



Chairman Phil Mendelson

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A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare the existence of an emergency, with respect to amending the Displaced Workers Protection Act of 1994 to add a new Title II to provide eligible workers who have been displaced by COVID-19 the opportunity to be reinstated once their employer starts rehiring after the pandemic and to allow eligible employees to be reinstated and retained employees employed if there is a change in the ownership, controlling interest, or identify of their employer.

RESOLVED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Displaced Workers Right to Reinstatement and Retention Emergency Declaration Resolution of 2020”.

Sec. 2. (a) On March 11, 2020, Mayor Bowser issued Mayor’s Orders 2020-45 and 2020-46, declaring a public emergency and a public health emergency in the District due to the imminent threat to the health, safety, and welfare of District residents posed by the spread of the COVID-19 virus. Since then, Mayor Bowser has extended the public health emergency and it is still in effect.

37 (b) Additionally, on March 16, 2020, the Mayor issued Mayor's Order 2020-48 which
38 prohibited gatherings of 50 or more individuals and suspended table seating in restaurants and
39 taverns. Due to the increasing number of COVID-19 cases in the District, on March 24, 2020,
40 the Mayor ordered all non-essential businesses to cease operations. As a result of these
41 necessary actions, the District's hospitality (i.e. hotels, restaurants, and entertainment and event
42 venues) and retail industries came to a halt, which resulted in mass lay-offs.

43 (c) While limited operations have resumed, many individuals are still out of work. Of the
44 more than 7,000 mostly hotel workers that comprise UNITE HERE Local 25, 90% were still out
45 of work as of the beginning of November 2020. Additionally, although restaurants have been
46 able to offer take-out or delivery services during the District's lockdown, this is not nearly
47 enough to support an entire restaurant, so most restaurant staff have been laid off. Further,
48 entertainment and event venues either remain closed or have severely restricted capacity, so
49 many of them have reduced their staffing needs or laid off staff entirely. Likewise, retailers have
50 laid off a large portion of their workforce, as they were also closed for an extended period during
51 the District's lockdown. While many stores have opened since then, sales are only 40-60% of
52 2019 sales.

53 (d) Due to the limitations on in-person gatherings and in order to keep individuals safe,
54 many businesses are teleworking. Only about 10% of employees who work in downtown DC
55 have returned to their offices, which in turn reduces the need for contract staff such as janitorial
56 or security staff at these buildings. Food service contract workers have also been largely affected
57 by the shutdowns with companies such as Aramark laying off over 800 employees until Capital
58 One Arena and the Convention Center reopen.

59 (e) All of these employees need reassurance that their jobs will be there when their
60 businesses begin to rehire or reopen and are back to full strength. Although the District has a
61 displaced workers law, D.C. Law 10-105, the “Displaced Workers Protection Act of 1994,” it
62 only provides protection to employees employed by a contractor in a limited set of circumstances
63 – e.g. when a contractor at an establishment is replaced by another. It does not provide
64 protections for contract workers when there is not a change in contractors, nor does it provide a
65 right of return for the thousands of workers displaced because of the pandemic. Moreover, D.C.
66 Law 10-105 does not extend to hospitality or retail workers if their employers sell, change the
67 controlling interest in the employer, or the employer’s identity. Thus, the “Displaced Workers
68 Right to Reinstatement and Retention Emergency Amendment Act of 2020” seeks to provide
69 these protections.

70 (f) Notably the emergency is identical to Bill 23-965, the Displaced Workers Right to
71 Reinstatement and Retention Amendment Act of 2020,” which was approved on first reading on
72 December 1, 2020 and will have a second reading on December 15, 2020.

73 (g) Like Bill 23-965, the emergency does not require employers or contractors to hire
74 back all of their employees regardless of the positions available, or to find new positions for
75 employees whose positions have been eliminated (e.g. if a restaurant employed someone as a
76 hostess, the restaurant does not have to offer to hire that person back to be a waitress if the
77 restaurant eliminated the hostess position).

78 (h) Additionally, the emergency is not retroactive but requires employers and contractors
79 to comply as of February 1, 2021. This date was chosen because it balances the need for notice
80 to employers and contractors and the need for individuals to have job protections as soon as
81 possible. Although Bill 23-965 also requires employers to begin to comply with the bill as of

82 February 1, 2021, it will take months for the bill to become permanent, meaning that Bill 23-965
83 will become law after February 1, 2021. Thus, to ensure that the relevant employers and
84 displaced workers are aware of the new reinstatement and retention policies and that the law is in
85 place of February 1, 2021, it is imperative that this emergency be approved and in place by that
86 date.

87 Sec. 3. The Council of the District of Columbia determines that the circumstances in
88 section 2 constitute emergency circumstances, making it necessary that the Displaced Workers
89 Right to Reinstatement and Retention Emergency Amendment Act of 2020 be adopted after a
90 single reading.

91 Sec. 4. This resolution shall take effect immediately.