



**Board of Commissioners of Cook County
Finance Committee**

SUPPLEMENTAL AGENDA

Wednesday, October 28, 2015

10:00 AM

**Cook County Building, Board Room, 569
118 North Clark Street, Chicago, Illinois**

15-5825

Sponsored by: ROBERT STEELE, LUIS ARROYO JR, JERRY BUTLER and JOAN PATRICIA MURPHY County Commissioners

PROPOSED ORDINANCE

COOK COUNTY RESPONSIBLE BUSINESS ACT

BE IT ORDAINED, by the Cook County Board Of Commissioners that Chapter 21 - Fees, Sections 32-2 - 32- 14 of the Cook County Code is hereby enacted as follows:

Section 32-2. Short Title.

This chapter shall be known and may be cited as the “**Cook County Responsible Business Act.**”

Section 32-3. Definitions.

The following words and terms shall have the meanings set forth in this section, except where otherwise specifically indicated.

(a) *Person* means a natural person, corporation, limited liability company, partnership or other entity and, in case of an entity, includes any other entity which has a majority interest in such entity or effectively controls such other entity as well as the individual officers, directors and other persons in active control of the activities of such entity.

(b) *Employer* means any individual, partnership, association, corporation, limited liability company, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee, for which one or more persons are gainfully employed.

(c) *Covered employee* means any individual permitted to work by an employer in any occupation in Cook County.

(d) *Covered employer* means (1) any employer, except for religious organizations or local governments, who employs at least 750 employees in Cook County, or (2) any franchisor who employs at least 750 employees in Cook County or whose franchisees, collectively, employ at least 750 employees in Cook County.

(e) *Franchise* has the same meaning as provided in section 3 of the Franchise Disclosure Act of 1987, 815 ILCS §705/3.

(f) *Franchisor* has the same meaning as provided in section 3 of the Franchise Disclosure Act of 1987, 815 ILCS §705/3.

(g) *Franchisee* has the same meaning as provided in section 3 of the Franchise Disclosure Act of 1987, 815 ILCS §705/3.

(h) *Department* shall mean the department or office that the President and Board of Commissioners shall create and/or designate to enforce this ordinance.

(i) *Full-time* means 35 hours or more hours of work in each work week.

(j) *Part-time* means 1 to 34 hours of work in each work week.

Section 32-4. Wage Rate

(a) Wage rate shall be an hourly rate defined as follows:

- (1) Starting December 1, 2015, \$10.00
- (2) Starting December 1, 2016, \$11.25
- (3) Starting December 1, 2017, \$12.50
- (4) Starting December 1, 2018, \$13.75
- (5) Starting December 1, 2019, the wage rate shall be equal to Cook County Living Wage hourly rate as defined under Section 34-160 of the Cook County Code of Ordinances and on December 1 of each successive year, the wage rate shall increase consistent with and equal to Cook County Living Wage hourly rate.

Section 32-5. Disclosure, Annual Fee, and Posting Requirement

(a) Every covered employer shall submit on or before February 1 of each year to the Department a sworn statement containing the following:

- (1) The total number of employees employed as of November 30 of the previous calendar year;
- (2) The percentage of full-time employees and the percentage of part-time employees employed in the previous calendar year, as a share of the total number of employees employed in the previous calendar year. The breakdown of full-time and part-time employees shall be reported by each quarter in the previous calendar year.
- (3) The average hourly wage rate of full-time and part-time employees as of November 30 of the previous calendar year. For any salaried employees, their hourly wage rate for purposes of calculating the average hourly shall be their annual salary divided by the number of total hours worked in the previous calendar year.
- (4) The total number of employees, regardless of their full-time or part-time status, who are paid less than the wage rate defined in Section 32-4 in the previous calendar year.

(b) At the time of submission of the sworn statement, every covered employer who paid more than 750 employees, regardless of full-time or part-time basis, less than the wage rate defined under Section 32-4 in the previous calendar year, shall pay, for each employee the covered employer paid wages less than the wage rate defined under Section 32-4 in the previous calendar year, an annual fee of \$750 for each dollar of difference between the wage that the employer paid the employee in the previous calendar year and the wage rate defined under Section 32-4, rounding this difference up to the next whole dollar if it is a rate of fifty cents or more over the dollar and rounding down if it is 49 cents or lower.

(c) Any covered employer who directly, or through any officer, agent, employee or franchisee, makes any false statement or representation on the sworn statement shall be fined not less than \$250 nor more than \$1,000.

(d) Based on the sworn statement submitted by every covered employer, the Department shall issue a "Certificate of Good Standing" to all covered employers who were not required to pay the annual fee as required under this section. All covered employers who receive a Certificate of Good Standing are required to post this Certificate of Good Standing in a conspicuous place visible by the public and places where notices to employees are customarily placed. Each covered employer shall take steps to ensure that the Certificate is not altered, defaced, or covered by other material.

(e) The Cook County Department of Revenue shall also post the list of covered employers who were issued the Certificate of Good Standing on the Cook County's website to be made available to the public.

(f) The Cook County Department of Revenue shall prepare templates that comply with the requirements of this section and such templates shall be made available to all employers within the boundaries of the Cook County.

Section 32-6. Recordkeeping.

