



Legislation Text

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Int. No. 354-A

By The Speaker (Council Member Vallone), Council Members DiBrienza, Robles, Eisland, Eldridge, Linares, Watkins, Perkins, Malave-Dilan, Carrion, Foster, Leffler, Clarke Marshall, Berman, McCaffrey, Koslowitz, Rodriguez, Quinn, Warden and Boyland; also Council Members Cruz, Freed, Lasher, Michels, Robinson, Lopez and the Public Advocate (Mr. Green).

A Local Law to amend the administrative code of the city of New York, in relation to the establishment of the transitional jobs program, a program designed to create temporary employment in the public sector and in community-based organizations, and to provide the participants of such program with education and training, career counseling, and related services, to enhance their ability to secure permanent employment after their participation in such program.

Be it enacted by the Council as follows:

Section 1. Legislative findings and intent. The City Council finds and declares that in the aftermath of federal welfare reform, thousands of new jobs are needed in New York City in order to employ those welfare recipients now required to work. Since New York City has a large number of people seeking new jobs, and since the City's communities need additional services that these job-seekers can provide, a welfare-to-work program that will create new, temporary jobs in the public sector and in community-based organizations, and provide individuals with education and training, career counseling, and related services will represent both an investment in human capital and in the vitality of this City.

Many individuals who need to make the transition from welfare to the work force face serious barriers to securing and maintaining successful employment, including a lack of marketable skills, education, work experience, and affordable childcare. A welfare-to-work program that offers a real work experience, pays a living wage, and provides health and childcare benefits, along with meaningful education and training, can be instrumental in successfully moving people from welfare to the work force in a manner that increases their long

-term employability and self-sufficiency.

Accordingly, the City Council finds that a welfare-to-work program known as the transitional jobs program should be established in New York City. The transitional jobs program will create temporary jobs in the public sector and in community-based organizations, and will provide participants of the program with education and training, career counseling, and related services. The provision of support services will significantly increase a participant's chances of securing and maintaining permanent employment after his or her participation in the program. In addition, the creation of new jobs in the public sector and in community-based organizations will help address the unmet needs of many communities throughout the City.

§2. Title 21 of the administrative code of the city of New York is amended by adding a new chapter five to read as follows:

CHAPTER 5

DEPARTMENT OF EMPLOYMENT

Transitional Jobs Program

§21-501 Definitions. Whenever used in this chapter the following words shall have the following meanings:

a. "Affiliated organization" shall mean a local government agency or community-based organization that is affiliated with a sponsoring organization and employs certified individuals.

b. "Case management" shall mean the provision and coordination of services to participants to ensure their success in the transitional jobs program, and enhance their chances of securing permanent employment after their participation in such program. Such services shall include, but shall not be limited to, providing education and training, career counseling, and childcare. Such services shall also include assisting participants in obtaining all federal, state and local government benefits that they are otherwise entitled to, including, but not limited to, child care expenses, training-related expenses, food stamps, and medicaid or transitional medicaid.

c. "Certified individual" shall mean an individual certified by the commissioner to participate in the transitional jobs program.

d. "Commissioner" shall mean the commissioner of the department of employment or the commissioner or head of any other department or agency that the mayor designates to administer the transitional jobs program.

e. "Community-based organization" shall mean a non-profit organization providing services to, or operating for the benefit of, a particular community. Community-based organizations may also include a trade union that offers apprenticeship or pre-apprenticeship programs.

f. "Department" shall mean the department of employment, or any other department or agency that the mayor designates to administer the transitional jobs program.

g. "Participant" shall mean an individual employed by a sponsoring or affiliated organization in the transitional jobs program following eligibility determination and certification by the commissioner.

h. "Sponsoring organization" shall mean a local government agency or community-based organization selected by the commissioner to employ or facilitate the employment of certified individuals, and to provide case management to participants, provided, however, that nothing shall preclude a sponsoring organization from being a public, non-profit corporation created pursuant to applicable New York state law.

i. "Transitional jobs program" shall mean a program designed to create temporary employment in the public sector and in community-based organizations, and to provide the participants of such program with education and training, career counseling, and related services, to enhance their ability to secure permanent employment after their participation in such program.

