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AGENDA REPORT

TO: JOHN A. FLORES
INTERIM CITY ADMINISTRATOR

FROM: Sarah T. Schlenk

SUBJECT: Minimum Wage Implementation

DATE: January 5, 2015

City Administrator
Approval



Date

1/30/15

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff recommends that the City Council:

Accept this informational report on the impact of implementing the voter approved local minimum wage ("Measure FF"), which takes effect March 2, 2015

OUTCOME

The purpose of this report is to provide information to the City Council and public on steps taken by the Administration with regard to the implementation of the provisions of Measure FF, which has been codified in Oakland Municipal Code Chapter 5.92 et seq.

BACKGROUND/HISTORY

On November 4, 2014, the voters approved Oakland Measure FF, which, in part, raised the minimum wage in Oakland to twelve dollars and twenty-five cents (\$12.25), effective March 2, 2015 (also referred to as the Minimum Wage Law ("MWL")). Thereafter, Oakland's minimum wage shall be adjusted annually on the first of January in accordance with the annual Consumer Price Index ("CPI") for urban wage earners and clerical workers for the San Francisco-Oakland-San Jose, CA metropolitan statistical area if there is an increase in the CPI. Employees who perform at least two hours of work in a particular workweek within the City, including part-time, temporary and seasonal employees, must be paid at least the minimum wage.

Measure FF also requires that beginning on March 2, 2015, employers must provide paid sick leave to any employee who performs at least two (2) hours of work within the geographic boundaries of Oakland. Employees shall accrue one hour of paid sick leave for every thirty (30) hours of work. Employers may cap accrued paid sick leave earned by an employee at forty (40) hours for small businesses (fewer than 10 workers who work for compensation during a given

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week) and at seventy-two (72) hours for other employers. However, employers may set a higher cap or no cap at all. Accrued, unused paid sick leave carries over from year to year, but is limited to the aforementioned caps. Employees may use paid sick leave for the employee's own illness, injury or to receive medical care, treatment or diagnoses. Additionally, employees may use their accrued paid sick leave to care for family members (child, parent, legal guardian or ward, sibling, grandparent, grandchild, spouse, registered domestic partner), or other designated person. Employers need not payout unused, accrued paid sick leave at the time of separation of employment.

Measure FF also requires that hospitality employers (such as hotels, restaurants, and banquet facilities) who collect service charges from customers must pay the entirety of those charges to the hospitality workers who performed those services for which the charge was collected. A hospitality worker is any individual who works for a hospitality employer and who performs a service for which a hospitality employer imposes a service charge. A service charge includes all separately designated amounts collected by a hospitality employer from customers that are for service performed by hospitality workers or are described in such a way that customers might reasonably believe that the amounts are for those services, including without limitation to charges designated as a "service charge," "delivery charge," or "portage charge."

Employers are prohibited from retaliating, discharging, reducing compensation or otherwise discriminating against any person who makes a complaint pursuant to Measure FF. Employers must post and give written notification of these rights to each current employee and to each new employee at the time of hire. In some cases, notice must be given in languages other than English.

ANALYSIS

Upon passage of Measure FF, City staff from various departments met to discuss how to ensure proper implementation of the new MWL, including the Paid Sick Leave and other provisions, internally and externally. Two separate working groups were created – 1) for internal issues, and 2) for external issues. Additionally, the Office of the City Attorney ("OCA") has been consulted a number of times for each issue studied.

1. Internal Implementation

Internally, the City Administrator's Office is working with Employee Relations, the Human Resources Department, the OCA and the Payroll division to ensure the City is in compliance with Measure FF. It was determined that the main impacts of the MWL will be in the Oakland Parks and Recreation Department ("OPR"), the Human Services Department ("HSD") and the Workforce Development division. Pay ranges for seven classifications in OPR were adjusted to meet the minimum wage and to address any compaction. In HSD, the Senior Aide classification pay range had to be adjusted to ensure compliance with the MWL. The salary ordinance adjustment is scheduled to be heard at Council on February 3, 2015. See below for more details.

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The City funds several workforce training programs through the Workforce Investment Act ("WIA") (Fund 2195), the Oakland Fund for Children and Youth ("OFCY") (Fund 1780), Oakland Unite (Fund 2251), Team Oakland (Fund 1720) and OPR (Funds 1010 and 1820). Combined these programs serve over 1,000 youth year-round and during the summer. In addition, Alameda County and the Oakland Housing Authority (Fund 7999) fund programs that serve a total of 650 Oakland youth year-round and during the summer. Currently, these programs pay an average of approximately \$10.00 per hour. At \$12.25, the 22.5% increase in wages and related withholding taxes could result in a service level reduction of roughly 20%, assuming no increases in funding allocations. For Workforce Development, the WIA funded youth service providers may have to reduce service levels between 10% and 30%, depending on their respective program models. For HSD, staff continues to assess the impact of the MWL. The information below summarizes the research so far.

