



## CITY OF GLENDALE, CALIFORNIA REPORT TO THE CITY COUNCIL

### AGENDA ITEM

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Report: Temporary Urgency Ordinance requiring additional hourly pay ("Hero Pay") for Frontline Grocery Store and Drug Retail Workers

1. Urgency Ordinance for Introduction

### COUNCIL ACTION

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**Item Type:** Action Item

**Approved for** March 23, 2021 **calendar**

### ADMINISTRATIVE ACTION

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## **RECOMMENDATION**

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Staff recommends that the City Council consider adopting a temporary (120 day) urgency ordinance requiring “hero pay” for frontline grocery and drug retail workers providing essential services during the COVID-19 pandemic.

## **BACKGROUND/ANALYSIS**

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On March 19, 2020, California State Governor Newsom issued the Stay at Home Order that required all California residents to stay home, except as needed for the continuity of essential sectors’ operations. In accordance with this order, the State Public Health Officer designated a list of Essential Critical Infrastructure Workers. Among this list were workers supporting groceries, pharmacies, convenience stores, and other retail stores that sell food or beverage products. Since the beginning of the COVID-19 pandemic, these workers, highlighted as “essential,” continued to report to work and provide critical services while facing health and safety risks as they supported the community’s access to food, medicine, and other indispensable services.

A recent study, conducted by researchers at the University of California, San Francisco, found that deaths among Californians between the ages of 18 and 65 have been greatest among essential workers, particularly those in the food/agriculture, transportation/logistics, facilities, and manufacturing sectors. Such workers experienced an increased risk of mortality of greater than 20% during the pandemic, with an increased risk of greater than 40% during the first two full months of the state’s reopening. The study found that workers in the food/agriculture sector had the highest increased mortality rates compared to other sectors (39% increase). The study suggests that pandemic-related risks in the food/agriculture sector are even higher than the risks healthcare workers face during the pandemic.

In recognition of the new hazards these workers were undertaking, grocery and drug store chains provided extra COVID-19-related compensation to frontline workers during the beginning of the pandemic, commonly known as “hazard” or “hero” pay. Chains such as Kroger, Albertsons, Costco, Trader Joe’s, and Target, provided their employees with additional, temporary hourly wage increases, typically ranging between \$2 to \$2.50 per hour, as well as one-off bonuses. Chains such as Walmart, Walgreens, and CVS Health also provided their full-time employees with one-off bonuses but did not provide an hourly wage increase. Target permanently increased workers’ wages to \$15 per hour. As non-essential businesses reopened in May and June 2020, most of these hourly wage increases and one-off bonuses ended – lasting on average 11 weeks. After local jurisdictions began adopting ordinances mandating “hero pay,” Trader Joe’s adopted a policy of increasing their “thank you pay” by two additional dollars, for a total of \$4.00 to all hourly, non-management crew members, across all their stores (more than 500 stores nationwide). This increase was made effective on February 1, 2021.

The Brookings Institution has a detailed breakdown of the hourly wage increases, permanent wage increases, and one-off bonuses that were provided by major retailers at the beginning of the pandemic. This list can be found in **Exhibit 1**.

With the exception of Trader Joe's, hazard pay programs ended in June 2020, even as COVID-19 cases spiked in California for a second peak in late November 2020, and a third peak in January 2021. Since then, grocery and drug store workers continue to face the risks of working indoors with large numbers of people on a daily basis, without hazard pay.

In lieu of hazard pay, retailers are now expressing their commitment to supporting their associates through incentives for vaccinations and the protection it provides. In February 2021, Kroger announced that it would provide a one-time payment of \$100 to all associates who receive the full manufacturer-recommended doses of the COVID-19 vaccine. In addition, the company announced an additional \$50 million investment to thank associates, including a \$100 store credit and 1,000 fuel points for hourly frontline grocery, supply chain, manufacturing, pharmacy, and call center associates. These rewards would be added to the associates' loyalty cards on February 11, 2021. Target announced that it would offer four hours of pay (two hours for each vaccine dose) to its hourly employees if they get vaccinated for COVID-19. The company also announced that it would provide up to a maximum of \$15 free ride credit to its U.S. workforce on ride-sharing service app, Lyft – to allow employees to travel to and from vaccination appointments.

