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Legislation Details (With Text)

File #: SO2018-3286

Type: Ordinance **Status:** Passed

File created: 4/18/2018 **In control:** City Council

Final action: 10/31/2018

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

Sponsors: Pawar, Ameya, O'Connor, Patrick, Burnett, Jr., Walter, Ramirez-Rosa, Carlos, King, Sophia D., Ervin, Jason C., Dowell, Pat, Cochran, Willie, Cappleman, James, Silverstein, Debra L., Mell, Deborah, Foulkes, Toni, Lopez, Raymond A., Moreno, Proco Joe, Solis, Daniel, Maldonado, Roberto, Munoz, Ricardo, Mitts, Emma, Hairston, Leslie A., Austin, Carrie M., Harris, Michelle A., Santiago, Milagros, Laurino, Margaret, Reilly, Brendan, Reboyras, Ariel, Moore, Joseph, Arena, John, Curtis, Derrick G., Taliaferro, Chris, Sadlowski Garza, Susan, Cardenas, George A., Waguespack, Scott, Quinn, Marty, Sawyer, Roderick T., Osterman, Harry, Sposato, Nicholas, Valencia, Anna M., Villegas, Gilbert

Indexes: Ch. 25 Dept. of Business Affairs & Consumer Protection

Attachments: 1. O2018-3286.pdf, 2. SO2018-3286.pdf

Date	Ver.	Action By	Action	Result
10/31/2018	1	City Council		
10/23/2018	1	Committee on Workforce Development and Audit	Substituted in Committee	
10/23/2018	1	Committee on Workforce Development and Audit	Recommended to Pass	
4/20/2018	1	Committee on Workforce Development and Audit	Add Co-Sponsor(s)	
4/18/2018	1	City Council	Referred	

Committee on Workforce

Development and

AuditSUBSTITUTE ORDINANCE

1- 24 WHEREAS, The City of Chicago has enacted ordinances, which are codified in Chapter 24 of its Municipal Code, raising the minimum wage and establishing paid sick leave; and

WHEREAS, More than 400,000 Chicagoans benefit from the protections that these ordinances provide; and

WHEREAS, The Department of Business Affairs and Consumer Protection ("Department") is responsible for enforcing these ordinances; and

WHEREAS, The Department will benefit from the addition of personnel and resources to enforce these ordinances in an efficient, timely and comprehensive manner; and

WHEREAS, Chicago's business community is well served when ordinances regulating that community are systematically and equitably enforced. Effective enforcement ensures that all employers are in compliance with the

law, and that no business obtains an unfair economic advantage, at the expense of other businesses, by failing to comply with the law; and

WHEREAS, Educating employers and employees about their rights and responsibilities under the law has been shown to increase both the efficiency and effectiveness of enforcement; now, therefore,,

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

SECTION 1. Chapter 2-25 of the Municipal Code of Chicago is hereby amended by inserting a new Article II, comprising Section 2-25-200, as follows:

Article II. OFFICE OF LABOR STANDARDS

2- 25-200 Office of Labor Standards

(a) Definitions. As used in this section:

"Chapter 1-24" means Chapter 1-24 of the Municipal Code of Chicago.

"Commissioner" means the Commissioner of Business Affairs and Consumer Protection or the Commissioner's designee.

"Covered employee" has the meaning ascribed to that term in Section 1-24-010.

"Department" means the Department of Business Affairs and Consumer Protection.

"Director" means the Director of the Office of Labor Standards or the Director's designee within the Office of Labor Standards.

"Office" means the Office of Labor Standards established pursuant to subsection (b) of this section.

(b) Office of Labor Standards - Establishment - Powers and Duties. There is hereby established within the Department of Business Affairs and Consumer Protection an office of the municipal government, which shall be known as the Office of Labor Standards. Such Office shall include a Director, who shall be appointed by the Commissioner, and such other assistants and employees as provided for in the annual appropriation ordinance. The duties of the Office of Labor Standards, and of its Director, shall be to:

(1) Promote Chicago's labor standards through outreach, education, technical assistance, and training for employers and employees;

(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:

(i) identify gaps in existing labor laws affecting employees and independent contractors within the City and within particular industries operating therein; and (ii) prioritize areas for improving working conditions and practices affecting employees and independent contractors within the City and within particular industries operating therein; and (iii) enforce, and improve the enforcement of, existing laws and rules, to the extent permitted by law, in order to improve working conditions and practices within the City and within particular industries operating therein;

(3) Plan, make recommendations, conduct research and develop programs for employer education, worker education and worker protection;

(4) Facilitate the exchange and dissemination of information pertaining to employer education, worker education and worker protection in consultation with City agencies, federal and State officials, businesses, employees, independent contractors, and not-for-profit organizations that promote employer education, worker education and worker protection;

(5) Recommend initiatives to enhance worker protection and improve labor standards for all Chicago workers;

(6) Administer and enforce Chapter 1-24 of this Code;

(7) Receive and assemble information identifying: (i) license applicants and licensees under Title 4 of this Code who, within the last five years, have admitted guilt or liability, or who have been found guilty or liable in judicial or administrative proceedings, of willful or repeated violations of the Illinois Wage Payment and Collection Act or of Chapter 1-24, for referral to the Commissioner for appropriate action under Section 4-4-320(a)(1), (a)(3) or (b)(1), as applicable; or (ii) persons or business entities that are ineligible to participate in city transactions under Section 2-92-320(a)(6) due to repeated violations of Chapter 1-24, for referral to the Chief Procurement Officer or other applicable department head for appropriate action under Section 2-92-320; and

(8) Perform any other duties or exercise any other powers that the Commissioner may reasonably require to implement this Article.

