

AN ACT

*Codification
District of
Columbia
Official Code*

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To require payment of a living wage by recipients of certain District contracts and government assistance; to create a Job Opportunity Bank to increase job opportunities for low-income, skills-deficient District residents; to amend the First Source Employment Agreement Act of 1984 to expand coverage; and to amend the Displaced Workers Protection Act of 1994 to extend protection to certain security guards.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Way to Work Amendment Act of 2006”.

TITLE I. LIVING WAGE.

Sec. 101. Short title.

This title may be cited as the “Living Wage Act of 2006”.

Sec. 102. Definitions.

For purposes of this act, the term:

(1) “Affiliated employee” means any individual employed by a recipient who received compensation directly from government assistance or a contract with the District of Columbia government (“District Government”), including any employee of a contractor or subcontractor of a recipient who performs services pursuant to government assistance or contract.

(2) “Contract” means a written agreement between a recipient and the District government.

(3) “Government assistance” means a grant, loan, or tax increment financing that results in a financial benefit from an agency, commission, instrumentality, or other entity of the District government.

(4) “Living wage” means an hourly wage rate of \$11.75 per hour, regardless of whether health care benefits are provided.

(5) “Recipient” means any individual, sole proprietorship, partnership, association, joint venture, limited liability company, corporation, or any other form of business that enters into a contract with or receives government assistance from the District government.

Sec. 103. Living wage payment.

(a) All recipients of contracts or government assistance in the amount of \$100,000 or more shall pay their affiliated employees no less than the living wage. All subcontractors of recipients of these contracts that receive funds of \$15,000 or more shall pay their affiliated

employees no less than the living wage; provided, that this receipt of funds is from the contract funds received by the recipient from the District government. All subcontractors of recipients of government assistance shall pay their affiliated employees the living wage if the subcontractor receives \$50,000 or more from a recipient; provided, that this receipt of funds is from government assistance received by the recipient from the District of Columbia.

(b) The living wage shall be paid to employees of the District government commencing March 1, 2006; provided, that the wage of any such employee established under an existing collective bargaining agreement or by the recipients of a federal law or grant shall continue as long as that agreement, law, or grant remains in effect.

(c) The Department of Employment Services shall adjust this rate for the previous calendar year, on an annual basis by the annual average increase, if any, in the Consumer Price Index for all Urban Consumers in the Washington Metropolitan Statistical Area published by the Bureau of Labor Statistics of the United States Department of Labor up to 3%. This adjustment shall begin the 1st of January occurring at least one year following the enactment date of this title. The Department shall calculate the adjustment to the nearest multiple of \$.05 and shall publish the adjusted rate not later than March 1 of each year. Any annual adjustment in excess of 3% shall be approved by the Mayor.

(d) The Mayor shall publish any adjustment to the living wage rate in the District of Columbia Register no later than 45 days after the rate is adjusted.

(e) Funding for the implementation of this title shall be subject to annual appropriations.

Sec. 104. Contents of contract; notice to subcontractors.

(a) All contracts and government assistance subject to this title shall include the requirements under sections 103, 106, 107, and 108.

(b) Each recipient of a contract or government assistance shall notify each subcontractor subject to this title of the requirements as provided under subsection (a) of this section. The notification shall be in writing.

Sec. 105. Exemptions.

The following types of contracts, government assistance, and employment shall be exempt from the requirement of this title:

(1) Contracts or other agreements that are subject to wage level determinations required by federal law;

(2) Existing and future collective bargaining agreements, provided, that the future collective bargaining agreement results in the employee being paid no less than the established living wage;

(3) Contracts for electricity, telephone, water, sewer or other services delivered by a regulated utility;

(4) Contracts for services needed immediately to prevent or respond to a disaster or eminent threat to public health or safety declared by the Mayor;

(5) Contracts or other agreements awarded to recipients that provide trainees

with additional services including, but not limited to, case management and job readiness services; provided, that the trainees do not replace employees subject to this title;

(6) An employee under 22 years of age employed during a school vacation period, or enrolled as a full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per

week; provided, that he or she does not replace employees subject to this title;

(7) Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District;

(8) Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S. C. § 501(c)(3));

(9) Medicaid provider agreements for direct care services to Medicaid recipients; provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for mentally retarded persons, as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501); and

(10) Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.”.

Sec. 106. Notice.

Each recipient and subcontractor of a recipient shall provide to each affiliated employee covered by this title a fact sheet concerning the payment and enforcement requirements under sections 103 and 108, and shall also post a notice concerning these requirements in a conspicuous site in its place of business. The Mayor shall provide the fact sheet and notice to each recipient which shall include:

- (1) Notice of the living wage hourly rate;
- (2) A summary of the requirements under sections 103 and 107; and
- (3) Information concerning the enforcement of this title including the name, address, and telephone number of the individual or entity to which complaints of noncompliance should be made.

Sec. 107. Records.

All recipients and subcontractors shall retain payroll records created and maintained in the regular course of business under District of Columbia law for a period of at least 3 years from the payroll date for employees subject to section 103.

Sec. 108. Enforcement.

