

File No. 210456

Committee Item No. 3

Board Item No. 16

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: May 6, 2021

Board of Supervisors Meeting:

Date: May 11, 2021

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
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OTHER

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|-------------------------------------|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Presidential Action Memo – 30-day Hold Waiver – April 29, 2021</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
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| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |

Prepared by: John Carroll

Date: April 29, 2021

Prepared by: John Carroll

Date: May 7, 2021

Prepared by: John Carroll

Date: _____

1 [Emergency Ordinance - COVID-Related Hazard Pay]

2

3 **Reenactment of emergency ordinance (Ordinance No. 36-21) to temporarily require**
 4 **certain retail locations that include grocery stores or pharmacies, and property service**
 5 **contractors for retail locations that include grocery stores or pharmacies, to pay**
 6 **employees an additional five dollars per hour during the public health emergency**
 7 **related to 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.

12

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

14

15 Section 1. Declaration of Emergency Pursuant to Charter Section 2.107.

16 (a) Section 2.107 of the Charter authorizes passage of an emergency ordinance in
 17 cases of public emergency affecting life, health, or property, or for the uninterrupted operation
 18 of any City or County department or office required to comply with time limitations established
 19 by law. An emergency ordinance enacted under Charter Section 2.107 automatically
 20 terminates on the 61st day after passage, but may be reenacted upon the same terms and
 21 conditions applicable to its initial enactment.

22 (b) Pursuant to Charter Section 2.107, the City enacted an emergency ordinance
 23 (Ordinance No. 36-21) to temporarily require certain retail locations that include grocery stores
 24 or pharmacies, and property service contractors for retail locations that include grocery stores
 25 or pharmacies, to pay employees an additional \$5 per hour Hazard Pay during the public

1 health emergency related to COVID-19. The effective date of the emergency ordinance was
2 March 19, 2021, and the ordinance became operative on March 22, 2021. The emergency
3 ordinance will terminate automatically on May 19, 2021, unless reenacted.

4 (c) The Board of Supervisors hereby finds that the findings declared in Sections 1 and
5 2 of Ordinance No. 36-21 remain valid and compelling, and declares further that an actual
6 emergency continues to exist that requires the reenactment of that emergency ordinance to
7 reduce the likelihood of COVID-19 infection among workers at grocery stores and drug stores,
8 their families and coworkers, and the members of the public with whom they interact.

9
10 Section 2. Reenactment of Emergency Ordinance.

11 Consistent with Charter Section 2.107, this emergency ordinance reenacts for an
12 additional 60 days the emergency ordinance requiring Hazard Pay for certain workers
13 (Ordinance No. 36-21).

14
15 Section 3. Effective Date; Expiration.

16 (a) If enacted prior to the expiration of Ordinance No. 36-21, this reenacted emergency
17 ordinance shall become effective immediately upon the date of expiration of Ordinance No.
18 36-21, and shall itself expire on June 15, 2021.

19 (b) If enacted after the expiration of Ordinance No. 36-21, this reenacted emergency
20 ordinance shall become effective immediately upon enactment, and shall itself expire on June
21 15, 2021.

22
23 Section 4. Directions to Clerk.

24 The Clerk of the Board of Supervisors is hereby directed to place a copy of this
25 reenacted emergency ordinance in File No. 210181 for Ordinance No. 36-21 and to make a

1 notation cross-referencing this emergency ordinance where Ordinance No. 36-21 appears on
2 the Board of Supervisors website as legislation passed.

3

4 Section 5. Supermajority Vote Required.

5 In accordance with Charter Section 2.107, passage of this reenacted emergency
6 ordinance by the Board of Supervisors requires an affirmative vote of two-thirds of the Board
7 of Supervisors.

8

9 APPROVED AS TO FORM:
10 DENNIS J. HERRERA, City Attorney

11 By: /s/ _____
12 LISA POWELL
13 Deputy City Attorney

13

14 n:\legana\as2021\2100300\01528697.docx

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LEGISLATIVE DIGEST

[Emergency Ordinance - COVID-Related Hazard Pay]

Reenactment of emergency ordinance (Ordinance No. 36-21) to temporarily require certain retail locations that include grocery stores or pharmacies, and property service contractors for retail locations that include grocery stores or 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 in the City to pay a minimum hourly wage rate, which is adjusted annually and is currently \$16.07 per hour. Additionally, an emergency ordinance (Ordinance No. 36-21) 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 a \$5 per hour hazard pay supplement to employees (up to a total wage of \$35 per hour).

