

# Hospitality Worker Right to Recall Ordinance

Board of Supervisors

April 20, 2021

Referral 2021.03 requested the preparation of an ordinance providing a right to recall procedure for hotel and restaurant employees laid-off due to the impact of the COVID-19 pandemic

# Options

- Do not adopt local ordinance
  - State law (SB 93) governs
- Adopt local urgency ordinance in full (4/5 vote)
- Adopt local urgency ordinance supplementing SB 93 (4/5 vote)
- Adopt either local ordinance as a “due course” ordinance (3/5 vote) but takes second reading and not effective for 37 days

# Current Draft

- Applies to hotels and restaurants in the unincorporated area
  - Hotels with 50 or more rooms
  - Restaurants with 50 or more employees
  - Franchises with 500 or more employees no matter where located
- Laid-off employee – worked 6 months out of the 12 prior to January 31, 2020; laid off for non-disciplinary reasons
  - Applies to managers and supervisors
- If notified, employee has 5 business days to respond
  - Can be simultaneous offers

# Current draft (cont.)

- Qualifications for recall
  - Held same or similar job prior to being laid-off
  - Can become qualified with same training as given a new employee
  - Recalled in order of seniority
- Successor employer may provide performance evaluation after 45 days to determine retention
- Waiver under CBA if waiver explicit
- Enforcement is private right of action in court
- Effective immediately – termination TBD

# SB 93

- Amends Labor Code
- Similar to County draft ordinance with some differences
- Does not apply to restaurants
- Does not allow qualification with training
- Enforcement is with State Division of Labor Standards Enforcement
- In effect until December 31, 2024
- Allows local entities to adopt “greater standards” or “additional enforcement provisions”

# Supplemental ordinance

- Supplements SB 93 by adopting provisions not included in SB 93.
  - Apply to restaurants
  - Qualification through training
  - Enforcement through court action
  - Termination date TBD

# Urgency v. Due Course ordinance

- Urgency ordinance is effective immediately but takes 4/5 vote
- Due course ordinance takes 2 hearings 1 week apart, and not effective for 30 days after 2<sup>nd</sup> reading
- Board could direct that ordinance be introduced as due course, waive reading, and set 4/27 for adoption; would be effective 30 days thereafter