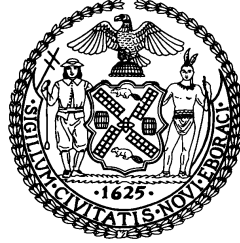


Economic Development Committee Staff:

Alex Paulenoff, *Counsel*  
Rachel Harris, *Policy Analyst*  
Aliya Ali, *Finance Analyst*



**THE COUNCIL OF THE CITY OF NEW YORK**

**COMMITTEE REPORT OF THE INFRASTRUCTURE DIVISION**

Matt Gewolb, Legislative Director

**COMMITTEE ON ECONOMIC DEVELOPMENT**

Hon. Daniel R. Garodnick, Chairperson

**October 22, 2015**

**INT. NO. 128**

By Council Members Cabrera, Barron, Dickens, Gentile, King, Koo, Miller, Palmer, Rose and Rosenthal

**TITLE:**

A Local Law to amend the New York city charter, in relation to requiring that community planning boards receive an annual report submitted to the mayor with regard to projected and actual jobs created and retained in connection with projects undertaken by a certain contracted entity for the purpose of the creation or retention of jobs

**INT. NO. 704**

By Council Members Crowley, Mealy, Arroyo, Chin, Gibson, Palma, Rose, Koslowitz, Ferreras-Copeland, Dickens, Mendez, Cumbo, Barron, Rosenthal, Lancman, Cornegy, King, Espinal, Reynoso, Torres, Kallos, Maisel and Wills

**TITLE:**

A Local Law to amend the New York city charter, in relation to gender in the workforce and leadership of city contractors

**INT. NO. 705**

By Council Members Crowley, Mealy, Chin, Palma, Rose, Koslowitz, Ferreras-Copeland, Dickens, Mendez, Cumbo, Arroyo, Barron, Rosenthal, Gibson, Lancman, Cornegy, King, Espinal, Reynoso, Torres, Kallos, Maisel and Wills

**TITLE:**

A Local Law to amend the New York city charter, in relation to racial diversity in the workforce and leadership of city contractors

## **I. INTRODUCTION**

On October 22, 2015, the Committee on Economic Development, chaired by Council Member Daniel Garodnick, will hold a hearing on Int. Nos. 128, 704, and 705.

Int. No. 128 would require the New York City Economic Development Corporation (“EDC”), the entity that administers development benefits on the City’s behalf, to submit annual job creation reports to community planning boards in addition to other city entities that receive such reports.

Int. Nos. 704 and 705 would require the Department of Small Business Services (“SBS”) to collect data on the gender and racial diversity of the boards of directors, officers, and other executive level employees of companies that contract with the City. In addition, the bills would require SBS to release an annual report on the employment policies, practices and statistics of city contractors, including the gender and racial diversity of their directors, officers, and other executive level employees.

The Committee expects to receive testimony from the Administration, EDC, and interested members of the public.

## **II. BACKGROUND**

### *a. Job Creation Reports*

Under the New York City Charter, the Commissioner of SBS is tasked with including certain requirements in contracts with local development corporations or not-for-profit corporations that have the majority of their members appointed by the mayor and that are engaged in providing or administering economic development benefits on behalf of the City.<sup>1</sup> One requirement is that such entities must submit an annual report of projected and actual jobs

---

<sup>1</sup> See N.Y. CITY CHARTER §1301(1)(a) (This entity is currently the New York City Economic Development Corporation).

created and retained in connection with projects they have undertaken. This report must be submitted to the Mayor, City Council, City Comptroller, the Public Advocate and the Borough Presidents.<sup>2</sup> Int. No. 128 would require that these reports also be sent to community planning boards.

