

November 2015

By Big Labor and For Big Labor?

A Case Study from San Francisco of Union
Involvement in the Legislative Process

Employment
Policies
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Executive Summary

Since early 2012, labor unions and the left-wing pressure groups they fund have attacked conservative policy organizations for assisting state and local legislators in developing legislation. The Service Employees International Union (SEIU) and the AFL-CIO in particular have loudly denounced “corporate interests” for funding these groups.

However, many of the same unions and left-wing pressure groups employ nearly identical tactics to develop and enact liberal policies. San Francisco’s 2014 effort to establish two parallel sets of first-of-their-kind scheduling mandates on chain stores and chain restaurants—called “formula retail” in the city’s planning code—is a textbook example of this strategy.

Using hundreds of pages of email records obtained under the California Public Records Act and other open-source information, we can piece together how this legislation—called the Retail Workers Bill of Rights (RWBOR)—was assembled. The email records trace the RWBOR from a meeting of liberal and labor union groups in early February 2014 through its passage in late November—with the Service Employees International Union United Service Workers West, the AFL-CIO affiliated San Francisco Bay Area Labor Council, and front groups funded by unions colluding to develop and substantially draft mandate packages that ended up becoming city law.

The following evidence shows how closely the unions and their front groups worked with legislators to draft the San Francisco bills. Hundreds of pages of e-mails between legislators, their staffs, unions, and union front organizations both in San Francisco and nationally show that union-affiliated groups drafted the basic ideas, wrote significant parts of the legislation, planned out the political strategy to gain support, and added self-interested expansions of the bills’ scope just before passage.

Labor now wants to take the model that they employed in the San Francisco Board of Supervisors state- and nationwide. This San Francisco case study is a cautionary tale of how the legislative process can go awry in cities where unions have direct access to the levers of policymaking.

Timeline of Key Events

- **January 24, 2014:** Telephone call between officials of the National Employment Law Project, the San Francisco Bay Area Labor Council, Jobs With Justice, the Alliance of Californians for Community Empowerment, and Ken Jacobs of the University of California, Berkeley Labor Center begins the agenda-setting process, outlines three ideas for formula retail labor scheduling mandates that served as the basis for the ordinances
- **February 10, 2014:** Labor holds a celebration and conference to prepare the year's political work. Afterward an "issue matrix" is distributed, showing the possible political proposals labor and its allies and funded groups were supporting.
- **May 5, 2014:** Jobs With Justice registers the domain for the campaign website, retailworkerrights.com.
- **May 7, 2014:** Meeting between Conny Ford (SF Labor Foundation), Jobs with Justice San Francisco staff, Eric Mar's legislative staff, and the City Attorney to coordinate the drafting of the ordinances.
- **June 9, 2014:** Conny Ford sends draft of the Eric Mar ordinance to NELP, asks for assistance in drafting it.
- **June 18, 2014:** NELP returns the draft with revisions and NELP-drafted perambulatory sections.
- **July 28, 2014:** Gordon Mar (Jobs with Justice) meets with Supervisor David Chiu, gets his support for the Eric Mar ordinance, and then sends misleading email claiming the Labor Council (which Ford was a VP of) wasn't involved in developing the ordinance.
- **July 29, 2014:** The two ordinances are introduced.
- **August 2014:** Council Recess
- **Early October, 2014:** Jobs with Justice coordinates with the Service Employees International Union to add contract employees to the bill.
- **November 25, 2014:** The two ordinances pass the Board of Supervisors.

Key Players

- **Eric Mar**

- o San Francisco Supervisor, District 1. Lead sponsor of the first Retail Workers Bill. Gordon's brother.
- o Eric Mar was a second-term Supervisor, having been re-elected in a hotly contested election in November 2012. He received significant support from labor and had close personal ties to union front groups.