(c) Director - Duties pertaining to Chapter 1-24. In connection with subsection (b)(6) of this section, the Director, consistent with the requirements of due process of law and in accordance with rules duly promulgated by the Commissioner, is authorized to: (i) receive complaints, which shall be filed by an employee or other person on behalf of an employee, of alleged violations of Chapter 1-24 of this Code; (ii) mediate disputes in connection with such complaints, if appropriate; (iii) investigate such complaints, as appropriate, and make findings of fact in connection with such investigations; (iv) issue notices of violation, as appropriate, if, following an investigation, the Director determines that there is reasonable cause to believe that a violation of Chapter 1-24 has occurred; (v) provide for a hearing following the issuance of any such notice of violation; (vi) conduct hearings; (vii) administer oaths, take testimony, issue subpoenas, and receive evidence in connection with such investigations or hearings; and (viii) otherwise enforce Chapter 1-24. Any investigation conducted pursuant to this section shall be conducted in a fair and impartial manner. The name and other identifying information of the employee or person reporting a violation of Chapter 1-24 shall be kept confidential to the extent permitted by law unless such employee or person authorizes the Director in writing to disclose this information as the Director deems necessary or appropriate to enforce this section. The Director may investigate complaints in cases where the complainant is unknown or anonymous.

(d) Director - Recordkeeping and reporting - Required. No later than March 15, 2020, and on or before each March 15 thereafter, the Director shall post on the City of Chicago Office of Labor Standards website the following information pertaining to enforcement of Chapter 1-24 and Section 4-4-320(a)(1), (a)(3), and (b)(1):

(1) Number of complaints received by the Office alleging violations of Chapter 1-24;

(2) Number of investigations opened by the Office in connection with alleged violations

of Chapter 1-24;

- (3) Number of employers cited for violations of Chapter 1-24;
Results of each enforcement action initiated under Chapter 1-24;
- 3(5) Number of license applications denied by the Commissioner pursuant to Section 4-4-320(a)(1) and (a)(3) for violations of the Illinois Wage Payment and Collection Act or Chapter 1 -24, as applicable;
- (6) Number of licenses suspended or revoked by the Commissioner pursuant to Section 4-4-320(b)(1) for violations of the Illinois Wage Payment and Collection Act or Chapter 1-24, as applicable; and
- (7) Such other information as may be necessary or appropriate, as determined by the Commissioner in consultation with the Director.

Nothing in this subsection (d) shall prohibit the Director from posting the information described in items (1) through (7) of this subsection (d) at more frequent intervals than required herein.

(e) Commencement of action. Except as otherwise provided herein, any investigation conducted by the Office pursuant to this section shall commence within three years of the alleged violation of Chapter 1-24. Provided, however, that: (1) if evidence exists that the applicable employer concealed such violation or in any way misled employees as to the employer's or employee's rights or responsibilities under Chapter 1-24, such investigation shall commence within three years of the date on which the employee or Office discovered, or reasonably should have discovered, the alleged violation of Chapter 1 -24; (2) in the case of a continuing violation, the investigation shall commence within three years of the date of the last occurrence or discovery of the violation; and (3) the running of the applicable period for commencing an action under this section shall be tolled during the duration of any civil action brought by a covered employee pursuant to Section 1-24-110 to recover the amount of any underpayment of wages or unpaid sick time resulting from a violation of Chapter 1-24.

(f) Notification to Chief Procurement Officer - Required. Upon a determination of liability for any violation of Chapter 1-24, the Director shall report such fact to the Chief Procurement Officer for appropriate action under Section 2-92-320(a)(6), including but not limited to suspension or cancellation of the employer's current transactions with the City or debarment from doing business with the City.

(g) Annual report to City Council - Required. No later than June 1, 2020, and on or before June 1st of each year thereafter, the Director shall submit to the City Council Committee on Workforce Development and Audit, or to its successor committee, a written report describing the activities undertaken by the Office during the previous year to implement this section, along with recommendations for improving the efficient and effective enforcement of this section. The chairman of that committee may request the Commissioner or Director, or their respective designees, to appear at a hearing of the committee to explain and respond to questions about such annual report.

SECTION 2. Subject to an appropriation in the annual appropriation ordinance, this ordinance, following due passage and approval, shall take full force and effect on January 1,

2019.CITY COUNCIL October 31, 2018

To the President and Members of the City Council:

Your Committee on Workforce Development and Audit, to which was referred on April 18, 2018, an ordinance amending Municipal Code Chapter 2-25 by adding new Section 2-25-035 to establish the Office of Labor Standards, and to which a subsequent substitute ordinance was introduced directly into Committee on October 23, 2018, begs leave to recommend that your Honorable Body **DO PASS** the substitute ordinance submitted herewith.

This recommendation was concurred in by all members of the committee present.

Respectfully submitted,

Patrick J. O'Connor Chairman
Committee on Workforce Development & Audit