§21-502 Transitional jobs program.

a. The mayor shall direct the commissioner to establish a transitional jobs program, which shall consist of a total of two thousand five hundred temporary jobs in the public sector and in community-based organizations, at least two-thirds of which shall be created within local government agencies in the public

sector. Such total number of two thousand five hundred temporary jobs shall exist for a period of thirty-six months, commencing on January first, two thousand one; provided, however, that each participant in the transitional jobs program shall only be employed by a sponsoring or affiliated organization for a period not to exceed twelve months, and that each specific job created pursuant to the transitional jobs program shall be retained for at least twelve months. An initial group of two thousand five hundred participants shall commence employment on January first, two thousand one. A second group of two thousand five hundred participants shall commence employment on January first, two thousand two, and a final group of two thousand five hundred participants shall commence employment on January first, two thousand three.

b. The jobs created in local government agencies pursuant to this chapter shall, consistent with applicable collective bargaining laws and agreements, be accreted to appropriate existing collective bargaining units.

c. In implementing the transitional jobs program, the mayor shall direct the commissioner to select which local government agencies shall be sponsoring organizations. In making such determination, the commissioner may work in cooperation with the commissioners of other local government agencies and may, consistent with obligations under collective bargaining laws and agreements, consult with the heads of collective bargaining organizations, and may consider each prospective agency's prior experience hiring welfare recipients and the unemployed, its prior experience assisting such individuals in finding jobs, its prior experience providing education and training, career counseling, and related services to its employees, its plans to address or fulfill the needs of communities throughout the city of New York, its plans to employ or facilitate the employment of certified individuals, its plans to provide case management to participants, and its plans to assist in the permanent placement of participants following their participation in the transitional jobs program.

d. In meeting the goal of placing participants in community based organizations pursuant to this chapter, the mayor may direct the commissioner to issue a request for proposals or to utilize any other procurement method that he or she deems necessary to select community-based organizations to become sponsoring

organizations. To determine which community-based organizations shall become sponsoring organizations, the commissioner may consider an organization's prior experience hiring welfare recipients and the unemployed, its prior experience assisting such individuals in finding jobs, its prior experience providing education and training, career counseling, and related services to its employees, its plans to address or fulfill the needs of communities throughout the city of New York, its plans to employ or facilitate the employment of certified individuals, its plans to provide case management to participants, and its plans to assist in the permanent placement of participants following their participation in the transitional jobs program. Where the employees of a community-based organization that has been selected to become a sponsoring or affiliated organization are members of a collective bargaining unit, such collective bargaining unit shall, consistent with applicable collective bargaining laws and agreements, have the opportunity to comment on such selection. The commissioner shall respond to such comments within fifteen days of their receipt.

e. Each sponsoring or affiliated organization may employ any certified individual, and employment with a sponsoring or affiliated organization shall be for a period not to exceed twelve months.

f. The sponsoring organizations shall provide each participant with the necessary case management to enable the participant to succeed in the transitional jobs program, build his or her job skills, and enhance his or her chances of securing permanent employment after participating in the transitional jobs program.

§21-503 Powers and duties of the commissioner. Except as otherwise provided by law, the commissioner shall have the power and it shall be the commissioner's duty to perform the following functions and duties relating to the transitional jobs program:

1. To ensure that at least sixty percent of all participants were receiving family assistance at the time of their certification, and that at least forty percent of all participants were either receiving safety net assistance, were unemployed for at least six months or had exhausted their unemployment insurance at the time of their certification. The commissioner shall also ensure that at least fifty percent of all participants faced serious barriers to employment or were participating in the work experience program at the time of their certification.

Serious barriers to employment shall include, but not be limited to, a lack of basic work-related skills, a high school diploma or English proficiency. In addition, any person who is either a teen parent, a former substance user, disabled, homeless or a victim of domestic violence, or any person who has a criminal record, HIV/AIDS or an HIV/AIDS-related illness or any other life-threatening illness shall be presumed to face serious barriers to employment;

2. To establish an application procedure for those individuals seeking to participate in the transitional jobs program;
3. To request that community-based organizations and all local government agencies, including private industry councils, social services intake centers and unemployment offices, publicize the existence of the transitional jobs program to those individuals who may be eligible to participate in such program;
4. To notify recipients of family assistance and safety net assistance of their right to apply for participation in the transitional jobs program;
5. To certify eligible individuals for participation in the transitional jobs program, to promptly notify such certified individuals of their certification in writing, and to establish a list of all certified individuals for use by the sponsoring organizations;
6. To develop an assessment formula to evaluate the job skills, the prior work and educational experience and the case management needs of each certified individual, and to provide such information to the appropriate sponsoring organization;
7. To ensure that the sponsoring organizations provide each participant with the necessary case management to help the participant to succeed in the transitional jobs program, build his or her job skills, and enhance his or her chances of securing permanent employment after participating in the transitional jobs program;
8. To ensure that participants are informed of their eligibility to receive state and federal earned income tax credit and are offered assistance in applying for advance payment of such credit;

9. To ensure that each community-based organization is in compliance with section 21-505(g) of this chapter, and to further ensure that a community-based organization that submits false information under section 21-505(g) of this chapter shall not be permitted to be a sponsoring or affiliated organization in the transitional jobs program; and

10. To ensure that the powers and duties of the commissioner as set forth in this section are carried out by public employees.

