

CITY OF SAN DIEGO

Proposition I

(This proposition will appear on the ballot in the following form.)

PROPOSITION I

REFERENDUM OF ORDINANCE REGARDING EARNED SICK LEAVE AND

MINIMUM WAGE. Shall Ordinance O-20390 be approved, establishing that employers are to compensate employees working in the City of San Diego with earned sick leave of up to forty hours a year and a minimum wage of \$10.50 an hour upon the Ordinance's effective date, \$11.50 an hour on January 1, 2017, and increasing with the cost of living on January 1, 2019 and annually thereafter?

This proposition requires approval by 50% of the voters voting on the proposition.

Full text of this proposition follows the arguments

OFFICIAL TITLE AND SUMMARY

BALLOT TITLE

Referendum of Ordinance Relating to Earned Sick Leave and Minimum Wage
to be Provided to Employees Working in the City of San Diego

BALLOT SUMMARY

This measure asks voters to approve the City of San Diego Earned Sick Leave and Minimum Wage Ordinance, No. O-20390, which was approved by the San Diego City Council on August 18, 2014. The Ordinance is on the ballot as a result of a referendum petition that qualified the measure for the ballot, and a City Council vote to place the Ordinance on the ballot.

The Ordinance establishes that specified employers are to compensate employees working in the City of San Diego with earned sick leave of up to forty hours a year and a minimum wage of \$10.50 an hour upon the Ordinance's effective date, \$11.50 an hour on January 1, 2017, and increasing with the cost of living on January 1, 2019 and annually thereafter.

BALLOT SUMMARY (CONTINUED)

A “Yes” vote is a vote in favor of adopting the Ordinance, which would amend the San Diego Municipal Code. If a majority of voters vote “Yes,” then the Ordinance will take effect.

A “No” vote is a vote against adopting the Ordinance. If a majority of voters vote “No,” then the Ordinance will not take effect.

CITY ATTORNEY’S IMPARTIAL ANALYSIS

The City of San Diego Earned Sick Leave and Minimum Wage Ordinance (the Ordinance) applies to specified employers and employees in the geographic boundaries of the City. If approved, the Ordinance would require employers to compensate employees with paid leave for certain purposes and a local minimum wage.

The City Council approved the Ordinance on August 18, 2014. A referendum petition qualified the measure for the ballot, and the Council voted to place it on the ballot.

The Ordinance defines “employers” as any person or persons, including associations, organizations, partnerships, business trusts, limited liability companies, or corporations, who exercise control over the wages, hours, or working conditions of any employee, engage an employee, or permit an employee to work. Employers do not include aged, blind, or disabled people who receive in-home supportive services care, under state law.

The Ordinance defines “employee” as any person who, in one or more calendar weeks of the year, performs at least two hours of work within the geographic boundaries of the City for an employer, and who qualifies for the payment of minimum wage under the State of California minimum wage law. Employees do not include independent contractors as defined by the California Labor Code, or people who have been issued a special license by the state to be employed at less than minimum wage, certain youth employees in publicly subsidized summer or short-term employment programs, and certain counselors at organized, outdoor camps.

If approved, employees would be paid a minimum wage of \$10.50 an hour upon the Ordinance’s effective date, following voter approval. Starting January 1, 2017, the minimum wage would be \$11.50 an hour. Starting January 1, 2019, the minimum wage would increase by an amount corresponding to the prior year’s increase, if any, in the cost of living, as defined by the Consumer Price Index.

Employees would receive one hour of paid, earned sick leave for every thirty hours worked, at the same hourly rate or other measure of compensation that the employee earns. Earned sick leave would begin to accrue when employment starts. There would be a 90-day waiting period before an employee could use the leave.

CITY ATTORNEY'S IMPARTIAL ANALYSIS (CONTINUED)

Employers may limit use of the leave to forty hours in a twelve-month period, but accrual cannot be capped and unused leave must be carried over. Upon an employee's separation, employers would not have to pay unused leave, but must maintain it for six months if the employee returns.

