


**MEMORANDUM**

June 20, 2019

TO: Health and Human Services Committee

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: Bill 12-19, Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week

PURPOSE: Worksession – Committee recommendation

Bill 12-19, Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week, sponsored by Lead Sponsor Councilmember Riemer and Co-Sponsors Councilmembers Jawando, Huckler, Council President Navarro and Councilmember Rice, was introduced on May 7, 2019. A public hearing was held on June 18, 2019.<sup>1</sup>

**Background**

Bill 12-19 would require an employer to provide a minimum work week of at least 30 hours for each employee working as a janitor, building cleaner, security officer, concierge, doorman, handyperson, or building superintendent at an office building occupying at least 350,000 square feet in the County. The Bill would also apply to a County government employee working as a building maintenance worker in an office building of at least 350,000 square feet. The Bill would not apply to a person working in a building owned by the United States, any State, or any local government.

A Complaint may be filed with the County Office of Human Rights. The County Human Rights Commission may award a range of compensatory damages for a violation, including attorney's fees and equitable relief. The Bill would not apply to an employee:

- (1) who is a manager or confidential employee;
- (2) who works in an executive, administrative, or professional capacity;
- (3) who earns more than twice the living wage;
- (4) who works as a security officer only on Saturday or Sunday;
- (5) who temporarily replaces a building maintenance worker who is absent for less than one week; and
- (6) of a Federal, State, or local government other than the County.

The Bill would take effect on July 1, 2020.

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<sup>1</sup>#MinimumWorkWeek

Other search terms: Building Maintenance Worker, Building Maintenance Employee, Minimum Work Week

## **Public Hearing**

There were 9 speakers at the public hearing. Yesika Morales (©15), Alexandra Borges (©16), and Miriam Pineda (©17) each testified that she was a part-time building maintenance worker in the County who would benefit from working longer hours by receiving additional wages and company provided health insurance. Similarly, Maria Naranjo, representing SEIU 32BJ, a union representing building maintenance workers in the County, supported the Bill because it would provide additional wages and health insurance benefits for its members working in the County (©18-20). The Bill was also supported by Leo Gertner of the National Employment Law Project who argued that eliminating involuntary part-time work for building maintenance workers would increase their wages, reduce employee turnover, only increase the cost of these services by \$.02/square foot per month, and save the Montgomery Cares Program \$348 per worker for each worker who gains health insurance (©21-24). Kamolika Das, representing the DC Fiscal Policy Institute, also supported the Bill and argued that although the DC office market vacancy rate increased from 11.9% in 2016 to 13.3% in 2019, the increase is due to increasing supply rather than reduced demand (©25-26).

Marilyn Balcombe, representing the Gaithersburg-Germantown Chamber of Commerce, opposed the Bill (©27). Ms. Balcombe argued that the Bill would mandate a less family-friendly workplace with all full-time schedules, create winners and losers among the workers because some would lose their jobs, increase rents and consequently vacancy rates in large office buildings, and pick on only one industry in the County. Bryant Foulger, Managing Principal at Foulger-Pratt Companies and representing the Apartment and Office Building Association, opposed the Bill, arguing that it would increase the cost to operate an office building by 10-15% and lead to higher rents and lost business. Mr. Foulger testified that his company recently purchased the Discovery Building in Silver Spring and that the Bill would make it more difficult to lease it. Christopher DeLorenzo also opposed the Bill. Mr. DeLorenzo testified that he is a graduate student working part-time as a building maintenance worker who would not be able to work full-time hours due to schoolwork. We also received written testimony from the Greater Silver Spring Chamber of Commerce opposing the Bill as hurting some employees who want to work part-time or would lose their job, increase operating costs, rents, and office vacancy rates (©28).

## **Issues**

### **1. What is the fiscal and economic impact of the Bill?**

OMB estimated that the Bill would not affect County employees because all Department of General Services employees working in the covered positions are scheduled for 40 hours per week. However, the Bill might affect County contractors providing building maintenance at County owned buildings that occupy more than 350,000 square feet (©9-11). OMB was unable to estimate the fiscal impact on the County due to possible changes in contract prices due to Bill 12-19.

Finance estimated the potential positive effect of increased wages earned by building maintenance workers who were scheduled for 30 hours/week instead of 20 hours/week. Finance

was unable to estimate the Bill's effect on the County's economy despite the potential increased wages paid to some workers with more hours because some workers may lose their jobs due to the Bill and the cost to maintain large office buildings may increase (©12-14).

