



Kate Harrison  
Vice Mayor, District 4

CONSENT CALENDAR  
May 31, 2022

To: Honorable Mayor and Members of the City Council  
From: Vice Mayor Harrison  
Subject: Budget Referral: Fund Additional HHCS Community Development Project Coordinator Position to Assist with Workforce Standards and Enforcement

RECOMMENDATION

Refer to the FY 23 and FY 24 Annual Budget Process approximately \$104,863 in General Funds with additional benefits to hire another Community Development Project Coordinator in the Health, Housing and Community Services (HHCS) Department to assist with enforcement of existing and prospective labor laws and regulations.

CURRENT SITUATION AND RATIONALE FOR RECOMMENDATION

The HHCS department is responsible for staffing and enforcing each of the City's labor ordinances and regulations, including the Minimum Wage, Paid Sick Leave, Berkeley Family Friendly and Environment Friendly, and Living Wage Ordinances. Currently, the Department has a single employee tasked with enforcing Berkeley's workforce standards. In consultation with HHCS leadership and a former employee who staffed the division, current labor enforcement staffing levels may not adequate for existing programs, let alone the adoption of possible new legislation such as the Fair Work Week Ordinance. It is in the public interest to expand staffing in this division to enhance implementation and enforcement of Berkeley's workforce standards.

BACKGROUND:

The City of Berkeley currently enforces four workforce standards ordinances with the following provisions:

**Minimum Wage**

Employers must pay all staff who work in Berkeley at least two hours per week the minimum wage standard set by the City. The minimum wage standard in Berkeley is listed below:

The minimum wage standard applies to all employees who work at least two hours in the geographical limits of Berkeley, regardless of where the employer is located or where the employee lives. The standard applies to both for-profit and

non-profit employers. Employees' tips do not count towards covering the minimum wage payment.

### **Paid Sick Leave**

Employers must give their staff one hour of paid sick leave for every 30 hours worked.

Small business employers (with fewer than 25 employees) may cap an employee's accrued paid sick leave at 48 hours and may cap the use of paid sick leave to 48 hours per year.

Employers with 25 or more employees may cap an employee's accrual of paid sick leave at 72 hours, but may not cap how much paid sick leave an employee uses in a calendar year.

### **Berkeley Family Friendly and Environment Friendly Ordinance**

Under this ordinance, an employee has the right to request a flexible or predictable work schedule. The employer does not have to grant the request, but does have to respond in writing within 21 days. If denying the request, the written response must include a business reason for denial.

The ordinance applies to employers with ten or more employees. Employees must have worked at least three months and must work at least eight hours per week on a regular basis to be covered by the ordinance.

An employer may revoke or modify a flexible or predictable working schedule for business reasons, with reasonable notice to the employee. Within 21 days, the employer must provide a schedule and must provide in writing to the employee a business reason for the change.

### **Living Wage Ordinance**

Vendors paid more than \$25,000 per year by the City of Berkeley must comply with the Living Wage Ordinance. To comply, vendors must pay a living wage (set by the City), provide health benefits or cash in lieu, and provide paid time off.

HHCS is responsible for implementing and enforcing such ordinances, including collecting complaints and helping to adjudicate alleged violations. Complaints are currently collected via email, in person or by mail. Complaints may be submitted by employees or any other person. In addition, HHCS is responsible for enforcing against employers who retaliate against any employee who asserts their right under the ordinances. Such responsibilities are vast and require additional staffing.

In addition, Council is actively considering the Fair Work Week Ordinance, which could require HHCS to adopt significant additional implementation and enforcement responsibilities.

FISCAL IMPACTS OF RECOMMENDATION

Impact on General Fund of \$104,863.

ENVIRONMENTAL SUSTAINABILITY

No discernable impact.

CONTACT PERSON

Vice Mayor Kate Harrison, (510) 981-7140

