

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

GOVERNMENT AUDIT AND OVERSIGHT COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Gordon Mar, Chair
Government Audit and Oversight Committee

FROM: John Carroll, Assistant Clerk

DATE: August 21, 2020

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, August 25, 2020

The following file should be presented as COMMITTEE REPORT at the regular Board meeting on Tuesday, August 25, 2020. This resolution was acted upon at the regular Government Audit and Oversight Committee meeting on Thursday, August 20, 2020, at 10:00 a.m., by the votes indicated.

Item No. 20 **File No. 200816**

Reenactment of emergency ordinance (Ordinance No. 104-20) 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.

RECOMMENDED AS A COMMITTEE REPORT

Vote: Supervisor Gordon Mar - Aye
Supervisor Aaron Peskin - Aye
Supervisor Matt Haney - Aye

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

File No. 200816

Committee Item No. 4

Board Item No. 20

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: August 20, 2020

Board of Supervisors Meeting:

Date: August 25, 2020

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 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 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

- | | | |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Small Business Commission Response Memo – August 19, 2020</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Referrals – August 5, 2020</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Presidential Action 30-day Hold Waiver Memo - August 13, 2020</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Committee Report Request Memo – August 14, 2020</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | <u>_____</u> |

Prepared by: John Carroll

Date: August 14, 2020

Prepared by: John Carroll

Date: August 21, 2020

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

3 **Reenactment of emergency ordinance (Ordinance No. 104-20) temporarily creating a**
4 **right to reemployment for certain employees laid off due to the COVID-19 pandemic if**
5 **their employer seeks to fill the same position previously held by a laid-off worker, or a**
6 **substantially similar position, as defined.**

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. Declaration of Emergency Pursuant to Charter Section 2.107.

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

22 (b) Pursuant to Charter Section 2.107, the City enacted Ordinance No. 104-20, the
23 “Back to Work” emergency ordinance, which temporarily requires certain employers operating
24 in San Francisco to offer reemployment to eligible employees laid off as a result of the
25 COVID-19 public health emergency.

1 (c) The Board of Supervisors hereby finds that the findings declared in Sections 2 and
2 3 of Ordinance No. 104-20 remain valid and compelling, and declares further that an actual
3 emergency continues to exist that requires the reenactment of the Back to Work emergency
4 ordinance to mitigate the economics effects of layoffs caused by the public health emergency.
5 COVID-19 continues to present an extremely dangerous public health risk to the community,
6 and the adverse economic impact on workers and their families remains severe,
7 notwithstanding gradual efforts to reopen sectors of the economy. Further, many employees
8 continue to experience family caregiving challenges due to school and care facility closures,
9 challenges securing caregiving assistance, and the planned continuation of distance learning
10 during the upcoming academic year.

11
12 Section 2. Reenactment of Emergency Ordinance.

13 Consistent with Charter Section 2.107, this emergency ordinance reenacts for an
14 additional 60 days the emergency ordinance temporarily requiring certain employers operating
15 in San Francisco to offer reemployment to eligible employees laid off as a result of the
16 COVID-19 public health emergency (Ordinance No. 104-20).

17
18 Section 3. Effective Date; Expiration.

19 (a) If enacted prior to the expiration of Ordinance No. 104-20, this reenacted
20 emergency ordinance shall become effective immediately upon the date of expiration of
21 Ordinance No. 104-20, and shall itself expire on the 61st day following its effective date
22 unless reenacted as provided by Charter Section 2.107.

23 (b) If enacted after the expiration of Ordinance No. 104-20, this reenacted emergency
24 ordinance shall become effective immediately upon enactment, and shall expire on the 61st
25 day following its effective date unless reenacted as provided by Charter Section 2.107.

LEGISLATIVE DIGEST

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

Reenactment of emergency ordinance (Ordinance No. 104-20) to temporarily create 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

In general, 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. However, an emergency ordinance (Ordinance No. 104-20) temporarily requires certain employers operating in San Francisco to offer reemployment to eligible employees laid off as a result of the COVID-19 public health emergency. The legislative digests for that emergency ordinance are found in Board File No. 200455.

