



CITY OF OAKLAND

## MEMORANDUM

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**DATE:** January 28, 2020  
**TO:** City Council and Members of the Public  
**FROM:** Council President Nikki Fortunato Bas  
**SUBJECT:** **Grocery Worker Hazard Pay Emergency Ordinance:  
Important Updates**

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Dear City Council Colleagues and Members of the Public,

More information has recently come out regarding the importance of hazard pay for grocery workers, which I am sharing as you consider our Emergency Ordinance (1) Adding Chapter 5.96 To The Oakland Municipal Code To Require Large Grocery Stores In Oakland To Pay Grocery Store Employees An Additional Five Dollars (\$5.00) Per Hour In Hazard Pay During The Coronavirus (COVID-19) Pandemic And (2) Amending Chapter 2.44 Of The Oakland Municipal Code To Include Enforcement Of Emergency Hazard Pay To Grocery Store Employees As Part Of The Duties Of The Department Of Workplace And Employment Standards.

### *Hazard Pay Ordinances Passed or Introduced in Other Localities*

In just the last week, other localities have passed hazard pay legislation for grocery workers. On January 25, the City Council in Seattle, Washington unanimously passed a hazard pay ordinance requiring large grocers to pay an extra \$4 per hour to grocery workers during the pandemic, and it went into effect immediately.<sup>1</sup>

This past week, San Jose filed an emergency ordinance that would guarantee grocery workers an extra \$5 per hour in hazard pay, which would take effect immediately and would last until the county's stay-at-home order lifts. The emergency ordinance is set for City Council discussion on February 2.<sup>2</sup>

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<sup>1</sup> Savranski, Becca, "Seattle City Council passes bill requiring \$4 an hour in hazard pay for grocery store workers," *Seattle PI*, Jan. 25, 2021, available at:

<https://www.seattlepi.com/seattlenews/article/seattle-grocery-store-workers-hazard-pay-bill-15896573.php>

<sup>2</sup> Wipf, Carly, "San Jose grocery store clerks and other essential workers could get \$5 boost," *San Jose Spotlight*, Jan. 28, 2021, available at:

<https://sanjosespotlight.com/san-jose-grocery-store-clerks-and-other-essential-workers-could-get-5-boost/>

On January 19, the Long Beach City Council approved a grocery worker hazard pay ordinance \$4 per hour wage increase for at least 120 days, with a final vote scheduled for Feb. 2.<sup>3</sup>

Other jurisdictions in Berkeley, Santa Ana, Los Angeles, West Hollywood, Santa Clara, and San Mateo are also considering grocery worker hazard pay legislation.

### ***Large Grocers Earning Windfall Pandemic Profits***

On January 27, the Brookings Institute published an article<sup>4</sup> as a follow-up to its November 2020 report<sup>5</sup>. The article cites how some of the 13 largest retail and grocery companies in the country posted record profits during the pandemic yet have not provided their frontline workers additional pay.<sup>6</sup>

For example, Albertsons, which has locations in Oakland, had the highest profit growth of all the retail companies in the Brookings Institute analysis; their pandemic profits are up by 149% in the first three quarters of 2020 compared to 2019. According to the Brookings Institute, the company spent nearly \$1.9 billion in stock buybacks in the first three quarters of last year, compared to the approximate \$350 million, pre-tax, the company spent on hazard pay and expanded sick pay for its workers.

Amazon, which owns Whole Foods, has stock prices which have soared 70% since the start of the pandemic, and yet worker wages have grown by 7%.<sup>7</sup> Since March, Amazon founder Jeff Bezos' wealth has increased by \$75.6 billion, roughly 42 times the cost of all pandemic hazard pay that Amazon will have given its roughly 1 million workers through the end of 2020.

### ***Implementation by the City of Oakland***

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<sup>3</sup> City News Service, "Long Beach approves \$4 per hour 'hero pay' for grocery store workers," *ABC7 News*, Jan. 20, 2021, available at: <https://abc7.com/long-beach-hero-pay-grocery-workers-coronavirus/9854498/#:~:text=Long%20Beach%20approves%20%244%20per.store%20workers%20%2D%20ABC7%20Los%20Angeles> The California Grocers Association filed a lawsuit challenging Long Beach's ordinance and a hearing is scheduled on Feb. 18, however, there are some key differences in our Oakland emergency ordinance.

