



COUNTY OF LOS ANGELES
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Acting County Counsel

November 24, 2020

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California, 90012

Dear Supervisors:

**URGENCY ORDINANCE ADDING LOS ANGELES COUNTY CODE TITLE 11,
DIVISION 1, CHAPTER 11.01 (PREVENTING RETALIATION FOR REPORTING
PUBLIC HEALTH VIOLATIONS)
(ALL SUPERVISORIAL DISTRICTS; FOUR VOTES)**

SUBJECT

As directed by your Board on September 1, 2020 and November 10, 2020, County Counsel, in consultation with the Department of Public Health and the Department of Consumer and Business Affairs, drafted the enclosed ordinance: (1) prohibiting retaliation against employees ("Workers") for discussing or reporting Health Officer Order violations to the Department of Public Health or others; and (2) creating a right of action for retaliation for Workers and for County Counsel.

IT IS RECOMMENDED THAT THE BOARD:

1. Adopt the enclosed urgency ordinance adding County Code, Title 11, Chapter 11.01 entitled Preventing Retaliation for Reporting Public Health Violations Ordinance.
2. Authorize County Counsel to file civil actions when warranted and with prior notice to your Board against those who violate the Preventing Retaliation for Reporting Public Health Violations Ordinance.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On September 1, 2020, your Board adopted a motion directing County Counsel, in consultation with the Department of Public Health ("DPH") and the Department of Consumer and Business Affairs ("DCBA") to draft an ordinance enabling the implementation of Public Health Councils by addressing retaliation against workers participating in such Councils. On November 5, 2020, DPH reported to your Board that it was meeting with County Counsel and the DCBA to develop an ordinance protecting workers from retaliation for actions taken to report Health Officer Orders and public health violations. On November 10, 2020, your Board directed County Counsel to prepare and file an urgency anti-retaliation ordinance.

The proposed Preventing Retaliation for Reporting Public Health Violations Ordinance ("Ordinance") will protect Workers who discuss or report any public health violation to the County, DPH, any other County departments or designees, non-County agencies or entities, the Worker's Employer, other Workers, or Public Health Councils, including the Employer's or another Worker's perceived noncompliance with a Health Officer Order.

By encouraging workers to report public health violations without fear of retaliation, this ordinance promotes public health and increases the effectiveness of public health requirements. It is specifically needed because the COVID-19 pandemic continues to spread, causing further illness and death that fall disproportionately in low-income communities and communities of color, and following Health Officer Orders in the workplace can help stop the spread.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The recommended action is consistent with the principles of the countywide Strategic Plan Goal I: Make Investments that Transform Lives, more specifically Strategy I.2: Enhance our Delivery of Comprehensive Interventions. The proposed Ordinance would provide additional capacity to enforce Health Officer Orders created to stop the spread of COVID-19.

The action is also consistent with Strategic Plan Goal II: Foster Vibrant and Resilient Communities, specifically Strategy II.2: Support the Wellness of Our Communities. The proposed Ordinance would help safeguard some of the most vulnerable County residents from exposure to COVID-19.

FISCAL IMPACT/FINANCING

The proposed Ordinance will create a need for additional DCBA investigators and on November 10, 2020, your Board adopted a motion requesting CEO to identify funding in coordination with County Counsel and DCBA.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

As declared in by your Board in the March 4, 2020, emergency declaration, the COVID-19 pandemic has negatively impacted the County's economy. Workplace and community transmission continue to play a significant role in the spread of COVID-19 and it is imperative for the health and safety of its residents that businesses comply with the County Health Officer Orders.

To aid DPH in ensuring compliance with Health Officer Orders and public health requirements at the workplace, the proposed Ordinance protects Workers by prohibiting retaliation against them for reporting or discussing violations of Health Officer Orders or participating in a Public Health Council. In addition, the proposed Ordinance signals the County's seriousness about protecting Workers by providing for penalties (up to \$10,000 per violation) and creating a right of action for retaliation for Workers and for County Counsel, including the right to attorneys' fees to the prevailing party.

A civil action by a Worker or County Counsel can be filed only after giving employers written notice of the alleged violation(s) and fifteen (15) business days to cure the violations.

The Ordinance will apply Countywide, except in cities with their own health officer, like Long Beach and Pasadena.

The Ordinance would become effective immediately upon approval by the Board by a four-fifths vote pursuant to Government Code section 15123(d) because the ordinance is necessary for the immediate preservation of the public peace, health, or safety and contains a declaration of the facts constituting the urgency.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The proposed Ordinance will improve compliance with public health requirements generally and help the County achieve compliance with the existing COVID-19-related Health Officer Orders. The DCBA will investigate complaints of retaliation and will work with County Counsel's Affirmative Litigation and Consumer Protection Division to enforce violations.

Very truly yours,

RODRIGO A. CASTRO-SILVA
Acting County Counsel

By *J. Scott Kuhn*

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APPROVED AND RELEASED:



LESTER J. TOLNAI
Special Counsel/Chief Deputy

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Enclosure

c: Rafael Carbajal, Acting Director
Department of Business and Consumer Affairs

Dr. Barbara Ferrer, Director
Department of Public Health