



City of Chicago



02018-3286

Office of the City Clerk

Document Tracking Sheet

Meeting Date:

4/18/2018

Sponsor(s):

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O'Connor (40)
Burnett (27)
Ramirez-Rosa (35)
King (4)
Ervin (28)
Dowell (3)
Cochran (20)
Cappleman (46)
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Mell (33)
Foulkes (16)
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Solis (25)
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Austin (34)
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Sposato (38)
Valencia (Clerk)
Villegas (36)
Ordinance

Type:

Title:

Amendment of Municipal Code Chapter 2-25 by adding new Section 2-25-035 to establish Office of Labor Standards

Committee(s) Assignment:

Committee on Workforce Development and Audit

ORDINANCE

WHEREAS, the City of Chicago has passed legislation raising the minimum wage, establishing earned sick time, and prohibiting wage theft, and;

WHEREAS, the Department of Business Affairs & Consumer Protection is charged with the enforcement of Chicago's labor ordinances, and;

WHEREAS, the Department of Business Affairs & Consumer Protection currently lack the personnel and resources to enforce Chicago's labor ordinances in a timely and effective manor, and;

WHEREAS, over 400,000 Chicagoans benefit from the provision of Chicago's local labor ordinances, and;

WHEREAS, the business community is well-served by effective enforcement that demands compliance amongst employers and ensures that no business is unfairly benefitting by not complying with Chicago's laws, and;

WHEREAS, engaging organizations on both the worker and employer sides of the labor market in educating employers and employees about their rights and responsibilities has been shown to increase the efficiency and effectiveness of enforcement, and;

.....

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The Municipal Code is hereby amended by adding a new section 2-25-035, as follows;

2-25-035 Office of Labor Standards

- (a) There is hereby established an office of the municipal government to be known as the Office of Labor Standards, organized within the Department of Business Affairs and Consumer Protection, which shall include the Director, and such other assistants and in employees as provided for in the annual appropriation ordinance. The duties of the Office of Labor Standards are as follows:
- (1) Promote Chicago's labor standards through outreach, education, technical assistance, and training for employees and employers;
 - (2) collect and analyze available federal, state, and local data on the city's workforce and workplaces and coordinate with federal and state officials and other city agencies to identify gaps and prioritize areas for the improvement of working conditions and practices for employees and independent contractors in the city and within particular industries, and to promote the implementation and

enforcement of laws, rules and regulations designed to improve such working conditions and practices;

- (3) plan, make recommendations, conduct research and develop programs for worker education, worker safety and worker protection;
 - (4) facilitate the exchange and dissemination of information in consultation with city agencies, federal and state officials, businesses, employees, independent contractors and nonprofit organizations working in the field of worker education, employer education, safety, and protection
 - (5) recommend efforts to achieve workplace equity for women, communities of color, immigrants and refugees, and other vulnerable workers.
 - (6) administer and enforce the provisions of chapter 1-24 of this code.
 - (7) Process complaints and assemble information to refer to the proper city departments regarding license revocation under 4-4-320(a)(1) and 4-4-320(a)(3) or ineligibility for city transactions under 2-92-320(a)(6) of this code
- (b) The director of this office shall be appointed for a term of four years, in accordance with the procedures set forth in this section, and shall have responsibility for the operation and management of the Office of Labor Standards.

- (1) The mayor may reappoint an incumbent director term, subject to approval of the city council, without seeking a recommendation of the Selection Committee described in paragraph (2) of this subsection. Not less than 45 days prior to the end of the director's term, the mayor shall notify the city council whether he will reappoint the then incumbent director.
- (2) A Selection Committee consisting of five members, three of whom shall be selected by the Mayor and two of whom shall be selected by the city council, shall be responsible for identifying potential candidates and proposing potential candidates to the mayor. The mayor's selection must be confirmed by city council.

Within 15 days of an actual or expected vacancy in the position of director because of death, resignation, removal, or the mayor's decision not to reappoint an incumbent director, the selection committee shall engage in a search and assemble a "Pool" of qualified candidates for the position of director. The Selection Committee shall review the credentials of the "Pool" members, and shall recommend one or more qualified persons to the mayor, by concurrence of at least four Committee members. The mayor may appoint any person recommended by the Committee, subject to the approval of the city council. If the mayor rejects all candidates recommended by the Selection Committee, the Committee shall solicit and screen additional candidates until the mayor appoints a recommended person, subject to the approval of the city council. The term of the director shall commence upon the city council's approval of the mayor's appointment and shall extend for a period of four years.

- (3) The director may be removed prior to the expiration of his term only for cause and in accordance with the provisions of this section. The mayor shall give written notice (a) to the city council of his intent to remove the director; and (b) to

workforce contains significant numbers of workers who are vulnerable to violations of this chapter or the workforce is unlikely to volunteer information regarding such violations. An investigation shall also be initiated through the receipt to the Office of a report or complaint filed by an employee or other person. Upon notice of the filing of a civil suit against an employer for any such labor violations as the Office of Labor Standards are authorized to investigate, the OLS shall make formal note of the proceedings and commence its own investigation into the employer subject to any limitations under applicable law.