*b. Boardroom Diversity*

Studies have come to different conclusions about how the diversity of an organization's board of directors impacts the stock performance of private companies. A 2008 Financial Research Network study of gender diversity on boards in a sample of U.S. firms found that female directors have better attendance than male directors, male directors have fewer attendance problems if boards are more gender-diverse, and that women are more likely to join monitoring committees.<sup>3</sup> However, the same study found that the average effect of gender diversity on the firm's performance was negative. The study ultimately concluded that mandating gender quotas for directors can reduce value for firms that are already "well-governed."<sup>4</sup> Studies conducted by the American Economic Association and the Oxford Journals' Review of Financial Studies reached similar conclusions.<sup>5</sup>

The Alliance for Board Diversity ("ABD"), a collaboration of four leadership organizations, promotes inclusion of women and minorities on corporate boards to enhance shareholder value.<sup>6</sup> In a 2011 study, ABD stated that "diversity at the top can help ensure the

---

<sup>2</sup> *See id.*

<sup>3</sup> *See* Abstract of "Women in the Boardroom and Their Impact on Governance and Performance," Renee B. Adams and Daniel Ferreira, October 22, 2008 *available at* [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1107721](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1107721).

<sup>4</sup> *Id.*

<sup>5</sup> *See* Abstract of "A Female Style in Corporate Leadership? Evidence from Quotas," David Masta and Amalia Miller, 2013, *available at* <https://www.aeaweb.org/articles.php?doi=10.1257/app.5.3.136>; *see also* Abstract of "How Do CEOs Matter? The Effect of Industry Expertise on Acquisition Returns," Claudio Custodio and Daniel Metzger, June 21, 2013, *available at* <http://rfs.oxfordjournals.org/content/26/8/2008.abstract>.

<sup>6</sup> *See* ALLIANCE FOR BOARD DIVERSITY, <http://theabd.org> (last visited Oct. 21, 2015).

sustainability of our businesses and economy.”<sup>7</sup> A 2015 study by Credit Suisse that analyzed gender diversity’s role in corporate performance supported ABD’s statement, finding that companies with more diversified boards do in fact yield better returns.<sup>8</sup> The Credit Suisse study found that the presence of at least one woman on a board of directors can make a difference: companies with one woman on the board have seen an average return on equity (“ROE”) of 14.1% since 2005 compared to 11.2% for all male boards.<sup>9</sup> These more recent studies tend to contradict the earlier studies about board diversity.

Despite these recent studies, board diversity remains relatively stagnant; the majority of board directors continue to be white males.<sup>10</sup> In fact, a recent study in the United Kingdom found that Britain’s boards are actually getting less diverse.<sup>11</sup> After surveying the top 10,000 executives the study found that the number of ethnic minorities in leadership roles remains low - nearly two-thirds of all companies still have all-white boardrooms in 2015.<sup>12</sup>

In November 2014, New York City Comptroller Scott Stringer launched the Boardroom Accountability Project, which is aimed at giving shareowners a say in how corporate boards are elected at U.S. companies.<sup>13</sup> The campaign states that to have companies that are managed for the long term, directors need to be more diverse, independent and accountable and argues that shareowners should have the right to nominate directors at U.S. companies. According to the Comptroller, “more than a dozen companies have agreed to enact or support meaningful proxy

---

<sup>7</sup> ALLIANCE FOR BOARD DIVERSITY, MISSING PIECES: WOMEN AND MINORITIES ON FORTUNE 500 BOARDS at 1 (July 21, 2011), available at [http://theabd.org/ABD\\_report.pdf](http://theabd.org/ABD_report.pdf).

<sup>8</sup> See Barbara Lejczack, *Diversity on Board!* CREDIT SUISSE (Oct. 6, 2015) <https://www.credit-suisse.com/us/en/news-and-expertise/economy/articles/news-and-expertise/2015/06/en/diveristy-on-board.html>.

<sup>9</sup> See *id.*

<sup>10</sup> See MISSING PIECES, *supra* note 7.

<sup>11</sup> See Green Park, *Green Park release FTSE 100 Leadership 10,000 report*, GREEN PARK (Feb. 11, 2014) <http://www.green-park.co.uk/press-release-britains-competitiveness-risk-deep-diversity-deficit-says-new-study>.

<sup>12</sup> See Kalyeena Makortoff, *Boardroom diversity: It’s getting worse, not better*, CNBC (Jun. 22, 2015, 8:07 AM) <http://www.cnbc.com/2015/06/22/boardroom-diversity-its-getting-worse-not-better.html>.

<sup>13</sup> See NEW YORK CITY COMPTROLLER, BOARDROOM ACCOUNTABILITY PROJECT, <http://comptroller.nyc.gov/boardroom-accountability> (last visited Oct. 21, 2015).

access”<sup>14</sup> – meaning that shareowners will have the authority to nominate alternate directors to run against the nominees chosen by the company.

However, little is known about the diversity of directors, officers and other executive level staff members of New York City companies. Int. Nos. 704 and 705 would amend the City Charter to include information on gender and racial diversity in the employment reports of companies contracting with City agencies.

### **III. INT. NO. 128**

Section 1 of Int. No. 128 amends paragraph b of subdivision 1 of section 1301 of the New York city charter by including community planning boards as recipients of an annual report sent by the Commissioner of Small Business Services to various city offices and entities indicating job creation data resulting from economic development projects undertaken through contract with a local development corporation or not-for-profit corporation engaged in providing or administering economic development benefits on behalf of the City. Currently that entity is the New York City Economic Development Corporation.

Section two of Int. No. 128 states that the local law will take effect immediately.

### **IV. INT. NO. 704**

Section 1 of Int. No. 704 amends paragraph two of subdivision e of section 1305 of the New York city charter by requiring the Division of Labor Services within the Department of Small Business Services to include information in employment reports regarding employment practices, policies, procedures, statistics and collective bargaining agreements as such information pertains to directors, officers, and other executive-level staff members of proposed city contractors or subcontractors; as well as such proposed contractor or subcontractor’s goals for diversity in its leadership.

---

<sup>14</sup> *Id.*

Section two of Int. No. 704 amends subdivision e of section 1305 of the New York city charter by adding a paragraph 8 which would require the Division of Labor Services to submit an annual report on or before March 1<sup>st</sup> of each year to the Mayor and City Council on the employment practices, policies, procedures, statistics and leadership diversity goals of city contractors based on employment reports, including the gender composition of such contractors' directors, officers and other executive-level staff, and an analysis of reported goals for diversity along with any measures taken to achieve those goals.

Section three of Int. No. 704 states that the local law takes effect 120 days after it becomes law, except that the Commissioner of Small Business Services may take such actions as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

#### **V. INT. NO. 705**

Section 1 of Int. No. 705 amends paragraph two of subdivision e of section 1305 of the New York city charter by requiring the Division of Labor Services within the Department of Small Business Services to include information in employment reports regarding employment practices, policies, procedures, statistics and collective bargaining agreements as such information pertains to directors, officers, and other executive-level staff members of proposed city contractors or subcontractors; as well as such proposed contractor or subcontractor's goals for diversity in its leadership.

Section two of Int. No. 705 amends subdivision e of section 1305 of the New York city charter by adding a paragraph 8 which would require the Division of Labor Services to submit an annual report on or before March 1<sup>st</sup> of each year to the Mayor and City Council on the employment practices, policies, procedures, statistics and leadership diversity goals of city contractors based on employment reports, including the racial composition of such contractors' directors, officers and other executive-level staff, and an analysis of reported goals for diversity along with any measures taken to achieve those goals.

Section three of Int. No. 705 states that the local law takes effect 120 days after it becomes law, except that the Commissioner of Small Business Services may take such actions as are necessary for its implementation, including the promulgation of rules, prior to such effective date.



