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Legislation Details (With Text)

File #: SO2018-4246

Type: Ordinance **Status:** Passed

File created: 5/23/2018 **In control:** City Council

Final action: 5/23/2018

Title: Amendment of Municipal Code Title 2 by adding new Sections 2-74-085 and 2-92-385 regarding salary and wage histories, and gender pay equality

Sponsors: Burke, Edward M., Laurino, Margaret, O'Connor, Patrick, Foulkes, Toni, Solis, Daniel, Mell, Deborah, Harris, Michelle A., Smith, Michele, Austin, Carrie M., Mitts, Emma, Silverstein, Debra L., Santiago, Milagros, Dowell, Pat

Indexes: Ch. 74 Dept. of Human Resources, Ch. 92 Dept. of Purchases, Contracts & Supplies

Attachments: 1. SO2018-4246.pdf

Date	Ver.	Action By	Action	Result
5/23/2018	1	City Council	Passed	Pass
5/23/2018	1	Committee on Finance	Substituted in Committee	
5/23/2018	1	Committee on Finance	Recommended to Pass	
5/23/2018	1	Committee on Finance	Direct Introduction	

AMENDED **SUBSTITUTE ORDINANCE**

WHEREAS, the City of Chicago is a home rule unit of government pursuant to the 1970 Illinois Constitution, Article VII, Section 6(a); and

WHEREAS, pursuant to its home rule power, the City of Chicago may exercise any power and perform any function relating to its government and affairs including the power to regulate for the protection of the public health, safety, morals, and welfare; and

WHEREAS, a key City interest is ensuring economic parity and opportunities unencumbered by discriminatory practices; and

WHEREAS, it is industry standard to ask prospective employees their past salary to help determine the salary amount that will be offered; and

WHEREAS, women in Illinois comprise nearly half of the workforce but earn, on average, seventy-nine cents for each dollar that a white male earns, and women of color earn even less; and

WHEREAS, as Wendy Pollack, Director of the Women's Law and Policy Initiative at the Sargent Shriver National Center on Poverty Law notes, "employers asking job applicants for their salary history only perpetuates the cycle of wage inequality, which follows women and people of color throughout their careers and into retirement;" and

WHEREAS, in a call for pay equity, House Bill 4163 was introduced in the Illinois State House by Representative Anna Moeller and is pending legislative action; and

WHEREAS, in the fall of 2017 a similar bill passed through the Illinois General Assembly and was ultimately vetoed by Governor Rauner; and

WHEREAS, where the State has been unsuccessful in efforts to remedy the gender wage gap, it is incumbent upon Chicago to undertake measures needed to provide some remedy to its residents: and

WHEREAS, on April 10, 2018, the Mayor Rahm Emanuel reaffirmed his commitment to gender pay equality when he passed an executive order prohibiting the City from asking prospective employees about their pay history: and

WHEREAS, recognizing this momentous step, the City Council of the City of Chicago seeks to imprint the City's dedication to ensuring gender parity into its code of laws; and

WHEREAS, as further evidence of its unwavering commitment to bridging the gender wage gap, the City also seeks to elevate the standards for those with whom it does business; now, therefore,

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

SECTION 1. The above recitals are expressly incorporated herein and made part hereof as though fully set forth herein.

SECTION 2. Chapter 2-74 of the Municipal Code of Chicago is hereby amended by inserting a new Section 2-74-085 as follows:

2-74-085. Salary and Wage Histories

(a) Requirements.

- 1) No City department shall screen job applicants based on their wage or salary history, including by requiring that an applicant's prior wages, including benefits or other compensation, satisfy minimum or maximum criteria, or requesting or requiring that an applicant disclose prior wages or salary:
 - i) as a condition of being interviewed,
 - ii) as a condition of continuing to be considered for an offer of employment,
 - iii) as a condition of an offer of employment or an offer of compensation, or
 - iv) as a condition of employment.
- 2) No City department shall seek the wage or salary history, including benefits or other compensation, of any job applicant from any current or former employer.

(b) Rules. The commissioner of human resources, within thirty (30) days of the enactment of

this ordinance, shall prescribe uniform procedures for pursuing complaints filed under this Section.