<sup>4</sup> Kinder, Molly and Laura Stater, "Local COVID-19 hazard pay mandates are doing what Congress and most corporations aren't for essential workers," *Brookings*, January 27, 2021, available at: <https://www.brookings.edu/blog/the-avenue/2021/01/27/local-covid-19-hazard-pay-mandates-are-doing-what-congress-and-most-corporations-arent-for-essential-workers/>

<sup>5</sup> Kinder, Molly, Laura Stater, and Julia Du, "Windfall profits and deadly risks: How the biggest retail companies are compensating essential workers during the COVID-19 pandemic," *Brookings*, Nov. 2020, available at: <https://www.brookings.edu/essay/windfall-profits-and-deadly-risks/>.

<sup>6</sup> Kinder, *supra* note 4.

<sup>7</sup> Kinder, Molly and Laura Stater, "Amazon and Walmart have raked in billions in additional profits during the pandemic, and shared almost none of it with their workers," *Brookings*, Dec. 22, 2020, available at: <https://www.brookings.edu/blog/the-avenue/2020/12/22/amazon-and-walmart-have-raked-in-billions-in-additional-profits-during-the-pandemic-and-shared-almost-none-of-it-with-their-workers/>

We understand that the City is undergoing serious budget challenges, and additional staffing capacity in the Department of Workplace and Employment Standards (DWES) has not been contemplated for this emergency ordinance. We therefore added a private right of action to the emergency ordinance, consistent with other employment laws in the City, under which an individual employee may bring a civil action in court against the employer violating this emergency ordinance. We have enlisted assistance from workers' rights attorneys to help draft a template to provide notice about employee and employer requirements under this emergency ordinance, which DWES may use to post on its website. In the eight months since the Emergency Paid Sick Leave Ordinance passed in May 2020 and was extended in January 2021, five to six claims have been filed with the DWES under that emergency ordinance, which covers a larger number of workers.<sup>8</sup> Finally, the duration of this emergency ordinance is temporary, tied to when the City of Oakland is within the Widespread (purple), Substantial (red) or Moderate (orange) Risk Level of COVID-19 spread, and until such time as Risk Levels return to Minimal (yellow) under State Health Orders. For all of these reasons, we believe that it is manageable for the City to implement this temporary and urgent emergency ordinance immediately.

It is my firm held belief that corporations reaping vast amounts of profits during this devastating pandemic should share some of that wealth with their everyday, frontline, essential workers. Grocery workers come into contact with countless people throughout the day and indoors, helping to ensure that so many of us have food, groceries and household supplies throughout this pandemic. I hope you will join me in passing this emergency ordinance, and showing that Oakland, again, is a leader in protecting the most vulnerable among us.

For questions regarding this memo, please contact Miya Saika Chen, Chief of Staff, Office of Council President Nikki Fortunato Bas, at [mchen@oaklandca.gov](mailto:mchen@oaklandca.gov).

Respectfully Submitted,



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Nikki Fortunato Bas  
Council President, District 2

Attachment 1: Brookings Institute, January 27, 2021 Article

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<sup>8</sup> Sciacca, Annie, "As COVID cases have surged, Oakland extends law to provide paid sick leave," *The Mercury News*, Jan. 20, 2021, available at: <https://www.mercurynews.com/2021/01/20/as-covid-cases-have-surged-oakland-extends-law-to-provide-paid-sick-leave/>

[Guidance for the Brookings community and the public on our response to the coronavirus \(COVID-19\)](#) »

[Learn more from Brookings scholars about the global response to coronavirus \(COVID-19\)](#) »

# The Avenue BROOKINGS

## Local COVID-19 hazard pay mandates are doing what Congress and most corporations aren't for essential workers

Molly Kinder and Laura Stateler Wednesday, January 27, 2021

**A**s COVID-19 continues to spread across the U.S. landscape, millions of frontline grocery and retail workers remain exposed to the virus, but without extra compensation for the risks they face. While the *hazards* of the pandemic have grown worse, *hazard pay* for most grocery workers expired months ago.

