



November 20, 2024

Re: Worker Justice Fund (File No. 240905)

Dear Board of Supervisors,

We write to share, with regret and disappointment, that the Worker Justice Fund legislation (File #240905) will not be coming before the Board of Supervisors this year. We are grateful to each of your offices for meeting with us and low-wage workers, and for your pledges of support for this legislation.

In collaboration with Supervisor Ronen and Supervisor Chan, our coalition made extensive efforts to compromise and reach agreement with IFPTE Local 21. We are very disappointed that despite multiple rounds of major amendments, an agreement could not be reached.

We deeply value our relationship to IFPTE Local 21 and OLSE staff, and we approached this process in good faith. We are deciding not to move forward with the legislation at this time because we are prioritizing above all our unity and collaboration as a progressive labor and community movement. We are facing unprecedented challenges at the federal, state and local level and we need to be working together to protect, defend, and organize workers and immigrant communities. Our responsibility and accountability to the interests of low-wage, non-union, immigrant workers and their communities drives this decision. Furthermore, we know that the success of any workers' rights enforcement tool relies on the buy-in and support of OLSE staff.

This setback is a huge disappointment to our organizations, our worker members, and wage theft victims who, despite the City's best efforts, are left unfairly holding the bag. We believe that we, IFPTE Local 21, OLSE staff, and the Board of Supervisors share a deep commitment to low-wage immigrant workers, and to uplifting the rights and power of those workers. We are confident we can work with our allies to successfully advance the Worker Justice Fund and other important pro-worker legislation to the Board in the near future.

Our invitation to all who care about non-union, low-wage, and immigrant workers is to commit to collaborating with us in protecting and supporting these workers. This includes:

- 1) Marshaling City resources and will to protect and defend immigrant workers;
- 2) Improving staffing for the critical work of OLSE;
- 3) Restoring funding for the essential outreach and worker support the Workers Rights Community Collaborative provides to enforce the City's labor laws; and
- 4) Working together to win the tools we need, including a Worker Justice Fund.

We will be convening interested stakeholders soon. To that end, enclosed is a response our coalition prepared to the specific concerns raised in IFPTE Local 21's November 14 letter. We hope

the clarifications it provides can help advance the dialogue needed to make the Fund real for low-wage and immigrant workers in San Francisco in 2025.

Please let us know if your office is interested in staying connected to these efforts.

Sincerely,

A handwritten signature in black ink, appearing to read "Shaw San Liu", with a long horizontal flourish extending to the right.

Shaw San Liu
Executive Director, Chinese Progressive Association

A handwritten signature in black ink, appearing to read "Winifred Kao", with a long horizontal flourish extending to the right.

Winifred Kao
Senior Counsel, Impact Litigation; Director, Workers' Rights Program, Asian Law Caucus

A handwritten signature in blue ink, appearing to read "Alexx Campbell", with a long horizontal flourish extending to the right.

Alexx Campbell
Senior Staff Attorney, Wage Protection Program, Legal Aid at Work



November 15, 2024

Re: Worker Justice Fund (File No. 240905)

Dear Members of the Board of Supervisors,

We write in response to the concerns raised by IFPTE Local 21 in their November 14, 2024 letter regarding the proposed Worker Justice Fund Ordinance (File #240905). We take the concerns Local 21 has raised very seriously, and address each in turn below. Based on dialogue with OLSE staff and Local 21 leadership, we have supported significant amendments to address their concerns and welcome the opportunity to continue to engage with Local 21 directly.

We have tremendous respect and gratitude for the dedicated, hardworking staff of the Office of Labor Standards Enforcement (OLSE), and the critical work they do. Our organizations fought for the creation of the OLSE and many of the pioneering San Francisco labor protections that the OLSE enforces. The OLSE is an essential resource for the communities we serve, including many of the most abused and vulnerable workers in San Francisco. We share the OLSE's goal of getting workers the money they have earned. The proposed Fund is a critical tool that better enables us to achieve our shared goals.

As for Local 21's first stated concern that the Ordinance does not provide the OLSE with "additional enforcement or collection tools," we welcome the opportunity to better understand what specific "additional enforcement or collection tools" Local 21 has in mind. To clarify, the proposed Fund does not increase or require the OLSE to change the work they currently do to collect wages owed to workers. We recognize the OLSE's stellar track record of recovering money for workers. But, as OLSE data illustrates, in some cases, despite the OLSE's best efforts, *there just is no money to collect* because the employer has closed their business, declared bankruptcy, or has no recoverable assets. The proposed Fund would be another tool in OLSE's toolbox to address this limited set of city cases and provide some restitution for workers it has determined are owed wages but who would otherwise go unpaid.

Second, we respectfully disagree with Local 21's concern that the Fund would encourage bad employers not pay their employees the wages they're owed if the City can pay them instead. A foundational component of the proposed Fund is that it *does not reduce employers' legal exposure in any way*. Employers who violate San Francisco's wage and hour laws remain *fully* liable for unpaid wages, penalties, and interest, as well as ineligibility for license renewal and city contracts, whether or not their employees receive restitution from the Fund. It is this exposure, the OLSE's diligent enforcement efforts, and the gravity of a city enforcement action against them that leads employers with assets to pay. Furthermore, the Fund does not apply to cases in which "bad actor" employers have assets. Rather, the Fund bridges the gap in OLSE cases where workers are owed money, but OLSE cannot collect. Leaving such workers empty-handed does not make employers who have already cheated their workers more likely to pay.

