

File No. 150269

Committee Item No. 5
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Sub-Committee Date May 13, 2015

Board of Supervisors Meeting Date _____

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <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 |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

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Completed by: Linda Wong Date May 6, 2015
Completed by: Linda Wong Date _____

1 [Police Code - Formula Retail Employee Rights]

2
3 **Ordinance amending the Police Code, Articles 33F and 33G, which contain the formula**
4 **retail employee rights ordinances, to change from 20 to 40 the number of employees in**
5 **San Francisco required for a formula retail establishment to be covered by the**
6 **Ordinances; and to allow collective bargaining agreements covering employees of**
7 **formula retail establishments to waive the protections of Articles 33F and 33G.**

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

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

17 Section 1. Background.

18 Ordinance No. 236-14, which created Article 33F of the Police Code, requires formula
19 retail establishments to offer additional hours of work, when available, to current part-time
20 employees. It also requires successor employers to retain employees for 90 days upon a
21 change in control of the business. Ordinance No. 241-14, which created Article 33G of the
22 Police Code, requires formula retail establishments to provide employees with two weeks'
23 notice of work schedules, notice of changes to work schedules, and compensation for
24 schedule changes made on less than seven days' notice and unused on-call shifts. It also
25 provides part-time employees with the same starting rate of hourly pay, access to time off,
and eligibility for promotions, as provided to full-time employees.

1
2 Section 2. Article 33F of the Police Code is hereby amended by revising Section
3 3300F.2 and adding Section 3300F.19, to read as follows:

4 **SEC. 3300F.2. DEFINITIONS.**

5 For purposes of this Article 33F, the following definitions apply:

6 * * * *

7 "Employer" shall mean any Person that owns or operates a Formula Retail
8 Establishment with ~~20~~ 40 or more Employees in the City, including corporate officers or
9 executives, who directly or indirectly or through an agent or any other person, including
10 through the services of a temporary services or staffing agency or similar entity, employs or
11 exercises control over the wages, hours or working conditions of any individual. For the
12 purpose of calculating the ~~20~~ 40-employee threshold referenced herein, Employees
13 performing work in other Formula Retail Establishments in the City that are owned or operated
14 under the same trade name by the same Employer shall be counted. Notwithstanding the
15 foregoing definition, "Employer" does not include a Nonprofit Corporation or governmental
16 entity.

17 * * * *

18
19 **SEC. 3300F.19. WAIVER UNDER COLLECTIVE BARGAINING AGREEMENT.**

20 For Employees of Formula Retail Establishments covered by a bona fide collective bargaining
21 agreement, all or any portion of the applicable requirements of this Article 33F shall not apply to the
22 extent that such requirements are expressly waived in the collective bargaining agreement in clear and
23 unambiguous terms.

1 Section 3. Article 33G of the Police Code is hereby amended by revising Section
2 3300G.3 and adding Section 3300G.18, to read as follows:

3 **SEC. 3300G.3. DEFINITIONS.**

4 For purposes of this Article 33G, the following definitions apply:

5 * * * *

6 "Employer" shall mean any Person that owns or operates a Formula Retail
7 Establishment with ~~20~~ 40 or more Employees in the City, including corporate officers or
8 executives, who directly or indirectly or through an agent or any other person, including
9 through the services of a temporary services or staffing agency or similar entity, employs or
10 exercises control over the wages, hours, or working conditions of any individual. For the
11 purpose of calculating the ~~20~~ 40-employee threshold referenced herein, Employees
12 performing work in other Formula Retail Establishments in the City that are owned or operated
13 under the same trade name by the same Employer shall be counted. Notwithstanding the
14 foregoing definition, "Employer" does not include a Nonprofit Corporation or governmental
15 entity.

16 * * * *

17
18 **SEC. 3300G.18. WAIVER UNDER COLLECTIVE BARGAINING AGREEMENT.**

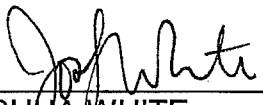
19 For Employees of Formula Retail Establishments covered by a bona fide collective bargaining
20 agreement, all or any portion of the applicable requirements of this Article 33G shall not apply to the
21 extent that such requirements are expressly waived in the collective bargaining agreement in clear and
22 unambiguous terms.