Leave could be used if an employee is physically or mentally unable to work due to illness, injury, or a medical condition; for "Safe Time" (time away from work necessary to handle certain matters related to domestic violence, sexual assault, or stalking, when the employee or a specified family member is a victim); for medical appointments; and to care for or assist certain family members with an illness, injury, or medical condition.

Employers would post notices, maintain records, and be subject to civil penalties for violations. The City would establish an enforcement office.

FISCAL IMPACT STATEMENT

The following analysis is limited to an estimate of the amount of any increase or decrease in costs or revenues to the City of San Diego's government finances (City).

If this measure is adopted, there will be additional administrative & enforcement, wage, and sick leave costs for the City. These additional costs are shown in the table below. The higher cost estimate for fiscal year 2018 reflects the minimum wage increase to \$11.50 on January 1, 2017.

<u>Estimated Costs to the City</u>	<u>FY 2017</u>	<u>FY 2018</u>
Administration & Enforcement	\$400,000	\$400,000
City Employee Wages & Sick Leave	<u>\$150,000</u>	<u>\$200,000</u>
Estimated Total Costs	\$550,000	\$600,000

As the City's minimum wage program is developed and implemented, there may be increases in the above estimated annual costs for program administration and enforcement. Additionally, there may be other unknown wage expenses related to the use of earned sick leave or to maintain a fair pay-scale hierarchy for certain City employees.

Beginning January 1, 2019, the minimum wage will annually increase by the percentage growth in the prior year's Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI).

FISCAL IMPACT STATEMENT (CONTINUED)

While the effect of this annual increase on the City's wage costs is difficult to accurately forecast, based on current CPI and wage projections, the City's wage costs in fiscal year 2019 and beyond are likely to remain similar to the costs estimated for fiscal year 2018.

Tax revenue implications for the City are difficult to accurately forecast. There may be positive and negative tax revenue impacts to the City that will be at least partially offsetting. For example, this measure will increase wage costs for some employers. While increased wage costs for employers can, in some instances, be offset by other operational factors (reduction of other business costs or profits, reduced employee turnover, increased employee productivity, higher prices, etc.), it is also possible that higher employer wage costs could cause some businesses to reduce employees or employee hours, which in turn could reduce sales and sales tax revenue to the City. Alternatively, employees who benefit from minimum wage increases will spend some of these new wages on taxable goods purchased in the City, thereby increasing sales tax revenue to the City.

ARGUMENT IN FAVOR OF PROPOSITION I

People who work full-time should not live in poverty.

Proposition I will help 170,000+hardworking San Diegans pay rent, put food on the table, and support their families. Living in San Diego is expensive. Even working full-time, nearly 1 in 4 families cannot make ends meet:

- A minimum wage job pays \$20,800/year. The median San Diego rent is \$16,152/year.
- Proposition I will increase hardworking, low-wage worker wages an average of \$1,400/year. Many are veterans. Over half are women.

Earned sick leave will allow parents to stay home with a sick child and not miss a day's pay. It will prevent kitchen staff and food servers from being forced to work when they are sick.

Proposition I will make a huge difference for thousands.

"Veterans too often struggle to return to civilian life. Many work for minimum wage and live at poverty levels, rather than enjoying the honored place in our society they deserve. Proposition I will enable thousands of veterans to earn a decent wage."

-Nathan Fletcher, USMC Veteran
Former Assemblymember

"I make \$10/hour and can't make ends meet. I do additional work just to buy food. I've lived in my car and worry where I will sleep every night. Proposition I will help people like me a great deal."

-Marcus Nichols
Security Officer

Proposition I is reasonable and balanced. It raises the minimum wage to \$10.50/hour now and to \$11.50/hour on January 1, 2017.

Economist Alan Gin supports Proposition I:

"Proposition I will be good for San Diego. Studies show it will inject \$260 million into the local economy. When low-wage earners get a raise, they spend virtually every dollar close to home, often at local small businesses."

