

For Internal Use Only



**BALTIMORE CITY COUNCIL
EDUCATION, WORKFORCE, AND YOUTH
COMMITTEE**

Mission Statement

The Committee on Education, Workforce and Youth (EWY) is responsible for creating opportunities for our young people, ensuring economic opportunity and prosperity for Baltimore's workforce, and supporting our most vulnerable neighbors. The committee's areas of jurisdiction include public education, labor relations, workforce development, employment, public parks, recreation, and youth affairs. Issue areas include, but are not limited to: education, including adult education, higher education, workforce development, labor, senior affairs, veterans, childcare, accessibility and disability issues, recreation and parks, and historical landmarks.

**The Honorable Robert Stokes, Sr.
Chairman**

PUBLIC HEARING

**THURSDAY, MAY 6, 2021
10:00 AM**

VIRTUAL WEBEX MEETING

Council Bill 21-0039

Local Hiring – Employment Plan

WORK SESSION

CITY COUNCIL COMMITTEES

ECONOMIC AND COMMUNITY DEVELOPMENT (ECD)

Sharon Green Middleton, Chair
John Bullock – Vice Chair
Mark Conway
Ryan Dorsey
Antonio Glover
Odette Ramos
Robert Stokes
Staff: Jennifer Coates

WAYS AND MEANS (W&M)

Eric Costello, Chair
Kristerfer Burnett
Ryan Dorsey
Danielle McCray
Sharon Green Middleton
Isaac “Yitzy” Schleifer
Robert Stokes
Staff: Marguerite Currin

PUBLIC SAFETY AND GOVERNMENT OPERATIONS (SGO)

Mark Conway – Chair
Kristerfer Burnett
Zeke Cohen
Erick Costello
Antonio Glover
Phylicia Porter
Odette Ramos
Staff: Samuel Johnson

EDUCATION, WORKFORCE, AND YOUTH (EWY)

Robert Stokes – Chair
John Bullock
Zeke Cohen
Antonio Glover
Sharon Green Middleton
Phylicia Porter
James Torrence
Staff: Marguerite Currin

HEALTH, ENVIRONMENT, AND TECHNOLOGY (HET)

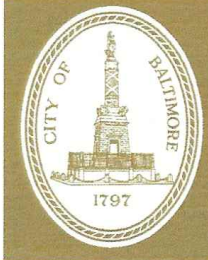
Danielle McCray – Chair
John Bullock
Mark Conway
Ryan Dorsey
Phylicia Porter
James Torrence
Isaac “Yitzy” Schleifer
Staff: Matthew Peters

RULES AND LEGISLATIVE OVERSIGHT (OVERSIGHT)

Isaac “Yitzy” Schleifer, Chair
Kristerfer Burnett
Mark Conway
Eric Costello
Sharon Green Middleton
Odette Ramos
James Torrence
Staff: Richard Krummerich

CITY OF BALTIMORE

BRANDON M. SCOTT, Mayor



OFFICE OF COUNCIL SERVICES

LARRY E. GREENE, Director
415 City Hall, 100 N. Holliday Street
Baltimore, Maryland 21202
410-396-7215 / Fax: 410-545-7596
email: larry.greene@baltimorecity.gov

WORK SESSION

Committee: Education, Workforce and Youth

Bill: 21-0039

Local Hiring – Employment Plan

Sponsor: Councilmember Stokes, et al

Introduced: February 8, 2021

Purpose:

For the purpose of requiring certain contractors to create and submit to the Director of the Department of Finance initial employment plans to bid on government-assisted construction projects or contracts that receive government assistance totaling \$5 million or more; requiring the Director of the Department of Finance to score the bids using the Director’s evaluation of the employment plan as 10% of a bidder’s score; requiring the winning bidder to submit a revised employment plan to the Director of the Department of Finance with certain criteria; and conforming related provisions.

Effective: On the 30th day after the date it is enacted.

Agency Reports

Table with 2 columns: Agency Name and Report Status. Rows include Law Department (Favorable/Amend), Mayor’s Office of Employment Development (Favorable/Amend), and Department of Finance (Unfavorable/Opposes).

Analysis

Current Law

I. Baltimore City Code – Article 5 – Finance, Property & Procurement, Subtitle 27 – Local Hiring - outlines the (local hiring) policies and/or mandates for any person who has a contract for more \$300,000 with Baltimore City or who will benefit from more than \$5 million in assistance for a City-subsidized project.

Background

The committee held a hearing on this bill on Thursday, April 15, 2021. Following are notes from the hearing:

Major Speakers during the hearing:

- Jason Perkins-Cohen, Mayor's Office of Employment Development
 - Elena DiPietro, Law Department
 - Mackenzie Garvin, Mayor's Office of Employment Development
 - Mara James, Department of Finance
-

Major Issues Discussed

1. The chairman gave opening remarks and expressed the importance of local hiring.
2. Several city agency representatives testified, the Department of Finance opposed the bill and the other two agencies, Mayor's Office of Employment Development and the Law Department raised concerns and expressed the need to amend the bill as is. Some topics of discussion and/or concerns expressed were:
 - Mayor's Office of Employment Development (MOED)
 - Supports local hiring and talked about the duties and functions of their Office
 - Concerns raised:
 - Want to make sure we (the city) is not "clouding" the right information necessary to award contracts
 - Believes the bill as currently written:
 - Will slow the bidding process
 - Will create more work in the process
 - Will create more costs to contractors/bidders
 - Requires more positions (analysts) to review bids
 - Provides no penalties in the bill for non-compliance
 - May have unintended consequences
 - Law Department
 - Talked about the Department's proposed amendments and why the amendments were proposed
 - Concerns raised:
 - The bill as written could potentially have City Charter issues
 - No penalties included in the bill
 - Bids being evaluated before going before the Board of Estimates – is of concern
 - Preferences could have constitutional issues on both the State and Federal levels
 - Some technical issues about understanding what bidders are required to do; the drafting and/or understanding of bill – is of concern
 - Oversight being administered by the Department of Finance instead of by the MOED – is of concern

