

File No. 210218

Committee Item No. 2

Board Item No. 5

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Rules Committee

Date April 5, 2021

Board of Supervisors Meeting

Date April 20, 2021

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Completed by: Victor Young Date April 1, 2021

Completed by: _____ Date _____

1 [Administrative, Police Codes - Waiving Employer Requirements to Report on 2020
2 Compliance with Health Care Security Ordinance and Fair Chance Ordinance]

3 **Ordinance amending the Administrative Code to waive the requirement for employers**
4 **to report compliance with the Health Care Security Ordinance for 2020, codifying the**
5 **previous waiver of such requirement for 2019, amending the Police Code to waive the**
6 **requirement for employers to report compliance with the Fair Chance Ordinance for**
7 **2020, and codifying the previous waiver of such requirement for 2019.**

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. Background and Findings.

17 (a) Administrative Code Section 14.3(f)(2) requires employers to report annually on
18 health care expenditures pursuant to the San Francisco Health Care Security Ordinance
19 (“HCSO”), which requires employers to make minimum health care expenditures for
20 employees in san Francisco. Police Code Section 4910(b) requires employers to report
21 annually on compliance with the San Francisco Fair Chance Ordinance (“FCO”), which
22 restricts how employers may consider applicants’ and employees’ arrest and conviction
23 records and related information.

24 (b) In 2018, by Ordinance No. 54-18, the City expanded the FCO to cover all
25 employers with five or more employees, from 20 or more employees previously, more than
doubling the number of employers required to report on their compliance. These newly-

1 covered employers were to be subject to the FCO's annual reporting requirements for the first
2 time in April 2020, reporting on calendar year 2019.

3 (c) On March 23, 2020, in response to extensive business closures related to the
4 COVID-19 pandemic, Mayor Breed issued the Fifth Supplement to Mayoral Proclamation
5 Declaring the Existence of a Local Emergency, which, as relevant here, waived the calendar
6 year 2019 reporting requirements under both the HCSO and FCO. As a result, thousands of
7 San Francisco employers – those newly required to report by the 2018 FCO amendment –
8 have yet to participate in the annual reporting process.

9 (d) Compiling and preparing these reports can be administratively difficult for
10 employers, placing an additional burden on employers at a time of significant economic strain
11 and uncertainty. Further, many businesses incurred periodic closures, and attendant furloughs
12 and layoffs, in 2020 that may complicate analysis of their payroll and health care expenditure
13 records. Some employers may need to engage in travel to their places of business to access
14 the necessary information, risking spread of COVID-19.

15 (e) The majority of the staff of the Office of Labor Standards Enforcement (OLSE)
16 continues to work remotely for their own safety to reduce the spread of COVID-19 during the
17 ongoing pandemic. OLSE typically receives more than 1000 telephone calls a year related to
18 the annual reporting requirements for HCSO and FCO compliance. These calls are likely to
19 increase substantially with many employers newly subject to the FCO reporting requirement. It
20 would be challenging for OLSE staff to accommodate this volume of calls while working
21 remotely.

22 (f) This ordinance is intended to reduce the administrative burden on employers and by
23 waiving these reporting requirements for 2020 health care expenditures and Fair Chance
24 Ordinance compliance. Further, for clarity, it codifies the waiver of these reporting
25 requirements for 2019.

1 (g) This ordinance maintains all other employer requirements under the Health Care
2 Security Ordinance and the Fair Chance Ordinance. It addresses the reporting requirements
3 only, and only to the extent addressed by the ordinance.
4

5 Section 2. The Administrative Code is hereby amended by revising Section 14.3(f)(2),
6 to read as follows:

7 **SEC. 14.3. EMPLOYER REQUIREMENTS.**

8 * * * *

9 (f) **Additional Employer Responsibilities.** A Covered Employer shall:

