

FILE NO.

LEGISLATIVE DIGEST

[Administrative Code-Public work construction contractor/subcontractor appeal hearing procedures for non-compliance with prevailing wage requirements]

Ordinance amending Administrative Code Section 6.22 "Public Work Construction Contract Terms and Working Conditions" by amending Subsection 6.22(E)(8) to further delineate due process procedures for administrative hearings on appeals by public work contractors and/or subcontractors from a Certification of Forfeiture made by the City's Labor Standards Enforcement Officer or responsible department head for non-compliance with prevailing wage requirements; and to additionally conform distribution of forfeiture provisions to state law.

Existing Law

Administrative Code §6.22 "Public Work Construction Contract Terms and Working Conditions" requires that public work contractors and subcontractors pay defined prevailing wages to workers, and provides forfeiture and penalties that may be imposed for non-compliance. The City's Office of Labor Standards Enforcement and contracting department heads implement and enforce these provisions. A contractor found in violation by OLSE and/or a contracting department head may appeal that determination of violation by timely filing a request for administrative hearing review with the Controller. The Controller will appoint an impartial hearing officer to conduct an evidentiary due process hearing and decide the matter. Under current code provisions, the Controller has utilized outside hearing officers for most of these cases. The contractor may appeal the hearing officer's decision to Superior Court. Section 6.22 also provides for distribution of any unclaimed back wages, after a two year period.

Amendments to Current Law

The proposed Ordinance would amend Administrative Code §6.22 by amending Subsections 6.22(E)(8)(b) and (c) to improve the administrative hearing process by further clarifying and specifying due process procedures and efficiencies for the public work contractor prevailing wage hearings, including an opportunity to meet and confer before proceeding to hearing; and to provide the Controller more flexibility in appointing hearing officers, by utilizing Administrative Law Judges and lawyers. The proposed Ordinance would also amend Subsection 6.22(E)(8)(d) "Distribution of Forfeiture" to better comply with current state law (California Government Code §§50050 *et seq.*), by providing a three year period prior to distribution of any unclaimed back wages.

Background Information

The Controller worked with the Office of Labor Standards Enforcement and the City Attorney's Office to develop these proposed amendments.