§21-504 Eligibility criteria. A certified individual must be eighteen years of age or older and must either (i) be receiving family assistance or safety net assistance; (ii) have lost his or her aid to families with dependent children, home relief, family assistance or safety net assistance as a result of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 or state implementing law; or (iii) have been unemployed for a period of at least six months or have either been denied unemployment insurance or exhausted his or her unemployment insurance benefits.

§21-505 Duties of the sponsoring and affiliated organization.

a. The sponsoring organization shall create positions for participants that are comparable to the positions of other employees in such organization. In creating such positions, the sponsoring organization shall consider the responsibilities associated with a particular position and the participant's training and prior work experience.

b. In those cases where the sponsoring organization is unable to provide a certified individual with an appropriate position, such sponsoring organization shall facilitate employment with an affiliated organization in a position comparable to the positions of other employees in such affiliated organization. In providing such a position, the affiliated organization shall consider the responsibility associated with a particular position and such certified individual's training and work experience.

c. The sponsoring organization shall provide case management to participants employed by such organization or by such organization's affiliated organization. The affiliated organization shall not be responsible for providing case management to the participant.

d. Neither a sponsoring nor an affiliated organization may place a certified individual in a position with a for-profit employer.

e. A community-based organization that is a trade union may only place certified individuals in apprenticeship and pre-apprenticeship programs that are offered by such trade unions.

f. A community-based organization shall certify to the commissioner that such organization has not, in the past five years, been convicted of a felony or a misdemeanor the underlying basis of which involved workplace safety and health or labor standards. Such community-based organization shall also certify to the commissioner as to all violations issued by the New York state department of labor. A community-based organization that submits false information under this subdivision shall not be permitted to be a sponsoring or affiliated organization in the transitional jobs program.

§21-506 Participants.

a. Participation in the transitional jobs program shall be for a period not to exceed twelve months.

b. A participant who is not a member of a collective bargaining unit shall receive a salary of not less than fifty percent of the Lower Living Standard Income Level (LLSIL), as established annually by the United States department of labor and adjusted by the New York state department of labor for the New York city area using the New York city area LLSIL hourly rate based on a thirty-hour workweek in full-year employment for a family of three. Notwithstanding such minimum salary requirement, a participant may not be compensated at a rate of pay that is less than that of other employees of the sponsoring or affiliated organization employing such participant, who are performing the same or comparable work.

c. A participant who is not a member of a collective bargaining unit shall be entitled to the same paid holidays and benefits permissible by law as other employees of the sponsoring or affiliated organization employing such participant, who are performing the same or comparable work.

d. A participant who is a member of a collective bargaining unit shall, consistent with collective bargaining laws and agreements, receive, at a minimum, the salary and benefits provided for in subdivisions b,

c and e of this section, provided however, that such subdivisions shall not be construed to limit the collective bargaining unit's right to negotiate more favorable wages and/or any other terms and conditions of employment.

e. A participant shall work the standard work hours required by the sponsoring or affiliated organization which employs such participant, except that in no instance shall a participant be required to work more than forty hours per week. A participant shall be excused, when necessary, for up to an average of eight hours per week from their scheduled work hours to participate in adult education, job training, and job readiness or placement services. The sponsoring organization shall prepare the participant's work schedule and may allocate additional hours during any work week to be spent on adult education, job training, and job readiness or placement services, so long as over the course of the participant's employment, no more than an average of eight hours per week is allocated to these activities. A participant shall be compensated as set forth in subdivision b of this section when such participant engages in adult education, job training, or job readiness and placement services as provided for in this subdivision.

f. A participant shall be considered an employee for purposes of the city's human rights and collective bargaining laws and any other applicable local laws, unless otherwise prohibited by law; provided, however, that nothing herein shall limit the participant's rights under any applicable federal or state law. In implementing the transitional jobs program, the mayor or his or her designee, shall take any necessary and/or appropriate actions to classify participants employed by local government agencies in accordance with all applicable civil service laws and consistent with the purposes of this chapter.

