



City of Chicago



O2014-9260

Office of the City Clerk

Document Tracking Sheet

Meeting Date: 11/5/2014

Sponsor(s): O'Connor (41)
Tunney (44)
O'Shea (19)

Type: Ordinance

Title: Amendment of Municipal Code Sections 2-25-050, 2-92-320, 2-92-610 and adding new Chapter 1-24 regarding Chicago minimum wage

Committee(s) Assignment: Committee on Workforce Development and Audit

ORDINANCE

WHEREAS, The City of Chicago is a home-rule unit of government under Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois and, as such, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, Promoting the welfare of those who work within the City's borders is an endeavor that plainly meets this criterion; and

WHEREAS, After years of inaction by the United States Congress, it is time for cities and states to lift families out of poverty and stimulate the economy by raising the minimum wage; and

WHEREAS, Enacting a minimum wage for workers in Chicago that exceeds the state minimum wage is entirely consistent with the Illinois General Assembly's finding that it "is against public policy for an employer to pay to his employees an amount *less* than that fixed by" the Illinois Minimum Wage Law, 820 ILCS 105/2; and

WHEREAS, Rising inflation has outpaced the growth in the minimum wage, leaving the true value of Illinois's current minimum wage of \$8.25 per hour 32% below the 1968 level of \$10.71 per hour (in 2013 dollars); and

WHEREAS, Although the current state minimum wage for tipped employees is \$4.95 an hour, tipped employees in the Chicago region earn, on average, \$10.50 an hour once tips are factored into their income; and

WHEREAS, As the value of wages decline, the Great Recession has brought more families to the brink of economic collapse – according to the U.S. Census, 22.1% of Chicagoans live below the poverty level, compared to 13.7% of the Illinois population and 14.9% of the national population; and

WHEREAS, In Chicago, rent as a percentage of income has risen to 31%, from a historical average of 21%, and, according to U.S. Commerce Department data, Chicagoland is the only metropolitan region in Illinois that ranks above the national average in cost-of-living expenses; and

WHEREAS, The increasing unaffordability of life in Chicago for so many of its residents illustrates the profound degree of wage inequality that President Barack Obama has described as "the defining issue of our time;" now, therefore,

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

SECTION 1. The foregoing recitals are hereby incorporated as the findings of the City Council.

SECTION 2. Section 2-25-050 of the Municipal Code of Chicago is hereby amended by deleting the language stricken and inserting the language underscored, as follows:

2-25-050 Powers and duties of the department.

(Omitted text is not affected by this ordinance)

(b) Powers and duties of the commissioner and the department. The powers and duties of the commissioner and department shall be as follows:

(Omitted text is not affected by this ordinance)

(19) To supervise the investigation, execution, and enforcement of the Chicago Minimum Wage Ordinance, Chapter 1-24 of this Code, the Toy Safety Ordinance, Chapter 7-36 of this Code, and the Condominium Ordinance, Chapter 13-72 of this Code, and any other ordinance administered or enforced by the department, including all rules or regulations pertaining thereto or promulgated thereunder;

(Omitted text is not affected by this ordinance)

SECTION 3. Section 2-92-320 of the Municipal Code of Chicago is hereby amended by deleting the language stricken and inserting the language underscored, as follows:

2-92-320 Ineligibility for city transactions – Other offenses.

(a) No person or business entity shall participate in a transaction as defined herein, and may have its current transactions permanently or temporarily suspended or canceled, if that person or business entity:

(Omitted text is not affected by this ordinance)

(5) has violated any regulation promulgated by the chief procurement officer that includes ineligibility as a consequence of its violation; or

(6) has committed, within a 24-month period, three or more violations of Chapter 1-24 of this Code.

(Omitted text is not affected by this ordinance)

SECTION 4. Section 2-92-610 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

2-92-610 Contracts requiring a base wage.

(Omitted text is not affected by this ordinance)

B. Every contract of every eligible contractor shall contain a provision or provisions stipulating the wages required to be paid to the employees listed under paragraph A.1., and each such contract shall further contain provisions obligating the contractor or subcontractor of such contractor to pay its employees on work thereunder not less than the base wage, or the minimum hourly wage required under chapter 1-24 of this Code, whichever is greater.