### **GROCERY INDUSTRY OVERVIEW**

According to a Brookings Institution report, a Washington, D.C.-based think tank, major grocery chains have experienced record-breaking profits based on their early quarter reporting. For instance, one of the United States' largest supermarket companies, Kroger (parent company of Ralphs, Food 4 Less, etc.), saw its net earnings for the first two quarters in 2020 jump to more than \$2.031 billion compared with \$1.069 billion in the same period of 2019, a 90% increase. Similarly, other major grocery stores, such as Albertson's saw an increase in profits from \$503 million in the first two quarters of 2019, to \$871 million in the same period in 2020, an increase of 153%. Although a majority of the major U.S. grocery and drug store chains had record-breaking profits in 2020, Walgreens struggled during the pandemic, with a staggering loss of 48% in reported profits.

### **ACTIONS OF LOCAL JURISDICTIONS**

In consideration of the incredible gains grocery stores experienced, serving as the main food source for families as restaurants and schools remained closed or with modified schedules, and the hazardous situations the essential grocery store workers continued to face, municipalities began seeking ways to align the two. In the past two months, 18 municipalities have passed ordinances that require hero pay for the frontline grocery and drug retail workers in their cities. In addition to these municipalities, staff has identified six other jurisdictions that are currently considering such ordinance. Nearly all of the cities and counties that have adopted such ordinance required additional hourly pay ranging from \$3 to \$5 per hour, set an employee threshold of 300 employees nationwide, and provided that the ordinance will sunset after 120 days.

**Exhibit 2** contains a table detailing the 24 municipalities that have adopted or are considering such emergency ordinance. For the purpose of this Report, staff focused on municipalities in California that have adopted such ordinances, as the effects of COVID-19 vary by State.

Staff also contacted neighboring cities, Pasadena and Burbank. As of the date of this report, both Burbank and Pasadena have indicated that they are currently considering such ordinances but have not yet adopted a policy.

#### **POTENTIAL ECONOMIC IMPACTS**

Below is a preliminary list of anticipated impacts and consequences of implementing a “hero pay” mandate. Given the time allotted to prepare this report, staff could not fully develop these issues beyond preliminary identification.

**Store Closures:** Municipalities face the threat of having underperforming grocery and drug stores potentially close locations as a result of such ordinance. The table below lists the announced store closures citing the adopted hero pay ordinance as the cause within the past two months.

<b>Municipality</b>	<b>Hazard Pay</b>	<b>Store Closures</b>	<b>Additional Comments</b>
City of Los Angeles	\$5	Kroger announced to close three grocery stores in the City (Open Until May 15): <ul style="list-style-type: none"><li>o Ralphs 9616 W Pico Blvd</li><li>o Ralphs 5420 W. Sunset Blvd</li><li>o Food 4 Less 3300 W Slauson Ave</li></ul>	Job loss for more than 250 workers
City of Long Beach	\$4	Kroger announced to close two grocery stores in the City: <ul style="list-style-type: none"><li>o Ralphs 3380 N. Los Coyotes Diagonal</li><li>o Food 4 Less 2185 E. South Street</li></ul>	Job loss of nearly 200 workers

Per a news release issued by Kroger, the hero pay mandate will add \$20 million in operating costs over the next 120 days (in the City of Los Angeles), making it financially unsustainable to continue operating underperforming locations. Kroger announced that it would be forced to shut down three of its underperforming stores in the City of Los Angeles.

Similarly, Kroger-owned “Quality Food Centers,” (QFC), announced that it will close two stores in April 24, 2021 in the City of Seattle, after Seattle adopted its hero pay ordinance. The two store closures in Seattle will result in a job loss for 100 workers.

Aside from the loss of jobs, store closures could also impact those with restricted or no access to transportation such as the elderly.

The identified store closures are limited to one company (parent Kroger) and there is speculation by some that the underperforming stores were slated for closure before the pandemic.

**Higher Prices for Consumers:** Affected companies may decide to raise prices to counteract the additional wage cost.

**Potentially Delayed Wage Increases/Promotions:** Grocery chains may reduce or eliminate wage increases/promotions in-lieu of the additional pay.

**Reduced Hours, Wages, or Jobs:** To offset the higher labor costs, companies might reduce working hours, benefits, wage rates, or lay-off employees.

