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SENATE BILL NO. 247

Offered January 10, 2024

Prefiled January 9, 2024

A BILL to amend the Code of Virginia by adding in Article 6 of Chapter 43 of Title 2.2 a section numbered 2.2-4377.1, relating to building service employees; public contracting.

Patrons—McPike and Boysko

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 6 of Chapter 43 of Title 2.2 a section numbered 2.2-4377.1 as follows:

§ 2.2-4377.1. Building service employees; transition period.

A. For the purposes of this section:

"Awarding authority" means any person that awards a building service contract or subcontract to a building service employer. "Awarding authority" does not include the United States or the Commonwealth but may, at the election of a county, city, or town, include such county, city, or town.

"Building service employee" means an employee performing (i) work in connection with the care or maintenance of property including a janitor, security officer, groundskeeper, concierge, door staff, maintenance technician, handyman, superintendent, elevator operator, window cleaner, and building engineer; (ii) performing passenger-related security services, cargo-related and ramp services, and inter-terminal, passenger handling, and cleaning services at an airport; or (iii) food preparation services at a primary or secondary school or post-secondary educational institution.

"Employer" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or any other legal or commercial entity with employees. "Employer" may, at the election of a county, city, or town, include such county, city, or town.

"Incumbent building service employer" means any employer that (i) has been awarded or entered into a contract or subcontract concerning building service employees within a certain county, city, or town or (ii) has sold or relinquished control of a property located in a certain county, city, or town where it directly employed building service employees at any time during the previous 90 days.

"Successor building service employer" means an employer that (i) is awarded a contract for building service employees to provide, in whole or in part, services that are substantially similar to those provided at any time during the previous 90 days; (ii) has purchased or acquired control of a property located in a certain county, city, or town where it directly employed building service employees at any time during the previous 90 days; or (iii) terminates a contract for building service employees and hires building service employees as its direct employees to perform services that are substantially similar to those provided during the previous 90 days within 90 days after a contract for building service employees is terminated or cancelled.

"Transition period" means the 90-day time period from the date the successor building service employer begins work at a worksite or worksites.

B. Any county, city, or town in the Commonwealth may require, by local ordinance or resolution, compliance with one or more of the following provisions:

1. That successor building service employers shall retain incumbent building service employees during the transition period.

2. That successor building service employers may dismiss retained building service employees during the transition period only (i) for just cause or (ii) as a part of a reduction in its workforce if the successor building service employer (a) finds that fewer building service employees are required to perform the work than the incumbent building service employer had employed; (b) retains building service employees by seniority within each job classification; (c) maintains a preferential hiring list of those building service employees not retained; and (d) hires any additional building service employees from such list, in order of seniority, until all affected building service employees have been offered employment.

3. That, as soon as practicable, but no later than 30 days before a successor building service employer begins work at a worksite or worksites, the awarding authority or incumbent building service employer shall provide written notice to the incumbent building service employees and their collective bargaining representative, if applicable, that a successor building service employer will become the new building service employer at the worksite or worksites.

4. That the awarding authority or incumbent building service employer shall provide a list of relevant information, including the names, positions, and contact information of any incumbent building service

59 employees, to the successor building service employer. Such notice shall be given no later than 30 days prior  
60 to the start of the transition period.

61 5. That the successor building service employer shall give each affected building service employee a  
62 written offer of employment and send a copy to the building service employee's collective bargaining  
63 representative, if any.

64 6. That the successor building service employer shall perform a written performance evaluation for each  
65 retained employee at the end of the 90-day transition employment period, and offer continued employment to  
66 the building service employee if the employee's performance during the transition is satisfactory.

67 7. That any building service employee who suffers loss by reason of a violation of any provision of a local  
68 ordinance or resolution enacted pursuant to this section may bring a civil action against his employer to  
69 enforce such local ordinance or resolution by judicial order and to obtain back pay for each day during  
70 which the violation continues, inclusive of any benefits the building service employee would have received.  
71 Any person who is successful in such action shall recover reasonable attorney fees, witness fees, and court  
72 costs incurred in bringing such action. A finding of a willful violation of the provisions of this section may  
73 increase damages by three times the actual damages sustained or \$1,000, whichever is greater.

74 C. Notwithstanding any provision of law to the contrary, a successor building service employer may  
75 retain fewer than all incumbent building service employees during the transition period if it finds that fewer  
76 employees are necessary to perform the work.