The payment of wages required under this title shall be consistent with and subject to the provisions of An Act To provide for the payment and collection of wages in the District of Columbia, approved August 3, 1956 (70 Stat. 976; D.C. Official Code § 32-1301 *et seq.*).

Sec. 109. Waiver.

The Mayor may exempt a recipient from the requirements of this title, subject to approval by the Council. Any entity requesting a waiver shall be required to demonstrate that the provisions of this title will pose a significant financial hardship on the recipient that will result in the layoff of a substantial number of employees, substantial downsizing, or the inability to meet payroll. All requests for waivers shall be written and state the rationale for the request. Any waiver granted by the Mayor shall be subject to Council review and approval, by act.

Sec. 110. Rules

The Mayor shall issue rules to implement the provisions of this title.

Sec. 111. Applicability.

(a) The requirements of this title shall apply to contracts and agreements for government assistance (“agreement”) entered into after the effective date of this title, and shall not apply to any existing agreement entered into prior to that date. Where an agreement is renewed or extended after that date, that renewal or extension shall be deemed a new agreement and shall trigger coverage under this title if the terms of the renewed or extended agreement otherwise meet the requirements for coverage under this title.

(b) Notwithstanding the requirements of section 105(9), a home care agency, community residence facility, or group home for mentally retarded persons shall not be required to pay a living wage until implementing rules are published in the District of Columbia Register and any necessary state plan amendments are approved.

TITLE II. JOB OPPORTUNITY BANK ESTABLISHMENT.

Sec. 201. Short title.

This title may be cited as the “Job Opportunity Bank Establishment Act of 2006”.

Sec. 202. Definitions.

For purposes of this title, the term:

(1) “Director” means the Director of the Department of Employment Services.

(2) “Grantee” means any person or entity that receives a grant from the District to provide workforce development services.

(3) “Job skills-deficient resident” means an individual resident of the District whose employment opportunities are restricted by deficiencies in education, work experience, work training, work skills, or the loss of certain occupations or industries from the economy of the District or the Washington Metropolitan Area and whose job skills deficiencies and residence is determined and certified by the Director.

(4) “Low-income District resident” means an individual resident of the District whose personal or family income in the previous 6 months on an annualized basis does not exceed 200% of the lower living standard income level and whose income and residence is certified by the Director.

(5) “Workforce Investment Council” means the body created pursuant to section 4 of the Workforce Implementation Act of 2000, effective July 18, 2000 (D.C. Law 13-150; D.C. Official Code §32-1603).

Sec. 203. Establishment and administration of the Job Opportunity Bank.

(a) There is established a Job Opportunity Bank for the purpose of providing grants and other forms of financial assistance to increase job opportunities for low-income District residents to upgrade their job skills and provide customized skills training for new and incumbent workers employed by District employers.

(b) The Job Opportunity Bank shall be subject to the general policy guidance and direction of the Workforce Investment Council.

(c) The Workforce Investment Council shall serve in an advisory capacity to the Mayor and the Director in matters pertaining to the operation and administration of the Job Opportunity Bank.

- (d) The Job Opportunity Bank shall be funded by annual appropriations.
- (e) The funds shall be administered by Director of the Department of Employment Services.
- (f) Subject to the availability of funds, the Director of the Department of Employment Services may fund applications for grants or other assistance.

Sec. 204. Eligibility for grants.

The following individuals and groups shall be eligible to receive grants or other assistance from the Job Opportunity Bank:

- (1) Low-income District residents;
- (2) Job skills-deficient residents;
- (3) District businesses, business coalitions, or nonprofit organizations partnered with District businesses or business coalitions seeking to hire low-income District residents or job skills-deficient residents and develop a workforce from those individuals; or
- (4) District businesses, business coalitions, or nonprofit organizations partnered with District businesses or business coalitions seeking to upgrade the skills of their current workforce, composed of at least 51% District residents, in order to maintain the employment of the current workforce.

Sec. 205. Grant applications and priorities.

- (a) Grant applications shall be made at the time and in the manner designated by the Director.
- (b) Grant applications shall include a detailed budget, cost benefit analysis, identifiable performance benchmarks, and a general description of the employment benefits to be derived by the recipient.
- (c) The Director shall accept simplified grant applications from District residents seeking basic employment or job training skills.
- (d) Grant applications made by District businesses, business coalitions and partnered-nonprofit organizations shall also include a proposed workforce development program model demonstrating an effective approach to increasing the employability of program participants or the retention of their current workforce and which is directly linked to existing or anticipated employment opportunities. Applications made pursuant to this subsection may be utilized to significantly enhance the skill levels and career opportunities of current employees who are residents of the District.
- (e) In evaluating grant applications for decisions as to funding, the Director shall give priority to those applications which the Director determines best serve low-income District residents or job skills-deficient residents in the following categories:
 - (1) Youths between 18 and 21 years of age;
 - (2) Recipients of Temporary Assistance to Needy Families;
 - (3) Dislocated workers;
 - (4) Ex-offenders;
 - (5) Veterans; and
 - (6) District residents deficient in job skills.
- (f) In determining whether to fund grant applications, the Director shall consider, in addition to the criteria set forth in subsections (d) and (e) of this section, the following:
 - (1) The amount of funds available in the Job Opportunity Bank;
 - (2) Available and reliable information concerning the current and future labor

market;

(3) Non-duplication of funding available through section 112 of the Workforce Investment Act of 1998, approved August 7, 1998 (112 Stat. 936; 29 U.S.C. § 2822) and other federal, state, or local job development and job training programs; and

(4) Any prior experience of the applicant with job training or workforce development programs.