ASSETS Senior Employment – Senior Services of America Inc. (SSAI) is clear that they must comply with local wage laws and the OCA concurs. SSAI will reduce the required number of participants and the number of hours worked per week. SSAI has also indicated that the Paid Sick Leave provisions apply, but any unused, accrued paid sick leave cannot be paid out with SSAI funds when a participant leaves the program. The latter is not a problem since Measure FF does not require a payout of accrued, unused paid sick leave at the time of separation of employment.

Golden State Works/ California Department of Corrections ("CDCR") – These work crews of individuals on parole conduct beautification projects on CalTrans right-of-ways and receive job placement support. Participants currently receive \$10.00 per hour. The OCA initially ruled Measure FF is applicable for work performed within the City of Oakland. CDCR is conferring with their contracts unit, which initially indicated that state minimum wage law would prevail. Both OCA and CDCR are continuing to review the matter.

OFCY, Oakland Unite, and Alameda County – Oakland Community Action Partnership (AC-OCAP) Grantees – The City Attorney has worked with HSD to create a survey for all stipend and employment related programs funded under these initiatives. Survey results, which will be compiled during the week of January 25th, will help to determine which programs will be subject to local minimum wage requirements. For impacted programs, grant agreements will be amended to either reduce the number of clients served and related deliverables, or increase total dollars to maintain services, if additional funding is available.

Once Measure FF goes into effect on March 2, 2015, the law will provide greater sick leave accrual than the SEIU MOU with respect to Temporary Part-Time ("TPT") employees. As such, the City will need to make some changes to be in compliance with the new law. Staff is currently assessing the effects of and the City's compliance with the new paid sick leave

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provision in OMC section 5.92.030, and if any adjustments are deemed necessary, a separate Ordinance shall be prepared and submitted for Oakland City Council approval. The sick leave provision impacts most departments – the total number of TPT hours varies from year to year, but has historically ranged between 700,000 and 900,000 hours per year.

Measure FF impacts the wages and sick leave accrual of employees represented by SEIU 1021. Employee Relations sent official written notice to SEIU 1021 on December 19, 2014, informing the Union that the wages of certain classifications and sick leave accruals for TPT employees would be increasing once the Oakland Municipal Code Chapter 5.92 goes into effect on March 2, 2015. This notice also offered SEIU 1021 the opportunity to meet and confer with the City regarding the impact of the legislation on wages and sick leave accrual for affected employees. The Union responded to the notice and Employee Relations will meet and confer in good faith with SEIU 1021, as required under state law.

Finally, the OCA is looking into the applicability of Measure FF, mainly the paid sick leave provisions, on the City's employment of retired annuitants. California Government Code section 21224 states that retired annuitants cannot be paid or receive any compensation or benefits other than their hourly rate. The OCA is working with the City Administrator's Office to ensure that the employment of retired annuitants does not violate the law, including CalPERS' regulations, in light of the City's obligations to comply with Measure FF and provide paid sick leave to employees that accrue such leave commencing March 2, 2015.

2. External Implementation

The external team is comprised of the City Administrator's Office, the Economic & Workforce Development Department ("EWD"), the Contracts and Compliance division ("CC division"), and the Office of the City Attorney. The team determined to model the external implementation of the MWL on the City of San Jose who recently implemented a similar law. In San Jose, all questions, outreach, and enforcement are handled by the Office of Equality Assurance, which is similar to Oakland's CC division. The CC division has the experience in enforcing the Living Wage Ordinance and prevailing wage rates. To comply with Measure FF, the City immediately set up an email account minwageinfo@oaklandnet.com and phone line (510- 238-6258) for the public who have questions related to Measure FF. In December 2014, the City included a Measure FF notification with the Business License Tax renewal forms that was mailed out to all City businesses. This notice was translated into Spanish and Chinese. See **Attachment A**. The CC division has also added a section to their webpage with information for businesses on Measure FF.

The OCA is in the process of preparing initial Frequently Asked Questions ("FAQ"), which it anticipates will be available online. The OCA is also researching whether it can issue and if interpretive regulations on Measure FF are necessary. Should the OCA answer this question affirmatively, it will prepare proposed regulations for City Council approval.