(Omitted text is not affected by this ordinance)

SECTION 5. Title 1 of the Municipal Code of Chicago is hereby amended by adding a new chapter 1-24, as follows:

CHAPTER 1-24

THE CHICAGO MINIMUM WAGE ORDINANCE

1-24-010 Definitions.

For purposes of this chapter, the following definitions apply:

"Commissioner" means the commissioner of business affairs and consumer protection.

"Covered Employee" means any Employee who is not subject to any of the exclusions set out in Section 1-24-050 below, and who, in any particular two-week period, performs at least two hours of work for an Employer while physically present within the geographic boundaries of the City. For purposes of this definition, time a person spends traveling in the City that is uncompensated commuting time, or that is compensated time working time, but unrelated to deliveries, sales calls, or other business activity taking place within the City, shall not constitute work while physically present within the geographic boundaries of the City.

"Employee" means any individual suffered or permitted to work by an Employer in any Occupation.

"Employer" means any individual, partnership, association, corporation, limited liability company, business trust, or any person or group of persons that gainfully employs at least one Covered Employee. To qualify as an Employer, such individual, group, or entity must: (1) be subject to one or more of the license requirements in Title 4 of this Code; and/or (2) maintain a business facility within the geographic boundaries of the City.

"Fair Labor Standards Act" means the United States Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq., in force on the effective date of this chapter and as thereafter amended.

"Minimum Wage Law" means the Illinois Minimum Wage Law, 820 ILCS 105/1 et seq., in force on the effective date of this chapter and as thereafter amended.

"Sister Agency" means the Chicago Public Schools, the Chicago Park District, the Chicago Transit Authority, the City Colleges of Chicago, the Chicago Housing Authority, and the Public Building Commission.

"Subsidized Temporary Youth Employment Program" means any publicly subsidized summer or other temporary youth employment program through which persons aged 24 or younger are employed by, or engaged in employment coordinated by, a nonprofit organization or governmental entity.

"Subsidized Transitional Employment Program" means any publicly subsidized temporary employment program through which persons with unsuccessful employment histories and/or members of statistically hard-to-employ populations (such as formerly homeless persons, the long-term unemployed, and formerly incarcerated persons) are provided temporary paid employment and case-managed services under a program administered by a nonprofit organization or governmental entity, with the goal of transitioning program participants into unsubsidized employment.

"Wage" means compensation due an Employee by reason of his employment.

1-24-020 Minimum Hourly Wage.

Except as provided in Sections 2-92-610, 1-24-030, and 1-24-040 of this Code, every Employer shall pay no less than the following Wages to each Covered Employee for each hour of work performed for that Employer while physically present within the geographic boundaries of the City:

(a) Beginning on January 1, 2015, the greater of: (1) the minimum hourly Wage set by the Minimum Wage Law; (2) the minimum hourly Wage set by Fair Labor Standards Act; or (3) \$8.85 per hour.

(b) Beginning on January 1, 2016, the greater of: (1) the minimum hourly Wage set by the Minimum Wage Law; (2) the minimum hourly Wage set by Fair Labor Standards Act; or (3) \$9.45 per hour.

(c) Beginning on January 1, 2017, the greater of: (1) the minimum hourly Wage set by the Minimum Wage Law; (2) the minimum hourly Wage set by Fair Labor Standards Act; or (3) \$10.10 per hour.

1-24-030 Gratuities.

Every Employer of a Covered Employee engaged in an occupation in which gratuities have customarily and usually constituted and have been recognized as part of the remuneration for hire purposes is entitled to an allowance for gratuities as part of the hourly wage provided in Section 1-24-020 in amount equal to the amount allowed under the Minimum Wage Law.

1-24-040 Overtime compensation.

The Wages set out in Sections 1-24-020 are subject to the overtime compensation provision in the Minimum Wage Law, except the definitions of "Employer" and "Covered Employee" in this Ordinance shall apply.