Sec. 206. Grant agreements.

Each grantee shall, as a condition for the receipt of funds from the Job Opportunity Bank, enter into a grant agreement with the Director, the form and contents of which shall be specified by the Director, which shall at least contain the following:

(1) The name, address, and telephone number of any individual grant recipient;

(2) The name, address, telephone number, and identity of the corporate officers, principal owners, and registered agent of any incorporated grantee; and

(3) Acknowledgment by the recipient of the right of the Director to:

(A) Monitor expenditure of funds;

(B) Require reports from recipients regarding expenditures, progress, or performance in meeting identified benchmarks, and any other financial or operational information deemed necessary by the Director;

(C) Inspect the recipient's records to obtain the identified information;

and

(D) Acknowledgment by the recipient that the Director may curtail or cancel payment of funds from the Job Opportunity Bank if the recipient does not comply with the requirements of this section.

Sec. 207. Grantee performance evaluation.

(a) The Director shall monitor and evaluate the performance of grantees. The Director may terminate or modify grant agreements if the Director determines that a grantee's performance is not in accordance with the grant. Grantees that have their grants cancelled or modified may appeal the Director's action pursuant to section 11 of the District of Columbia Administrative Procedures Act, approved October 21, 1968 (82 Stat. 1209; D.C. Official Code § 2-510).

(b) The Mayor shall issue rules to implement this title. The rules shall be issued within 120 days of the effective date of this title.

TITLE III. FIRST SOURCE EMPLOYMENT AGREEMENT ENHANCEMENT.

Sec. 301. Short title.

This title may be cited as the "First Source Employment Agreement Amendment Act of 2006".

Sec. 302. The First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.01 *et seq.*), is amended as follows:

(a) Section 2(1) (D.C. Official Code § 2-219.01(1)) is amended to read as follows:

"(1) "Beneficiary" means:

"(A) The signatory to a contract executed by the Mayor which involves any District of Columbia government funds, or funds which, in accordance with a federal grant or otherwise, the District government administers, or the successful applicant for any street or

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alley closing pursuant to the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-201.01 *et seq.*), and which details the number and description of all jobs created by a government-assisted project for which the beneficiary is required to use the First Source Register;

“(B) A beneficiary of a District government economic development action including contracts, grants, loans, tax abatements, land transfers for public redevelopment, or tax increment financing that results in a financial benefit of \$100,000 or more from an agency, commission, instrumentality, or other entity of the District government, including a financial or banking institution which serves as the repository for \$1 million or more of District of Columbia funds.

“(C) A retail or commercial tenant that is a direct beneficiary of a District government economic development action, including contracts, grants, loans, tax abatements, land transfers for public redevelopment, or tax increment financing in excess of \$100,000; provided, that obligations imposed by this title shall apply only for 5 years following the commencement of the tenant’s initial lease date of the real estate. Developers of a government-assisted project with retail and commercial tenants that directly benefitted from that assistance shall require those tenants to sign an agreement stating that the tenants will adhere to the requirements of this act for 5 years following the commencement of the tenant’s initial lease date.

(b) A new section 4a is added to read as follows:

“Sec. 4a. Special hiring agreements.

“Whenever the Mayor determines that the goal of increasing employment opportunities for District residents may be better served by establishing hiring goals in specific job categories for specific government-assisted projects, the Mayor may enter into agreements with beneficiaries or their contractors and subcontractors to provide for increased hiring in specific job categories. Compliance with this agreement shall be deemed compliance with the requirements of this act. Non-compliance with this agreement shall be treated in the same manner as a violation of any other requirement of this act.

“(b) The Mayor may direct the Director of each District agency, the Chief Procurement Officer, or each District contracting officer to develop and report on performance goals for each District agency in furtherance of the objectives of this act.”.

TITLE IV. DISPLACED WORKERS PROTECTION.

Sec. 401. Short title.

This act may be cited as the “Displaced Workers Protection Amendment Act of 2006”.

Sec. 402. Section 2(a) of the Displaced Workers Protection Act of 1994, effective April 26, 1994 (D.C. Law 10-105; D.C. Official Code § 32-101(a)), is amended by adding a new paragraph (4) to read as follows:

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“(4) Employees hired by a contractor to perform security services in an office building, institution, or similar establishment; provided, that special police officers who are armed, and employees hired by a contractor to perform security services for the Board of Education or a public charter school shall not be included.”.

TITLE V. FISCAL IMPACT STATEMENT; EFFECTIVE DATE.

Sec. 501. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (84 Stat. 813; D.C. Official Code § 1-206.02 (c)(3)).

Sec. 502. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day of Congressional review as provided in section 602 (c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (84 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia