

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2022 Legislative Session

Bill No. CB-019-2022

Chapter No. 16

Proposed and Presented by Council Members Taveras, Burroughs, Dernoga, Ivey, Hawkins

Introduced by Council Members Taveras, Burroughs, Dernoga, Ivey, Hawkins, Streeter,
Medlock, Harrison, Turner, Glaros, and Franklin

Co-Sponsors _____

Date of Introduction May 10, 2022

BILL

1 AN ACT concerning

2 Displaced Service Employees Protection

3
4 For the purpose of protecting displaced service employees when a service contract changes
5 awarding authorities or successor entities; providing that a new contractor offer employment to
6 said incumbent employees for the first 90 days of the new contract.

7 BY repealing and reenacting with amendments:

8 SUBTITLE 2. ADMINISTRATION.

9 Section 2-195.01

10 The Prince George's County Code
11 (2019 Edition; 2021 Supplement).

12 BY adding:

13 SUBTITLE 13A. LABOR CODE.

14 Sections 13A-119, 13A-120, 13A-121

15 The Prince George's County Code
16 (2019 Edition; 2021 Supplement).

17 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
18 Maryland, that Section 2-195.01 of the Prince George's County Code be and the same is hereby
19 repealed and reenacted with the following amendments:

20 **SUBTITLE 2. ADMINISTRATION.**

DIVISION 12. OFFICE OF HUMAN RIGHTS.

SUBDIVISION 3. ENFORCEMENT PROCEDURES.

Sec. 2-195.01. Other Awards and Remedies.

(a) In addition to the other awards and relief which are hereinafter provided, the Commission may, in accordance with the standards of proof set forth in Section 2-195, also make the following monetary orders determined by the Commission from the evidence of record as the actual damages, costs, or losses involved, or in such amounts as may be specified below:

* * * * *

(5) Damages may also be awarded to compensate complainant for violation of Section 13A-120 in an amount determined by the Commission to be appropriately and reasonably warranted considering all of the circumstances, but in no event shall the amount be in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00).

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SECTION 2. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 13A-119, 13A-120 and 13A-121 of the Prince George's County Code be and the same are hereby added:

SUBTITLE 13A. LABOR CODE.

DIVISION 4. DISPLACED SERVICE EMPLOYEES PROTECTION ACT.

Sec. 13A-119. Definitions.

(a) As used in this Division:

(1) Awarding authority means any person that awards or enters into a service contract or subcontract with a contractor to be performed in the County. Awarding authority does not include the United States, any State or any political subdivision thereof.

(2) Contractor means any person, including a subcontractor, who enters into a service contract to be performed in the County and employs more than 20 employees in the entire company.

(3) Displaced service employee means an individual employed on a full or part-time basis, having concluded their probationary period, if applicable, from employment when a service contract changes awarding authorities or successor entities and performing duties related to a service contract as a:

(A) building service employee, including a janitor, security officer, groundskeeper, concierge, door staff, maintenance technician, handyman, superintendent,

1 elevator operator, window cleaner, or building engineer; or people with credentials and/or license
2 to perform a specific job.

3 (B) food service worker, including a cafeteria attendant, line attendant, cook,
4 butcher, baker, server, cashier, catering worker, dining attendant, dishwasher, or merchandise
5 vendor.

6 (C) non-professional employee performing health care or related service.

7 (D) Displaced service employee does not include:

8 (i) a managerial or confidential employee;

9 (ii) an employee who works in an executive, administrative, or professional
10 capacity;

11 (iii) an employee who earns more than \$25 per hour;

12 (iv) an employee who is regularly scheduled to work less than 10 hours per
13 week.

14 (v) an employee that has specifically subject matter expertise that requires
15 certification or specialized training that is a master at their trade such as
16 including, but not limited to, an electrician, plumber or carpenter.

17
18 (4)Person means any individual, proprietorship, partnership, joint venture, corporation,
19 limited liability company, trust, association, or other entity that may employ persons or
20 enter into a service contract.

21 (5)Service contract means a service contract between an awarding authority and a
22 contractor to provide security, janitorial, building maintenance, or food preparation in a
23 facility located in the County which is used as a:

24 (A) private elementary or secondary school, or public or private college or
25 university;

26 (B) multi-family residential building or complex with more than 30 units;

27 (C) commercial building or office building occupying more than 75,000 square
28 feet.

29 (D) industrial facility, such as a pharmaceutical laboratory, research and
30 development facility, or product fabrication; or

31 (E) distribution center.

1 (6) **Successor entity** means an entity that:

2 (A) is awarded a service contract to provide, in whole or in part, services that are
3 substantially similar to those provided at any time during the previous 90 days;

4 (B) has purchased or acquired control of a property located in the County where
5 service employees were employed at any time during the previous 90 days; or

6 (C) terminates a service contract and hires service employees as its direct
7 employees to perform services that are substantially similar, within 90 days after a service
8 contract is terminated or cancelled.

9 (b) This Article does not limit the ability of an awarding authority to terminate a service
10 contract or replace a contractor with another contractor.

11 **Sec. 13A-120. Transition employment period**

12 (a) Awarding authority. At least 15 days before a service contract is terminated, an
13 awarding authority must:

14 (1) request the terminated contractor to give the successor entity and the awarding
15 authority a complete list of the name, date of hire, and job classification of each displaced service
16 employee working on the service contract;

17 (2) give the successor entity a complete list of the name, date of hire, and job
18 classification of each displaced service employee of the terminated contractor working on the
19 service contract;

20 (3) ensure that a written notice to all affected displaced service employees describing
21 the pending termination of the service contract and the employee rights provided by this Article
22 is conspicuously posted at any affected work site, except in the case of a service contract at a
23 facility used as a public university, in which case the terminated contractor shall comply with
24 subsections (a)(1) and (a)(2) of this section.

25 (b) Successor Entity.

26 (1) Subject to subsection (b)(3) below, each successor entity must retain each affected
27 displaced service employee at an affected site for 90 days or until the successor entity no longer
28 provides services at the covered location, whichever is earlier.

29 (2) Each successor entity must give each affected displaced service employee a
30 written offer of employment and send a copy to the displaced service employee's collective
31 bargaining representative, if any. Each offer must:

1 (A) state the date by which the displaced service employee must accept the offer;
2 and

3 (B) allow the displaced service employee at least 10 days after receiving the
4 notice to accept the offer.

5 (3) Each successor entity may retain less than all of the affected displaced service
6 employees during the 90-day transition period if the successor entity:

7 (A) finds that fewer displaced service employees are required to perform the
8 work than the terminated contractor had employed;

9 (B) maintains a preferential hiring list of those displaced service employees not
10 retained; and

11 (C) hires any additional displaced service employees from the list until all
12 affected displaced service employees have been offered employment;

13 (4) The successor entity shall not discharge a displaced service employee retained
14 under this Section without just cause during the transition period.

15 (5) The successor entity shall not engage in discrimination as defined by Section 2-
16 186(a)(3) in the replacement or failure to retain a displaced service employee eligible to be
17 retained under this Section.

18 (c) Notice

19 (1) At least 90 days before a service contract is terminated, the terminated contractor
20 must provide notice to the displaced service employee through a signed letter in English and in
21 Spanish explaining that a new contractor will start work in 90 days and that they will no longer
22 have employment with terminated service contractor.

23 **Sec. 13A-121. Enforcement Procedures**

24 (a) **Filing Complaints.** If any displaced service employee believes that the awarding
25 authority, terminated contractor or successor entity does not comply with Section 13A-120, they
26 may file a complaint with the Office of Human Rights.

27 (b) **Complaint Requirement.** A complaint under this Section must: (1) be filed within 1
28 year of the alleged violation; (2) include the particulars of the alleged violation, the name and
29 address of the person alleged to have committed the violation; and (3) any other information
30 required by the Office of Human Rights.

31 (c) **Dismissal.** If after an investigation by the Office of Human Rights, the awarding

1 authority, terminated contractor or successor entity is found to have complied with Section 13A-
2 120, the Office of Human Rights must dismiss the complaint and transmit copies of its finding to
3 the Respondent and Complainant.

4 (d) **Non-Compliance Penalty.** If after an investigation, the Office of Human Rights finds
5 that there is non-compliance, the Office of Human Rights shall attempt to conciliate the matter.
6 If unsuccessful in the conciliation, the Office of Human Rights shall refer this matter to the
7 Human Rights Commission. If after an affirmative adjudication by the Human Rights
8 Commission, the awarding authority, terminated contactor or successor entity is found not to
9 comply with Section 13A-120, the Human Rights Commission shall refer this decision to the
10 Office of Central Services, whereby the Office of Central Services shall prohibit said awarding
11 authority, terminated contractor or successor entity from bidding for County contracts for a
12 period of no more than five years.

13 * * * * *

14 SECTION 3. BE IT FURTHER ENACTED that the provisions of this Act are hereby
15 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
16 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
17 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
18 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
19 Act, since the same would have been enacted without the incorporation in this Act of any such
20 invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection,
21 or section.

22 SECTION 4. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
23 calendar days after it becomes law.

Adopted this 7th day of June, 2022.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Calvin S. Hawkins, II
Chair

ATTEST:

Donna J. Brown
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Angela D. Alsobrooks
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks *** indicate intervening existing Code provisions that remain unchanged.

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