

REVISED LEGISLATIVE DIGEST
(Amended in Committee – June 18, 2020)

[Emergency Ordinance - Temporary Right to Reemployment Following Layoff Due to COVID-19 Pandemic]

Emergency Ordinance temporarily creating a right to reemployment for certain employees laid off due to the COVID-19 pandemic if their employer seeks to fill the same position previously held by a laid-off worker, or a substantially similar position, as defined.

Existing Law

Under existing law, there is no right to reemployment for employees working in San Francisco in the event that their employer separates them from employment due to a layoff and subsequently seeks to rehire employees to the same or similar positions.

Amendments to Current Law

The ordinance requires employers operating in San Francisco to offer a right to reemployment to eligible employees laid off as a result of the COVID-19 pandemic and the related stay at home and shelter in place orders issued by the City and County of San Francisco. The ordinance applies to employers that operate in San Francisco and employ 100 or more employees. The ordinance applies to employees employed for at least 90 days before notice of a layoff and who suffered layoff due to the emergency. A layoff is defined as a separation from employment of 10 or more eligible employees due to the emergency and which occurs within a 30-day period commencing on or after February 25, 2020. If an employer seeks to rehire employees to the same or similar positions previously held by laid-off eligible employees, an employer shall offer reemployment to such eligible employees in order of seniority, as defined.

The ordinance is an emergency ordinance, so under Charter section 2.107, it will take effect immediately upon enactment and will remain in effect for 60 days, unless reenacted. If not, reenacted, it will expire on the 61st day.

Background Information

This Legislative Digest reflects changes introduced in the Government Audit & Oversight Committee on June 18, 2020 as the Second Draft of the Emergency Ordinance.

As compared to the First Draft, the Second Draft:

- Revises the definition of employer from any employer that operates in San Francisco and that layoffs 10 or more eligible employees in a 30-day period as a result of the emergency to an employer that operates in San Francisco and employs 100 or more employees, and exempts providers of health care operations;
- Removes the requirement that, following reemployment, an employer maintain the employment relationship for at least 90 days;
- Eliminates certain notice requirements to eligible employees and reporting requirements to the Office of Labor Standards and Enforcement (“OLSE”);
- Permits an employer to withhold an offer of reemployment for misconduct or if, prior to enactment of the ordinance, an employer and eligible employee executed a severance agreement or if the employer already rehired to the position;
- Revises the method of notice and delivery for an offer of reemployment;
- Establishes that the duty to accommodate a family care hardship expires upon expiration of the ordinance; and
- Authorizes OLSE to issue regulations.