Join small business owners, leaders of San Diego's high-tech industry and hardworking families.

Vote YES on Proposition I.

www.raisetthewagesd.com

TODD GLORIA
CITY COUNCILMEMBER
FORMER INTERIM MAYOR

IRWIN JACOBS
FOUNDING CHAIRMAN AND
CEO EMERITUS, QUALCOMM

JON CANTWELL
SMALL BUSINESS OWNER
INDEX URBAN TRAVEL SHOP

ADA LOERA
JANITOR

JACK HARKINS
CHAIR, UNITED VETERANS COUNCIL
OF SAN DIEGO

ARGUMENT AGAINST PROPOSITION I

Vote NO on Proposition I. Governor Brown strongly opposes additional statewide increases which will cost billions.

San Diego's big unions are at it again. Their gold plated pensions nearly bankrupted San Diego. Now they want a 43.75% wage increase over levels established two years ago.

FACT: California has raised wages 25% in the past two years.

We should see how a 25% hike impacts our fragile economy before imposing additional massive increases.

Governor Brown is opposed to further state increases. He says those increases will cost California taxpayers billions of dollars.

FACT: 43.75% increase will seriously harm small businesses and our local economy.

We believe a massive "city only" hike will seriously harm small businesses – especially home healthcare, small charitable non-profits, and small start-ups already struggling to make it.

Why would businesses pay thousands or millions in higher costs when they can move just outside city limits and avoid them?

A city-only ordinance puts our city at a huge disadvantage.

FACT: Mandates Additional ANNUAL Wage Hikes

Proposition I also requires additional ANNUAL wage hikes virtually EVERY YEAR – FOREVER.

WHY should EVERYONE get a raise EVERY year – whether they earned it or not? Only big government unions would sponsor such an anti-business proposal.

FACT: Big Union Schemes Nearly Bankrupted Us

These same big government unions were behind the gold-plated pensions and big government salaries that nearly bankrupted our city.

We're still digging out from that disaster. Our roads, parks, libraries, public safety, and homeless services have all suffered.

Big unions fooled us once. Now they want a 43.75% wage increase AND annual increases – forever – when the state just raised wages 25%!

Proposition I will harm our city, small local businesses, and charitable organizations, and our local economy.

ARGUMENT AGAINST PROPOSITION I (CONTINUED)

Don't be fooled. Vote NO on Proposition I.

Jerry Sanders
San Diego
Regional Chamber of Commerce

Sheri Harvey
Homecare Provider

Ann Kinner
Small Business Coalition

PROPOSITION I

ORDINANCE NUMBER O-20390 (NEW SERIES)

DATE OF FINAL PASSAGE August 18, 2014

AN ORDINANCE AMENDING CHAPTER 3 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING ARTICLE 9, DIVISION 1, SECTIONS 39.0101 THROUGH 39.0115 RELATING TO THE EARNED SICK LEAVE AND MINIMUM WAGE TO BE PROVIDED TO EMPLOYEES WORKING IN THE CITY OF SAN DIEGO.

WHEREAS, to safeguard the public welfare, health, safety, and prosperity of the people in the City of San Diego, it is essential that working persons earn wages that ensure a decent and healthy life; and

WHEREAS, a number of San Diego families live below the poverty level, and many who are employed do not earn sufficient wages to be self-sufficient and do not accrue sick leave; and

WHEREAS, when businesses do not pay a livable wage or allow workers to earn and use sick leave, the community and taxpayers bear associated costs in the form of increased demand for taxpayer-funded services, including emergency medical services, homeless shelters, and other social services and community-based services; and

WHEREAS, most workers at some time during each year need limited time off from work to take care of their own health needs or the health needs of members of their families; and

WHEREAS, guaranteeing San Diego workers the right to earned sick leave will reduce recovery time from illnesses, promote the use of regular medical providers rather than hospital emergency departments, and reduce the likelihood of people spreading illness to other members of the workforce and to the public; and

