



**General Government Committee
Summary**

Date: Tuesday, April 14, 2009

11:00 am

Location: Room 391

Committee Members Present: Boigon, Chair; Nevitt, Vice-Chair Garcia, López
Other Council Present: Brown, Faatz, Hancock, Lehmann, Linkhart, Robb

Agenda: 1. Worker retention proposal
2. Briefing: American Recovery and Reinvestment Act (ARRA) funding

1. Worker retention proposal

Committee Action

The Committee (with opposition from Councilman Brown and Councilwoman Faatz and abstentions on the parts of Councilwoman Lehmann and Robb) approved filing a bill to require private contractors that enter into certain service contracts with the City to offer a right of first refusal of employment to qualified employees of a predecessor contractor who provided the same service in the same city building or facility and to retain qualified employees for a minimum of 90 days, excepting professional service and concessionaire contracts and those entered into with local maintenance districts, and providing procedures for non-retention.

David Broadwell, City Attorney's Office, and Councilman Chris Nevitt presented the Councilman's proposal on worker retention making the following points:

- In drafting the proposal, Mr. Broadwell reviewed similar ordinances in six other cities (San Diego, Los Angeles, Philadelphia, San Jose, San Francisco, and Washington, DC) and the executive order recently issued by President Obama establishing a worker retention policy that may be followed by federal agencies.
- The proposal is intended to provide a measure of security to workers who could lose their service jobs in City facilities due to the City's routine bidding process.
- The City can legally impose such requirements through its contracting powers.
- The City has an interested in maintaining experienced employees to maximize security and efficiency.
- The proposal would apply to a very small number of Council-approved City contracts: a review of 435 Council-approved contracts over a 14-month period by City Council's Legislative Services staff indicates that only 11 would meet the proposed definition of service contract.

- Contracts are exempted from the proposal if they are professional services, concessions, or contracts with metropolitan districts and if workers are not reporting full time to a City facility.
- Denver International Airport has had a worker retention policy since 2003; Theaters and Arenas sometimes considers worker retention when evaluating contracts; and contractors sometimes voluntarily retain employees because it is a sound business practice.
- Under the proposal, workers can be laid off for cause.

Peter Kowalchuk, Frontier Airlines, explained that the airlines oppose the measure as an unnecessary intrusion into their business practices. He felt that worker retention as a DIA management policy was more appropriate than a mandate. Mr. Kowalchuk noted that airlines already operate on a very slim profit margin and DIA is already the most expensive airport in the country. Alan Lee, American Federation of State County, and Municipal Employees (AFSCME), expressed support for the measure but indicated the organization prefers use of public employees for such services.

Councilmembers discussed the following issues:

Faatz: The measure appears to be an effort to expand unionization of contract employees. She is concerned that the proposal will reduce the number of bidders on City contracts and also requested more information about how this proposal compares with DIA's existing policy.

Councilman Nevitt responded that his proposal does not affect union status and new employers are not required to follow the previous contract. The contract negotiations between a unionized work force and new contractor would need to proceed per Federal law. *Councilman Lopez* said that workers cannot be organized within 90 days.

Brown: The proposal is overarching and government should not intrude into business practices.

Lopez: The Councilman's father unfairly lost his janitorial position due to contract turnover. This resulted in significant financial instability for the family. He supports the measure.

Robb: The Councilwoman is concerned about burdening the new contractor with the costs of unemployment and COBRA when individuals are laid off by the new contractor under the proposal. Councilman Nevitt said that currently when individuals are not hired by the new contractor, these costs are borne by the old contractor.

Boigon: The proposal could save costs associated with training and security checks.

Hancock: While I generally support business independence, in this case individuals are losing work simply as a result of the City's policy to bid contracts every three to five years. The measure provides a measure of predictability for employees, but does not guarantee their jobs.

Lehmann: This proposal, and many others, needs to be evaluated to determine if there are unintended consequences. *Councilman Nevitt* was agreeable to an evaluation process, including potentially including a sunset date, and suggested that university students might be drafted for such a project.

2. Briefing: American Recovery and Reinvestment Act (ARRA) funding

Committee Action

The Committee directed staff to return to the next Committee for more discussion due to the press of time.

Committee Discussion

Amy Mueller, Mayor's Office, distributed copies of a power point outlining the components of ARRA and listing the \$45.5 million in funding announced to date. She noted that Council President Robb and Council Staff Director Laurie Dannemiller are on the Administration's oversight committee. Council's Finance Committee has already approved creation of special revenue funds to help track the ARRA funds. Councilwoman Boigon suggested continuing the discussion at the beginning of the next Committee meeting.