As we documented in a recent report with Julia Du, the country's biggest grocery and retail employers have earned record profits during the pandemic—but, with few exceptions, most are sharing little of their windfall with the frontline essential workers who are risking the most.

Now, thanks to new local government efforts, this is about to change for thousands of grocery workers. Buoyed by the United Food and Commercial Workers International Union's (UFCW) [organizing efforts](#), several city and county governments across California and in Seattle have [just passed mandates](#) requiring some large grocery, food retail, and pharmacy employers to provide their workers hazard pay—a trend that may (and should) expand to other communities across the country.

The momentum to mandate hazard pay began last month in the city of Long Beach, Calif. Citing our research, Long Beach city council members [introduced](#) an ordinance for hazard pay—the first of its kind in the country aimed specifically at frontline essential grocery and food retail workers. Last week, the city council [voted unanimously](#) to approve the ordinance mandating that large grocery chains (those that employ more than 300 workers nationally and at least 15 locally) pay workers an additional \$4 per hour “hero pay” for at least 120 days. Long Beach [Mayor Robert Garcia signed](#) the ordinance last week and the city council will take a final vote on February 2.

The Long Beach ordinance has already been replicated in more than half a dozen cities, including:

- **Santa Monica, Calif:** On January 12, the Santa Monica city council [approved \\$5 per hour “hero pay”](#) for grocery workers at large employers.
- **Seattle:** On January 25, the Seattle City Council [unanimously passed](#) a similar mandate—[citing our research](#) requiring certain large grocery and food retail businesses with at least 500 employees globally to pay \$4 per hour hazard pay for grocery workers.
- **Los Angeles County:** On January 5, the Los Angeles County Board of Supervisors [voted to draft a mandate](#)—also [citing our research](#)—requiring large grocery and drugstore chains to provide workers a \$5 per hour pay increase for at least 120 days.
- **San Francisco:** Earlier this month, San Francisco passed a [nonbinding ordinance](#) urging companies to pay hazard pay.
- **San Jose, Berkeley, Santa Ana, Los Angeles, West Hollywood, Santa Clara, and San Mateo:** Several other California cities are also considering mandates.

The new hazard pay ordinances in California and Seattle are unique because they are among the first to be government-*mandated*, rather than government-*funded* or voluntarily employer-provided. They follow a novel [hazard pay ordinance passed by Seattle's city council](#) in June requiring gig platform companies that deliver food and groceries to provide premium pay to workers.

The new ordinances help fill the void left by nonexistent government-funded hazard pay and inadequate or lapsed employer-provided hazard pay. Despite early political momentum and a [clear rationale to do so](#), the U.S. Congress has not passed any government-funded hazard pay for frontline workers during the pandemic. While a few states—including Pennsylvania and Vermont—creatively leveraged federal CARES Act funding [to introduce state-level hazard pay programs](#), it is unlikely that these programs will continue or expand without additional federal funding. There are also no national or state laws requiring employers (outside the federal government) to provide hazard pay to workers during a public health emergency.

Thus, the provision of hazard pay to date has largely been voluntary and up to the discretion, willingness, and resources of individual employers. The result is a patchwork of intermittent, modest additional pay to only some frontline workers. Most essential workers received [no hazard pay at all](#).

