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Title: ***BILL NO. B-12 - (Intro. 3/31/2016) (For adoption) - Adding Section 4-117 to the Fresno Municipal Code relating to National Targeted Hiring in contracts for any Public Work of Improvement

Sponsors: Oliver L. Baines III

Indexes:

Code sections:

Attachments: 1. Ordinance - National Targeted Hiring.pdf, 2. Received During Meeting from Chuck Riojas 16-423.pdf

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REPORT TO THE CITY COUNCIL

April 21, 2016

FROM: Councilmember Oliver L. Baines III
Member of the Fresno City Council,
Representing District Three

BY: Gregory A. Barfield
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Representing District Three

SUBJECT

***BILL NO. B-12 - (Intro. 3/31/2016) (For adoption) - Adding Section 4-117 to the Fresno Municipal Code relating to National Targeted Hiring in contracts for any Public Work of Improvement

RECOMMENDATION:

It is recommended that the Fresno City Council adopt adding Sections 4-117 to the Fresno Municipal Code relating to National Target Hiring in Contracts for any Public Work of Improvement.

EXECUTIVE SUMMARY:

Areas within the United States are experiencing historically high rates of unemployment and underemployment. The City of Fresno is experiencing substantially higher rates of unemployment than other areas within the United States. During the past 10 years the City of Fresno's unemployment rate has averaged more than 12% while several City of Fresno neighborhoods continue to face high generational concentrations of poverty. While our unemployment rate has averaged 12%, and in some areas of our city as high as 16%, the poverty rate for Fresnoans is 26.4%. That means that more than 1 in 4 Fresnoans live at or below the poverty line. While it is difficult for the City to address workforce issues directly, there

are ways policy can impact workforce development, and aid in the process of incentivizing workforce development. While as a City we have found multiple ways to incentivize private

investment into our city. We have done little in incentivizing the development of a workforce. Workforce development is as instrumental in having a healthy economy as private investment.

The lack of a sufficient number of pathways to technical education training programs in areas across the United States, including the City of Fresno, means the construction industry cannot meet the growing demands of the construction projects, including the City of Fresno's Public Works of Improvement.

In publicly funded construction projects the severe negative impact of access to technical education programs is compounded by underemployment of workers residing in economically disadvantaged areas.

Where the City awards many contracts to private firms to construct Public Works of Improvement; this section advances the interests of the City by encouraging employment and training opportunities to create a trained workforce for safe construction of any Public Work of Improvement to mitigate the harms caused by geographically concentrated poverty, unemployment and underemployment in economically disadvantaged areas throughout the United States, including in the City of Fresno.

The provisions of this section permit the City to use local, state, and federal funds to promote hiring of workers in economically disadvantaged areas across the nation.

BACKGROUND:

Areas throughout the United States are experiencing historically high rates of unemployment and underemployment including the City of Fresno which has been experiencing substantially higher rates of unemployment as reported, than other areas within the United States.

The City of Fresno continues to face poverty in neighborhoods south of Herndon as generational concentrations of poverty south of Freeway 180 continue to hurt our local economy. The unemployment rate averaged during the past ten years is far more than the reported 12% as members in these neighborhoods have been without work for so long they are no longer counted in any unemployment statistics reported monthly with no end of breaking the cycle foreseen.

Recently many conversations around the lack of a sufficient number of pathways to technical education training programs in areas across the United States. These discussions have also been taking place in the City of Fresno in a number of circles; from the K-12 schools, State Center Community College District, Justice Officials and elected officials at the city and county levels. Although the City of Fresno is not directly responsible, we have an opportunity to play a key role in this effort through our Public Works projects.

As this discussion has taken shape, it has lead to several demonstration projects like Jump Start with the County of Fresno and the Building Trades, the FWIB's High Speed Rail (HSR) screenings with pathways to training for persons interested in HSR jobs. While these efforts are great starts this is not enough. What has been discovered through these efforts is that the

construction industry cannot meet the growing demands of the construction projects, including many of the City of Fresno's Public Works of Improvement.

