

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

RULES COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Hillary Ronen, Chair
Rules Committee

FROM: Victor Young, Assistant Clerk *Victor Young*

DATE: August 17, 2020

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, August 18, 2020

The following file should be presented as a **COMMITTEE REPORT** at the Board Meeting on Tuesday, August 18, 2020. This item was acted upon at the Rules Committee Meeting on Monday, August 17, 2020, at 10:00 a.m., by the votes indicated.

Item No. 37 File No. 200733

[Emergency Ordinance - Public Health Emergency Leave]

Reenactment of emergency ordinance (Ordinance No. 59-20) to temporarily require private employers with 500 or more employees to provide public health emergency leave during the public health emergency related to COVID-19.

RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

Vote: Supervisor Hillary Ronen - Aye
Supervisor Catherine Stefani - Aye
Supervisor Gordon Mar - Aye

c: Board of Supervisors
Angela Calvillo, Clerk of the Board
Alisa Somera, Legislative Deputy Director
Anne Pearson, Deputy City Attorney

File No. 200733

Committee Item No. 6

Board Item No. 37

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date August 17, 2020

Board of Supervisors Meeting

Date _____

Cmte Board

<input type="checkbox"/>	<input type="checkbox"/>	Motion
<input type="checkbox"/>	<input type="checkbox"/>	Resolution
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Ordinance
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Legislative Digest
<input type="checkbox"/>	<input type="checkbox"/>	Budget and Legislative Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Youth Commission Report
<input type="checkbox"/>	<input type="checkbox"/>	Introduction Form
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Department/Agency Cover Letter and/or Report
<input type="checkbox"/>	<input type="checkbox"/>	Memorandum of Understanding (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"/>	Form 700
<input type="checkbox"/>	<input type="checkbox"/>	Vacancy Notice
<input type="checkbox"/>	<input type="checkbox"/>	Information Sheet
<input type="checkbox"/>	<input type="checkbox"/>	Public Correspondence

OTHER (Use back side if additional space is needed)

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

Completed by: Victor Young Date August 13, 2020

Completed by: _____ Date _____

1 [Emergency Ordinance - Public Health Emergency Leave]

2
3 **Reenactment of emergency ordinance (Ordinance No. 59-20) to temporarily require**
4 **private employers with 500 or more employees to provide public health emergency**
5 **leave during the public health emergency related to COVID-19.**

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;
8 **Deletions to Codes** are in ~~strikethrough italics Times New Roman~~.
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. Declaration of Emergency Pursuant to Charter Section 2.107.

15 (a) Section 2.107 of the Charter authorizes passage of an emergency ordinance in
16 cases of public emergency affecting life, health, or property, or for the uninterrupted operation
17 of any City or County department or office required to comply with time limitations established
18 by law. An emergency ordinance enacted under Charter Section 2.107 automatically
19 terminates on the 61st day after passage, but may be reenacted upon the same terms and
20 conditions applicable to its initial enactment.

21 (b) Pursuant to Charter Section 2.107, the City enacted Ordinance No. 59-20, an
22 emergency ordinance, the Public Health Emergency Leave Ordinance, which temporarily
23 requires private employers with 500 or more employees to provide public health emergency
24 leave during the public health emergency related to COVID-19. The emergency ordinance
25 became effective when enacted, on April 17, 2020. It would have terminated automatically on
June 16, 2020, but Ordinance No. 90-20 reenacted the emergency ordinance prior to its

1 termination. The emergency ordinance will terminate automatically on August 15, 2020,
2 unless reenacted.

3 (c) The Board of Supervisors hereby finds that the findings declared in Sections 1 and
4 2 of Ordinance No. 59-20 remain valid and compelling, and declares further that an actual
5 emergency continues to exist that requires the reenactment of the Public Health Emergency
6 Leave Ordinance to reduce the spread of COVID-19 and mitigate the economic harm for
7 individuals unable to work due to the public health emergency. COVID-19 continues to
8 present an extremely dangerous public health risk to the community, and the adverse
9 economic impact on workers and their families remains severe, notwithstanding gradual
10 efforts to reopen sectors of the economy. Further, many employees continue to experience
11 family caregiving challenges due to care facility closures, challenges securing caregiving
12 assistance, and the likelihood that many schools will continue relying at least in part on
13 remote learning during the upcoming academic year.

14
15 Section 2. Reenactment of Emergency Ordinance.

16 Consistent with Charter Section 2.107, this emergency ordinance reenacts for an
17 additional 60 days the emergency ordinance temporarily requiring private employers with 500
18 or more employees to provide public health emergency leave (Ordinance No. 59-20), as
19 reenacted by Ordinance No. 90-20.

20
21 Section 3. Effective Date; Retroactive Application; Expiration.

22 (a) If enacted prior to the expiration of Ordinance No. 59-20, as reenacted by
23 Ordinance No. 90-20, this reenacted emergency ordinance shall become effective
24 immediately upon the date of expiration of Ordinance No. 59-20, and shall itself expire on the
25

61st day following its effective date unless reenacted as provided by Charter Section 2.107, or upon the termination of the Public Health Emergency, whichever occurs first.

(b) If enacted after the expiration of Ordinance No. 59-20, as reenacted by Ordinance No. 90-20, this reenacted emergency ordinance shall become effective immediately upon enactment, shall have operative effect retroactively to the date that Ordinance No. 59-20, as reenacted by Ordinance No. 90-20, expired, and shall expire on the 61st day following its ~~effective date~~ the date that Ordinance No. 59-20, as reenacted by Ordinance No. 90-20, expired, unless reenacted as provided by Charter Section 2.107, or upon the termination of the Public Health Emergency, whichever occurs first.