Third, as for Local 21's concern about drawing from OLSE's budget and detracting from OLSE's current enforcement work, we agree that the Fund should not draw away from OLSE's budget. We have supported amendments to source the Fund with unclaimed money from past OLSE cases and to cap the amount of penalties that will go into the Fund. Currently, only about 50% of the penalties recovered by OLSE from employers go to fund OLSE's budget; the remaining 50% goes into the General Fund. The express purpose of penalties is to enable OLSE to do its job of ensuring that workers who are owed wages actually receive those wages. The Fund enables OLSE to do just that.

Additionally, rather than detract from OLSE's strong enforcement work, the Fund *enables* OLSE to achieve its own goal of "foster[ing] the highest standards for worker protection."¹ Like OLSE staff, we witness how difficult it is for workers—who often face language barriers and immigration vulnerabilities—to take the risks of coming forward to complain to a government agency. It is devastating—and contrary to OLSE's own goals and mission—for workers to take that step, for OLSE to invest significant time and resources in arriving at a determination, and then for those very workers to remain unpaid. It also undermines enforcement when workers conclude that the enforcement process is meaningless or a waste of time. The Fund directly addresses that ongoing harm and injustice.

The proposed Fund would also ease the OLSE's administrative burden in OLSE cases where the employer is paying the unpaid wages owed to workers pursuant to a multi-year plan. Rather than having OLSE staff endure the administrative burdens of redistributing those periodic payments from the employer to workers, workers can be more efficiently paid out once from the Fund, and OLSE can collect the remaining payments from the employer.

Finally, Local 21's letter suggests that the legislation as written might "jeopardize the workers it seeks to protect." While the letter does not elaborate on how the proposed legislation does this, we will continue dialogue with Local 21 to better understand this concern. This legislation came directly from our work with low wage workers and supporting their leadership in addressing injustices they have experienced.

We share the same goals of OLSE's hardworking staff and Local 21: to protect San Francisco workers and create a just economy for all San Franciscans. The Worker Justice Fund advances those goals. We look forward to continued listening and dialogue.

Sincerely,

Shaw San Liu
Executive Director, Chinese Progressive Association

Winifred Kao
Senior Counsel, Impact Litigation, Director, Workers' Rights Program, Asian Law Caucus

Alexx Campbell
Senior Staff Attorney, Wage Protection Program, Legal Aid at Work

¹ S.F. OLSE Annual Report FY 22-23, p. 2.



PROFESSIONAL & TECHNICAL ENGINEERS, LOCAL 21, AFL-CIO
An Organization of Professional, Technical, and Administrative Employees

November 14, 2024

The Honorable San Francisco Board of Supervisors

1 Dr. Carlton B. Goodlett Place

City Hall, Room 244

San Francisco, CA 94102

Re: Worker Justice Fund Ordinance (File No. 240905)

Dear Members of the Board of Supervisors:

I write to you as the elected President of IFPTE Local 21, which represents over 6,300 City and County of San Francisco technical and professional workers. Local 21 represents the compliance officers and senior and principal analysts at the Office of Labor Standards Enforcement – my coworkers and me. We take great pride in our work to enforce the laws written by this Board and fight wage theft. We always want to raise the bar and deliver as much as we can for San Francisco workers. Our record in doing so speaks for itself. With regret, we express our uniform opposition to the Worker Justice Fund Ordinance.

We, the workers who make the labor standards this Board writes work, first learned of this legislation just prior to its introduction, and then were subsequently asked to support it as Local 21 members. We expressed that we could not support it as written. Likewise, the amendments also do not address our serious concerns.

First, the Ordinance does not provide us with additional enforcement or collection tools. We firmly believe no worker should suffer harm and that any worker who does should be made whole. However, without concrete tools to do so, we cannot achieve these goals.

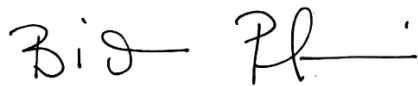
Second, and relatedly, we fear that because we have no additional enforcement tools, this Fund might inadvertently encourage bad employers to act even worse and exasperate and demotivate good employers. As written, why would a bad employer pay its employees what it owes, when the City can pay instead? If this legislation is passed, more employers will no longer remedy the harm they have caused working people.

Third, the Ordinance's costs must be paid somehow. At present, that looks like relying on penalties we fight to collect and the General Fund. We cannot support either scenario. The way this Ordinance is structured, it would burden OLSE's budget, which detracts from the enforcement work we do.

Lastly, the legislation, as written, could jeopardize the very workers it is meant to protect.

For all the reasons above, IFPTE Local 21 opposes the drafted legislation. We are willing and ready to work collaboratively alongside a broad coalition in early 2025 to discuss, plan, and implement improved outcomes for all San Francisco workers and to improve our already high-performing services to the public. We ask that we be included in step one of that process and start anew in early 2025. Had we been asked from the beginning how we could do our jobs even better, we would have participated fully in those discussions. As we stare down a second Donald Trump presidency, with no reason for optimism about how we will engage with and be funded by the federal government, we prefer to do this critical bridge-building work together from the start.

For the Union,



Bianca Polovina

President, IFPTE Local 21

cc: Angela Calvillo, Clerk of the Board of Supervisors