



City of Seattle
Edward B. Murray, Mayor

Date: December 2, 2015

To: Councilmember Bruce Harrell, Chair
Public Safety, Civil Rights, and Technology Committee

From: Dylan Orr, Division Director, Office of Labor Standards
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Subject: Wage Theft Prevention and Harmonization Ordinance of 2015

Briefing Objective

The Office of Labor Standards will summarize highlights of a proposed ordinance that makes comprehensive changes to Seattle’s labor standards through increasing remedies, strengthening enforcement and harmonizing the ordinances for the benefit of workers and business.

Stakeholder Engagement

From June through November 2015, staff from the Mayor’s Office and the Office of Labor Standards engaged with stakeholders in over 26 meetings. Three of these meetings involved large groups of more than 30 business and community stakeholders; five meetings involved smaller groups of stakeholders with more focused interests. All of the meetings featured extensive discussion of proposed ordinance revisions and were accompanied by a “topic chart” that evolved with stakeholder input. In October, OLS provided the draft legislation to stakeholders upon request and received a significant number of comments, many of which were incorporated in the final proposal.

HIGHLIGHTS

Wage Theft Prevention and Labor Standards Harmonization Ordinance 2015

Private Right of Action – PSST, MWO, JAO	
Effective Dates	April 1, 2016 for business with 50+ employees April 1, 2017 for business with fewer than 50 employees
Remedies	<ul style="list-style-type: none"> ▪ Legal & equitable relief without limitation ▪ Up to 3x unpaid wages (or compensation) + interest at 12% annum ▪ Penalties to aggrieved party for retaliation up to \$5000 ▪ Attorney fees and costs
Increased remedies for workers	
Treble damages for unpaid wages or compensation	<ul style="list-style-type: none"> ▪ 1st violation – discretionary up to 3x unpaid wages + interest at 12% annum based on mitigating criteria ▪ Subsequent violations – mandatory 3x unpaid wages + interest at 12% annum

Fair Chance Employment Ordinance (i.e. JAO)	<ul style="list-style-type: none"> ▪ 1st violation – mandatory up to \$500 per aggrieved party ▪ 2nd violation – mandatory up to \$1000 per aggrieved party <ul style="list-style-type: none"> • 3rd violation – mandatory up to \$5000 per aggrieved party Penalties paid to aggrieved party not to OLS.
Penalties for Retaliation	<ul style="list-style-type: none"> ▪ Any appropriate relief at law or equity including but not limited to reinstatement and up to 3x front pay in lieu of reinstatement ▪ Additional penalty payable to the aggrieved party up to \$5000
Strengthened penalties for employer violations	
Increased tiered penalties for 1st and subsequent violations	<ul style="list-style-type: none"> ▪ 1st violation – discretionary up to \$500 per aggrieved party ▪ 2nd violation – mandatory up to \$1000 per aggrieved party ▪ 3rd violation – mandatory up to \$5000 per aggrieved party ▪ Subsequent violations – mandatory up to Max \$20,000 per aggrieved party
Fines	Chart of fines for specific violations in each ordinance
Methods to encourage worker reports of violations	
Increased Protections Against Retaliation	<ul style="list-style-type: none"> ▪ Rebuttable presumption of unlawful retaliation if adverse action happens within 90 days of protected activity (rebuttable by clear and convincing evidence from Respondent) ▪ Finding of unlawful retaliation when the protected activity is a “motivating factor” in the adverse action ▪ Reinstatement or up to 3x front pay, penalty to aggrieved party up to \$5,000, fine to agency \$1000 per aggrieved party
Protecting Confidentiality	Protection of identifying information of complainant, victim and witnesses during and after investigations, to the extent permitted by law
U-Visa Certification	Employees who report certain wage theft violations to apply for a nonimmigrant status visa for themselves and family members
Methods to quickly recover amount owed to workers	
Mitigation of Penalties	<p>Potential for mitigation of penalties if amount owed to workers is paid quickly</p> <ul style="list-style-type: none"> ▪ Within 10 days – penalties waived ▪ Within 15 days – penalties halved ▪ After 15 days – penalties remain
Expanded Collection Tools	<ul style="list-style-type: none"> ▪ OLS may refer unpaid orders to collections agency ▪ City Attorney can file liens and garnish wages ▪ Deposit of funds or bond as interim relief when Director has reason to believe violation has occurred. ▪ Business license revocation for unpaid final orders (until the amount is paid in full) ▪ City Contract debarment <ul style="list-style-type: none"> - No bidding until the amount in the final order is paid in full - No bidding for two years for two or more final orders within five years - Debarment provisions in the labor standards ordinances are in addition and separate from debarment provisions in Chapter 20.70 for prevailing wage
Strengthened and harmonized enforcement procedures	
	<ul style="list-style-type: none"> ▪ Same enforcement procedure for all ordinances that permits investigations with or without complaints ▪ Statute of limitations is 3 years for all ordinances ▪ Same definition of “employee” and “employer” to support joint employer liability

Important Dates	
	<ul style="list-style-type: none"> ▪ Date of implementation – Workplace poster for PSST, MWO and WT ▪ April 1, 2016 <ul style="list-style-type: none"> - Private right of action for claims against businesses with 50 or more employees - Workplace poster for JAO - Written PSST policy - Written “notice of employment information” for all existing and future employees (exempt and non-exempt) - MWO applies to work study employees (exemption removed) ▪ April 1, 2017 <ul style="list-style-type: none"> - Private right of action for claims against businesses with fewer than 50 employees

Attachment – “Topic Chart”

This chart is a detailed summary of the proposed labor standards ordinance.