

Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer

DATE: June 23, 2016

SUBJECT: Fiscal Impact Statement - "Building Service Employees Minimum Work Week Act of 2016"

REFERENCE: Bill 21-331, Draft Committee Print provided to the Office of Revenue Analysis on June 21, 2016

Conclusion

Funds are not sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill. The bill will cost \$445,500 in fiscal year 2017 and \$1,916,646 in the budget and financial plan.

Background

The bill sets the minimum work week to 30 hours for any employee performing janitorial or building maintenance services in the District in certain office buildings. These include offices in an office park or a group of office buildings with a common ownership and management, and are contiguous or have consecutive addresses, and when combined, have over 350,000 net rentable commercial office square. Employees include janitors, cleaners, porters, doorpersons, superintendents, or handypersons. Covered employers are any entity at the location that directly employs a covered employee, contracts for services of a covered employee, or subcontracts for the services of a covered employee.

In locations with a certificate of occupancy issued on or before July 1, 2016, up to twenty percent of work hours scheduled for such employees may be set aside for part-time employees with a minimum shift of four hours per night and twenty hours per week per employee. A covered location may not have more than ten such part-time positions.

The Mayor must investigate any employee complaint of employer non-compliance. If found noncompliant, the covered employer may be fined up to \$5,000 for each week of violation of the requirements of the bill as well as additional administrative penalties. In investigating a complaint,

the Mayor must determine whether other District laws have been violated, including the Living Wage and sick leave requirements. An employee may request administrative enforcement of the law, and may only recover damages (such as wages the covered employer would have paid had they complied with the law), penalties, or other costs lawfully payable to the employee no later than 3 years after the violation. Within 30 days of the issuance of an administrative order, either party may petition for a hearing before an administrative law judge. The bill also grants the Mayor authority to deny violators an application for a license to do business in the District, or suspend an existing license if the employer does not comply with administrative orders. Prior to suspension of a license, the employer may request a hearing before an administrative law judge. Employees may also bring civil action under this bill to the Superior Court of the District of Columbia.

Financial Plan Impact

Funds are not sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill. The bill will cost \$445,500 in fiscal year 2017 and \$1,916,646 in the budget and financial plan.

The Department of Employment Services will require five FTEs to implement the investigative, enforcement, and education requirements of the bill.

There are approximately 23,000 employees working in building maintenance in the District. Approximately one quarter of these employees are estimated to work part-time. We cannot estimate reliably how many of these workers work in covered locations. The Department of Employment Services will need to investigate all complaints to determine if an employee works in a covered location. It is expected that approximately 100 claims will be adjudicated annually.¹

The Office of Administrative Hearings will require additional hours from administrative law judges, attorneys, and legal assistants to adjudicate these estimated 100 cases. This workload will not fall on any one individual but the total hours come to approximately 1 position.

Fiscal Impact of Bill 21-331, "Building Service Employees Minimum Wage Work Week Act of 2016"					
FY 2017 – FY 2020					
	FY 2017	FY 2018	FY 2019	FY 2020	FY 2017-FY 2020
DOES Personnel^(a)	\$364,704	\$373,958	\$415,513	\$425,369	\$1,579,543
DOES Public Education	\$5,000	\$5,000	\$5,000	\$5,000	\$20,000
OAH Personnel^(b)	\$75,796	\$78,070	\$80,412	\$82,825	\$317,104
TOTAL	\$445,500	\$457,028	\$500,925	\$513,193	\$1,916,646

(a) Assumes 4 Compliance Specialists / Auditors at Grade 11, Step 1, and one Compliance Specialist at Grade 9, Step 1.

(b) Assumes one Attorney at Grade 11, Step 1.

¹ Claims involving minimum wage are tracking at approximately 200 cases annually in the Department of Employment Services, and wage investigations are tracking at 120 cases annually.