- **Gordon Mar**

- o President of Jobs with Justice San Francisco (JWJ SF) and convener of the Formula Retail Steering Committee. Eric's brother and one-time political consultant.
- o In 2014, Gordon Mar had just come off the union payroll as JWJ SF became an independent organization. Gordon served as a liaison between Eric's team, national labor "think tanks," local union front groups, and the San Francisco Labor Council (and its major member unions).

- **Conny Ford**

- o Political coordinator for the SF Labor Council, the local union federation. Former Secretary-Treasurer of OPEIU Local 3, a labor union with close ties to JWJ SF.
- o Ran interference for Gordon and JWJ SF with David Chiu and other supervisors and was part of the initial conversations on the bill.

- **Jobs With Justice San Francisco**

- o Local union organizing front group, which was spun off from Conny Ford's OPEIU Local 3 at the beginning of 2014.
- o JWJ SF coordinated the Formula Retail Steering Committee, a group of San Francisco officials and union, local front group, and national group organizers that plotted the political path of the bill. In the run-up to final passage of the Formula Retail labor ordinances, Strategic Campaign Organizer Michelle Lim served as a key go-between for Jane Martin of the Service Employees International Union and the legislators involved in the campaign.

- **David Chiu**

- o San Francisco Supervisor, District 3. President of the Board of Supervisors.
- o Convened a separate, business and labor-inclusive Predictable Scheduling Task Force on similar issues while campaigning for the vacant state Assembly seat in the 17th Assembly District. In that race, he faced very labor-friendly supervisor David Campos.

- **Tsedeye Gebreselassie and Paul Sonn**

- o Lawyers with the DC- and NYC-based National Employment Law Project. Their organization framed a "formula retail" labor mandate in 2012, and Tsedeye and Paul had a close hand in the crafting and drafting of the San Francisco bill.

- **Jane Martin**

- o Organizer for SEIU United Service Workers West (SEIU-USWW).
- o Became deeply involved in the retail workers bill campaign late in the legislative process, with a big demand: Include "contract employees"—janitors, parking attendants, and similar workers likely to be organized by SEIU-USWW—under the bill.

Introduction & Background

Labor unions and their activists in San Francisco entered 2014 riding high: Mayor Ed Lee had endorsed a citywide minimum wage increase and the city had just enacted an ordinance to require businesses with more than 20 employees to offer a “right to request” for workers who need flexible scheduling arrangements to care for children or sick people. It was with the political winds at their back that an assortment of union representatives, left-wing union-funded community organizers, labor-aligned academics, and politicians gathered in early February 2014 to plan their efforts for the next year.

San Francisco has long been hostile to national chains. By 2004, San Francisco had adopted a law requiring stores or restaurants that qualified as “formula retail” to seek additional planning permissions before opening. And in 2014, amid a burgeoning campaign for a \$15 minimum wage ballot measure, labor groups sought to impose additional labor regulations on these chains and their franchisees.

Source: This report is the product of public records requests submitted to the offices of Supervisor Eric Mar and former Supervisor David Chiu. The requests covered all 2014 email correspondence and attachments related to the Retail Workers Bill of Rights between the supervisors, their staffs, and the following organizations: Jobs With Justice-San Francisco; the National Employment Law Project; San Francisco Labor Council; SEIU United Service Workers West; UNITE HERE Local 2; United Food & Commercial Workers; and the Center for Labor Research & Education at UC-Berkeley.

The Proposals

Labor groups settled on two parallel bills they called the “Retail Workers Bill of Rights.” The mandates were amended to apply to only those “formula retail” (chain store) establishments operating in San Francisco with 40 or more locations worldwide and 20 or more total employees in the city.

- The first, main bill was principally sponsored by Supervisor Eric Mar. It mandated that employers wishing to schedule more hours of work must give right of first refusal to part-time employees before hiring more workers and that new firms taking over existing formula retail establishments must retain existing employees at their existing pay rate in order of seniority.
- The second, partner bill was principally sponsored by Supervisor David Chiu. It required employers to schedule employees two weeks in advance, to pay a minimum of four hours’ pay to employees who were “on-call” for a shift or dismissed early, to pay a fixed number of hours’ pay to employees who have schedule changes within the two-week window (with the number of hours determined by the timing of the change and the length of the shift changed) and to allow part-time employees the same access to time off requests that fulltime employees have.

