

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: Micki Callahan, Director, Department of Human Resources
Catherine Dodd, Director, Health Service System
Theresa Sparks, Executive Director, Human Rights Department
Jaci Fong, Director, Office of Contract Administration

FROM: Erica Major, Assistant Committee Clerk, Government Audit and Oversight
Committee, Board of Supervisors

DATE: July 28, 2015

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Government Audit and Oversight Committee has received the following proposed legislation, introduced by Supervisor Mar on July 21, 2015:

File No. 150791

Ordinance amending the Administrative Code to prohibit the City from disclosing biometric information it possesses about its employees or other persons, collecting biometric information from its employees, or using biometric information from its employees for timekeeping purposes, with certain exceptions.

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: Susan Gard, Department of Human Resources
Cameron Langner, Office of Contract Administration
Kofo Domingo, Office of Contract Administration

1 [Administrative Code - Protection of Biometric Information]

2
3 **Ordinance amending the Administrative Code to prohibit the City from disclosing**
4 **biometric information it possesses about its employees or other persons, collecting**
5 **biometric information from its employees, or using biometric information from its**
6 **employees for timekeeping purposes, with certain exceptions.**

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

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

15 Section 1. The Administrative Code is hereby amended by revising Sections 12M.1
16 and 12M.2, to read as follows:

17 **SEC. 12M.1 DEFINITIONS.**

18 For the purposes of this Chapter, the following definitions shall apply to the terms used
19 herein.

20 "Biometric Information" shall mean information derived from the biological and behavioral
21 characteristics of an individual from which distinguishing, repeatable features can be extracted for the
22 purpose of recognition. Biometric Information includes, but is not limited to, information regarding:
23 Galton ridge structure, face topography, facial skin texture, hand topography, finger topography
24 (including fingerprints), iris structure, vein structure of the hand, ridge structure of the palm, retinal
25 pattern, and handwritten signature dynamics.

(a) "City" shall mean the City and County of San Francisco.

1 ~~(b)~~ "Contract" shall mean an agreement for goods or services, including without
2 limitation agreements for public works or improvements, or grant agreements (1) to be
3 purchased or provided, at the expense of the City and County or to be paid out of moneys
4 deposited in the treasury or out of trust moneys under the control of or collected by the City
5 and County or (2) which grants the Contractor the right to receive revenues from sources
6 other than the City based on its services under the agreement.

7 ~~(c)~~ "Contractor" shall mean any person or persons, associations, cooperatives, firm,
8 partnership, corporation, trustee, trustee in bankruptcy, receiver, or combination thereof, who
9 submits a Bid or Proposal or enters into a Contract with the City and County.

10 ~~(d)~~ "Contracting Department" shall mean the department that recommends or requests
11 that a Contract be executed by the Office of Contract Administration, the Department of Public
12 Works, or other department or public official authorized to execute the contract on the
13 department's behalf.

14 ~~(e)~~ "Private Information" shall mean any information that (1) could be used to identify
15 an individual, including without limitation name, address, social security number, medical
16 information, financial information, date and location of birth, and names of relative; or (2) the
17 law forbids any person from disclosing. "Private Information" shall also include Biometric
18 Information.

19 ~~(f)~~ "Subcontractor" shall mean any person or persons, association, cooperative, firm,
20 partnership, corporation, trustee, trustee in bankruptcy, receiver, or combination thereof,
21 including without limitation any subcontractor, subconsultant or supplier at any tier, that has
22 an arrangement or agreement, directly or indirectly, with a Contractor to perform any of
23 Contractor's obligations under the Contract.

24
25 / / /

1 **SEC. 12M.2. NONDISCLOSURE OF PRIVATE INFORMATION.**

2 (a) The City shall not disclose Private Information to any person or entity unless
3 specifically authorized to do so by the subject individual or by Contract or where required by
4 Federal or State law or judicial order. The City shall not enter into any Contract for the primary
5 purpose of disclosing Private Information and shall not receive any compensation for the
6 disclosure of Private Information. The City shall not disclose Private Information of its employees to
7 any person or entity unless specifically authorized to do so by the subject employee or, for a
8 represented employee, by the terms of an operative memorandum of understanding covering the
9 represented employee, or where required by Federal or State law or judicial order.

10 (b) No Contractor or Subcontractor who receives Private Information from the City in
11 the performance of a Contract may disclose that information to a Subcontractor or any other
12 person or entity, unless the Contract authorizes the disclosure, the Contractor has first
13 received written approval from the Contracting Department to disclose the information, or the
14 disclosure is expressly required by judicial order. The disclosure and the use of the
15 information shall be in accordance with any conditions or restrictions stated in the Contract or
16 the Contracting Department's approval and shall not be used except as necessary in the
17 performance of the obligations under the Contract. The department head or the department
18 head's designee shall sign any approvals of the Contracting Department.

19 (c) The City shall not collect Biometric Information from its employees, nor shall it use
20 Biometric Information from its employees for timekeeping purposes, unless specifically authorized to
21 do so by the subject employee or, for a represented employee, by the terms of an operative
22 memorandum of understanding covering the represented employee, or where required by Federal or
23 State law or judicial order.

1 (d) Nothing in this Section 12M.2 shall prevent the City from using, issuing, or disclosing
2 photographic identification or photographic identification cards, or from using, requiring, or
3 disclosing signatures, for City business.

4
5 Section 2. Effective Date. This ordinance shall become effective 30 days after
6 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
7 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
8 of Supervisors overrides the Mayor's veto of the ordinance.

9
10 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
11 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
12 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
13 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
14 additions, and Board amendment deletions in accordance with the "Note" that appears under
15 the official title of the ordinance.

16
17 / / /
18 / / /
19 / / /
20 / / /
21 / / /
22 / / /
23 / / /
24 / / /
25 / / /

1 Section 4. Undertaking for the General Welfare. In enacting and implementing this
2 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
3 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
4 is liable in money damages to any person who claims that such breach proximately caused
5 injury.

6
7 APPROVED AS TO FORM:
8 DENNIS J. HERRERA, City Attorney

9 By: 
10 THOMAS J. OWEN
11 Deputy City Attorney

12
13 n:\legana\as2015\1500794\01032543.docx