SECTION 3. Chapter 2-92 of the Municipal Code of Chicago is hereby amended by inserting a new Section 2-92-385 as follows:

2-92-385. Contracts- Gender Pay Equality- Non-disclosure of salary history

(a) Definitions. For the purpose of this section, the following terms shall have the following meanings:

"Contract" means any agreement or transaction pursuant to which a contractor (i) receives city funds in consideration for services, work or goods provided or rendered, including contracts for legal or other professional services, or (ii) pays the city money in consideration for a license, grant or concession allowing it to conduct a business on city premises, and includes any contracts not awarded or processed by the Department of Procurement Services.

"Contractor*" means the person to whom a contract is awarded.

b) *Requirements.*

- 1) No contractor, or entity awarded a contract with the City, or any renewal or extension thereof, shall screen job applicants based on their wage or salary history, including by requiring that an applicant's prior wages, including benefits or other compensation, satisfy minimum or maximum criteria; or by requesting or requiring that an applicant disclose prior wages or salary:
 - i) as a condition of being interviewed,
 - ii) as a condition of continuing to be considered for an offer of employment,
 - iii) as a condition of an offer of employment or an offer of compensation, or
 - iv) as a condition of employment.
- 2) No contractor shall seek the wage or salary history, including benefits or other compensation, of any job applicant from any current or former employer.
- 3) Each contractor, or entity awarded a contract with the City, or any renewal or extension thereof, must adopt a policy that includes the same prohibitions set forth in subsections 1) and 2) of this subsection (b).

c) Rules. The chief procurement officer is hereby authorized to do the following:

- 1) The chief procurement officer shall require, at the time of submission of a bid or at any time during the term of the contract, that the bidder or contractor submit an affidavit and any other supporting documents demonstrating that the bidder has a policy conforming to the requirement in subsection 3)

paragraph (b), above:

- 2) investigate all contractors' compliance with this Section;
- 3) provide the names and business addresses of substantial owners and contractors to persons seeking to enforce this Section, and their legal representatives, to the extent allowed by law, on the condition that such information be used solely for the purpose of assisting enforcement; provided that the names and identifying information of persons seeking to enforce this Section shall be deemed confidential; and
- 4) to promulgate regulations relating to the operation and enforcement of this section.

d) Where a contract is entered into by an agent of the city other than the chief procurement officer, that agent is authorized to take and shall take the actions described above for the chief procurement officer in subsection (c) above.

e) Non-Compliance. If a contractor violates the provisions of this section, that contractor may be deemed ineligible to contract with the City; any contract, extension, or renewal thereof awarded in violation of this Section may be voidable at the option of the City. Provided, however, that upon a finding of a violation by a prime contractor, no contract shall be voided, terminated, or revoked without consideration by the Chief Procurement Officer or other contracting agent of the City of such action's impact on the prime contractor's MBE or WBE subcontractors. For purposes of this section, "MBE" and "WBE" have the meanings ascribed to those terms in Sections 2-92-420 and 2-92-670, and "prime contractor" means a person who is the primary contractor on a contract and does not include any subcontractors.

f) Fines. Any contractor who violates this subsection shall be subject to a fine not less than \$500 and not more than \$1,500 for each offense.

g) Severability. If any provision, clause, sentence, paragraph, or part of this Section or application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this Section and the application of such provision to other persons or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof already involved in the controversy in which such judgment has been rendered and to the person and circumstances affected thereby.

Edward M. Burke Alderman, 14th Ward
Alderman, 39th Ward

SECTION 4. This ordinance shall be in full force and effect 50 days after passage and

CHICAGO May 23, 2018 To the President

and Members of the City Council:

Your Committee on Finance having had under consideration an amended substitute ordinance concerning the authority to amend Chapters 2-74 and 2-92 of the Municipal Code of Chicago regarding salary history and equal pay provisions in hiring.

Direct Introduction

Having had the same under advisement, begs leave to report and recommend that your Honorable Body pass the proposed Amended Substitute Ordinance Transmitted Herewith.

**This recommendation was concurred in by
of members of the committee with**

Chairman