WHEREAS, an increase in the minimum wage paid to employees and five annual days of sick leave could potentially increase workplace productivity, save costs through reduced employee turnover, boost income for families, restore work/family balance, boost the local tax base through increased purchasing power by workers, and reduce certain health care costs; and

WHEREAS, the San Diego City Council (Council) considered this issue at meetings of a Council standing committee and of the full Council, and considered public comment on the issue; and

WHEREAS, the Council now desires to adopt an ordinance to amend Chapter 3, of the San Diego Municipal Code, by adding Article 9, Division 1, sections 39.0101 through 39.0115, relating to the Earned Sick Leave and Minimum Wage to be provided to employees working in the City of San Diego; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

PROPOSITION I (CONTINUED)

Section 1. That Chapter 3 of the San Diego Municipal Code is amended by adding Article 9, Division 1, sections 39.0101 through 39.0115, to read as follows:

Article 9: City of San Diego Earned Sick Leave and Minimum Wage **Division 1: City of San Diego Earned Sick Leave and Minimum Wage Ordinance**

§39.0101

Purpose and Intent

This Division ensures that employees who work in the City receive a livable minimum wage and the right to take earned, paid sick leave to ensure a decent and healthy life for themselves and their families. By enabling more employees to support and care for their families through their own efforts and with less need for financial assistance from the government, and by protecting the rights of employees to care for their health and the health of their family members, the City can safeguard the general welfare, health, safety and prosperity of all San Diegans.

It is the purpose and intent in enacting this Division that San Diego workers be guaranteed the right to take earned sick leave. Most employees will at some time during each year need limited time off from work to take care of their own health needs or the health needs of members of their families. Guaranteeing employees earned sick leave will reduce recovery time from illnesses, promote the use of regular medical providers rather than hospital emergency departments, and reduce the likelihood of workers spreading illness to other members of the workforce and to the public.

It is also the purpose in enacting this Division to ensure that employees working in the City earn wages that ensure a decent and healthy life for themselves and their families. When employers do not pay a livable wage, the surrounding community and taxpayers bear costs in the form of increased demand for taxpayer-funded services, including homeless shelters. Jobs paying a decent wage will ensure a more stable workforce for the City, increase consumer income, decrease poverty, and invigorate neighborhood business.

§39.0102

Citation

This Division shall be cited as the City of San Diego Earned Sick Leave and Minimum Wage Ordinance.

§39.0103

Authority

This Division is adopted pursuant to the powers vested in the City under the Constitution and the laws of the State of California, including, but not limited to, the police powers vested in the City pursuant to Article XI, section 7 of the California Constitution and California Labor Code section 1205(b).

§39.0104

Definitions

Each word or phrase defined in this Division appears in the text of this Division in italicized letters. To the extent that a federal, state, or other law is referenced within this Division, the citation includes and incorporates the law as it may be amended or renumbered in the future. For purposes of this Division, the following definitions apply:
Benefit Year means a regular and consecutive twelve-month period, as determined by an *Employer*.

PROPOSITION I (CONTINUED)

Child means a biological, adopted, or foster child; a stepchild; a legal ward; a child of a Domestic Partner; or a child of an Employee standing in loco parentis.

City means the City of San Diego.

City Council means the Council of the City of San Diego.

Domestic Partners mean two adults in a relationship recognized by the State of California by filing as domestic partners under California Family Code section 297, and who have registered as domestic partners with a governmental entity pursuant to state or local law authorizing such registration or with an internal registry maintained by the employer of at least one of the domestic partners.

Domestic Violence means “domestic violence” as defined in California Penal Code section 13700.

Earned Sick Leave means accrued increments of compensated leave provided by an Employer to an Employee as a benefit of the employment for use by the Employee during an absence from the employment because of a qualifying medical condition or event, as specified in section 39.0106 of this Division.

