

# CHIEF LEGISLATIVE ANALYST WORK ASSIGNMENT SHEET

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Received Date:	10/04/2023	Date Printed:	07/24/2025	WAS# 23-10-0533
Due Date:		Due To Sup.:		
Analyst:	FLATT	Source:	COUNCIL	
Division Head:	WICKHAM	Taken By:	WEST	
Requested By:		Phone No.:		

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Status (O/C):	C	<input type="checkbox"/> CLA To Review Before Release
Closed Date:	07/24/2025	<input type="checkbox"/> Attachments
Council File:	23-0932	<input type="checkbox"/> Cancelled
<input type="checkbox"/> Federal Legislative Sign Off Required		<input type="checkbox"/> State Legislative Sign Off Required

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## Assignment:

PER COUNCIL ACTION ON OCTOBER 3, 2023, ITEM NO. 18, WORK IN CONSULTATION WITH THE BUREAU OF CONTRACT ADMINISTRATION (BCA) OFFICE OF WAGE STANDARD (OWS) AND CA, TO REPORT TO THE COUNCIL WITHIN 60 DAYS WITH RECOMMENDATIONS ON INCREASING THE AUTHORITY AND CAPABILITY OF THE BCA OWS TO ENFORCE CLAIMS AGAINST EMPLOYERS FOR OVERTIME, MEAL BREAK, REST BREAK, LATE PAY, TIPS AND GRATUITIES VIOLATIONS, INCLUDING THE FOLLOWING:

A. HOW BEST TO PRIORITIZE, WITHIN THE DISCRETION OF OWS, CLAIMS BROUGHT BY LOW WAGE WORKERS.

B. PLANS TO EXPLORE OPTIONS WITH THE STATE DEPARTMENT OF INDUSTRIAL RELATIONS TO SHARE PENALTIES AND FINES WITH THE CITY FOR LOCAL ENFORCEMENT WITH THE CITY, INCLUDING RESTITUTION TO WORKERS.

C. WHAT RESOURCES ARE NECESSARY FOR PROPER ENFORCEMENT AND IMPLEMENTATION.

## Special Instructions:

### Delivery/Special Instructions WAS Desk:


E-DELIVERED REPORT TO EDJ COMMITTEE MEMBERS COS AND UPLOADED.A CLOSED COPY WITH WAS SENT TO HENRY FLATT,CC:JOHN WICKHAM AND SHARON TSO,BCC:SASHA MARQUEZ.RAJASH 07/24/25

# REPORT OF THE CHIEF LEGISLATIVE ANALYST

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DATE: July 24, 2025

TO: Honorable Members of the Economic Development and Jobs Committee

FROM: Sharon M. Tso   
Chief Legislative Analyst

Council File No. 23-0932  
Assignment No. 23-10-0533

SUBJECT: Enforcement of Workplace Violations

## SUMMARY

Council adopted a Civil Rights, Equity, Immigration, Aging and Disability Committee report (C.F. 23-0932, Attachment A), as initiated by Motion (Soto-Martinez, McOske—Harris-Dawson), instructing the Chief Legislative Analyst (CLA), in consultation with the Bureau of Contract Administration (BCA) Office of Wage Standards (OWS) and City Attorney, to report to Council with recommendations on increasing enforcement of workplace violations across the City. Specifically, our Office was instructed to report on the following: 1) increasing the authority and capability of OWS to enforce claims against employers for Overtime, Meal Break, Rest Break, Late Pay, and Tips and Gratuities violations; 2) how best to prioritize, within the discretion of OWS, claims brought by low wage workers; 3) plans to explore options with the State Department of Industrial Relations to share penalties and fines with the City for local enforcement with the City, including restitution for workers; and 4) the resources necessary for proper enforcement and implementation.

After consulting with the City Attorney and OWS, and soliciting feedback from the Department of Labor (DOL), California Division of Labor Standards Enforcement (DLSE), and multiple community stakeholders, this report recommends multiple changes to the current enforcement process utilized by the City in identifying, investigating, and penalizing wage theft and other related workplace violations.

Our Office recommends that OWS triage complaints into a multi-tiered system assigning high, medium, and low priority based on their severity to better prioritize the needs of workers and businesses across the City. Instead of the current system that prioritizes retaliation cases only, this new system should have greater impact on complainants and could allow investigators to direct scarce resources at the most urgent violations.

The recommendations also include modifications to the Los Angeles OWS Ordinance, Los Angeles Municipal Code (LAMC) section 188.00 et seq., the creation of a new online repository that publicizes the results of completed investigations, additional funding to hire staff to enforce current law, revising the investigatory subpoena process, and instituting a more proactive approach to workplace investigations by engaging in co-enforcement with existing community organizations.

Our Office estimates implementing the recommendations included in this transmittal will have a 9-month cost of approximately \$2.8 million.

Lastly, the DLSE expressed little interest in collaborating with the City in the enforcement of workplace violations across Los Angeles due to budgetary constraints. Our Office therefore recommends exploring potential enforcement collaboration arrangements with Los Angeles County, which could improve compliance and reduce employer misconduct.

### **RECOMMENDATION**

That the City Council:

1. Request the City Attorney to draft the following amendments to the Los Angeles Municipal Code (LAMC):
  - a. Revise the Title and Purpose section of LAMC 188.00 to prioritize workers earning two-thirds or less of the median household income in Los Angeles, as measured by the most recently available U.S. Census Bureau American Community Survey (ACS) 1-Year Estimates;
  - b. Revise section 188.05(B) and section 188.05(C) of the LAMC to grant the Office of Wage Standards (OWS) the authority to enforce and investigate violations of Overtime, Meal Break, Rest Break, and Late Pay violations; and
  - c. Revise section 188.05(C) to grant the Director of the Bureau of Contract Administration (BCA) the authority to issue administrative subpoenas.
2. Instruct OWS to:
  - a. Develop a workplace complaint prioritization index that triages received complaints by high, medium, and low priority, which incorporates a combination of factors including, but not limited to, the number of workers impacted and the total amount in dispute; and
  - b. Create a public, online repository of completed investigations and penalties issued by the OWS that includes a brief description of the employer and the details of the settlement or judgment, similar to the format currently used by the Office of Labor Standards (OLS) in Seattle, Washington; and
  - c. Identify occupational groups in the City with historically high rates of wage theft and other related workplace violations as priorities for targeted proactive enforcement.
3. Instruct OWS, in consultation with the City Attorney and the Chief Legislative Analyst (CLA), to report with recommendations regarding the expansion and strengthening of

information sharing arrangements with community-based organizations (CBOs), including, but not limited to, Common Interest Agreements (CIAs) and other forms of information collection used in workplace investigations.

4. Instruct OWS, in consultation with the City Attorney and the CLA, to review future options for co-enforcement, training, and collaboration with Los Angeles County, including, but not limited to joint investigations, the cancellation of food facility permits, training of workplace investigators, and collection of penalties.
5. Instruct the City Administrative Officer (CAO), with the assistance of the BCA and City Attorney, to report on the new positions requested to implement the recommendations in this report and identify a potential source of funds for these positions.