(g) An employee or other person may report to the Office any suspected violation of chapter 1-24 of this code. The Office shall encourage reporting by taking the following measures:

(1) The Office shall keep confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the employee or person report the violation. However, with the authorization of such person, the Office may disclose the employee's or person's name and identifying information as necessary to enforce this chapter or for other appropriate purposes. When the office receives a complaint, it may investigate potential violations regarding all employees at the employer's worksite in order to protect the identity of any employee identified in the complaint and to determine whether a pattern of violations has occurred.

(2) The Office's investigation shall be conducted in an objective and impartial manner.

(3) Where the director has reason to believe that a violation has occurred, the director may order any appropriate temporary or interim relief to mitigate the violation or maintain the status quo pending the completion of a full investigation or hearing, including but not limited to a deposit of funds or bond sufficient to satisfy a good-faith estimate of wages, interest, damages, and penalties due. A respondent may appeal any such order in accordance with the rules and regulations promulgated by the Office.

(4) An employer must post or otherwise notify its employees that the Office is conducting an investigation, using a form provided by the Office and displaying it on-site, in a conspicuous and accessible location, and in English and any and all other languages of the employee(s) at the particular workplace. If display of form is not feasible, including situations when the employee works remotely or does not have a regular workplace, employers shall provide the form on an individual basis in the employee's primary language in physical or electronic format that is reasonably conspicuous and accessible. Such notice shall state that any investigation conducted by the office is done in compliance with chapter 2-173 of this code known as the "Welcoming City Ordinance."

(5) Within 5 business days of an investigation being opened, the office shall post on its website a list of the employers under investigation. The status of these listings shall be updated to reflect the current status of the investigation at least every 30

the director of the cause of his intended removal. Within ten days after receipt of the notice, the director may file with the city council a request for hearing on the cause for removal. If no such request is made within ten days, the director shall be deemed to have resigned his office as of the tenth day after receipt of the notice of intended removal. If such a request is made, the city council shall convene a hearing on the cause for removal of the director, at which the director may appear, be represented by counsel and be heard. The hearing shall be convened within ten days after receipt of the request therefor and conclude within 14 days thereafter. The mayor's notice of intended removal shall constitute the charge against the director. Removal of the director for cause after the hearing shall require the affirmative vote of a majority of the members of the city council then holding office.

- (c) The director, in the performance of his or her functions, powers and duties, including but not limited to those functions, powers and duties pursuant to subdivision a of this section, shall be authorized to receive complaints, conduct investigations in response to complaints or upon his or her initiative, hold public and private hearings, administer oaths, take testimony, serve subpoenas, receive evidence, mediate disputes, and to receive, administer, pay over and distribute monies collected in and as a result of actions brought for violations of any law the director is empowered to enforce. The director shall have the power to promulgate rules necessary to carry out such functions, powers, and duties.
- (d) The director shall possess such powers in addition to any other powers that may be assigned to him or her, pursuant to any other provision of law, by the mayor.
- (e) No later than February 15, 2020, and no later than every February fifteenth thereafter, or at any shorter time interval deemed appropriate by the director, the director shall post on the office's website the following information for the prior calendar year regarding enforcement of chapter 1-24 and 4-4-320(a)(1) of this code:
 - (1) the number of complaints against employers filed with the office;
 - (2) the number of cases opened by the office;
 - (3) the number of employers cited for violations and the business information and identities of said employers;
 - (4) the number of repeat offenders
 - (5) the number of employees receiving their owed wages
 - (6) the amount collected from any judgements
 - (7) the results of each enforcement action undertaken by the director;
 - (8) the number and identity of all employers who have settled disputes prior to a finding; and
 - (9) such other information as the director may deem appropriate.
- (f) The Office shall have the power to investigate violations of chapters 1-24 or 4-4-320(a) of this code by any respondent. The Office shall initiate an investigation pursuant to rules issued by the director including, but not limited to, situations when the director has reason to believe that a violation has occurred or will occur, or when circumstances show that violations are likely to occur within a class of businesses because the

days. The complainant and employer shall be notified of status every 30 days after the opening of an investigation, pursuant to rules issued by the director.

