

1
2 COUNCIL OF THE CITY OF PHILADELPHIA
3 PUBLIC HEARING AND PUBLIC MEETING
4 BEFORE COUNCIL COMMITTEE ON LABOR AND CIVIL SERVICE

5 - - -
6 Room 400, City Hall
7 Philadelphia, Pennsylvania
8 Thursday, 4/25/02
9 2 p.m.
10 - - -

11 BILL NO. 000349 - Amending Section 17-107 of the
12 Philadelphia Code, entitled "Contractors:
13 Labor-Management Relationships," by revising the
14 penalties for violation of the prevailing-wage
15 ordinance and providing for issuance of notices of
16 violation; all under certain terms and conditions.

17 PRESENT: Councilman Darrell L. Clarke, Chair
18 Councilman Frank DiCicco
19 Councilman W. Wilson Goode, Jr.
20 Councilman Richard T. Mariano
21 Councilman Angel L. Ortiz
22 Councilman Frank Rizzo

23 - - -
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1 4/25/02 LABOR & CIVIL SERVICE COMMITTEE, BILL 000349

2 COUNCILMAN CLARKE: This is the Committee
3 on Labor and Service for the purposes of hearing
4 Bill No. 000349. Would the clerk please read the
5 title.

6 I'd like to say for the record that
7 Councilman Mariano, Councilman Wilson Goode Jr.,
8 Councilman Frank DiCicco, Councilman Angel Ortiz,
9 and Councilman Frank Rizzo are present for a
10 quorum.

11 Would the clerk will please read the title
12 of the bill .

13 THE CLERK: Bill No. 000349, an ordinance
14 amending Section 17-107 of the Philadelphia Code,
15 entitled "Contractors: Labor-Management
16 Relationships," by revising the penalties for
17 violation of the prevailing-wage ordinance and
18 providing for issuance of notices of violation; all
19 under certain terms and conditions.

20 COUNCILMAN CLARKE: Thank you.

21 Is there anyone here to testify on this
22 bill.

23 (Witness comes forward.)

24 COUNCILMAN CLARKE: Please state your name
25 for the record.

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2 MR. RAMOS: My name is Juan Ramos,
3 J-U-A-N, R-A-M-O-S.

4 COUNCILMAN CLARKE: Please proceed.

5 MR. RAMOS: Distinguished Members of City
6 Council, my name is Juan Ramos, the Director of the
7 Fair Labor Standards Unit for the City of
8 Philadelphia.

9 I am here in support of Bill No. 000349,
10 entitled "Contractors: Labor-Management
11 Relationship." The Philadelphia Labor Standards
12 Unit, or the PLSU, was established in 1958 to
13 enforce federal and municipal prevailing-wage laws
14 outlined in both the Davis-Bacon Act and in Section
15 17-107 of the Philadelphia City code.

16 Today, the PLSU consists of ten employees
17 who are responsible for monitoring approximately
18 600 ongoing projects throughout the City. The
19 Labor Standards Unit is responsible for overseeing
20 all projects conducted by any City operating
21 department. The Labor Standards Unit is also
22 responsible for the overseeing of projects
23 conducted by the Philadelphia Housing Authority,
24 the Office of Housing and Community Development,
25 and other similar agencies.

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2 Specific duties include, but are not
3 limited to, involvement in pre-bid meetings,
4 involvement in preconstruction meetings, audits of
5 contractors' payroll records, ongoing site
6 inspections, and weekly certified payroll
7 monitoring.

8 The importance of this legislation is to
9 more effectively enforce the City of Philadelphia's
10 prevailing-wage ordinance that sets secure, proper
11 wages for workers on City contracts. Under the
12 existing law, if contractors violate the ordinance,
13 they can only be compelled to pay fines or make
14 restitution after an arduous and, at times
15 time-consuming audit process.

16 It should be noted that contractors can be
17 disqualified from City work for a three-year period
18 for intentional violations of the ordinance or
19 violations of the ordinance on more than one City
20 contract.

21 Presently, the Labor Standards Unit has
22 little real authority to swiftly and effectively
23 impose proportionate penalties for discrete
24 violations of the ordinance. This legislation will
25 maximize the efficiency of the Labor Standards Unit

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2 by making proportionate fines apart of the Labor
3 Standards Unit's audit and enforcement mechanism.

