

City of Philadelphia



(Bill No. 070693)

AN ORDINANCE

Creating the Philadelphia Re-Entry Employment Program (“PREP”) for Ex-offenders; in particular, amending Chapter 19-2600 of The Philadelphia Code, entitled “Business Privilege Taxes,” to provide a PREP Tax Credit for businesses that hire ex-offenders; directing various City officials to take certain actions with respect to the employment of ex-offenders by the public and private sector; and requiring those who contract with the City or who receive certain financial benefits from the City to identify job opportunities that may be available for ex-offenders and to take other action with respect to the hiring of ex-offenders; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 20 of The Philadelphia Code is hereby amended to read as follows:

TITLE 20. OFFICERS AND EMPLOYEES.

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CHAPTER 20-1700. PHILADELPHIA RE-ENTRY EMPLOYMENT PROGRAM (“PREP”) FOR EX-OFFENDERS.

§20-1701. Duties of the Managing Director.

(1) *The Managing Director shall coordinate the implementation of the Philadelphia Re-Entry Employment Program set forth in this Chapter.*

(2) *By January 31 of each year, the Managing Director shall submit a written annual report to the Mayor, with a copy to the President and Chief Clerk of Council, which shall include the following information for the prior calendar year:*

(i) *A summary and evaluation of the efforts of City agencies in carrying out the Philadelphia Re-Entry Employment Program, including a summary and evaluation of how the duties specified in this Chapter were performed.*

(ii) *A summary and evaluation of the efforts of City contractors and recipients of financial assistance to cooperate with the City in providing employment opportunities for ex-offenders, as required by Chapter 17-1500.*

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(iii) *A summary and evaluation, as prepared by the Revenue Department, of the City's experience with the PREP Tax Credit provided under §19-2604(8), including a list of all businesses that participated, the number of Qualifying Employees certified during the year, the number of Qualifying Employees whose certification expired during the year and a summary of the reasons for such expiration; and recommendations for improvement of the program.*

§20-1702. Duties of the Personnel Director.

(1) *Within forty-five days after this Section becomes law, the Personnel Director shall transmit to the Mayor, the President of City Council, and to the Civil Service Commission recommended guidelines for the City's hiring of ex-offenders, and recommendations for increasing public, private and non-profit sector employment of ex-offenders, including identifying barriers to such employment and ways to remove such barriers.*

(2) *In developing the recommendations required by subsection (1), the Personnel Director shall first develop, in cooperation with the Mayor's Office for the Reentry of Ex-offenders, the Philadelphia Prison System, the Department of Human Services (DHS), Community Behavioral Health (CBH), the First Judicial District of Pennsylvania, any other appropriate city, state or federal agencies, the Philadelphia Workforce Development Corporation, chambers of commerce, other business advocacy organizations throughout the City, and organizations that provide re-entry/ex-offender services, a matrix of job titles and work categories matched to ex-offender criminal offenses and work skills that can be used to help the City and other employers identify jobs appropriate for potential employees with criminal records.*

§20-1703. Duties of the Commissioner of the Philadelphia Prisons System.

(1) *The Commissioner of the Philadelphia Prisons System shall ensure that the Philadelphia Prisons System carries out the following program for each prisoner who was a Philadelphia resident and is to be released from a period of sentence in the Philadelphia Prison System:*

(a) *Each such prisoner shall, at least six months prior to release, be advised of the opportunity to participate in the Philadelphia Re-Entry Employment Program set forth in §19-2604(8).*

(b) *Every prisoner who expresses an interest in participating will be given a pre-release assessment of his or her current education, job training level and future job prospects, physical and mental health status, and the housing and family circumstance to which he or she expects to return to in Philadelphia upon release, and based on that assessment, an individualized package of basic education, job training and retention, financial and life skill management training, and other support services will be designed*

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to assist the prisoner in securing employment, housing or other life improvement services as soon as possible after release.

(c) *A PREP Employee's Agreement will be prepared in accordance with §19-2604(8)(e).*

(2) *The Commissioner of the Philadelphia Prisons System shall seek to enter into cooperative arrangements with federal, state and other non-City correctional facilities located in the Commonwealth of Pennsylvania, through which the same program set forth in subsection (1) will be provided to prisoners who were Philadelphia residents and who are to be released from a period of sentence in such facilities.*

§20-1704. *Duties of the Revenue Commissioner.*

(1) *The Revenue Commissioner shall ensure that all businesses holding a business privilege license in Philadelphia are provided information about the PREP Tax Credit available under §19-2604(8).*

(2) *The Revenue Commissioner shall also, in consultation with the Mayor's Office for the Reentry of Ex-offenders, provide to such businesses information on other federal, state and local programs available to assist in the employment of ex-offenders.*

SECTION 2. Title 17 of The Philadelphia Code is hereby amended to read as follows:

TITLE 17. CONTRACTS AND PROCUREMENT.