Apprenticeship helps to fill that gap. Viable Apprenticeship programs are the backbone of the workforce for the construction trades. By incentivizing the use of apprentices and ensuring jobs through apprenticeship opportunities, we help those who desire such training the avenues they seek in order to escape their situation of underemployment, unemployment, and poverty. By using our Public Works projects we inject much needed incentives for the training programs to scale up enrollment, and put people to work. These jobs in the construction related fields are career opportunities that help take a person out of poverty, while also helping to build a healthier economy.

We in the City of Fresno award many contracts to private firms to construct Public Works of Improvement and with these proposed changes to our FMC, this would advance the interests of the City by encouraging employment and training opportunities to create a trained workforce for safe construction of any Public Work of Improvement to mitigate the harms caused by geographically concentrated poverty, unemployment and underemployment in economically disadvantaged areas throughout the United States, including in the City of Fresno; by using provisions of this section, it would permit the City to

use local, state, and federal funds to promote hiring of workers in economically disadvantaged areas across the nation.

“National Economically Disadvantaged Area” is defined by the following:

i.

A zip code outside of the City of Fresno that includes a census tract, or portion thereof, in which the median annual household income is less than \$35,000 per year, as measured and reported by the U.S. Census Bureau in the most recent U.S. Census; or

A zip code, or any portion of, which falls inside the City of Fresno, the average median income of which census tracts is less than \$35,000 per year, as measured and reported by the U.S. Census Bureau in the most recent U.S. Census.

“National Targeted Worker” is an individual who resides in a National Economically Disadvantaged Area.

“Viable Apprenticeship Program” means an apprenticeship program that is approved to train in the applicable craft or trade by the California Department of Apprenticeship Standards or U.S. Department of Labor.

Using these definitions, these proposed amendments to the FMC would require the City of Fresno for all Contracts for any Public Work of Improvement in excess of \$200,000, adjusted annually on the first of July to the nearest \$1,000 in response to changes in the National Consumer Price Index to include provisions that obligate Contractors to follow targeted hiring procedures, including an obligation to make reasonable good faith efforts, as defined in the implementing Administrative Order, to meet specific hiring requirements for Nationally Targeted Workers, as defined in subsection (c).

This would be accomplished and measured by each Contract, the following requirements shall apply to each Contractor with regard to project work actually performed by the Contractor, as well as work included under any subcontract.

The initial mandatory participation level is 15% of all project work hours within each trade performed by Nationally Targeted Workers. Project work hours shall not include hours worked by non-California residents. Subject to the periodic review process set forth in this subsection below, the mandatory participation level for project work hours shall increase annually up to a mandatory participation level of 40% of project work hours within each trade performed by Nationally Targeted Workers, as follows:

Year After Effective Date That Contract Is Advertised for Bids	Mandatory Participation Level For National Targeted Worker Project Work Hours
0-1	15%
1-2	20%
2-3	25%
3-4	Periodic Review
4-5	30%
5-6	35%
6-7	Periodic Review
7-8	40%

Contractors shall diligently carry out and adhere to the National Targeted Worker requirements as set forth in this section and in its Contract. The failure of Contractor to comply with the requirements of this section shall be deemed a material breach of Contract.

The City Manager shall develop rules and regulations for the application of these exemptions including:

1. Work done by the City with its own personnel and/or equipment.
2. Any Public Work of Improvement obtained from or through any government entity.
3. Contracts where the provisions of this section would conflict with federal or state grant funded contracts or conflict with the terms of the grant or subvention.
4. When the Contract is deemed by Council to be of urgent necessity for the preservation of life, health, or property and such Contract is authorized by resolution passed by at least five affirmative votes of the Council and containing a declaration of the facts constituting the urgency.

ENVIRONMENTAL FINDINGS:

This is not a project for CEQA purposes.

LOCAL PREFERENCE:

This proposed FMC ordinance does not provide a direct local preference as defined by our current FMC, but due to the demographics of our residents the entire city of Fresno except one full zips code, 93730 census data appear to fall under the national levels due to census data in the American Community Survey.

FISCAL IMPACT:

None, the City of Fresno already provides for contract management and reporting for both state and federal projects with existing staff, this policy only adds that staff extract from existing reporting requirements already mandated by the state and federal government a report to the City Manger for review by the public and the City Council to ensure compliance.

Attachment: Ordinance