


Chairman Phil Mendelson

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Displaced Workers Protection Act of 1994 to add a new section (4a) to provide eligible workers who have been displaced by COVID-19 the opportunity to be reinstated once their employer reopens after the pandemic.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Displaced Workers Right to Reinstatement and Retention Amendment Act of 2020”.

Sec. 2. The Displaced Workers Protection Act of 1994, effective April 26, 1994 (D.C. Law 10-105; D.C. Official Code § 32-101 *et seq.*) is amended to add a new section (4a) to read as follows:

“Sec. 4a. Right to Reinstatement.

“(a) For the purposes of this section, the term:

“(1) Change in controlling interest or identity of an employer” means any event or sequence of events in which the business operation conducted consists of the same or similar operation as before January 31, 2020, including any sale, assignment, transfer, contribution or other disposition of a controlling interest by consolidation, merger, or reorganization of the employer, or of any entity or entities that maintains any ownership interest in the employer; any

34 purchase, sale, lease, reorganization or restructuring, or relocation of the operation; or any
35 combination of such events, that causes either a change in the entity or entities holding a
36 controlling interest in the employer, or a change in the identity of the employer.

37 “(2) “Eligible employee” means any employee whose most recent separation from
38 employment occurred on or after February 1, 2020, and was not due to either voluntary
39 resignation without good cause or misconduct.

40 “(b)(1) Employers shall offer all eligible employees reinstatement to their previous
41 positions or to positions performing the same or similar duties, as those positions become
42 available in the operation.

43 “(2)(A) Offers shall be made in writing, by registered mail, to the eligible
44 employee’s last known physical address.

45 “(B) An employee who is offered reinstatement pursuant to this section
46 shall be given no less than ten days from the date of receipt of the mailed offer in which to accept
47 or decline the offer.

48 “(3) If more than one eligible employee is entitled to reinstatement to a particular
49 position, the employer may make simultaneous, conditional offers of reinstatement to eligible
50 employees for the same position, but shall reinstate eligible employees based on length of service
51 with the employer, beginning with eligible employees who have worked for the employer for the
52 greatest length of time.

53 “(4) An employer shall not hire a new employee for a position until all eligible
54 employees have declined offers of reinstatement.

56 “(c)(1) The requirements of this section shall also apply in the event one or more changes
57 in controlling interest or identity of the employer occurred after January 31, 2020.

58 “ (2) If one or more changes in controlling interest or identity of the employer
59 occurs after January 31, 2020, the new employer shall offer employment to any eligible
60 employees pursuant to subsection (b) of this section, and shall retain any eligible employees
61 accepting reinstatement for a 90 day transition period.

62 “ (3) Except as provided in paragraph (6) of this subsection, the new employer
63 shall not discharge an eligible employee retained pursuant to this section during the 90-day
64 transition period without cause.

65 “(4) At the end of the 90-day transition employment period, the new employer
66 shall perform a written performance evaluation for each employee retained pursuant to this
67 section, and if the employee’s performance during the 90-day transition employment period is
68 satisfactory, the new employer shall offer the employee continued employment under the terms
69 and conditions established by the new employer.

70 “(5) An employer that experiences or anticipates a change in controlling interest
71 or identity, where such change is anticipated to occur on or after the effective date of this law,
72 must, no later than 15 calendar days before the anticipated date of such event, provide notice as
73 follows:

74 “(A) Notice to all other parties to the event or transaction of the name, last
75 known address, date of hire, position, and text or telephone contact information of each eligible
76 employee; and

77 “(B) Notice to all eligible employees, either by posting in the business in

the same place and manner as other statutorily-required notices or, if the business is not operating, by the means described in subparagraph (A) of this paragraph. Notice to eligible employees shall state that the employer is experiencing or anticipates a change in controlling interest or identity, and shall advise employees of their right to retention under this section.

“(C) If eligible employees are represented by a labor organization, the notices specified in this paragraph must simultaneously be provided to the labor organization.

“(6) If at any time, a new employer determines that fewer employees are required to perform the work of the operation, the new employer shall retain employees by seniority within each position.”.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This act shall take effect following approval of the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C Official Code § 1-206.22(c)(1)), and publication in the District of Columbia Register.