§21-507 Grievance procedure. The commissioner shall establish and maintain a grievance procedure for the filing and resolution of complaints by participants who are not members of a collective bargaining unit. Such grievance procedure shall provide for a hearing within twenty business days after the filing of a participant's complaint. The commissioner shall notify the participant of the date, time, and place of the hearing within five business days after the filing of such complaint. The commissioner may attempt to informally resolve any complaint prior to the hearing, but any such attempt shall not delay the date of the

hearing, unless a participant specifically consents in writing to a postponement of such hearing. A written decision shall be issued within ten business days after the hearing. Nothing in this section shall be construed to limit the right of any participant, including a participant who is a member of a collective bargaining unit or a participant represented by a designated employee spokesperson, from pursuing other available remedies under any applicable collective bargaining agreement, or any federal, state or local law.

§21-508 Reports to the mayor and city council. On April first of the years two thousand two, two thousand three, and two thousand four, the commissioner shall issue a report to the mayor and the city council evaluating the program. The report shall include, but not be limited to:

1. The name and description of each sponsoring and affiliated organization, and a summary of each organization's accomplishments;
2. The total number of certified individuals and participants in the transitional jobs program;
3. An analysis of the impact of the transitional jobs program on the permanent workforce within each sponsoring or affiliated organization, including, but not limited to, a change in the number of non-participant employees, the number of hours worked by non-participant employees, the amount of overtime required of non-participant employees, the number of promotions awarded to non-participant employees and the amount of wages earned by non-participant employees;
4. The average length of time a participant is employed;
5. A summary of the education and training, career counseling and related services provided to participants;
6. The number and percentage of participants who were able to secure permanent employment after their participation in the transitional jobs program, and their wage and benefit levels;
7. The estimated dollar value of the jobs created by the transitional jobs program;
8. The estimated local economic impact of the jobs created by the transitional jobs program;
9. The estimated savings by federal, state and local governments as a result of reductions in social

services and public assistance benefits that would otherwise have been provided to a participant and his or her family were it not for his or her participation in the transitional jobs program;

10. The estimated tax revenues received by federal, state and local governments from participants;

11. The estimated state and federal earned income tax credit received by participants;

12. An analysis of the impact of the transitional jobs program on the overall welfare of participants and their families;

13. The amount of funds appropriated and expended on the administration of the transitional jobs program; and

14. Whether the transitional jobs program has met the criteria established by the United States health and human services department for participation in the welfare bonus program in order to receive bonus funding available to selected states that successfully place welfare recipients in jobs as provided for by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

§21-509 Displacement of employees.

a. A certified individual may be employed by a sponsoring or affiliated organization only if:

1. such employment would not result in (i) the displacement of any currently employed worker or the loss of a position (including partial displacement such as reduction in the hours of non-overtime work, wages or employment benefits) or the impairment of existing contracts for services or collective bargaining agreements; (ii) any infringement of the promotional opportunities of any current employees; (iii) the performance, by such certified individual, of a substantial portion of the work ordinarily and actually performed by regular employees; or (iv) the loss of a bargaining unit position as a result of a participant performing, in part or in whole, the work normally performed by a regular employee;

2. such employment is not at any work site at which regular employees are on a legal strike or are being subjected to lock out by the sponsoring or affiliated organization;

3. no other regular employee is available for reinstatement, recall or reemployment following an

approved leave of absence, furlough, layoff or suspension from the same or substantially equivalent job; or

4. the sponsoring or affiliated organization has not terminated the employment of any regular employee or otherwise reduced its workforce with the effect of filling the vacancy or vacancies so created with certified individuals.

b. Community-based organizations who are awarded contracts to become a sponsoring organization shall at the time of award provide written notification to its employees' collective bargaining representatives, if any, regarding such plan. The notice shall include, at a minimum, the participants' expected work locations, job duties, approximate salaries, and the approximate number of hours to be worked.

c. Local government agencies planning to enter into an agreement with the department to become a sponsoring organization shall provide written notification to its employees' collective bargaining representatives, if any, regarding such plan. The notice shall include, at a minimum, the participants' expected work locations, job duties, approximate salaries, and the approximate number of hours to be worked.

§21-510 Rules. The commissioner shall make and promulgate such rules and regulations as are necessary to carry out the provisions of this chapter.

§21-511 Severability. If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

§3. Effective date. This local law shall take effect immediately.