



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R 1 5 - 0 1 3 9
MAY 2 2 2015

REPORT RE:

DRAFT ORDINANCES ADDING ARTICLES 7 AND 8 TO CHAPTER XVIII OF THE LOS ANGELES MUNICIPAL CODE TO ESTABLISH A CITYWIDE MINIMUM WAGE AND TO CREATE A WAGE ENFORCEMENT DIVISION; TO ESTABLISH PENALTIES AND ADMINISTRATIVE FINES FOR WAGE VIOLATIONS; TO AMEND SECTIONS 103.31 AND 103.35 OF THE LOS ANGELES MUNICIPAL CODE TO INCLUDE WAGE THEFT VIOLATIONS AS A BASIS FOR POLICE PERMIT DENIALS, SUSPENSIONS AND REVOCATIONS; AND TO AMEND SECTION 10.40 TO INCLUDE WAGE AND LABOR LAW COMPLIANCE AS A STATED PURPOSE IN THE CITY'S CONTRACTOR RESPONSIBILITY PROGRAM

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File Nos. 14-1371 and 14-1371-S1

Honorable Members:

Pursuant to a motion adopted by the City Council on May 19, 2015, this Office has prepared and now transmits for your consideration the enclosed two draft ordinances, approved as to form and legality, adding Articles 7 and 8 to Chapter XVIII of the Los Angeles Municipal Code (LAMC) to establish a Citywide minimum wage for employees and to create a Wage Enforcement Division within the Bureau of Contract Administration of the Department of Public Works. The draft ordinances also establish penalties and fines for violations of the new Citywide minimum wage, amend LAMC Sections 103.31 and 103.35 to include wage theft violations as basis for police permit denials, suspensions and revocations, and amend Los Angeles Administrative Code

(LAAC) Section 10.40 to include information on compliance with wage and labor laws in the City's Contractor Responsibility Program.

Draft Ordinance Establishing a Minimum Wage for Employees

As requested by the City Council, the draft ordinance requires employers to pay employees working within the City a minimum wage of \$10.50 starting on July 1, 2016, increasing each year until July 1, 2020, when the minimum wage will be \$15.00. The draft ordinance delays the start of the obligation by one year for employers with 25 or fewer employees. Non-profit employers with more than 25 employees and who meet certain criteria may apply for the one-year delay in the start of the wage obligation. Also, "Learners," as defined in California Labor Code Section 1192, between 14 and 17 years of age will be paid no less than 85% of the minimum wage during their first 160 hours of employment.

The Designated Administrative Agency (DAA) will be the Bureau of Contract Administration (BCA), which, starting in 2022, will announce each January the wage rate adjusted by the applicable Consumer Price Index to be effective the first of each July. The draft ordinance prohibits retaliatory action by employers. Every three years after July 2016, the Chief Legislative Analyst and City Administrative Officer will commission a study to review the City's economy and the impacts of the minimum wage law.

In its action this past Tuesday, the City Council did not include direction on how to define employee. We drafted the ordinance to define employee as a person who works within the City's limits at least two hours per week. This is the same definition used by every California city with a minimum wage law (San Francisco, San Jose, Berkeley, Richmond, Sunnyvale, Oakland and Mountain View). San Diego has a proposed minimum wage law also using this definition. Because the definition is a policy decision, the City Council may determine whether to adopt this widely used definition of employee or a different definition.

Draft Ordinance Creating the Wage Enforcement Division

As also requested by the City Council, we drafted the wage enforcement division ordinance by modeling it on the similar program in San Francisco. The draft ordinance creates the new Wage Enforcement Division (WED) within BCA to administer and enforce the new minimum wage law. WED will investigate wage complaints, enforce violations of wage theft, collect penalties and administrative fines as authorized by the ordinance and issue orders to employers to reinstate employees and pay back wages. The City's draft ordinance grants WED the authority to promulgate rules and regulations consistent with the Code provisions as deemed necessary to administer and enforce the minimum wage law. The draft ordinance also grants authority to the Police Commission to deny, suspend or revoke police permits when an employer has committed wage theft.

Where a violation has been found, the draft ordinance authorizes WED to conduct investigations against the employer and order the employer to reinstate an employee discharged in violation of City law, pay the employee back wages unlawfully withheld and pay a penalty of \$100 per day of violation to the employee whose rights were violated. In addition, WED may order the employer to pay the City administrative fines in varying amounts for violations of the City law, with a multiplier of 50% for repeat violations within three years. The draft ordinance caps the administrative fines that may be imposed annually at \$5,000 per employee, or \$10,000 per employee for retaliation violations.

An aggrieved employee also may bring a civil action in court against the employer, and, if the employee prevails, he or she will be entitled to payment of back wages, a \$100 penalty per day for violations, reinstatement of employment and reasonable attorney's fees and costs.

Council Rule 38 Referral

Copies of the draft ordinances were sent, pursuant to Council Rule 38, to the Department of Public Works, the City Administrative Officer, the Chief Legislative Analyst and the Los Angeles Police Commission, asking that they make any comments they may have directly to the City Council when you consider this matter.

If you have any questions regarding this matter, please contact Senior Assistant City Attorney Valerie Flores or Chief Assistant City Attorney David Michaelson. They or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 
for DAVID MICHAELSON
Chief Assistant City Attorney

DM:pj
Transmittals