

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

TO: Sailaja Kurella, Director and Purchaser, Office of Contract Administration
Stephanie Tang, Director, Contract Monitoring Division

FROM: Victor Young, Assistant Clerk *Victor Young*

DATE: June 21, 2023

SUBJECT: LEGISLATION INTRODUCED

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

File No. 230705

Ordinance amending the Administrative Code to clarify that a contractor may be suspended or debarred due to violations of certain state or local labor laws governing the payment of wages and unfair labor practices.

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: Tareneh Moayed, Office Contract Administration
Rachel Cukierman, Office Contract Administration
Rochelle Fretty, Contract Monitoring Division



City and County of San Francisco

Master Report

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 230705 **File Type:** Ordinance **Status:** 30 Day Rule

Enacted: _____ **Effective:** _____

Version: 1 **In Control:** Rules Committee

File Name: Administrative Code - Suspension or Debarment of Contractors Based on Violation of Labor Laws **Date Introduced:** 06/06/2023

Requester: _____ **Cost:** _____ **Final Action:** _____

Comment: _____ **Title:** Ordinance amending the Administrative Code to clarify that a contractor may be suspended or debarred due to violations of certain state or local labor laws governing the payment of wages and unfair labor practices.

Sponsor: Chan

History of Legislative File 230705

Ver	Acting Body	Date	Action	Sent To	Due Date	Result
1	President	06/06/2023	ASSIGNED UNDER 30 DAY RULE	Rules Committee	07/06/2023	

1 [Administrative Code - Suspension or Debarment of Contractors Based on Violation of Labor
2 Laws]

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4 **suspended or debarred due to violations of certain state or local labor laws governing**
5 **the payment of wages and unfair labor practices.**

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

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

14 Section 1. Chapter 28 of the Administrative Code is hereby amended by revising
15 Section 28.3, to read as follows:

16 **SEC. 28.3. GROUNDS FOR DEBARMENT AND SUSPENSION.**

17 (a) **Debarment.** A Charging Official shall issue an Order of Debarment for any
18 Contractor who the hearing officer, based on evidence presented, finds to have engaged in
19 any willful misconduct with respect to any City bid, request for qualifications, request for
20 proposals, grant request, purchase order and/or contract, or grant award. Such willful
21 misconduct may include, but need not be limited to the following: (1) submission of false
22 information in response to an advertisement or invitation for bids or quotes, a request for
23 qualifications, or a request for proposals; (2) failure to comply with the terms of a contract or
24 with provisions of the Municipal Code; (3) a pattern and practice of disregarding or repudiating
25 terms or conditions of City contracts or grants, including without limitation repeated unexcused
delays and poor performance; (4) failure to abide by any rules and/or regulations adopted
pursuant to the Municipal Code; (5) submission of false claims as defined in this

1 Administrative Code, Chapter 6, Article V, or Chapter 21, Section 21.35, or other applicable
2 federal, state, or municipal false claims laws; (6) a verdict, judgment, settlement, stipulation,
3 or plea agreement establishing the Contractor's violation of any civil or criminal law or
4 regulation against any government entity relevant to the Contractor's ability or capacity
5 honestly to perform under or comply with the terms and conditions of a City contract or grant;
6 (7) an order, decision, verdict, judgment, settlement, stipulation, or plea agreement establishing the
7 Contractor's intentional or willful violation of any civil or criminal law or regulation governing wages
8 or unfair labor practices, including, but not limited to, violations under California Labor Code sections
9 98.1, 1771.1 and 1775, San Francisco Administrative Code Chapters 12P, 12R.4, 12W and 14, and 29
10 U.S.C. § 158(a); (8) collusion in obtaining award of any City contract or grant, or payment or
11 approval thereunder; and/or (8~~9~~) the offer or provision of any gift or money to a public official,
12 if that public official is prohibited from accepting the gift or money by any law or regulation.

13 (b) **Suspension.** Any Charging Official may issue an Order of Suspension to a
14 Contractor on the basis that the Contractor has been arrested or indicted, or become the
15 subject of a criminal, civil or administrative complaint issued by a government entity, where
16 the arrest or indictment, criminal, civil, or administrative complaint alleges that the Contractor
17 has violated a civil or criminal law or regulation against any government entity relevant to the
18 Contractor's ability or capacity honestly to perform under or comply with the terms and
19 conditions of a City contract or grant including, but not limited to, the grounds for Debarment
20 set forth in Section 28.3(a).

21
22 Section 2. Effective Date. This ordinance shall become effective 30 days after
23 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
24 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
25 of Supervisors overrides the Mayor's veto of the ordinance.

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Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the “Note” that appears under the official title of the ordinance.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ Kate G. Kimberlin
KATE G. KIMBERLIN
Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Suspension or Debarment of Contractors Based on Violation of Labor Laws]

Ordinance amending the Administrative Code to clarify that a contractor may be suspended or debarred due to violations of certain state or local labor laws governing the payment of wages and unfair labor practices.