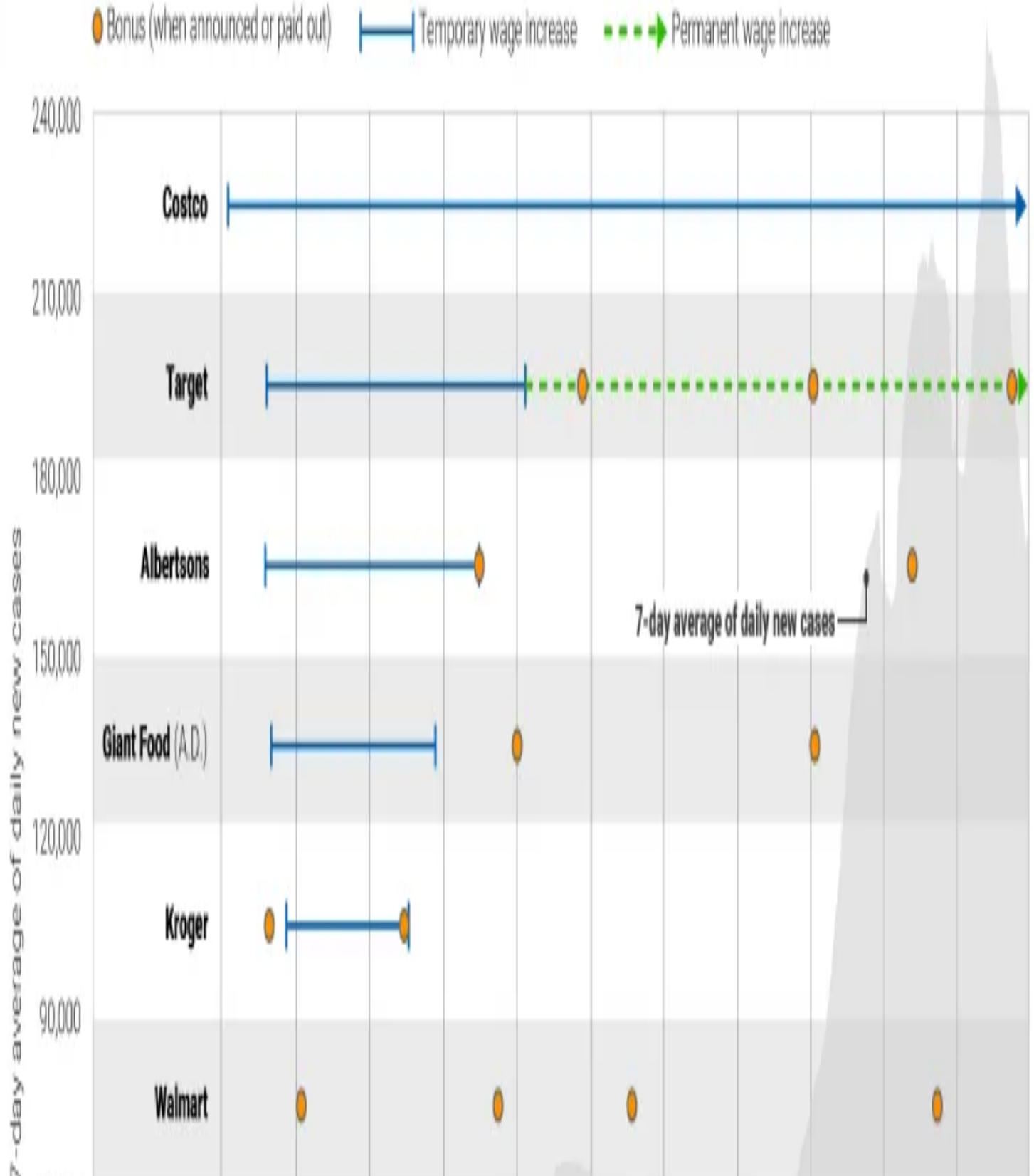
## **Hazard pay mandates target companies earning windfall pandemic profits**