Section 4. Directions to Clerk.

The Clerk of the Board of Supervisors is hereby directed to place a copy of this reenacted emergency ordinance in File No. 200355 for Ordinance No. 59-20 and to make a notation cross-referencing this emergency ordinance where Ordinance No. 59-20 appears on the Board of Supervisors website as legislation passed.

Section 5. Supermajority Vote Required.

In accordance with Charter Section 2.107, passage of this reenacted emergency ordinance by the Board of Supervisors requires an affirmative vote of two-thirds of the Board of Supervisors.

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

By: /s/
LISA POWELL
Deputy City Attorney

n:\legana\as2020\2000428\01471444.doc

LEGISLATIVE DIGEST

(Revised 8/17/20)

[Emergency Ordinance - Public Health Emergency Leave]

Reenactment of emergency ordinance (Ordinance No. 59-20) to temporarily require private employers with 500 or more employees to provide public health emergency leave during the public health emergency related to COVID-19.

Existing Law

An emergency ordinance, the Public Health Emergency Leave Ordinance, Ordinance No. 59-20 ("Ordinance"), which was reenacted for an additional 60 days by Ordinance No. 90-20, temporarily requires private employers with 500 or more employees to provide paid public health emergency leave during the public health emergency related to COVID-19.

The federal Families First Coronavirus Response Act ("Act"), Public Law No. 116-127, requires employers to provide emergency paid sick leave to certain employees who are unable to work or telework due to the COVID-19 public health emergency, but it exempts private employers with 500 or more employees. The Ordinance addresses the gap created by the Act's exemption of private employers with 500 or more employees.

The legislative digest for the Ordinance is found in Board File No. 200355. Slightly edited, it summarizes the Ordinance as follows:

Under the Ordinance, employees may use up to 80 hours of paid public health emergency leave if unable to work (including telework) because:

- (1) The employee is subject to a quarantine or isolation order related to COVID-19, including but not limited to the City or other Bay Area shelter-in-place orders. This includes an employee who is a member of a "vulnerable population" as defined in Order No. C19-05 who is unable to work due to recommendations in any City health order, or any order issued by Governor Newsom or Bay Area jurisdictions recommending or requiring additional restrictions for vulnerable or high-risk populations.
- (2) The employee has been advised by a health care provider to self-quarantine.
- (3) The employee is experiencing symptoms associated with COVID-19 and seeking a medical diagnosis.
- (4) The employee is caring for a family member who is subject to an order as described in (1), has been advised as described (2), or is experiencing symptoms as described in (3).
- (5) The employee is caring for a family member if the school or place of care of the family member has been closed, or the care provider of such family member is unavailable, due to the public health emergency.
- (6) The employee is experiencing any other substantially similar condition specified by the Local Health Officer, or under Section 5102(a)(6) of the Act, by the United States Secretary of Health and Human Services.

The Ordinance allows an employer of an employee who is a health care provider or an emergency responder to limit this leave, but requires such employers to provide such leave when the employee is unable to work: (1) due to a health care provider's advice to self-quarantine; or (2) because the employee is experiencing symptoms associated with COVID-19, seeking a medical diagnosis, and does not meet the Centers for Disease Control and Prevention guidance for criteria to return to work for healthcare personnel with confirmed or suspected COVID-19.

Public health emergency leave must be provided in addition to paid leave the employer provided before the date of enactment of the Ordinance, except that employers that voluntarily provided additional paid leave in response to the COVID-19 outbreak may count that leave toward the required public health emergency leave. The Ordinance required public health emergency leave to be made available for immediate use, and it expires with the expiration of the Ordinance (unless reenacted).

Under the Ordinance, the Office of Labor Standards Enforcement ("OLSE") has published on its website and through email to employers a notice suitable for employers to inform employees of their rights under the Ordinance, as well as information about City, state, and federal resources that employees negatively impacted by the public health emergency may qualify to receive. Employers were required to provide the notice to employees, in English, Spanish, Chinese, and any language spoken by at least 5% of the employees who are, or prior to the public health emergency were, at the workplace or job site, within three days after it was published. The OLSE has implemented and is enforcing the Ordinance.

The Ordinance includes anti-retaliation protections that, among other provisions, prohibit interfering with any right protected under the emergency ordinance and taking any adverse action against an employee for exercising rights protected under the Ordinance.

The Ordinance became effective on April 17, 2020, was reenacted by Ordinance No. 90-20 on June 16, 2020, and will expire August 15, 2020, unless reenacted.

Amendments to Existing Law

The proposed emergency ordinance reenacts Ordinance No. 59-20, with the result that it does not terminate on August 15, 2020, but rather is extended for an additional 60 days. As amended, if the proposed emergency ordinance is enacted after the expiration of Ordinance No. 59-20, as reenacted by Ordinance No. 90-20, it will have operative effect retroactively to the date that Ordinance No. 59-20, as reenacted by Ordinance No. 90-20, expired, and will expire on the 61st day following the date that Ordinance No. 59-20, as reenacted by Ordinance No. 90-20, expired, unless reenacted.

FILE NO. 200733

n:\legana\as2020\2000428\01471624.docx

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: Sophia Kittler, Mayor's Office

FROM: Victor Young, Assistant Clerk
Rules Committee

A handwritten signature in cursive script that reads "Victor Young".

DATE: July 22, 2020

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed legislation on July 7, 2020:

File No. 200733

Reenactment of emergency ordinance (Ordinance No. 59-20) to temporarily require private employers with 500 or more employees to provide public health emergency leave during the public health emergency related to COVID-19.

If you have 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 or by email at: victor.young@sfgov.org.

c: Rebecca Peacock, Mayor's Office
Andres Power, Mayor's Office