

December 6, 2021

MEMORANDUM

To: Seattle City Council
From: Karina Bull, Analyst
Subject: Council Bill 120212: Construction Employee Parking Reimbursements

On December 7, 2021, the Finance and Housing Committee (Committee) will discuss and may vote on [Council Bill \(CB\) 120212](#), legislation that would require construction employers to reimburse employees for parking expenses. This memo provides an overview of the legislation, identifies issues for Council's consideration, and identifies next steps.

Background

Construction has long been a major economic driver in the Seattle region. Currently, there are over 8,000 construction employers¹ that employ about 136,000 workers² in the Seattle area. Unlike workers in other industries, many construction workers drive to work to meet the specific needs of their jobs, such as bringing heavy tools and other equipment to perform their work or arriving early in the morning before the start of public transit services. Construction workers also park near their jobs to limit the distance that they carry equipment to the job site and must find parking for the duration of the workday to avoid moving their vehicles every few hours. As Seattle has the highest off-street parking costs in the region with average daily rates of more than \$23.00³, parking can be a significant expense for those who work in areas requiring paid parking.

Summary

Labor standards requirements

The proposed legislation would require construction employers to fully reimburse employees for parking expenses to work at construction sites in Seattle. Employers regularly providing additional pay to cover parking expenses (e.g., an additional dollar for each hour worked at a construction site) could use this pay to offset the amount due for reimbursement.

Employers providing free parking would not be subject to the reimbursement requirement. However, if the employer-provided parking is more than three blocks from the construction site, employers would pay employees for the travel time (between the free parking site and the construction site) as hours worked at the employee's regular rate of pay.

¹ City of Seattle Department of Finance and Administrative Services (November 15, 2021). [Active Business License Tax Certificate](#).

² Bureau of Labor Statistics (November 4, 2021). [Seattle Area Economic Summary](#).

³ Puget Sound Regional Council (November 19, 2020). [Parking Trends in the Central Puget Sound Region, 2013-2018](#).

Enforcement

The Office of Labor Standards (OLS) would implement the legislation. Standard implementation activities include developing rules, creating/translating education materials, updating online information, keeping 18 contracted community partners apprised of legislative requirements, providing direct outreach to employers and employees, conducting enforcement, and tracking/publicizing enforcement data.

OLS could enforce the ordinance through complaint-based or directed investigations and/or engage in a “complaint procedure” that would serve as an information exchange between parties. Employees could also file a civil action and, upon prevailing, obtain attorney fees plus costs.

Consistent with other labor standards, remedies for violations would include payment of up to three times the amount owed to the worker plus interest. OLS could also require hiring entities to pay penalties and/or fines per aggrieved party and per type of violation.

Financial Impacts

This legislation could require OLS to hire staff and/or consultants, incur office space expenses, and fund additional outreach. No estimate is currently available for these costs. More information is also needed to determine the impacts of this legislation on City public works construction projects and public/private partnership projects with significant City investment.

For employers, there would be financial implications for covering the administrative and actual costs of parking expenses for work in Seattle. More information is needed to know the extent of construction work that happens in areas requiring paid parking and how many employers already have agreements to cover part or all of employee parking expenses.

Racial Equity Impacts

This legislation could support the financial well-being of Black, Indigenous, and People of Color (BIPOC) workers in the construction industry, especially Latinx and immigrant workers who are overrepresented in construction jobs.⁴

While the construction sector is predominantly white and male, construction jobs are among the top ten occupations that will add the most BIPOC workers in the Seattle area in the next decade.⁵ This legislation has the capacity to improve the quality of construction jobs for current

⁴ Policy Link. (2021). [Advancing Workforce Equity in Seattle: A Blueprint for Action](#). BIPOC workers comprise 24 percent of the construction workforce in King County, compared to 34 percent of the workforce overall. Latinx workers are overrepresented in the construction workforce, accounting for nine percent of Seattle workers and holding 24 percent of construction jobs. The vast majority (75 percent) of Latinx workers in construction jobs are immigrants. Black workers account for six percent of the Seattle workforce and are the most deeply underrepresented in construction, holding just two percent of construction jobs.