4 Let me give City Council an example.
5 Under the existing regulatory regime, if a
6 contractor fails to timely submit a certified
7 payroll to the Labor Standards Unit, the Labor
8 Standards Unit may only fine the contractor \$300
9 after it conducts a time-consuming audit. This
10 limits the Labor Standards Unit's enforcement
11 capabilities while it enables a certain level of
12 contractor noncompliance with the ordinance while
13 an audit is being conducted.

14 Indeed, by limiting the Labor Standards
15 Unit's right to penalize immediately by citation
16 and in a proportionate manner, I believe the Labor
17 Standards Unit is faced to more often with having
18 to debar contractors from doing City work for a
19 three-year period, a penalty that can, and does,
20 cause business failure, penalties that might less
21 frequently be invoked by the Labor Standards Unit
22 if it had more immediate recourse to lesser
23 penalties that would send compliance signals to
24 City contractors more efficiently.

25 The proposed violation process will allow

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2 the Labor Standards Unit to officially issue a
3 citation notice, imposing targeted commensurate
4 penalties for each violation detailed. The purpose
5 of this ordinance is to add needed enforcement
6 leverage to the existing process. It is intended
7 to improve our current system of contractor
8 monitoring by empowering the PLSU to enforce
9 compliance on all City contractors fairly and
10 effectively.

11 I'd like to thank City Council for their
12 time, and I invite questions if you have any.

13 I also want to recognize a couple members
14 of my staff as well as members of the Board of
15 Labor Standards.

16 COUNCILMAN CLARKE: Thank you.

17 Are there any questions of this witness by
18 members of the committee?

19 Councilman Ortiz.

20 COUNCILMAN ORTIZ: Mr. Ramos, just for the
21 record so that we can establish a record, in the
22 first paragraph, you present a case in terms of the
23 ordinance and how it's been functioning. In the
24 last year and a half, two years, have any
25 contractors been fined and/or cited? And do you

1 4/25/02 LABOR & CIVIL SERVICE COMMITTEE, BILL 000349
2 have a list of those contractors?

3 MR. RAMOS: The answer is yes, we have a
4 list of those contractors. In the last two years
5 that I've been head of this unit, Councilman,
6 there's only been one contractor that has been
7 debarred.

8 COUNCILMAN ORTIZ: One contractor? And
9 who is that?

10 MR. RAMOS: It was a contractor by the
11 name of, I believe, Hubener & Company.

12 COUNCILMAN ORTIZ: And how many other
13 contractors have been cited for failure to do this?

14 MR. RAMOS: Well, cited in that they have
15 been notified that they have not complied, that in
16 certain instances, money is withheld until they
17 have complied, which is the purpose of this City
18 Council considering the amendment of this, that in
19 the -- with this amendment, there will be, as you
20 proposed in '98, you can fine a contractor.

21 The problem with the '98, it was a very
22 good bill, but it didn't give us the authority to
23 actually ticket someone for taking whatever time
24 they want to take in complying.

25 So we have a number of contractors. I

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2 could get you those numbers of how many contractors
3 in fact have been late in turning in certified
4 payrolls to the Board.

5 COUNCILMAN ORTIZ: Could you make that
6 list available to the Chair of contractors who have
7 been fined, if any, and those contractors that have
8 consistently not provided the information that
9 they've been asked.

10 MR. RAMOS: Absolutely. With the
11 exception, you won't get who has been fined 'cause
12 I don't have the authority. That's why we want to
13 amend --

14 COUNCILMAN ORTIZ: You have cited them,
15 no?

16 MR. RAMOS: Yes. And in certain cases, we
17 have withheld payments and so they have complied,
18 yes.

19 COUNCILMAN ORTIZ: Well, you know, those
20 two have been cited down line, and that company
21 that has been debarred, the contractor, is that the
22 only one in the last two years?

23 MR. RAMOS: Yes, Councilman.

24 COUNCILMAN ORTIZ: And they have -- they
25 submit payroll records to you? How do they do

1 4/25/02 LABOR & CIVIL SERVICE COMMITTEE, BILL 000349
2 that, quarterly?

3 MR. RAMOS: It's supposed to be weekly.
4 That's why we want this amendment, so we can --

5 COUNCILMAN ORTIZ: They submit weekly
6 reports to you?

7 MR. RAMOS: That's correct.

8 COUNCILMAN ORTIZ: Or they're supposed to.

9 MR. RAMOS: They're supposed to, yes.

10 And I would say, in all fairness to our
11 contractors, well over two-thirds of them do submit
12 them in time.

13 COUNCILMAN ORTIZ: And when they submit
14 these payroll reports to you, they have the name
15 and address of the individuals and so on?

