

June 3, 2021

M E M O R A N D U M

To: Finance and Housing Committee
From: Karina Bull, Analyst
Subject: Council Bill 120069: Independent Contractor Protections Ordinance

On June 4, 2021, the Finance and Housing Committee (Committee) will discuss and may vote on [Council Bill \(CB\) 120069](#), legislation sponsored by Councilmember Herbold that would establish new requirements for businesses hiring independent contractors. This memo provides an overview of the legislation and proposed amendments.

Overview

This legislation would require commercial hiring entities (*i.e.*, businesses) to provide independent contractors with pre-contract disclosures, timely payment, and payment disclosures for services valued at \$600 or more. These requirements would become effective on March 1, 2022 and would be implemented by the Office of Labor Standards (OLS).

The Committee discussed this legislation on May 4 and May 18, 2021. See [Central Staff memo dated May 3, 2021](#) and [Central Staff memo dated May 14, 2021](#) for an overview of the legislation and previous issue identification.

Amendments

Councilmember Herbold is prepared to move a substitute bill ("D2") for the Committee's consideration. The substitute bill contains technical corrections and substantive amendments. See Table 1 for an overview of the amendments. Any additional changes in the proposed substitute bill will be distributed as soon as they are available.

Table 1: Substitute Bill "D2"

Issue	Description
A. Recitals	The substitute bill would remove and/or revise recitals for brevity.
B. Independent Contractor Coverage	The substitute bill would not cover independent contractors where the only relationship between the independent contractor and the hiring entity is a property rental agreement, such as an agreement to lease workspace from the hiring entity. An example of this type of property rental agreement could be an independent contractor hair stylist whose only relationship with a salon is renting a booth for workspace.

Issue	Description
C. Value of services	The substitute bill would require future adjustments to the amount of compensation that triggers coverage of independent contractor services. The amount of compensation, set at \$600 in a calendar year, would be adjusted to reflect changes to the minimum amount of compensation required for the Internal Revenue Service Form 1099-NEC or equivalent IRS form for businesses reporting non-employee compensation. OLS would determine the adjustments and file a schedule of the amounts with the City Clerk.
D. Platform gig worker provisions	The substitute bill would retain coverage of platform gig workers, but would remove the following provisions specific to platform gig work: <ul style="list-style-type: none"> • Requirement to include estimated tip and service charge distribution in the pre-contract disclosure; • Requirement to provide a pre-contract disclosure at the initial time of hire and for each online order for work; • Requirement to provide a payment disclosure after completion of each online order for work; and • Requirement to provide disclosures and notice of rights in an electronic format via smartphone application or online web portal.
E. Rulemaking authority	The substitute would add a new section clarifying the Director's authority to issue rules for the administration and enforcement of the legislation.
F. Enforcement	The substitute bill would clarify the OLS Director's discretion to prioritize investigations of workforces that are vulnerable to violations of the legislation. The substitute bill would also give the Director more discretion to develop the complaint procedure and navigation program.
G. Effective date	The substitute bill would change the effective date of the labor standards requirements from March 1, 2022 to September 1, 2022.
H. OLS funding	In a non-codified section, the substitute bill would state Council's intention for OLS to use the process established by Seattle Municipal Code (SMC), 3.15.007 "OLS Fund" to establish the office's funding needs for implementation. Pursuant to SMC 3.15.007(B), the Director would certify the minimum annual contribution needed for enforcement and outreach in a letter to the Mayor and Council by September 1, 2021. The minimum annual contribution would be reflected in the 2022 Proposed Budget submitted by the Mayor to the Council.

Issue	Description
I. Platform gig worker legislation	In a non-codified section, the substitute bill would change the timeline for establishing minimum compensation and other protections for platform gig workers from late September to the end of 2021.

Next Steps

If the Committee votes on this legislation at its meeting on June 4, 2021, Council action could occur at the Full Council meeting on June 14, 2021.

Please contact me if you have questions.

cc: Dan Eder, Interim Director
Aly Pennucci, Policy and Budget Manager