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The City is also looking into preparing administrative regulations that would address enforcement of Measure FF, the handling of complaints, procedures for notifying businesses of a complaint, documents that will be required to authenticate a complaint and steps to achieving compliance (i.e., warning, fine, appeal, etc.). The City Administrator is expressly tasked with these obligations in Measure FF. The City met with the Lift Oakland Up Coalition to review draft regulations and will continue to work with the organization as a partner in implementing Measure FF. Staff is also exploring the idea of using interested community organizations to facilitate complaint intake and/or education on Measure FF.

The Economic Development Division plans to distribute the Minimum Wage and Sick Leave Program information to its Business Assistance Center business clients, including the Oakland companies associated with the former Oakland Enterprise Zone Program. Staff will host a mid-February meeting with Oakland Business Development Service Providers to provide information to their Oakland clients and for website postings, as well as working with their Oakland clients to make business changes, if required. Additionally, Economic Development intends to forward all Minimum Wage & Sick Leave Program requirements to the ten Business Improvement Districts, Chambers of Commerce and is working with the Alameda County Small Business Development Centers (SBDC) to develop several presentations that will be available to Oakland businesses to provide an overview of Measure FF requirements and information on adapting business operations, models or plans. Economic Development plans to partner with CC staff on outreach efforts.

The CC division, City Administrator's Office and OCA prepared official notices or posters on Measure FF (see **Attachment B**) that will be shared with companies who conduct business in Oakland and will be accessible from the City's website. The City Administrator is authorized to prepare sample notices regarding employee rights under Measure FF, and business' use of such postings will constitute compliance with Oakland Municipal Code section 5.92.050(D). These notices will be translated by the City into Spanish and Chinese. Finally, this same information will be used in a slide to run on KTOP, cable channel 10, publicizing Measure FF with information on resources. Continued methods for outreach and education are also being considered, which may include partnering up with various organizations, such as the Lift Oakland Up Coalition.

Finally, the City is exploring several options regarding its enforcements rights under Measure FF. One option includes an amendment to Chapter 1 of the Oakland Municipal Code, which will allow the City to charge a penalty to businesses that are determined to violate Measure FF and/or refuse to comply through informal processes.

PUBLIC OUTREACH/INTEREST

Please see ANALYSIS section.

COORDINATION

This report was prepared in coordination with the Office of the City Attorney, the Contracts and Compliance division, and many City departments highlighted in the ANALYSIS portion of the report.

COST SUMMARY/IMPLICATIONS

1. Internal Implementation

Two City departments are directly impacted by the change to the base wage rate for certain classifications. HSD, through a federal grant, provides employment opportunities to Oakland seniors. Funding for the Senior Aides program is determined by the federal government, and staff has confirmed that additional funding will not be allocated to account for the change in Oakland's increased minimum wage. As a result, the impact of the minimum wage increase rate change is that fewer individual seniors can be hired into positions funded by the program. Currently, the program targets to provide 148 seniors with twenty (20) hours per week of employment. With the new MWL, the program is expected to reduce the number of seniors employed by twenty-five (25) and reduce the hours per week to sixteen (16) for all remaining participants.

OPR employs many people in the classifications of Recreation Aide, PT; Recreation Attendant I, PT; Recreation Attendant II, PPT; Recreation Attendant II, PT; Recreation Leader I, PT; Recreation Leader II, PPT; and Recreation Leader II, PT; particularly during the summer months. Using FY 2013-14 data, if OPR were to continue to employ the same number of employees, in the same classifications and utilizing the same number of annual hours, the increase to the fully-burdened cost is estimated to be \$625,000 per year. In January 2015, the City Council authorized a General Purpose Fund (1010) set-aside of \$800,000 to support OPR's 2015 spring and summer youth programs. A portion of these funds is intended to cover the MWL impact for FY 2014-15. Impacts related to the MWL for FY 2015-17 will be incorporated into the proposed budget.

Two departments (Public Works Department and Human Services Department) currently employ a combined total of five TPT Student Trainees at hourly rates below the proposed Oakland's increased minimum wage of \$12.25 per hour. Although the impacts will be nominal, each department will either adjust the salaries in accordance with the new minimum wage or cease to employ these five impacted employees.

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The impact of the sick leave provision for FY 2014-15 (4 months) will be absorbed by the Paid Leave Fund (1250), but the leave accrual rate for FY 2015-17 will be adjusted to account for the additional benefit. Based on FY 2013-14 TPT hours and rates, the citywide estimated annual cost of the sick leave accrual is \$480,000.

