



Agenda Report

June 29, 2020

TO: Honorable Mayor and City Council
THROUGH: Economic Development Technology Committee (June 9, 2020)
FROM: City Manager
SUBJECT: Hotel Worker Protections

RECOMMENDATION:

It is recommended that the City Council receive the following report and consider whether to direct any further action.

BACKGROUND:

On May 4, 2020, the City Council reviewed a brief information report on hospitality worker protections advocated by Unite Here, Local 11. At that time, the item was referred to the Economic Development and Technology (Edtech) Committee. At its June 9, special meeting the Edtech Committee discussed the information as well as similar ordinances adopted in Los Angeles County and the City of Los Angeles.

Focusing more on the LA County and LA City ordinances, the Committee discussed a narrow application in Pasadena; applying solely to hotels. Following the discussion, the Committee voted to return to the full City Council for a discussion as to whether to establish a hotel-specific worker retention ordinance.

Overview of Los Angeles City and County Ordinances

On April 29, 2020, the City of Los Angeles adopted COVID-19 Worker Retention Ordinance and the COVID-19 Right of Recall Ordinance. Subsequently, on May 12, 2020, Los Angeles County adopted its own Recall Ordinance and Right of Retention Ordinance, which apply to the unincorporated areas of the County of Los Angeles. These Ordinances establish a right of recall for employees working in certain industries, and provide protections to employees if their employer's business undergoes a change of ownership or control. The LA City and County Ordinances apply to Airport Employers/Businesses, Commercial Property Employers/Businesses, Event Center Employers/Businesses, and Hotel Employers/Businesses. LA County Ordinances apply to a narrower category of employers: Commercial Property Employers and Hotel Employers, and exempts non-profit entities and government agencies.

Right of Recall Ordinances The City and County Right of Recall Ordinances require covered employers to give hiring preference to laid-off employees who: (1) had performed at least two hours of work within the geographic boundaries of the city/county within a particular workweek, (2) had worked for the employer for at least six months prior to being laid off, and (3) whose most recent separation from active service occurred on or after March 4, 2020 as a result of lack of business, a reduction in workforce or other economic, non-disciplinary reasons. Both Ordinances presume any termination occurring on or after March 4, 2020, was due to a non-disciplinary reason. Under both Ordinances, when an employer seeks to make a new hire, the employer must first offer the position to a qualified laid-off worker. If more than one laid-off worker is entitled to preference for a position, the position must first be offered to the worker with the longest period of service.

Worker Retention The Los Angeles City and County Ordinances require certain worker retention obligations on employers if the ownership of the business changes. The original employer must provide the new business employer with a list of workers. From the date the transaction documents are executed until six-months after, the new business owner must maintain a preferential hiring list of workers that were identified by the previous ownership and must hire any new employees from that list and give each worker at least ten business days to accept or reject an employment offer. Any worker hired under the Ordinances must be retained for at least 90 days unless the employment is terminated voluntarily by the employee or is terminated for cause by the employer. The Ordinances also specify how workers may not be discharged without cause during the transitional employment period and specify rules for completing worker evaluations.

Private Right of Action Both Ordinances allow employees to sue for violations after giving the employer written notice of the alleged violation and gives employers a 15-day opportunity to cure the violation. Remedies include reinstatement, back pay, the value of lost benefits, and costs and attorney's fees.

Provisions Relating to Collective Bargaining Agreements, Waivers and Retaliation The City and County Ordinances include exceptions if collective bargaining agreements are in place. Both the City and County Ordinances clarify that the rights created by the Ordinances may not be waived by a worker/employee unless it is specified in a collective bargaining agreement. Employers are barred from asking employees to waive their rights under the Ordinances. The Ordinances currently do not include an end date. Administrators at both the City and County are required to report on whether the Ordinances are still necessary based on the recovery from the impacts of the COVID-19 pandemic. In addition, the LA City Ordinances charge the Office of Wage Standards of the Bureau of Contract Administration to disseminate rules and regulations to the effected employers.

