



City of Philadelphia

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

BILL NO. 000793

Introduced December 14, 2000

**Councilmembers Clarke, Reynolds Brown, Goode, Ortiz, Cohen, Krajewski,
Mariano, Blackwell and Kenney**

**Referred to the
Committee on Labor and Civil Service**

AN ORDINANCE

Amending Title 9 of The Philadelphia Code, entitled "Regulation of Businesses, Trades and Professions" by adding a new Section 9-2400 entitled "Prohibition on Using City Funds for Anti-Unionization Practices", by restricting any employer whom receives City funds from directly using those funds in whole or in part to discourage unionization by that employer's employees or any other employees, and by requiring any recipient of City funds to account for the City funds designated by the City for use, and by allowing a labor organization or collective bargaining representative to file a complaint with the Director of the Philadelphia Labor Standards Unit and by requiring within a certain time period of receiving such a complaint to hold a hearing to determine whether the alleged violation has occurred, and by allowing the Director of the Philadelphia Labor Standards Unit to order the employer thereafter to keep accurate and complete records of the employer's expenditures of all City funds received by the employer and by requiring that following a certification by the Director of the Philadelphia Labor Standards Unit that any employer has willfully or materially failed to comply with the recordkeeping requirements or has failed or refused to promptly provide the Director of the Philadelphia Labor Standards Unit or his or her designated representative access to the employer's records for the purpose of conducting an audit the employer shall be ineligible to receive City funds until the Director of the Philadelphia Labor Standards Unit certifies that the employer is in full compliance with those requirements, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. A new Chapter 9-2400 of The Philadelphia Code entitled "Prohibition on Using City Funds for Anti-Unionization Practices", is hereby enacted, to read as follows:

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CHAPTER 9-2400. PROHIBITION ON USING CITY FUNDS FOR ANTI-UNIONIZATION PRACTICES.

§9-2401. Legislative Findings.

(A) *The Council of the City of Philadelphia finds and declares the following:*

(1) *It is the policy of the National Labor Relations Act, to recognize the right of employees to freedom of association in the workplace and freedom of choice in who will represent employees in collective bargaining.*

(2) *It is also the policy of this City that workers should be free to choose their bargaining representative without interference from the City.*

(3) *The City currently places no limitation on the use of its funds to discourage unionization, and as a result City funds may have, in fact, been used to discourage unionization.*

(4) *The expenditure of City funds to support an employer's opposition to unionization of the employer's workers does not serve the purposes for which the City funds were provided to the recipient and, thus, the expenditure of those funds to oppose unionization is a misuse and waste of City funds.*

(5) *Therefore, it is the intent of the Legislature in enacting this act to ensure that City funds are not used to discourage employees from choosing union representation.*

§9-2402. Definitions

(A) *The following definitions shall apply throughout this Chapter:*

(1) *“City funds” means any money drawn from the City Treasury or any special or trust fund of the City, and any City resources, in the form of goods or services, that are provided to any employer. “City funds” also means the value of those goods and services. “City funds” include revenues or other funds received by a party to a concession contract with the City from any third party pursuant to that contract.*

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(2) “Employer” means any individual, government agency or entity, corporation, unincorporated association, partnership, or other legal entity that employs more than one person.

(3) “Receive City funds” means to receive City funds pursuant to a payment, a grant, a competitively bid contract, or reimbursement for services, and also includes receipt by a subcontractor of payment for the performance of services purchased by or funded by the City.

(4) “Unionization” means organization of employees for the purpose of collective bargaining.

§9-2403. Procedures.

(1) A recipient of City funds is deemed to use the City funds by applying the funds to operating expenses, such as employee compensation, supplies, maintenance, or utilities.

(2) A use of City funds shall be deemed for the purpose of discouraging unionization if it directly supports or is in furtherance of:

(a) any communication in any form that advocates or directly or by implication suggests that employees should vote against representation by a union for purposes of collective bargaining; or

(b) hiring or consulting legal counsel or other consultants to advise on how to deter unionization or how to impede a labor organization that represents employees from fulfilling its representation responsibilities; or

(c) holding meetings to influence employees not to join or form a labor organization for the purpose of collective bargaining;

(d) planning or conducting activities by employer supervisors to deter the activities of a labor organization.

§9-2404. Prohibition on Uses.

(1) No employer who receives City funds shall directly use those funds in whole or in part to discourage unionization by that employer’s employees or any other employees.