* * *

CHAPTER 17-1500. PHILADELPHIA RE-ENTRY EMPLOYMENT PROGRAM ("PREP") FOR EX-OFFENDERS.

§17-1501. *Definitions.*

(1) *Contract. Any contract awarded by the City, including contracts subject to the competitive bidding requirements of the Philadelphia Home Rule Charter and contracts not subject to competitive bidding, including, but not limited to, contracts subject to the prevailing wage requirements set forth in §17-107.*

(2) *Financial Assistance. As defined in §17-1401.*

§17-1502. *Duties of City Contractors and Those Receiving Financial Assistance.*

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(1) *No Contract shall be awarded, no Financial Assistance shall be provided, and no tax abatement with respect to a construction project with a value of more than \$1 million shall be provided, unless the person awarded the Contract, or receiving the Financial Assistance or tax abatement agrees in writing:*

(a) *To identify potential job opportunities that may be available for ex-offenders, based on the matrix of job titles and work categories developed by the Personnel Director under §20-1702(2), and to report to the City on such person's employment practices and experience with respect to the hiring of ex-offenders, including: (i) a monthly tally of ex-offenders hired and currently working, or an explanation as to why no ex-offenders have been hired; and (ii) an explanation as to why any ex-offender who applied for employment was refused employment;*

(b) *To cooperate with the City in addressing the goal of securing employment for ex-offenders;*

(c) *That if such person fails to comply with the requirements of such written agreement, the City may withhold any payments due under the Contract or any Financial Assistance yet to be provided until the Contractor or recipient of Financial Assistance achieves full compliance; and*

(d) *To require any subcontractor it uses (regardless of the value of the subcontract) to comply with and be bound by the provisions of this Section as if the subcontractor had been directly awarded a City contract.*

SECTION 3. Chapter 19-2600 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 19-2600. BUSINESS PRIVILEGE TAXES.

* * *

§19-2604. Tax Rates, Credits, and Alternative Tax Computation.

* * *

(8) *Philadelphia Re-Entry Employment Program for Ex-offenders ("PREP") Tax Credit.*

(a) *Definitions.*

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(i) *Ex-offender.* A person previously convicted of a felony, or who was incarcerated for any conviction, or who is currently on probation or parole for any conviction.

(ii) *Qualifying Employee.* For any given tax year, an Ex-offender is a “Qualifying Employee” of a business if he or she:

(.1) *Is employed by the business during the tax year in a full-time job for which the average hourly rate, excluding benefits, is at least 150% of the federal minimum wage, and who receives an employment package that includes the same benefits as are provided to other full-time employees and tuition support for GED, Community College or other post-secondary education, or vocational/technical education or training, of at least \$2,000 during each of the first two years of employment and \$1,000 during the third year of employment;*

(.2) *Earns wages that are subject to the tax on wages imposed by Chapter 19-1500;*

(.3) *Was first hired by the business after it entered into a PREP Tax Credit Agreement as required by subsection (8)(c);*

(.4) *Was released from incarceration no more than seven years before being hired by the business, was a Philadelphia resident for at least one year before being incarcerated, and has been a Philadelphia resident either continuously since being released from incarceration or for at least three years before being hired;*

(.5) *Before being hired by the business, executed a PREP Employee’s Agreement as required by subsection (8)(e); and*

(.6) *Has been certified by the Revenue Department as a Qualifying Employee in accordance with subsection (8)(d).*

(b) *Calculation of Tax Credits.*

(i) *Beginning in tax year 2008 and for all tax years thereafter, a business shall receive a tax credit for each certified Qualifying Employee who has been employed by the business for more than six months. The tax credit shall be in the amount of \$10,000 multiplied by the percentage of the tax year that the Qualifying Employee was employed by the business.*

(ii) *Tax credits are available for a total of thirty-six months of employment of a Qualifying Employee, and the maximum amount of tax credits a business may receive for any one Qualifying Employee over all tax years is \$30,000.*