16 MR. RAMOS: Yes.

17 COUNCILMAN ORTIZ: And the amount of money
18 that they get paid by skilled trade and labor and
19 so on and down that's detailed in that report?

20 MR. RAMOS: That is correct.

21 COUNCILMAN ORTIZ: This is all based on
22 just City contracts or contracts in which the City
23 has some relationship with?

24 MR. RAMOS: As long as it has City monies,
25 we will monitor those contracts.

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2 COUNCILMAN ORTIZ: For instance, if a
3 hotel is being built and it has a TIF, it doesn't
4 have direct money from the City, but it has a TIF,
5 do they have to submit their payroll records to the
6 office?

7 MR. RAMOS: Councilman, as long as they
8 have federal dollars in the building of that hotel,
9 then they have to submit themselves to Davis-Bacon.

10 COUNCILMAN ORTIZ: Well, let's say that
11 they don't have federal dollars, that this is just
12 a tax break from City property tax and not paying
13 City property tax and they don't have federal
14 dollars.

15 COUNCILMAN MARIANO: Don't we have a City
16 Davis-Bacon too?

17 MR. RAMOS: Councilman , the answer to
18 that is no.

19 COUNCILMAN ORTIZ: What?

20 MR. RAMOS: The answer to that is no.

21 COUNCILMAN ORTIZ: No?

22 MR. RAMOS: Unless there are federal
23 dollars, there is no monitoring of that hotel.

24 COUNCILMAN ORTIZ: So the Ritz-Carlton
25 didn't have federal dollars, but they did get the

1 4/25/02 LABOR & CIVIL SERVICE COMMITTEE, BILL 000349
2 tax-increment financing. I think we need to -- I
3 need to --
4 MR. RAMOS: Yeah, we did monitor the
5 Ritz-Carlton because it had federal dollars
6 COUNCILMAN CLARKE: Was it a 108 loan?
7 MR. RAMOS: Yes.
8 COUNCILMAN ORTIZ: Go ahead.
9 COUNCILMAN CLARKE: Councilman Goode?
10 COUNCILMAN GOODE: They were generally
11 packaged not only with tax-increment financing, but
12 also with HUD 108, so a lot of the hotels were
13 packaged with HUD 108 dollars automatically would
14 fall under Davis-Bacon.
15 COUNCILMAN ORTIZ: They do, and I just
16 want to know if all of them are submitting payroll
17 and detailed payroll records to the office.
18 MR. RAMOS: Yes, the ones that we are --
19 the ones, for example, the --
20 COUNCILMAN ORTIZ: Could you submit a list
21 to the Chair?
22 MR. RAMOS: Could you hold on for a
23 second, Councilman?
24 (Mr. Ramos confers off the
25 record with a colleague.)

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2 MR. RAMOS: Yes.

3 COUNCILMAN ORTIZ: Could you submit a list
4 to the Chair of all those projects that currently
5 have to submit reports to your office?

6 MR. RAMOS: Yes. It's public education.

7 And the answer to that is yes, as long as
8 there's federal dollars, most projects, especially
9 big projects, comply with prevailing-wage
10 requirements.

11 COUNCILMAN ORTIZ: (Inaudible) people have
12 to submit those reports.

13 MR. RAMOS: That's a state project

14 COUNCILMAN ORTIZ: So the stadium projects
15 are not submitting payroll --

16 MR. RAMOS: They are.

17 COUNCILMAN ORTIZ: To your office?

18 MR. RAMOS: They are to us because the
19 State was not involved in this region, and we
20 wanted to make sure that workers, Philadelphia
21 workers, were being protected, so we --

22 COUNCILMAN ORTIZ: So you're getting
23 detail to stadium payrolls?

24 MR. RAMOS: And we're trying to turn over
25 that job to who it belongs to, to the State.

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2 COUNCILMAN ORTIZ: But you're getting them
3 now?
4 MR. RAMOS: Yes.
5 COUNCILMAN ORTIZ: Okay, that's it.
6 COUNCILMAN CLARKE: Thank you.
7 Councilman DiCicco?
8 COUNCILMAN DICICCO: Thank you.
9 Good afternoon.
10 Are you familiar with the letter Eileen
11 O'Brien, the administrative analyst, sent to
12 Councilman Mariano? Are you familiar with the
13 letter that the administrative analyst for the
14 Bureau of Administrative Adjudication sent to
15 Councilman Mariano?
16 MR. RAMOS: No, I'm not.
17 COUNCILMAN DICICCO: I'm just curious.
18 I'll just paraphrase a little bit about what she
19 has in her letter saying that the Bureau of
20 Administrative Adjudication Code Unit will assist
21 the Bureau of Labor and Standards in enforcing the
22 prevailing-wage ordinance. And basically it says
23 that they will provide for fines for up to \$300 and
24 establish the code violation notices maybe issued
25 in the amount of \$100.

