



County of San Mateo

Inter-Departmental Correspondence

Department: BOARD OF SUPERVISORS
DISTRICT 1
File #: 23-986

Board Meeting Date: 12/12/2023

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors
From: Supervisor Dave Pine, District One
Supervisor Ray Mueller, District Three
Subject: Creating an Office of Labor Standards Enforcement

RECOMMENDATION:

Adopt a resolution authorizing and directing the County Executive to:

- A) Take all steps necessary to establish an Office of Labor Standards Enforcement (OLSE) within the County Executive's Office; and
- B) Return to the Board on or about June 30, 2024, to report back on the overall scope, roles, and responsibilities of the OLSE.

BACKGROUND:

Wage and hour and other labor violations are a significant problem in California and in the County. They take many forms, including failure to pay minimum wage and overtime; requiring employees to work off-the-clock; failing to afford employees mealtimes to which they are entitled; and misclassification of workers. The following statistics reflect the extent of the issue, falling largely upon the shoulders of low-wage workers:

- The California Labor Commissioner's Office, also known as the Division of Labor Standards Enforcement (DLSE), recovered \$221,017,758 in wages from 2017 to 2020 throughout California.
- The DLSE estimates that employers who misclassify their workers are in effect shifting costs to the State of more than \$7 billion every year in the form of increased safety net spending.
- A 2015 study by UCLA and UC Berkeley Centers for Labor Research and Education estimated that in any given week, 11-12% of minimum wage workers experience minimum wage violations.
- In 2014, minimum wage violations increased poverty rates among California workers who

experienced wage theft by 22.9%.

- In 2015, a sum of \$1.979 billion in wages was not paid to California's minimum wage workers, for an average percentage of 22.3% in earned wages not paid.

There is, however, a large gap between the problem of wage theft and enforcement. While labor laws are a mix of federal, state, and local laws and regulations, the most comprehensive labor protections come from the California Labor Code, and thus fall to the State DLSE to enforce. The State DLSE consistently faces a significant case backlog, with adjudication of claims taking on average 505 days. Given these shortfalls in enforcement, several counties across California including Santa Clara, San Diego, Los Angeles, and San Francisco have established their own Offices of Labor Standards Enforcement (OLSEs) to educate their communities and/or enforce labor laws within their jurisdiction.

Within San Mateo County, the County and several cities have enacted their own minimum wage laws. The San Mateo County Labor Council has conducted research on the significant variety of minimum wages at play in the County, a copy of which is attached as Exhibit A, and which research demonstrates the importance of a centralized information and educational office.

The County's economic health depends on low-wage industries including the food service industry, personal care and service industries, janitorial maintenance, and healthcare support operations. These low-wage industries disproportionately employ women, people of color, and undocumented immigrants. There is a need to examine the role our County can play in strengthening worker protections, especially for our most vulnerable and at-risk workers.

DISCUSSION:

The objective of this proposed action is to establish an Office of Labor Standards Enforcement that will serve as a central location for addressing the needs of hourly employees, including education and resources for employers and their workers, research, and data analysis regarding worker issues, and assessing the viability of additional enforcement measures. The Office of Labor Standards Enforcement would be an external facing resource for workers and their employers. Specific attention will be paid to low-income workers, workers from vulnerable populations such as women, people of color, immigrants, people who identify as LGBTQIA+, refugees, and individuals with disabilities.

This proposed action would direct the County Executive's Office to develop a comprehensive proposal for a County OLSE on or about June 30, 2024, and report back to the Board on the creation and overall scope, roles, and responsibilities of the OLSE, including but not limited to:

- Providing a central hub for questions and connection to resources for workers across the County, including specific outreach to vulnerable worker populations.
- Engaging business and community partners in education and outreach on important issues related to workers.
- Acting as the County expert on worker issues, including;
 - conducting data collection and research initiatives in order to better understand regional workplace issues including trends,
 - identifying gaps in services, and
 - researching policies that could further goals of protecting and advancing fair and safe workplaces for all.
- Reporting back annually to the Board of Supervisors on the data analysis and research the

Office has undertaken with policy recommendations to consider.

- Research the efficacy of various options to enforce County contracting requirements and expenditure of County funds.
- Research the efficacy of utilizing the denial, suspension, or revocation of licenses, permits or County contracts of employers who violate labor standards.

The report back on the creation and scope of the OLSE should also include a determination of the additional ways the County can participate in enforcement of state and local laws and regulations impacting workers within the County's jurisdictional boundaries and an analysis of the County's eligibility for state or federal grant opportunities related to labor standards education, outreach, and/or enforcement, including the state Workers Rights Enforcement Grant Program.

The County Attorney has reviewed and approved the accompanying resolution as to form.

EQUITY STATEMENT

Low-wage workers, women, people of color, immigrant workers, refugees, workers with disabilities, and individuals who identify as LGBTQI are particularly vulnerable to wage and hour and other labor violations. The OLSE will operate to reduce this inequity and its impacts.

FISCAL IMPACT:

The fiscal impacts associated with establishing an Office of Labor Standards Enforcement within the CEO will depend upon the scope and scale of the office as proposed by the CEO and approved by the Board in subsequent action and will be reflected in future budget development.