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(2) *No employer who derives revenue from property owned by the City and used by that employer through lease, concession contract, or other agreement shall discourage unionization by his or her employees who are employed on or in relation to that City property.*

(3) *Nothing in this section limits the right of individuals who are not supervisors, managers, consultants, attorneys, advisers, or contractors of a recipient of City funds to advocate for or against unionization in the facilities of the recipient to the extent not precluded by applicable law.*

(4) *Nothing in this section limits the right of any employer or union to engage in lawful activities relating to the negotiation and enforcement of a collective bargaining agreement.*

(5) *Every contract for the payment of City funds to an employer shall contain a covenant that the employer will comply with this section.*

§9-2405. Accounting Procedures.

(A) *For purposes of this section, each recipient of City funds shall account for the City funds in accordance with the following:*

(1) *City funds designated by the City for use for, or to reimburse, a specific expenditure of the recipient shall be accounted for as being allocated to that expenditure.*

(2) *City funds that are not so designated shall be allocated on a pro rata basis to all expenditures of the recipient that support or are related to the purpose for which the City funds are received.*

(B) *The Director of the Philadelphia Labor Standards Unit shall adopt regulations to implement the requirements of this section.*

§9-2406. Grievance Procedures.

(A) *A labor organization or collective bargaining representative at any time may file a complaint with the Director of the Philadelphia Labor Standards Unit that an employer that has a contract with the City is in violation of Section 2403 or 2404 of this Chapter.*

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(1) *Within thirty (30) days of receiving a complaint under Section 2406(A) of this Chapter, the Director of the Philadelphia Labor Standards Unit or any other agency, including, but not limited to, any such agency or agencies that the Director of Labor Standards Unit determines, shall conduct a hearing to determine whether the alleged violation has occurred.*

(2) *The Director of the Philadelphia Labor Standards Unit or any other agency, including, but not limited to, any such agency or agencies that the Director of Labor Standards Unit determines, shall make a determination and render a decision within ten (10) days following conclusion of the hearing.*

(3) *If the Director of the Philadelphia Labor Standards Unit the Director of or any other agency, including, but not limited to, any such agency or agencies that the Director of Labor Standards Unit determines, by a preponderance of the evidence, that it appears likely that the employer has violated Section 2403 or 2404 of this Chapter, the Director of the Philadelphia Labor Standards Unit shall order the employer thereafter to keep accurate and complete records of the employer's expenditures of all City funds received by the employer. The records shall be sufficient to show whether the employer has used City funds to discourage unionization.*

(B) *Each employer subject to the recordkeeping requirements of Section 2406(A)(3) of this Chapter during a calendar quarter shall prepare and submit to the Director of the Philadelphia Labor Standards Unit, within thirty (30) days following the end of the quarter, a report specifying each expenditure of City funds and each expenditure of funds to discourage unionization made by the employer during the reported quarter.*

(C) *The report required by Section 2406(A)(3) of this Chapter shall include a statement that the representations made are true, correct, and contain no material omissions of fact to the best knowledge and belief of the employer submitting the certification.*

(D) *The Director of the Philadelphia Labor Standards Unit, on his or her own initiative or in response to a complaint the Director of the Philadelphia Labor Standards Unit deems credible, may at any time audit the records of an employer subject to the requirements of this subdivision to ensure compliance with this section.*

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(E) *Following a certification by the Director of the Philadelphia Labor Standards Unit that any employer has willfully or materially failed to comply with the recordkeeping requirements of Section 2406(A)(3) of this Chapter or has failed or refused to promptly provide the Director of the Philadelphia Labor Standards Unit or his or her designated representative access to the employer's records for the purpose of conducting an audit pursuant to Section 2406(A)(3) of this Chapter the employer shall be ineligible to receive City funds until the Director of the Philadelphia Labor Standards Unit certifies that the employer is in full compliance with those requirements.*

(F) *This Chapter does not apply to City funds received by an employer:*

(1) *prior to January 1, 2002;*

(2) *in consideration of goods supplied or services rendered prior to January 1, 2002; or*

(3) *under a City contract entered into prior to January 1, 2002, until that contract is extended, renewed, or amended on or after January 1, 2002.*

(G) *Nothing in this section shall be construed to require an employer that is a nonprofit corporation exempt from federal income taxation under Section 501(c)(3) of the federal Internal Revenue Code (26 U.S.C. Sec. 501(c)(3)) to disclose the names of private donors of donations that are lawfully deductible from federal income tax payable by the private donors.*

§9-2407. *Severability.*

(A) *The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect any other provision or application that can be given effect without the invalid provision or application.*

SECTION 3. This Ordinance shall take effect immediately.

Explanation:

Italics indicate new matter added.

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