Employee means any person who:

- (a) In one or more calendar weeks of the year performs at least two hours of work within the geographic boundaries of the City for an Employer; and
- (b) Qualifies as an employee entitled to payment of a minimum wage from any employer under the California minimum wage law, as set forth in the California Labor Code and wage orders published by the California Industrial Welfare Commission or the State of California Division of Labor Standards Enforcement, or is a participant in a State of California Welfare-to-Work Program.
- (c) Employee does not include any person who is authorized to be employed at less than the minimum wage under a special license issued under California Labor Code sections 1191 or 1191.5; any person employed under a publicly subsidized summer or short-term youth employment program, such as the San Diego County Urban Corps Program; or any student employee, camp counselor, or program counselor of an organized camp as defined in California Labor Code section 1182.4. Employee also does not include any person who is employed as an independent contractor as defined by the California Labor Code.

Employer means any person or persons, as defined in California Labor Code section 18, who exercises control over the wages, hours, or working conditions of any Employee, or suffers or permits the Employee to work, or engages the Employee. Employer does not include a person receiving services under the California In-Home Supportive Services program pursuant to Welfare and Institutions Code section 12300.

Enforcement Office means the City Department or Office that the City Council designates to enforce this Division. Family Member means a

PROPOSITION I (CONTINUED)

Child, Spouse, Parent, grandparent, grandchild, Sibling, or the Child or Parent of a Spouse.

Health Care Provider means any person licensed under federal or California law to provide medical or emergency services, including, but not limited to, doctors, nurses and emergency room personnel.

Minimum Wage means an hourly minimum rate to be paid to Employees, as defined in section 39.0107 of this Division.

Parent means a biological, foster, or adoptive parent; a step-parent; a legal guardian; or a person who stood in loco parentis when the Employee was a minor child.

Public Health Emergency means a state of emergency declared by any public official with the authority to do so, including officials with the City, the County of San Diego, the State of California, or the United States government.

Retaliation means any threat, discipline, discharge, demotion, suspension, reduction in Employee hours, or any other adverse employment action against any Employee for exercising or attempting to exercise any right guaranteed under this Division.

Safe Time means time away from work that is necessary due to Domestic Violence, Sexual Assault, or Stalking, provided the time is used to allow the Employee to obtain for the Employee or the Employee's Family Member one or more of the following:

- (a) Medical attention needed to recover from physical or psychological injury or disability caused by Domestic Violence, Sexual Assault, or Stalking;
- (b) Services from a victim services organization;
- (c) Psychological or other counseling;
- (d) Relocation due to the Domestic Violence, Sexual Assault, or Stalking; or
- (e) Legal services, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the Domestic Violence, Sexual Assault, or Stalking.

Sexual Assault means "rape" as defined in California Penal Code section 261 or "sexual battery" as defined by California Penal Code section 243.4.

Sibling means a brother or sister, whether related through half blood, whole blood, or adoption, or one who is a step-sibling.

Spouse means a person to whom an Employee is legally married under the laws of the State of California, or the Employee's Domestic Partner.

Stalking means the unlawful conduct described in California Penal Code section 646.9.

§39.0105

Accrual of Earned Sick Leave

- (a) Employers must provide Earned Sick Leave to their Employees in accordance with this Division.
- (b) Employers must provide an Employee with one hour of Earned Sick Leave for every thirty hours worked by the Employee within the geographic boundaries of the City, but Employers are not required to provide an Employee with Earned Sick Leave in less than one-hour increments for a

PROPOSITION I (CONTINUED)

fraction of an hour worked. *Earned Sick Leave* must be compensated at the same hourly rate or other measure of compensation as the *Employee* earns from his or her employment at the time the *Employee* uses the *Earned Sick Leave*.