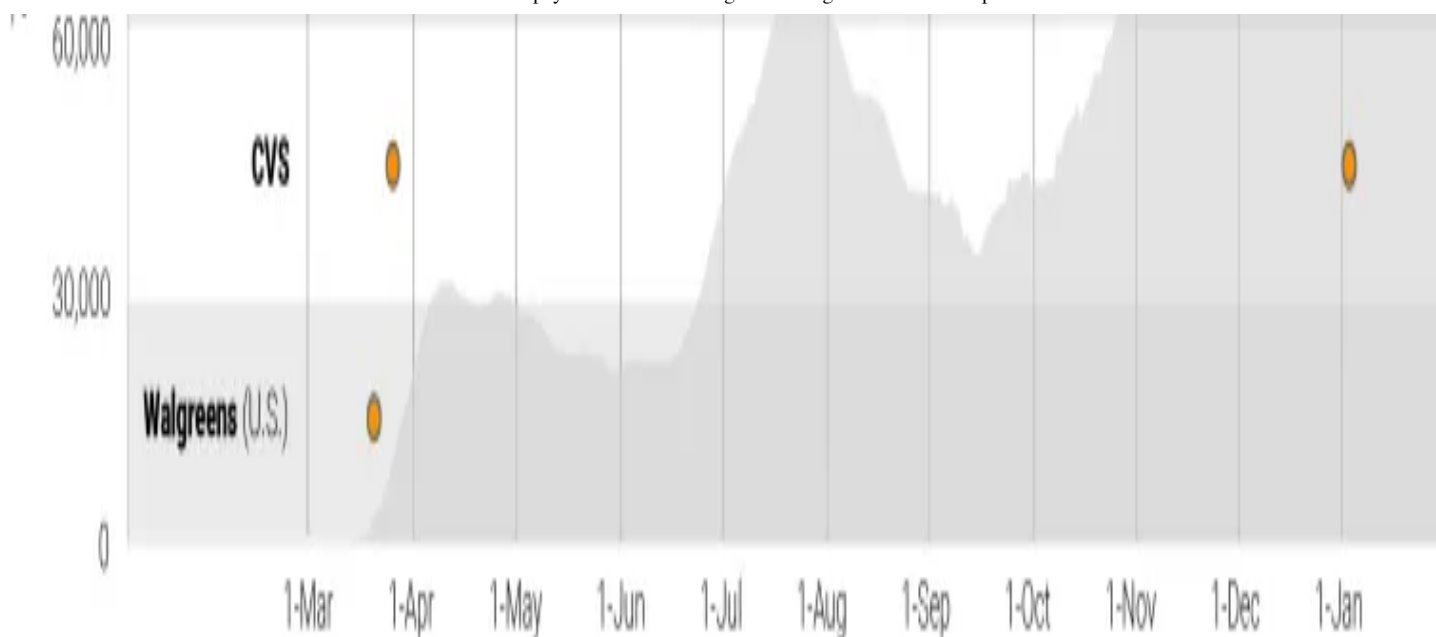
The new ordinances are targeted at some large companies with the greatest ability to pay, while sparing small businesses and other employers that are struggling financially during the pandemic.

In [our recent report](#), we examined the record pandemic profits and the pandemic pay at 13 of the largest retail and grocery companies in the country. Combined, the 13 companies earned an additional \$17.7 billion in the first three quarters of 2020 compared to 2019—a striking 42% increase. We found that many of the top companies earned billions of dollars during (and largely because of) the pandemic, but have shared little of their windfall with frontline workers. More generous companies such as Target (which permanently raised its starting wage to \$15 per hour and has offered [periodic bonuses](#)) and Costco (which will sustain its \$2 per hour hazard pay through March, on top of its \$15 per hour minimum wage) stood out as exceptions. In contrast, grocery and pharmacy companies were among the least generous employers in our analysis, despite booming profits and very low wages.

### Figure 1. Hazard pay has been long gone for many grocery workers

Timeline of when America's top grocery and pharmacy companies started and stop compensating their workers





Source: Analysis of New York Times data for confirmed COVID-19 cases and Brookings COVID-19 compensation data.



The gap between pandemic profits and pandemic pay is especially striking at the country's three largest grocery providers: Walmart, Kroger, and Albertsons. Together, the three companies earned an *additional* \$6.8 billion in profit in the first three quarters of 2020 compared to 2019—an average increase of 98%. Meanwhile, the extra hazard pay these companies provided their workers averaged just \$0.76 per hour through the end of 2020—well below the average hazard pay of \$1.19 per hour across the 13 companies in our analysis, and far less than the \$2 per hour hazard pay that Costco continues to provide its frontline workers. Specifically:

- **Walmart** could have quadrupled the amount of hazard pay it gave its frontline workers and still earned more profit than last year. As Walmart's profits and stock price surged during the pandemic, the wealth of the Walton siblings (billionaire heirs to the Walmart fortune) has grown by 26 times the total amount of hazard pay the company paid its more than 1.5 million associates.
- **Kroger** ended its \$2 per hour "hero pay" in mid-May, 257 days ago, despite doubling its profits and spending nearly a billion dollars in 2020 to buy back its own stock shares.
- **Albertsons** had the highest profit growth of all the retail companies in our analysis. Their pandemic profits are up a stunning 149% in the first three quarters of 2020 compared to 2019. The company spent nearly \$1.9 billion in stock buybacks in the first three quarters of last year, compared to the approximate \$350 million, pre-tax, the company spent on hazard pay and expanded sick pay for its workers.