The legislative digest for emergency Ordinance No. 36-21 is found in Board File No. 210181. Slightly edited, it summarizes the emergency ordinance as follows:

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. 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. Non-retail pharmacies, such as a pharmacy that serves a hospital, are not covered. Covered employers that voluntarily provided hazard pay may offset the employer-initiated hazard pay.

The emergency ordinance includes anti-retaliation protections that, among other provisions, prohibit interfering with rights 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) has implemented and is enforcing the emergency ordinance. OLSE published a notice suitable for employers to inform employees of their rights under the emergency ordinance, which employers were required to provide 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.

Amendments to Existing Law

The proposed emergency ordinance reenacts Ordinance No. 36-21, with the result that it does not terminate on May 19, 2021. The proposed emergency ordinance sunsets on June 15, 2021.

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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: 4/29/2021

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. 210456 Walton

(Primary Sponsor)

Title. [Emergency Ordinance - COVID-Related Hazard Pay]

Transferring (Board Rule No 3.3)

File No. [Redacted]

[Redacted]
(Primary Sponsor)

Title. [Redacted]

From: [Redacted] Committee

To: [Redacted] Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor: [Redacted] Replacing Supervisor: [Redacted]

For: [Redacted] Meeting
(Date) (Committee)

Start Time: [Redacted] End Time: [Redacted]

Temporary Assignment: Partial Full Meeting


Shamann Walton, President
Board of Supervisors

Member, Board of Supervisors
District 5



City and County of San Francisco

DEAN PRESTON

DATE: MAY 6, 2021

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Preston
Chairperson

RE: Government Audit and Oversight Committee
COMMITTEE REPORT

Pursuant to Board Rule 4.20, as Chair of the Government Audit and Oversight Committee I have deemed the following matters to be of an urgent nature and request each be considered by the full Board on Tuesday, May 11, 2021, as Committee Reports:

File No. 210456 [Emergency Ordinance - COVID-Related Hazard Pay]

Emergency Reenactment of emergency ordinance (Ordinance No. 36-21) to temporarily require certain retail locations that include grocery stores or pharmacies, and property service contractors for retail locations that include grocery stores or pharmacies, to pay employees an additional five dollars per hour during the public health emergency related to COVID-19.

These matters will be heard in the Government Audit and Oversight Committee during a regular meeting on Thursday May 6, 2021, at 10:00 a.m.

A handwritten signature in blue ink that reads "Dean Preston".

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#)
Cc: [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Ng, Wilson \(BOS\)](#); [Laxamana, Junko \(BOS\)](#); [Nagasundaram, Sekhar \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [Carroll, John \(BOS\)](#)
Subject: FW: Ordinance 36-21
Date: Friday, May 7, 2021 1:39:46 PM
Attachments: [CSRR SF Letter of Opposition to Premium Pay Ordinance 5.6.21.pdf](#)

From: Jim Ross <jim@telegraphpr.com>
Sent: Thursday, May 6, 2021 3:27 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Ordinance 36-21

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

Please find the attached letter regarding to the Board of Supervisors regarding [Ordinance 36-21](#), the premium pay for grocery and drug store workers, from our client the California Retailers Association attached to this email.

Thank you for your assistance.

Jim Ross
Telegraph
jim@telegraphpr.com
<http://www.telegraphpr.com>
415-824-0582
415-377-6968(Mobile)
@jasross

May 6, 2021

The Honorable London Breed
Mayor
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

Dear Mayor Breed and County Supervisors:

On behalf of Californians for a Safe and Rapid Recovery, a diverse and growing coalition working for an equitable reopening of our state's economy (see attached for a full list of our coalition members), we are writing to you today to ask that you let [Ordinance 36-21](#), the premium pay ordinance for grocery and drug store workers, expire as planned on May 19, 2021.

With 70% of San Franciscans over 16 years old receiving at least one shot of the vaccine, now is not the time to risk the unintended consequences of government-mandated premium pay. San Francisco is leading the nation in delivering vaccinations to its residents, particularly in disadvantaged communities, with only 0.7% of COVID-19 tests coming back positive. And, San Francisco has now moved into the state's least restrictive Yellow Tier. Further, [Governor Gavin Newsom has announced](#) that he is "confident we will glide into June 15 and we will remove all the restrictions."

In January, the San Francisco Board of Supervisors passed [Resolution 6-21](#), urging premium pay while San Francisco is in the Purple, Red or Orange Tiers. We urge the Board to stick with its original intent and let this policy expire now that San Francisco is in the Yellow Tier.

Government-mandated premium pay has several unintended consequences. These mandates can be the final blow to stores under pressure – forcing many to close and creating voids for the communities that rely on them.