Summary Matrix

Ordinance	City of Los Angeles	County of Los Angeles
Covers	<ul style="list-style-type: none"> • Airport Business/Airport Employer; • Commercial Property Business/Commercial Property Employer; • Event Center Business/Event Center Employer; and • Hotel Business/Hotel Employer. - 50 or more guestrooms, or having earned gross receipts in 2019 exceeding \$5 million. 	<ul style="list-style-type: none"> • Commercial Property Employer; and • Hotel Employer - 50 or more guestrooms, or having earned gross receipts in 2019 exceeding \$5 million.
Right of Recall Ordinance	Priorities must be given to laid-off workers, who have five business days to accept or deny an offer of employment.	Priorities must be given to laid-off workers, who have five business days to accept or deny an offer of employment.
Worker Retention/Right of Retention Ordinances	Upon a “change in control”, incumbent business employers must post a notice and provide a preferential hiring list of workers to new owner.	Upon a “change in control” incumbent business employers must post a notice and provide a preferential hiring list of workers to new owner.
Collective Bargaining Agreements	Exceptions for collective bargaining agreements that are in place as of June 14, 2020	Allows provisions to be expressly waived by a collective bargaining agreement, but only if the waiver is explicitly set forth in the agreement.
Enforcement	Allow an employee to bring a private right of action in state court for violations. Office of Wage Standards of the Bureau of Contract Administration staffing.	Allow an employee to bring a private right of action in state court for violations.
End Date	No - but language linked to Covid 19 recovery.	No - but language linked to Covid 19 recovery.

Local Hotel Information

At the June 9th Edtech meeting, the Committee made a request of staff that the ownership of Pasadena's primary hotels be identified in this report.

<u>Primary Hotels</u>	<u>Ownership</u>	<u>Status - Covid-19 SAH</u>
Constance	Singpoli Capital Investments	Closed
Courtyard Marriott	Dimension Development	Open
Hilton	Amstar	Open
Hyatt Place	Ensemble Development	Open
Langham	Golden Eagle Investments	Closed
Marriott Residence Inn	RD Olson	Open
Sheraton	Urban Commons	Closed
Westin	Carey Watermark Inc.	Open

Subsequent to the Edtech meeting, Committee members expressed interest in hearing from the hotel representatives and getting their perspective on a local ordinance modeled after Los Angeles. In response, the general managers of several Pasadena hotels conveyed the point that their business has been devastated by the pandemic, losing millions of dollars in lost hotels stays and the complete cancellation of events associated with the Covid-19 stay-at-home orders. Three hotels are completely closed at this time, the Langham, Sheraton, and Hotel Constance while others transitioned from having 85% occupancy in February to less than 10% in March and April with a dramatically reduced nightly rate.

When asked about rehiring practices, the hotels expressed how much they value their employees and the work they do to make their hotels successful. They all stated that they intend to safely rehire their team members as business picks up and have no interest in replacing them with new hires as this would be counterproductive since current laid off employees are skilled, experienced and valued. Consistently, the hotels communicated they are following a rehiring approach that would bring back previous staff based on their previous employment and seniority.

The hotels expressed their opposition to new hiring requirements and labor union influences being codified by local government and expressed concern as why only hotels were being singled out.

Legal Challenges The City of Los Angeles, the County of Los Angeles, Long Beach and Santa Monica are the primary jurisdictions in Southern California that have pursued this type of ordinance. Long Beach and Santa Monica have both had legal challenges brought forward by hotel ownership groups. The legal challenges alleged that the ordinances, which set maximum workloads for housekeepers, are preempted by State law. There is no information about whether the newly adopted City and County of Los Angeles ordinances will be challenged.

FISCAL IMPACT:

In order to effectively implement and monitor a Hospitality Workplace Protection Ordinance additional staffing resources would likely be necessary. The precise job classification(s) of which have not been determined. Should the Council direct staff to study this further, a specific recommendation would be developed.

At the Edtech Committee meeting, some members supported the notion that if Pasadena pursued an ordinance similar to that of the City of Los Angeles, and limited the application to only hotel workers, that private action might be relied upon for compliance and possibly no new City enforcement resources would be needed.

Ordinances imposing new hiring requirements onto Pasadena hotels, may hinder the addition of future hotel investment and potential hotel tax growth.

Respectfully submitted,



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City Manager

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Attachment A: City of Los Angeles Worker Retention and Right of Recall Ordinance.

Attachment B: Los Angeles County Right of Retention Ordinance and Recall Ordinance