The provisions of both bills were additionally extended to employees of security and janitorial contractors (of any size) for formula retail establishments at the urging of organized labor.

The Evidence

Jobs with Justice, Led by Supervisor Mar's Brother, Organized and Managed the Effort to Pass RWBOR

Gordon Mar of Jobs with Justice San Francisco (JWJ SF)—a union front group that formerly operated all its payroll through the Office and Professional Employees International Union (OPEIU) Local 3—is the brother of lead sponsor of the formula retail bills, Eric Mar.

The “policy matrix” reproduced here was distributed in discussions surrounding meetings between various left-wing organizing groups and labor unions, showing the alliances of organizations and leading politicians on various proposals. The formula retail labor mandates—called the “Retail Workers Bill of Rights” for P.R. purposes—seem to have grown out of the “Large Retailer Accountability Act” proposal. That original proposal included a possible minimum wage unique to large retailers, requirements for employees’ hours of work, and even a possible union exemption.

Policy Proposal	Key provisions	Which employers covered?	Legislation or ballot measure?	Who’re key supporters?	Who’re key opposition?
1. Large Retailer Accountability Act Ordinance	<ul style="list-style-type: none"> Higher minimum wage “Just hours” provision Locally owned business impact fee Collective bargaining agreement supercession option 	Formula retail businesses including chain stores and restaurants with 11 or more similar businesses around the country	Higher wage provision must be approved by voters, non-wage provisions can be moved legislatively or as ballot measure	Supe, Mar, JwJ, YWU, ACCE, UFCW L5 and WSC, Unite Here L2, CWA D9, SF Locally Owned Merchants Alliance	Corporate chain stores and restaurants?
2. Increase Minimum Wage rate	<ul style="list-style-type: none"> Some increase over the current minimum wage rate of \$10.74/hour (effective 1/1/14) 	All businesses, though Mayor and others may push for exemptions	Ballot measure in Nov. 2014	Mayor is convening a task force, need strategy for how progressive forces can best influence process	Small business advocates and owners?
3. Increase Living Wage rate	<ul style="list-style-type: none"> Some increase over the current living wage rate of \$12.66/hour (effective 1/1/14) 	City contractors including nonprofit organizations and IHSS Public Authority	Legislation	No one is moving this yet	Impacted businesses?
4. Amend Living Wage Ordinance to close loophole for nonprofit worker exemption from COLA	<ul style="list-style-type: none"> Remove provision allowing Mayor to exempt nonprofit workers from annual COLA 	Nonprofit organizations that have City contracts	Legislation	Supe. Mar, SEIU 1021	Mayor and impacted nonprofits?
5. Strengthen enforcement of existing labor laws	<ul style="list-style-type: none"> Local wage lien bill (lien on property for businesses) 	Businesses that pay business license fee	Legislation or ballot measure	CPA, Progressive Workers Alliance	??

The matrix shows that Gordon’s brother, S.F. Supervisor Eric Mar, would take the legislative lead on that effort. Gordon and Jobs with Justice would coordinate the legislation through a “Formula Retail Steering Committee” of labor unions, union front organizations, community groups, and close legislators all the way through the bill’s passage. Jobs with Justice had so much control over the development of the legislative program that Gordon Mar registered the domain “retail-workerrights.com” to promote it before the bill was drafted.