These large grocery companies have the means—and the moral imperative—to provide their workers hazard pay. Despite pressure from unions, negative media attention, and even comments from President Joe Biden and Vice President Kamala Harris calling on CEOs to institute hazard pay, many large grocery and retail companies are still choosing not to invest

their pandemic profits back into workers. With the new mandates, however, local governments are signaling that not only *should* these companies provide hazard pay, but they *must*.

## Local governments face trade-offs in including more essential workers in hazard pay mandates

In addition to [legal challenges](#), the main [limitation](#) of the new ordinances is their narrow scope, primarily benefiting frontline grocery and pharmacy workers. The mandates do not cover other frontline essential workers such as [nursing home and hospital staff](#), home health aides, security guards, janitors, and food service workers—who, like grocery workers, earn low wages and face risks to their health on the job, but whose employers have not financially benefitted during the pandemic.

As we emphasized in reports from [April](#) and [October](#), the best way to ensure all frontline essential workers receive hazard pay is for Congress to dedicate federal funds for it. However, with federal relief uncertain and local and state government budgets pummeled by the pandemic, government funding for hazard pay may not transpire.

In the absence of public funding, local policymakers have several options to expand eligibility for mandated hazard pay. All of them come with trade-offs, as they pass on the cost of wage increases to employers, including some that are barely surviving and others that are holding steady. The following are several options for expanding locally mandated hazard pay, with varying implications for employers based on their abilities to absorb higher labor costs:

- **Hazard pay for all workers:** A more sweeping legislative change could result in higher wages for the widest range of frontline workers. For instance, a successful ballot initiative in Portland, Maine [raised the city's hazard pay minimum wage](#) to 150% of the normal minimum wage during a public health emergency. But without public funds from the state or federal government to help struggling employers pay for it, a broader mandate for higher pay across all employers could leave [financially struggling employers in a difficult position](#).
- **Generous hazard pay for more frontline workers at highly profitable companies:** One low-hanging fruit for local policymakers is to broaden mandates like those in Seattle and Los Angeles County to include generous hazard pay to other workers at highly profitable companies outside of food retail. For instance, discount retailer [Dollar General](#), e-commerce giant [Amazon](#), and [delivery company FedEx](#) have earned large pandemic profits while offering little or no hazard pay to their workers.
- **Modest hazard pay for more essential workers:** Policymakers could also explore opportunities to widen eligibility by including more essential workers in additional mandates with less generous hourly pay, in addition to the more targeted grocery and retail worker hazard pay. For instance, to expand eligibility to workers outside of the most profitable companies, policymakers could consider a more modest wage increase (such as \$1 or \$2 per hour) for a larger pool of essential workers, perhaps with either exemptions for small businesses and certain struggling industries or grants to reimburse them.

## More local governments should mandate hazard pay

While not addressing the needs of *all* essential workers, the new local ordinances in Long Beach, Santa Monica, and Seattle are paving a new approach for how cities and counties can address the needs of their frontline essential workers, despite inaction by Congress and the unwillingness of some large companies to share their pandemic profits. By focusing on some of the companies that *do* have the means to provide extra hazard pay, policymakers will make an immediate and meaningful difference for some of the workers risking the most on the COVID-19 frontline.



The case for more local hazard pay mandates may become even more urgent in the coming weeks. The Centers for Disease Control and Prevention forecasted that the more highly transmissible U.K. variant of COVID-19 will become the dominant strain in the country by March, foreshadowing a potentially worsening pandemic ahead. While frontline essential workers are prioritized for vaccines, their sustained exposure to COVID-19 at work could continue to jeopardize the health and safety of family members in their household who may have to wait months or longer to be vaccinated.

There are essential workers in every community across America who are performing jobs vital to their neighbors and the country, at great risk to themselves and their families. Hazard pay is one way that employers and policymakers can recognize their sacrifices and honor their essential value. New hazard pay mandates are a promising model for other local governments across the country to replicate and build on, ensuring that we not only *praise* essential workers in our communities, but also *pay* them.