



2019 OCT -9 PM 1:29

OFFICE OF THE
SECRETARY

MURIEL BOWSER
MAYOR

OCT - 9 2019

The Honorable Phil Mendelson
Chairman, Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Suite 504
Washington, DC 20004

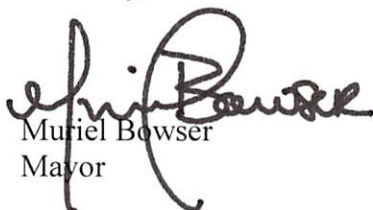
Dear Chairman Mendelson:

Enclosed for consideration and approval by the Council is the "Unemployment Compensation Employer Classification Amendment Act of 2019."


This legislation is technical in nature and would bring the District law into compliance with state law requirements set out in the Federal Unemployment Tax Act (68A Stat. 439; 26 U.S.C. § 3301 *et seq.*) Specifically, the legislation amends the District of Columbia Unemployment Compensation Act to expand the definition of employment to include service in the employ of states (or any political subdivision therein), federally recognized Native American tribes, and certain instrumentalities of one or more of those entities. This legislation would also permit government entities and instrumentalities the ability to make payments into the District Unemployment Fund, in lieu of contributions otherwise required under the DC Unemployment Compensation Act.

I urge the Council to take prompt and favorable action on the enclosed resolution. Please do not hesitate to contact me or DOES Director Dr. Unique Morris-Hughes should you require additional information.

Sincerely,


Muriel Bowser
Mayor




Chairman Phil Mendelson
at the request of the Mayor

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Unemployment Compensation Act to clarify and expand the classification of employers required to participate in the District’s unemployment compensation system to include States and federally-recognized Indian tribes or any instrumentality of one or more of the aforementioned entities which is wholly-owned by one or more of the aforementioned entities, and educational, charitable, or religious organizations; and to allow and determine the rate of alternative unemployment compensation contributions by a government entity or instrumentality.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Unemployment Compensation Employer Classification Amendment Act of 2019”.

Sec. 2. The District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat 946; D.C. Official Code § 51-101 *et seq.*), is amended as follows:

(a) Section 2(A) (D.C. Official Code § 51-101(2)(A)) is amended as follows:

(1) Sub-subparagraph (ii) is amended to read as follows:

“(ii) Service performed after December 31, 1977, in the employ of the District, any State or political subdivision thereof, an Indian tribe, or any instrumentality of one or more of the foregoing which is wholly owned by the District, one or more States or political subdivisions thereof, or an Indian tribe; and any service performed in the employ of any instrumentality of one or more States or political subdivisions thereof to the extent that the instrumentality is, with respect to such service, immune under the Constitution of the United

35 States from the tax imposed by section 3301 of the Federal Unemployment Tax Act, approved
36 August 16, 1954 (68A Stat. 439; 26 U.S.C. § 3301)); except as provided in paragraph (2)(A)(iv)
37 of this section and sections 3304(6)(A) and 3309(b) of the Federal Unemployment Tax Act (26
38 U.S.C. §§ 3304(6)(A) and 3309(b)).”.

39 (2) Sub-subparagraph (iii) is amended to read as follows:

40 “(iii) Service performed after March 30, 1962, in the employ of an
41 educational organization, and service performed after December 31, 1971, in the employ of a
42 religious, charitable, or other organization described in section 501(c)(3) of the Internal Revenue
43 Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 501(c)(3)), which is
44 exempt from income tax under section 501(a) of that Act (26 U.S.C. § 501(a)), except as
45 provided in paragraph (2)(A)(iv) of this section and sections 3304(6)(A) and 3309(b) of the
46 Federal Unemployment Tax Act (26 U.S.C. §§ 3304(6)(A) and 3309(b)).

47 (b) Section 3(f) (D.C. Official Code § 51-103(f)) is amended to read as follows:

48 “(f)(1)(i) If the District elects to cover employees under this act under the provisions of
49 section 1(2)(H)(i), or if any of its instrumentalities are required to be covered under this act, in
50 lieu of contributions required of employers under this act, the District shall pay into the Fund an
51 amount equivalent to the amount of benefits paid to individuals based on wages paid by the
52 District.

53 “(ii) In lieu of contributions required of employers under this act, a
54 government entity or instrumentality that would otherwise be liable for contributions pursuant to
55 section 1(2)(A)(ii) may pay into the Fund an amount equivalent to the amount of benefits paid to
56 individuals based on wages paid by the government entity or instrumentality.

