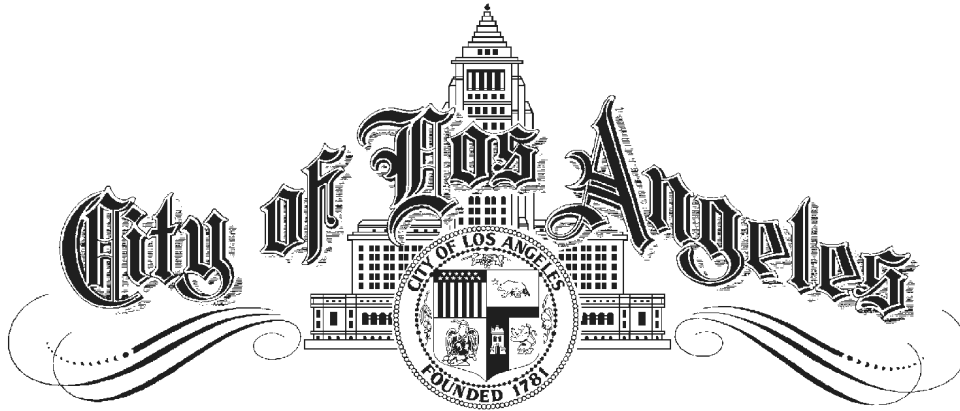




MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R21-0038

**REQUEST FOR CLOSED SESSION PURSUANT TO GOVERNMENT CODE
SECTIONS 54956.9(d)(2)**

REPORT RE:

**MOTION REQUESTING GROCERY AND DRUG RETAIL PREMIUM HAZARD PAY
ORDINANCE**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 N. Spring Street
Los Angeles, California 90012

Council File No. 20-1609

Honorable Members:

This Office recommends that discussion with, and advice from legal counsel with respect to consideration of the motion requesting grocery and drug retail premium hazard pay ordinance, be scheduled and held in closed session pursuant to California Government Code Section 54956.9(d)(2) due to a threat of litigation by the Cal. Grocers' Association. Attached is an article published in the Long Beach Post News on January 20, 2021. The article outlines a legal challenge to a City of Long Beach ordinance regarding its mandate for "Hero Pay" for grocery workers filed by the California Grocers' Association. The article outlines a threat by the same plaintiffs against any other government entities who attempt to mandate a hazard pay for grocery workers.

Government Code Section 54956.9(g) requires you to state publicly prior to the closed session which division of that section authorizes the closed meeting, and that the closed session is being held to confer or discuss with, or receive advice from, legal counsel to discuss the significant exposure of litigation to the matter.

Sincerely,

MICHAEL N. FEUER, City Attorney

By *Dania Minassian* for
DAVID MICHAELSON
Chief Assistant City Attorney

DM:cl
Attachment



Shoppers get carts at a North Long Beach grocery store. A "Hero Pay" ordinance adopted by the City Council is now the subject of a lawsuit. Photo by Brandon Richardson.

[CITY COUNCIL](#)

JAN 25 5:08 PM

With its pending legal battle over 'Hero Pay' for grocery workers, Long Beach becomes litmus test for other cities

[Kelly Puente](#)

Long Beach last week became the first the city in the state to mandate an extra \$4 per hour in "Hero Pay" for grocery workers who are on the front line in COVID-19 pandemic.

It was also the first city to be [quickly sued by the California Grocers Association](#).

Now, as the city faces a pending legal battle, it has become a litmus test for other cities and municipalities like Santa Monica, Los Angeles and the L.A. County Board of Supervisors, which are all considering similar local laws but have yet to go as far as Long Beach.

"There are other cities looking at 'Hero Pay' but Long Beach as far as I know is the first to pass an ordinance," said City Attorney Charles Parkin on Monday.

Parkin said the city anticipated legal challenges, but its City Council, which unanimously passed the ordinance last week, has indicated that it wants to push forward.

Mayor Robert Garcia signed the ordinance into local law on Wednesday.

The ordinance applies to large chain grocery stores with 300 or more workers nationally and with 15 employees per store within the city. It would last at least 120 days.

The California Grocers Association, which represents about 6,000 grocery stores across, filed a request for a temporary restraining order but a judge rejected the order late Friday, Parkin said.

The case is due back in court on Feb. 18 for a hearing on a preliminary injunction, which would stop the law while the case is pending.

In its lawsuit, the California Grocers Association, which represents about 6,000 grocery stores, has argued that the ordinance is unconstitutional and is preempted by federal labor law that protects collective bargaining agreements. Some grocery store employees are part of unions that negotiate pay structures with the grocery chains.

The suit also notes that the ordinance unfairly ignores other essential workers in areas like public safety, transportation and restaurants.

Parkin said there are many legal questions since the ordinance was moved through quickly without much time for a thorough analysis.

While the city has passed the law, it is unclear if all local grocers have yet raised hourly pay for workers, he said.

Depending on the outcome of the lawsuit, the city could be on the hook to pay grocers for damages if they raise pay but the law is later found to be unconstitutional, he said.

First District Councilwoman Mary Zendejas, who proposed the ordinance, said she still believes it was the right move for grocery workers who have put their lives at risk in the pandemic.

"I do think strongly that it's still the right thing to do for these families who are being affected day in and day out," she said. "We're living in unprecedented time and it's a matter of urgency. We need to do more than just celebrating them, we need to provide them a benefit."

The move has also frustrated some of the city's unions who say they also deserve hero pay as frontline workers.

Richard Suarez, a representative for the International Association of Machinists and Aerospace Workers, which represents about 3,000 city employees and 60 percent of the workforce, said the union has many essential workers including ambulance drivers, airport police, harbor patrol officers and office workers.

"I would encourage city leaders to not ignore the people that make this city run every day," he said.

The California Grocers Association has said other cities could face a similar lawsuit if they push forward.

While the [L.A. County Board of Supervisors has approve an initial plan](#), it has not yet scheduled a final vote on the matter. Santa Monica has also voted for an ordinance that would mandate an extra \$5 per hour for grocery workers, but the plan is still in the "beginning stages," a spokesperson said Monday.

Kelly Puente

Kelly Puente is a general assignment and special projects reporter at the Long Beach Post. Her prolific reporting has taken her all over Southern California—even to the small Catalina Island town of Two Harbors. She is a Tiki mug collector and is currently pursuing a master's degree in public policy and administration at Cal State Long Beach. Reach her at kelly@lbpost.com.