2. External Implementation

As discussed above, the CC division in the City Administrator's Office will be leading the external effort for Measure FF implementation. The City of San Jose added 3.5 full time equivalents ("FTE") to the budget to handle the outreach, questions, complaints and enforcement of their MWL; however, San Jose has managed the workload with 1 FTE so far. Any modification deemed necessary to the CC division budget will be in the FY 2015-17 proposed budget. Finally, there may be revenue associated with the program if penalties are adopted to encourage compliance by all businesses covered under Measure FF. Any contemplated fine or penalty would require City Council approval prior to implementation.

SUSTAINABLE OPPORTUNITIES

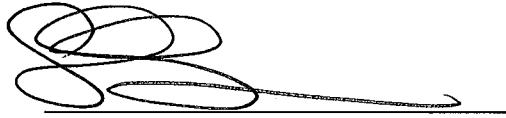
Economic: As communicated in previous Council reports, staff anticipates that the minimum wage increase should raise the wages of an estimated 57,000, or twenty-seven percent (27%), of the workers in Oakland, half of whom are Oakland residents. Their increased spending is anticipated to stimulate the City's economy. It is estimated that any resulting stimulus will be offset somewhat by a reduction of hours or jobs at some businesses. New business attraction, formation and expansion may slow down. Increased competition for higher wage jobs in Oakland may be a disadvantage to the City's least skilled workers due to the minimum wage disparity with surrounding cities.

Environmental: No direct environmental opportunities have been identified.

Social Equity: The voter-approved initiative improves income equality between Oakland's low-wage earners and the remainder of the working population. The initiative also improves social equity with regards to age, race and gender because the minimum wage-earning workforce is proportionately younger, includes more women and persons of color compared with the Oakland workforce overall.

For questions regarding this report, please contact Sarah Schlenk, City Administrator's Office at (510) 238-3982.

Respectfully submitted,



Sarah T. Schlenk
Administrative Manager
City Administrator's Office

Attachments:

- A – Notification to City businesses mailed with BLT renewal
- B – Posters available to businesses

Starting March 2, 2015, Oakland will have a Minimum Wage of \$12.25 per hour and Paid Sick Leave

Esteemed Oakland business owners,

This past November, Oakland citizens voted in favor of Measure FF, a local ordinance increasing the minimum wage in Oakland to \$12.25 per hour. The new minimum wage will begin on March 2, 2015, and then rise with the regional Consumer Price Index beginning on January 1, 2016, and every year thereafter.

Measure FF also legislates the following:

- **PAID SICK LEAVE:** Also beginning on March 2, 2015, Oakland employers must provide paid sick leave to their employees.
 - ✧ Employees shall accrue one hour of paid sick leave for every 30 hours they work. Employers may cap accrued paid sick leave earned by an employee at 40 hours for small businesses (fewer than 10 workers) and at 72 hours for other employers. Employers may set a higher cap or no cap at all.
 - ✧ Employees may use paid sick leave for the employee's own illness or injury, or to care for family members or other designated persons as defined by the ordinance.
- **SERVICE CHARGES:** Hospitality employers (such as hotels, restaurants, and banquet facilities) who collect service charges from customers must pay all service charges to their hospitality workers.
- Employers are prohibited from discharging, reducing compensation or otherwise discriminating against any person who makes a complaint under the ordinance.
- Employers must post and give written notification of these rights to each current employee and to each new employee at time of hire. In some cases, notice must be given in languages other than English.

The City of Oakland is committed both to implementing this voter-approved legislation and to supporting local businesses that need assistance adjusting to new wages and policies. The City intends to offer trainings on the new law beginning in January 2015, as well as provide assistance from business advisers. If you have questions or need help, please call the Oakland Business Assistance Center at 510- 238-6258, or email minwageinfo@oaklandnet.com.

For more information and the full text of the adopted measure in English, Spanish and Chinese, please visit the Alameda County Registrar of Voters at:

<http://www.acgov.org/rov/elections/20141104/>



Este mes de noviembre, los ciudadanos de Oakland votaron para apoyar la Medida FF, una ordenanza local que aumenta el salario mínimo a \$12.25 por hora, a partir del 2 de marzo de 2015. El nuevo salario mínimo aumentará con el Índice de Precios al Consumidor regional que empieza a partir del 1° de enero de 2016 y posteriormente cada año.