- (c) An *Employer* required to provide *Earned Sick Leave* pursuant to this Division, who provides an *Employee* with an amount of paid leave, including paid time off, paid vacation, or paid personal days sufficient to meet the requirements of this section, and who allows such paid leave to be used for the same purposes and under the same conditions as *Earned Sick Leave* required pursuant to this Division, is not required to provide additional *Earned Sick Leave* to such *Employee*.
- (d) *Earned Sick Leave* begins to accrue at the commencement of employment or on April 1, 2015, whichever is later, and an *Employee* is entitled to begin using *Earned Sick Leave* on the ninetieth calendar day following commencement of his or her employment or on July 1, 2015, whichever is later. After the ninetieth calendar day of employment or after July 1, 2015, whichever is later, such *Employee* may use *Earned Sick Leave* as it is accrued.
- (e) *Employees* who are not covered by the overtime requirements of California law or regulations are assumed to work forty hours in each work week for purposes of *Earned Sick Leave* accrual unless their regular work week is less than forty hours, in which case *Earned Sick Leave* accrues based upon that regular work week.
- (f) *Employees* may determine how much *Earned Sick Leave* they need to use, provided that *Employers* may set a reasonable minimum increment for the use of *Earned Sick Leave* not to exceed two hours.
- (g) *Employers* may limit an *Employee's* use of *Earned Sick Leave* to forty hours in a *Benefit Year*, but *Employers* must allow *Employees* to continue to accrue *Earned Sick Leave* based on the formula set forth in this section. Unused *Earned Sick Leave* must be carried over to the following *Benefit Year*.
- (h) If an *Employee* is transferred to a separate division, entity, or location in the *City*, but remains employed by the same *Employer*, the *Employee* is entitled to all *Earned Sick Leave* accrued at the prior division, entity, or location, and is entitled to retain and use all *Earned Sick Leave*, as provided by this Division. When there is a separation from employment and the *Employee* is rehired within six months of separation by the same *Employer*, previously accrued *Earned Sick Leave* that was not used or paid out must be reinstated and such *Employee* must be entitled to use such accrued *Earned Sick Leave*.

PROPOSITION I (CONTINUED)

- (i) Employers are not required by this Division to compensate an Employee for unused, accrued Earned Sick Leave, upon the Employee's termination, resignation, retirement, or other separation from employment.

§39.0106

Use of Earned Sick Leave

- (a) An Employee may use Earned Sick Leave for any of the following reasons:
- (1) The Employee is physically or mentally unable to perform his or her duties due to illness, injury, or a medical condition of the Employee.
 - (2) The Employee's absence is for the purpose of obtaining professional diagnosis or treatment for a medical condition of the Employee.
 - (3) The Employee's absence is for other medical reasons of the Employee, such as pregnancy or obtaining a physical examination.
 - (4) The Employee is providing care or assistance to a Family Member, with an illness, injury, or medical condition, including assistance in obtaining professional diagnosis or treatment of a medical condition.
 - (5) The Employee's absence is for the Employee's use of Safe Time.
 - (6) The Employee's place of business is closed by order of a public official due to a Public Health Emergency, or the Employee is providing care or assistance to a Child, whose school or child care provider is closed by order of a public official due to a Public Health Emergency.
- (b) An Employer may require reasonable notice of the need to use Earned Sick Leave. Where the need is foreseeable, an Employer may require reasonable advance notice of the intention to use such Earned Sick Leave, not to exceed seven days notice prior to the date such Earned Sick Leave is to begin. Where the need is not foreseeable, an Employer may require an Employee to provide notice of the need for the use of Earned Sick Leave as soon as practicable.
- (c) For an absence of more than three consecutive work days, an Employer may require reasonable documentation that the use of Earned Sick Leave was authorized under subsection (a) of this section. An Employer must accept as reasonable, documentation signed by a licensed Health Care Provider indicating the need for the amount of Earned Sick Leave taken, and an Employer may not require that the documentation specify the nature of the Employee's or the Employee's Family Member's injury, illness, or medical condition.

PROPOSITION I (CONTINUED)

- (d) An Employer must not require an Employee, as a condition of using Earned Sick Leave, to search for or find a replacement worker to cover the hours during which such Employee is using Earned Sick Leave.