## **BACKGROUND**

This report discusses multiple options to increase the authority and capability of the OWS that are summarized below:

- Revise LAMC section 188.00 et seq. to grant OWS the authority to investigate workplace violations related to Overtime, Rest Break, and Meal Breaks, and to grant the BCA director, or their designee, the power to issue investigatory subpoenas;
- Expand wage theft and other related workplace violations, co-enforcement arrangements, and information sharing with community organizations;
- Triage received complaints into a multi-tiered system that assigns high priority to cases with large numbers of workers and/or child labor is suspected, medium priority to cases with few workers that does not require multiple investigate personnel, and low priority to cases with one or few affected workers and the disputed amount of money is below \$500;
- Publicize completed investigations by posting resolved workplace investigations to a public venue, such as a City website or social media account; and
- Use the existing database of complaints to develop a measure of violation risk, which can be used to proactively dispatch investigators to industries with historically high rates of noncompliance without receiving a complaint.

The large number of workers employed in food service, retail trade, and textile and apparel manufacturing in Los Angeles—occupations with allegedly high rates of employer misconduct—has led researchers to conclude that many workplace violations have gone undetected.<sup>1</sup> This

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<sup>1</sup> Kim, Joy Jeounghee, and Skye Allmang. “Wage Theft in the United States: Towards New Research Agendas.” *The Economic and Labour Relations Review* 32, no. 4 (2021): 534–51.



supposed lack of enforcement has caused vulnerable workers to lose a significant amount of earnings.

In order to address this inequity, Council adopted a Motion that instructs our Office to report with recommendations on increasing the authority and capability of the OWS to identify and address common workplace violations; propose potential changes to the existing complaint categorization and intake process; explore enforcement options with the State of California; and estimate the associated funding required to implement the proposed changes into existing City protocols. After receiving information from numerous stakeholders and organizations, such as Bet Tzedek Legal Center, DLSE, the Department of Labor (DOL), and the Los Angeles Worker Center Network (LAWCN), among others, our Office has identified multiple policies Council may wish to revise that would align City workplace enforcement protocols with proven modern methods.

The Center for Innovation in Worker Organization (CIWO) at Rutgers University has published a series of online briefs regarding labor standards enforcement that serves as an essential resource for local agencies seeking to implement effective and proven labor enforcement strategies. Online briefs, collectively known as the “Labor Standards Enforcement Toolbox,” are publicly available scholarly reports that distill sophisticated information surrounding topics, such as workplace investigations, violation penalties, complaint categorization, and employer retaliation prevention.<sup>2</sup>

The various briefs are written in a general format, while also providing examples from selected jurisdictions across the United States. Thus, many of the recommendations presented here rely on the information compiled by the CIWO, which have been refined to fit the needs and priorities of the City.

### **Increasing the Capability of OWS: Code Revisions and Strategic Enforcement**

Chaptered in 2021, Assembly Bill 938 (Davies) revised existing law by allowing local jurisdictions to enforce State requirements regarding the payment of wages and labor.<sup>3</sup> Prior to 2021, the City was unable to enforce labor standards laws pertaining to Overtime, Meal Break, and Rest Break violations. In light of these State labor code revisions, the City Attorney has communicated to our Office that the City can now enforce multiple instances of State law previously beyond the purview of OWS.

Expanding enforcement to include additional labor laws places a significant burden on OWS, which has fewer than two-dozen workplace investigators across the City. To effectively navigate

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<sup>2</sup> The Labor Standards Enforcement Toolbox currently includes 14 “Tools”: 1) Complaints, Intake, and Triage; 2) Investigations; 3) Collections; 4) Introduction to Strategic Enforcement; 5) Addressing and Preventing Retaliation and Immigration-Based Threats to Workers; 6) Negotiations and Settlement Agreements; 7) Sharing Information with Community Organizations; 8) A Baker’s Dozen of Essential Enforcement Powers; 9) Assessing and Maximizing Labor Standards Enforcement Powers; 10) Managing for Strategic Enforcement: A Conceptual Toolkit; 11) The Nuts and Bolts of a Retaliation Investigation: Part 1; 12) Introduction to Co-Enforcement; 13) The Nuts and Bolts of a Retaliation Investigation: Part 2; and 14) Addressing Worker Safety and Health through the Lens of Strategic Enforcement. All briefs can be found here: <https://smlr.rutgers.edu/wjl-ru/beyond-bill/toolbox>

<sup>3</sup> AB 938 became law in 2021 and revised Labor Code section 1205(b), among other sections.

these budgetary constraints, our Office has identified multiple methods that revise current policy by altering existing investigatory and administrative processes. Collaborating with community organizations and publicizing the results of completed investigations, among other remedies, can improve OWS efficacy without requiring a substantial budgetary increase.

### **LAMC Revisions**

LAMC section 188.00 et seq. does not currently grant OWS the authority to enforce violations of Overtime, Meal Breaks, Rest Break, and Gratuities violations. Our Office therefore recommends requesting the City Attorney to draft revisions to the LAMC to add these authorities, granting OWS the ability to enforce relevant State law that impacts a multitude of workers across the City.

OWS was designed to enforce the Minimum Wage Ordinance (MWO), which established a Citywide minimum wage standard. Because low-wage workers are most likely to be impacted by the MWO, they should be prioritized for enforcement. The University of California, Berkeley Labor Center defines “low-wage work” as jobs that pay less than two-thirds of the full-time wage in California.<sup>4</sup> Workers falling into this category should therefore be prioritized for enforcement by OWS, and this focus should be delineated in LAMC section 188.00, et seq.

### **Strategic Enforcement**

Strategic Enforcement (SE) refers to the practice of utilizing the limited enforcement resources available to a regulatory agency to maximize results for workers and businesses. OWS has limited resources at its disposal, which necessitates the use of SE to identify and address workplace violations. Businesses in addition to workers benefit from effective SE because it standardizes industry practices and allows compliant employers to remain competitive. Guidance and outreach directed at businesses in historically problematic areas can increase awareness and compliance with the law, improving the often-fraught relationships between workers and their employers.

#### *Information Sharing with Community Organizations*

According to DLSE, most workers are generally unwilling to work with government agents or inspectors. Community organizations, in contrast, are more likely to be trusted by workers because they possess important cultural competencies that City personnel may lack. Some workers may also be undocumented, which allows community organizations to act as reliable conduits between workers and City personnel to process complaints and identify misconduct that would have otherwise gone unreported.

Relationships between governmental entities and community organizations must be managed by both parties carefully because the government cannot share records with external entities. City personnel can inform community organizations of the progress of investigations without delineating specific details. Because many relationships with individuals are ultimately managed

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<sup>4</sup> <https://laborcenter.berkeley.edu/low-wage-work-in-california-data-explorer-2024/>

by trusted community organizations, City staff should develop strategies for strengthening and expanding information sharing protocols that can be used in the course of investigations.

OWS has had ongoing dialogues with a variety of community organizations since its inception. For the past year, the OWS has engaged in monthly meetings with the Worker Center Network and has also met with Worker Center Network member organizations individually. Community organizations have filed some cases with the OWS on behalf of workers; however, many of these cases involved violations of overtime, meal breaks, and rest breaks, so they file most of their cases with the State agency that can enforce those violations.

Co-enforcement with community organizations can also reduce the substantial burden on City personnel tasked with the enforcement of workplace laws. As such, the City should explore additional options for co-enforcement and information sharing with community organizations, which have already proven deeply important for OWS personnel.

### *Publicizing Completed Investigations*

Another component of SE may include the posting of resolved workplace investigations to a publicly accessible venue, such as a government website or social media account, in instances where a violation has occurred. A recent scholarly paper<sup>5</sup> demonstrates how publicizing the results of workplace violations substantially reduces the likelihood of noncompliance at “peer” facilities within a 5-kilometer radius. These effects, which the author argues are a form of “regulation by shaming,” improved compliance more than subsequent investigations at the same facility. These effects were also larger in regions where labor unions were strong and where local newspapers were likely to cover the press release.

The OWS does not currently publicize the details of resolved investigations. Although refusing to publicize the outcomes of investigations may help to build relationships with business community stakeholders, the scholarly evidence cited above suggests an alternative approach should be considered.

The City of Seattle’s Office of Labor Standards (OLS) posts an interactive dashboard of investigations and their results, accompanied by a brief summary of each resolved investigation. Summaries include the name of the establishment investigated and penalized by the OLS, the specific ordinance section violated by the employer, the period of investigation, the number of workers impacted by the alleged violation(s), and the financial penalty levied by the OLS. Results from resolved investigations are published quarterly dating back to September 2016 and are disaggregated by the specific ordinance violated by the employer.

To adapt Seattle’s model to fit Los Angeles’ priorities and needs, the specific posting details of the investigation may also be negotiated with employers so as to improve the outcome for the City or complainants. With fewer than two dozen wage theft investigators, publicizing the results

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<sup>5</sup> Johnson, Matthew S. “Regulation by Shaming: Deterrence Effects of Publicizing Violations of Workplace Safety and Health Laws.” *American Economic Review* 110, no. 6 (2020): 1866–1904.



of completed investigations allows OWS to expand its enforcement powers beyond its current capacity without hiring and training new staff. Our Office recommends the creation of a public, online repository of completed investigations where violations occurred, accompanied by a brief description of the organization, the penalty issued by the OWS, and the details of the settlement.

#### *Targeted Proactive Enforcement*

Council may also consider the introduction of a targeted enforcement program. Rather than respond to complaints as they are received, proactive enforcement would use the existing database of complaints to target the investigation of a specific industry. This approach would dispatch OWS investigators to locations and/or industries with historically high rates of workplace violations without receiving a complaint.

As shown below in Figure 1, the Professions & Occupations,<sup>6</sup> Restaurant, and Retail Trade categories comprise over 60 percent of MWO investigations dating back to 2016. Because of these relatively high rates of investigations, BCA may wish to adopt a policy that dispatches OWS investigators to Restaurant and Retail Trade firms in areas with historically high violation rates. Because of the comparably large number of investigations in Restaurant and Retail Trade—two occupational categories with significant percentages of low-wage workers—the City should maximize its limited resources and direct investigators to industry establishments with historically high rates of noncompliance.

**Figure 1: Minimum Wage Ordinance OWS Investigations by Industry**

Industry	Year									
	2016	2017	2018	2019	2020	2021	2022	2023	2024	Total
Arts, Entertainment, & Recreation	5	12	2	8	2	6	7	6	2	50
Carwash	0	6	3	2	1	0	0	0	0	12
Cleaning Services	4	12	14	13	2	5	7	3	5	65
Garment	2	5	4	16	1	0	1	0	0	29
Health Care & Social Assistance	6	8	12	10	5	5	9	10	4	69
Empty <sup>7</sup>	1	3	2	0	0	1	0	3	4	14
Personal Care Services	1	5	2	6	1	1	4	2	0	22
Professions & Occupations	21	53	32	42	24	13	50	34	15	284
Restaurant	11	50	37	50	11	20	10	17	11	217
Retail Trade	19	20	28	14	10	25	23	14	23	176
Transportation & Warehousing	5	13	24	36	5	1	7	5	4	100
Wholesale & Manufacturing	7	8	9	5	7	2	4	3	1	46
<b>Total</b>	<b>82</b>	<b>195</b>	<b>169</b>	<b>202</b>	<b>69</b>	<b>79</b>	<b>122</b>	<b>97</b>	<b>69</b>	<b>1084</b>

<sup>6</sup> Professions & Occupations is a broad category that includes workers in the security services, construction trades, and delivery services.

<sup>7</sup> According to OWS, the “Empty” category refers to observations where either the complainant did not provide the industry, a data entry error was identified, or information is unavailable.



The OWS data investigation presented in Figure 1 could be used for strategic enforcement by dividing the number of complaints received by the total number of estimated workers to produce relative investigation rates across industries instead of the absolute levels recorded by OWS. Former U.S. Wage and Hour Division (WHD) Administrator David Weil argued that this technique allowed Federal staff to efficiently focus their investigative efforts during the Obama administration.<sup>8</sup>

### **Increasing the Capability of OWS: Prioritizing Claims and Revising the Subpoena Process**

Complaint forms can be downloaded and submitted to OWS in either a short or long format through the City's website in multiple languages.<sup>9</sup>

Short forms can be submitted through an online portal<sup>10</sup> and require the complainant to identify the business name and address, the method of payment used by the employer, the alleged violation, the current employee's duties, and whether the claim has been filed with another public agency, among other details.

Long forms must be submitted either via mail or email and are available only in English and Spanish. They also allow for more detailed information to be submitted by complainants, such as an example workweek, the specific time period violations allegedly occurred, and whether or not the employee holds a transitional job.

Complaint forms can also be completed and submitted to OWS by a third-party representative to preserve employee anonymity. Information included in complaints filed by third-party representatives remains confidential until the City issues a notice to correct to the accused employer.

The current OWS investigative process is complaint driven. Complaints are examined and processed in the order received, and, with the exception of retaliation cases, are not categorized into levels assigning priority. This process can result in the elevation of low-priority cases with limited impact to the detriment of other cases involving critical issues that may have broader implications and greater influence.

In the event an OWS investigator is repeatedly denied access to important case evidence during the course of an investigation, OWS must pursue a subpoena from the Board of Public Works. Administrative subpoenas approved by the Board are issued by the City Clerk.

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<sup>8</sup> Weil, David. "Creating a Strategic Enforcement Approach to Address Wage Theft: One Academic's Journey in Organizational Change." *Journal of Industrial Relations* 60, no. 3 (2018): 437–60.

<sup>9</sup> <https://wagesla.lacity.org/>

<sup>10</sup> <https://cityoflaprod.service-now.com/wagesla>

## **Complaint Prioritization and Triage**

The current prioritization and intake process for complaints is straightforward: complaints are examined as they are received and, with the exception of workplace retaliation, no additional prioritization is assigned. As such, an investigator that has been assigned approximately one dozen cases will first evaluate the cases involving employer retribution, but will not further categorize the remaining complaints or use a strategic triage system. Triage is used to sort cases into different treatment categories and to decide which complaints to prioritize for full investigations, such as those where risk of retaliation is high; if/whether the business is a repeat offender; or where more than one worker is affected. A potential triage system for categorizing and prioritizing complaints received by OWS is detailed below.

### *High Priority Claims*

“High Priority” cases are those where a number of key criteria are met, most notably that multiple workers are impacted (five or more, for example), child labor is suspected, the employer appears to have widespread violations affecting a majority of the workforce, and the employer falls within a targeted industry, such as low-wage industries with high rates of violations and/or a vulnerable workforce.

Whether or not retaliation—or the threat of retaliation—is involved may also be a factor in assigning high priority to a given complaint. High priority cases should be completed within a designated maximum timeframe, such as three (3) or six (6) months, because they often involve workers currently employed at the firm in question and are thus particularly vulnerable to harassment or retaliation.

### *Medium Priority Claims*

Cases assigned the “Medium” category lack the egregious behavior exhibited by those falling in the highest priority of claims and do not require a company-wide investigation. Medium priority claims may involve multiple or single workers. Depending on the specific facts of the complaint, the City may attempt to conciliate the affected parties through informal negotiation or a straightforward settlement. Individual agency staff should be capable of conducting an investigation that includes gathering all relevant facts from the affected parties without expending the resources required to solve high priority cases.

Although cases affecting dozens of workers with large sums of money involving child labor and dangerous working conditions can be easily assigned the highest level of priority, cases without clear high priority indicators can be difficult to categorize.<sup>11</sup>

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<sup>11</sup> Our Office met with the DOL to discuss the current triage system employed by the WHD in its categorization of workplace related complaints on August 7, 2024. WHD personnel communicated that assigning cases to the “Medium” priority category has historically been more difficult than the “Low” or “High” categories.

### *Low Priority and No Priority Claims*

“Low Priority” claims have one or few affected workers, have a total amount of money that is below a designated threshold, such as \$250 or \$500, the employer has no prior history of retaliation or violating the law, and a combination of workplace violations are not suspected. City personnel may also consider sending outreach materials and direct employer correspondence to remedy any potential violations. A complainant may also pursue a claim in Small Claims Court, where the maximum allowable amount in California is \$12,500.

Claims placed into the “No Priority” category have no underlying violation and/or lack sufficient evidence to warrant increased agency attention. Depending on the nature of the alleged violation or misconduct, OWS may consider referring the matter to a community-based organization or free legal clinic. In general, complaints placed into the No Priority category should receive limited attention to allow staff to focus on other matters of higher priority.

Low Priority and No Priority investigations should be treated with an abridged or summary process to avoid expending significant resources on them. If they cannot be resolved with minimal investigation, affected parties should be informed promptly in straightforward language so that alternative options can be explored.

### **Subpoena Process Revision**

After making repeated attempts to obtain information, the OWS may request a subpoena from the Board of Public Works pursuant to LAMC section 188.05(C). This requires the OWS to follow all Brown Act notification requirements. Procedurally, OWS prepares a written Board Report, briefs commissioners as appropriate, and notifies the other party of the Board Report and schedule date. In the past, OWS and the employer disputing access to the records had their legal counsel present their position before the Board of Public Works when the item was called in public session. This could potentially lead to a public airing of the certain facts of the case, which may be better suited for confidentiality. If the Board approves the subpoena, it is issued by the City Clerk.

Although subpoenas are rarely issued and none have been formally contested by any employer, the current subpoena process could be revised to reduce the amount of time restitution is distributed to workers, preserve more confidentiality in the investigative process, and grant OWS investigators additional leverage as they evaluate claims of workplace misconduct. The current process allows employers to potentially delay an investigation and conceal evidence while the subpoena is filed and heard before the Board of Public Works.

Los Angeles Charter Section 217 (b) grants subpoena power to certain elected officials and boards, such as the President of the Board of Public Works, though not to specific departmental heads. The City Attorney has communicated to our Office that this does not preclude Council from extending this authority to other entities, such as department General Managers or Directors. The California Supreme Court has held that the “enumeration of powers” in the City Charter “does not constitute an exclusion or limitation” on Council’s legislative powers. Thus,

Charter Section 217 acts as a baseline, instead of a limit, to which City agencies can exercise subpoena power and does not preclude Council from granting subpoena power to a department head.

Our Office therefore recommends revising current law to grant the BCA Director the authority to issue subpoenas during an investigation so they can compel information without requiring Board of Public Works approval. Although the need for an enforceable subpoena may not arise in most instances, enhancing the authority of OWS staff to collect relevant information should improve employer compliance and shorten the lengthy investigatory process.

### **Projected Staffing Resources**

OWS and the City Attorney communicated to our Office that implementing the recommendations outlined in this transmittal will require between 13 and 16 additional staff, as identified below. All below staffing estimates are 9-month total cost projections.

OWS estimates that 8 positions will be needed to satisfy the recommendations included above at a total cost of \$1.307 million:

- 1 Compliance Program Manager I: \$250,891
- 1 Special Investigator II / Senior Management Analyst I: \$195,588
- 5 Special Investigator I / Management Analyst: \$711,348
- 1 Data Analyst I: \$148,818

If Council chooses to vigorously pursue strategic enforcement staffing (C.F. 23-0287), OWS estimates that rigorously performing strategic enforcement will require an additional 3 positions at a total cost of \$541,979:

- 1 Compliance Program Manager I: \$250,891
- 1 Management Analyst: \$142,269
- 1 Data Analyst I: \$148,818

The CAO estimates that the above 11 positions will cost the city a total of \$1.849 million.

The City Attorney estimates they will require 5 positions to assist OWS with the recommendations included in this report at a total cost of \$1.04 million:

- 2 Deputy City Attorney III: \$462,530
- 1 Admin Coordinator III: \$152,983
- 1 Investigator II: \$123,999
- 1 Assistant City Attorney: \$303,389



In total, our Office estimates that the total cost of hiring positions for OWS and the City Attorney without substantial investment in strategic enforcement will cost approximately \$2.35 million, whereas additional staffing for strategic enforcement will cost \$2.89 million.

### **State Enforcement Collaboration**

Our Office met with Labor Commissioner Daniel Yu on October 2, 2024 to discuss plans for sharing penalties and co-enforcement with State regulators. Mr. Yu communicated to our Office that carefully crafted information sharing agreements are extremely beneficial for enforcement entities. Because the State cannot share records with external entities, enforcement agencies must be careful when sharing information with the community-based organizations that often advocate on workers' behalf.

Mr. Yu further communicated to our Office that the DLSE does not currently have resources to coordinate enforcement activities with the City. Not only is the State unable to coordinate enforcement activities, but also it is unable to train City investigative personnel.

### **FISCAL IMPACT**

The recommendations in this Report will have an estimated 9-month cost of \$2.89 million.

### **NEXT STEPS**

Our Office will contact relevant personnel at Los Angeles County's Department of Consumer and Business Affairs (DCBA), the primary agency responsible for investigating claims of workplace misconduct and wage theft to explore options for co-enforcement, training, collection of penalties, and employer noncompliance. The food service industry has historically high rates of employment law violations, and our Office will explore options for Council consideration that include the cancellation of food permits for noncompliant employers and collection of penalties.

Further, Senate Bill 261 (Wahab) was passed by the California Senate on June 4, 2025 after multiple amendments. It is currently pending Assembly consideration. If enacted, the bill would require the DLSE to post online information of employers with an unsatisfied order, decision, or award (ODA) on a claim for unpaid wages. Our Office will continue to monitor this legislation as it progresses through the State legislature.



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Henry Flatt  
Analyst

### **Attachments:**

- A. Civil Rights, Equity, Immigration, Aging and Disability Committee Report
- B. LAMC section 188

File No. 23-0932

CIVIL RIGHTS, EQUITY, IMMIGRATION, AGING AND DISABILITY COMMITTEE REPORT relative to increasing the authority and capability of the Bureau of Contract Administration (BCA) Office of Wage Standard (OWS) to enforce claims against employers for overtime, break times, late pay, and gratuities violations.

Recommendation for Council action, pursuant to Motion (Soto-Martinez, McOsker - Harris-Dawson):

DIRECT the Chief Legislative Analyst (CLA), in consultation with the BCA OWS and City Attorney, to report to the Council within 60 days with recommendations on increasing the authority and capability of the BCA OWS to enforce claims against employers for Overtime, Meal Break, Rest Break, Late Pay, Tips and Gratuities violations, including the following:

- a. How best to prioritize, within the discretion of OWS, claims brought by low wage workers.
- b. Plans to explore options with the State Department of Industrial Relations to share penalties and fines with the City for local enforcement with the city, including restitution to workers.
- c. What resources are necessary for proper enforcement and implementation.

Fiscal Impact Statement: Neither the City Administrative Officer nor the CLA has completed a financial analysis of this report.

Community Impact Statement: None submitted

#### SUMMARY

At the meeting held on September 15, 2023, your Civil Rights, Equity, Immigration, Aging and Disability Committee considered a Motion (Soto-Martinez, McOsker - Harris-Dawson) relative to increasing the authority and capability of the BCA OWS to enforce claims against employers for overtime, break times, late pay, and gratuities violations.

After an opportunity for public comment was held, the Committee moved to approve the recommendation contained in the Motion, as detailed above. This matter is now forwarded to the Council for its consideration.

Respectfully Submitted,

CIVIL RIGHTS, EQUITY, IMMIGRATION, AGING AND DISABILITY COMMITTEE

<u>MEMBER</u>	<u>VOTE</u>
SOTO-MARTÍNEZ	YES
HUTT	YES
HERNANDEZ	YES
PADILLA	YES
RODRIGUEZ	ABSENT

ME

**-NOT OFFICIAL UNTIL COUNCIL ACTS-**

## ARTICLE 8

### LOS ANGELES OFFICE OF WAGE STANDARDS ORDINANCE

(Article Amended In Entirety by Ord. No. 187,710, Eff. 4/1/23.)

Section

- 188.00 Title and Purpose.
- 188.01 Authority.
- 188.02 Definitions.
- 188.03 Postings and Records.
- 188.04 Retaliation Prohibited.
- 188.05 Enforcement.
- 188.06 Notice of Correction.
- 188.07 Penalties and Remedies Payable to the Employee.
- 188.08 Administrative Fines and Penalties Payable to the City.
- 188.09 Additional Remedies.
- 188.10 Administrative Appeal.
- 188.11 Other Remedies Not Affected.
- 188.12 Outreach.
- 188.13 Regulations.
- 188.14 Reports.
- 188.15 Severability.

#### SEC. 188.00. TITLE AND PURPOSE.

This article shall be known as the “Los Angeles Office of Wage Standards Ordinance.” Wage theft occurs when employees are not paid the wages they are owed by their employers. Studies have concluded that employees in Los Angeles are disproportionately affected by the crime of wage theft in the State of California. The Office of Wage Standards within the Bureau of Contract Administration of the Department of Public Works enforces violations of wage theft and sick time benefits of the Los Angeles Minimum Wage Ordinance. The ordinance also establishes penalties and grants authority to the City of Los Angeles Police Commission to deny, revoke or suspend a police permit issued or requested by an employer found to have committed wage theft.

This ordinance authorizes the Office of Wage Standards to enforce the rights and benefits provided by the Fair Work Week Ordinance. By investigating complaints and holding employers accountable, the City will communicate to employers that wage theft and denial of a fair work week will not be tolerated in Los Angeles. Holding employers accountable further serves as a deterrent to future actions by employers who otherwise would violate California wage and labor provisions within the City’s boundaries.

Moreover, imposing penalties and administrative fines for violations of the Los Angeles Minimum Wage Ordinance, the Fair Work Week Ordinance, and the requirements of this article will also serve as a deterrent to employers who choose not to follow the law. The importance of correctly paying wages due and providing sick time to an employee is one of the highest mandates for the welfare of employees working in the City. Similarly, the welfare of employees working in the City requires that retail employers provide advance notice of work schedules, the right to rest 10 hours between shifts, opportunities for additional hours, and predictability pay for late schedule changes.

#### SEC. 188.01. AUTHORITY.

This article is adopted pursuant to the powers vested in the City of Los Angeles under the laws and Constitution of the State of California and the City Charter, including but not limited to, the police powers vested in the City pursuant to Article XI, Section 7 of the California Constitution and Section 1205(b) of the California Labor Law to ensure compliance with the Los Angeles Minimum Wage law, Los Angeles Municipal Code Section 187.00, *et seq.*, and the Fair Work Week law, Los Angeles Municipal Code Section 185.00, *et seq.*

#### SEC. 188.02. DEFINITIONS.

As used in this article, the following capitalized terms shall have the following meanings:

“City” shall mean the City of Los Angeles.

“City of Los Angeles Police Commission” is defined in Los Angeles Municipal Code Section 103.01.

“Division” shall mean the Office of Wage Standards of the Bureau of Contract Administration within the Department of Public



Works.

“**Employee**” is defined in Los Angeles Municipal Code Section 185.01 C. for purposes of application of the Fair Work Week Ordinance, or Los Angeles Municipal Code Section 187.01 C. for purposes of application of the Minimum Wage Ordinance.

“**Employer**” is defined in Los Angeles Municipal Code Section 185.01 D. for purposes of application of the Fair Work Week Ordinance, or Los Angeles Municipal Code Section 187.01 D. for purposes of application of the Minimum Wage Ordinance.

“**Los Angeles Minimum Wage**” means a minimum wage adopted by the Los Angeles City Council pursuant to Los Angeles Municipal Code Section 187.00, *et seq.*

“**Police Permit**” means any permit identified in Los Angeles Municipal Code Section 103.12.

“**Predictability Pay**” is defined in Los Angeles Municipal Code Section 185.01 F.

“**Sick Time Benefits**” is defined in Los Angeles Municipal Code Section 187.04.

“**Work Schedule**” is defined in Los Angeles Municipal Code Section 185.01 H.

### **SEC. 188.03. POSTINGS AND RECORDS.**

A. Every Employer shall post in a conspicuous place at any workplace or job site where any Employee works, the notice published each year by the Division informing Employees of the current Los Angeles Minimum Wage rate, Sick Time Benefits, their rights and benefits under the Fair Work Week Ordinance and of their rights under this article. Every Employer shall post notices in English, Spanish, Chinese (Cantonese and Mandarin), Hindi, Vietnamese, Tagalog, Korean, Japanese, Thai, Armenian, Russian and Farsi, and any other language spoken by at least 5 percent of the Employees at the workplace or job site. Every Employer also shall provide each Employee at the time of hire the Employer’s name, address, and telephone number in writing. If the information the Employer provided to the Employee changes, the Employer shall provide the updated information in writing within ten days of the change.

B. Every Employer shall retain payroll records pertaining to Employees for a period of four years, and shall allow the Division access to such records, with appropriate notice and during business hours, to monitor compliance with the requirements of the Minimum Wage Ordinance. For purposes of the Fair Work Week Ordinance, records must be retained pursuant to Section 185.09.

C. The head of the Division or their designee shall have access to all business sites and places of labor subject to the Minimum Wage Ordinance, the Fair Work Week Ordinance, and this article during business hours to inspect books and records, interview employees and any other relevant witnesses, and investigate such matters necessary or appropriate to determine whether an Employer has violated any provisions of the Minimum Wage Ordinance, the Fair Work Week Ordinance, or this article.

### **SEC. 188.04. RETALIATION PROHIBITED.**

It shall be unlawful for an Employer or any other party to discriminate in any manner or take adverse action against any Employee in retaliation for exercising rights protected under this article. Rights protected under this article include, but are not limited to: the right to file a complaint or inform any person about any party’s alleged noncompliance with this article; and the right to inform any person of their potential rights under this article and to assist the person in asserting such rights. Protections of this article shall apply to any Employee who mistakenly, but in good faith, alleges noncompliance with this article. Taking adverse action against an Employee within 90 days of the Employee’s exercise of rights protected under this article shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights.

### **SEC. 188.05. ENFORCEMENT.**

A. **Cure Period For a Violation of The Fair Work Week Ordinance.** Before an Employee or the Employee’s representative can file a complaint with the Division or file a civil action alleging a violation of the Fair Work Week Ordinance, the following requirements must be met:

1. The Employee provides written notice to the Employer of the provisions of the Fair Work Week Ordinance alleged to have been violated and the facts to support the alleged violations; and
2. The Employer does not, within 15 days from receipt of the written notice to cure, take action to cure the alleged violations.

B. **Reporting Violations.** An Employee or any other person may report to the Division any suspected violation of the Los Angeles Minimum Wage Ordinance, the Fair Work Week Ordinance, or this article. The Division shall encourage reporting pursuant to this article by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the Employee or person reporting the violation. With the authorization of the Employee or person reporting a violation, the Division may disclose their name and identifying information as necessary to enforce this article or for other appropriate purposes.



C. **Investigation.** The Division shall be responsible for investigating possible violations of the Los Angeles Minimum Wage, Sick Time Benefits, Fair Work Week Ordinance, and this article by an Employer or other person. The Employer shall cooperate fully in any investigation by the Division. The Division shall have access to all business sites and places of labor subject to the Minimum Wage and Fair Work Week Ordinances during business hours to inspect and request copies of books and records, interview employees and any other relevant witnesses, investigate such matters necessary or appropriate and request the Board of Public Works to issue a subpoena for books, papers, records, or other items relevant to the enforcement of this article. The Employer is required to provide to the Division its legal name, address, and telephone number in writing.

#### **SEC. 188.06. NOTICE OF CORRECTION.**

A. **Issuance of Notice of Correction.** After an investigation, if the Division makes a determination that an Employer has violated the Los Angeles Minimum Wage Ordinance, the Fair Work Week Ordinance, or this article, the Division shall issue a written Notice of Correction to the Employer.

B. **Service of Notice.** Service of a Notice of Correction shall be accomplished as follows:

1. The Division or its designee may obtain the signature of the Employer to establish personal service of the Notice of Correction; or
2. The Division or its designee may accomplish substitute service by mailing the Notice of Correction by certified mail to the Employer's address as provided in Section 188.03 A.

C. **Contents of Notice of Correction.** The Notice of Correction shall require the Employer to take corrective action by the date specified and shall include all the following:

1. A description of the violation(s);
2. The date and location of the violation(s);
3. A citation to the provisions of law violated;
4. A description of corrective action required, including reinstatement of employment for retaliation violations;
5. A statement explaining that each day of a continuing violation may constitute a new and separate violation;
6. The amount of wages, Predictability Pay, Sick Time Benefits, or any other amount due and the amount of penalties and administrative fines imposed for any violation(s);
7. A statement informing the Employer that the wages, Predictability Pay, Sick Time Benefits, penalties and administrative fines shall be paid to the City of Los Angeles (or alternatively, to the Employee, if appropriate) within 30 days from the date on the Notice of Correction, the procedure for payment, and the consequences of failure to pay;
8. A description of the process for appealing the Notice of Correction, including the deadline for filing such an appeal; and
9. The name and signature of the head of the Division or their designee.

D. **Posting of Notice of Correction.** Employer must, within 24 hours after receipt of a Notice of Correction, post the Notice of Correction by affixing the notice to a surface in a conspicuous place on property that is: (1) the Employer's principal place of business in the City; (2) if the Employer's principal place of business is outside the City, the fixed location within the City from or at which the Employer conducts business in the City; or (3) if the Employer does not regularly conduct business from a fixed location in the City, one of the following: (i) the location where the Employer maintains payroll records if the Notice of Correction is for violation of Section 188.03 B.; or (ii) the jobsite or other primary location where the Employees perform services in the City.

E. **Settlement.** The head of the Division or their designee may convene an informal meeting with the Employer to resolve the corrective action sought in the Notice of Correction. The compliance period in Section 188.06 C. and the accrual of penalties and administrative fines may be temporarily suspended during settlement discussions. If after meeting the corrective actions are not resolved, the Division may issue a new compliance date to the Employer and reinstate the accrual of penalties and administrative fines.

#### **SEC. 188.07. PENALTIES AND REMEDIES PAYABLE TO THE EMPLOYEE.**

A. **Civil Enforcement Action by Employee, City or Third Parties.** Any Employee aggrieved by a violation of the Minimum Wage Ordinance, the Fair Work Week Ordinance, or this article, the City Attorney, or any other person or entity acting on behalf of the public as provided for under applicable state law, may bring a civil action in a court of competent jurisdiction against the Employer. An Employee or the City, upon prevailing, shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation, including, without limitation, the payment of any minimum wages and Sick Time Benefits unlawfully withheld, the payment of penalties



in the amount of up to \$120 to each Employee whose rights under this article were violated for each day that the violation occurred or continued, reinstatement in employment and/or injunctive relief, and shall be awarded reasonable attorneys' fees and costs. Any other person or entity enforcing the Minimum Wage Ordinance, the Fair Work Week Ordinance or this article on behalf of the public as provided for under applicable state law, upon prevailing, shall be entitled only to equitable, injunctive and/or restitutionary relief, and reasonable attorneys' fees and costs. Nothing in this article shall be interpreted as restricting, precluding, or otherwise limiting a separate or concurrent criminal prosecution under the Municipal Code or state law.

**B. Restitution and Penalty Assessments by the Division Payable to the Employee.**

1. **Restitution and Penalties for Minimum Wage and Sick Time Violations.** Every Employer who violates the Minimum Wage Ordinance, this article, or any portion thereof, shall be liable to the Employee whose rights were violated for any and all relief, including, but not limited to, the payment to each Employee of wages and Sick Time Benefits unlawfully withheld and an additional penalty of up to \$120 per day that each of the violations occurred or continued. A violation for unlawfully withholding wages or Sick Time Benefits shall be deemed to continue from the date immediately following the date that the wages or Sick Time Benefits were due and payable as provided in Part 1 (commencing with Section 200) of Division 2 of the California Labor Code, to the date immediately preceding the date the wages or Sick Time Benefits are paid in full. For retaliatory action by the Employer, the Employee shall be entitled to reinstatement and a trebling of all wages, Sick Time Benefits, and penalties owed.

2. **Restitution and Penalties to Employee for Fair Work Week Violations.** An Employer who violates the Fair Work Week Ordinance shall pay restitution and a penalty as provided in this paragraph to each Employee whose rights were violated. The Division shall impose and collect, on behalf of an Employee, a one-time penalty for each violation. The violations in this subsection do not continue daily and do not accrue daily penalties.

**VIOLATION AND PENALTY AMOUNT PAYABLE TO EMPLOYEE**

<b>Violation</b>	<b>Penalty</b>
Failure to provide a good faith estimate of work schedule – Municipal Code Section 185.02.	Up to \$500
Failure to compensate Employee at one and one-half times pay for working a Shift that begins less than ten hours from the previous Shift – Municipal Code Section 185.08.	Up to \$500
Failure to provide an Employee with at least 14 calendar days' notice of Work Schedule – Municipal Code Section 185.04 A.	Up to \$500
Failure to provide written notice of Work Schedule changes – Municipal Code Section 185.04 B.	Up to \$500
Failure to comply with prohibitions against requiring an Employee to find coverage for scheduled hours if the Employee is unable to work for a reason covered by other laws – Municipal Code Section 185.07.	Up to \$500
Failure to offer additional hours of work to current Employees before hiring new workers – Municipal Code Section 185.05.	Up to \$500

C. **Grace Period for Fair Work Week Violations.** The provisions of this section shall not apply to violations of the Fair Work Week Ordinance that occur during the first 180 days after the effective date of this ordinance. During this period, the Division shall only issue written warnings to Employers.

**SEC. 188.08. ADMINISTRATIVE FINES AND PENALTIES PAYABLE TO THE CITY.**

A. **Penalties.** An Employer who violates the Minimum Wage Ordinance, the Fair Work Week Ordinance, or this article, or any portion thereof, shall be liable to the City for a penalty of up to \$50 per day that either wages, Predictability Pay, or Sick Time Benefits were unlawfully withheld from an Employee. A violation for unlawfully withholding wages, Predictability Pay, or Sick Time Benefits shall be deemed to continue from the date immediately following the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2 of the California Labor Code, to the date immediately preceding the date the wages are paid in full.

B. **Administrative Fines.** An administrative fine payable to the City may be assessed for a violation of any provision of the Minimum Wage Ordinance, the Fair Work Week Ordinance, or this article as specified below. The administrative fine may be assessed by means of a Notice of Correction issued to the Employer by the Division.

**VIOLATION AND FINE AMOUNT**

Failure to post notice of the Los Angeles Minimum Wage rate, Sick Time Benefits, and Fair Work Week Benefits – Municipal Code Sections 185.11 or 188.03 A.	Up to \$500
Failure to allow access to payroll records – Municipal Code Section 188.03 B.	Up to \$500
Failure to allow access to records required by the Fair Work Week Ordinance – Municipal Code Section 185.09 B. or 188.03 C.	Up to \$500
Failure to maintain payroll records or to retain payroll records for four years – Municipal Code Section 188.03.B.	Up to \$500
Failure to maintain records required by the Fair Work Week Ordinance for three years – Municipal Code Section 185.09 A.	Up to \$500



Failure to allow access for inspection of records or to interview employees – Municipal Code Section 185.09 B., 188.03 B. or 188.03 C.	Up to \$500
Retaliation for exercising rights under the Minimum Wage and Fair Work Week Ordinances or this article – Municipal Code Sections 185.12, 187.06, or 188.04 – The Penalty for retaliation is up to \$1,000 per employee.	Up to \$1,000
Failure to provide employer's name, address, and telephone number in writing – Municipal Code Sections 188.03 A. or 188.05 B.	Up to \$500
Failure to cooperate with the Division's investigation – Municipal Code Section 188.03 C. or 188.05 B.	Up to \$500
Failure to submit documents or information to the Division within 30 days of the request – Municipal Code Section 188.05 B.	Up to \$500
Failure to post Notice of Correction to employees – Municipal Code Section 188.06 D.	Up to \$500

**C. Calculation of Administrative Fines.** Each and every day that a violation exists constitutes a separate and distinct violation. Any subsequent violation of the same provision by the same Employer within three years of a prior Notice of Correction may result in a 50 percent increase in the maximum administrative fine allowed.

**D. Payments to City; Due Date; Late Payment Penalty.** Administrative fines and City penalties shall be payable to the City of Los Angeles and due within 30 days from the date of the Notice of Correction. The failure of any Employer to pay an administrative fine or City penalty within 30 days may result in the assessment of an additional late fee. The amount of the additional late fee shall be 10 percent of the total amount of the administrative fine or City penalty assessed for each month the amounts are unpaid, compounded to include already accrued late administrative fines and City penalties that remain unpaid.

**E. Penalties and Fines under Section 188.07 and 188.08.** The Division shall base its imposition of penalties and administrative fines for non-compliance with the city's laws after considering factors, including but not limited to: 1) the extent of harm caused by the violation; 2) the nature and persistence of the violation; 3) the length of time over which the violation occurs; 4) the frequency of past violations; 5) any action taken to mitigate the violation; and 6) the financial burden to the Employer.

**F. Grace Period for Fair Work Week Violations.** The provisions of this section shall not apply to violations of the Fair Work Week Ordinance that occur during the first 180 days after the effective date of this ordinance. During this period, the Division shall only issue written warnings to Employers.

#### **SEC. 188.09. ADDITIONAL REMEDIES.**

The City, when enforcing on behalf of an Employee, has the authority to require that payment of wages, Predictability Pay, Sick Time Benefits, and/or penalties found to be due and owing to the Employee, be paid directly to the City for disbursement to the Employee. The City, when enforcing on the behalf of an Employee, has the authority to require that payment of all amounts due under the Minimum Wage Ordinance, the Fair Work Week Ordinance, and this article be paid directly to the City. The failure of an Employer to pay any amounts due under the Minimum Wage Ordinance, the Fair Work Week Ordinance, or this article shall constitute a debt to the City. The City, as plaintiff and/or judgment creditor, may file a civil action on behalf of an Employee and/or the City or, to the extent feasible under state law, create and impose a lien against any property owned or operated by an Employer or other person who fails to pay wages, Predictability Pay, Sick Time Benefits, penalties, and administrative fines assessed by the Division, or pursue other legal and equitable remedies available to the City. The City shall be awarded reasonable attorney's fees and costs associated with pursuing a violation under this article.

The remedies, penalties, and procedures provided under this article are cumulative and are not intended to be exclusive of any other available remedies, penalties, and procedures. The City shall study and review the feasibility of enacting additional measures consistent with state law to enhance the Division's enforcement tools, including, but not limited to, pursuing a memorandum of understanding or referral process to the Chief of Division of Labor Standards Enforcement for the recordation of a certificate of lien on behalf of an Employee, pursuant to California Labor Code Section 98.2(g), for amounts due under this article.

#### **SEC. 188.10. ADMINISTRATIVE APPEAL.**

**A. Deadline for Appeal.** An Employer who receives a Notice of Correction may file with the Division a notice of appeal within 15 days from the last compliance date specified as part of the Notice of Correction. In order to be considered timely, the appeal must be postmarked on or actually received by the Division by the 15th day following the service of the Notice of Correction. The appeal must be in writing and must indicate a return address. The appeal must be filed with the Division and must specify in detail the basis for the appeal.

**B. Hearing Date.** As soon as practicable after receiving the written notice of appeal, the head of the Division or their designee shall promptly select a hearing officer to hear and decide the administrative appeal. The hearing officer shall fix a date, time and place for the hearing on the appeal. Written notice of the time and place for the hearing shall be served by First Class mail, at the return address indicated on the written appeal. Service of the notice of hearing on the Employer must be made at least ten days prior to the date of the hearing. The hearing shall be held no later than 30 days after service of the notice of hearing, unless that time is extended by mutual



agreement.

C. **Notice of Hearing.** Except as otherwise provided by law, the failure of the Employer or any other person affected by the Notice of Correction to receive a properly addressed notice of the hearing shall not affect the validity of any proceedings under this article. Service by First Class mail, postage prepaid, shall be effective on the date of mailing.

D. **Stay of Enforcement.** If penalties and administrative fines payable to the City are the subject of administrative appeal or judicial review, then accrual of such penalties and administrative fines shall be stayed until the determination of such appeal or review is final. The payment of the contested amount of wages, Predictability Pay, Sick Time Benefits, and penalties owed to the Employee during the pendency of any appeal shall be stayed, but shall continue to accrue until a determination of such appeal is final.

E. **Failure to Appeal.** Failure of an Employer to file an appeal in accordance with the provisions of this section or to appear at the hearing shall constitute a failure to exhaust administrative remedies. The Notice of Correction shall become final and enforceable as a Wage Enforcement Order, as defined in Section 188.10 I.

F. **Submittals for the Hearing.** No later than five days prior to the hearing, the Employer and the Division shall submit to the hearing officer, with simultaneous service by First Class mail on the opposing party, written information, including, but not limited to the statement of issues to be determined by the hearing officer and a statement of the evidence to be offered and the witnesses to be presented at the hearing.

G. **Conduct of Hearing.** The hearing officer shall conduct all appeal hearings under this article. The Division shall have the burden of proof by a preponderance of the evidence in each hearing, except the Employer shall have the burden of proof by a preponderance of the evidence with respect to any claim that a worker is an independent contractor rather than an Employee. The hearing officer may accept evidence on which persons would commonly rely in the conduct of their business affairs, including, but not limited to, the following:

1. A Notice of Correction shall be prima facie evidence of the violation(s) specified therein, and those continuing through the date of the hearing.
2. The hearing officer may accept evidence and oral and written testimony under penalty of perjury relating to the violation(s) and the appropriate means of correcting the violation(s).

The hearing shall be open to the public and shall be recorded. Any party to the hearing may, at their own expense, cause the hearing to be recorded and transcribed by a certified court reporter. The hearing officer may continue the hearing and request additional information from the Division, Employer, or Employee prior to issuing a written decision.

H. **Hearing Officer's Findings and Determinations.** Within 15 days after the conclusion of the hearing, the hearing officer shall make findings based on the record of the hearing. The hearing officer may uphold or reject the violation(s) referenced in the Notice of Correction in whole or in part. The hearing officer also may uphold the Notice of Correction but reduce, waive, or conditionally reduce or waive the penalties and administrative fines stated therein if mitigating circumstances are shown and the hearing officer finds specific grounds for reduction or waiver in the evidence presented at the hearing. The hearing officer may impose penalties for any additional violations occurring during the pendency of the appeal. The hearing officer may impose conditions and deadlines for the correction of violations or the payment of outstanding wages, Predictability Pay, Sick Time Benefits, penalties, and administrative fines.

I. **Wage Enforcement Order.** The hearing officer's findings pursuant to Section 188.10 H. shall constitute the Wage Enforcement Order, which shall be issued by the hearing officer. The Wage Enforcement Order shall specify the amount of wages, Predictability Pay, Sick Time Benefits, penalties, and administrative fines, if any, owed by the Employer. The Wage Enforcement Order shall be final and shall be served on the Employer, Employee, and Division by certified mail. Pursuant to California Code of Civil Procedure Section 1094.5, the Wage Enforcement Order shall be subject to judicial review in the appropriate superior court.

#### **SEC. 188.11. OTHER REMEDIES NOT AFFECTED.**

The administrative enforcement procedures established in this article shall be in addition to any other criminal or civil remedy established by law that may be pursued to address violations of the Minimum Wage Ordinance, the Fair Work Week Ordinance, or this article. Jeopardy shall not attach as a result of any administrative or civil enforcement action taken pursuant to this article. A Notice of Correction or Wage Enforcement Order issued pursuant to this article shall not prejudice or adversely affect any other action, civil or criminal, that may be brought to prosecute or abate a violation or to seek compensation for damages suffered.

#### **SEC. 188.12. OUTREACH.**

The Division shall establish a community-based outreach program to conduct education and outreach to Employers and Employees. In partnership with organizations involved in the community-based outreach program, the Division shall create outreach materials that are designed for Employers and Employees in particular industries.



#### **SEC. 188.13. REGULATIONS.**

The Division may promulgate rules and regulations and issue determinations and interpretations relating to the Minimum Wage Ordinance, the Fair Work Week Ordinance, and this article. Any rules and regulations promulgated by the Division shall have the force and effect of law, and may be relied upon by Employers, Employees, and other parties to determine their rights and responsibilities under this article. The Division may amend the rules and regulations when necessary to administer and enforce effectively the Minimum Wage and Fair Work Week Ordinances, and this article.

#### **SEC. 188.14. REPORTS.**

The Division shall provide annual reports to the City Council on the implementation of the Los Angeles Office of Wage Standards Ordinances.

#### **SEC. 188.15. SEVERABILITY.**

If any subsection, sentence, clause, or phrase of this article is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this section, and each and every subsection, sentence, clause, and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.