

City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER 2012-27

No. 310 AN ORDINANCE IN AMENDMENT OF SECTIONS 2-169.1 AND 21-91 OF THE CODE OF ORDINANCES ENTITLED: "FIRST SOURCE LIST ESTABLISHED"

Approved June 8, 2012

Be it ordained by the City of Providence:

SECTION 1. Chapter 21, Article III½ of the Code of Ordinances of the City of Providence shall be amended as follows:

Sec. 21.91.1 – Legislative Findings.

It is the intention of the city council to preserve the health, safety and welfare of the citizens of Providence and their property by ensuring that all significant public investments of taxpayer dollars require that employers utilize the Providence First Source List for jobs created as a result of the public investment. In thoroughly reviewing the state and condition of the Providence First Source List, including, but not limited to, the September 6, 2011 Report and Recommendations of the City Council Commission to Study and Evaluate the City's First Source Ordinance, the City Council finds and declares the following:

- (1) Unemployment and underemployment remain serious and important problems facing the residents of Providence with the February 2012 unemployment rate reaching 13.5% signifying that 10,867 Providence residents are out of work.
- (2) The City of Providence faces significant economic and social hardship with a structural budget deficit of \$70 million in fiscal year 2011 and \$110 million in fiscal year 2012 and a local economy devastated by the dual impacts of an economic and foreclosure crisis.
- (3) The City of Providence's extremely high unemployment rate has significantly impacted the ability of our citizens to pay rent and/or mortgages for the dwellings in which they live. The result has been hundreds of foreclosures in recent years causing a decline in property values for all City residents and property owners.
- (4) As a result of the high unemployment and foreclosure rates, declining property values, and a tax base severely limited by tax-exempt property holdings, the City cannot raise any substantial monies to fund much needed public works projects and provide grants and loans for essential social programs.
- (5) The cost of public works projects, grants and loans to non-profits, as well as tax stabilization agreements, incentives, discounts, and credits that are provided to the private sector to induce economic development are borne by the residents and business owners who pay the full property tax rate.
- (6) The high rates of unemployment and foreclosure have caused increases in property crimes – crimes steeped in the conditions of a stagnant economy. These crimes have a direct and deleterious effect upon all the neighborhoods and areas of the city, resulting in vandalism, crime, and the physical deterioration of neighborhoods and areas.
- (7) In order to adequately fund these projects, the City needs to maintain adequate property values; and in order to maintain property values, the City needs to provide access to gainful employment for its citizens.

(8) Unless the City's citizens are provided with an opportunity to be hired on projects that their tax dollars fund, unemployment will remain high, property values will further decline, foreclosures will increase, crime will also increase, and the City will not be able to pay for or provide essential public works projects, social programs, and incentives to the private sector that will induce economic activity.

Sec. 21-91.2 – Covered Employers.

The provisions of this article shall apply to any and all employers, entities, and/or businesses that receive any of the following forms of aid from the City of Providence above and beyond the normal services provided to all businesses and residents in the city in an amount that exceeds more than \$25,000 over the course of one calendar year.

- (a) Tax concessions, and/or abatements, other than adjustments made by the tax assessor or the board of tax assessment review, tax stabilization agreements, tax incremental financing agreements;
- (b) Grants, grants-in-aid, and/or loans from the office of community development, office of planning and development, or other federal aid programs administered by the City of Providence, or any program requiring authorization by resolution of the city council unless specifically exempted by ordinance.
- (c) Projects funded in whole or in part by city funds, or funds which, in accordance with a federal grant or otherwise the city expends or administers, or which the city is a signatory to the construction contract.

This section shall not apply, however, to entities of four (4) employees or less. Should a previously exempted employer, entity and/or businesses grow to five (5) employees or more, the provisions of this section shall apply.

Sec. 21-92. – Covered Jobs.

Jobs covered by this section shall include all positions created as a result of internal promotions, terminations, and expansion of the employer's workforce, except those filled by internal promotion from within the employer's local workforce for the term that the employer, entity and/or business receives aid from the City as defined in Section 21-91. Jobs covered by this section shall also include all contractors, subcontractors, tenants and subleasees that do business on, work at, or are located at the site or locus where aid from the City is received for any and all new employees needed to work at the site or locus of the subject premises for the term that the site receives aid from the City as defined in Section 21-91.

Sec. 21-93. - Nature of First Source Applicability.

(a) Any employer, entity and/or business subject to Section 21-91 shall, as a condition of the receipt of such aid, hire any and all employees for all jobs covered by Section 21-92 and in accordance with Section 21-94 for the term of such aid.

(b) Any project that receives aid from or through the City as defined by Section 21-91 shall, as a condition of the receipt of such aid, hire any and all employees for all jobs covered by Section 21-92 and in accordance with Section 21-94 for the duration of the project.

(c) All city agencies and/or departments issuing applications, requests for proposals, contracts, loans, and/or bid specifications shall include a notice of First Source obligations for covered employers pursuant to Section 21-91 and covered jobs pursuant to Section 21-92 and require any recipient of any aid as defined in Section 21-91 to affirmatively acknowledge their, and any of their subcontractor's obligations to comply with this section.