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2 I'm curious as to the process. What is
3 the mechanism? Is someone going to go out and
4 issue a citation as you would for -- and I'm not
5 minimizing your mission here -- a trash violation
6 or a parking violation? Who is the person who will
7 actually issue the citation?

8 MR. RAMOS: The person who would actually
9 issue the citation would be the inspectors of the
10 Labor Standards Unit. And I have just on this day
11 discussed this issue of how it would actually work
12 with Licenses and Inspections. They have their
13 code violation notice, their CVN, which is a
14 ticket-type of format.

15 So, yes, the answer to that is that it
16 would work similar to what L&I does, and I'll go
17 and more than likely use whatever format has worked
18 for them over there.

19 COUNCILMAN DICICCO: Is there a certain
20 number of people that will be empowered or have the
21 authority to issue these citations?

22 MR. RAMOS: Yes. According to the bill
23 that the City Council has presented through
24 Councilman Mariano, that is addressed in Page 2,
25 Section e, that you guys would give us the

1 4/25/02 LABOR & CIVIL SERVICE COMMITTEE, BILL 000349
2 authority to issue these violations.

3 COUNCILMAN DICICCO: Okay, I'm sorry. I
4 didn't get a chance to read the pink copy before I
5 came up, and so I apologize for that.

6 And the decision as to who those
7 inspectors will be is going to come from the -- is
8 that a joint agreement between the Bureau of Labor
9 and Standards or the Bureau of Administrative
10 Adjudication or --

11 MR. RAMOS: I would have to get that
12 information for you from Councilman Mariano. We're
13 the enforcement unit, so I would suspect that we
14 would be the ones actually citing, you know,
15 violators.

16 COUNCILMAN MARIANO: If I may interrupt
17 you.

18 The intent as the sponsor of this bill was
19 exactly what Mr. Ramos has said, but the Bureau of
20 Administrative Adjudication will handle any, like,
21 administration parts of his complaint.

22 (Inaudible.)

23 COUNCILMAN MARIANO: It would probably be
24 pretty much like a ticket for -- not to compare it,
25 but what you would do with a ticket for putting

1 4/25/02 LABOR & CIVIL SERVICE COMMITTEE, BILL 000349
2 trash out, and you get a chance to go adjudicate
3 it.

4 COUNCILMAN DICICCO: I understand that, I
5 understand that part of the process, and maybe I'm
6 not clear on it, and that's what I'm trying to get
7 to, some clarification.

8 Does this -- will this bill allow for
9 someone to be empowered to be able to issue the
10 ticket? Is it a typical employee of the Bureau of
11 Administration, which we referred to as enforcement
12 officer, or is it someone other? It's a non-city
13 employee, I assume, or a non-Bureau of
14 Administration of Adjudication employee. Would it
15 be an employee of --

16 MR. RAMOS: An employee of my staff, yes.
17 That's the way I see it.

18 COUNCILMAN DICICCO: With the salary paid
19 through on your budget?

20 MR. RAMOS: Yes. The way we see this,
21 this would not be an additional cost to the City of
22 Philadelphia.

23 COUNCILMAN DICICCO: Okay.

24 MR. RAMOS: Although the intent of it is
25 not to be a revenue-generating --

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2 COUNCILMAN DICICCO: I'm not going down
3 that path. I mean, I support the bill, but I just
4 want to be clear on the legality as to -- you have
5 to have an issuing authority for the citations, and
6 is that what this amendment will address?

7 MR. RAMOS: That's the way that I
8 interpret it, yes.

9 COUNCILMAN DICICCO: The individual who
10 works for the Bureau of Labor Standards has the
11 same authority as the enforcement officer who
12 writes ticket for a parking violation?

