



# POSITION STATEMENT

**PRESENTED TO THE  
BALTIMORE CITY COUNCIL'S  
LABOR COMMITTEE**

**COUNCIL BILL 20-0543  
COVID-19 EMPLOYEE RETENTION  
(As amended by proposed sponsor amendments DLR DRAFT III 09SEPT20)**

**September 17, 2020**

**DONALD C. FRY  
PRESIDENT & CEO  
GREATER BALTIMORE COMMITTEE**

Council Bill 20-0543 entitled COVID-19 Employee Retention requires successor employers taking control over certain businesses to retain a set of designated employees. The bill is similar to the process and procedures adopted in *Council Bill 17-0048 Labor and Employment – Displaced Service Workers Protection* that protects the employment status of building service employees and food service workers when their employers' service contract is awarded to another company.

The first proposed amendment would add a sunset date of December 31, 2022. The original bill, although titled "COVID-19 Employee Retention," had no policy or substantive connection to the pandemic or the State of Emergency that is currently in place in the State of Maryland. While setting a sunset date is an improvement over the original bill, the date selected is arbitrary and still has no direct correlation to the pandemic. The Greater Baltimore Committee (GBC) recommends that a better termination date that should be included would be:

It will remain effective until thirty (30) days after the end of the Governor's State of Emergency or December 31, 2022, whichever occurs first; and, immediately after that date, with no further action by the Mayor and City Council, this Ordinance will be abrogated and of no further effect..

A second amendment proposed by the sponsor of the bill appears to limit the bill provisions to hotel employers only, removing the commercial property and event center employers as originally included in the bill.

The third amendment strikes the existing bill language regarding collective bargaining and substitutes a more general statement describing the circumstances in which provisions of this subtitle may be waived through a collective bargaining agreement.

Unfortunately, these amendments do not fully address the GBC's concerns with the bill.

When the Baltimore City Council originally considered *Council Bill 17-0048 Labor and Employment-Displaced Service Workers Protection* both the Office of Finance and the Department of General Services expressed concerns about the impact of the legislation on city contracts.

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Among its concerns, the Department of Finance pointed out that to apply this protection to such contracts would require the city to retain contractors and affect the city's ability to improve performance. The Department of General Services expressed concern that vendors might be discouraged from submitting bid proposals due to the additional regulations, leading to less competition for City contracts and decreased performance.

Council Bill 20-0543 seeks to expand and apply the same provisions to private sector business transactions. Such an expansion of government regulation would hinder legitimate business decisions made by a private sector business in the hiring of personnel.

Beyond the government regulatory intrusion into the normal business operations of a private sector company, the timing of this legislation is concerning. Hotel employers are facing significantly reduced occupancy due to lack of travel, etc. and have not recovered from the pandemic. Hospitality is an economic engine of the city. The imposition of additional regulations upon them when surrounding jurisdictions do not have such rules would make them non-competitive.

In addition to the negative competitive business aspects of Council Bill 20-0543, the GBC would point out several remaining concerns with the bill:

- The proposed bill would require that a successor employer must use the list of employees provided by the incumbent employer and may only hire employees from that list during the first six months of business. The bill does not allow for hiring outside of the list even should the successor employer exhaust the names on the list provided by the incumbent employer.
- Complaints may be filed by virtually anyone, not just by a person who was impacted by a decision. This enables individuals that have no relation with the employer or no connection with the employee to pursue enforcement of the legislation although not a party to the hiring. This could lead to unlimited complaints and costs to the employer.
- The penalties and sanctions outlined in the bill are excessive and unconscionable. The bill allows a complaint to be filed anytime within a year. An employer found responsible for an initial violation is assessed \$250 for each day that a violation occurred. This could result in a cost to the employer in excess of \$90,000. A maximum cap on the penalties and sanctions should be included to the bill. The risk of incurring such high penalties will likely have the impact of discouraging employers from doing business in Baltimore.

For these reasons, the GBC respectfully requests an unfavorable report on Council Bill 20-0543.

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## **ABOUT THE GREATER BALTIMORE COMMITTEE (GBC)**

*The Greater Baltimore Committee (GBC), a regional business advocacy organization, and its membership are focused on issues related to economic growth, business competitiveness, and job creation. Since its inception the GBC has advocated for policies directed at creating an effective and reliable transportation system, increasing the quality of our school system, improving public safety, encouraging business growth and entrepreneurship, and expanding access to workforce training and job opportunities. The GBC is an advocate on behalf of business and opposes legislative efforts that impose unreasonable burdens on business and its operations.*

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