- Many communities in San Francisco are without a pharmacy or grocery store and further regulations make it challenging for these outlets to open or stay open.
- Losing a retail grocery store or local pharmacy changes a community, forcing our neighbors to walk, drive or bus even further to buy affordable, nutritious food or get access to medications.
- Many commercial districts face the challenge of vacant storefronts which further depress struggling neighborhoods and worsen issues like homelessness and crime.

With the crisis abating, it is time to reopen San Francisco safely and steadily. We can't afford the unintended consequences of government-mandated premium pay. Instead, let's focus on the more urgent matter of administering vaccinations to defeat COVID-19.

It is likely that a booster for COVID-19 will be required in the next six to 18 months. We would like to make sure we can help support the City and County of San Francisco in its current and future efforts to deliver vaccinations as we prepare for this next phase of fighting the pandemic.

Please feel free to reach out if you have any questions.



Sincerely,
Rachel Michelin
President
California Retailers Association

Attached:

- Californians for a Safe and Rapid Recovery coalition list

Coalition Members

The following organizations are members of Californians for a Safe and Rapid Recovery and opponents of government-mandated premium pay that is counterproductive for workers and hurts consumers and our communities.

Organizations

- Anaheim Chamber of Commerce
- Antelope Valley Chamber of Commerce
- Beverly Hills Chamber of Commerce
- Brea Chamber of Commerce
- Building Owners and Managers Association, Orange County
- California African American Chamber of Commerce
- California Asian Pacific Chamber of Commerce
- California Business Properties Association
- California Business Roundtable
- California Chamber of Commerce
- California Hispanic Chambers of Commerce
- California Retailers Association
- California Taxpayers' Coalition
- California Taxpayer Protection Committee
- Carlsbad Chamber of Commerce
- Central Valley Business Federation
- Central Valley Taxpayers Association
- Century City Chamber of Commerce
- Chamber of Commerce and Civic Association of Pasadena
- Consumer Choice Center
- Culver City Chamber of Commerce
- Family Business Association of California
- Fountain Valley Chamber of Commerce
- Fresno Chamber of Commerce
- Fresno County Farm Bureau
- Gardena Valley Chamber of Commerce
- Gilroy Chamber of Commerce
- Greater San Fernando Valley Chamber of Commerce
- Kern County Taxpayers Association
- LAX Coastal Chamber of Commerce
- Long Beach Area Chamber of Commerce
- Los Angeles County Business Federation
- Murrieta/Wildomar Chamber of Commerce
- National Association of Chain Drug Stores
- National Federation of Independent Business - California
- National Retail Federation
- Norco Area Chamber of Commerce
- Oceanside Chamber of Commerce
- Orange County Business Council
- Orange County Taxpayers Association
- Placer County Taxpayers Association
- San Diego Tax Fighters
- San Gabriel Valley Economic Partnership
- San Leandro Chamber of Commerce
- San Pedro Chamber of Commerce
- Santa Maria Valley Chamber of Commerce
- Silicon Valley Taxpayers Association
- South Orange County Economic Coalition
- Southwest California Legislative Council
- Torrance Area Chamber of Commerce
- Valley Industry and Commerce Association
- West Hollywood Chamber of Commerce
- Wilmington Chamber of Commerce
- Yorba Linda Chamber of Commerce

From: [mike stone](#)
To: [Carroll, John \(BOS\)](#)
Subject: Hazard pay
Date: Thursday, May 6, 2021 8:41:24 AM

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

John, Can you please give this to the supervisors before the committee meeting?

Supervisors Preston, Chan, and Mandelman,

With the city going to the yellow zone and virtually no virus cases for quite a while at my stores, there is no need for hazard pay because there exists no hazard. All of our employees have been vaccinated (short of the few that don't want to get it). This is hurting a small independent like myself, since I'm the only one it applies to before you get to major chains in San Francisco.

If you do want to enact it, please have it apply to companies that have the ware for all to afford it. If you must, apply it to retail formula businesses or businesses with over 750 employees.