**Potential Loss of Benefits:** According to ZipRecruiter, the average grocery store worker's salary in Glendale is \$35,569. Based on the U.S. Department of Housing and Urban Development website, this salary would place a single person living in the Los Angeles-Long Beach-Glendale Metro Area in the Very Low (50%) Income category. If the average single person grocery worker in Glendale were to have a temporary (17 weeks) increased wage due to hazard pay, this would increase the individual's salary to \$38,968, bringing them close to the cap of the category (\$39,450+). If they are the recipient of any Very Low Income benefits, there is the possibility that they could lose some of those benefits.

**Higher Wages for Grocery, Drug, and Retail Store Workers:** By mandating additional pay, grocery, drug, and retail store workers would have a temporary earnings boost and more spending power. This could trigger a temporary increase in the demand for goods, which may result in more business activity in the City.

#### **PROPOSED ORDINANCE:**

A summary of the provisions of the ordinance and stores it would affect include:

- Stores must be a retail grocery or drug store, or a retail store that is over 85,000 square feet and dedicates 10% or more of its sales floor to groceries and drug retail;
- Employers must operate at least one store; either (a) a corporate entity which is traded on a public stock exchange, or (b) employs 300 or more workers nationwide; and,
- Employs more than 10 Employees per Store;
- Employees shall be paid no less than \$5 per hour in additional hourly hero pay;
- The ordinance would require additional pay for 120 days from adoption;
- This ordinance will apply to hourly employees.

#### **POTENTIAL LEGAL CHALLENGES**

As of the drafting of this report, eight cities across California are facing legal challenges to their adopted hero pay ordinances. These cities include Long Beach, Montebello, Oakland, San Leandro, West Hollywood, San Jose, Daly City, and City of Los Angeles.

Most of the suits have been filed by the California Grocers' Association (CGA). CGA's filed a lawsuit in federal court last month to challenge enforcement of Long Beach's ordinance. CGA asked the court to declare the hazard pay decree invalid and unconstitutional based on the 14th Amendment of the Constitution Equal Protection Clause by singling out certain grocers and ignoring other groups that employ essential frontline workers. The CGA also argued that the ordinance is preempted by the federal National Labor Relations Act, which protects the integrity of the collective-bargaining process. The CGA also alleges Long Beach's ordinance interferes with the collective-bargaining process and singles out only certain grocers while ignoring other retail workers and workers in other industries providing essential services during the pandemic. CGA points out that firefighters, police officers and health care workers, as well as transportation, sanitation and restaurant workers, are essential, yet grocers are the only businesses being targeted for extra pay mandates. In late February, the federal judge denied CGA's temporary restraining order against Long Beach's ordinance, which requires an additional \$4 in hourly "hero pay" for supermarket workers. CGA has appealed the ruling to the 9th Circuit Court of Appeals. Cities are watching the City of Long Beach lawsuit to determine how similar ordinances in other cities will fare.

On February 24th, the Los Angeles City Council voted 14-1 to preliminarily approve an emergency ordinance to require large grocery and pharmacy retailers to offer employees an additional \$5 per hour in hazard pay amid the COVID-19 pandemic. LA's ordinance went into effect on March 15, 2021. The Los Angeles council vote came a day after the Los Angeles County Board of Supervisors adopted an urgency ordinance to require \$5 additional pay for national grocery and drug retail employers in unincorporated areas of the county.

The CGA has also filed federal lawsuits against West Hollywood and Montebello, seeking to declare hazard pay mandated by those cities as invalid and unconstitutional, contending that grocers will not be able to absorb the additional pay without raising prices, closing stores, reducing hours or laying off employees. Glendale's adoption of a similar ordinance will draw similar attention from CGA and may draw a similar challenge.

#### **POTENTIALLY IMPACTED RETAILERS**

As noted above, Kroger has scheduled store closures in Los Angeles and Long Beach based on the financial impacts of the hero pay ordinance. It is unknown whether any of Glendale's Kroger stores are similarly vulnerable to closure. Below is a list of 16 grocery stores and eight drug stores in the City of Glendale that may be impacted by such ordinance. These 24 grocery and drug stores, in total employ roughly 1,940 employees. The figures listed below are rough estimates of the total number of employees in each store.