§39.0107

Minimum Wage

- (a) Employers must pay Employees no less than the Minimum Wage set forth in this section for each hour worked within the geographic boundaries of the City.
- (b) The Minimum Wage is an hourly rate defined as follows:
- (1) Starting January 1, 2015, the Minimum Wage is \$9.75.
 - (2) Starting January 1, 2016, the Minimum Wage is \$10.50.
 - (3) Starting January 1, 2017, the Minimum Wage is \$11.50.
 - (4) Starting January 1, 2019, and each year thereafter, the Minimum Wage increases by an amount corresponding to the prior year's increase, if any, in the cost of living. The prior year's increase in the cost of living is measured by the percentage increase, if any, as of August of the immediately preceding year over the level as of August of the previous year of the Consumer Price Index (Urban Wage Earners and Clerical Workers, U.S. City Average for All Items) or its successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase rounded to the nearest multiple of five cents. The adjusted Minimum Wage will be announced by the City by October 1 of each year, and will become effective as the new Minimum Wage on January 1 of the succeeding year. The adjusted Minimum Wage will be noticed and posted as set forth in this Division.
 - (5) In the event that the federal or California minimum wage is increased above the level of the Minimum Wage in force under this section, the Minimum Wage under this section will be increased to match the higher federal or California wage, effective on the same date as the increase in the federal or California minimum wage takes effect.
- (c) An Employer that meets the requirements to claim a credit against the California minimum wage under the California Labor Code or wage orders published by the California Industrial Welfare Commission or the State of California Division of Labor Standards Enforcement for meals or lodging provided to Employees may claim a credit in the same amount against the Minimum Wage required under this section.

PROPOSITION I (CONTINUED)

§39.0108

Notice and Posting

- (a) The bulletin and notices specified in this section will be published by the City and made available to Employers in English, Spanish, and any other language for which the San Diego County Registrar of Voters provides translated ballot materials pursuant to section 203 of the federal Voting Rights Act. The materials specified in this section will be made available to Employers by April 1 in 2015, 2016, and 2017; by October 1 in 2018; and by October 1 of each year thereafter:
- (1) A bulletin announcing the adjusted Minimum Wage for the upcoming year and its effective date.
 - (2) A notice for Employers to post in the workplace informing Employees of the current Minimum Wage and of their rights to the Minimum Wage and Earned Sick Leave, including information about the accrual and use of Earned Sick Leave, the right to be free from Retaliation, and the right to file a complaint with the Enforcement Office or a court of competent jurisdiction.
 - (3) A template notice suitable for use by Employers in compliance with this section.
- (b) Every Employer must post in a conspicuous place at any workplace or job site where any Employee works the notice published each year by the City informing Employees of the current Minimum Wage and of their rights to the Minimum Wage and Earned Sick Leave under this Division. Every Employer must post this notice in the workplace or on the job site in English and any other language that is referenced in subsection (a) and spoken by at least five percent of the Employees at the Employee's job site.
- (c) Every Employer must also provide each Employee at the time of hire, or by April 1, 2015, whichever is later, written notice of the Employer's name, address, and telephone number and the Employer's requirements under this Division. The notice must be provided to the Employee in English and in the Employee's primary language, if it is a language referenced in subsection (a) and spoken by at least five percent of the Employees at the Employee's job site. Employers may provide this notice through an accessible electronic communication in lieu of a paper notice.

§39.0109

Employer Records

Employers must create contemporaneous written or electronic records documenting their Employees' wages earned and accrual and use of Earned Sick Leave and retain these records for a period of at least three years. Employers must allow the Enforcement Office reasonable access to these records in furtherance of an investigation

PROPOSITION I (CONTINUED)

conducted pursuant to this Division. An *Employer's* failure to create and retain contemporaneous written or electronic records documenting its *Employees'* wages earned and accrual and use of *Earned Sick Leave*, or an *Employer's* failure to allow the *Enforcement Office* reasonable access to records creates a rebuttable presumption that the *Employer* has violated this section and the *Employee's* reasonable estimate regarding hours worked, wages paid, *Earned Sick Leave* accrued, and *Earned Sick Leave* taken may be relied upon.

