

File No. 160199

Committee Item No. 1
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date April 20, 2016

Board of Supervisors Meeting

Date _____

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance |
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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
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| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
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| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
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OTHER

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Completed by: Linda Wong Date April 14, 2016
Completed by: Linda Wong Date _____

1 [Administrative Code - Prevailing Wages for Commercial Vehicle Loading and Unloading on
2 Park Property]

3 **Ordinance amending the Administrative Code to require that prevailing wages be paid**
4 **for work loading or unloading materials, goods, or products for special events on City**
5 **park property, and the driving of commercial vehicles for that purpose.**

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. The Administrative Code is hereby amended by revising Section 21C.7 and
15 adding Section 21C.10, to read as follows:

16 **SEC. 21C.7. STANDARD PROVISIONS GOVERNING THE PREVAILING RATE OF**
17 **WAGES, WORKER RETENTION, AND USE OF EMPLOYEES FOR WORK UNDER CITY**
18 **CONTRACTS FOR CERTAIN SERVICES.**

19 * * * *

20 (b) Definitions. For purposes of this Chapter 21C, the following definitions shall apply
21 to the terms used herein.

22 * * * *

23 "Covered Contract" shall mean an agreement between the City and a Contractor for
24 the following services: "Motor Bus Services" as defined in Section 21C.1, subject to the
25 provisions of Section 21C.1; "Janitorial Services" as defined in Section 21C.2; "Public Off-
Street Parking Lots, Garages, or Storage Facilities for Automobiles" as defined in Section

1 21C.3; "Theatrical Services" as defined in Section 21C.4; "Solid Waste Generated By The City
2 In Course of City Operations" as defined in Section 21C.5; "Moving Services" as defined in
3 Section 21C.6; *and* "Trade Show and Special Event Work" as defined in Section 21C.8;
4 "Broadcast Services" as defined in Section 21C.9; *and* "Loading, Unloading, and Driving of
5 Commercial Vehicles" under Section 21C.10.

6 * * * *

7 **SECTION 21C.10. PREVAILING RATE OF WAGES REQUIRED FOR LOADING,**
8 **UNLOADING, AND DRIVING COMMERCIAL VEHICLES AT SPECIAL EVENTS ON PARK**
9 **PROPERTY.**

10 *(a) Prevailing Wage Requirement. Every Permit issued or granted by the City for the use of*
11 *property owned by the City for a Special Event as defined in subsection (b), below, must require that*
12 *(1) any Individual engaged in loading or unloading on City property of materials, goods, or products*
13 *into or from a Commercial Vehicle for the Special Event be paid not less than the Prevailing Rate of*
14 *Wages, including fringe benefits or the matching equivalents thereof, paid in private employment for*
15 *similar work in the area in which the loading or unloading is being performed, and (2) any Individual*
16 *driving a Commercial Vehicle from which materials, goods, or products are loaded or unloaded on*
17 *City property for such Special Event shall be paid not less than the Prevailing Rate of Wages for hours*
18 *driven within the City limits. All Permits subject to this Section 21C.10 shall require that the permittee*
19 *agrees to comply with, and to require subcontractors to comply with, the obligations imposed by this*
20 *Section.*

21 *(b) Definitions. For purposes of this Section 21C.10, the following definitions shall apply to*
22 *the terms used herein:*

23 *"Commercial Vehicle" shall mean a vehicle that (1) is used or maintained primarily for the*
24 *transportation of materials, goods, or products, (2) has six wheels or more, and (3) displays or is*
25 *required to display a California Department of Motor Vehicles weight decal as required by the*

1 Commercial Vehicle Registration Act, California Vehicle Code Section 9400 et seq., as amended.

2 Notwithstanding the foregoing sentence, Commercial Vehicle shall not include a vehicle used
3 exclusively for food catering purposes, meaning its exclusive purpose on a particular trip is for the
4 transport of food and/or beverages to be served at a Special Event, the transport of equipment for the
5 preparation and service of such food and/or beverages at a Special Event, or both.