- i. Except when there is an agreed upon settlement stating otherwise, the director shall issue a written determination with findings of fact resulting from the investigation and statement of whether a violation of the chapters enforced by the office has or has not occurred based on a preponderance of the evidence before the director.
- ii. If the director determines that there is no violation of the chapters enforced by the ordinance, the director shall issue a "Determination of No Violation" with notice of an employee or other person's right to appeal the decision, subject to the rules promulgated by the Director.
- iii. If the director determines that a violation of the chapters has occurred, the Director shall issues a "Director's Order" that shall include a notice of violation identifying the violation or violations. The Director's Order shall state with specificity the amounts due for any penalties including payment of unpaid wages, liquidated damages, civil penalties, penalties payable to aggrieved parties, and fines. The Director's Order will give notice to the employer on their right to appeal.
- iv. The director shall complete investigations within 60 days of their opening. The office's website shall be updated within 5 business days of the issuance of any "Determination of No Violation" or "Director's Order."
- v. If the director finds that an employer or other entity has violations that warrant revocation of their business license under 4-4-320(a)(1) or 4-4-320(a)(3), he shall provide written notice to the Commissioner of Business Affairs and Consumer Protection of such violations.
- vi. If the director finds that an employer or other entity is ineligible for city transactions under 2-92-320(a)(6), he shall provide written notice to the Chief Procurement Officer of such violations.

(6) The Office's investigation must commence within three years of the alleged violations, provided that, if there is evidence that the employer concealed the violation or in any way misled his or hers employee(s) as to the employer's or employee's rights or responsibilities under the relevant ordinance, then the Office's investigation must commence within three years of when the employee or the Office discovered, or reasonably should have discovered, the alleged violation. Where such violation is continuing, the investigation must commence within three years of the last occurrence or discovery of the violation. To the extent permitted by law, the applicable statute of limitations for civil actions is tolled during any investigation under this chapter and any administrative enforcement proceeding under this chapter based upon the same facts. For purposes of this chapter:

- i. The Office's investigation begins on the earlier date of when the Office receives a complaint from a person under this chapter, or the Office opens an investigation under this chapter.
- ii. The Office's investigation ends when the Office issues a final order concluding the matter and any appeals have been exhausted; the time to

file any appeal has expired; or the Office notifies the respondent in writing that the investigation has been otherwise resolved.

- (h) The Office shall establish an education and outreach program, funded in the annual appropriation ordinance, in partnership with community-based organizations to conduct education and outreach to employees and employers about their rights and obligations under the chapters enforced by the office.
- (i) To the extent allowable by law, civil penalties and fines shall be allocated to the Office and shall be used to offset the costs of implementing and enforcing this chapter. Not less than fifty percent (50%) of such funds shall be earmarked for the funding of the community-based outreach program provided for in this Section.
- (j) Upon a determination of liability against an employer, in addition to the fines and penalties described herein, the employer shall be barred from bidding for additional city contracts for a period of one year.

Andrea M. Valencia

Ameya Pawar
Pat Dowell
Callie Cochran
James Caplan
Paul Lee
Al Mell

Ameya Pawar
Ameya Pawar
Alderman, 47th Ward

Pat Dowell
Pat Dowell, 3rd

Callie Cochran
Callie Cochran 20

James Caplan
James Caplan 46

Paul Lee
Paul Lee 50

Al Mell
Al Mell 33

Bob Walker
Bob Walker 16

Paul Lee
Paul Lee 13

Pat Dowell
Pat Dowell 12

Bob Walker
Bob Walker 42

Robert Hall
Robert Hall 26

Carrie Austin
Carrie Austin 34

Max Hall
Max Hall 8th

Patrick J. O'Connor
Patrick J. O'Connor
Alderman, 40th Ward

Joseph A. Moore
Joseph A. Moore 49

Verul Curtis
Verul Curtis 18

Scott Rodriguez
Scott Rodriguez

Maty Zuni
Maty Zuni

Scott Rodriguez
Scott Rodriguez

Maty Zuni
Maty Zuni

Scott Rodriguez
Scott Rodriguez

Maty Zuni
Maty Zuni

Pat Lee

Pat Lee

15
19

13

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Chicago City Council Co-Sponsor Addition/Change

Document No. O2018-3286

Subject: Amendment of Municipal Code Chapter 2-25 by adding new Section 2-25-035 to establish Office of Labor Standards

Please Add or Change the Co-Sponsor As Shown Below.



Alderman Gilbert Villegas (36 Ward)

Alderman _____ (_____ Ward)

Alderman _____ (_____ Ward)

Alderman _____ (_____ Ward)

Alderman _____ (_____ Ward)

2018 APR 24 PM 12:34
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Please Add or Change the Co-Sponsor As Shown Below.

Alderman _____ (_____ Ward)

Alderman _____ (_____ Ward)

Alderman _____ (_____ Ward)

Alderman _____ (_____ Ward)

Alderman _____ (_____ Ward)

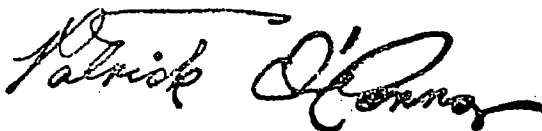
Date Filed: _____

Signature: _____

Principal Sponsor

Final copies to be filed with:

- Chairman of Committee to which legislation was referred
- City Clerk



Chairman,
Committee on Workforce
Development and Audit

4-20-18

Date