

# PACKET MATERIALS

DATE: January 18, 2019

Item No. 4

## LOCAL AGENCY FORMATION COMMISSION

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Completed by: Alisa Somera

Date: January 11, 2019

(This list reflects the explanatory documents provided.)



## San Francisco Local Agency Formation Commission

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January 18, 2019

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TO: LAFCo Commissioners

FROM: Bryan Goebel, Executive Officer

SUBJECT: **Item 4 - Update on Emerging Mobility Services Labor Study**

### **Request for Proposals for Labor Survey**

The Request for Proposals (RFP) for a labor survey of gig economy workers is currently being reviewed by LAFCo's new legal counsel, and we expect it to be posted by today's meeting date. We have been collaborating with the Washington State Department of Commerce, which is doing a similar survey for the Washington State Legislature.

The survey will be conducted in three phases: (1) research design and data collection, (2) survey and data analysis, and (3) a final report. LAFCo has allocated \$50,000 for phase one, but we will need to secure additional funding, potentially up to \$250,000, to complete phases two and three. We are currently researching options for additional funding.

### **Literature Review**

LAFCo has been looking into what other cities, counties and jurisdictions around the world are doing to regulate and/or partner with emerging mobility companies. This ongoing literature review will inform our study to determine whether the labor policies of these companies align with the City's labor principle.

Our emerging mobility intern, Lea Troeh, has been leading the research on best practices and today presents some of the preliminary findings from our research. A copy of her report is attached to this document.

### **University of San Francisco Graduate Class**

A group of 22 graduate students from the University of San Francisco will provide additional research for our study, diving into the following subject areas: (1) spatial and geographic dynamics shaping growth in this sector, (2) labor and political economics, (3) politics and lobbying practices, and (4) best practices. The class, lead by USF Professor Diana Negrin, PhD, commences January 21st. Students will present their findings to the Commission at our May 17, 2019 regular LAFCo meeting. Their results will be incorporated into the study's overall final report.

### **Timeline**

Below is a revised timeline for the study. The additional time is needed because the RFP and study initiation took longer than expected.

## Revised Labor Study Timeline

Task	Oct	Nov	Dec	Jan	Feb	March	April	May	June	July	Aug	Sep	Oct
1. Project initiation													
2. Survey RFP													
3. Questions and methodology													
4. Interviews and data requests													
5. Survey													
6. USF research													
7. Labor model best practice													
8. Policy recommendations													
9. Final report													

## SF LAFCO

### Emerging Mobility Labor Study

*Trends, Initiatives, and Heeds from around the World*

Compiled by Lea Troeh, SF LAFCO Emerging Mobilities Research Intern

#### INTRODUCTION

The San Francisco Local Agency Formation Commission is leading a study on labor practices in emerging mobility service companies and their “gig” job models. The Bureau of Labor Statistics “defines ‘gig’ jobs (still a small but growing share of the economy), as ride hailing, delivery services, or other work where online platforms are used to request, match, and schedule jobs.” To better understand labor models used in emerging mobility service companies, this literature review was conducted. It examines how local, state, and international governments have stepped in to address regulation issues; whether or how emerging mobility contractors access medical, dental and other benefits (portable benefits); and how initiatives to integrate private and public transportation in relation to labor could work or are currently working.

#### PROCEDURE

1. Search articles and studies online containing key terms: “portable benefits”; “emerging mobility transportation”; “labor regulation gig economy”; etc.
2. Compile article takeaways and unique points into spreadsheets with author, location, links, and quotes.
3. Arrange findings by theme and organize into a literature review.

#### REGULATION

"Powers to regulate, tax, and allocate budgets for modes like transit, automobiles, and taxis are divided across numerous transit authorities, state agencies, and city departments. The predictable result: organizational friction and confusion about who is ultimately responsible for achieving policy goals such as equity, safety, and the reduction of pollution and congestion” (CityLab).

There is a trend of consensus regarding emerging mobility regulation:

1. Regulation is uneven across the field, varying between traditional existing transit and new transit companies.
2. Government must mandate operating information/data from all regulated entities. If a company does not share its data from the get-go with government, it does not start nor continue to operate.
3. There should be one regulatory body in a region/state that oversees all mobility operators, public and private.
4. The above will help relieve societal and congestion woes caused by emerging mobility companies being allowed to operate before being properly integrated into existing regulation practices.

5. An outstanding woe is the purposeful misclassification of workers as independent contractors. This practice is rampant in the emerging mobility sector. Companies do this to save costs of providing employee benefits. “These companies compete unfairly with law-abiding companies that provide their workers employment protections and benefits” (Lichten & Liss-Riordan, P.C.).

Nationally, regulation is making headway to monitor emerging mobility companies’ labor and operation practices. Data from rideshare companies operating in New York legally must be shared with the Taxi and Limousine Commission. Washington State has legislation in the works regarding worker misclassification. Seattle gave independent contractor drivers the right to unionize. Laws reinforcing minimum wage requirements are in the works.