6 “Permit” shall mean a permit to use property under the jurisdiction of the Recreation and Park
7 Commission, but shall not include a permit:

8 (1) For celebration of a marriage, domestic partnership, or similar civil union;

9 (2) Which involves engaging in film production pursuant to Chapter 57 of this Code or
10 under the circumstances set forth in Section 57.7 of this Code;

11 (3) For which the payment of prevailing wage rates applicable to public works projects
12 is required;

13 (4) For a Special Event that is a street fair, block party, parade, festival, or any
14 celebration directly associated with such street fair, block party, parade, festival, or any other
15 expressive activity such as a protest, demonstration, or similar public assembly, that is free and open to
16 the public and does not advertise or promote a commercial product or service; provided, however, that
17 a commercial entity’s sponsorship of such an event shall not, by itself, constitute advertising or
18 promotion for purposes of this exclusion so long as the entity does not engage in the sale of products or
19 services at the event;

20 (5) For which the permit fee to be paid to the City is \$1,000 or less;

21 (6) For a concert in a public park to which the public has free access, provided that this
22 exception shall not apply to a permit for an otherwise private or ticketed Special Event that includes a
23 free public concert as an ancillary aspect of the event and such concert is not the primary purpose of
24 the event;

1 (7) For a Special Event that is sponsored by a non-profit entity where the primary
2 purpose of the event is fundraising for that non-profit entity and/or other non-profit entities; or

3 (8) For a Special Event that is sponsored by a primary or secondary educational
4 institution or by a youth athletic league.

5 “Special Event” shall mean a temporary event on property under the jurisdiction of the
6 Recreation and Park Commission with anticipated attendance of 150 or more persons. Examples of
7 Special Events include concerts, fairs, festivals, community events, mass participation sports (such as
8 marathons and other running events, bicycle races, or tours), or spectator sports. “Special Event”
9 shall include an event that is funded in whole or in part by City funds.

10 (c) **Preemption.** Nothing in this Section 21C.10 shall be interpreted or applied so as to create
11 any right, power, or duty in conflict with any federal or state law.

12 (d) **Conflict with Other Sections.** In the event of a conflict between this Section 21C.10 and
13 any other sections of this Chapter 21C, the other section(s) shall prevail.

14 **(e) Operative Date and Application.**

15 (1) This Section 21C.10 shall become operative upon the initial setting by the Board of
16 Supervisors of a Prevailing Rate of Wages for loading, unloading, and driving of Commercial Vehicles
17 at Special Events on City property. This initial Prevailing Rate of Wages shall be set in accordance
18 with the process established in Section 21C.7(c)(1), except the Civil Service Commission shall submit
19 to the Board of Supervisors data as to the Prevailing Rate of Wages no later than 120 days after the
20 effective date of this Section 21C.10. Thereafter, the Commission shall submit data as to the Prevailing
21 Rate of Wages for loading, unloading, and driving of Commercial Vehicles at Special Events on City
22 property, on or before the first Monday in November each year in accordance with Section 21C.7(c)(1).

23 (2) This Section 21C.10 is intended to have prospective effect only, and shall not be
24 interpreted to impair the obligations of any pre-existing Permit issued or entered into by the City. This
25 Section shall only apply to Permits entered into on or after the operative date of this Section.

1 (f) Exemptions. This Section 21C.10 shall not apply to the following:

2 (1) any Individual engaged in the loading or unloading of portable toilets, temporary
3 fencing, or temporary barricades, or any Individual driving a Commercial Vehicle from which portable
4 toilets, temporary fencing, or temporary barricades are loaded or unloaded;

5 (2) individual vendors at a flea market or farmers market conducted on City property;
6 provided, however, that this Section shall apply to loading, unloading, or driving of Commercial
7 Vehicles for such events if these events would otherwise be covered by this Section 21C.10 and the
8 loading, unloading or driving is performed by the operator or management of the flea market or
9 farmers market;

10 (3) work that is covered under a collective bargaining agreement; or

11 (4) work that is performed by a City employee.