- **The Department of Finance**
 - Stood by their agency report – Opposes the bill
 - Concerns raised:
 - How the bill brings the Department into the process; believes the process should be under MOED
 - City is currently struggling to award contracts. The bill could harm same and creates additional reporting requirements
 - Implementation must be completed within thirty (30) days – is of concern
3. The committee/councilmembers asked questions, stated concerns and asked for clarification for some issues. Some highlights from same were:
- Comments:
 - Wished a representative(s) from Baltimore City Community College had attended the hearing
 - We need more innovative things to get people employed
 - Local hiring is important and is looking forward to reviewing the bill in its final state
 - Questions asked:
 - Can you (MOED) explain your current process for local hiring?
 - Given the current process, how many more analysts would you (MOED) need?
Answer: Approximately five (5)
 - It is my understanding that your concern (MOED) is about requiring contractors/bidders to provide too much data to the point they don't want to bid. Can you talk a little more about what is considered too much data?
 - Getting folks back to work. Can you (MOED) talk about some of your plans for this?
 - Requests made: **
 - MOED Partnerships – Can you provide data to committee members regarding how MOED partners with Baltimore city schools? **Requested by member Middleton**
 - Provide a copy of the “Heat Map(s)” to all committee members. **Requested by Chairman Stokes**
4. The chairman gave closing remarks, stating the importance of local hiring. The hearing was called to recess.
5. On Thursday, May 6, 2021 the committee will reconvene to discuss proposed amendments and/or other concerns regarding the bill by way of **a work session**.

Additional Information

Fiscal Note: None

Information Source(s): Hearing notes from the April 15, 2021 committee meeting.

Marguerite M. Currin

Analysis by: Marguerite M. Currin
 Analysis Date: May 3, 2021

Direct Inquiries to: (443) 984-3485

Council Bill 21-0039
Agency Reports

SEE ATTACHED REPORTS

CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor



DEPARTMENT OF LAW

JAMES L. SHEA
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

April 7, 2021

The Honorable President
Members of the City Council
c/o Natawna Austin, Executive Secretary
409 City Hall
Baltimore, MD 21202

RE: City Council Bill 21-0039 – Local Hiring - Employment Plans

Dear President and Members:

You have requested the advice of the Law Department regarding City Council Bill 21-0039. City Council Bill 21-0039 proposes to require certain contractors to create and submit to the Director of the Department of Finance initial employment plans to bid on government-assisted construction projects or contracts that receive government assistance totaling \$5 million or more. The bill also requires the Director of the Department of Finance to score the bids using the Director's evaluation of the employment plan based on criteria in the bill. This evaluation is worth 10% of a bidder's score. Lastly, the bill requires the winning bidder to submit a revised employment plan to the Director of the Department of Finance that contains certain information.

Potential Charter and Constitutional Issues

This bill proposes that contractors on projects that are subject to the local hiring law must also have an employment plan for socially and economically disadvantaged individuals. Upon submitting a bid, the bidder must file an initial employment plan with information on health and retirement benefits for employees who worked on the bidder's past contracts; a description of the bidder's efforts to provide City residents with ongoing employment and training opportunities; and a description of the bidder's efforts to hire and retain economically/socially disadvantaged individuals for at least 50% of its total workforce. After award of the contract, the bidder must submit a revised employment plan for approval by the Director of Finance. This plan must include, among other things, a projection of the total number of hours to be worked on the contract by trade, by journeymen, by apprentices and by City residents, projections of the number of hours available to be worked in those same categories and by unskilled workers, by socially and economically disadvantaged individuals.

Generally speaking, the Charter requires the Board of Estimates (BOE) formulate and execute the fiscal policy of the City. Charter Art. VI, Sec. 2. The BOE in furtherance of its Art. VI, Sec. 2, is responsible for awarding contracts and supervising all purchasing by the City as provided in the Charter. The City Council has been given authority to set the thresholds for

competitive bidding and contracts requiring approval by the BOE. Other than that duty, all the procedures for awarding contracts are vested by the Charter in the BOE. Given the comprehensive nature of the BOE's Charter authority, any law that alters the process of awarding a contract and takes a decision out of the hands of the BOE impermissibly interferes with the Charter powers of the BOE. In addition, such laws violate the requirement that contracts be awarded to the lowest responsible bidder. Exceptions to the competitive bidding requirement can only be created in the Charter. Evidence of this is found in the section in the current Charter that allows for a bidding preference for certain neighborhood programs. This exception is acceptable because it is created by the Charter and provides for the discretion to award to be exercised by the BOE.

The bill provides that the initial employment plan be reviewed by the Director and that this evaluation is worth 10% of the bidder's overall score. If this bill impinges of the Charter powers of the BOE, the bill could be vulnerable to challenge and lead to potentially expensive litigation. It is possible however, that this bill can be justified under the Charter because it does not mandate that a certain percentage of workers in a classification must be hired by contractors. The bill only asks the bidders provide an explanation of their efforts in certain areas and if that information is provided, the requirement has been met and the 10% boost in the bid's score is granted. The criteria are just descriptions of the policies of the bidders. There is no provision for any evaluation of the content of those policies. They merely have to be provided for in the bid submission much like any other information required in the RFP. There is not exercise of discretion with respect to the award that is taken away from the BOE.

Another concern is that the bill creates classifications by giving preferential treatment to socially and/or economically disadvantaged individuals and potentially local residents thereby implicating the equal protection clause. The Equal Protection Clause prohibits governments from denying the "equal protection of the law" to any group of people. Any statute that creates a classification must satisfy at least a rational basis review to be legally sufficient. *Smith, Setzer and Sons v. South Carolina Procurement Rev, Bd.*, 20 F.3d. 1311(4th Cir. 1994). This bill does not classify on the basis of any suspect class so the purchasing preference in this bill must satisfy the rational basis standard to be constitutional. The purpose of the bill must also be clearly defined and supported with data that shows the benefit to those individuals and to the economy of the City that forms the rational basis for the classification. It is likely that a rational basis could be established for this bill but the supporting data should be in the record of the bill's passage.