In Europe, the “wait-and-see” approach to regulating emerging mobility companies leads to inconsistent and labyrinthine legislation. Those companies must be regulated consistently via standard regulation that applies from the start. When this is not the case, labor classification and worker rights are confounded and jeopardized. London is implementing contractor driver rights for fair treatment, breaks, and work hour limits. Uber acquiesced to the work hour limit mandate. Parliamentary commissions are putting “the onus on gig economy firms to prove individuals in their workforce are self-employed rather than vice versa. They would also be liable for paying workers’ benefits, such as holiday pay and the national minimum wage” (TechCrunch). Other cities are following suit of Mexico City, which in July 2015 implemented a 1.5% fee (on each trip rideshare trip) that goes into a new Fund for Taxis, Transportation and Pedestrians.

## PORTABLE BENEFITS

The Aspen Institute defines portable benefits as having three characteristics:

- Workers own their benefits (i.e. they are not tied to a specific job or company).
- The company makes a fixed-rate benefit contribution based on the worker’s hours.
- The benefits cover independent workers, not just traditional employees.

With portable benefits, gig economy contractors can take their employment benefits with them from company to company. Benefits accumulate into a contractor’s portable account and add up as they would if the contractor had real employee status at a company.

Because more people are entering into gig economy jobs, there will be a significant number of people who are left without retirement, disability and family leave, and unemployment safety net benefits: “23 million Americans working in the gig economy make money but miss out on the other standard benefits of having jobs: health care, primarily, paid sick leave, and worker’s compensation” (The Atlantic). This produces a very vulnerable workforce. More employment benefits, and portable ones, would fortify the workforce. An exchange of portability, a la the Affordable Care Act health insurance exchange, would help secure traditional benefits for gig economy workers.

Bipartisan bills to fund portability pilots have been introduced in both the House and Senate. Cities and states are joining the expanding effort to supply benefits to gig economy workers, especially paid sick leave. In Washington state, “workers who are independent contractors can choose to pay premiums at the same rate as payroll employees, and receive equivalent benefits” (Brookings). There is also initiative to let contractors squirrel away their earnings into a pre-tax Health Savings Account.

Emerging mobility companies and their labor practices are other notable aspects of benefit portability state legislation:

1. California Assemblyman Evan Low's portability bill would prevent gig companies from "discriminating on the basis of protected categories of the Fair Employment and Housing Act." This is in line with our study's interest in emerging mobility companies' compliance with SF Fair Labor hiring ordinance.
2. UBER and Washington State union are working together to pass portability legislation. Note this is in the interest of the company more than the workers: "workers carrying benefits between jobs would be preferable to Uber than hiring them as full employees."

## PUBLIC + PRIVATE INITIATIVES

Public transit agencies are taking note of private transit practices that could improve the effectiveness and efficiency of municipal transportation. In some cases, this means replicating the on-demand aspect of private transit. For instance, in, London, Austin, public transit agencies have incorporated on-demand requests into their existing bus and large van fleets.

Citizens can request a ride via phone call or mobile app to service them, rather than being beholden to routes and timetables that might not serve them as well.

In other cases, public + private initiatives mean a direct partnership between the public agency with private transit/emerging mobility companies. What interests our labor study is the employment relationship between the city, company, and drivers in this case. If an emerging mobility company contractor driver is performing official city duties (providing public transportation), are they a company's contractor, or a city employee? This labor classification will be of great concern and debate as more cities adopt the on-demand public transit model, especially if a direct public + private transport company relationship exists. Three existing examples of programs follow:

1. GoMonrovia is a subsidized public transport partnerships between Lyft, Limebike, and the city of Monrovia, CA. Very inexpensive on-demand rides with the private companies form the backbone of Monrovia's public transportation. "These options are being provided in partnership with the City's existing dial-a-ride program to provide fast, convenient, and affordable transportation options for all users throughout Monrovia."
2. "Innisfil, Ontario estimates an experimental transit partnership with Uber is saving the town more than \$8 million a year compared to using an equivalent door-to-door bus service."
3. "Arlington, Texas: Customers can book a seat in a six-passenger Mercedes-Benz van through the Via app, and Via will match them with others going their way. Rides are just \$3 per trip. Customers may also call Via to book a ride."

Our study plans to contact the above cities to learn more about the employment classification of emerging mobility contractors that perform official city duties.

## CONCLUSION

In conclusion, best practices for addressing emerging mobility issues are not yet ready to name. What works for one country, state, or city might not work for another. This is due to nascent regulation, existing regulation, and predicted regulation unique to each place. In lieu of prescribing a definitive “best practice” to a location’s issue, it is better to study the field and see what has happened, or is predicted to happen, most recently in a similar place. Trendspotting in this way will keep regulation formation up-to-date, agile, and equitable. Our study on labor will assist in these efforts.

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<https://www.brookings.edu/blog/the-avenue/2018/03/29/rethinking-worker-benefits-for-an-economy-in-flux/>

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<https://citymapper.com/smartride>

<https://capmetroblog.com/2018/05/29/saying-goodbye-to-pickup-20000-rides-smarter/>

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<https://www.cbc.ca/news/canada/toronto/innisfil-uber-public-transit-1.4577331>

<http://www.arlington-tx.gov/news/2017/12/11/via-city-arlington-launch-innovative-demand-rideshare-pilot-program/>

Labor Regulations, Transport, Portable Benefits link to google sheet of research synopses:

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