

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2021 Legislative Session

Bill No. CB-43-2021

Chapter No. _____

Proposed and Presented by Council Members Ivey and Dernoga

Introduced by _____

Co-Sponsors _____

Date of Introduction _____

BILL

1 AN ACT concerning

2 Workers' Right to Reinstatement and Retention

3 For the purpose of requiring certain employers to recall and reinstate certain employees who
4 have been laid off after the imposition of the COVID-19 state of emergency; specifying the
5 procedures by which the recall and reinstatement would operate; prohibiting retaliation against
6 employees for seeking to enforce his or her rights under this Act by any lawful means, for
7 participating in proceedings related to this Act, for opposing any practice proscribed by this Act,
8 or for otherwise asserting rights under this Act; requiring certain reports; defining certain terms;
9 and establishing certain penalties.

10 BY adding:

11 SUBTITLE 13A. LABOR CODE.

12 Sections 13A-200, 13A-201, 13A-202, 13A-203, 13A-204, and
13 13A-205

14 The Prince George's County Code
15 (2019 Edition; 2020 Supplement).

16 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
17 Maryland, that Sections 13A-200, 13A-201, 13A-202, 13A-203, 13A-204, and 13A-205 of the
18 Prince George's County Code be and the same are hereby added:

19 **SUBTITLE 13A. LABOR CODE.**

20 **DIVISION 5. WORKER REINSTATEMENT AND RETENTION.**

21 **Sec. 13A-200. Definitions.**

1 (a) **Commercial property employer** means an owner, operator, manager, or lessee,
2 including a contractor, subcontractor, or sublessee, of a non-residential property in the County
3 that employs twenty-five (25) or more janitorial, maintenance, or security service employees in
4 the aggregate.

5 (b) **Eligible Employee** means any employee whose work was specifically for a
6 commercial property employer, an event center employer or a hotel employer and most recent
7 separation from employment:

8 (1) occurred on or after December 1, 2019, and

9 (2) was not due to either

10 (A) voluntary resignation without good cause, or

11 (B) misconduct.

12 (c) **Employer** means a person that is any of the following, as defined in this section:
13 a commercial property employer (except for a hospital as defined in State Health-General Article
14 Section 19-301); or
15 an event center employer; or
16 a hotel employer.

17 (d) **Event center employer** means an owner, operator, or manager of a publicly or
18 privately-owned structure within the County that:

19 (1) is used for public performances, sporting events, business meetings, or similar
20 events; and either:

21 (A) is 50,000 square feet or more in total area; or

22 (B) has a seating capacity of 1,000 seats or more.

23 An “event center employer” includes a concert hall, stadium, arena, racetrack, and convention
24 center. An “event center employer” also includes any contracted, leased, or sublet premises
25 connected to or operated in conjunction with the event center’s purpose, such as food preparation
26 facilities, concessions, retail stores, restaurants, bars, and structured parking facilities.

27 An “event center employer” does not include the Maryland Stadium Authority.

28 (e) **Hotel employer** means the owner, operator, or manager of a publicly or privately-
29 owned structure that:

30 (1) is used for public lodging or other related service for the public; and

31 either:

1 (A) contains 50 or more guest rooms; or

2 (B) has earned gross receipts in the 2019 tax year exceeding \$5 million.

3 A “hotel employer” includes the owner, operator, manager, or lessee of any food service
 4 facility, as defined in Section 12-104(a)(7) of the County Code, that is physically located on the
 5 hotel employer’s premises.

6 **Sec. 13A-201. Right to Reinstatement.**

7 (a) Employers shall offer all Eligible Employees, reinstatement to their previous positions
 8 (or to positions performing the same or similar duties), as those positions become available in the
 9 operation. Offers shall be made in writing, by registered mail to the employee’s last known
 10 physical address, and by email and text message to the extent the Employer possesses such
 11 information. When more than one Eligible Employee is entitled to reinstatement in a particular
 12 position, the Employer shall offer the position to the Eligible Employee with the greatest length
 13 of service for the Employer. This right of reinstatement will expire after June 30, 2024 from the
 14 final termination of the County’s COVID-19 State of Emergency.

15 (b) An Eligible Employee who is offered reinstatement pursuant to this Section shall be
 16 given no less than ten (10) days from the date of receipt of the mailed offer in which to accept or
 17 decline the offer. An Employer may make simultaneous, conditional offers of reinstatement to
 18 Eligible Employees for the same position but must reinstate employees based on length of
 19 service as provided in Subsection (a) above.

20 (c) An Employer shall be prohibited from hiring a new employee for any position until all
 21 Eligible Employees have declined offers of reinstatement.

22 (d) The requirements of this Section shall also apply in the event one or more changes in
 23 controlling interest or identity of the employer occurred following December 1, 2019 or occurs
 24 following the effective date of this law. For purposes of this Section, a “change in controlling
 25 interest or identity” of an Employer is defined as any event or sequence of events, including:

26 (1) any sale, assignment, transfer, contribution or other disposition of a controlling
 27 interest, including by consolidation, merger, or reorganization of the Employer, or of any entity
 28 or entities that maintains any ownership interest in the Employer, or

29 (2) any purchase, sale, lease, reorganization or restructuring, or relocation of the
 30 operation, or

31 (3) any combination of such events, that causes either a change in the entity or entities

1 holding a controlling interest in the Employer, or a change in the identity of the Employer;
2 provided, however, that following the change in identity, the business operation conducted
3 consists of the same or similar operation as before December 1, 2019.

4 (e) In the event Subsection (d) applies, the new Employer must offer employment to any
5 Eligible Employees, as provided in subsections (a) and (b) above and shall retain any Eligible
6 Employees accepting reinstatement for a 90-day transition period.

7 (f) Except as provided in subsection (i) below, the new Employer shall not discharge an
8 Eligible Employee retained pursuant to this Section during the 90-day transition period without
9 cause.

10 (g) At the end of the 90-day transition employment period, the new Employer shall
11 perform a written performance evaluation for each Eligible Employee retained pursuant to this
12 section. If the Eligible Employee's performance during the 90-day transition employment period
13 is satisfactory, the new Employer shall offer the Eligible Employee continued employment under
14 the terms and conditions established by the new Employer.

15 (h) An Employer that experiences or anticipates a change in controlling interest or identity,
16 where such change is anticipated to occur on or after the effective date of this law, must, no later
17 than 15 calendar days before the anticipated date of such event, provide notice as follows:

18 (1) Notice to all other parties to the event or transaction of the name, last known
19 address, date of hire, position, and text or telephone contact information of each Eligible
20 Employee; and

21 (2) Notice to all Eligible Employees, either by posting in the business in the same place
22 and manner as other statutorily required notices or, if the business is not operating, by the means
23 described in Subsection (a) above. Notice to Eligible Employees shall state that the Employer is
24 experiencing or anticipates a change in controlling interest or identity and shall advise Eligible
25 Employees of their right to retention under this Section.

26 (3) If Eligible Employees are represented by a labor organization, the notices specified
27 in this Section must simultaneously be provided to the labor organization.

28 (i) If at any time, a new Employer determines that fewer employees are required to
29 perform the work of the operation, the new Employer shall retain Eligible Employees by
30 seniority within each position.

31 **Sec. 13A-202. Retaliation Prohibited.**

1 (a) No Employer shall refuse to reinstate or employ, or terminate, reduce in compensation,
2 or otherwise take any adverse action against, any person for seeking to enforce his or her rights
3 under this Division by any lawful means, for participating in proceedings related to this Division,
4 for opposing any practice proscribed by this Division, or for otherwise asserting rights under this
5 Division. This Section shall also apply to any person who mistakenly, but in good faith, alleges
6 noncompliance.

7 **Sec. 13A-203. Enforcement.**

8 (a) This Section may be enforced in a civil action brought in a court of appropriate
9 jurisdiction by one or more Eligible Employees for and on behalf of oneself or themselves and
10 other Eligible Employees similarly situated, or the Eligible Employee or Eligible Employees
11 may designate an agent or representative to maintain action for and in behalf of all Eligible
12 Employees similarly situated.

13 **Sec. 13A-204. Regulations.**

14 (a) The County Executive shall promulgate and enforce rules and regulations, and issue
15 determinations and interpretations, consistent with and necessary for the implementation of this
16 Section. Such rules and regulations, determinations, and interpretations shall have the force of
17 law and may be relied upon by Employers, Eligible Employees, and other persons to determine
18 their rights and responsibilities under this Section.

19 **Sec. 13A-205. Relationship to Employment Contracts and Agreements.**

20 (a) The requirements of this Section shall not diminish the obligation of an Employer to
21 comply with the provisions of any contract, including but not limited to any individual
22 contractual arrangement or any collective bargaining agreement, providing greater or equal rights
23 to Eligible Employees than are afforded under this law.

24 * * * * *

25 SECTION 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby
26 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
27 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
28 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
29 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
30 Act, since the same would have been enacted without the incorporation in this Act of any such
31 invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection,

1 or section.

2 SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
3 calendar days after it becomes law.

Adopted this ____ day of _____, 2021.

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.