Finally, this bill intertwines the concepts of local hiring and hiring of socially and economically disadvantaged individuals. The inclusion of local hiring could implicate the privileges and immunities clause. The bill, however, does not require that local residents be hired by contractors on City work. The bill merely asks for projections of what the need might be for new employees and how the contractors might go about hiring local residents for those jobs. AS he bill does not discriminate on the basis of local residency, there is no privileges and immunities problem.

Technical Issues

The way this bill is drafted creates some technical issues with its implementation and interpretation. First the bill creates two parallel processes, one for local hiring and one for socially and economically disadvantaged hiring. One is administered by MOED and the other by

the Director of Finance but the bill places the new program in the middle of the provisions for local hiring. This arrangement makes it difficult to determine which provisions are applicable to which program. The Sponsor may want to consider consolidating the programs under MOED as they have a process in place that could perhaps be modified for the purposes of this bill.

The bill also is not clear with respect to the responsibilities of the bidder. For example, Section 27-8(B) (1) of the bill should be drafted to create a requirement for the bidder with respect to the bid contents. The bill should be amended as follows “(1) A bidder responding to a solicitation that qualifies them as a “beneficiary” under Sec. 25-1(b) must include in their bid or proposal an initial employment plan outlining the bidder’s strategy to:


- (I) comply with the local hiring requirements of this subtitle; and
- (II) pursuant to this Sec. 28-8, hire economically disadvantaged, socially disadvantaged, or economically and socially disadvantaged individuals.”

Next, the wording of Sec. 27-8(C) is very confusing, In order to promote a clear understanding of the requirements of this section, the Law Department suggests the following amendments.

1. In lines 1 14,18,22 and 26 after “work” insert “to be worked over the e course of the project or contract.”
2. In lines 15, 19 and 23 and 27, strike “to be worked over the course of the project or contract”
3. In lines 16, 20, 24 and 28, after “work” insert “to be worked” and in those same lines, strike “to be worked.”
4. On page 4, line 1 strike ”worked” and insert “to be worked.”
5. On page 4, lines 5 through 11, this requirement appears to overlap with the responsibilities of MOED and the Local Hiring Committee. The Law Department suggests that it be stricken.
6. On page 4, line 22 at the end of this line insert “strategy.”

Provided that the concerns of the Law Department are addressed, the bill could be approved for form and legal sufficiency.

Sincerely yours,




Elena R. DiPietro
Chief Solicitor

cc: James L. Shea, City Solicitor
Stephen Salsbury

Matthew Stegman, Presidents' Office
Nikki Thompson, President's Office
Nina Themelis, MOGR
Hilary Ruley, Chief Solicitor
Victor Tervalá, Chief Solicitor
Ashlea Brown, Assistant Solicitor
Avery Aisenstark, Legislative Reference

H. Raymond

FROM	NAME & TITLE	Henry Raymond, Director of Finance	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Department of Finance Room 454, City Hall		
	SUBJECT	City Council Bill 21-0039 – Local Hiring Employment Plan		

TO

DATE:

The Honorable President and
Members of the City Council
City Hall, Room 400

April 14, 2021

Position: Oppose

The Department of Finance is herein reporting on City Council Bill 21-0039, Local Hiring – Employment Plan, the purpose of which is to require certain contractors to create and submit initial employment plans to the Director of Finance for bids on certain government-assisted construction projects or contracts that receive government assistance. In addition, the bill would require the Director of Finance to include review of the submitted plans as 10% of bid scoring and require contractors with winning bids to submit a revised employment plan.

Background

The City currently has a local hiring law (Article 5. Finance, Property, and Procurement; Subtitle 27. Local Hiring), enacted in 2013, that requires contractors, and all of their subcontractors, with City-awarded contracts over \$300,000 and City-subsidized projects over \$5,000,000 to complete several steps that are aimed at increasing local hiring. These steps include meeting with the Mayor’s Office of Employment Development (MOED) within 2 weeks of the contract award to complete an Employment Analysis; posting new jobs with MOED only for a period of seven days; utilizing MOED’s recruitment services for new hires; meeting the 51% goal for all new hires for City-funded contracts to be Baltimore City residents; and submitting monthly employment reports with information on the number of current workers, new workers, and the number of Baltimore City residents working on the project.

The goal of the current local hiring law is to increase hiring of City residents for public projects. One way this is achieved is by setting specific hiring goals for City-awarded contracts. In addition, MOED conducts labor market analyses to identify gaps between employer workforce needs and skill levels of Baltimore City residents. This program also assists the workforce community in determining the types of training and credentials that Baltimore City residents require to successfully apply, obtain, and sustain jobs in productive careers.

In 2013, former Mayor Stephanie Rawlings-Blake issued an executive order, Employ Baltimore, which requires all City-awarded contracts greater than \$50,000 and up to \$300,000 (except for professional and emergency services) to take the similar steps outlined above—meeting with MOED within two weeks of the contract award, posting new jobs with MOED, utilizing MOED recruitment services, and submitting bi-annual employment reports.

Jurisdictions across the country have a variety of local hiring laws and offices, including Cleveland, Philadelphia, San Francisco, St. Louis, and Washington, D.C. These laws and offices have similar goals as Baltimore’s current law to encourage contractors to hire local residents on public contracts. In addition,

many of these offices are structured similarly to MOED with multiple employment programs working together to reach this and other workforce development goals, though with varying staffing levels and budgets.

The proposed legislation aims to expand the current local hiring law by requiring an initial employment plan submitted pre-award that outlines the bidder’s strategy to meet the local hiring requirement and hire economically disadvantaged, socially disadvantaged, and economically and socially disadvantaged individuals. In addition, it requires that bidders provide a description of health and retirement benefits provided to employees that worked on completed projects in the past three years; a description of efforts to provide City residents with ongoing employment and training after completion of projects they are initially hired for; and a detailed description of efforts to hire and retain at least 50% of the total workforce as those who constitute economically disadvantaged, socially disadvantaged, and socially and economically disadvantaged individuals.