10 * * * *

11 (2) provide information to OLSE, or the OLSE's designee, on an annual
12 basis (with the exception of reporting on calendar year 2019 and 2020 compliance) containing such
13 other information as OLSE shall require, including information on the Employer's compliance
14 with this Chapter, but OLSE may not require an Employer to provide information in violation of
15 State or federal privacy laws. In the event the information required by OLSE is comingled with
16 information protected by privacy laws, the Employer shall redact the private information. If a
17 Covered Employer uses a Revocable Expenditure to satisfy its obligation to make Required
18 Health Care Expenditures for any of its Covered Employees, the Employer shall also report to
19 OLSE any conditions or restrictions on the Covered Employee's use of the expenditure, and
20 the condition or conditions that permit any portion of the expenditure to be revoked by or
21 returned to the Covered Employer.

22 * * * *

23
24 Section 3. The Police Code is hereby amended by revising Section 4910(b), to read as
25 follows:

1 **SEC. 4910. EMPLOYER RECORDS.**

2 * * * *

3 (b) An Employer shall provide information to the OLSE, or the OLSE’s designee, on an
4 annual basis (with the exception of reporting on calendar year 2019 and 2020 compliance) as may
5 be required to verify the Employer’s compliance with this Article.

6 * * * *

7
8 Section 4. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor’s veto of the ordinance.

12
13 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
17 additions, and Board amendment deletions in accordance with the “Note” that appears under
18 the official title of the ordinance.

19
20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

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

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LEGISLATIVE DIGEST

[Administrative, Police Codes - Waiving Employer Requirements to Report on 2020 Compliance with Health Care Security Ordinance and Fair Chance Ordinance]

Ordinance amending the Administrative Code to waive the requirement for employers to report compliance with the Health Care Security Ordinance for 2020, codifying the previous waiver of such requirement for 2019, amending the Police Code to waive the requirement for employers to report compliance with the Fair Chance Ordinance for 2020, and codifying the previous waiver of such requirement for 2019.

Existing Law

The City's Health Care Security Ordinance ("HCSO"), Administrative Code Chapter 14, requires employers to make minimum health care expenditures for their employees working in the City. Section 14.3(f)(2) of the HCSO requires employers to report annually on their compliance.

The City's Fair Chance Ordinance ("FCO"), Police Code Article 49, restricts how employers may consider applicants' and employees' arrest and conviction records and related information. Section 4910(b) of the FCO requires employers to report annually on their compliance.

On March 23, 2020, Mayor London Breed, in the Fifth Supplement to her proclamation of local emergency related to the COVID-19 pandemic, waived the requirements to report on 2019 compliance under both the HCSO and FCO.

Amendments to Current Law

This ordinance waives the requirements that employers report on their HCSO and FCO compliance during calendar year 2020. Further, for clarity, it codifies the Mayor's previous waiver of both reporting requirements on compliance during 2019.

Background Information

This ordinance addresses only reporting requirements. It does not change any of the substantive employer requirements under either the HCSO and FCO.

BOARD of SUPERVISORS



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MEMORANDUM

TO: Dr. Grant Colfax, Director, Department of Public Health
Chief William Scott, Police Department

FROM: Victor Young, Assistant Clerk *Victor Young*

DATE: March 8, 2021

SUBJECT: LEGISLATION INTRODUCED

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

File No. 210218

Ordinance amending the Administrative Code to waive the requirement for employers to report compliance with the Health Care Security Ordinance for 2020, codifying the previous waiver of such requirement for 2019, amending the Police Code to waive the requirement for employers to report compliance with the Fair Chance Ordinance for 2020, and codifying the previous waiver of such requirement for 2019.

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: linda.wong@sfgov.org.

- c. Greg Wagner, Department of Public Health
Dr. Naveena Bobba, Department of Public Health
Sneha Patil, Department of Public Health
Arielle Fleisher, Department of Public Health
Rowena Carr, Police Department
Lili Gamero, Police Department
Diana Oliva-Aroche, Police Department