Int. No. 128

By Council Members Cabrera, Barron, Dickens, Gentile, King, Koo, Miller, Palma, Rose and Rosenthal

A LOCAL LAW

To amend the New York city charter, in relation to requiring that community planning boards receive an annual report submitted to the mayor with regard to projected and actual jobs created and retained in connection with projects undertaken by a certain contracted entity for the purpose of the creation or retention of jobs.

Be it enacted by the Council as follows:

Section 1. Paragraph b of subdivision 1 of section 1301 of the New York city charter, as amended by local law number 102 for the year 2013, is amended to read as follows:

b. to serve as liaison for the city with local development corporations, other not-for-profit corporations and all other entities involved in economic development within the city. In furtherance of this function, the department shall include in any contract with a local development corporation or not-for-profit corporation of which a majority of its members are appointed by the mayor under which such contracted entity is engaged in providing or administering economic development benefits on behalf of the city and expending city capital appropriations in connection therewith, a requirement that such contracted entity submit to the mayor, the council, the city comptroller, the public advocate, [and] the borough presidents and community planning boards by January 31 of each year, a report for the prior fiscal year in the form prescribed hereunder with regard to projected and actual jobs created and retained in connection with any project undertaken by such contracted entity for the purpose of the creation or retention of jobs, whether or not such project involves the expenditure of city capital appropriations, if in connection with such project assistance to a business entity was provided by such contracted entity in the form of a loan, grant or tax benefit in excess of one hundred fifty thousand dollars, or a sale or lease of city-owned land where the project is estimated to retain or

create not less than twenty-five jobs. The report shall be for the period commencing on the date that the project agreement and any other documents applicable to such project have been executed through the final year that such entity receives assistance for such project, except that, as to projects consisting of a lease or sale of city-owned land, each annual report shall include only (1) a list of each existing lease, regardless of when such lease commenced, and a list of each sale of city-owned land that closed on or after January 1, 2005, and (2) for such leases or sales, any terms or restrictions on the use of the property, including the rent received for each leased property in the prior fiscal year, and for sales, the price for which the property was sold and any terms or restrictions on the resale of the property, and need not include any other information with regard to such lease or sale of a type required for reports for other projects hereunder. Information on any such lease shall be included until the lease terminates and information on sales of city-owned land shall be included for fifteen years following closing. The report, other than for leases or sales of city-owned land, shall contain, for the prior fiscal year, the following information with respect thereto: (i) the project's name; (ii) its location; (iii) the time span over which the project is to receive any such assistance; (iv) the type of such assistance provided, including the name of the program or programs through which assistance is provided; (v) for projects that involve a maximum amount of assistance, a statement of the maximum amount of assistance available to those projects over the duration of the project agreement, and for those projects that do not have a maximum amount, the current estimated amount of assistance over the duration of the project agreement, the amount of tax exempt bonds issued during the current reporting year and the range of potential cost of those bonds; project assistance to be reported shall include, but shall not be limited to, PILOT savings, which shall be defined for the purposes of this paragraph as the difference between the PILOT payments made and the property tax that would have been paid in the absence of a PILOT agreement, the amount of mortgage recording

fees waived, related property tax abatements, sales tax abatements, the dollar value of energy benefits and an estimated range of costs to the city of foregone income tax revenues due to the issuance of tax exempt bonds; (vi) the total number of employees at all sites covered by the project at the time of the project agreement including the number of permanent full-time jobs, the number of permanent part-time jobs, the number of full-time equivalents, and the number of contract employee where contract employees may be included for the purpose of determining compliance with job creation or retention requirements; (vii) the number of jobs that the entity receiving benefits is contractually obligated to retain and create over the life of the project, except that such information shall be reported on an annual basis for project agreements containing annual job retention or creation requirements, and, for each reporting year, the base employment level the entity receiving benefits agrees to retain over the life of the project agreement, any job creation scheduled to take place as a result of the project, and where applicable, any job creation targets for the current reporting year; (viii) the estimated amount, for that year and cumulatively to date, of retained or additional tax revenue derived from the project, excluding real property tax revenue other than revenue generated by property tax improvements; (ix) the amount of assistance received during the year covered by the report, the amount of assistance received since the beginning of the project period, and the present value of the future assistance estimated to be given for the duration of the project period; (x) for the current reporting year, the total actual number of employees at all sites covered by the project, including the number of permanent full-time jobs, the number of permanent part-time jobs, the number of contract jobs, and, for entities receiving benefits that employ two hundred fifty or more persons, the percentage of total employees within the "exempt" and "non-exempt" categories, respectively, as those terms are defined under the United States fair labor standards act, and for employees within the "non-exempt" category, the percentage of employees earning up to twenty-

five thousand dollars per year, the percentage of employees earning more than twenty-five thousand per year up to forty-thousand dollars per year and the percentage of employees earning more than forty thousand dollars per year up to fifty thousand dollars per year; (xi) whether the employer offers health benefits to all full-time employees and to all part-time employees; (xii) for the current reporting year, for employees at each site covered by the project in the categories of industrial jobs, restaurant jobs, retail jobs, and other jobs, including all permanent and temporary full-time employees, permanent and temporary part-time employees, and contract employees, the number and percentage of employees earning less than a living wage, as that term is defined in section 134 of title 6 of the administrative code of the city of New York. Reports with regard to projects for which assistance was received prior to July 1, 2012 need only contain such information required by this paragraph as is available to the city, can be reasonably derived from available sources, and can be reasonably obtained from the business entity to which assistance was provided; (xiii) for the current reporting year, with respect to the entity or entities receiving assistance and their affiliates, the number and percentage of employees at all sites covered by the project agreement who reside in the city of New York. For the purposes of this subparagraph, "affiliate" shall mean (i) a business entity in which more than fifty percent is owned by, or is subject to a power or right of control of, or is managed by, an entity which is a party to an active project agreement, or (ii) a business entity that owns more than fifty percent of an entity that is party to an active project agreement or that exercises a power or right of control of such entity; (xiv) a projection of the retained or additional tax revenue to be derived from the project for the remainder of the project period; (xv) a list of all commercial expansion program benefits, industrial and commercial incentive program benefits received through the project agreement and relocation and employment assistance program benefits received and the estimated total value of each for the current reporting year; (xvi) a statement of compliance

indicating whether, during the current reporting year, the contracted entity has reduced, cancelled or recaptured benefits for any company, and, if so, the total amount of the reduction, cancellation or recapture, and any penalty assessed and the reasons therefore; (xvii) for business entities for which project assistance was provided by such contracted entity in the form of a loan, grant or tax benefit of one hundred fifty thousand dollars or less, the data should be included in such report in the aggregate using the format required for all other loans, grants or tax benefits; and (xviii) an indication of the sources of all data relating to numbers of jobs. For projects in existence prior to the effective date of this local law, information that business entities were not required to report to such contracted entity at the time that the project agreement and any other documents applicable to such project were executed need not be contained in the report.

The report shall be submitted by the statutory due date and shall bear the actual date that the report was submitted. Such report shall include a statement explaining any delay in its submission past the statutory due date. Upon its submission, the report shall simultaneously be made available in electronic form on the website of the contracted entity or, if no such website is maintained, on the website of the city of New York, provided that reports submitted in 2012 or after shall simultaneously be made available in a commonly available non-proprietary database format on the website of the contracted entity or, if no such website is maintained, on the website of the city of New York, except that any terms and restrictions on the use or resale of city-owned land need not be included in such non-proprietary database format, and provided further that with respect to the report submitted in 2012 in the commonly available non-proprietary database format, the contracted entity shall include, in such format, the data included in the reports for the period from July 1, 2005 to June 30, 2010. Reports with regard to projects for which assistance was rendered prior to July 1, 2005, need only contain such information required by this subdivision as is available to the contracted entity, can be reasonably derived from available

sources, and can be reasonably obtained from the business entity to which assistance was provided.