12 (g) Severability. If any provision or provisions of this Section 21C.10 or any application
13 thereof is held invalid, such invalidity shall not affect any other provisions or applications of the
14 Section.

15
16 Section 2. Effective Date. This ordinance shall become effective 30 days after
17 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
18 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
19 of Supervisors overrides the Mayor's veto of the ordinance. However, as indicated in
20 Administrative Code Section 21C.10(e), Section 21C.10 shall become operative only upon the
21 initial setting of a Prevailing Rate of Wages for the categories of work covered by that section.
22

23 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
24 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
25 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal

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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:
DENNIS J. HERRERA, City Attorney

By: 
FRANCESCA GESSNER
Deputy City Attorney

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REVISED LEGISLATIVE DIGEST

(Substituted, 4/12/2016)

[Administrative Code - Prevailing Wages for Commercial Vehicle Loading and Unloading on Park Property]

Ordinance amending the Administrative Code to require that prevailing wages be paid for work loading or unloading materials, goods, or products for special events on City park property, and the driving of commercial vehicles for that purpose.

Existing Law

In addition to prevailing wage requirements governing public works projects, several City ordinances require the payment of prevailing wages for certain types of work connected with City property, including, among others, janitorial services, parking garage attendant services, theatrical workers services, moving services, trade show work, and broadcast services. See Admin. Code §§ 21C.1-21C.9. There is no prevailing wage ordinance governing work loading, unloading, or driving commercial vehicles for special events on City property.

Amendments to Current Law

The ordinance would require that permits for special events on City property under the jurisdiction of the Recreation and Park Commission include a requirement that prevailing wage be paid to (1) any individual performing work loading or unloading on City property materials, goods, or products into or from a Commercial Vehicle for the special event, and (2) any individual driving a Commercial Vehicle from which materials, goods, or products are loaded or unloaded for such special event. The ordinance would apply to temporary events on park property with an anticipated attendance of 150 or more persons.

The ordinance defines "Commercial Vehicle" as a vehicle that (1) is used primarily for the transportation of materials, goods, or products, (2) has six wheels or more, and (3) displays or is required to display a California Commercial Vehicle Registration Act weight decal sticker. Commercial Vehicle does not include a vehicle being used exclusively for food catering purposes.

The ordinance exempts the following types of events or activities from the prevailing wage requirement for loading, unloading or driving of Commercial Vehicles on City property:

1. Weddings
2. Film production pursuant to Chapter 57 of this Code
3. Work for which the payment of prevailing wage rates applicable to public works projects is required

4. A street fair, block party, parade, festival, or any celebration directly associated with such street fair, block party, parade, festival, or any other expressive activity such as a protest, demonstration, or similar public assembly, that is free and open to the public and does not advertise or promote a commercial product or service
5. Events for which the permit fee to be paid to the City is \$1,000 or less
6. A concert in a public park to which the public has free access, unless the concert is only an ancillary part of an otherwise private or ticketed event
7. A special event that is sponsored by a non-profit entity where the primary purpose of the event is fundraising for that non-profit entity and/or other non-profit entities; or
8. A special event that is sponsored by a primary or secondary educational institution or by a youth athletic league
9. Loading or unloading of portable toilets, temporary fencing, and/or temporary barricades, or driving a Commercial Vehicle from which goods are loaded or unloaded
10. Work performed by individual vendors at a flea market or farmers market on City property, unless such work is performed by the operator or management of the flea market or farmers market
11. Work that is covered under a collective bargaining agreement
12. Work that is performed by a City employee

