



# Agenda Report

March 22, 2021

**TO:** Honorable Mayor and City Council

**THROUGH:** Economic Development and Technology Committee (March 16, 2021)

**FROM:** Office of the City Manager

**SUBJECT:** Consideration of Hero or Hazard Pay Ordinance

## **RECOMMENDATION:**

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

## **BACKGROUND:**

Over the past two months, several cities have adopted ordinances to establish Hero or Hazard pay for certain essential grocery and pharmacy workers. The issue arises out of concern for grocery and drug store employees who have worked in higher risk circumstances throughout the pandemic. The topic of Hero Pay was raised by Councilmember Madison at the March 8, 2021 City Council meeting and was referred to the Council's Economic Development and Technology Committee. The item was discussed at the March 16, 2021 meeting where the Committee reviewed information provided by staff and received public comment. After considering the issue, the Committee referred the item back to Council for further deliberation without a specific recommendation.

Recent Hero Pay ordinances have targeted retail grocery stores, retail drug stores, and other large stores of 85,000 square feet or more that dedicate more than 10% of their floor space to grocery or drug sales. Long Beach was the first to move forward with such an ordinance and set a \$4 per hour increase. Los Angeles City and County have adopted a \$5 increase in per hour pay.

The Los Angeles County Board of Supervisors approved the Ordinance which went into effect on February 26, 2021. The Ordinance:

- applies to all retail grocery or drug store employers that (1) are publicly traded or employ 300 or more people nationwide, and (2) employ more than ten employees per store (in the unincorporated areas of LA County).

- applies to all hourly employees, irrespective of their wage rate, and applies to pharmacists, certain supervisors, and various employees who make more than the minimum wage for a period of 120 days.
- includes an exclusion for employees working remotely and a credit for employers who already offer a voluntary hazard pay increase
- does not allow for any offset in minimum wage reductions.

The jurisdictions in Southern California that have adopted similar ordinances include Long Beach, Pomona, Montebello, Santa Ana, Costa Mesa and Irvine at \$4/hr with Los Angeles, Santa Monica, and West Hollywood set at \$5/hr.

In Los Angeles County, the ordinance creates an employer responsibility to increase the wages of all non-exempt employees who work at least two hours per week by \$5 per hour for 120 days (currently, until June 26, 2021). The Ordinance specifically prohibits employers from lowering employees' wages to offset the increase and prohibits retaliation against employees who assert "rights" pursuant to the Ordinance—which includes reducing their hours. The law also requires employers to maintain employee records evidencing compliance with the Ordinance for at least four years and post a notice of the Ordinance in a conspicuous place for employees to read.

The ordinance establishes administrative fines for employers who fail to provide hazard pay as instructed - \$100 per day and up to a maximum of \$20,000 per employee per year and the employer must also pay each employee all back wages owed and \$100 per day for each day that a violation occurred. Employees are provided a private right of action to collect these penalties, fines, back pay, and attorney's fees up to three years after the violations occurred

#### Other Considerations:

Employers have expressed concerns related to costs but also that the ordinance creates significant challenges in existing labor agreements, overtime calculations, and current non-discretionary bonuses. Recent store closures in Long Beach and Los Angeles have coincided with the adoption of Hero Pay Ordinances.

Average pay for grocery workers in California is currently about \$17.50 - \$18.00 per hour. A \$5.00 increase represents approximately a 28 percent increase.

A federal judge denied a bid by the California Grocers Association to temporarily overturn the Long Beach Ordinance. Lawsuits with the other cities are still pending.

Grocery and drug store employees have worked in higher risk circumstances throughout the pandemic, but they are among a broader list of essential workers that have had similar challenges. Medical/dental workers, bus drivers, flight attendants

and teachers are also considered to be essential workers at a higher risk for contracting the virus during work.

The timing of the public policy discourse regarding Hero Pay primarily aligned with the December and January spike in Covid-19 infections and hospitalizations. Los Angeles County recently transitioned from the Purple Tier into less restrictive Red Tier. Pasadena has experienced a significant decrease in infections and hospitalizations in March.

**FISCAL IMPACT:**

In order to effectively implement and monitor a Hero or Hazard Pay Ordinance the City of Pasadena would likely utilize staff assigned to minimum wage compliance. However, with the possible application of a new ordinance focused on only grocery and pharmacy workers, private action might be relied upon for compliance, and minimal new City enforcement resources would be needed.

Respectfully submitted,



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Prepared by:



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Links to resources:

LA County Ordinance Language

[https://library.municode.com/ca/los\\_angeles\\_county/ordinances/code\\_of\\_ordinances?nodeId=1069342](https://library.municode.com/ca/los_angeles_county/ordinances/code_of_ordinances?nodeId=1069342)

Summary Posting Sheet for LA County

<https://dcba.lacounty.gov/wp-content/uploads/2021/02/LA-County-Hero-Pay-Required-Posting-2.23.21.pdf>

City of Los Angeles Report

[https://clkrep.lacity.org/onlinedocs/2020/20-1609\\_rpt\\_CLA\\_02-19-2021.pdf](https://clkrep.lacity.org/onlinedocs/2020/20-1609_rpt_CLA_02-19-2021.pdf)

News Article – Civil Eats

<https://civileats.com/2021/02/25/grocery-stores-continue-to-push-back-against-hazard-pay-for-workers/>

Recent News Article – Los Angeles Times

LA Times - Ralphs and Food 4 Less locations to close in Los Angeles over hazard pay rules  
<https://www.latimes.com/business/story/2021-03-10/ralphs-food-4-less-locations-close-los-angeles-hazard-pay>

Study Prepared by California Grocers Association

<https://www.extrapayfacts.com/wp-content/uploads/2021/01/2021-Extra-Pay-Mandates-Economic-Study.pdf>