The emergency ordinance applies to employers that operate in San Francisco and employ 100 or more employees, except healthcare operations. The emergency ordinance applies to employees who were employed for at least 90 days of the calendar year preceding the notice of a layoff and who suffered layoff due to the emergency. A layoff is a separation from employment of 10 or more eligible employees within a 30-day period, starting on or after February 25, 2020, due to the emergency. 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.

Under the emergency ordinance, the Office of Economic and Workforce Development (OEWD) receives notices of layoffs and offers of reemployment and operates a hotline for workers. The Office of Labor Standards Enforcement (OLSE) is authorized to issue regulations.

Additionally, the emergency ordinance requires employers to reasonably accommodate employees who cannot work because of a family care hardship. A family care hardship is a circumstance in which the employee is unable to work due to any reason for which a person may use paid sick leave under Administrative Code § 12W.4(a) to provide care for someone other than themselves, including but not limited to a need to care for a child whose school or place of care has been closed or whose childcare provider is unavailable as a result of the public health emergency and no other suitable person is available to care for the child during the period of such leave.

Amendments to Existing Law

The proposed emergency ordinance reenacts Ordinance No. 104-20, with the result that it does not terminate on September 1, 2020, but rather is extended for an additional 60 days.



CITY AND COUNTY OF SAN FRANCISCO
LONDON BREED, MAYOR

OFFICE OF SMALL BUSINESS
REGINA DICK-ENDRIZZI, DIRECTOR

August 19, 2020

Ms. Angela Calvillo, Clerk of the Board
City Hall Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

RE: BOS File No. 200816 – Emergency Ordinance - Temporary Right to Reemployment
Following Layoff Due to COVID-19 Pandemic

Small Business Commission Recommendation to the Board of Supervisors: **None.**

Dear Ms. Calvillo,

The Small Business Commission (the SBC or the Commission) will not hear this item. The Commission acknowledges that after version one of this legislation was presented to them at their May 27, 2020 meeting, it was amended to abate concerns raised by the Commission and the small business community. Specifically, that the definition of “Employer” was amended to mean those who employ 100 or more workers. Where a large swath of small businesses that the Commission champions policies for would be exempt from the reenactment of this Emergency Ordinance, they will not provide additional recommendations.

However, the Commission does recognize that the requirements of this Emergency Ordinance do apply to some of our treasured Legacy Businesses and other local, independently owned medium sized businesses. At the May 27, 2020 hearing, the SBC stressed that the Board of Supervisors should utilize data to demonstrate the need for implementing this Emergency Ordinance, as reflected in [the SBC’s June 3, 2020](#) recommendations. Therefore, before this Emergency Ordinance is reenacted, the SBC recommends that the Office of Economic and Workforce Development (OEWD) report to the Board of Supervisors on how many calls have been made to the Layoff Hotline (Section 5(a)) and how many Layoff Notices have been submitted (Section 5(c)). Additionally, if possible, OEWD should also report on how many offers of reemployment have been made to workers responsive to the requirements of this Emergency Ordinance.

Thank you for considering the Commission’s comments. Please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Regina Dick-Endrizzi".

Regina Dick-Endrizzi

Director, Office of Small Business

cc: Gordon Mar, Member, Board of Supervisors,
Sophia Kittler, Mayor's Liaison to the Board of Supervisors
Lisa Pagan, Office of Economic and Workforce Development
Patrick Mulligan, Director, Office of Labor Standards and Enforcement
John Carroll, Clerk, Government Audit and Oversight Committee

BOARD of SUPERVISORS



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MEMORANDUM

TO: Joaquin Torres, Director, Office of Economic and Workforce Development
Patrick Mulligan, Director, Office of Labor Standards Enforcement

FROM: John Carroll, Assistant Clerk, Government Audit and Oversight Committee,
Board of Supervisors

DATE: August 5, 2020

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Government Audit and Oversight Committee has received the following proposed legislation, introduced by Supervisor Mar on July 28, 2020:

File No. 200816

Reenactment of emergency ordinance (Ordinance No. 104-20) 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.