Domain Name: retailworkerrights.com
Registry Domain ID:
Registrar WHOIS Server: whois.1and1.com
Registrar URL: http://1and1.com
Updated Date:
Creation Date: 2014-05-05T19:02:19Z
Registrar Registration Expiration Date: 2016-05-05T19:02:19Z
Registrar: 1&1 Internet AG
Registrar IANA ID: 83
Registrar Abuse Contact Email: **abuse@1and1.com**
Registrar Abuse Contact Phone: +1.8774612631
Reseller:
Domain Status: clientTransferProhibited
<https://www.icann.org/epp#clientTransferProhibited>
Registry Registrant ID:
Registrant Name: Gordon Mar
Registrant Organization: Jobs with Justice SF
Registrant Street: 209 Golden Gate Ave
Registrant City: San Francisco
Registrant State/Province: CA
Registrant Postal Code: 94102
Registrant Country: US
Registrant Phone: +41.59673710
Registrant Phone Ext:
Registrant Fax:
Registrant Fax Ext:
Registrant Email: **solidarity@jwjsf.org**

The National Employment Law Project Helped Write the Legislation

The National Employment Law Project is a union-funded organization that advocates for mandates on service-industry and retail employers, such as minimum wage increases. Department of Labor filings for private-sector unions and public sector union national headquarters for the five most recent completed fiscal years indicate unions contributed nearly three-quarters of a million dollars (\$730,000) to NELP. The Washington- and New York City-based organization played a major role in the development and drafting of the legislation, including presenting model policy.

Prior to the meeting of the Bay Area labor movement on February 10, Gordon Mar, Conny Ford, John Eller of the liberal group Alliance of Californians for Community Empowerment (ACCE), and Ken Jacobs of the University of California, Berkeley Labor Center consulted with NELP on a possible retail-focused policy. Paul Sonn, who with fellow NELP staff attorney Tsedeye Gebreselassie played a major role in drafting the Formula Retail Ordinance, responded with a framework of policies that largely informed the ultimate ordinance.

----- Forwarded message -----

From: Paul Sonn <psonn@nelp.org>

Date: Fri, Jan 24, 2014 at 1:47 PM

Subject: Possible Elements of a Formula Retail Bill of Rights Ordinance

To: Gordon Mar <gordon@iwsf.org>, John Eller <jeller@calorganize.org>, "Conny Ford (conny@sflaborfoundation.org)" <conny@sflaborfoundation.org>, "Ken JACOBS (kjacobs9@berkeley.edu)" <kjacobs9@berkeley.edu>

Cc: Tsedeye Gebreselassie <tgebreselassie@nelp.org>

All –

Great talking with you guys today. Here are our thoughts for what a “Formula Retail Worker Bill of Rights” might look like. And here is a link to the RAP report that we mentioned. We look forward to continuing to talk about this.

Best,

Paul

http://retailactionproject.org/wp-content/uploads/2012/03/7-75_RAP+cover_lowres.pdf

Possible Elements of a San Francisco “Formula Retail Worker Bill of Rights” Ordinance

1. Full-Time Work -- Encouraging employers to create more full-time jobs by requiring that before employers may hire new part-time workers, they must first offer the hours to existing part-time workers. (The Sea-Tac model.)
2. Just Hours Scheduling – Discouraging abusive “on call” scheduling practices whereby a worker is told to reserve days to be “on call” to possibly work, but is not paid if she ends up not actually being called in. This can be done by expanding California’s call-in pay protections to require that if workers are asked to be on call, that they must be paid for a minimum number of hours (the current California requirement is payment for 2 hours when a worker is called into work and then sent home). This would effectively update the existing protections to take into account the realities of today’s modern workplace and technology where employers no longer call workers into the workplace to tell them that they are not needed.
3. Worker Retention – Protect workers against losing their jobs when their company is bought or sold, by requiring that if formula retail stores are acquired, the workers must be kept on at their jobs for at least a 90-day trial period.

Conny Ford later liaised with Tsedeye Gebreselassie of NELP to expand an initial draft drawn up by the San Francisco City Attorney’s Office. She encouraged NELP to “be as forward thinking as possible.”