(d) Any employer, entity and/or business subject to Section 21-91 shall, as a condition of the receipt of such aid, identify in all relevant advertising and job applications that they are a First Source covered employer and allow the City or its designee to periodically audit relevant records of their entity reasonably related to the employer's, entity's, and/or business's compliance with this section.

(e) Covered employers shall comply with federal equal employment opportunity policies on non-discrimination for those with prison records. Whenever an employer is in receipt of information which is part of an employment applicant's or employee's criminal history record information file,

he or she may use that information for the purpose of deciding whether or not to hire the applicant or fire the employee, only in accordance with this section, unless such denial of employment or termination is required by municipal, state or federal law.

- (1) Convictions should only be considered by the employer to the extent that they reasonably relate to the applicant's suitability for employment in the position for which they have applied or in which they are in, that is, where there is a justified business necessity. In determining whether a justified business necessity exists, the employer must consider:
- a. The gravity of the offense or offenses;
 - b. The time that has passed since the conviction and/or completion of the sentence; and
 - c. The nature of the job held or sought.

(2) Process. In the case when an individual is being denied employment as a result of a business necessity as described above, the employer is required to give written notification to the individual being denied or fired, explaining the reasons why he/she was denied employment, and informing him/her of the right to appeal to the Director or his/her designee.

Sec. 21-94. – First Source oversight.

(a) There shall be a First Source Director “Director” who shall either maintain or contract with a third party to maintain a first-source list.

(b) The list shall consist of any bona fide Providence resident seeking employment who wishes to register with said agency.

(c) This list shall also include with the names and addresses of such job seekers any special skills, training or education which the job seeker may have.

(d) The Director, in conjunction with other appropriate government agencies, shall be responsible for recruiting, training, and advertising no less frequently than once every three (3) months the existence of said list and the method by which a person may be included on such list. Advertising shall be in a newspaper of general circulation or on the city website as well as any other method deemed appropriate by the First Source Director and shall also include notification of any and all public job placement and referral agencies in the City of Providence.

(e) All covered employers subject to Section 21-91 shall notify the Director or his/her designee of job openings for jobs covered pursuant to Section 21-92 prior to advertising applicable job opening(s) to the public.

(1) Within ten (10) days of being notified by the entity or employer, the Director or his/her designee shall refer appropriately trained and qualified persons from the First Source list or any other source to said employer until the employer has filled such jobs from the First Source list or with bona fide City of Providence residents, giving preference to the length of time residents have been on the list.

(2) In the event that the Director does not notify the entity or employer within the ten (10) day period, or the entity or employer is unable to find qualified employees after exhausting all of the appropriately trained and qualified persons to, the employer shall notify the Director or his/her designee that it wishes to seek outside employees.

(3) The Director or his/her designee shall have ten (10) days to meet with the employer after the employer notifies the Director. If the Director or his/her designee does not meet with the employer within ten (10) days of being notified the employer may hire individuals not included on the list. If they meet and, after conference, the employer and Director or his/her designee agree that the Director or his/her designee, is unable to provide suitable employees for said positions, the Director or his/her designee shall permit the covered employer in writing to hire workers not found on the First Source list or who are not bona fide City of Providence residents.

(4) If the employer and Director or his/her designee do not agree that the Director or his/her designee is able to find suitable employees, the Director or his/her designee shall be given an additional ten (10) days to recruit employees for such positions. If at the end of ten (10) days the Director or his/her designee is unable to find suitable employees, the Director or his/her designee shall permit the covered employer in writing to hire workers not found on the First Source list or who are not bona fide City of Providence residents.

(5) At the sole discretion of the Director or his/her designee, an employer may be exempted from the provisions of this article if the employer has an emergency hiring requirement, or if the employer can certify that it has otherwise hired a bona fide City of Providence resident or a person on the First Source list for a job covered in Section 21-92 that should have been subject to the process in Section 21-94.

(f) The Director may also develop targeted career and industry pathways for residents on the First Source List and establish training and referral programs for such persons and notify all persons on the first-source list of such programs. Selection for such training programs shall be in accordance with the following guidelines: the Director or his/her designee shall strive to place a proportionate share of women, minorities and persons with disabilities in all training and job opportunities. The goals will be fifty (50) per cent women, fifty (50) per cent minorities, and five (5) per cent persons with disabilities.

(g) Training and referral programs may be established at regular intervals and may be in the following areas:

(1) Any area in which a covered employer who expects to be hiring has expressed a need exists.

(2) Any area in which, in the determination of the Director, a need exists in the general work force but there are not sufficient training opportunities specifically for Providence residents.

(3) Basic training in the skills and work habits necessary for successful and continued employment for any person on the first-source list whom the agency identifies as lacking such skills.

(h) The Director shall prepare and make available on the city's website as well as to the Internal Auditor, the City Council and to the public a quarterly report containing the following information commencing with the city's fiscal year on July 1.

(1) The names of entities that receive aid, as defined in Section 21-91; the aid they received from the City; the number of job vacancies they have; the number of hires they make for jobs covered in Section 21-92; the number of new hires they made from the First Source List; and, the number of new hires they make that are bona fide City residents, and the number of new hires they make that are non-residents of the City.

