

City of Philadelphia



(Bill No. 100369)

AN ORDINANCE

Amending Chapter 20-1700 of The Philadelphia Code, entitled “Philadelphia Re-Entry Employment Program (“PREP”) for Ex-Offenders,” and amending Chapter 19-2600 of The Philadelphia Code, entitled “Business Privilege Taxes,” by modifying the duties of certain City officials with respect to the PREP program; by expanding eligibility for the PREP tax credit and modifying the terms of the PREP tax credit; and by providing for the participation of certain tax-exempt organizations in the PREP program, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 20-1700 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 20-1700. PHILADELPHIA RE-ENTRY EMPLOYMENT PROGRAM (“PREP”) FOR EX-OFFENDERS.

§ 20-1701. Duties of the Managing Director.

(1) The Managing Director shall coordinate the implementation of the Philadelphia Re-Entry Employment Program set forth in this Chapter.

(2) By [January 31] *July 1* of each year, the Managing Director shall submit a written annual report to the Mayor, with a copy to the President and Chief Clerk of Council, which shall include the following information for the prior calendar year:

(i) A summary and evaluation of the efforts of City agencies in carrying out the Philadelphia Re-Entry Employment Program, including a summary and evaluation of how the duties specified in this Chapter were performed.

(ii) A summary and evaluation of the efforts of City contractors and recipients of financial assistance to cooperate with the City in providing employment opportunities for ex-offenders, as required by Chapter 17-1500.

(iii) [A summary and evaluation, as prepared by the Revenue Department, of the City's experience with the PREP Tax Credit provided under § 19-2604(9), including a list of all businesses that participated, the number of Qualifying Employees certified during the year, the number of Qualifying Employees whose certification expired during the year and a summary of the reasons for such expiration; and recommendations for

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improvement of the program.] *The number of Qualifying Employees under §19-2604(9)(a)(ii) certified during the year, the number of Qualifying Employees whose certification expired during the year, and a summary of the reasons for such expiration, all as prepared by the Revenue Department.*

(iv) *A list, as prepared by the Department of Revenue, of all businesses that participated in, and the tax expenditure associated with, the PREP tax credit program under §19-2604(9).*

(v) *Recommendations for improvement of the Philadelphia Re-Entry Employment Program.*

§20-1702. Duties of the Personnel Director.

* * *

(2) In developing the recommendations required by subsection (1), the Personnel Director shall first develop, in cooperation with the [Mayor's Office for the Reentry of Ex-offenders, the] *the Director of R.I.S.E. (as defined in §19-2604(9)(a)(vi)), the Philadelphia Prison System, the Department of Human Services (DHS), Community Behavioral Health (CBH), the First Judicial District of Pennsylvania, any other appropriate city, state or federal agencies, the Philadelphia Workforce Development Corporation, chambers of commerce, other business advocacy organizations throughout the City, and organizations that provide re-entry/ex-offender services, a matrix of job titles and work categories matched to ex-offender criminal offenses and work skills that can be used to help the City and other employers identify jobs appropriate for potential employees with criminal records.*

§20-1703. Duties of the Commissioner of the Philadelphia Prisons System.

(1) The Commissioner of the Philadelphia Prison [System shall] *System, in concert with the Director of R.I.S.E. (as defined in §19-2604(9)(a)(vi)), shall ensure that the Philadelphia Prisons System and R.I.S.E [carries] carry out the following program for each prisoner who was a Philadelphia resident and is to be released from a period of sentence in the Philadelphia Prison System:*

(a) Each such prisoner shall, at least [six] *three* months prior to release, be advised of the opportunity to participate in the Philadelphia Re-Entry Employment Program set forth in §19-2604(9).

(b) Every prisoner who expresses an interest in participating [will] *shall* be given a pre-release assessment of his or her current education, job training level and future job prospects, physical and mental health status, and the housing and family circumstance to which he or she expects to return to in Philadelphia upon release, and

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based on that assessment, an individualized package of basic education, job training and retention, financial and life skill management training, and other support services will be designed to assist the prisoner in securing employment, housing or other life improvement services as soon as possible after release.

(c) A PREP Employee's Agreement will be prepared in accordance with §19-2604(9)(e).

(2) [The] *In consultation with the* Commissioner of the Philadelphia Prisons [System] *System, the Director of R.I.S.E (as defined in §19-2604(9)(a)(vi))* shall seek to enter into cooperative arrangements with federal, state and other non-City correctional facilities located in the Commonwealth of Pennsylvania, through which the same program set forth in subsection (1) will be provided to prisoners who were Philadelphia residents and who are to be released from a period of sentence in such facilities.