From: conny [mailto:conny@sflaborfoundation.org]
Sent: Monday, June 09, 2014 6:48 PM
To: Tsedeye Gebreselassie; Gordon Mar
Subject: FW: Working draft of Formula Retail Legislation

Here u are. We encourage u to be as forward thinking as possible. Our city attorney needs support. The Donna she mentions is the head of our enforcement division..office of labor standards and enforcement. Conny

Conny Ford, Program Director

SF Bay Area Labor Foundation

1188 Franklin St., #203

San Francisco, CA 94109

(415) 440-4809 ext.18

The “purpose and findings” section of the bill—rhetorical material that explains “why” the politicians are passing the law—was substantially drafted by NELP, according to the emails. Gebreselassie offered such language to the committee, according to the emails.

----- Forwarded message -----

From: Tsedeye Gebreselassie <tgedreselassie@nelp.org>

Date: Wed, Jun 18, 2014 at 2:25 PM

Subject: RE: Working draft of Formula Retail Legislation

To: Gordon Mar <gordon@jwjsf.org>

Cc: conny <conny@sflaborfoundation.org>, Paul Sonn <psonn@nelp.org>, Carrie Gleason <CGleason@populardemocracy.org>, Kung Feng <kung@jwjsf.org>, Haeyoung Yoon <hyoon@nelp.org>, Erin Johansson <erin@jwj.org>

Hi all,

Attached is some draft language for the purpose/findings section.

Best,

Tsedeye Gebreselassie | Senior Staff Attorney

National Employment Law Project | 75 Maiden Lane, Suite 601 | New York, New York 10038

212.285.3025 ext. 314 | tseyeye@nelp.org

www.nelp.org

The Labor Council Ran Political Effort

In communications with legislative staff for other Supervisors, Gordon gave all credit for developing the policy proposals to NELP, rather than crediting the Labor Council for its early role in developing the legislation and political strategy.

For instance, in one July email, Gordon Mar told the staff of Supervisor David Chiu that the San Francisco Labor Council “played no role” in the development of the policy, giving all credit to NELP. Additionally, Gordon made a point to inform Chiu’s people that the Labor Council “did not formally endorse [Mar’s bill] until early July” as in the email below.

From: Gordon Mar [mailto:gordon@fwjsf.org]
Sent: Tuesday, July 29, 2014 7:37 AM
To: Chiu, David (BOS); Roxas, Samantha (BOS)
Cc: Michelle Lim; Pagoulatos, Nickolas (BOS); Mar, Eric (BOS)
Subject: Fwd: Possible Elements of a Formula Retail Bill of Rights Ordinance

Hi David and Samantha,

Thanks for the great meeting yesterday about the Retail Workers Bill of Rights! I wanted to follow-up to clarify where we got our policy ideas for the legislation. Again, Jobs with Justice received the policy ideas and the draft legislation from Paul Sonn and Tsedeye Gebreselassie two attorneys with the National Employment Law Project. Below is an email to us from Paul Sonn back in January with an outline of a proposed Formula Retail Workers Bill of Rights that includes three of the four provisions in our current version. Also, Tim Paulson and the SF Labor Council played no role in the development of the policy provisions of the Retail Workers Bill of Rights. In fact, they did not formally endorse until early July. I hope this may help to convince you that Jobs with Justice and Eric have been working on a distinct parallel track with you and the Predictable Scheduling Task Force in considering these fair scheduling policy ideas. We are very excited about aligning our efforts to move the strongest package of measures this Fall. Please let me know if you have any questions or suggestions. Thanks again for all your leadership on these important issues!

-Gordon

Even as Mar wrote the email above, he knew that the Labor Council had been commissioned to develop political strategy for RWBOR before the formal endorsement and had been involved in devising and shepherding the bill from the beginning. Conny Ford—a Labor Council V.P.—had been involved in the proposal campaign from the start. The email referenced in the previous section shows that she sent the initial draft legislation to NELP for feedback. (The Labor Foundation, from which Ford sent the email, is the 501(c)(3) “labor and community advocacy” organization affiliated with the Labor Council.)