The legislation also requires additional reporting requirements post-award, which include:

- detailing estimates and timetables for hours worked by different trade and employee groups;
- describing the skill requirements by the job title position;
- detailing how they plan to meet the local hiring requirements based on the needs of the project;
- outlining a remediation strategy to resolve problems associated with meeting the hiring requirements;
- designating an official from the contractor that will be responsible for implementing and reporting all requirements;
- describing health and retirement benefits provided to City residents working on the project;
- outlining a strategy to ensure that City residents continue to receive employment and training after completing work on this job;
- outlining a strategy to hire graduates of Baltimore City public and charter schools, community-based job training providers, and hard-to-employ residents; and
- reporting the bidder’s general City-resident hiring practices on projects or contracts completed within the last 2 years.

Fiscal Impact Analysis

The Department of Finance anticipates this legislation will cost approximately \$414,206 annually.

Expense	Cost
Personnel	\$393,406
Technology	\$13,000
Other Costs	\$7,800
Total	\$414,206

This analysis is based on what it would take to effectively implement the new requirements since they are the subject matter experts and oversee the current local hiring law. MOED currently has one staff member dedicating approximately half of their time to the local hiring law and there are staff in Baltimore City Recreation and Parks, Department of General Services, Department of Public Works, and Department of Transportation that support the agencies in implementing the law. Based on a series of conversations with

MOED, Finance anticipates that this legislation as written would require a minimum of five full-time staff members, including two contract administrators, two data clerks, and a local hiring coordinator.

Position	Salary	Other Personnel Costs	Total
Contract Administrator	\$48,930	\$27,923	\$76,853
Contract Administrator	\$48,930	\$27,923	\$76,853
Data Clerk	\$36,476	\$24,352	\$60,828
Data Clerk	\$36,476	\$24,352	\$60,828
Local Hiring Coordinator	\$80,940	\$37,103	\$118,043
Total			\$393,406

In addition, the legislation would require technological upgrades to the current data tracking system, which will cost approximately \$13,000 annually and an additional \$10,000 in one-time initial implementation costs to get the new modules created and upgrades completed. The fiscal estimate includes additional funding for technology required for new employees and other office costs at \$7,800.

Other Considerations

In general, Finance supports the intent of this legislation and the goal of increasing employment of City residents on City-awarded contracts. The current local hiring law does not directly include Finance, instead MOED is responsible for managing the program, establishing rules and regulations, and determining exemptions. The new legislation would bring in Finance to take over these roles for the new reporting requirements, possibly creating duplicative efforts. In addition, Finance is not the subject matter expert on workforce development and local hiring and would not be suited to assist bidders with the completion of the required documents. Instead, that work better aligns with the work already completed by MOED. In addition, Finance does not oversee all procurement within the City, specifically construction projects related to capital improvements are bid on and awarded outside of the process established by the Bureau of Procurement.

Finance defers to MOED on any concerns related to the implementation of the proposed legislation and working with contractors, since they have been central to the implementation of the current local hiring law and are subject matter experts in workforce development. However, there are several concerns Finance believes the City Council and Education, Workforce, and Youth Committee should consider.

As noted previously, the City’s current local hiring law requires several actions from contractors, which MOED facilitates and tracks. This legislation, as written, overlaps with those requirements, while also extensively expanding it to include a more robust tracking of personnel time by a variety of factors and expansion of reporting to include benefits and post-employment development. These additional reporting requirements, as well as others outlined above, may create a barrier for bidding on City contracts. The City currently faces challenges with receiving bids for various projects and there is a recently issued request for proposals to review the City’s procurement processes. In addition, the legislation’s additional requirements add extensive data collection requirements with limited follow-up on the submitted data to assess if the goals outlined are met or enforcement if they are not met.

In addition, as drafted, the legislation would go into effect within 30 days of being enacted. This does not provide enough time to hire and train the necessary staff and develop the forms and processes needed to properly implement the new requirements. Based on conversations with MOED, Finance does not

believe that this implementation timeline properly addresses all that will need to be completed before the law can go into effect. Implementation of the current local hiring law took several years for it to be at the level it is today due to the outreach and education needed for both the contracting community and City agencies to fully understand the requirements, as well as the need to create new processes and forms across multiple agencies, including the Board of Estimates and Bureau of Procurement.

Conclusion

The Department of Finance supports the intent of this legislation, but has several concerns about the current version of the bill that should be discussed and addressed to ensure that it is properly implemented. In addition, the City is facing major fiscal concerns and cannot at this time support the implementation of a new program with General Fund dollars without pulling resources from other services.

In speaking with the sponsor and the City Council President's Office, Finance anticipates that concerns outlined above, as well as those raised by MOED, will be further discussed and addressed in future work sessions. After those work sessions, Finance will review the changes and reassess the position and costs outlined above, if necessary.

For the reasons stated above, the Department of Finance opposes City Council bill 21-0039.

cc: Natasha Mehu
Nina Themelis



The Honorable President and Members
of the Baltimore City Council
Room 409, City Hall
100 N. Holiday Street
Baltimore, Maryland 21202

Dear President and City Council Members:

Response to City Council Bill 21-0039 Local Hiring- 21-0039

This report is submitted by MOED in response to City Council Bill 21-0039, Local Hiring – Employment Plan. This bill requires certain contractors to create and submit to the Director of the Department of Finance initial employment plans to bid on government-assisted construction projects or contracts that receive government assistance totaling \$5 million or more; requiring the Director of the Department of Finance to score the bids using the Director's evaluation of the employment plan as 10% of a bidder's score; requiring the winning bidder to submit a revised employment plan to the Director of the Department of Finance with certain criteria; and conforming related provisions.

