right to Reemployment Following Layoff Due to COVID-19 Pandemic,
6 previously codified at Police Code Article 33K;

7 (2) Prohibiting Employment Discrimination on the Basis of COVID-19 Status,
8 previously codified at Police Code Article 33L; and

9 (3) Grocery Store, Drug Store, Restaurant, and On-Demand Delivery Service
10 Worker Protections, previously codified at Police Code Article 33M.

11
12 Section 3. Effective and Operative Dates.

13 (a) Effective Date. This ordinance shall become effective 30 days after enactment.
14 Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance
15 unsigned or does not sign the ordinance within ten days of receiving it, or the Board of
16 Supervisors overrides the Mayor's veto of the ordinance.

17 (b) Operative Date. This ordinance shall become operative 30 days after its effective
18 date.

19
20 APPROVED AS TO FORM:
DAVID CHIU, City Attorney

21
22 By: /s/
MATTHEW D. GOLDBERG
23 Deputy City Attorney

24 N:\LEGANA\AS2023\2200316\01691168.DOCX
25

LEGISLATIVE DIGEST

[Administrative, Police Codes - Establishing the Labor and Employment Code]

Ordinance establishing the Labor and Employment Code; redesignating worker protection ordinances and ordinances related to employees of City contractors, currently in the Administrative Code and the Police Code, as provisions of the new Labor and Employment Code; and directing the City Attorney to renumber the provisions added to the Labor and Employment Code and to update cross-references throughout the Municipal Code.

Existing Law

The Municipal Code includes a variety of ordinances that govern employment and work practices of businesses within the City limits, and of contractors, lessees, and others that do business with the City. These ordinances are scattered in various Chapters of the Administrative Code and various Articles of the Police Code.

Amendments to Current Law

The ordinance will create a new Labor and Employment Code within the City's Municipal Code. Existing ordinances regulating employment and work practices within the City would be redesignated as Articles of Division I of the new Code. Existing ordinances pertaining to employees of contractors and certain other employers that do business with the City, directly or indirectly, would be redesignated as Articles of Division II of the new Code. Employment-related ordinances that exclusively or primarily pertain to City employees are not included in the Labor and Employment Code.

The ordinance states that the Board of Supervisors intends to move employment-related portions of "hybrid" ordinances, which include employment and non-employment provisions, to the Labor and Employment Code through subsequent legislation.

Background Information

Currently, ordinances that govern employment and work practices of businesses and other entities within the City limits, and of contractors, lessees, and others that do business with the City, are in the Administrative Code and the Police Code. They are often sequenced in the order enacted, and not clearly grouped as ordinances regulating employment in the City, as distinct from relating to City contractors' employees. The proposed ordinance is intended solely to better organize existing City ordinances so as to be more accessible and understandable to the public, employers, contractors, and employees. It is not intended to effect any change in law.

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BOARD of SUPERVISORS



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MEMORANDUM

TO: All City Department Heads via Tom Paulino, Mayor's Office

FROM: Victor Young, Assistant Clerk

A handwritten signature in black ink that reads "Victor Young".

DATE: August 3, 2023

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed legislation:

File No. 230835

Ordinance establishing the Labor and Employment Code; redesignating worker protection ordinances and ordinances related to employees of City contractors, currently in the Administrative Code and the Police Code, as provisions of the new Labor and Employment Code; and directing the City Attorney to renumber the provisions added to the Labor and Employment Code and to update cross-references throughout the Municipal Code.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: victor.young@sfgov.org.

cc: Andres Power, Mayor's Office