(2) Total number of people hired due to First Source obligations and the percentage of those hired who were people of color, women, and people with disabilities.

(3) The names of the entities that developed job training programs through the funds allocated by the City, number of residents from the City who have participated and completed in these programs, and where they were placed for jobs; and percentages of these residents who are people of color, women, and people with disabilities.

(4) In addition to their above reporting requirements, the Director or his/her designee shall provide the number of recipients that were required to comply with this article but did not, and what if any sanctions they received; challenges in ensuring compliance from covered employers, information on any employers who are non-complaint and names of all entities that received job training funds from the First Source Trust Fund and the amount of funds received.

- (i) The Director shall promulgate a citizen complaint form with which any person on the First Source list or bona fide Providence resident may register a complaint against any employer, entity and/or business alleged to be in violation of this Article. The Director shall provide a written response to the citizen complaint within ninety (90) days stating whether the complaint lacks merit or will be pursued pursuant to Section 21-96.

Sec. 21-95. - Funding.

(a) For purposes of maintaining an adequate first-source list to meet the needs of covered employers and for adequately training individuals on such list the city shall appropriate annually no less than two hundred fifty thousand dollars (\$250,000.00) to implement, monitor and enforce the provisions of this Article. If allocated sums of funds are not used by the end of the fiscal year, the monies shall remain in a dedicated First Source Trust Fund "Fund" to implement the provisions of this Article in the next fiscal year.

(b) This fund shall be under the administration of the Director but may include funds from workforce investment, community development, or any other source. The city shall be authorized when the appropriate state and local provisions are fulfilled to issue the necessary bonds for such funding. If the city is unable to fulfill the funding provision of this article from any other source, the funds shall be provided from the city's general fund.

(c) All tax stabilization agreements and/or tax incremental financing agreements shall require at least one percent (1%) of the total amount of discounted taxes to be directed to the Fund and shall be used to implement, monitor and enforce the provisions of this Article.

Sec. 21-96. - Enforcement.

(a) The Director and/or his/her designee shall monitor compliance of any employer subject to Section 21-91 as well as any city department that has obligations under this section. The Director shall request to the Law Department in writing that the City impose sanctions on any employer subject to Section 21-91 that violates its obligations under this Article. Such violations shall include, but not be limited to:

1. Failure to file reports within required timeframes.
2. Failure to notify the Director and/or his designee about job openings defined in Section 21-92 within required timeframes.
3. Failure to notify the Director and/or his designee about job openings defined in Section 21-92 prior to advertising them to the public.
4. Failure to allow access to relevant records and/or cooperate with the City in an audit.
5. Failure to comply with Section 21-93.

(b) Sanctions for violations shall include, but not be limited to:

- 1) Termination and/or suspension of aid or funding.
- 2) Termination and/or suspension of contract.
- 3) Recovery of any public benefit which accrued to the business during the period of violation.
- 4) Withholding a percent of all future payments under the involved eligible project until compliance with First Source obligations is achieved.
- 5) Suspension or termination from doing business with or receiving aid from the City for a period of not less than two years.

(c) Any firm, company, or entity or representative thereof found to have made an intentionally false or fraudulent representation in connection with their obligations under this Article shall cause:

- 1) The entity's contract with the City to terminate immediately.
- 2) The entity to be terminated from doing business with or receiving aid from the City for a reasonable period of time as determined by the City Solicitor.
- 3) The City to impose a claim for any damages or costs incurred as a result of misrepresentation against all responsible parties.
- 4) Termination shall extend to successor entities that any person who was found to have violated this section is an owner, member, partner, principal, or director of.
- 5) Court costs to be paid by the entity for any legal appeal in which the City prevails.

Sec. 21-97. Rules and Regulations.

The Director shall promulgate rules and regulations to implement the provisions of this article; emphasizing that these statutory requirements are the minimum requirements for those entities who wish to utilize public dollars.

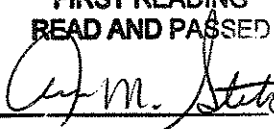
Sec. 21-98. Severance Provision.


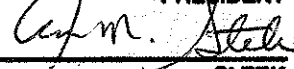
If any one or more subsections of this Article shall for any reason be adjudged unconstitutional or otherwise invalid, the determination shall not affect, impair, or invalidate the remaining subsections of this article and ordinance.

SECTION 2. Chapter 21, Article IX½ of the Code of Ordinances of the City of Providence shall be deleted in its entirety as follows:

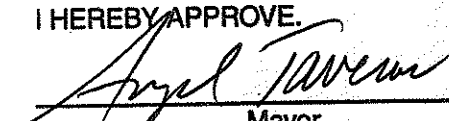
SECTION 3. Effective Date

These amendments shall take effect immediately upon passage.

IN CITY COUNCIL
MAY 17 2012
FIRST READING
READ AND PASSED

CLERK

IN CITY
COUNCIL
JUN 07 2012
FINAL READING
READ AND PASSED

PRESIDENT

CLERK

I HEREBY APPROVE.


Mayor

Date: 6/8/12