57 “(iii) If benefits paid to an individual are based on wages paid by the
58 District of Columbia, or another government entity or instrumentality, and one or more other
59 employers, the amount payable by the District or other government entity or instrumentality to
60 the Fund shall bear the same ratio to total benefits paid to the individual as the base-period wages
61 paid to the individual by the District or other government entity or instrumentality bears to the
62 total amount of the base-period wages paid to the individual by all of his base-period employers.

63 “(2) The amount of payment required under this subsection shall be ascertained
64 by the Director quarterly, and with respect to the District, shall be paid from the general funds of
65 the District at such time and in such manner as the Mayor may prescribe except that to the extent
66 that benefits are paid on wages paid by the District from special administrative funds, the
67 payment by the District into the Unemployment Fund shall be made from such special funds.
68 The District shall be liable only for 50% of any extended benefits paid.

69 “(3) After December 31, 1977, the District or any government entity or
70 instrumentality liable for contributions pursuant to section 1(2)(A)(ii) shall be provided the
71 option of financing the costs of benefits paid to its employees by electing to pay contributions
72 under the provisions of subsection (c) of this section or by electing to become liable for
73 payments in lieu of contributions under the same terms and conditions provided for nonprofit
74 organizations in subsection (h) of this section, except as provided in the following sentence. For
75 weeks of unemployment beginning January 1, 1979, and thereafter, the District or any
76 government entity or instrumentality liable for contributions pursuant to section 1(2)(A)(ii) shall
77 be chargeable if it elects to pay contributions, or shall be liable if it elects to make payments in
78 lieu of contributions, for the cost of regular benefits plus 100% of any extended benefits paid that
79 are attributable to service in the employ of the District or respective governmental entity or

80 instrumentality.”.

81 Sec. 4. Fiscal impact statement.

82 The Council adopts the fiscal impact statement of the Chief Financial Officer as the
83 fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975,
84 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

85 Sec. 5. Effective date.

86 This act shall take effect following approval by the Mayor (or in the event of veto by
87 the Mayor, action by the Council to override the veto), a 30-day period of congressional review
88 as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
89 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
90 Columbia Register.

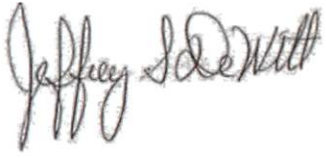
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: September 19, 2019

SUBJECT: Fiscal Impact Statement – Unemployment Compensation Employer
Classification Amendment Act of 2019

REFERENCE: Draft Bill as shared with the Office of Revenue Analysis on September
11, 2019

Conclusion

Funds are sufficient in the fiscal year 2020 through fiscal year 2023 budget and financial plan to implement the bill.

Background

The bill makes amendments to the District of Columbia Unemployment Compensation Act¹ to bring the District law into compliance with requirements set out in the Federal Unemployment Tax Act. Specifically, the bill expands the definition of employment to include service of individuals working for states, their instrumentalities, and Native American tribes. The amendments cover provisions of the unemployment insurance program concerning the District government, instrumentalities of the District, and nonprofit organizations that allow such employers to reimburse the unemployment insurance program for benefits paid to former employees.

Financial Plan Impact

Funds are sufficient in the fiscal year 2020 through fiscal year 2023 budget and financial plan to implement the bill. The District Government already participates in the unemployment insurance

¹ Approved August 28, 1935 (49 Stat 946; D.C. Official Code § 51-101 *et seq.*)

The Honorable Phil Mendelson

FIS: "Unemployment Insurance Employer Classification Amendment Act of 2019," Draft Bill as shared with the Office of Revenue Analysis on September 11, 2019

program as a reimbursable employer and the bill will not change current practice or the finances of the Unemployment Insurance Trust Fund.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



ATTORNEY GENERAL
KARL A. RACINE

Legal Counsel Division

MEMORANDUM

TO: Alana Intrieri
Executive Director
Office of Policy & Legislative Affairs

FROM: Brian K. Flowers
Deputy Attorney General
Legal Counsel Division

DATE: September 20, 2019

SUBJECT: Legal Sufficiency Review of Proposed Legislation, "Unemployment
Compensation Employer Classification Amendment Act of 2019"
(AE-19-588)

This is to Certify that this Office has reviewed the above-referenced proposed bill and found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-5565.

A handwritten signature in black ink, appearing to read "BKF/ka Parker". The signature is written in a cursive, flowing style.

Brian K. Flowers