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(iii) *Tax credits shall be taken against total business privilege tax liability, and any unused credits may be carried forward until used.*

(iv) *A business receiving tax credits under §19-2604(7) for a given tax year shall not be eligible to receive tax credits under this subsection (8) for that same tax year.*

(c) *Eligibility; PREP Tax Credit Agreement.*

(i) *To be eligible to receive tax credits, a business must first execute a PREP Tax Credit Agreement with the Revenue Department that:*

(.1) *Details all the terms and conditions of the PREP Tax Credit as set forth in this subsection;*

(.2) *Sets forth the business' agreement to notify the Revenue Department within one week after any Qualifying Employee is no longer employed by the business, which notification shall include an explanation as to why the Qualifying Employee's employment terminated;*

(.3) *Sets forth the business' agreement to withhold from the wages of any Qualifying Employee and remit to the City the payments the Qualifying Employee must make to the City under subsection (8)(e)(iii); and*

(.4) *Sets forth the business' commitment to maintain its operations in the City of Philadelphia for five years from the date of the agreement, and the business' agreement to repay any tax credits it receives if it violates such commitment, as required by subsection (8)(e)(i).*

(d) *Certification of Qualifying Employees; Maximum Number Permitted.*

(i) *After a business has executed a PREP Tax Credit Agreement, it shall make application to the Revenue Department, on a form required by the Department, for each employee it wishes to have certified as a Qualifying Employee.*

(ii) *The Revenue Department shall certify all persons who meet the definition of Qualifying Employee, except:*

(.1) *The number of certified Qualifying Employees at any one time shall not exceed 1,000, provided that if the City administers a program that provides grants to not-for-profit entities and other employers based upon their employment of ex-offenders under terms and conditions which the Revenue Commissioner finds are substantially equivalent to the terms and conditions of the PREP Tax Credit provided under this Section, then the total number of certified Qualifying Employees plus the total*

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number of employees under such grant program shall not exceed 1,000 at any one time; and

(.2) The Revenue Department shall not certify an Ex-offender as a Qualifying Employee if it finds that the hiring of the Ex-offender is displacing another employee of the business, and that the primary reason for such displacement is to obtain PREP tax credits. The Revenue Department shall by regulation develop standards to insure that other employees are not unfairly displaced or impacted by the tax credits provided by this subsection.

(iii) The certification of a Qualifying Employee shall expire after such employee has been employed as a Qualifying Employee by any employer for a total of thirty-six months, or when the Qualifying Employee is no longer employed by the business, and a Qualifying Employee whose certification has expired shall no longer count against the maximum number of certified Qualifying Employees permitted at any one time.

(e) PREP Employee's Agreement. To be a Qualifying Employee, an ex-offender must have executed an agreement with the City that sets forth:

(i) A package of basic education and job training and retention and support services that the City has designed for the ex-offender;

(ii) The ex-offender's agreement to participate in life skills and basic financial management training, as well as meet all of his or her outstanding child support and other legal obligations; and

(iii) The ex-offender's agreement to pay the City a sum equal to 5% of his or her total wages earned during any period during which a business claims tax credits based on the ex-offender's status as a Qualifying Employee, in consideration of the services provided to the ex-offender by the City and in consideration of the City's provision of tax credits to employers as an incentive to hire the ex-offender. The ex-offender shall repay the total amount due the City without interest over a three year period beginning with the expiration of the ex-offender's certification as a Qualifying Employee, and the ex-offender must agree to permit the business to withhold any payments due the City from the ex-offender's pay and remit withheld amounts directly to the City.

(f) Penalties.

(i) Failure to maintain operations. A business which receives tax credits and fails to substantially maintain existing operations and the operations related to the tax credits in the City of Philadelphia for a period of five (5) years from the date the business executes a PREP Tax Credit Agreement shall be required to refund to the

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City of Philadelphia the total amount of tax credits granted, unless the Department of Revenue determines that a business' operations were not substantially maintained because of circumstances beyond the business' control, including natural disasters, acts of terrorism, unforeseen industry trends or a loss of a major supplier or market.

* * *

SECTION 4. This Ordinance shall take effect immediately, except that the tax credit provided by §19-2604(8) of The Philadelphia Code, as added by Section 3 of this Ordinance, shall be effective beginning with tax year 2008.

Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on November 1, 2007. The Bill was Signed by the Mayor on November 15, 2007.



Patricia Rafferty
Chief Clerk of the City Council