



# City of Philadelphia

City Council  
Chief Clerk's Office  
402 City Hall  
Philadelphia, PA 19107

**BILL NO. 110057**

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**Introduced February 3, 2011**

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**Councilmembers Reynolds Brown, DiCicco, Kenney, Sanchez, Tasco and Greenlee**

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**Referred to the  
Committee on Law and Government**

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## **AN ORDINANCE**

Amending Title 17 of The Philadelphia Code, entitled "Contracts and Procurement," to provide that certain City contractors must offer the same benefits to the life partners of their employees as are offered to the spouses of married employees, all under certain terms and conditions.

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. Title 17 of The Philadelphia Code is hereby amended to read as follows:

### TITLE 17. CONTRACTS AND PROCUREMENT.

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#### *CHAPTER 17-1900. EQUAL BENEFITS.*

*§ 17-1901. Definitions. For purposes of this Chapter, the following terms shall have the following meanings:*

- (1) "Employment benefits." Health insurance benefits, including health, vision and dental benefits.*
- (2) "Life Partnership." A life partnership as defined under Section 9-1106(2), or as otherwise established under Section 17-1902(3).*
- (3) "Life Partner." Each member of a life partnership.*

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(4) *“Service Contract.” A contract for the furnishing of services to or for the City, except where services are incidental to the delivery of goods. The term does not include any contract with a governmental agency.*

## § 17-1902. Equal Benefits.

(1) *To be eligible to enter into a Service Contract with the City for an amount payable to the contractor of \$250,000 or more, a contractor must extend the same employment benefits to life partners of its employees that the contractor extends to spouses of its married employees.*

(2) *Notwithstanding Section 17-1902(1), if a contractor’s existing agreement with its employment benefits provider does not permit the extension of employment benefits to the life partners of the contractor’s employees at the time the contractor enters into a Service Contract with the City, the contractor shall arrange for the extension of employment benefits to the life partners of its employees to be effective as soon as practicable, but in no case more than one year after the date of execution of the Service Contract. Provided, this subsection (2) shall not apply to a contractor that has had another City contract subject to the provisions of this Chapter within the five years immediately prior to the date of execution of the Service Contract.*

(3) *A contractor shall accept any of the the following as proof of a Life Partnership:*

(a) *Verification of the Life Partnership issued pursuant to Section 9-1106(2).*

(b) *Where an employee is not a City resident, presentation of proof that would meet the standard for verification under Section 9-1106(2)(b).*

(c) *An official document evidencing a marriage, civil union, domestic partnership, or the equivalent, under the laws of any state or country, and undertaken between a man and another man, or a woman and another woman. The word “man” includes any person who identifies as male, and the word “woman” includes any person who identifies as female.*

## § 17-1903. Mandatory Provisions; Certifications.

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(1) *In any bid or proposal, a bidder or proposer subject to this Chapter shall include a certification that the business will comply with the provisions of this Chapter if awarded the contract.*

(2) *Following the award of a contract subject to this Chapter and prior to execution by the City, the contractor shall certify that its employees have been notified of the employment benefits available to life partners pursuant to this Chapter, and that such employment benefits will actually be available; or that the contractor does not provide employment benefits to the spouses of married employees. A contractor that, under Section 17-1902(2), is not required to make benefits immediately available to the life partners of employees, shall provide the notice required by this subsection (2) at the time employment benefits become available to life partners of employees.*

(3) *Every City contract subject to this Chapter shall require the contractor to comply with the requirements of this Chapter. Such contracts shall contain the following terms:*

(a) *The contractor shall notify its employees of the employment benefits available to life partners pursuant to this Chapter;*

(b) *Non-compliance by the contractor shall be a material breach. The contract may further specify liquidated damages.*

*§ 17-1904. Waivers. The City may waive the requirements of this Chapter in any of the following circumstances:*

(1) *Where application of the provisions of this Chapter would result in the loss of federal, state or similar funds or grants, or is otherwise prohibited by federal or state law.*

(2) *Where the contractor certifies that compliance with the provisions of this Chapter would interfere with a collective bargaining agreement between the contractor and any of its employees.*

(3) *Where waiving the provisions of this Chapter would be in the best interests of the City.*

*§ 17-1905. Retaliation and Discrimination Prohibited.*

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(1) *It shall be unlawful to retaliate or discriminate against any person on account of having claimed a violation of this Chapter.*

## *§ 17-1906. Private Right of Action.*

(1) *A person aggrieved by a violation of the provisions required by this Chapter to be included in a City contract may bring an action against an employer and obtain the following remedies:*

(a) *The amount of any health care costs incurred by or on behalf of the life partner during the period of non-compliance that would have been covered had the contractor complied with this Chapter, or the amount the contractor would have paid for employment benefits for the life partner during the period of non-compliance, whichever is greater.*

(b) *Punitive damages, up to \$2,000.*

(c) *Reinstatement, in the case of a claim of retaliation.*

(d) *Reasonable attorney's fees and costs.*

(2) *The remedies provided for in this Chapter shall not be exclusive.*

(3) *Nothing in this Chapter shall be interpreted to authorize a claim for damages against the City based upon failure to comply with the provisions of this Chapter.*

## *§ 17-1907. Enforcement.*

(1) *Contractors shall provide the City with any information necessary to verify compliance with the provisions of this Chapter. A contractor subject to this Chapter who fails to comply with its provisions may be suspended or debarred from bidding on or participating in City contracts for up to three years.*

SECTION 2. Effective date. This Ordinance shall become effective on July 1, 2011, and shall be applicable only to awards for bids and RFPs issued after such date.