



LOS ANGELES COUNTY
CONSUMER & BUSINESS AFFAIRS

Board of Supervisors

May 28, 2021

Hilda L. Solis
First District

Holly J. Mitchell
Second District

Sheila Kuehl
Third District

Janice Hahn
Fourth District

Kathryn Barger
Fifth District

To: Supervisor Hilda L. Solis, Chair
Supervisor Holly J. Mitchell
Supervisor Sheila Kuehl
Supervisor Janice Hahn
Supervisor Kathryn Barger

Director
Rafael Carbajal

From: Rafael Carbajal
Director

Chief of Staff
Joel Ayala

REPORT ON THE EFFECTIVENESS OF THE PROVISIONS OF THE HERO PAY ORDINANCE AND THE NEED TO EXTEND IT (ITEM NO. 10, AGENDA OF FEBRUARY 23, 2021).

Purpose of Memorandum

On February 23, 2021, your Board adopted an urgency ordinance to require grocery retail and drug retail employers of the County to provide an additional \$5 per hour hazard pay to employees working frontline positions in the unincorporated areas of Los Angeles County as compensation for the hazards these employees face during the COVID-19 pandemic (Hero Pay Ordinance). On the same date, your Board directed the Department of Consumer and Business Affairs (DCBA) to enforce the provisions of the Hero Pay Ordinance and report back on the effectiveness of the ordinance. Additionally, DCBA was tasked to provide recommendations for additional changes and the possible extension of the ordinance, based on the County's recovery from impacts of the COVID-19 pandemic.

Actions Taken to Respond to Hero Pay Complaints

The Los Angeles County Hero Pay Ordinance became effective on February 26, 2021, three days after Board adoption. Prior to the effective date, DCBA began developing policies and procedures to ensure effective and immediate enforcement of the provisions of the Ordinance. In collaboration with County Counsel, DCBA initiated the following actions:

- Drafted forms for the investigative process;
- Created a workplace Hero Pay Poster, as required by the Ordinance;



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- Created a webpage on DCBA's website¹ which provides information about the Ordinance for employers and employees, directions on how to file a complaint for possible Hero Pay violations, and includes a direct link to the Hero Pay Poster for employers to download and display in their place of business; and
- Created a "Frequently Asked Questions" (FAQ) as a resource for the public to better understand the requirements of the Ordinance.

Further, DCBA began tracking inquiries and complaints received by employees and employers. To date, DCBA has received 154 inquiries and one possible complaint against a large grocery establishment.

Additionally, DCBA collaborated with the Department of Workforce, Development, Aging, and Community Services (WDACS) for workforce development opportunities. WDACS connected DCBA with America's Job Center of California (AJCC), where DCBA staff joined and presented on the requirements and protections offered by the Hero Pay Ordinance during AJCC's task force meetings. DCBA also collaborated with the Los Angeles County Public Library and participated in webinars intended to provide workers with skills to enter the workforce. During these webinars, DCBA trained 45 workers on the requirements and the protections of the Hero Pay Ordinance as well as other worker protection ordinances within the County's jurisdiction.

In an effort to help businesses and business owners understand the requirements and protections offered by the Hero Pay Ordinance and other worker protection ordinances within the County's jurisdiction, DCBA held a webinar where 21 businesses attended. Finally, in an effort to provide the information to the most relevant workers covered by the Hero Pay Ordinance, DCBA collaborated with the United Food and Commercial Workers (UFCW 770) union, which represents most of the frontline workers in the unincorporated food and drug retail stores and conducted a training on the requirements of the Ordinance in a webinar designed for workers. DCBA further engaged with UFCW 770 union representatives to receive comments that could assist the County in the further development of the program. UFCW 770 union commented that the Hero Pay Ordinance has proven to be well-drafted, and UFCW 770 union used it as a model for the City of Glendale and the City of Santa Monica. UFCW 770 union further relayed that they have not seen formal complaints against employers because the Ordinance is clear and concise in listing employers' responsibilities. Instead, any arising issues have been quickly resolved, crediting the Ordinance's clear language and enumerated protections.

Recommended Changes to the County's Hero Pay Ordinance

The COVID-19 pandemic presented both health and economic emergencies for the County of Los Angeles. To ensure that covered employees remain supported throughout the duration of these declared emergencies, it is recommended that your Board further

¹ <https://dcba.lacounty.gov/heropay/>

extend the ordinance until at least the lifting of the COVID-19 emergency order, or until a larger number of people are vaccinated against COVID-19, as determined by the Department of Public Health.

Given the effectiveness of the Ordinance, DCBA recommends the following:

Extend the coverage period

State and Local emergency orders have not yet been terminated and the intended protections and benefits provided by the Ordinance are still required as much today as they were on the day the Ordinance was adopted. As such, it is recommended that your Board continue the ordinance until further directives from the County's Health Officer.

The recommendation to extend the effective date of the Ordinance is based on conversations with worker unions. During engagement with UFCW 770 union, it was discussed that past relaxation of COVID-19 orders have proven that people tend to be less vigilant, adding to the rise in COVID-19 related illnesses and deaths. Acknowledging the positive trends of the County's rate of vaccination which exceeded 50% of the population having been fully vaccinated, certain areas of the County still have low vaccination rates. Additionally, pursuant to data obtained from UFCW 770 union, only 30% of the essential retail grocery and drug store workers have been vaccinated and many of whom will be potentially exposed to patrons that have not been vaccinated. Thus, DCBA is recommending that the ordinance be extended conditioned upon the Health Officer Orders and directives.

Revision of 8.204.080 retaliatory action prohibited

Los Angeles County Code (LACC) 8.204.080 states that no Employer may discriminate against an employee for enforcing their rights under the Ordinance. However, it is both the UFCW 770 union and DCBA's opinion, based on field research, that employers have been reducing employees' hours across the board and/or transferring employees out of locations requiring "Hero Pay" to other locations operated by the employer that do not require "Hero Pay."

Currently, there is no prohibition in the language of the Ordinance prohibiting employers from taking these actions, reducing employees' hours, or transferring employees away from locations where the Hero Pay Ordinance applies. Such actions do not currently rise to the level of retaliation but are clearly negatively impacting workers.

The Ordinance also states that taking adverse action against an Employee, including lowering Employees' Base Wage or Holiday Premium Pay or reduction of hours, within 90 days of the Employee's exercise of rights protected under this Chapter, shall raise a rebuttable presumption of the Employer having done so in retaliation for the exercise of such rights.

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DCBA recommends expanding the anti-retaliation provision to also prohibit the acts being committed by employers to avoid the payment of Hero Pay. Expansion should include additional language prohibiting reducing hours without a cause and transferring workers to a store not subject to the hero pay ordinances within specified time or unless otherwise proven.

If you have any questions or need additional information, please contact me or Maggie Becerra, Deputy Director, at (213) 712-5493 or mbecerra@dcbalacounty.gov; or Rose Basmadzhyan, Chief, at (213) 712-5518 or vbasmadzhyan@dcbalacounty.gov.

RC:JA:
MB:RB:rv

c: Executive Officer, Board of Supervisors
Chief Executive Officer
County Counsel