1-24-050 Exclusions.

This chapter shall not apply to hours worked:

(a) By any person subject to subsection 4(a)(2) of the Minimum Wage Law, with the exception that the categories of Employees described in subsections 4(a)(2)(A) and 4(a)(2)(B) of the Minimum Wage Law shall be entitled to the Wages described in Section 1-24-020.

(b) By any person subject to subsection 4(a)(3), subsection 4(c), subsection 4(d), subsection 4(e), Section 5, or Section 6 of the Minimum Wage Law.

(c) For any governmental entity other than the City, a category that, for purposes of this chapter, includes, but is not limited to, any Sister Agency, any unit of local government, the Illinois state government, and the government of the United States, as well as any other federal, state, or local governmental agency or department;

(d) For any Subsidized Temporary Youth Employment Program; or

(e) For any Subsidized Transitional Employment Program.

1-24-060 Application to Collective Bargaining Agreements.

Nothing in this chapter shall be deemed to interfere with, impede, or in any way diminish the right of employees to bargain collectively with their employers through representatives of their own choosing in order to establish wages or other conditions of work in excess of the applicable minimum standards of the provisions of this chapter. The requirements of this chapter may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms.

1-24-070 Notice and Posting.

Every Employer shall post in a conspicuous place at any facility where any Covered Employee works that is located within the geographic boundaries of the City a notice advising the Covered Employee of the current minimum Wages under this chapter, and of his rights under this chapter. The commissioner shall prepare and make available a form notice that satisfies the requirements of this Section 1-24-070.

1-24-080 Retaliation Prohibited.

It shall be unlawful for any Employer to discriminate in any manner or take any adverse action against any Covered Employee in retaliation for exercising any right under this chapter, including disclosing, reporting, or testifying about any violation of this chapter or regulations promulgated thereunder.

1-24-090 Enforcement – Regulations.

The department of business affairs and consumer protection shall enforce this chapter, and the commissioner is authorized to adopt regulations for the proper administration and enforcement of its provisions.

1-24-100 Violation – Penalty.

Any Employer who violates this chapter or any regulation promulgated thereunder shall be subject to a fine of not less than \$500.00 nor more than \$1,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply.

1-24-110 Private Cause of Action.

If any Covered Employee is paid by his Employer less than the Wage to which he is entitled under this chapter, the Covered Employee may recover in a civil action two times the amount of any such underpayments, together with costs and such reasonable attorney's fees as the court allows. An agreement by the Covered Employee to work for less than the Wage required under this chapter is no defense to such action.

SECTION 6. Section 4-4-320 of the Municipal Code of Chicago is hereby amended by deleting the language struck through and by adding the language underscored, as follows:

4-4-320 License denial, revocation, or suspension for certain offenses.

(a) The commissioner, for good and sufficient cause, may deny an application for any license issued under this Title 4 if, ~~during the 5-year period prior to the date of the application, the applicant admitted guilt or liability or has been found guilty or liable in any judicial or administrative proceeding of committing or attempting to commit:~~

(1) during the 5-year period prior to the date of the application, the applicant admitted guilt or liability or has been found guilty or liable in any judicial or administrative proceeding of committing or attempting to commit a wilful violation, or two or more violations which do not include a wilful violation, of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1, or any other federal or state law regulating the payment of wages; or

(2) during the 5-year period prior to the date of the application, the applicant admitted guilt or liability or has been found guilty or liable in any judicial or administrative proceeding of committing or attempting to commit a violation of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 or the Collection Agency Act, 225 ILCS 425/1, or any other federal or state law regulating the collection of debt.; or

(3) during the 24-month period prior to the date of the application, the applicant admitted guilt or liability or has been found guilty or liable in any judicial or administrative proceeding of committing three or more violations of Chapter 1-24 of this Code.

(Omitted text is not affected by this ordinance)

SECTION 7. This ordinance shall take effect 10 days after its passage and publication.

Mary O'Connell 4/1
John J. ... 4x

Mary O'Connell (19)