Even before this email, Ford was also scheduled to attend a meeting between Gordon Mar, Eric Mar’s legislative staffers, San Francisco labor administrator Donna Levitt, and the San Francisco City’s Attorney for input on the drafting of the Mar ordinance.

From: Gordon Mar [mailto:gordon@wjsf.org]
Sent: Wednesday, May 07, 2014 11:25 AM
To: Kung Feng; Levitt, Donna (ADM); conny@sflaborfoundation.org; Pagoulatos, Nickolas (BOS)
Subject: Scheduling meeting with City Attorney, THURS?

Hi Conny, Donna, Kung and Nick,

I'd like to see if we can schedule a meeting with the City Attorney drafting our Retail Workers Bill of Rights ordinance. It would be good if we could have this meeting before our Formula Retail Campaign Steering Committee meeting on Fri, 5/9 at 12:30pm.

Nick mentioned that the City Attorney is fairly open to meet with us on Thursday (tomorrow).

Can you let me know what your availability is for this meeting on Thursday? Sorry about the short notice.

Thanks!

-Gordon

From: Conny Ford [mailto:conny@sflaborfoundation.org]
Sent: Wednesday, May 07, 2014 5:25 PM
To: Pagoulatos, Nickolas (BOS); 'Gordon Mar'
Cc: Levitt, Donna (ADM); 'Kung Feng'
Subject: RE: Scheduling meeting with City Attorney, THURS?

Yes -- I can make the meeting tomorrow between 4-5. Conny

Conny Ford, Program Director
SF Bay Area Labor Foundation
SF Community/Labor...Organizing, Unifying, Together (SF cLout)
1188 Franklin St., #203
San Francisco, CA 94109
(415) 440-4809 ext. 18

Later, Ford's San Francisco Labor Council was tasked with helping to "develop the political strategy for the RWBOR." Gordon Mar and Jobs with Justice hailed the Council's efforts to pass an addition to San Francisco's already-onerous healthcare mandates in the below email excerpt, sent to the steering committee members on June 30.

attorney Tsedeye Gebreselassie of National Employment Law Project to work with us and the City Attorney's office to finalize the language of the legislation. Gordon and Nick will follow-up on the policy development and email out an updated summary of the policy provisions in the draft RWBOR legislation to everyone by July 3rd.

Please let us know if you have any suggestions

3. Political Strategy:

- We are still targeting July 22nd for introduction of the RWBOR legislation to the Board of Supes, though we can delay to July 29th if needed and still maintain our overall timeline of making the big push as City Hall in September and having the Board of Supes pass the legislation on Oct. 7th.
- We agreed to ask other Supervisors to co-sponsor the legislation before it's introduced. We'll approach David Chiu to be a "lead co-sponsor" first because he's been convening the Predictable Scheduling Task Force and then to ask David Campos to be another "lead co-sponsor." We'll try to meet with Chiu and Campos the week of July 7th and the other Supervisors the week of July 14th.
- The SF Labor Council can help to develop the political strategy for the RWBOR drawing on the amazing effort they helped to lead securing 8+ votes to finally pass legislation to close the HCSO loophole in June. If you have any questions or suggestions, please contact Conny.

The claims in Gordon Mar's July 29th email to Chiu's legislative staffer seem duplicitous in light of Gordon's email to his internal coalition immediately above. Mar had good reason for this double-talk: His organization was co-opting one of Chiu's signature issues. Chiu, who served as President of the Board of Supervisors, had his own pre-existing task force working on scheduling. His effort had initially sought to include business owners in addition to labor groups. A press report by the San Francisco Appeal described Chiu's "Predictable Scheduling Task Force" thus:

Chiu [...] said that over the last year a Predictable Scheduling Task Force representing laborers, working families, and employers convened to specifically address the topic.