Existing Law

Chapter 28 of the Administrative Code currently provides eight potential bases to seek suspension or debarment of a contractor.

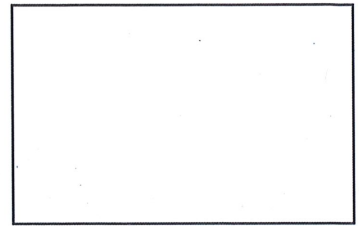
Amendments to Current Law

The amendment to Chapter 28 would specify an additional basis to seek suspension or debarment of a contractor: an order, decision, verdict, judgment, settlement, stipulation, or plea agreement establishing the contractor's intentional or willful violation of any civil or criminal law or regulation governing wages or unfair labor practices.

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Introduction Form

(by a Member of the Board of Supervisors or the Mayor)



I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)
(Routine, non-controversial and/or commendatory matters only)
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor [] inquires..."
- 5. City Attorney Request
- 6. Call File No. [] from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Topic submitted for Mayoral Appearance before the Board on []

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Chan

Subject:

Administrative Code - Suspension or Debarment of Contractors Based on Violation of Labor Laws

Long Title or text listed:

Ordinance amending the Administrative Code to clarify that a contractor may be suspended or debarred due to violations of certain state or local labor laws governing the payment of wages and unfair labor practices.

Signature of Sponsoring Supervisor:

From: [Groth, Kelly \(BOS\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Chan, Connie \(BOS\)](#); [KIMBERLIN, KATE \(CAT\)](#); [PEARSON, ANNE \(CAT\)](#); [Somera, Alisa \(BOS\)](#)
Subject: Chan - Introduction Form - Violation of Labor Laws
Date: Tuesday, June 6, 2023 2:48:02 PM
Attachments: [01681316.docx](#)
[01681868.docx](#)
[Chan - Intro Form - Suspension or Debarment signed.pdf](#)

Hi Clerk's Office,

Please see attached introduction form, ordinance, and legislative digest for legislation Supervisor Chan will be introducing today, amending the administrative code. Copying Deputy City Attorney Kate Kimberlin for approval.

Thank you,
Kelly

Kelly Groth | 明美
Legislative Aide
Office of Supervisor Chan
District 1, San Francisco Board of Supervisors
(415) 554-7413

From: [Kimberlin, Kate \(CAT\)](#)
To: [BOS Legislation, \(BOS\)](#); [Groth, Kelly \(BOS\)](#)
Cc: [Chan, Connie \(BOS\)](#); [PEARSON, ANNE \(CAT\)](#); [Somera, Alisa \(BOS\)](#); [BOS Legislation, \(BOS\)](#)
Subject: RE: Chan - Introduction Form - Violation of Labor Laws
Date: Wednesday, June 7, 2023 11:27:54 AM
Attachments: [image002.png](#)
[image004.png](#)

Confirmed. Thank you.

Kate G. Kimberlin (*she/her*)
Deputy City Attorney
Office of City Attorney David Chiu
(415) 554-4780 Direct
www.sfcityattorney.org

From: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Sent: Wednesday, June 7, 2023 11:26 AM
To: Groth, Kelly (BOS) <kelly.groth@sfgov.org>; Kimberlin, Kate (CAT) <Kate.Kimberlin@sfcityatty.org>
Cc: Chan, Connie (BOS) <connie.chan@sfgov.org>; Pearson, Anne (CAT) <Anne.Pearson@sfcityatty.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>; BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Subject: RE: Chan - Introduction Form - Violation of Labor Laws

Thank you for the legislation submission.

We are seeking the approval of Deputy City Attorney Kate Kimberlin for use of her electronic signature and approval as to form. Kindly confirm that the attached ordinance is approved as to form, and the /s/ next to her name in the signature line of the ordinance has the same effect as her signature, by reply of this email.

Lisa Lew
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org

(VIRTUAL APPOINTMENTS) To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

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from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.

From: Groth, Kelly (BOS) <kelly.groth@sfgov.org>

Sent: Tuesday, June 6, 2023 2:48 PM

To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>

Cc: Chan, Connie (BOS) <connie.chan@sfgov.org>; KIMBERLIN, KATE (CAT) <Kate.Kimberlin@sfcityatty.org>; PEARSON, ANNE (CAT) <Anne.Pearson@sfcityatty.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>

Subject: Chan - Introduction Form - Violation of Labor Laws

Hi Clerk's Office,

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Kelly Groth | 明美
Legislative Aide
Office of Supervisor Chan
District 1, San Francisco Board of Supervisors
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10
11 APPROVED AS TO FORM:
12 DAVID CHIU, City Attorney

13 By: /s/ Kate G. Kimberlin
14 KATE G. KIMBERLIN
15 Deputy City Attorney

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