Every covered employer shall keep accurate records of all pay and full-time or part-time status of their employees for three years. All these records shall be kept in the English language and, at all times during business hours, shall be subject to and available for inspection and copying by the Cook County Department of Revenue.

Section 32-7. Prohibited Acts.

(a) It shall be unlawful for any covered employer to, directly, or through any officer, agent, employee or franchisee, designate, classify or deem, or cause such covered employer's franchisees to designate, classify or deem, an employee as an independent contractor or temporary employee, reduce an employee's wages or hours of work, or terminate an employee for the purpose of avoiding such covered employer's obligations under this Ordinance. Any action to classify or deem an employee as an independent contractor or temporary employee, reduce an employee's wages, work hours, or terminate an employee within sixty (60) days of November 30 of each calendar year shall raise a rebuttable presumption that such action was taken to avoid such covered employer's obligations under this Ordinance.

(b) It shall be unlawful for any covered employer or any other person to threaten, penalize, punish, restrain, coerce, attempt to coerce, or in any other manner discriminate or retaliate against any person for exercising rights protected under this Ordinance. Rights protected under this Ordinance include, but are not limited to: the right to file a complaint or inform any person about any party's alleged noncompliance with this Ordinance; and the right to inform any person of his or her potential rights under this Ordinance and to assist him or her in asserting such rights. Protection of this section shall apply to any person who mistakenly, but in good faith, alleges violations of any provision of this Ordinance. Taking adverse action against a person within ninety (90) days of such person's exercise of rights protected under this Ordinance shall raise a rebuttable presumption that such action was in retaliation for the exercise of such rights.

Section 32-8. Enforcement and Penalty.

(a) Any person may file a complaint with Cook County Department of Revenue against any covered employer who makes a false statement or representation on sworn statements as required under Section 32-5 or who otherwise violates, disobeys, omits, neglects, or refuses to comply with the requirements under any provision of this Ordinance.

(b) The Department is authorized to take appropriate steps to enforce and coordinate enforcement of this Ordinance, including the investigation of any possible violations of this Ordinance.

(c) After investigating a possible violation of this Ordinance, and providing any covered employer the opportunity to respond to the allegations:

(1) If the Department determines that the covered employer violated the requirements under Section 32-4, Cook County Department of Revenue shall assess and collect any fee due and unpaid, together with an interest charge of 1.25 percent per month or fraction thereof. The covered employer shall also pay a penalty of not less than \$250.00 nor more than \$1,000.

(2) If the Department determines that the covered employer violated any provision in Section 32-6, Cook County Department of Revenue may order any appropriate relief including, but not limited to, requiring the covered employer to reclassify a person as an employee, restore work hours, reinstatement, payment of lost wages to the employee, and the payment of an additional sum as an administrative penalty that does not exceed the amount of the award of lost wages.

Section 32-9. License suspension and revocation

(1) Any license, permit, registration or franchise issued by the County may be suspended or revoked by the issuing authority if it is determined after a hearing that the licensee, or any person controlled by the licensee, has willfully failed to pay or remit any fee, interest or penalty due under the requirements of this Ordinance. No license shall be suspended or revoked under this subsection if, within ten days after the issuance of a license suspension or revocation order, the total fee liability, including interest and penalties, is paid.

Section 32-10. Family Sustainability Commission

(a) *Established:* There is hereby established a Commission which shall be known as the Family Sustainability Commission.

(b) *Appointment of members:* The Family Sustainability Commission shall consist of (9) members of the Board President appoints as follows:

- (1) One member to represent the President of the County Board;
- (2) One member to represent the Cook County Board;
- (3) One member to represent health care agency;
- (4) One member to represent court system;
- (5) One member to represent housing agency;
- (4) Two members to represent nonprofit community based organizations;
- (5) Two members to represent worker organizations.

(c) *Powers and duties:* The Family Sustainability Commission shall have the authority to advise the Cook County Board of Commissioners on an annual basis in the appropriation of monies in the Fund to address issues affecting residents in Cook County in the area of health care, pre-trial services, the criminal justice system, housing assistance to low-income communities, grants to community-based organizations, to provide assistance to low-income individual and families concerning family care assistance, heating assistance, nutrition assistance, job training and placement assistance, and advocating for workers' rights.

(d) *Preference for employees of affected employers:* In the provision of services, the Family Sustainability Commission shall give preference to employees who meet the following conditions: they were employed in the previous calendar year by an employer who is required to pay a fee by Section 32-5 Subsection (d); and they were paid less than the wage rate defined under Section 32-4 in the previous calendar year by that employer.

Section 32-11. Family Sustainability Fund

Upon the passage of this Ordinance, the Comptroller shall create a special fund to be entitled the "Family Sustainability Fund." All annual fees collected pursuant to Section 32-5 of this Ordinance must be deposited into the Family Sustainability Fund.

Section 32-12. Administrative rules and regulations.

The Department is authorized to adopt, promulgate and enforce rules and regulations and to administer and enforce this Ordinance.

Section 32-13. Severability.

All portion of this Ordinance are severable, and if any of its provisions or any sentence, clause or paragraph shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Effective date: This ordinance shall be in effect ninety days after its enactment into law.

Legislative History: 10/7/15 Board of Commissioners referred to the Finance Committee.

Legislative History: 10/20/15 Finance Committee Public Hearing no action taken.