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: Office of Supervisor Mar
J'Wel Vaughan, Office of Economic and Workforce Development
Anne Taupier, Office of Economic and Workforce Development
Lisa Pagan, Office of Economic and Workforce Development

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MEMORANDUM

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

FROM: John Carroll, Assistant Clerk, Government Audit and Oversight Committee,
Board of Supervisors

DATE: August 5, 2020

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Government Audit and Oversight Committee

The Board of Supervisors' Government Audit and Oversight 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. 200816

Reenactment of emergency ordinance (Ordinance No. 104-20) 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.

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, California 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

_____ **No Comment**

_____ **Recommendation Attached**

Chairperson, Small Business Commission




Member, Board of Supervisors
District 4

City and County of San Francisco

GORDON MAR

DATE: August 14, 2020

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Mar 
Chairperson

RE: Government Audit and Oversight Committee
COMMITTEE REPORT

Pursuant to Board Rule 4.20, as Chair of the Government Audit and Oversight Committee, I have deemed the following matters are of an urgent nature and request that each be considered by the full Board on Tuesday, August 25, 2020, as Committee Reports:

File No. 200912 [Emergency Ordinance - Grocery Store, Drug Store, Restaurant, and On-Demand Delivery Service Employee Protections]

Reenactment of emergency ordinance (Ordinance No. 74-20, reenacted by Ordinance No. 110-20) to temporarily require grocery store, drug store, restaurant, and on-demand delivery service employers to provide health and scheduling protections to employees during the public health emergency related to COVID-19.

File No. 200819 [Contract Amendment - Retroactive - 1231 Market Street Owner L.P. - Hotel Rooms and Associated Services - Not to Exceed \$35,608,542]

Resolution retroactively approving a third amendment to an emergency agreement between the Human Services Agency and 1231 Market Street Owner L.P., for the City's continued use of 459 hotel rooms and associated services; increasing the contract amount by \$25,618,542 for a total amount not to exceed \$35,608,542; and extending the booking period for a potential total term of April 8, 2020, through July 1, 2021.

File No. 200816 [Emergency Ordinance - Temporary Right to Reemployment Following Layoff Due to COVID-19 Pandemic]

Reenactment of emergency ordinance (Ordinance No. 104-20) 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.



Member, Board of Supervisors
District 4

City and County of San Francisco

GORDON MAR

File No. 200854 [Settlement of Lawsuit - Verizon Wireless and AT&T Mobility - City to Receive \$2,161,773]

Ordinance authorizing settlement of the lawsuit filed on behalf of the State of California, the City and County of San Francisco, and 189 other California governmental entities against Verizon Wireless for \$839,356 and against AT&T Mobility National Accounts LLC for \$1,322,417 for a total settlement of \$2,161,773; the lawsuit was filed on July 5, 2012, in Sacramento County Superior Court, Case No. 34-2012-00127517; entitled State of California et al., ex rel. OnTheGo Wireless, LLC v. Verizon Wireless and AT&T Mobility National Accounts LLC; the lawsuit involves alleged violations of the California False Claims Act.

These matters will be heard in the Government Audit and Oversight Committee during a regular meeting on August 20, 2020, at 10:00 a.m.

President, District 7
BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. 554-6516
Fax No. 554-7674
TDD/TTY No. 544-6546

Norman Yee

PRESIDENTIAL ACTION

Date:

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,

Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No.

(Primary Sponsor)

Title.

Transferring (Board Rule No 3.3)

File No.

(Primary Sponsor)

Title.

From:

Committee

To:

Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor:

Replacing Supervisor:

For:

Meeting

(Date)

(Committee)

Start Time:

End Time:

Temporary Assignment: Partial

Full Meeting

Norman Yee, President
Board of Supervisors

Introduction Form

By a Member of the Board of Supervisors or 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 inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic 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 the Imperative Form.

Sponsor(s):

Subject:

The text is listed:

Signature of Sponsoring Supervisor:

For Clerk's Use Only