



Tuesday, December 15, 2020

District Council Passes Employee Retention Bill

As we previously informed you, the District was considering the Bill 23-965, the “Displaced Workers Right to Reinstatement and Retention Amendment Act of 2020.” Earlier today, the Council held its second vote on the Bill and unanimously passed it. The Bill requires hospitality and retail employers to provide an opportunity to employees, that were laid off due to the pandemic, an opportunity to return to their positions once the pandemic subsides and the industries begin to recover.

HAWDC expressed to Councilmembers our concerns with the Bill. Several amendments were made to the Bill that would lessen the impact to employers. They are:

- Eligible hotel employees must have been laid-off between December 1, 2019 and the last day of the Mayor’s public health emergency. An individual laid off after the end of the public health emergency ends would not have a right to reinstatement.
- Clarifies that the bill does not apply to individuals who received severance from his/her employer or contractor if the employer or contractor has written, verifiable proof of the severance.
- States that if an employer or contractor could have terminated an individual for a demonstrable cause when the individual previously worked for the employer or contractor, then the individual has no rights under the Bill. This applies to situations where the employer or contractor had evidence before the individual was laid off, as well as to cases where the employer or contractor discovers evidence of the individual’s malfeasance after the individual was laid off.
- Reduces what small businesses are affected by this bill by increasing the threshold of minimum employees from 35 to 50.
- Clarifies that an employer or contractor only has to offer an individual a job if the position would require the individual to perform the same or substantially similar duties that require essentially the same skills as the individual’s previous position.
- Allows an employer or contractor to deliver via same day delivery or text an offer of reinstatement to an individual.
- **Lowers the deadline requirement from ten to three days from the day**

the offer is sent if the offer is made via email, text, or same day delivery. If the offer is made by registered mail, mail, or some other method that does not provide same day delivery, then an individual has to respond within three days of *receipt* of the offer of reinstatement.

- Requires individuals to report to work no later than 7 days after receiving the offer of reinstatement. However, the Bill allows the employer to provide a later start date.
- Amends the sunset provision to June 30, 2024 instead of December 31, 2024, but provides that the retaliation and enforcement provisions of the bill sunset a year after the rest of the bill.

The Bill now heads to Mayor Bowser for her signature.

Regards,
Lisa