§2. This law shall take effect immediately upon enactment.

TBD  
Int. 447/2010  
LS 320  
2/18/14

Int. No. 704

By Council Members Crowley, Mealy, Arroyo, Chin, Gibson, Palma, Rose, Koslowitz, Ferreras-Copeland, Dickens, Mendez, Cumbo, Barron, Rosenthal, Lancman, Cornegy, King, Espinal, Reynoso, Torres, Kallos, Maisel and Wills

A LOCAL LAW

To amend the New York city charter, in relation to gender in the workforce and leadership of city contractors

Be it enacted by the Council as follows:

Section 1. Paragraph two of subdivision e of Section 1305 of the New York city charter is hereby amended to read as follows:

2. An employment report shall include, but not be limited to, employment practices, policies, procedures, statistics and collective bargaining agreements, including such information as it pertains to directors, officers, and other executive-level staff members, and the proposed contractor or subcontractor's goals for diversity in its leadership. The contracting agency shall transmit the employment report to the commissioner after the selection of a proposed contractor or subcontractor. The commissioner shall review all employment reports to determine whether such contractors and subcontractors are in compliance with the equal employment opportunity requirement of local, state and federal law and executive orders.

§ 2. Subdivision e of Section 1305 of the New York city charter is hereby amended by adding a new paragraph 8 to read as follows:

8. On or before March 1 of each year, the division shall submit to the mayor and the city council a report on the employment practices, policies, procedures, statistics and leadership diversity goals of city contractors covered by rules established pursuant to this section. That report shall include, based upon employment reports and periodic updated employment reports as provided for in subsection f of this section, statistics on the gender composition of city contractors, including

their directors, officers and other executive-level staff, and an analysis of city contractors' reported goals for diversity along with any measures taken to achieve those goals.

§ 3. This local law shall take effect 120 days after it shall have become a law, except that the commissioner of small business services may take such actions as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

kc  
LS# 3522.1  
3/6/2015 10:00 AM



Int. No. 705

By Council Members Crowley, Mealy, Chin, Palma, Rose, Koslowitz, Ferreras-Copeland, Dickens, Mendez, Cumbo, Arroyo, Barron, Rosenthal, Gibson, Lancman, Cornegy, King, Espinal, Reynoso, Torres, Kallos, Maisel and Wills

A LOCAL LAW

To amend the New York city charter, in relation to racial diversity in the workforce and leadership of city contractors

Be it enacted by the Council as follows:

Section 1. Paragraph two of subdivision e of Section 1305 of the New York city charter is hereby amended to read as follows:

2. An employment report shall include, but not be limited to, employment practices, policies, procedures, statistics and collective bargaining agreements, including such information as it pertains to directors, officers, and other executive-level staff members, and the proposed contractor or subcontractor's goals for diversity in its leadership. The contracting agency shall transmit the employment report to the commissioner after the selection of a proposed contractor or subcontractor. The commissioner shall review all employment reports to determine whether such contractors and subcontractors are in compliance with the equal employment opportunity requirement of local, state and federal law and executive orders.

§ 2. Subdivision e of Section 1305 of the New York city charter is hereby amended by adding a new paragraph 8 to read as follows:

8. On or before March 1 of each year, the division shall submit to the mayor and the city council a report on the employment practices, policies, procedures, statistics and leadership diversity goals of city contractors covered by rules established pursuant to this section. That report shall include, based upon employment reports and periodic updated employment reports as provided for in subsection f of this section, statistics on the racial composition of city contractors, including

their directors, officers and other executive-level staff, and an analysis of city contractors' reported goals for diversity along with any measures taken to achieve those goals.

§ 3. This local law shall take effect 120 days after it shall have become a law, except that the commissioner of small business services may take such actions as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

kc  
LS# 3522.2  
3/6/2015 10:00 AM