



# AGENDA REPORT

**TO:** City Council

**FROM:** Barbara J. Parker  
City Attorney

**SUBJECT:** State Worker Protection Grant to  
Office of City Attorney to Enforce  
State Labor Laws and Assist Workers

**DATE:** July 2, 2024

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## **RECOMMENDATION**

**City Attorney Barbara J. Parker Recommends That the City Council Adopt the Following:**

**RESOLUTION ACCEPTING AND APPROPRIATING TO THE OFFICE OF THE OAKLAND CITY ATTORNEY A GRANT FROM THE CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS, TO BE ADMINISTERED BY THE CALIFORNIA LABOR COMMISSIONER'S OFFICE, IN THE AMOUNT OF FOUR HUNDRED TWENTY-FIVE THOUSAND, SIX HUNDRED FIFTY-FIVE DOLLARS (\$425,655) FOR THE PERIOD OF AUGUST 1, 2024 THROUGH OCTOBER 31, 2025 TO PAY THE SALARY AND BENEFITS OF HIRING AN ATTORNEY OR ATTORNEYS TO ENFORCE STATE LABOR LAWS AND ASSIST WORKERS IN COMBATING WAGE THEFT, PREVENTING UNFAIR COMPETITION AND PROTECTING STATE REVENUE**

## **EXECUTIVE SUMMARY**

The Workers' Rights Enforcement Grant would enable the Office of the City Attorney ("OCA") to hire an attorney or attorneys in its existing Affirmative Litigation Division, dedicated to partnering with the Department of Workplace and Employment Standards ("DWES") and our community partners to investigate and civilly prosecute a larger volume of the state and local worker's rights violations that occur in Oakland but exceed our current enforcement capacity. OCA's goal is to establish a Worker Protection Unit in the Affirmative Litigation Division.

## **BACKGROUND / LEGISLATIVE HISTORY**

The City of Oakland ("the City") has enacted a robust series of local ordinances that proactively require employers in Oakland to provide workers with minimum wages, paid sick leave, and other benefits that are higher than standard wages and benefits. These ordinances protect workers in particular industries, such as the hospitality industry, and prohibit certain employer practices that transcend industries, such as imposing restrictions on taking sick leave. DWES investigates potential violations of Oakland's employment laws and administratively enforces them. Pursuant to Oakland's City Charter, OCA is legal counsel to City departments and advises DWES regarding the interpretation and enforcement of Oakland's worker protection laws and is also authorized to independently investigate and civilly prosecute violations of state and local laws. Historically, OCA has collaborated with DWES on administrative and litigation matters, but

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OCA has lacked the resources to flex its civil prosecutorial power in the full range of worker protection cases that it is legally empowered to bring. Simply put, DWES receives more worker complaints than OCA currently has affirmative litigation capacity to handle.

This year, California Labor Code section 181 also granted OCA authority to enforce state law. Now, OCA is empowered to bring cases alleging violations of state worker protections, but we lack the resources to do so.

### **ANALYSIS AND POLICY ALTERNATIVES**

The City has large populations of workers who are economically and culturally vulnerable to wage theft and other predatory employment practices. And we have a large enforcement gap. Without additional resources to respond to local workers' complaints and flex OCA's state and local prosecutorial authority, some of California's most vulnerable workers' rights will remain unprotected. DWES needs additional OCA resources to assist it in prosecuting a greater percentage of the increasing number of complaints it is receiving regarding retaliation, paid sick leave issues, child labor violations, and wage theft of significant dollar amounts. Many of these complaints come from non-English speakers.

Based on OCA's past collaboration with DWES, we expect that work funded by the grant would address several problems in Oakland for our diverse and lower-income workers. The worker protection attorney will focus on high violation industries—security, retail, food service, food processing, travel, and hospitality—that are particularly vulnerable to wage theft and payroll fraud.

The City's hotel industry also has particular issues with wage theft and workplace safety. Hotel workers make over half of DWES complaints—56%. DWES recently issued wage theft determinations of over half a million dollars, affecting more than 300 workers. Yet, some of these large administrative rulings have been ignored by employers, who must be taken to court so that workers can receive the money they are due.

Dedicated worker protection attorneys could support DWES staff in navigating Oakland's complex and unique ordinances and carry out meaningful enforcement when there is a violation. Importantly, the strongest tool the City has to secure compliance with its robust worker protection laws is civil litigation. When warranted, litigation can be the key to collecting back-wages and other remedies for workers. Because of staffing constraints, affirmative litigation is used sparingly at present, only in extreme cases. More robust prosecution of state and local labor laws in Oakland can occur only if OCA has resources to dedicate additional attorney time to worker protection issues.

### **FISCAL IMPACT**

This grant will not cost the City anything; rather it will increase the affirmative litigation team's capacity to investigate and civilly prosecute a larger volume of the state and local worker's rights violations that occur in Oakland but exceed our current enforcement capacity.

### **PUBLIC OUTREACH / INTEREST**

OCA has discussed the grant with DWES and will continue its longstanding practice of partnering with DWES, legal aid organizations, nonprofits and unions in its investigations and case development.

## **COORDINATION**

OCA has discussed this grant funding with DWES.

## **SUSTAINABLE OPPORTUNITIES**

**Economic:** the grant funding will permit OCA to investigate and civilly prosecute a larger volume of the state and local worker's rights violations that occur in Oakland, including wage theft. Wage theft harms workers by denying earned income to many of the most vulnerable members of our community who may be close to the poverty line and forced to seek public assistance. Wage theft also affects responsible employers who are effectively punished for following the law by having to unfairly compete in the marketplace. Wage theft further hurts the economy as those employers that violate wage laws avoid paying their fair share of taxes.

**Environmental:** No anticipated environmental opportunities are associated with adoption of the proposed Resolution.

**Race & Equity:** The grant funding will permit OCA to bring litigation that responds to needs in under-resourced and marginalized communities of color.

## **ACTION REQUESTED OF THE CITY COUNCIL**

City Attorney Barbara J. Parker recommends that the City Council adopt the following:

**RESOLUTION ACCEPTING AND APPROPRIATING TO THE OFFICE OF THE OAKLAND CITY ATTORNEY A GRANT FROM THE CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS, TO BE ADMINISTERED BY THE CALIFORNIA LABOR COMMISSIONER'S OFFICE, IN THE AMOUNT OF FOUR HUNDRED TWENTY-FIVE THOUSAND, SIX HUNDRED FIFTY-FIVE DOLLARS (\$425,655) FOR THE PERIOD OF AUGUST 1, 2024 THROUGH OCTOBER 31, 2025 TO PAY THE SALARY AND BENEFITS OF HIRING AN ATTORNEY OR ATTORNEYS TO ENFORCE STATE LABOR LAWS AND ASSIST WORKERS IN COMBATING WAGE THEFT, PREVENTING UNFAIR COMPETITION AND PROTECTING STATE REVENUE**

For questions regarding this report, please contact Maria Bee, Chief Assistant City Attorney, at [mbee@oaklandcityattorney.org](mailto:mbee@oaklandcityattorney.org).

Respectfully submitted,



BARBARA J. PARKER  
City Attorney

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