13 MR. RAMOS: Or I like to equate it to what
14 the Councilman equated it before, to L&I versus an
15 officer, but the answer to that as far --

16 COUNCILMAN DICICCO: I just have some
17 concern. Again, I'm not --

18 COUNCILMAN MARIANO: I think they'll be
19 able to ticket. I think the legislative intent was
20 that the Labor & Standards could actually write and
21 do the tickets and the enforcement. Any follow-up
22 would be done by adjudication, which would mean a
23 hearing or --

24 COUNCILMAN DICICCO: I understand that
25 part of it. My concern is, will they have the

1 4/25/02 LABOR & CIVIL SERVICE COMMITTEE, BILL 000349
2 same -- if I work for you, the Board of Labor and
3 Standards, and I have a ticket book, or whatever it
4 is that I'm going to be issuing, do I have the
5 authority -- I mean, by what authority do I have to
6 you the write that citation? Is that covered in
7 this bill? I'm not an attorney so that's why
8 I'm --

9 COUNCILMAN CLARKE: Councilman?

10 COUNCILMAN DICICCO: I want to make that
11 sure when you do that, what you're attempting to do
12 is --

13 MR. RAMOS: We already have the --

14 COUNCILMAN DICICCO: That it's not going
15 to fall through, you know, the cracks, and that
16 somebody's going to challenge the authority to be
17 able to do that.

18 COUNCILMAN CLARKE: Councilman Ortiz?

19 COUNCILMAN ORTIZ: Are all the employees
20 in the office also civil servants?

21 MR. RAMOS: No.

22 COUNCILMAN ORTIZ: No?

23 MR. RAMOS: No.

24 COUNCILMAN CLARKE: Mr. Ramos, does the
25 Department currently have enforcement powers?

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2 MR. RAMOS: Yes.

3 COUNCILMAN CLARKE: So this is adding to
4 the enforcement powers that they currently have,
5 thus allowing them to actually issue a citation.

6 MR. RAMOS: That's correct.

7 COUNCILMAN CLARKE: So they already have
8 enforcement powers with the inability to actually
9 enforce with the citation. Okay, okay.

10 COUNCILMAN DICICCO: I wanted to make sure
11 about that because if not --

12 MR. RAMOS: We can -- we withhold dollars
13 of contractors that are not complying.

14 COUNCILMAN CLARKE: But you just don't
15 have the ability to actually --

16 COUNCILMAN DICICCO: Again, my only
17 concern is -- I support the bill; I just wanted to
18 make sure that you had that authority and that it's
19 perfectly clear, because I don't want anybody to
20 suggest that the violation is only worth the paper
21 that it's written on. Because who are you --
22 whoever that "you" is -- to issue a violation? I
23 just wanted to make sure of that

24 Thank you. No further questions.

25 COUNCILMAN CLARKE: Thank you.

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2 Any other questions from members of the
3 committee of this witness?

4 (No further questions.)

5 COUNCILMAN CLARKE: Anyone else who wants
6 to testify on this bill?

7 (No response.)

8 COUNCILMAN CLARKE: There being none, we
9 will complete the public hearing and move into the
10 public meeting.

11 MR. RAMOS: Thank you, members of City
12 Council, for your consideration.

13 COUNCILMAN CLARKE: You're welcome.

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1 4/25/02 LABOR & CIVIL SERVICE COMMITTEE PUBLIC MEETING

2 COUNCILMAN CLARKE: Councilman Mariano, do
3 you want to make a motion? We're in a public
4 meeting now. Do you want to make a motion to
5 report the bill out of committee.

6 COUNCILMAN MARIANO: I make a motion to
7 report this bill out of committee with a favorable
8 recommendation and for a suspension of the rules
9 too.

10 COUNCILMAN CLARKE: Is there a second?

11 (Duly seconded.)

12 COUNCILMAN CLARKE: All in favor of the
13 bill?

14 Those opposed?

15 None opposed. There being none, the bill
16 passes. The bill will be reported out.

17 Thank you. That's the end of the meeting.

18 (Proceedings end at 2:29 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the foregoing
proceedings of the Council of the City of
Philadelphia's meeting of the Committee on Labor and
Civil Service of Thursday, April 25, 2002, are
contained fully and accurately in the stenographic
notes taken by me, and that this is a true and
correct transcript of same.

RE: Ordinance No. 000349

_____,
Josephine Cardillo
Registered Professional Reporter
and Notary Public

(The foregoing certification of this
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and/or supervision of the certifying reporter.)