§20-1704. Duties of the Revenue Commissioner.

(1) The Revenue Commissioner shall [ensure] *make available* to all businesses holding a business privilege license in Philadelphia [are provided] information about the PREP Tax Credit [available] *provided* under §19-2604(9).

[(2) The Revenue Commissioner shall also, in consultation with the Mayor's Office for the Reentry of Ex-offenders, provide to such businesses information on other federal, state and local programs available to assist in the employment of ex-offenders.]

SECTION 2. Chapter 19-2600 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 19-2600. BUSINESS PRIVILEGE TAXES.

* * *

§19-2604. Tax Rates, Credits, and Alternative Tax Computation.

* * *

(9) Philadelphia Re-Entry Employment Program for Ex-offenders ("PREP") Tax Credit.

(a) Definitions.

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(i) Ex-offender. A person previously convicted of a felony, or who was incarcerated for any conviction, or who is currently on probation or parole for any conviction.

(ii) Qualifying Employee. For any given tax year, an Ex-offender is a “Qualifying Employee” of a business if he or she[:] *is either a Part-time or a Full-time Qualifying Employee, and meets all of the following criteria:*

(.1) Is employed by the business during the tax year *in a position where either (A) compensation is equivalent to those wages and benefits, including sick leave, holiday and vacation absences, and tuition benefits, afforded regular employees in comparable positions as part of the Employer's regular payroll process; or, if a comparable position does not exist, (B) [in a full-time job for which] the average hourly rate, excluding benefits, is at least 150% of the federal minimum wage, and [who receives an] the employment package [that] includes the same benefits as are provided to other full-time employees and tuition support for GED, Community College or other post-secondary education, or vocational/technical education or training, of at least \$2,000 during each of the first two years of employment and \$1,000 during the third year of employment.*

(.2) Earns wages that are subject to the tax on wages imposed by Chapter 19-1500;

(.3) Was first hired by the business after it entered into a PREP Tax Credit Agreement as required by subsection (9)(c);

(.4) Was released from incarceration *in the City* no more than seven years before being hired by the [business,] *business; or from incarceration elsewhere in the Commonwealth no more than three years before being hired by the business;*

(.5) [was] Was a Philadelphia resident for at least one year before being incarcerated, and has been a Philadelphia resident either continuously since being released from incarceration or for at least three years before being hired;

[(.5)] (.6) Before being hired by the business, executed a PREP Employee’s Agreement as required by subsection (9)(e); and

[(.6)] (.7) Has been certified by [the Revenue Department] *R.I.S.E.* as a Qualifying Employee in accordance with subsection (9)(d).

(iii) *Qualifying Full-Time Employee. For any given tax year, an Ex-offender is a “Qualifying Full-Time Employee” of a business if he or she is employed by the business during the tax year for at least thirty-seven and one-half hours per week.*

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(iv) *Qualifying Part-Time Employee.* For any given tax year, an Ex-offender is a “Qualifying Part-time Employee” of a business if he or she is employed by the business during the tax year for at least twenty hours per week, but fewer than thirty-seven and one-half hours per week.

(v) *Qualifying Exempt Organization.* For any given tax year, a “Qualifying Exempt Organization” is an Organization that:

(.1) *Has been certified as an organization exempt from taxation under the Internal Revenue Code of 1986, as amended, and is exempt from taxation under this Chapter 19-2600 (Business Privilege Taxes);*

(.2) *Employs a Qualifying Employee; and*

(.3) *Has been certified by R.I.S.E. as a Qualifying Exempt Organization in accordance with subsection (9)(f).*

(vi) *R.I.S.E. The Mayor’s Office of Re-Integration Services for Ex-Offenders (“R.I.S.E.”), or such other agency or office as the Mayor shall designate to perform the functions assigned to R.I.S.E. by this Section.*

(b) Calculation of Tax Credits.

(i) (.1) Beginning in tax year 2008 and for all tax years thereafter, a business shall receive a tax credit for each certified Qualifying Employee who has been employed by the business for more than six months. [The tax credit shall be in the amount of \$10,000 multiplied by the percentage of the tax year that the Qualifying Employee was employed by the business.]

