

SENATE BILL NO. 247

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology

on January 31, 2024)

(Patron Prior to Substitute--Senator McPike)

A BILL to amend the Code of Virginia by adding in Article 5 of Chapter 9 of Title 15.2 a section numbered 15.2-987, relating to local government power; service employees.

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 5 of Chapter 9 of Title 15.2 a section numbered 15.2-987 as follows:**

**§ 15.2-987. 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.

"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 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 service employees at any time during the previous 90 days.

"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) passenger-related security services, cargo-related and ramp services, and in-terminal,

27 passenger handling, and cleaning services at an airport; or (iii) food preparation services at a primary or  
28 secondary school or post-secondary educational institution.

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

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

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

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

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

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

54 4. That the awarding authority or incumbent building service employer shall provide a list of  
55 relevant information, including the names, positions, and contact information of any incumbent service  
56 employees, to the successor building service employer. Such notice shall be given no later than 30 days  
57 prior to the start of the transition period.

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

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

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

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

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