La Medida FF también legisla lo siguiente:

- **LICENCIA CON PAGO POR ENFERMEDAD:** También a partir del 2 de marzo de 2015, los empleadores en Oakland deben conceder licencia con pago por enfermedad a sus empleados. Los empleados acumulan una hora de licencia con pago por enfermedad por cada 30 horas de trabajo. Los empleadores pueden poner tope a la licencia por enfermedad acumulada por un empleado en 40 horas para empleados de empresas pequeñas (menos de 10 trabajadores) y en 72 horas para empleados de otros empleadores. Los empleadores pueden establecer un tope más alto o ningún tope en absoluto. Los empleados pueden usar la licencia por una enfermedad o lesión propia del mismo empleado, o para el cuidado de familiares.
- **CARGOS POR SERVICIO:** Los empleadores en el sector de hostelería (como hoteles, restaurantes y salas de eventos) que cobran cargos por servicios a clientes deben pagar todos los cargos por servicio a sus trabajadores de la hostelería.
- Los empleadores tienen prohibido descontar, reducir la remuneración o cualquier otra forma de discriminación contra cualquier persona que presente una queja respecto a esta ordenanza.
- Los empleadores deben publicar y dar notificación por escrito de estos derechos a cada empleado actual y para cada nuevo empleado al momento de su contratación. En algunos casos, se debe notificar en otros idiomas además del inglés.

La Ciudad de Oakland se compromete a instrumentar esta legislación aprobada por los votantes, y apoyar a las empresas locales que puedan necesitar ayuda para adaptarse a los nuevos salarios y políticas. Vamos a trabajar con nuestros asociados de servicio para ofrecer capacitación y talleres sobre la nueva vigencia de la ley en enero de 2015, así como proporcionar la ayuda de asesores empresariales. Si usted tiene preguntas o necesita ayuda, por favor llame al Centro de Ayuda a Empresas de Oakland al 510 238-6258, o por correo electrónico en minwageinfo@oaklandnet.com.

Para mayor información sobre la medida adoptada, por favor visite el Registro Electoral del Condado de Alameda en <http://www.acgov.org/rov/elections/20141104/>

今年十一月，奧克蘭市民投票支持FF舉措，即一項關於在2015年3月2日將最低工資調至每小時12.25美元的當地法令。自2016年1月1日起，新的最低工資水平將隨著區域消費者物價指數的上升而增加，其後每年都如此。

FF舉措還通過立法規定了以下內容：

- **帶薪病假：**同時自2015年3月2日起，奧克蘭的僱主必須為其員工提供帶薪病假。僱員每工作30個小時就能享有一小時的帶薪病假。小型企業（少於10名員工）的僱主可以設定帶薪病假的上限為40小時，而其它僱主可設定上限為72小時。僱主可以設定更高的上限，或不設上限。員工可以在自己生病或受傷時請帶薪病假，也可以將其用於照顧家人。
- **服務費：**收取客戶服務費的酒店業僱主（如酒店、餐廳與宴會設施）必須將全部服務費發給其員工。
- 根據該條例，僱主禁止對提出投訴的員工進行解僱、歧視或減少對其賠償。
- 僱主必須張貼並以書面通知的形式將這些權利告知每位在職員工，在僱用新員工時，也必須書面告知其可以享有的這些權利。在某些情況下，通知必須使用除英語以外的其它語言

奧克蘭市致力於實施該選民投票通過的立法，以支持為適應新的薪資與政策而需要援助的本地企業。自2015年1月，我們將與服務合作夥伴展開合作，以提供有關新法律的培訓和講習班，並由商業顧問提供援助。如果您有疑問或需要幫助，請致電奧克蘭企業援助中心，電話：510238-6258，或發郵件至：minwageinfo@oaklandnet.com。

有關該舉措的詳細信息，請訪問阿拉米達縣選民登記處網站：<http://www.acgov.org/rov/elections/20141104/>

POST WHERE EMPLOYEES CAN READ EASILY- VIOLATORS SUBJECT TO PENALTIES-

OFFICIAL NOTICE

OAKLAND MINIMUM WAGE

\$12.25 PER HOUR

Rate Effective Date: March 2, 2015

Beginning March 2, 2015, employees who perform at least two (2) hours of work in a particular workweek and within the geographic limits of the City of Oakland **must** be paid wages of not less than **\$12.25 per hour**.

Oakland's minimum wage requirement, pursuant to Measure FF and set forth in the Oakland Municipal Code section 5.92.020, applies to any employee (part-time or full-time) who performs work within the City of Oakland. Each year, the minimum wage will increase, effective January 1, by an amount corresponding to the prior calendar year's increase, if any, in the Consumer Price Index for urban wage earners and clerical workers for the San Francisco-Oakland-San Jose, CA metropolitan statistical area.

Under Section 5.92 et seq., employees who assert their rights to receive the City's minimum wage are protected from retaliation. Employees may file a civil lawsuit against their employers for any violation of this law and may seek remedies in the form of back pay, reinstatement and/or injunctive relief. Employees may also file a complaint with the City's Contracts and Compliance Division. The City will investigate possible violations and will have access to payroll records. Employers who violate Section 5.92 et seq. will be liable for civil penalties for each violation up to a maximum of \$1,000.00 per violation.

If you have questions, need additional information, or believe you are not being paid correctly, please contact your employer or the City of Oakland's Contracts and Compliance Division at:

Contracts and Compliance
250 Frank H. Ogawa Plaza, Suite 3341, 3rd Floor
Oakland, CA 94612
Telephone: 510-238-6258
E-Mail: minwageinfo@oaklandnet.com

POST WHERE EMPLOYEES CAN READ EASILY- VIOLATORS SUBJECT TO PENALTIES-

OFFICIAL NOTICE

OAKLAND PAID SICK LEAVE

Effective Date: March 2, 2015

Pursuant to Measure FF and Oakland Municipal Code section 5.92.030, all employers must provide paid sick leave to each employee (part-time, full-time, and temporary) who performs at least two (2) hours of work in a particular workweek and within the geographic limits of the City of Oakland. Employees begin accruing paid sick leave on March 2, 2015 for employees working for an employer on or before that date. Employees who are hired after March 2, 2015 may not use any paid sick leave until after ninety (90) calendar days of employment.

Employees accrue one (1) hour of paid sick leave for every thirty (30) hours worked in the City of Oakland. Employees of employers for which fewer than ten (10) persons (including full-time, part-time, and temporary employees) work for compensation during any given week may have up to forty (40) hours of accrued paid sick leave saved at any time. Employees of other employers may have up to seventy-two (72) hours of accrued paid sick leave at any time. Employers may provide greater sick leave benefits than that mandated by Section 5.92.030. An employee's accrued paid sick leave will carry over from year to year but is not paid out at the time of separation of employment. Employees may use their accrued paid sick leave for their own medical care or to aid or care for a family member or designated person.

Under Section 5.92 et seq., employees who assert their rights to paid sick leave are protected from retaliation. Employees may file a civil lawsuit against their employers for any violation of this law and may seek remedies in the form of back pay, reinstatement and/or injunctive relief. Employees may also file a complaint with the City's Contracts and Compliance Division. The City will investigate possible violations and will have access to payroll records. Employers who violate Section 5.92 et seq. will be liable for civil penalties for each violation up to a maximum of \$1,000.00 per violation.

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POST WHERE EMPLOYEES CAN READ EASILY- VIOLATORS SUBJECT TO PENALTIES-

OFFICIAL NOTICE

OAKLAND SERVICE CHARGE LAW

Effective Date: March 2, 2015

Pursuant to Measure FF and Oakland Municipal Code section 5.92.040, Hospitality Employers who collect service charges from customers must pay the entirety of those charges to the hospitality workers who performed those services for which the charge was collected. A Hospitality Employer is a business who owns, controls, or operates any part of a hotel, restaurant, or banquet facility within the City of Oakland. A hospitality worker is any individual who works for a Hospitality Employer and who performs a service for which a Hospitality Employer imposes a service charge.

A service charge includes all separately designated amounts collected by a Hospitality Employer from customers that are for service performed by hospitality workers or are described in such a way that customers might reasonably believe that the amounts are for those services, including without limitation to charges designated as a "service charge," "delivery charge," or "portage charge." Any tip, gratuity, money, or part of any tip, gratuity or money that has been paid or given to or left for the hospitality worker by a customer over and above the actual amount due for services rendered or for goods, food, drink or articles sold or served to the customer are excluded from Section 5.92.040.

Under Section 5.92 et seq., employees who assert their rights under Oakland's Service Charge law are protected from retaliation. Employees may file a civil lawsuit against their employers for any violation of this law and may seek remedies in the form of back pay, reinstatement and/or injunctive relief. Employees may also file a complaint with the City's Contracts and Compliance Division. The City will investigate possible violations and will have access to payroll records. Employers who violate Section 5.92 et seq. will be liable for civil penalties for each violation up to a maximum of \$1,000.00 per violation.

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