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HOUSE BILL NO. 865

Offered January 12, 2022

Prefiled January 12, 2022

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.*

Patron—Lopez

Referred to Committee on Counties, Cities and Towns

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:

§ 2.2-4377.2. 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 work in connection with the care or maintenance of property and includes a janitor, security officer, groundskeeper, concierge, door staff, maintenance technician, handyman, superintendent, elevator operator, window cleaner, and building engineer.

"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 work site or work sites.

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 for just cause or as a part of a reduction in its workforce.

3. That, as soon as practicable, but no later than 30 days before a successor building service employer begins work at a work site or work sites, 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 work site or work sites.

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

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

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59 *fees, witness fees, and court costs incurred in bringing such action. A finding of a willful violation of*
60 *the provisions of this section may increase damages by three times the actual damages sustained or*
61 *\$1,000, whichever is greater.*

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