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|--|--|
| Item 1 File 16-0199 | Department: Office of Labor Standards and Enforcement (OLSE) |
| EXECUTIVE SUMMARY | |
| Legislative Objectives | |
| <ul style="list-style-type: none"> • The proposed ordinance would amend the Administrative Code to require that prevailing wages be paid for certain work related to special events on City property under the jurisdiction of the Recreation and Park Department including: (1) work loading or unloading materials, goods, or products; and (2) driving of commercial vehicles from which materials, goods, or products are loaded or unloaded. | |
| Key Points | |
| <ul style="list-style-type: none"> • The Board of Supervisors annually sets prevailing wage rates for employees of businesses with particular types of City contracts. These contracts currently include: (1) public works or construction; (2) janitorial and window cleaning services; (3) public off-street parking lots, garages, and vehicle storage facilities; (4) theatrical performances; (5) solid waste hauling services; (6) moving services; (7) trade show and special event work; and (8) broadcast service work on City property. | |
| Fiscal Impact | |
| <ul style="list-style-type: none"> • Paying prevailing wages paid to workers who drive or load and unload commercial vehicles at events on park property could increase the cost to put on such events in San Francisco, and potentially result in fewer events being held in San Francisco which would reduce permit revenues to the Recreation and Park Department. Additionally, the proposed ordinance applies to trips for commercial vehicles that originate and end in San Francisco. The increased cost of such trips could incentivize promoters of these events to use businesses located outside of San Francisco to avoid these costs. It is not known at this time how the new requirements may affect the number of events held in San Francisco. | |
| Recommendation | |
| <ul style="list-style-type: none"> • Approval of the proposed ordinance is a policy decision for the Board of Supervisors. | |

MANDATE STATEMENT

City Charter Section 2.105 states that all legislative acts shall be by ordinance and shall require two readings by the Board of Supervisors.

The City's Administrative Code requires certain contractors that have contracts with the City, including public works contracts, to pay employees the highest general prevailing rate of wages for similar work in private employment. These requirements are enforced by the City's Office of Labor Standards Enforcement.

BACKGROUND

The Board of Supervisors annually sets prevailing wage rates for employees of businesses with particular types of City contracts. Table 1 below identifies the (a) specific Administrative Code Sections, (b) the dates each Administrative Code Section was last amended by the Board of Supervisors, and (c) the types of City contracts, leases, and/or operating agreements in which such businesses are required to pay prevailing wages.

Table 1: List of Contractors Required to Pay Prevailing Wages

| Administrative Code | Date of Most Recent Amendment | Type of Contract |
|---------------------|-------------------------------|--|
| Section 6.22 (E) | May 19, 2011 | Public works or construction |
| Section 21C.2 | February 2, 2012 | Janitorial and window cleaning services |
| Section 21C.3 | February 2, 2012 | Public off-street parking lots, garages and vehicle storage facilities |
| Section 21C.4 | February 2, 2012 | Theatrical performances |
| Section 21C.5 | February 2, 2012 | Solid waste hauling services |
| Section 21C.6 | February 2, 2012 | Moving services |
| Section 21C.8 | June 29, 2014 | Trade show and special event work |
| Section 21C.9 | February 10, 2016 | Broadcast service workers on City property |

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would amend the Administrative Code to add Section 21C.10 to require that prevailing wages be paid for certain work related to special events on City property under the jurisdiction of the Recreation and Park Department including: (1) loading or

unloading materials, goods, or products from a commercial vehicle; and (2) driving of commercial vehicles from which materials, goods, or products are loaded or unloaded.¹

The proposed ordinance would apply to temporary events on Recreation and Park Department property with an anticipated attendance of 150 or more persons. Additionally, the origin, destination, and entirety of the commercial vehicle's trip to and from the special event must be within City limits.

The ordinance exempts the following types of events or activities from the prevailing wage requirements set forth in the ordinance:

- Celebration of a marriage, domestic partnership, or civil union;
- Film production;
- Event which requires a permit costing less than \$1,000;
- Concert which provides free access to the public;
- Fundraiser for a non-profit;
- A special event sponsored by primary or secondary educational institution or by a youth athletic league;
- Street fair, block party, parade, festival or any celebration directly associated with expressive activity such as a protest, demonstration or public assembly that is free and open to the public, and does not advertise or promote a commercial product or service.
- Loading or unloading of portable toilets, temporary fencing, or temporary barriers;
- Driving commercial vehicles from which portable toilets, temporary fencing, or temporary barriers are loaded or unloaded;
- Individual vendors at a flea market or farmers market;
- Public works projects*;
- Work that is covered under a collective bargaining agreement*;
- Work that is performed by a City employee*.