Thank you for your consideration and understanding,

Respectfully,

Mike Stone
Owner
Mollie Stone's Markets

From: [Tim James](#)
To: [ChanStaff \(BOS\)](#); [Haney, Matt \(BOS\)](#); [MandelmanStaff, \[BOS\]](#); [Mar, Gordon \(BOS\)](#); [MelgarStaff \(BOS\)](#); [Peskin, Aaron \(BOS\)](#); [Preston, Dean \(BOS\)](#); [Ronen, Hillary](#); [Safai, Ahsha \(BOS\)](#); [Stefani, Catherine \(BOS\)](#); [Walton, Shamann \(BOS\)](#)
Cc: [Board of Supervisors, \(BOS\)](#); [Breed, Mayor London \(MYR\)](#); [Carroll, John \(BOS\)](#)
Subject: Grocery Worker Additional Pay Extension
Date: Thursday, May 6, 2021 7:44:13 AM
Attachments: [SF Grocery Pay LTR 5-6-21.pdf](#)

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

Supervisors, please accept the attached letter regarding extension of the grocery worker 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

May 6, 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 with concerns regarding the extension of the Additional COVID Pay ordinance (36-21). In addition to issues raised in our letter from March 5, it is clear that circumstances have changed significantly and new concerning information is available. Improvements in COVID status and high vaccination rates coupled with increased marketplace pressures and negative consequences to employees, stores and neighborhoods outweigh the benefits of an extension.

All San Franciscans should be celebrated for their diligence and persistence in reaching Minimal Risk status, commonly referred to as the Yellow Tier. Under the current system there is no better status that can be achieved in regards to COVID safety. As part of the Yellow Tier San Francisco has chosen to reopen or decrease restrictions for a significant portion of the economy including venues previously closed or limited such as bars, restaurants and entertainment venues. These openings are a clear signal by San Francisco that both visitors and workers across all open business activities are now considered safe from COVID with proper precautions.

San Francisco Mayor London Breed and other community leaders have rightfully celebrated a tremendous vaccination rate of over 72%. In these announcements it has been recognized that San Francisco has essentially hit a herd immunity level which will only continue to reduce the risk of COVID spread.

As an industry we have also placed a high priority on vaccinations. We fought to keep grocery workers one of the first groups of essential workers to be eligible for the vaccination. In California every grocery worker has been eligible to receive the vaccination for over two months at this point. We genuinely appreciate the partnership between the San Francisco Department of Public Health and the California Grocers Association to prioritize offering the vaccine to grocery store workers as soon as they were able to receive it. Our combined efforts ensured San Francisco grocery workers were protected from COVID earlier than almost any other segment of essential workers.

The initial ordinance requiring additional pay was passed by the Board and signed by the Mayor before the release of the "COVID-Related Hazard Pay: Economic Impact Report" by the Office of the Controller. This report outlines the consequences of this policy, many of which are negative for both workers and neighborhoods. The report states this policy would lead to reduced employment and higher consumer prices. It further raises the issue of having local consumers, including low-income households, pay for wage mandates that lead to higher labor costs for businesses.

The impacts recognized in the San Francisco report mirror similar conclusions and experiences in other cities, such as Los Angeles. Other California jurisdictions that have applied their policies for longer periods of time are experiencing increased grocery prices, impacts to employee and store operations, and, unfortunately, store closures.

It is important to recognize this mandate is nearly a 30% increase in employment costs. An amount this significant will push grocers to make changes in several areas including grocery prices, store operations that includes staffing and operating hours, and to reassess the sustainability of store locations. With this new knowledge from the Controller's Office and verified experiences in other jurisdictions San Francisco would be putting itself at a further disadvantage to economic recovery by extending this pay mandate.

May 6, 2021
PAGE 2



Specific to grocery item pricing, the USDA and grocer industry analysts have reported increasing grocery item costs that are expected to continue. For example, prices for meat have risen 5.5 percent last year with prices for fruits rising over 11 percent. These cost increases are due to various impacts in the supply chain and will force an overall cost in the price of groceries, hitting vulnerable communities the hardest. Increased cost of goods coupled with the increased expense of implementing COVID protocols for safety stacked on top of dropping sales volume is putting a significant financial strain on grocers. It is important to consider the impact of continuing to raise employment costs by 30% will have on grocery accessibility for San Franciscans at this critical moment of recovery.

Based on improved circumstances specific to COVID safety, new information, including your own economic impact report, and the experience of other jurisdictions, we implore you not move forward with an extension of the additional pay ordinance. We believe it is in the best interest of the city as whole to not pursue an extension based on the negative policy consequences and continued legal issues.

Thank you for your consideration and we look forward to continuing to combat the pandemic and restore economic stability in partnership with the City of San Francisco.

Sincerely,

Timothy James
California Grocers Association

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

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

Subject:

Emergency Ordinance - COVID-Related Hazard Pay

The text is listed:

Reenactment of emergency ordinance (Ordinance No. 36-21) to temporarily require certain retail locations that include grocery stores or pharmacies, and property service contractors for retail locations that include grocery stores or pharmacies, 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