MOED strongly supports local hiring. Local hiring is crucial to growing and sustaining Baltimore City's economy. Connecting Baltimore City residents to well-paying job opportunities is at the core of MOED's mission. Businesses thrive in places where they can find a skilled workforce and local communities thrive when residents invest back in the neighborhoods where they live, work and play. MOED agrees with the intent of the proposed legislation 21-0039; however, there are significant concerns with the bill as drafted.

Current Law:

Baltimore City's Local Hiring Law went into effect on December 23, 2013, and requires compliance by vendors, contractors, and sub-contractors who do business with the City. The Law is applicable to City-awarded contracts over \$300,000 and City-subsidized projects over \$5,000,000. The Law requires businesses and all of their subcontractors to:

- Meet with MOED within 2 weeks after the contract award to complete an Employment Analysis
- Post new jobs with MOED only for a period of seven days
- Utilize MOED's recruitment services for new hires
- Meet the goal: 51% of all new hires for City-funded contracts must be Baltimore City residents
- Submit monthly employment reports with information on the number of current workers, new workers, and the number of Baltimore City residents working on the project

Bill 21-0039: Considerations and concerns:

Administrative Oversight

Bill 21-0039 creates a process and set of mandates in addition to the existing Local Hiring Law (Article 5. Finance, Property, and Procurement; Subtitle 27. Local Hiring). As the Local employment agency, MOED believes it should retain oversight of the Local Hiring Law (LHL). However, the proposed legislation requires employment plans to be submitted by bidders at the time of bid and after the contract award to the Department of Finance. Employment development is not within expertise or portfolio of the Finance department; therefore, it would be challenging for the Director of Finance to analyze a workforce plan. Additionally, creating a separate but similar process that is managed by the Department of Finance may cause confusion and create challenges with administration and implementation. The proposed legislation aims to expand upon the existing LHL by requiring contractors to provide data in addition to what is required by the LHL. Reporting requirements include:

(Pre-Award)

- Strategy to meet the local hiring requirement and hire economically disadvantaged, socially disadvantaged, and economically and socially disadvantaged individuals.
- A description of health and retirement benefits provided to employees that worked on completed projects in the past three years.
- A description of efforts to provide City residents with ongoing employment and training after completion of projects they are initially hired for.
- A detailed description of efforts to hire and retain at least 50% of the total workforce those who constitute economically disadvantaged, socially disadvantaged, and socially and economically disadvantaged individuals.

(Post-Award)

- Detailing estimates and timetables for hours worked by different trade and employee groups.
- Describing of the skill requirements by the job title position.
- Detailing how they plan to meet the local hiring requirements based on the needs of the project.
- Outlining remediation strategy to resolve problems associated with meeting the hiring requirements.
- Designating an official from the contractor that will be responsible for implementing and reporting all requirements.
- Describing of health and retirement benefits provided to City residents working on the project.
- Outlining a strategy to ensure that City residents continue to receive employment and training after completing work on this job.
- Outlining a strategy to hire graduates of Baltimore City public and charter schools, community-based job training providers, and hard-to-employ residents.

- Reporting the bidder's general City-resident hiring practices on projects or contracts completed within the last 2 years.

The level of reporting and analysis required by this law would require a significant increase in staffing and a software upgrade. For example, as drafted, the bill would require the city to review the health and retirement plans of every bidder. Health and retirement plans can be tremendously complex. Evaluating each bidder's plan would require a great deal of expertise and would be very time-consuming. It would likely lead to delayed contract awards causing the purchasing of goods and services of benefit to city residents to be stalled. In addition, this would be used to award a contract; the provision would likely result in an increase of appeals in the process as the interpretation of which health and retirement plants are better becomes open to debate.

In addition, payroll data tracking is administratively intensive. It requires monthly certified payroll submissions from all subcontractors on projects, a database to track all information collected, staff to track, verify, report, respond to inquiries and follow up on outstanding documents. Additionally, the existing software/database system was designed specifically to address the reporting requirements for the existing LHL. New modules and staff training would need to be procured/created to support this legislation.

Balanced Reporting

MOED recommends that the thirteen additional reporting requirements be reviewed and narrowed to only include the information the city needs to advance local hiring without causing administrative burden on employers and the city. The reporting requirements should be connected to something actionable or measurable and lead to more residents going to work. Requirements for posting jobs within the workforce system, meeting MOED/workforce providers on a scheduled basis to review and implement hiring plans, holding recruitment events within the workforce system, and creating or making monetary contributions to training programs are examples of commitments that connect and integrate the contracting community with the public workforce system.

Penalties for Non-Compliance

Similar to the existing LHL, there are little to no penalties if a contractor does not adhere to the law. Payment delays, significant penalties, disbarment and other BOE reviews prior to the contract being awarded should be considered for the existing and proposed legislation.

Unintended Consequences

As noted above, MOED supports legislation that leads to more city residents going to work. While well-meaning, the legislation could have negative effects. A few, but not all examples include: employers would be required to track whether their employees are socially disadvantaged on a continuous basis as they bid on city contracts over time. Employers may need to lay off good qualified city workers who no longer meet the definition of disadvantaged in order to comply with the local hiring requirement. More worrisome, they may be incentivized to lay off skilled city

workers to score higher in the bid process. Overall, the additional requirements may lengthen the bid process, and increase costs to both the employer (who will likely pass it on to the city) and the direct costs to the city to administer the law. Striking a balance between mandates and providing support is an important step towards creating an environment where local residents are the first hired on public contracts and where businesses seek employment resources from the workforce system. Creating overly burdensome administrative requirements potentially diminishes the relationship building between employers and the public workforce system; which is contradictory to the intent of the legislation.

Best Practices

There is an opportunity to build upon some of the best practices learned from the existing LHL, not only from MOED, but from the agencies that are also very involved with the process of implementing the law such as DPW, DOT, Recreation and Parks and DGS. Carrying out the LHL law is a shared responsibility that starts with the agencies at the time of bid. The input and commitment from the agencies to hold contractors accountable is essential to the success of the law.