§39.0110

Confidentiality and Nondisclosure

Employers are prohibited from requiring an *Employee* to disclose details related to the medical condition of the *Employee's* or the *Employee's Family Member* as a condition for using *Earned Sick Leave* under this Division, except where disclosure is required or authorized by federal or state law. *Employers* who obtain medical or other personal information about an *Employee* or an *Employee's Family Member* for the purposes of complying with *Earned Sick Leave* requirements of this Division must maintain the confidentiality of the information and must not disclose it, except with the permission of the *Employee* or as required by law.

§39.0111

Retaliation Prohibited

Employers are prohibited from engaging in *Retaliation* against an *Employee* for exercising any right provided pursuant to this Division. The protections of this Division apply to any *Employee* who reasonably and in good faith reports a violation of this Division to his or her *Employer* or a governmental agency tasked with overseeing the enforcement of any wage and hour law applicable to the *Employer*. Rights under this Division include, but are not limited to, the right to request payment of the *Minimum Wage*, request and use *Earned Sick Leave*, file a complaint for alleged violations of this Division with the *Enforcement Office* or in court, communicate with any person about any violation or alleged violation of this Division, participate in any administrative or judicial action regarding an alleged violation of this Division, or inform any person of his or her potential rights under this Division.

§39.0112

Implementation, Enforcement, and Remedies

- (a) The *City Council* will designate the *Enforcement Office*.
- (b) The *Enforcement Office* will have full authority to implement and enforce this Division, as set forth in an implementing ordinance to be approved by the *City Council*. The ordinance will establish a system to receive and adjudicate complaints and to order relief in cases of violations.
- (c) The *City* or any person claiming harm from a violation of this Division may bring an action against the *Employer* in court to enforce the provisions of this Division. Any person claiming harm from a violation of this Division and the *City* are entitled to all legal and equitable relief to remedy any violation of this Division, including, but not limited to, the payment of back wages withheld in violation of this Division; an additional amount equal to double back wages

PROPOSITION I (CONTINUED)

withheld as liquidated damages; damages for an Employer's denial of the use of accrued Earned Sick Leave in violation of this Division; reinstatement of employment or other injunctive relief; and reasonable attorney's fees and costs to any plaintiff, who prevails in an action to enforce this Division. Violations of this Division are declared to irreparably harm the public and covered Employees generally.

- (d) Any Employer who violates any requirement of this Division is subject to a civil penalty for each violation of up to, but not to exceed, \$1,000 per violation; except that any Employer who fails to comply with the notice and posting requirements of this Division is subject to a civil penalty of one hundred dollars for each Employee who was not given appropriate notice pursuant to that section, up to a maximum of \$2,000.
- (e) Violations of this Division may not be prosecuted as a misdemeanor or infraction.
- (f) This Division does not create any right of action or cause of action for damages against the City in its enforcement of this Division.
- (g) Submitting a complaint to the Enforcement Office is neither a prerequisite to nor a bar to bringing a private cause of action.
- (h) This section is not intended to supersede any applicable, current or future state or local law, rule, regulation, or approved memoranda of understanding binding on the City, as a public agency employer, and its Employees.

§39.0113

Compliance with Legal Agreements

This Division must not be interpreted to modify any obligation of an Employer to comply with any contract, collective bargaining agreement, employment benefit plan, or other agreement providing higher wages or more Earned Sick Leave to an Employee.

§39.0114

No Effect on Higher Wages or More Earned Sick Leave

This Division must not be construed to discourage or prohibit an Employer from providing higher wages or more Earned Sick Leave to its Employees.

§39.0115

Effect of Invalidity; Severability

If any section, subdivision, paragraph, sentence, clause, phrase, or other portion of this Division is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this Division, which shall continue in full force and effect.

END OF PROPOSITION