⁵ *Id.*

and future BIPOC workers who might otherwise shoulder the burden of unavoidable, high parking costs to work at construction sites in Seattle.

The positive outcome for some construction workers is juxtaposed with equity concerns. The proposed legislation would provide a significant financial benefit for a category of workers that comprises seven percent of the Seattle area's workforce and earns an average of \$27.11 per hour⁶ with certain specialties earning more than \$50 per hour. Low-wage workers in other industries, who earn closer to the minimum wage of \$16.69 per hour and who are disproportionately workers of color, may also need to drive long distances to work due to a lack of affordable housing in Seattle or work shifts that begin/end outside of transit hours. Such workers could qualify for reduced transit fares or pre-tax payroll deductions for transit or vanpool expenses under the [Commuter Benefits Ordinance, SMC 14.30](#), but these options are limited and may not adequately address transportation hardships.

Notably, many of Seattle's labor standards cover distinct categories of workers. Of Seattle's 17 labor standards, 11 limit coverage to workers in certain industries.⁷ This legislation would be one of many labor standards addressing a pressing problem for certain workers and taking an incremental approach to improving the working conditions of employees in Seattle.

Issue Identification

- 1. Environmental impact** – Establishing a right to paid parking could incentivize more construction workers to drive to work, including those who don't need to carry heavy tools or travel long distances and who might otherwise carpool or use public transportation. While many construction workers drive to work by necessity, there is not information on the number of workers who have more flexibility in their transportation options. Increased driving among a workforce of up to 136,000 employees in the Seattle area could have impacts on the environment and impede the City's [Climate Action Plan](#).

⁶ Bureau of Labor Statistics (November 4, 2021). [Seattle Area Economic Summary](#).

⁷ See [the OLS website](#) for more information on the Secure Scheduling Ordinance, Hotel Employee Protections Ordinances, Domestic Workers Ordinance, Transportation Network Company Ordinances, and temporary ordinances for Gig Workers and Grocery Employee Hazard Pay.

- 2. Alternative policies** – Alternative or additional options could offer more flexibility in meeting the commuting needs of workers, reducing employer expenses, and/or mitigating environmental impacts. For example, the legislation could include full or partial exceptions to reimbursement requirements for employers that provide transit subsidies, onsite storage of tools, or carpool incentives. Carpool incentives could include additional pay or mileage reimbursement for those who include another worker in their commute.

Options

- a. Add option for transit subsidies.
- b. Add option for onsite storage of tools.
- c. Add option for carpool incentives.
- d. Make no changes to the legislation.

- 3. Administrative costs** – Processing individual requests for reimbursements could result in significant administrative costs for employers. Providing employers with options for streamlining reimbursements could mitigate these costs. For example, the legislation could establish a single rate of reimbursement for parking across Seattle or specific rates for identified areas of Seattle. The rate(s) could be established in the legislation or by OLS rules/guidance. Either way, the rate(s) could automatically increase every year to reflect the rate of inflation or be adjusted by OLS to reflect market pricing.

Options

- a. Permit employers to pay a single rate of reimbursement for parking across Seattle, subject to rules/guidance issued by OLS.
- b. Permit employers to pay specific rates of reimbursement for identified areas of Seattle, subject to rules/guidance issued by OLS.
- c. Make no changes to the legislation.

- 4. Employee's choice of parking** – The legislation requires reimbursement for parking expenses but does not specify whether employers can restrict the type (e.g., self-serve or valet), location, and cost of parking. The legislation infers a prohibition on restrictions due to the requirement to provide “full reimbursement” and the absence of qualifying language, such as “reasonable expenses” or “necessary expenses.” However, the absence of explicit language could create ambiguity. Adding an unequivocal statement that prohibits (or allows) restrictions on parking expenses would provide clarity. This issue could also be addressed in OLS rules.

Options

- a. Prohibit employers from restricting the employee's choice of parking.
- b. Permit employers to restrict the employee's choice of parking.
- c. Make no changes to the legislation.