Cost

To provide the oversight and analysis required by this law MOED would need significant staffing and software increases for reporting, analysis and tracking but also for outreach and recruitment. While MOED does not have an exact estimate at this time, it believes the number of staff required to oversee these requirements would be significant. Additionally, the implementation deadline of 30 days would need to be expanding significantly to ensure the law is executed properly. MOED is in support of the intent of Bill 21-0039 with amendments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jason Perkins-Cohen".

Jason Perkins-Cohen
Director

Requested by Writer:

SEE ATTACHED

emails to agency representatives

Currin, Marguerite (City Council)

From: Currin, Marguerite (City Council)
Sent: Monday, May 3, 2021 11:01 AM
To: DiPietro, Elena (Law Dept)
Subject: Proposed Amendments for Council Bill 21-0039 Work Session
Attachments: 04a Law Report 21-0039 worksession.docx

Good morning Elena,

If possible, could you have the Department of Legislative Reference place your proposed amendments in the required form so the committee members can get a copy before the May 6th work session. Thanks in advance. A copy of your agency report is attached.



OFFICE OF COUNCIL SERVICES

Marguerite M. Currin

*Fiscal Policy Analyst
Office of Council Services*

100 N. Holliday Street, Room 419
Baltimore, MD 21202

marguerite.currin@baltimorecity.gov

Office: (443) 984-3485
Fax: (410) 545-7596

Currin, Marguerite (City Council)

From: Currin, Marguerite (City Council)
Sent: Monday, May 3, 2021 11:08 AM
To: James, Mara (DOF)
Cc: Raymond, Henry (DOF)
Subject: Council Bill 21-0039 Local Hiring Employment Plan
Attachments: 04b Finance Report worksession.pdf

Good morning Mara,

Attached is the Finance Department's agency report. The committee will hold a work session on May 6th beginning at 10 AM. At the work session the committee will discuss proposed amendments and/or any other concerns. Is it possible for your agency to draft an outline of your concerns and/or proposed amendments (if any) for the work session? Or if not, do you want the committee members to use the agency report as is? Please advise. Thanks in advance.



OFFICE OF COUNCIL SERVICES

Marguerite M. Currin

Fiscal Policy Analyst

Office of Council Services

100 N. Holliday Street, Room 419
Baltimore, MD 21202

marguerite.currin@baltimorecity.gov

Office: (443) 984-3485

Fax: (410) 545-7596

Currin, Marguerite (City Council)

From: James, Mara (DOF)
Sent: Monday, May 3, 2021 11:21 AM
To: Currin, Marguerite (City Council)
Cc: Raymond, Henry (DOF)
Subject: RE: Council Bill 21-0039 Local Hiring Employment Plan

Good morning Marguerite,

Our bill report lists Finance's main concerns and based on conversations with Council President's Office, they understand that our largest concern is the role this law would have Finance play. It is my understanding that MOED may have specific amendments to present, but other than what is in our report we don't have anything else.

Best,
Mara

Mara James
Legislative & Engagement Lead
Bureau of the Budget and Management Research
Department of Finance, City of Baltimore
she/her/hers

100 N. Holliday Street, Room 437
Baltimore, MD 21202
Mara.James@baltimorecity.gov
Cell: (410) 236-7971

From: Currin, Marguerite (City Council)
Sent: Monday, May 3, 2021 11:08 AM
To: James, Mara (DOF) <Mara.James@baltimorecity.gov>
Cc: Raymond, Henry (DOF) <hraymond@baltimorecity.gov>
Subject: Council Bill 21-0039 Local Hiring Employment Plan

Good morning Mara,

Attached is the Finance Department's agency report. The committee will hold a work session on May 6th beginning at 10 AM. At the work session the committee will discuss proposed amendments and/or any other concerns. Is it possible for your agency to draft an outline of your concerns and/or proposed amendments (if any) for the work session? Or if not, do you want the committee members to use the agency report as is? Please advise. Thanks in advance.

Marguerite M. Currin
Fiscal Policy Analyst
Office of Council Services



100 N. Holliday Street, Room 419
Baltimore, MD 21202

marguerite.currin@baltimorecity.gov

Office: (443) 984-3485

Fax: (410) 545-7596

OFFICE OF COUNCIL SERVICES

Currin, Marguerite (City Council)

From: Currin, Marguerite (City Council)
Sent: Monday, May 3, 2021 11:15 AM
To: 'jperkins-cohen@oedworks.com'; mgarvin@oedworks.com
Cc: Defranco, Anthony (LEGREF)
Subject: WORK SESSION - Council Bill 21-0011R - Local Hiring - Employment Plan
Attachments: 05c MOED report worksession.pdf

Good morning,

Attached is the MOED's agency report. The committee will hold a work session on May 6th beginning at 10 AM. At the work session the committee will discuss proposed amendments and/or any other concerns. Is it possible for your agency to draft an outline of your concerns and/or proposed amendments (if any) for the work session? Also, if you are proposing any amendments can you have the Department of Legislative References put them in the required format so that the committee members can review them before the May 6th work session. Or if not, do you want the committee members to use the agency report as is? Please advise. Thanks in advance.

Marguerite M. Currin

*Fiscal Policy Analyst
Office of Council Services*

100 N. Holliday Street, Room 419
Baltimore, MD 21202

marguerite.currin@baltimorecity.gov



+

OFFICE OF COUNCIL SERVICES

Office: (443) 984-3485

Fax: (410) 545-7596

**CITY OF BALTIMORE
COUNCIL BILL 21-0039
(First Reader)**

Introduced by: Councilmember Stokes, President Mosby, Councilmembers Schleifer, Conway,
Costello, Glover, Middleton, Porter, Torrence, Ramos, Cohen, Bullock

Introduced and read first time: February 8, 2021

Assigned to: Education, Workforce, and Youth Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Mayor's Office of Employment
Development, Department of Finance

A BILL ENTITLED

1 AN ORDINANCE concerning

2 style="text-align:center">**Local Hiring – Employment Plan**

3 FOR the purpose of requiring certain contractors to create and submit to the Director of the
4 Department of Finance initial employment plans to bid on government-assisted construction
5 projects or contracts that receive government assistance totaling \$5 million or more; requiring
6 the Director of the Department of Finance to score the bids using the Director's evaluation of
7 the employment plan as 10% of a bidder's score; requiring the winning bidder to submit a
8 revised employment plan to the Director of the Department of Finance with certain criteria;
9 and conforming related provisions.