#### **GROCERY STORES**

<b>COMPANY</b>	<b>ADDRESS</b>	<b># OF EMPLOYEES</b>
Ralphs (Kroger)	211 N Glendale Ave. Glendale, CA 91206	80 Employees
Ralphs (Kroger)	1416 E Colorado St. Glendale, CA 91205	90 Employees

Ralphs (Kroger)	1200 N Central Ave. Glendale, CA 91202	80-100 Employees
Vons (Albertsons)	311 W Los Feliz Blvd. Glendale, CA 91204	150 Employees
Vons (Albertsons)	561 N Glendale Ave. Glendale, CA 91206	120 Employees
Vons (Albertsons)	2039 Verdugo Blvd. Montrose, CA 91020	77 Employees
Trader Joe's*	103 E Glenoaks Blvd, Glendale, CA 91207	85 Employees
Trader Joe's*	2462 Honolulu Ave, Montrose, CA 91020	90-95 Employees
Super King Market	6501 San Fernando Rd, Glendale, CA 91201	250 Employees
JONS International Marketplace	600 East Colorado Blvd. Glendale, CA 91205	67 Employees
JONS International Marketplace	1717 West Glenoaks Blvd. Glendale, CA 91201	85 Employees
Whole Foods Market	331 N Glendale Ave, Glendale, CA 91206	200-250 Employees
Smart & Final Extra!	210 N. Verdugo Road, Glendale, CA 91206	38 Employees
Smart & Final Extra!	1855 W. Glenoaks Blvd, Glendale, CA 91201	51 Employees
Big Square	831 N Pacific Ave, Glendale, CA 91203	40 Employees
Target	2195 Galleria Way, Glendale, CA 91210	250 Employees (Over 10% of sales floor dedicated to groceries.)

\*Trader Joe's is already voluntarily paying their employees a "thank you pay" of \$4 per hour.

#### DRUG STORES

COMPANY	ADDRESS	# OF EMPLOYEES AT LOCATION
Walgreens	105 E Glenoaks Blvd., Glendale, CA 91207	25 Employees
CVS Pharmacy	1122 East Broadway, Glendale, CA 91205	40 Employees
CVS Pharmacy	3943 San Fernando Rd. Glendale, CA 91204	40 Employees
CVS Pharmacy (Inside Target)	2195 Glendale Galleria Glendale, CA 91210	Unable to obtain information.
CVS Pharmacy	2037 Verdugo Blvd. Montrose, CA 91020	45 Employees
Rite Aid	531 N Glendale Ave. Glendale, CA 91206	25-30 Employees
Rite Aid	707 N Pacific Avenue, Glendale, CA 91203	12 Employees

#### ALTERNATIVES FOR ACTION

The ordinance as drafted includes the provisions identified below. The City Council may wish to amend or revise any of these specific terms. If adopted as an urgency ordinance, this temporary order would take effect immediately.

- Rate of additional hourly pay increase;
- Length of the order;
- Eligibility of employee (currently limited to hourly employees);
- Number of employees of an affected corporation in-store or total;
- Category of retailer – grocery, a percentage of floor area dedicated to food inventory, drug store/pharmacy;

- Exceptions – carve-out for retailers that are providing some level of incentive or “hero pay” and to what extent; and
- Enforcement strategy.

## **FISCAL IMPACT**

There is no direct anticipated fiscal impact to the City as a result of pursuing a hero pay ordinance. The impact on affected businesses cannot be quantified at this time.

## **ALTERNATIVES**

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The following alternatives are presented for City Council consideration:

**Alternative 1:** The City Council may introduce the temporary urgency ordinance implementing additional hazard pay for frontline grocery and drug retail workers providing essential services during the COVID-19 pandemic.

**Alternative 2:** The City Council may direct staff to prepare a scaled down version of the proposed temporary urgency ordinance implementing additional hourly hazard pay for frontline grocery and drug retail workers providing essential services during the COVID-19 pandemic.

**Alternative 3:** The City Council may elect not to pursue the implementation of additional hourly hazard pay for frontline grocery and drug retail workers at this time and continue to monitor the situation.

**Alternative 4:** The City Council may consider any other alternative not proposed by staff.

## **CAMPAIGN DISCLOSURE**

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N/A

## **EXHIBITS**

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**Exhibit 1:** “Brookings Institution Compensation chart”

**Exhibit 2:** “Actions of Local Jurisdictions Table”