- 5. Employer’s provision of transportation from free parking** – The legislation defines the distance that triggers the employer’s obligation to provide transportation from free parking to the construction site as “more than three blocks.” This distance could be quantified as a specific unit of miles rather than blocks. Since the length of blocks varies across Seattle and includes standard blocks (.07 miles), long blocks (.125 miles), and short blocks (.05 miles), identifying a specific distance could prevent inconsistent implementation.⁸ For a simplified approach, the distance could be .21 miles (three standard blocks). The distance could also be increased to .5 miles to align with the typical “walkshed” that planners use to define a walking distance to a specified location, such as a transit stop.⁹ Quantifying this distance could be accomplished in the legislation or OLS rules. However, increasing the distance to .5 miles (notably more than three blocks) would likely need to be established in the legislation.

Options for defining distance

- a. Establish distance as “more than .21 miles.”
- b. Establish distance as “more than .5 miles.”
- c. Make no changes to the legislation.

- 6. Employer’s payment for travel time** – The legislation does not specify certain aspects of the employer’s obligation to pay for travel time from distant free parking to the construction site. It is not clear whether travel time includes wait time and ride time for the employer-provided transportation. Additionally, it is not clear whether employers must pay for travel time when an employee reaches the construction site by a different means than the employer-provided transportation, such as walking. Either issue could be addressed in the legislation or in OLS rules.

Options for defining travel time

- a. Require travel time to include *wait time and ride time* for employer-provided transportation.
- b. Permit employers to restrict travel time to *ride time* on the employer-provided transportation.
- c. Make no changes to the legislation.

Options for defining travel method

- a. Require travel method to include use of employer-provide transportation and other means of transportation, such as walking.
- b. Permit employers to restrict travel method to use of employer-provided transportation, such as a shuttle.
- c. Make no changes to the legislation.

⁸ Answers.com. [What is the average length city block in Seattle?](#)

⁹ Metropolitan Washington Council of Governments (July 16, 2019). [Walksheds show planners how easily people can walk to transit](#). Seattle Department of Transportation (2017) [City of Seattle Pedestrian Masterplan](#).

- 7. Penalties and fines** – The penalties and fines reflect OLS’s standard remedy amounts for 2021 and do not reflect 2022 adjustments for inflation. OLS annually adjusts penalties and fines to reflect 100 percent of the annual average growth rate of the bi-monthly Seattle-Tacoma-Bellevue Area Consumer Price Index for Urban Wage Earners and Clerical Workers, termed CPI-W. Adjusting the amounts to reflect a 3.42 percent rate of inflation would create greater consistency with other labor standards. For example, the discretionary civil penalty for an employer’s first violation would increase from \$556.30 to \$575.31 per aggrieved party.

Options

- a. Update the penalties and fines to reflect 2022 adjustments for inflation.
- b. Make no changes to the legislation.

- 8. Effective date** – The effective date in the introduced legislation would OLS with 30 days to prepare for implementation. A delayed effective date would provide OLS with more time to engage in standard implementation activities. While there is no typical amount of time between Council’s passage of labor standards and implementation, previous labor standards (except for emergency ordinances) have had lead times from three months to one year or longer. Factors to consider for the effective date include the time needed for OLS to conduct rulemaking, create informational materials, obtain translations for model notices in multiple languages, update online information, adapt enforcement strategies, inform 18 organizations in the Community Outreach and Education Fund and Business Outreach and Education Fund about the legislation, and provide direct outreach to employers and employees.

Options

- a. Change the effective date of the labor standards requirements to provide OLS with more time to prepare for implementation (e.g., June 1, 2022, September 1, 2022, January 1, 2023).
- b. Make no changes to the legislation.

Next Steps

If the Committee votes on the legislation at its meeting on December 7, 2021, Council action could occur at the Full Council meeting on December 13, 2021. If the Committee does not vote on the legislation, the next committee with oversight of labor standards could consider and possibly vote on the legislation in 2022.

Please contact me if you have questions about this proposed legislation.

cc: Esther Handy, Director
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