10 BY re-numbering current

11 Article 5 - Finance, Property, and Procurement
12 Section 27-8, 27-9, and 27-10 to 27-9, 27-10, and 27-11, respectively
13 Baltimore City Code
14 (Edition 2000)

15 BY adding

16 Article 5 - Finance, Property, and Procurement
17 Section 27-8
18 Baltimore City Code
19 (Edition 2000)

20 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
21 Laws of Baltimore City read as follows:

22 style="text-align:center">**Baltimore City Code**

23 style="text-align:center">**Article 5. Finance, Property, and Procurement**

24 style="text-align:center">**Subtitle 27. Local Hiring**

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 21-0039

§ 27-8. EMPLOYMENT PLANS.

(A) *DEFINITIONS.*

(1) *IN GENERAL.*

IN THIS SECTION, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(2) *DIRECTOR.*

“DIRECTOR” MEANS THE DIRECTOR OF THE DEPARTMENT OF FINANCE OR THE DIRECTOR’S DESIGNEE.

(3) *ECONOMICALLY DISADVANTAGED INDIVIDUAL.*

“ECONOMICALLY DISADVANTAGED INDIVIDUAL” HAS THE MEANING STATED IN STATE FINANCE AND PROCUREMENT ARTICLE § 14-301.

(4) *SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUAL.*

“SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUAL” HAS THE MEANING STATED IN STATE FINANCE AND PROCUREMENT ARTICLE § 14-301.

(5) *SOCIALLY DISADVANTAGED INDIVIDUAL.*

“SOCIALLY DISADVANTAGED INDIVIDUAL” HAS THE MEANING STATED IN STATE FINANCE AND PROCUREMENT ARTICLE § 14-301.

(B) *INITIAL EMPLOYMENT PLAN.*

(1) BIDS AND PROPOSALS RESPONDING TO A SOLICITATION TO BE A BENEFICIARY UNDER THIS SUBTITLE MUST INCLUDE AN INITIAL EMPLOYMENT PLAN OUTLINING THE BIDDER’S STRATEGY TO:

(I) MEET THE LOCAL HIRING REQUIREMENTS OF THIS SUBTITLE; AND

(II) HIRE ECONOMICALLY DISADVANTAGED, SOCIALLY DISADVANTAGED, AND SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.

(2) AN INITIAL EMPLOYMENT PLAN SUBMITTED UNDER THIS SECTION MUST BE EVALUATED AND SCORED BY THE DIRECTOR BASED ON THE CRITERIA LISTED IN PARAGRAPH (3) OF THIS SUBSECTION, AND THE EVALUATION WILL BE WORTH 10% OF THE OVERALL SCORE OF THE BID OR PROPOSAL.

(3) AN INITIAL EMPLOYMENT PLAN MUST INCLUDE THE FOLLOWING:

(I) DESCRIPTIONS OF THE HEALTH AND RETIREMENT BENEFITS PROVIDED TO EMPLOYEES WHO WORKED ON ANY OF THE BIDDER’S PAST 3 COMPLETED PROJECTS OR CONTRACTS;

Council Bill 21-0039

1 (II) A DESCRIPTION OF THE BIDDER’S EFFORTS TO PROVIDE CITY RESIDENTS WITH
2 ONGOING EMPLOYMENT AND TRAINING OPPORTUNITIES AFTER THEY COMPLETE
3 WORK ON THE JOB FOR WHICH THEY WERE INITIALLY HIRED;

4 (III) A DETAILED DESCRIPTION OF THE BIDDER’S EFFORTS TO HIRE AND RETAIN AT
5 LEAST 50% OF ITS TOTAL WORKFORCE THOSE WHO CONSTITUTE
6 ECONOMICALLY DISADVANTAGED, SOCIALLY DISADVANTAGED, AND SOCIALLY
7 AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.

8 (C) *REVISED EMPLOYMENT PLAN.*

9 THE WINNING BIDDER MUST SUBMIT A REVISED EMPLOYMENT PLAN THAT INCLUDES THE
10 FOLLOWING INFORMATION TO THE DIRECTOR FOR APPROVAL PRIOR TO BEGINNING WORK
11 ASSOCIATED WITH THE RELEVANT GOVERNMENT PROJECT OR CONTRACT:

12 (1) A PROJECTION OF THE TOTAL NUMBER OF HOURS TO BE WORKED ON THE PROJECT
13 OR CONTRACT BY TRADE;

14 (2) A PROJECTION OF THE TOTAL NUMBER OF HOURS OF WORK BY JOURNEYMEN, BY
15 TRADE, TO BE WORKED OVER THE COURSE OF THE PROJECT OR CONTRACT AND THE
16 TOTAL NUMBER OF HOURS OF WORK BY JOURNEYMEN, BY TRADE, TO BE WORKED
17 BY CITY RESIDENTS;

18 (3) A PROJECTION OF THE TOTAL NUMBER OF HOURS BY APPRENTICES, BY TRADE, TO
19 BE WORKED OVER THE COURSE OF THE PROJECT OR CONTRACT AND THE TOTAL
20 NUMBER OF HOURS BY APPRENTICES, BY TRADE, TO BE WORKED BY CITY
21 RESIDENTS;

