



# Seattle City Council

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## Central Staff - Memorandum

**Date:** Monday, September 21, 2015  
**To:** City Council  
**From:** Tony Kilduff  
**Subject:** Amendments to C.B. 118499 (For-hire collective bargaining)

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The following proposed amendments to Council Bill 118499 will be discussed at the Finance and Culture Committee meeting on Wednesday, September 23. The proposed amendments are Staff's response to issues and questions raised by several Councilmembers during the Bill's first reading in committee on September 09 and at Briefings Meeting on September 21.

### **Amendment 1**

Councilmember Harrell raised a concern that the language in paragraph 6.310.735.E.1 regarding the expression of interest by drivers in being represented is vague and could be misinterpreted to mean interest in the concept and not a desire to be represented. Staff proposes the following amendment to make the driver's intent clear. The language is similar to that used in the context of regular collective bargaining.

#### Beginning line 19, page 4 of the Bill:

E. The Director shall certify a QDR as the EDR for drivers contracted with a particular driver coordinator, according to the following:

1. Within 120 days of receiving the driver contact information, a QDR will submit ~~documentation~~ statements of interest to the Director ~~that from~~ a majority of qualifying drivers from the list described in subsection 6.310.735.D ~~have expressed interest in being represented by that QDR.~~ Each statement of interest shall be signed, dated, and clearly state that the driver wants to be represented by the QDR for the purpose of collective bargaining. The Director shall determine by rule the standards and procedures for submitting and verifying statements of interest by Qualifying Drivers choosing an EDR.

2. Within 30 days of receiving ~~such documentation~~ the statements of interest, the Director shall determine if the ~~documentation is~~ statements of interest are sufficient to designate the QDR as the EDR for all drivers for that particular driver coordinator. If more than one QDR establishes that a majority of qualifying drivers have expressed interest in being represented by that QDR, the Director shall designate the QDR that received the largest number of verified affirmative statements of interest to be the EDR.

*The next three amendments are technical in nature and are intended to make clear the scope and intent of the legislation. If the Committee accepts any or all of these amendments, Staff will renumber subsequent sections in the Bill accordingly.*

#### **Amendment 2**

As Councilmembers will be aware, the question of the legal status (employee or independent contractor) of for-hire drivers is currently before the courts in California. Staff recommends the addition of a new section to make clear that this legislation takes no position on the question.

Section 6. No provision of this ordinance shall be construed as a providing any determination regarding the legal status of taxicab, transportation network company, and for-hire vehicle drivers as employees or independent contractors.

#### **Amendment 3**

As with the previous amendment, Staff recommends the addition of a new section to make the scope of the legislation clear.

Section 7. No provision of this ordinance shall be construed as relieving taxicab, transportation network company, and for-hire vehicle drivers from any legal obligation under any other law, including but not limited to antitrust laws, nor shall any provision of this ordinance be construed as providing any determination regarding whether any such law applies to taxicab, transportation network company, and for-hire vehicle drivers.

#### **Amendment 4**

Staff recommends the addition of a new section to make clear that this legislation is subordinate to all applicable federal statutes.

Section 8. Should a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, determine that any provision of this ordinance is preempted by federal law, any and all such provisions shall be deemed null and void.

*During Briefings Meeting, the director of FAS raised the concerns about times in the Bill and the challenge to his staff in meeting them. The following two amendments address those concerns.*

#### **Amendment 5**

This amendment would allow FAS more time to review agreements for compliance with existing regulations.

Beginning line 1, page 7 of the Bill:

2. After reaching agreement, the parties shall transmit the agreement to the Director for review for compliance with the provisions of this Chapter 6.310. The Director shall have ~~14~~ 30 days upon receipt of an agreement to determine if it complies with this Chapter 6.310 and to notify the parties of the determination in writing.

And similarly, beginning line 11, page 8 of the Bill:

3. The arbitrator shall transmit the agreement to the Director for review for compliance with the provisions of this Chapter 6.310. The Director shall have ~~14~~ 30 days upon receipt of an agreement to determine if it complies with this Chapter 6.310 and to notify the interest arbitrator of the determination in writing.

**Amendment 6**

This amendment would allow FAS more time to develop rules required to implement the legislation.

**Beginning line 1, page 12 of the Bill:**

Section 5. Sections 2 and 3 shall take effect and be in force ~~90~~ 180 days after the effective date of this ordinance.

**Amendment 7**

To conform with our code drafting standards, Staff recommends replacing “Driver Coordinator” with “driver coordinator” throughout the Bill.