(.2) Beginning in tax year 2010 and for all tax years thereafter, a business shall receive a tax credit for a contribution of at least \$10,000 made in a given tax year to a Qualifying Exempt Organization for each Qualifying Full-time Employee employed by the Qualifying Exempt Organization for at least six (6) months, or for a contribution of at least \$5,000 made in a given tax year to a Qualifying Exempt Organization for each Qualifying Part-time Employee employed by the Qualifying Exempt Organization for at least six (6) months. A Qualifying Exempt Organization cannot receive a contribution from more than one business for each qualifying employee employed by the organization.

(ii) [Tax credits are available for a total of thirty-six months of employment of a Qualifying Employee, and the maximum amount of tax credits a business may receive for any one Qualifying Employee over all tax years is \$30,000.] The tax credit provided for in subsection (9)(b)(i)(.1) shall be in the amount of \$10,000 multiplied by the percentage of the tax year that the Qualifying Full-time Employee was

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employed by the business or shall be in the amount of \$5,000 multiplied by the percentage of the tax year that the Qualifying Part-time Employee was employed by the business, subject to the limits in subsection (9)(b)(iii). The tax credit provided for in subsection (9)(b)(i)(.2) shall be in the amount of \$7,000 multiplied by the percentage of the tax year that the Qualifying Full-time Employee was employed by the Qualifying Exempt Organization, or shall be in the amount of \$3,500 multiplied by the percentage of the tax year that the Qualifying Part-time Employee was employed by the Qualifying Exempt Organization, subject to the limits in subsection (9)(b)(iii). The percentage of a tax year shall be calculated by dividing the total number of full calendar weeks during the tax year that the Qualifying Employee was employed by the business or Qualifying Exempt Organization by fifty-two (52).

(iii) *(.1) The tax credit provided for in subsections (9)(b)(i)(.1) and (9)(b)(i)(.2) is available for a total of thirty-six months of employment of a Qualifying Full-time Employee or Qualifying Part-time Employee.*

(.2) The maximum amount of tax credits a business may receive for any one Qualifying Full-time Employee under subsection (9)(b)(i)(.1) over all tax years is \$30,000. The maximum amount of tax credits a business may receive for any one Qualifying Part-time Employee under subsection (9)(b)(i)(.1) over all tax years is \$15,000.

(.3) The maximum amount of tax credits any business may receive for making a contribution to a Qualified Exempt Organization under subsection (9)(b)(i)(.2) shall not exceed \$21,000 for any one Qualifying Full-time Employee. The maximum amount of tax credits any business may receive for making a contribution to a Qualified Exempt Organization under subsection (9)(b)(i)(.2) shall not exceed \$10,500 for any one Qualifying Part-time Employee.

(iv) *Tax credits shall be taken against total business privilege tax liability, and a business may claim the PREP Credit for each Qualifying Full-time or Part-time Employee or contribution to a Qualifying Exempt Organization, as approved by the City of Philadelphia, for a period not to exceed five (5) years from the date the business executes a PREP Tax Credit Agreement. [any] Any unused credit may be carried forward [until used.]for three years from the date of hire of the qualifying employee, or the date of the contribution to the exempt organization.*

[(iv)](v) *A business receiving tax credits under §19-2604(7) for a given tax year shall not be eligible to receive tax credits under this subsection (9) for that same tax year[.] for the same employee.*

(c) *Eligibility; PREP Tax Credit Agreement.*

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(i) To be eligible to receive tax credits, a business must first execute a PREP Tax Credit Agreement with the Revenue Department that:

(.1) Details all the terms and conditions of the PREP Tax Credit as set forth in this subsection;

(.2) Sets forth the business' agreement to notify the Revenue Department within one week after any Qualifying Employee is no longer employed by the business[, which] *or by the Qualifying Exempt Organization, which* notification shall include an explanation as to why the Qualifying Employee's employment terminated;

(.3) [Sets forth the business' agreement to withhold from the wages of any Qualifying Employee and remit to the City the payments the Qualifying Employee must make to the City under subsection (9)(e)(iii); and

(.4)] Sets forth the business' [commitment to] *commitment, as required under subsection (9)(g), (A) to maintain its operations in the City of Philadelphia for five (5) years from the date of the agreement, and the business' agreement to repay any tax credits it receives if it violates such [commitment] commitment, and (B) to repay those tax credits earned for a contribution to a Qualifying Exempt Organization if that Qualifying Exempt Organization fails to maintain its operations in the City of Philadelphia for five (5) years from the date of the agreement. [, as required by subsection (9)(e)(i).]*

(d) Certification of Qualifying Employees; Maximum Number Permitted.

(i) After a business has executed a PREP Tax Credit Agreement, it shall make application to [the Revenue Department] *R.I.S.E.* on a form required by [the Department,] *R.I.S.E.* for each employee it wishes to have certified as a Qualifying Employee.