22 (4) A PROJECTION OF THE TOTAL NUMBER OF HOURS BY SKILLED LABORERS, BY
23 TRADE, TO BE WORKED OVER THE COURSE OF THE PROJECT OR CONTRACT AND THE
24 TOTAL NUMBER OF HOURS BY SKILLED LABORERS, BY TRADE, TO BE WORKED BY
25 CITY RESIDENTS;

26 (5) A PROJECTION OF THE TOTAL NUMBER OF HOURS BY NON-SKILLED LABORERS TO BE
27 WORKED OVER THE COURSE OF THE PROJECT OR CONTRACT AND THE TOTAL
28 NUMBER OF HOURS OF NON-SKILLED LABORERS TO BE WORKED BY CITY
29 RESIDENTS;

30 (6) A PROJECTION OF THE TOTAL NUMBER OF HOURS TO BE WORKED OVER THE COURSE
31 OF THE PROJECT OR CONTRACT BY:

32 (I) EMPLOYEES WHO CONSTITUTE ECONOMICALLY DISADVANTAGED,
33 SOCIALLY DISADVANTAGED, AND SOCIALLY AND ECONOMICALLY
34 DISADVANTAGED INDIVIDUALS; AND

35 (II) CITY RESIDENTS WHO CONSTITUTE ECONOMICALLY DISADVANTAGED,
36 SOCIALLY DISADVANTAGED, AND SOCIALLY AND ECONOMICALLY
37 DISADVANTAGED INDIVIDUALS;

Council Bill 21-0039

1 (7) A TIMETABLE OUTLINING THE TOTAL HOURS WORKED BY TRADE OVER THE ENTIRE
2 PROJECT OR CONTRACT AND AN ASSOCIATED HIRING SCHEDULE;

3 (8) DESCRIPTIONS OF THE SKILL REQUIREMENTS BY JOB TITLE OR POSITION, INCLUDING
4 INDUSTRY-RECOGNIZED CERTIFICATIONS REQUIRED FOR THE DIFFERENT POSITIONS;

5 (9) A STRATEGY TO FILL THE HOURS REQUIRED TO BE WORKED BY CITY RESIDENTS
6 PURSUANT TO THIS SUBTITLE, INCLUDING INFORMING CONTRACTORS AND
7 SUBCONTRACTORS ABOUT THESE REQUIREMENTS AND CREATING OUTREACH
8 PARTNERSHIPS WITH THE UNIVERSITY OF BALTIMORE, BALTIMORE CITY
9 COMMUNITY COLLEGE, THE MAYOR'S OFFICE OF EMPLOYMENT DEVELOPMENT,
10 OR OTHER GOVERNMENT-APPROVED, COMMUNITY-BASED JOB TRAINING
11 PROVIDERS;

12 (10) A REMEDIATION STRATEGY TO RESOLVE ANY PROBLEMS ASSOCIATED WITH
13 MEETING THESE HIRING REQUIREMENTS, INCLUDING ANY PROBLEMS
14 ENCOUNTERED WITH CONTRACTORS AND SUBCONTRACTORS;

15 (11) THE DESIGNATION OF A SENIOR OFFICIAL FROM THE GENERAL CONTRACTOR WHO
16 WILL BE RESPONSIBLE FOR IMPLEMENTING THE HIRING AND REPORTING
17 REQUIREMENTS;

18 (12) DESCRIPTIONS OF THE HEALTH AND RETIREMENT BENEFITS THAT WILL BE
19 PROVIDED TO CITY RESIDENTS WORKING ON THE PROJECT OR CONTRACT;

20 (13) A STRATEGY TO ENSURE THAT CITY RESIDENTS WHO WORK ON THE PROJECT OR
21 CONTRACT RECEIVE ONGOING EMPLOYMENT AND TRAINING OPPORTUNITIES AFTER
22 THEY COMPLETE WORK ON THE JOB FOR WHICH THEY WERE INITIALLY HIRED AND A
23 REVIEW OF PAST PRACTICES IN CONTINUING TO EMPLOY CITY RESIDENTS FROM
24 ONE PROJECT OR CONTRACT TO THE NEXT;

25 (14) A STRATEGY TO HIRE GRADUATES OF THE BALTIMORE CITY PUBLIC SCHOOL
26 SYSTEM, BALTIMORE CITY PUBLIC CHARTER SCHOOLS, COMMUNITY-BASED JOB
27 TRAINING PROVIDERS, AND HARD-TO-EMPLOY RESIDENTS; AND

28 (15) THE BIDDER'S GENERAL CITY-RESIDENT HIRING PRACTICES ON PROJECTS OR
29 CONTRACTS COMPLETED WITHIN THE LAST 2 YEARS.

30 (D) *OTHER PROJECTS AND CONTRACTS.*

31 THE DIRECTOR MUST REQUIRE ANY BENEFICIARIES OF GOVERNMENT-ASSISTED PROJECTS
32 OR CONTRACTS UNDER THIS SUBTITLE THAT ARE NOT AWARDED THROUGH THE
33 CONTRACTING PROCESS TO DEVELOP AND SUBMIT TO THE DIRECTOR THE EMPLOYMENT
34 PLAN REQUIRED IN SUBSECTION (C) OF THIS SECTION.

35 (E) *APPROVAL REQUIRED FOR AMENDMENTS.*

36 ONCE APPROVED, THE EMPLOYMENT PLAN REQUIRED BY SUBSECTION (C) OF THIS SECTION
37 MAY NOT BE AMENDED EXCEPT WITH THE APPROVAL OF THE DIRECTOR.

Council Bill 21-0039

1 **§ 27-9 [27-8]. Required reports.**

2

3 **§ 27-10 [27-9]. Reserved.**

4

5 **§ 27-11 [27-10]. Penalties.**

6

7 **SECTION 2. AND BE IT FURTHER ORDAINED**, That the catchlines contained in this Ordinance
8 are not law and may not be considered to have been enacted as a part of this or any prior
9 Ordinance.

10 **SECTION 3. AND BE IT FURTHER ORDAINED**, That this Ordinance takes effect on the 30th day
11 after the date it is enacted.