23
24 Section 4. Effective Date.
25

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

5
6 Section 5. In enacting this ordinance, the Board intends to amend only those words,
7 phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams,
8 or any other constituent part of the Police Code that are explicitly shown in this ordinance as
9 additions, deletions, Board amendment additions, and Board amendment deletions in
10 accordance with the "Note" that appears under the official title of the ordinance.

11
12 APPROVED AS TO FORM:
13 DENNIS J. HERRERA, City Attorney

14 By: 
15 JOSHUA WHITE
16 Deputy City Attorney

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LEGISLATIVE DIGEST

[Police Code - Formula Retail Employee Rights]

Ordinance amending the Police Code, Articles 33F and 33G, which contain the formula retail employee rights ordinances, to change from 20 to 40 the number of employees in San Francisco required for a formula retail establishment to be covered by the Ordinances; and to allow collective bargaining agreements covering employees of formula retail establishments to waive the protections of Articles 33F and 33G.

Existing Law

The Board of Supervisors enacted two ordinances on November 25, 2014 that, collectively, have been referred to as the Formula Retail Workers' Bill of Rights (the "underlying ordinances").

One of the ordinances, No. 241-14, is entitled, "Predictable Scheduling and Fair Treatment for Formula Retail Employees Ordinance." It requires formula retail establishments to provide employees with two weeks' notice of work schedules, notice of changes to work schedules, and compensation for schedule changes made on less than seven days' notice and unused on-call shifts. The ordinance also provides part-time employees with the same starting rate of hourly pay, access to time off, and eligibility for promotions, as provided to full-time employees. The other ordinance, No. 236-14, requires formula retail establishments to offer additional hours of work, when available, to current part-time employees. The ordinance also requires successor employers to retain employees for 90 days upon a change in control of the business.

Both ordinances define "employer" to mean any person that owns or operates a Formula Retail Establishment with 20 or more Employees in the City.

Neither ordinance allows employees to waive its protections as part of a collective bargaining agreement. On December 16, 2014, Supervisor Mar introduced an ordinance, No. 141300, that would allow unions representing formula retail employees working inside hotels to waive the protections of the underlying ordinances as part of a collective bargaining agreement. On January 15, 2015, the Land Use and Economic Development Committee referred it to the Police Department and Office of Labor Standards Enforcement for informational purposes.

Amendments to Current Law

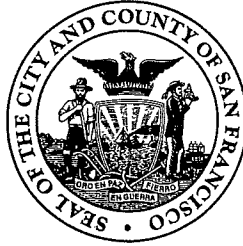
The proposed legislation would change the definition of "employer" to any person that owns or operates a Formula Retail Establishment with 40 or more Employees in the City.

FILE NO. 150269

The proposed legislation would allow unions representing formula retail employees to waive the protections of the underlying ordinances as part of a collective bargaining agreement.

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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: Todd Rufo, Director, Office of Economic and Workforce Development

FROM: Linda Wong, Assistant Clerk, Budget and Finance Committee, Board of Supervisors

DATE: April 14, 2015

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS

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

File No. 150269

Ordinance amending the Police Code, Articles 33F and 33G, which contain the formula retail employee rights ordinances, to change from 20 to 40 the number of employees in San Francisco required for a formula retail establishment to be covered by the Ordinances; and to allow collective bargaining agreements covering employees of formula retail establishments to waive the protections of Articles 33F and 33G.

If you have any additional 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: Ken Rich, Office of Economic and Workforce Development

BOARD of SUPERVISORS



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Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

FROM: Linda Wong, Assistant Clerk, Budget and Finance Committee,
Board of Supervisors

DATE: April 14, 2015

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Budget and Finance Committee

The Board of Supervisors' Budget and Finance Sub-Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 150269

Ordinance amending the Police Code, Articles 33F and 33G, which contain the formula retail employee rights ordinances, to change from 20 to 40 the number of employees in San Francisco required for a formula retail establishment to be covered by the Ordinances; and to allow collective bargaining agreements covering employees of formula retail establishments to waive the protections of Articles 33F and 33G.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

No Comment

Recommendation Attached

Chairperson, Small Business Commission

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

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. []
- 9. Reactivate File No. []
- 10. 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 Form.

Sponsor(s):

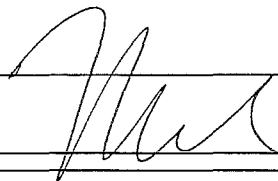
Supervisor Mark Farrell; Supervisor Eric Mar

Subject:

Police Code - Formula Retail Employee Rights

The text is listed below or attached:

Attached.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only: