

Meeting Date: 03/01/2022 (10)
Ordinance No. 10771

AN ORDINANCE AMENDING THE COUNTY CODE OF ADMINISTRATIVE
ORDINANCES RELATING TO EMPLOYMENT ON COUNTY CONSTRUCTION
PROJECTS AND PROPERTY

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Purpose. Inadequate pay and poor working conditions have a significant adverse impact on the ability of working families to obtain adequate housing and provide for their families, and threaten public health. Poverty, unemployment, and income inequality threaten the County of San Diego's economic prosperity, stability, and competitiveness. The County of San Diego seeks to address these issues by ensuring that those working on County projects or at County-owned property are paid wages and provided working conditions that allow them to adequately provide for themselves and their families, and by taking steps to remove obstacles to quality employment opportunities for area residents.

Section 2. Section 73.10 is hereby added to the County Code of Administrative Ordinances to read in its entirety as follows:

SEC 73.10. EMPLOYMENT STANDARDS FOR COUNTY CONSTRUCTION PROJECTS

Any contractor and its subcontractors (at any level) performing construction pursuant to a contract valued over \$1,000,000, or over \$25,000 where all of the work is performed by an apprenticeable occupation (as that term is defined in Public Contract Code section 2601), awarded by the County in accordance with the Public Contract Code (collectively, "County Construction Contractors") shall:

- (a) utilize a skilled and trained workforce in the completion of the project as that term is defined in Public Contract Code section 2601(d).
- (b) provide employees with paid sick leave to cover, at a minimum, absences due to all of the following as applicable to the employee or their family members:
 - (i) mental or physical illness, injury, or health condition;
 - (ii) the need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition;
 - (iii) the need for preventive medical care; medical attention needed to recover from physical or psychological injury or disability due to domestic violence, sexual assault, or stalking;
 - (iv) the need to obtain services from a victim services organization or psychological or other counseling due to domestic violence, sexual assault, or stalking;
 - (v) the need to relocate or secure an existing home due to domestic violence, sexual assault, or stalking; and
 - (vi) the need to obtain legal services, including preparing for or participating in any civil or criminal legal proceeding, related to or resulting from domestic violence, sexual assault, or stalking.
- (c) provide that the sick leave required by Section 73.10(b) shall accumulate at the rate of one hour of paid sick time for every 30 hours worked, with a minimum accrual cap of 48 hours per year.
- (d) not discharge or in any way discriminate or take adverse action against any employee

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for disclosing, in any manner, a concern about the terms and conditions of employment.

- (e) post the following in a conspicuous and accessible place in each location at which employees are employed:
 - (i) notice of the requirements set forth in subdivisions (a)-(d) above;
 - (ii) notice that violations of such requirements may be reported to the County Office of Labor Standards and Enforcement; and
 - (iii) the phone number and address of the County Office of Labor Standards and Enforcement.
- (f) The requirements of this Section 73.10 shall equally apply to all County Construction Contractors subject to these provisions, and shall be included in all such County Construction Contractor contracts and subcontracts (at any level); however, the absence of such contractual provisions shall not relieve a County Construction Contractor of complying with this Section.

Section 3. Section 73.11 is hereby added to the County Code of Administrative Ordinances to read in its entirety as follows:

SEC 73.11. EMPLOYMENT STANDARDS FOR WORKERS ON COUNTY-OWNED LEASED PROPERTY

Lessees of County-owned property, their sublessees (at any level), and their real property licensees (at any level) making use of County-owned property in furtherance of the purposes for which such County property is leased (collectively referred to in this Section 73.11 as "Lessee Parties") shall:

- (a) pay the employees and contractors of Lessee Parties performing work on a construction project on County-owned property valued over \$1,000,000 no less than the prevailing wage rates, if any, set by the California Department of Industrial Relations, regardless of whether the payment of such wages is otherwise required under the Labor Code. Such wages shall be paid from the outset of the project and not only at the point that \$1,000,000 threshold is reached. It shall be a violation of this Ordinance to split work for the purposes of avoiding the \$1,000,000 threshold set forth in this subdivision (a).
- (b) utilize a skilled and trained workforce (as that term is defined in Public Contract Code section 2601(d)) in the completion of any construction project on County-owned property valued over \$1,000,000, or over \$25,000 where all of the work is performed by an apprenticeable occupation (as that term is defined Public Contract Code Section 2601).
- (c) ensure that all facilities located on and conditions of County-owned property meet the requirements of any County-enacted ordinances or Board policies regulating workplace conditions.
- (d) provide their employees working on or from County-owned property with paid sick leave to cover, at a minimum, absences due to all of the following as applicable to the employee or their family members:
 - (i) mental or physical illness, injury, or health condition;

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- (ii) the need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition;
 - (iii) the need for preventive medical care;
 - (iv) medical attention needed to recover from physical or psychological injury or disability due to domestic violence, sexual assault, or stalking;
 - (v) the need to obtain services from a victim services organization or psychological or other counseling due to domestic violence, sexual assault, or stalking;
 - (vi) the need to relocate or secure an existing home due to domestic violence, sexual assault, or stalking; and
 - (vii) the need to obtain legal services, including preparing for or participating in any civil or criminal legal proceeding, related to or resulting from domestic violence, sexual assault, or stalking.
- (e) provide that the sick leave required by Section 73.11(d) shall accumulate at the rate of one hour of paid sick time for every 30 hours worked, with a minimum accrual cap of 48 hours per year.
- (f) not discharge or in any way discriminate or take adverse action against any employee for disclosing, in any manner, a concern about the terms and conditions of employment.
- (g) post the following in a conspicuous and accessible place in each location at which Lessee Parties' employees and contractors are employed:
- (i) notice of the requirements set forth in subdivisions (a)-(f) above;
 - (ii) notice that violations of such requirements may be reported to the County Office of Labor Standards and Enforcement; and
 - (iii) the phone number and address of the County Office of Labor Standards and Enforcement.
- (h) the requirements of this Section 73.11 shall equally apply to all Lessee Parties subject to these provisions, and shall be included in all such leases; however, the absence of such provisions shall not relieve a Lessee Party of complying with this Section.

Section 4. Section 73.12 is hereby added to the County Code of Administrative Ordinances to read in its entirety as follows:

SEC 73.12. LIMITATIONS OF SCOPE OF SECTIONS 73.10 & 73.11

- (a) Sections 73.10 and 73.11, and subparts thereof, shall not apply:
1. to the extent prohibited by law or by State or federal funding source requirements applicable to the work;
 2. to job order contracts let pursuant to Public Contract Code section 20128.5;
 3. to housing projects where the County received the underlying proposal or entered into an agreement for the project before the effective date of this Ordinance;
 4. to agreements with other government agencies or public utilities;
 5. to leases for the placement of equipment or other personal property or for other

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- purposes that involve no regular occupancy by individuals;
6. to employees or contractors providing services ancillary to Lessee Parties' business purposes and working on County-owned property for an average of fewer than eight hours per week in the prior twelve months;
 7. during the first three years of a new lease or contract with a certified Disadvantaged Business Enterprise/Airport Concession Disadvantaged Business Enterprise;
 8. to an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code provided that its highest paid officer earns a salary that, when calculated on an hourly basis, is less than eight times the hourly wage rate of the lowest paid employee;
 9. to a firm, including its parent and subsidiary entities, employing 20 or fewer employees for each working day in each of 20 or more calendar weeks in the prior twelve months;
 10. where an applicable collective bargaining agreement (including a project labor agreement) specifically supersedes this Ordinance;
 11. where the Board of Supervisors has waived all or a portion of the requirements with regard to a particular project or agreement.
- (b) Sections 73.10 and 73.11 are intended to have prospective effect only and shall not be interpreted to impair the obligations of any agreement entered into by the County prior to the effective date of this Ordinance unless such agreement explicitly requires compliance with later-enacted County ordinances or policies related to employment standards. Notwithstanding the prior sentence, these requirements shall, to the extent legally permissible, be incorporated into existing agreements as a condition of any amendment extending the term of the agreement or substantially modifying another essential term of the agreement, with the exception of scheduled changes in rental rate or compensation.
- (c) If another subsequently enacted ordinance includes stricter or higher standards for particular or specific types of enterprises or activities, the higher or stricter standards prevail.

Section 5. Section 73.13 is hereby added to the County Code of Administrative Ordinances to read in its entirety as follows:

SEC 73.13. VIOLATIONS.

Violations of Sections 73.10 through 73.12 above may be reported to the County's Office of Labor Standards and Enforcement.

In accordance with Section 81.6 of this Code, and without limiting any contractual remedies available to the County, the County may implement the Administrative Remedies found at Division 8 of Title 1 of the County Code of Regulatory Ordinances to address any violation of Sections 73.10 through 73.12 above.

Section 6. Section 73.14 is hereby added to the County Code of Administrative Ordinances to

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read in its entirety as follows:

SEC 73.14. SEVERABILITY

If any provision of Sections 73.10 through 73.13 or the application thereof is judged invalid, the invalidity shall not affect other provisions or applications of the sections that can be given effect without the invalid provision or application, and to this end any provision judged invalid is declared severable.

Section 7. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in The Daily Transcript, a newspaper of general circulation published in the County of San Diego.

**APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL**

BY: Shiri Hoffman, Senior Deputy County Counsel

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 1st day of March 2022.



NATHAN FLETCHER
Chair, Board of Supervisors
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Vargas, Lawson-Remer, Fletcher
NOES: Desmond
ABSENT: Anderson

ATTEST my hand and the seal of the Board of Supervisors this 1st day of March 2022.

ANDREW POTTER
Clerk of the Board of Supervisors

By 
Nancy Vizcarra, Deputy



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