*These activities are exempted in the proposed ordinance because they would conflict with existing wage requirements for these services.

FISCAL IMPACT

Potential Impacts on Special Events Located in San Francisco

The proposed ordinance would require employers to pay prevailing wages to workers who drive commercial vehicles, or load and unload materials, goods or products from commercial vehicles for certain special events held on Recreation and Park Department property. Increasing wages paid to these workers who are not currently paid prevailing wages could increase the cost to

¹ A commercial vehicle is defined as a vehicle that is (1) primarily used for the transportation of materials, goods, or products, (2) has six wheels or more, and (3) is required to be registered as a commercial vehicle with the California Department of Motor Vehicles. Commercial vehicles shall not include vehicles used exclusively for food catering purposes.

put on such events in San Francisco, and potentially result in fewer events being held in San Francisco, which would reduce permit revenues to the Recreation and Park Department. Additionally, the proposed ordinance applies to trips for commercial vehicles that originate and end in San Francisco. The increased cost of such trips could incentivize promoters of these events to use businesses located outside of San Francisco to avoid these costs. It is not known at this time how the new requirements may affect the number of events held in San Francisco and permit revenues to the Recreation and Park Department.

RECOMMENDATION

Approval of the proposed ordinance is a policy decision for the Board of Supervisors.

BOARD of SUPERVISORS



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

MEMORANDUM

TO: Michael Brown, Executive Officer, Civil Service Commission
Phil Ginsburg, General Manager, Recreation and Park Department
Donna Levitt, Division Manager, Office of Labor Standards Enforcement
Regina Dick-Endrizzi, Director, Small Business Commission
Susannah Greason Robbins, Executive Director, Film Commission

FROM: Linda Wong, Assistant Clerk, Budget and Finance Committee

DATE: March 15, 2016

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Budget and Finance Committee has received the following proposed legislation, introduced by Supervisor Scott Wiener:

File No. 160199

Ordinance amending the Administrative Code to require that prevailing wages be paid for work loading or unloading materials, goods, or products for special events on City park property, and the driving of commercial vehicles for that purpose.

If you have any 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.

c: Sarah Madland, Recreation and Park Department

Wong, Linda (BOS)

From: Wong, Linda (BOS)
Sent: Tuesday, March 15, 2016 3:34 PM
To: Brown, Michael (CSC); Ginsburg, Phil (REC); Levitt, Donna (ADM); Dick-Endrizzi, Regina (ECN); Robbins, Susannah (ECN)
Cc: Madland, Sarah (REC)
Subject: File No. 160199 - REFERRAL FROM BOARD OF SUPERVISORS (Budget & Finance Committee)
Attachments: 160199.pdf

Good afternoon,

Attached is a referral for BOS File No. 160199, which is being sent to you for informational purposes. If you have any comments or reports to be included with the file, please respond to this email or forward them to me at the address listed below.

File No. 160199

Administrative Code - Prevailing Wages for Commercial Vehicle Loading and Unloading on Park Property

Sincerely,

Linda Wong
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244
San Francisco, CA 94102-4689
Phone: 415.554.7719 | Fax: (415) 554-5163
Linda.Wong@sfgov.org | www.sfbos.org

Please complete a Board of Supervisors Customer Service Satisfaction form by clicking [here](#).

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

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information 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.



Introduction Form

By a Member of the Board of Supervisors or the Mayor

RECEIVED W
BOARD

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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 [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [160199]
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) 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 a Imperative

Sponsor(s):

Supervisor Wiener

Subject:

Administrative Code - Prevailing Wages for Commercial Vehicle Loading and Unloading on Park Property

The text is listed below or attached:

Ordinance amending the Administrative Code to require that prevailing wages be paid for work loading or unloading materials, goods, or products for special events on City park property, and the driving of commercial vehicles for that purpose.

Signature of Sponsoring Supervisor: Scott Wiener

For Clerk's Use Only: