



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Councilmember Jimenez

**REPLACEMENT**

**SUBJECT:** Hazard Pay for Retail Food Workers

**DATE:** February 2, 2021

Approved

Date: February 2, 2021

**RECOMMENDATION**

1. Decline to accept the memo from Mayor Liccardo dated February 1, 2021, and the memo from Vice Mayor Jones dated February 2, 2021;
2. Direct the City Attorney to draft an urgency ordinance requiring hazard pay for retail food workers. The ordinance shall:
  - a. Guarantee hazard pay of an additional \$3 an hour for retail food workers;
  - b. Apply to retail establishments that sell meats, poultry, dairy products, fresh fruits and vegetables and have at least 300 employees nationwide;
  - c. Allow for a private right of action;
  - d. Include a credit for retail establishments that currently provide pay increases related to the COVID-19 pandemic;
  - e. Commence immediately upon Council approval and continue for 120 days, at which point the Council will evaluate the impacts of the ordinance and decide whether to extend hazard pay for additional time.
3. Place the ordinance on the February 9, 2021 Council Agenda for action.

**BACKGROUND**

Time is of the essence; hazard pay for retail food workers is a benefit that should have been adopted at the start of the global pandemic. Every day we hear of more infections, more deaths, and more contagious strains of the virus. The hazard of becoming severely ill or dying from COVID-19 is a looming and constant threat for retail food workers who day in and day out put their lives on the line.

I appreciate the Mayor's suggestion to wait until the County decides on its proposal. However, I disagree with his assertion that a County measure would definitively pre-empt a measure from the City. It is my understanding that County Counsel is evaluating the matter and that there is no consensus from Supervisors as to whether the County has the authority to pre-empt the City. Additionally, we have been told by the authors of the County measure of a willingness to explicitly exclude San Jose from County action. Regardless, we owe it to our workers and businesses to put together an ordinance that will work for San José.

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Furthermore, the assumption that hazard pay will only result in higher food prices or loss of hours is unreasonable and not supported by reality. We cannot discount the tremendous benefit that our society and economy reap from higher wages. Having additional money will make grocery store workers greater consumers, improve morale at the work place, reduce turnover and increase productivity. The argument that paying people more will harm consumers and the workers themselves has been used time and again to counter minimum wage standards, overtime protections, and sick pay. We know the opposite to be true; higher wages usually result in increased profits and benefits for workers and businesses alike. On the contrary, we have seen that exponential increases in profits for almost all corporate food retailers has not trickled down to benefit workers or our economy. Growing profits do not lift all boats; this is illustrated by the fact that corporations like Albertson's are buying back shares in the billions of dollars while wages remain stagnant and food prices increased. The Mayor's memo suggests that retailers are closing stores because of the Long Beach City Council's recent enactment of a similar hazard pay ordinance. However, upon reviewing this sensationalized story further, it appears that both stores scheduled to close were underperforming long before the City Council took action. When pressed, the grocer "could not share specifics about how additional pay affected profit margins."<sup>i</sup>

I have crafted a targeted ordinance that will narrowly be applied to corporate grocery stores, chain supermarkets, and retail stores that sell groceries and employ at least 300 workers total nationwide. I have intentionally excluded small and local businesses such as neighborhood grocers because I understand the impact that the pandemic has had on them. By modifying the ordinance to require \$3 of additional pay per hour, we are allowing for a balanced approach for temporary higher wages for workers at a minimal cost to businesses. Furthermore, allowing for the ordinance to be evaluated after 120 days gives Council the opportunity to extend or end the ordinance based on factual evidence as opposed to anecdotal assumptions.

As with other City ordinances, such as Paid Sick Leave, including a private right to action may help alleviate concerns of enforcement given our stretched staff capacity. For those retailers that have done right by their employees in keeping pay increases, they should receive a credit for these funds. For example, an employer currently providing an additional \$2.50 per hour in COVID-19 related pay would need to provide an additional \$0.50 for a total of \$3.00 to come into compliance with this ordinance.

Unprecedented times call for unprecedented measures. Let's not wait to do the right thing and compensate food retail workers for their service to our City.

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<sup>i</sup> <https://www.latimes.com/business/story/2021-02-01/kroger-closes-two-long-beach-grocery-stores-hazard-pay-ordinance>