

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To require payment of a living wage by recipients of certain District contracts and government assistance; to create a Job Opportunity Bank to increase job opportunities for low income, skills-deficient District residents; to amend the First Source Employment Agreement Act of 1984 to expand coverage; and to amend the Displaced Workers Protection Act of 1994 to extend protection to certain security guards.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Way to Work Amendment Act of 2006".

TITLE 1. LIVING WAGE.

Sec. 101. Short title.

This title may be cited as the "Living Wage Act of 2006".

Sec. 102. Definitions.

For purposes of this act, the term :

(1) "Affiliated employee" means any individual employed by a recipient who received compensation directly from government assistance or a contract with the District of Columbia government ("District Government"), including any employee of a contractor or subcontractor of a recipient who performs services pursuant to government assistance or contract.

(2) "Contract" means a written agreement between a recipient and the District government.

(3) "Government assistance" means a grant, loan, or tax increment financing that results in a financial benefit from an agency, commission, instrumentality, or other entity of the District government.

(4) "Living wage" means an hourly wage rate of \$11.75 per hour, regardless of whether health care benefits are provided.

(5) "Recipient" means any individual, sole proprietorship, partnership, association, joint venture, limited liability company, corporation, or any other form of business that enters into a contract with or receives government assistance from the District government.

Sec. 103. Living wage payment.

(a) All recipients of contracts or government assistance in the amount of \$100,000 or more shall pay their affiliated employees no less than the living wage. All subcontractors of recipients of these contracts that receive funds of \$15,000 or more shall pay their affiliated

employees no less than the living wage; provided, that this receipt of funds is from the contract funds received by the recipient from the District government. All subcontractors of recipients of government assistance shall pay their affiliated employees the living wage if the subcontractor receives \$50,000 or more from a recipient; provided, that this receipt of funds is from government assistance received by the recipient from the District of Columbia.

(b) The living wage shall be paid to employees of the District government commencing March 1, 2006; provided, that the wage of any such employee established under an existing collective bargaining agreement or by the recipients of a federal law or grant shall continue as long as that agreement, law, or grant remains in effect.

(c) The Department of Employment Services shall adjust this rate for the previous calendar year, on an annual basis by the annual average increase, if any, in the Consumer Price Index for all Urban Consumers in the Washington Metropolitan Statistical Area published by the Bureau of Labor Statistics of the United States Department of Labor up to 3%. This adjustment shall begin the 1st of January occurring at least one year following the enactment date of this title. The Department shall calculate the adjustment to the nearest multiple of \$.05 and shall publish the adjusted rate not later than March 1 of each year. Any annual adjustment in excess of 3% shall be approved by the Mayor.

(d) The Mayor shall publish any adjustment to the living wage rate in the District of Columbia Register no later than 45 days after the rate is adjusted.

(e) Funding for the implementation of this title shall be subject to annual appropriations.

Sec. 104. Contents of contract; notice to subcontractors.

(a) All contracts and government assistance subject to this title shall include the requirements under sections 103, 106, 107, and 108.

(b) Each recipient of a contract or government assistance shall notify each subcontractor subject to this title of the requirements as provided under subsection (a) of this section. The notification shall be in writing.

Sec. 105. Exemptions.

The following types of contracts, government assistance, and employment shall be exempt from the requirement of this title:

(1) Contracts or other agreements that are subject to wage level determinations required by federal law;

(2) Existing and future collective bargaining agreements, provided, that the future collective bargaining agreement results in the employee being paid no less than the established living wage;

(3) Contracts for electricity, telephone, water, sewer or other services delivered by a regulated utility;

(4) Contracts for services needed immediately to prevent or respond to a disaster or eminent threat to public health or safety declared by the Mayor;

(5) Contracts or other agreements awarded to recipients that provide trainees with additional services including, but not limited to, case management and job readiness services; provided, that the trainees do not replace employees subject to this title;

(6) An employee under 22 years of age employed during a school vacation period, or enrolled as a full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per

week; provided, that he or she does not replace employees subject to this title;

(7) Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District;

(8) Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S. C. § 501(c)(3));

(9) Medicaid provider agreements for direct care services to Medicaid recipients; provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for mentally retarded persons, as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44501); and

(10) Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services."

Sec. 106. Notice.

Each recipient and subcontractor of a recipient shall provide to each affiliated employee covered by this title a fact sheet concerning the payment and enforcement requirements under sections 103 and 108, and shall also post a notice concerning these requirements in a conspicuous site in its place of business. The Mayor shall provide the fact sheet and notice to each recipient which shall include:

- (1) Notice of the living wage hourly rate;
- (2) A summary of the requirements under sections 103 and 107; and
- (3) Information concerning the enforcement of this title including the name, address, and telephone number of the individual or entity to which complaints of noncompliance should be made.

Sec. 107. Records.

All recipients and subcontractors shall retain payroll records created and maintained in the regular course of business under District of Columbia law for a period of at least 3 years from the payroll date for employees subject to section 103.

Sec. 108. Enforcement.

The payment of wages required under this title shall be consistent with and subject to the provisions of An Act To provide for the payment and collection of wages in the District of Columbia, approved August 3, 1956 (70 Stat. 976; D.C. Official Code § 32-1301 *et seq.*).

Sec. 109. Waiver.

The Mayor may exempt a recipient from the requirements of this title, subject to approval by the Council. Any entity requesting a waiver shall be required to demonstrate that the provisions of this title will pose a significant financial hardship on the recipient that will result in the layoff of a substantial number of employees, substantial downsizing, or the inability to meet payroll. All requests for waivers shall be written and state the rationale for the request. Any waiver granted by the Mayor shall be subject to Council review and approval, by act.

Sec. 110. Rules

The Mayor shall issue rules to implement the provisions of this title.

Sec. 111. Applicability.

(a) The requirements of this title shall apply to contracts and agreements for government assistance ("agreement") entered into after the effective date of this title, and shall not apply to any existing agreement entered into prior to that date. Where an agreement is renewed or extended after that date, that renewal or extension shall be deemed a new agreement and shall trigger coverage under this title if the terms of the renewed or extended agreement otherwise meet the requirements for coverage under this title.

(b) Notwithstanding the requirements of section 105(9), a home care agency, community residence facility, or group home for mentally retarded persons shall not be required to pay a living wage until implementing rules are published in the District of Columbia Register and any necessary state plan amendments are approved.