(ii) [The Revenue Department] *R.I.S.E.* shall certify all persons who meet the definition of Qualifying Employee, except:

(.1) The number of certified Qualifying Employees at any one time shall not exceed 1,000, provided that if the City administers a program that provides employers based upon their employment of ex-offenders under terms and conditions which the Revenue Commissioner finds are substantially equivalent to the terms and conditions of the PREP Tax Credit provided under this Section, then the total number of certified Qualifying Employees plus the total number of employees under such grant program shall not exceed 1,000 at any one time; and

(.2) [The Revenue Department] *R.I.S.E.* shall not certify an Ex-offender as a Qualifying Employee if it finds [that] *any of the following:*

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(A) the hiring of the Ex-offender is displacing another employee of the business, and that the primary reason for such displacement is to obtain PREP tax [credits.] *credits*;

(B) *the Qualified Exempt Organization to which a contribution has been made under §19-2604(9)(b)(i)(.2) would hire the Ex-offender notwithstanding receipt of the contribution.*

(.3) The Revenue Department shall by regulation develop standards to insure that other employees are not unfairly displaced or impacted by the tax credits provided by this [subsection.] *subsection, and shall develop standards for the enforcement of §19-2604(9)(d)(ii)(.2)(A) & (B).*

(iii) The certification of a Qualifying Employee shall expire after such employee has been employed as a Qualifying Employee by any employer for a total of thirty-six months, or when the Qualifying Employee is no longer employed by the business, and a Qualifying Employee whose certification has expired shall no longer count against the maximum number of certified Qualifying Employees.

(e) PREP Employee's Agreement. To be a Qualifying Employee, an ex-offender must have executed an agreement with the City that sets forth:

(i) A package of basic education and job training and retention and support services that the City has designed for the ex-offender;

(ii) The ex-offender's agreement to participate in life skills and basic financial management training, as well as meet all of his or her outstanding child support and other legal obligations;

[(iii) The ex-offender's agreement to pay the City a sum equal to 5% of his or her total wages earned during any period during which a business claims tax credits based on the ex-offender's status as a Qualifying Employee, in consideration of the services provided to the ex-offender by the City and in consideration of the City's provision of tax credits to employers as an incentive to hire the ex-offender. The ex-offender shall repay the total amount due the City without interest over a three year period beginning with the expiration of the ex-offender's certification as a Qualifying Employee, and the ex-offender must agree to permit the business to withhold any payments due the City from the ex-offender's pay and remit withheld amounts directly to the City.]

(f) *Certification of Qualifying Exempt Organization.*

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(i) *An organization shall make an application to R.I.S.E. on a form required by R.I.S.E., stating that it wishes to be certified as a Qualifying Exempt Organization.*

(ii) *An organization shall commit to notifying the Department of Revenue and the business within one week after any Qualifying Employee is no longer employed by the Qualifying Exempt Organization, which notification shall include an explanation as to why the Qualifying Employee's employment terminated.*

(g) Penalties.

(i) *Business [Failure] failure to maintain operations. A business which receives tax credits and fails to substantially maintain existing operations and the operations related to the tax credits in the City of Philadelphia for a period of five (5) years from the date the business executes a PREP Tax Credit Agreement shall be required to refund to the City of Philadelphia the total amount of tax credits granted, unless the Department of Revenue determines that a business' operations were not substantially maintained because of circumstances beyond the business' control, including natural disasters, acts of terrorism, unforeseen industry trends or a loss of a major supplier or market.*

(ii) *Qualifying Exempt Organization failure to maintain operations. A business which receives tax credits for a contribution to a Qualifying Exempt Organization under subsection (9)(b)(i)(.2) shall be required to refund to the City of Philadelphia the total amount of tax credits granted based on that contribution if the Qualifying Exempt Organization fails to substantially maintain existing operations and the operations related to the tax credits in the City of Philadelphia for a period of five (5) years from the date the business executes a PREP Tax Credit Agreement, unless the Department of Revenue determines that the Qualifying Exempt Organization's operations were not substantially maintained because of circumstances beyond the Qualifying Exempt Organization's control, including natural disasters, acts of terrorism, or unforeseen social or economic trends.*

SECTION 3. This Ordinance shall take effect immediately.

Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 17, 2010. The Bill was Signed by the Mayor on June 30, 2010.

A handwritten signature in cursive script, reading "Michael A. Decker".

Michael A. Decker
Chief Clerk of the City Council