

SENATE BILL NO. 247

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Commerce and Labor

on \_\_\_\_\_)

(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 authority of local governments; 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 service contract or subcontract to a 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.

"Covered location" means, at the election of a county, city, or town, any one of the following, whether publicly or privately owned: (i) a multifamily residential building with more than 50 units; (ii) a commercial center or complex of contiguous office buildings or an office building or complex of contiguous office buildings occupying more than 75,000 square feet; (iii) an elementary or secondary school or institution of higher education; (iv) a cultural center or complex, such as a museum, convention center, arena, or performance hall; (v) an industrial site or pharmaceutical lab; (vi) an airport or train station; or (vii) a warehouse or distribution center.

"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.

26 "Incumbent service employer" means any employer at a covered location that (i) has been awarded  
27 or entered into a contract or subcontract concerning service employees within a certain county, city, or  
28 town; (ii) has sold or relinquished control of a property located in a certain county, city, or town where it  
29 directly employed service employees at any time during the previous 90 days; or (iii) enters into a contract  
30 with another entity to provide services substantially similar to those it provided through service employees  
31 it directly employed during the previous 90 days.

32 "Service employee" means an employee employed at least 16 hours per week at a covered location  
33 performing (i) work in connection with the care or maintenance of property, including a janitor, security  
34 officer, groundskeeper, concierge, door staff, maintenance technician, handyman, superintendent, elevator  
35 operator, window cleaner, and building engineer; (ii) passenger-related security services, cargo-related  
36 and ramp services, and in-terminal, passenger handling, and cleaning services at an airport; or (iii) food  
37 preparation services at a primary or secondary school or post-secondary educational institution.

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

46 "Transition period" means the 90-day time period from the date the successor service employer  
47 begins work at a covered location.

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

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

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

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

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

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

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

74           7. That any service employee who suffers loss by reason of a violation of any provision of a local  
75 ordinance or resolution enacted pursuant to this section may bring a civil action against his employer to  
76 enforce such local ordinance or resolution by judicial order and to obtain back pay for each day during  
77 which the violation continues, inclusive of any benefits the service employee would have received. Any  
78 person who is successful in such action shall recover reasonable attorney fees, witness fees, and court

79 costs incurred in bringing such action. A finding of a willful violation of the provisions of this section  
80 may increase damages by three times the actual damages sustained or \$1,000, whichever is greater.

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

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