

IMMIGRANT AFFAIRS, CIVIL RIGHTS, AND EQUITY COMMITTEE REPORT and ORDINANCES FIRST CONSIDERATION relative to implementation of the Civil and Human Rights Commission and establishment of the Los Angeles Civil Rights Ordinance.

Recommendations for Council action, SUBJECT TO THE APPROVAL OF THE MAYOR:

1. PRESENT and ADOPT the following ORDINANCES, both dated February 1, 2019 to:
 - a. Add Article 16 to Chapter IV of the Los Angeles Municipal Code establishing the Los Angeles Civil and Human Rights Ordinance.
 - b. Add Chapter 32 to Division 22 of the Los Angeles Administrative Code establishing a Civil and Human Rights Commission and Executive Director.
2. INSTRUCT the City Administrative Officer (CAO), with the assistance of the Chief Legislative Analyst (CLA) to report in regard to:
 - a. Identifying the source of funds for the establishment of the Civil and Human Right Commission for the remainder of Fiscal Year 2018-19.
 - b. Identifying costs for a full year under the pre-emption scenario, as detailed in the February 1, 2019 CAO report, attached to the Council file, through the budget process and to include consideration of the:
 - i. Hiring process
 - ii. Timeline for the creation of establishment of the Civil and Human Right Commission and hiring of the Commission Executive Director.
3. REFER the reports detailed above in Recommendation No. 2, upon receipt by the City Clerk, to the Personnel and Animal Welfare and Budget and Finance Committees.
4. INSTRUCT the CLA and REQUEST the City Attorney to report in regard to options for removing the State preemption clause for the California Fair Employment and Housing Act (FEHA) as it relates to enforcement in the City of Los Angeles.

Fiscal Impact Statement: The CAO reports that there is no impact to the General Fund as this report is for informational purposes only. Should the Council decide to approve the creation of the Commission and direct the authorization of the listed position authorities in the current fiscal year, funding would need to be identified and require adjustments to existing expenditure appropriations or the allocation of new unbudgeted revenues.

Community Impact Statement: None submitted.

Summary:

On February 7, 2019, your Committee considered February 1, 2019 CAO and January 31, 2019

City Attorney reports and Ordinances relative to implementation of the Civil and Human Rights Commission and establishment of the Los Angeles Civil Rights Ordinance. According to the CAO, on November 28, 2018, Council directed the CAO to report on the initial implementation costs and necessary authorities for the proposed Civil and Human Rights Commission (Commission), including the estimated full year cost for the Commission. The CAO indicated that it's utilized the most relevant available data from other City Departments and other cities to estimate the implementation and full-year costs for the Commission. The CAO considered two scenarios for the estimated full-year costs based on whether State law relative to preemption is amended or if the current preemption policy is continued.

The FEHA contains a preemption clause which prohibits local enforcement of FEHA provisions. Under current law, the Commission would only be able to address discrimination complaints related to the four protected classes included in the proposed City Civil and Human Rights Law including:

1. Citizenship status
2. Partnership status
3. Veteran status
4. Employment and income status

The cost estimates provided also include an estimate from the City Attorney relative to the staffing resources needed to provide the necessary legal support for the Commission. Additionally, the CAO has considered whether Administrative Law Judges (ALJs) or hearing officers would be utilized to conduct appeals hearings for the commission and a comparison of the estimated costs for ALJs and hearing officers is provided in the CAO report.

The full implementation of the Commission will require additional information and approvals beyond those contemplated by this report. Should Council decide to approve the Commission and position authorities, funding would need to be identified to support the authorized positions and related expenses. The 2018-19 Adopted Budget did not include funding for this purpose and the implementation of this Commission in the current FY would require adjustments to existing expenditure appropriations or the allocation of new unbudgeted revenues. The cost estimates provided in the is report do not include any potential cost recovery from administrative penalties as it has not been decided how these penalties would be allocated or what standards will be applied for the levying of these penalties for various instances of discrimination. Additionally, the cost of any potential support from other City departments is not included in the estimates provided in this report as they have yet to be determined.

Currently, the FEHA contains a preemption clause prohibiting local jurisdictions from enforcing the provisions of FEHA. On October 14, 2018, in a veto message to SB 491, the former Governor directed the DFEH to create an advisory group to explore allowing the enforcement of FEHA provisions by local jurisdictions and to prepare a report with findings and recommendations. In December 2018, the advisory group released its report on the issues and implications of removing or modifying the preemption clause of FEHA. The advisory group noted several scenarios relative to the modification of FEHA preemption including multiple scenarios with dual state and local enforcement of FEHA. The report did not provide specific

recommendations for the modification of FEHA and it is up to the State Legislature how the FEHA preemption clause may be modified. Due to the uncertainty relative to FEHA preemption, the CAO assumed two workload and full year Commission cost scenarios to provide a range of potential workload that the Commission would need to address. One scenario assumed preemption continues as is current law and the second assumed that local jurisdictions which elect to address employment and housing discrimination cases would take complete responsibility for the enforcement of FEHA within their respective jurisdictions. If the State takes action to modify FEHA preemption, it is likely that it will follow one of several dual State and local enforcement scenarios. After consideration and having provided an opportunity for public comment, the Committee moved to recommend approval of the two Ordinances as well as a number of recommendations as detailed above. This matter is now submitted to Council for its consideration.

Respectfully Submitted,

IMMIGRANT AFFAIRS , CIVIL RIGHTS, AND EQUITY COMMITTEE

<u>MEMBER</u>	<u>VOTE</u>
CEDILLO:	YES
WESSON:	ABSENT
PRICE:	YES
MARTINEZ:	YES
RYU:	YES

ARL
2/7/19

-NOT OFFICIAL UNTIL COUNCIL ACTS-