The SEIU Gets Its Cut: Drawing in Contractors

The Service Employees International Union United Service Workers-West (SEIU USW-W) represents janitors, airport workers, and security guards in California. Its ground organizer in San Francisco, Jane Martin, asked the Formula Retail Steering Committee—coordinating through Gordon Mar's aide at Jobs With Justice, Michelle Lim—to insert "additional language specifying that building services contractors of formula retail establishments are covered employers" into the formula retail bills.

Including them in the bill would strengthen SEIU's hand in contract talks and potentially reopen negotiations for contracts that had already been agreed. The following email exchanges show how much control JWW and the legislative staffs allowed SEIU's Jane Martin to exercise in the drafting of the provisions relating to contractor employees. The emails show that it was the SEIU, not the legislative staff, who directly responded to the City Attorney's questions on how crucial parts of the bill should be worded.

The initial question block was written by the City Attorney's office, which had questions for the Steering Committee regarding its precise goals on contract employees. SEIU's Martin tracked changes and answered the questions that had been asked of Eric Mar's legislative staff and forwarded her responses to JWW. Martin also gave the bolded information, explaining in more detail SEIU's wishes from the bill.

From: Michelle Lim [michelle@jwjsf.org]
Sent: Friday, October 10, 2014 5:19 PM
To: Jane Martin; Pagoulatos, Nickolas (BOS)
Cc: Gordon Mar
Subject: Re: Question - Defining of Property Services - RWBoR

Thanks, Jane!

Looping Nick who will be corresponding directly with City Attorney.

On Oct 10, 2014, at 3:40 PM, Jane Martin <jane.martin@seiu-usww.org> wrote:

our responses below in red. call me with any questions. thanks!

jane

1. Add in the definition of Employer "Employer shall also mean any contractor providing ~~Property Services~~ to an Employer as defined above, and the Employees of any such ~~Employer~~ contractor shall be considered Employees as defined above. Property services includes [but is not limited to?] janitorial, security, window cleaning, parking, building maintenance and landscaping services provided to a ~~Formula Retail Establishment~~ or other building [what do you mean by "other building?" any building at all, or just a building owned and operated by the Formula Retail Establishment?] within the geographic boundaries of the City. Is this definition change meant to apply to all of the requirements in the ordinance, or just the worker retention aspects of the ordinance? Do you mean to capture any and all "property services" contractors who are working for the Formula Retail Establishment, regardless of the size of the contractor and regardless of the number of employees the contractor employs? Also, I think the definition of "Property Services" needs to be further refined -- do you want to limit it to the examples provided above? What about real estate or leasing services -- would those be included?

this definition of property services and list of job categories is good, but we would still like to keep "includes" (don't need "but is not limited to"), that list is good but "includes" would allow coverage of some other property services that are rare in the retail setting but still might come up in the future, if applicable (e.g. elevator operator, event setup, event usher, etc.).

Real estate or leasing services we would call professional services rather than property services, and those workers typically work on salary and/or commission rather than hourly, correct?

Maybe we could say the Property Services are services provided to a formula Retail Establishment that provide the appropriate environment in which the formula Retail Establishment could perform its core business of retail trade with the public (i.e. janitorial = clean environment, security = safe environment, parking = to facilitate access by customers, etc.). But not sure that would need to be in the actual definition.

"other building" means building owned and operated by a formula retail business (ie warehouse, office building)

our goal is to get property services workers all the protections in the ordinance not just job retention. the most important one for us is the right to full time work. there is already a state law that specifies similar job retention rules for janitors regardless of their workplace.

From: Michelle Lim [michelle@jwjsf.org]
Sent: Wednesday, October 15, 2014 2:35 PM
To: Pagoulatos, Nickolas (BOS)
Subject: Re: Amendments to Formula Retail Workers Bill of Rights - File 140283

A few more responses from Jane. Might be running a little late. When are you leaving city hall today?

(2) I understand this new contractor provision is meant to apply to "property service" contractors of Formula Retail Establishments that have 20 or more employees. But what if the contractor itself doesn't have 20 more employees but is a small mom & pop business -- does that matter, or is it mean to apply to a contractor of any size, so long as they're doing work for a Formula Retail Establishment?

We would like to push to cover contractors of any size despite size threshold for the retail business (i.e. the client in this case). Competition between contractors is direct (and particularly brutal in retail), and giving smaller contractors an advantage only drives standards down. Any added costs caused by the legislation would not typically be paid by the contractor anyway, but passed along to the client (the retail establishment) so in that circumstance a small contractor is just as able to pay it as a large contractor, and does not deserve a special exemption. We have a small employer exemption in the state law the Displaced Janitors Opportunity Act that causes us a lot of problems for us.

Legislative staffer Nick Pagoulatos managed the RWBOR ordinance for Supervisor Eric Mar. In these exchanges, he is looped in after the fact about the SEIU's desired re-writes of the bill.

Ultimately, SEIU-USW West got most of what it wanted. Janitorial and security services—both heavily unionized by SEIU in California—were included in the final ordinances. No carve-out for small contractors—a key SEIU demand—was given in either.

A separate but related issue that presented in the internal debates over the ordinances regarded a controversial carve-out provision for collectively bargained contracts. Unite HERE Local 2, part of the Steering Committee, strongly argued for one as it related to hotel restaurants, as in the email below. An amendment to the final legislation contained a provision that allowed unionized workplaces to waive these mandates in collective bargaining agreements.

From: Ian Lewis <ilewis@unitehere2.org>
Date: November 14, 2014 at 4:38:04 PM PST
To: Nick Pagoulatos <nickpagoulatossfgov@gmail.com>
Cc: Michelle Lim <michelle@jwjsf.org>, Gordon Mar <gordon@jwjsf.org>, joshua.white@sfgov.org
Subject: Re: Conference Call Tomorrow

Here are the key points I think should make the case for the hotel / restaurant carve-out:

- 1) Unlike other formula retail industries, hotel restaurants are highly unionized in San Francisco,
- 2) As a result, employees in such workplaces have had the opportunity to collectively bargain wages, benefits, and working conditions for decades,
- 3) Combined wages and benefits at unionized hotel-restaurants average more than \$10 an hour more than typical free-standing restaurants,
- 4) Employees at such workplaces have also negotiated scheduling and job security policies that in many ways exceed those contemplated by this ordinance.

Conclusion

It shouldn't be surprising that there are unsavory special-interest negotiations and backroom dealings in city and regional politics. But unions like the SEIU, the Teamsters, and the AFL-CIO along with labor-funded groups like the Center for Media and Democracy are engaging in hypocrisy by condemning business and free-market groups for participating in the policy process through supporting politicians and using advocacy groups to help draft legislation.

As this report shows, labor unions do exactly that when and where they have the opportunities. San Francisco enacted a bill that originated from a coalition of labor organizations and was drafted in part by a national labor union-funded group, the National Employment Law Project. Local labor groups reached out to the labor-funded NELP, which then provided the local groups with a series of policy recommendations.

A second national labor union-funded group, Jobs with Justice, debuted a campaign on employee scheduling mandates in a friendly city in order to gain a victory that would create illusory momentum for a "historic" measure that materially benefits the organizations pushing it.

We will continue to see this strategy repeated. This year, the SEIU pushed a Connecticut bill that would fine employers otherwise in compliance with labor laws that did not pay the union-approved wage level. In New York, the same union leaned on the Governor to use his executive power to create a \$15 wage mandate. And in Seattle, labor unions were deeply embedded in the push to raise the minimum wage to \$15 per hour. According to sworn testimony, a top SEIU official reportedly vowed to use the policy push "to break the franchise model" and make franchised stores easier to unionize.

The SEIU, AFL-CIO, and aligned groups also want to push conservative organizations out of the policy process, going to the extent of demanding that financial supporters be either outed publicly or withdraw support under activist pressure. Yet the unions themselves are engaging in near-identical tactics.