## **2. Would the Bill be preempted by the National Labor Relations Act?**

The National Labor Relations Act (NLRA) guarantees the right of private sector employees to organize a union and collectively bargain with the employer over wages, hours, and other terms and conditions of employment. The number of hours in the work week is a mandatory subject of collective bargaining. Per the union representing many building maintenance workers in the County, SEIU 32BJ, the Bill would impact hundreds of workers. SEIU 32BJ has the right and obligation to represent these employees in collective bargaining with their employers.

The NLRA does not contain an express preemption provision, but the Supreme Court has held that the NLRA preempts State and local regulation relating to the process by which an employment agreement is reached: matters of self-organization and collective bargaining. See, *Machinists v. Wisconsin Emp. Rel. Comm'n*, 427 U.S. 132 (1976). The Court, in *Machinists*, held that the NLRA preempted a State from enjoining a union's right to urge its members to refuse overtime to pressure an employer to make concessions in bargaining. In *Fort Halifax Packing Co. v. Coyne*, 482 U.S. 1 (1987), the Court stated that "the NLRA is concerned with ensuring an equitable bargaining process, not with the substantive terms that may emerge from such bargaining." 482 U.S. at 20. The Court, in *Fort Halifax*, held that a State law guaranteeing an employee severance payment in the event of a plant closing was not preempted by the NLRA.

Bill 12-19 would mandate a substantive term of employment, a minimum 30-hour work week, and not directly interfere with the statutory procedure used for bargaining. Therefore, Bill 12-19 would not be preempted by the NLRA.

## **3. Would the Bill violate the Equal Protection Clause of the 14<sup>th</sup> Amendment?**

Bill 12-19 would apply the 30-hour minimum work week to buildings that occupy 350,000 square feet or more. The Bill would not apply to workers performing the same work in buildings smaller than 350,000 square feet. This distinction based upon the size of the building raises a question under the Equal Protection Clause of the 14<sup>th</sup> Amendment to the U.S. Constitution.

The County Attorney's Office concluded that this classification does not violate the Equal Protection Clause in its Bill Review Memorandum. See ©29-31. Council staff agrees with this opinion. If a government classification operates to the disadvantage of a suspect class or impinges on a fundamental right, the Supreme Court will review the classification under its "strict scrutiny" test. See, *San Antonio Independent School District v. Rodriguez*, 411 U.S. 959 (1973). Under strict scrutiny, the government must show that the classification serves a compelling governmental interest and is narrowly tailored to serve that governmental interest. Absent a suspect class or fundamental right, the Court reviews government classifications under the "rational basis" test. Under the rational basis test, the law is presumed constitutional even if it results in some inequality if any facts reasonably justify it. See, *McGowan v. State of Maryland*, 366 U.S. 420 (1961).

The classification based upon the size of the building does not interfere with a fundamental right or a suspect class. It is reasonable to assume that a larger building requires a larger building maintenance staff. An employer of a larger staff may be in a better position to provide only full-time work for its employees than an employer of a smaller staff.

#### **4. How has this law affected the office market in the District of Columbia?**

The District of Columbia enacted a similar law that took effect in 2017, the Building Service Employees Minimum Work Week Act of 2016. See ©32-44. Council staff requested information on the implementation and the effect of the law on the office market from the District of Columbia government, but we have not received a response yet. One significant difference between the DC law and Bill 12-19 is that the DC law permits an employer to preserve up to 20% of the total hours worked at a covered location for part-time workers.

Leo Gertner of the National Employment Law Project testified at the public hearing that the cost of building maintenance services at covered locations increased only \$.02/sf per month (©21-24) in the District. Kamolika Das, representing the DC Fiscal Policy Institute, testified that the DC office market vacancy rate increased from 11.9% in 2016 to 13.3% in 2019, but argued that the increase was due to increasing supply rather than reduced demand (©25-26). Bryant Foulger testified that the Bill would increase the cost to operate his company's office buildings by 10-15%, leading to higher rents and lost business. Mr. Foulger stated that his company has no office buildings in the District of Columbia.

#### **5. Should the law permit some part-time workers?**

The County Attorney pointed out that refusing to permit any part-time work can be considered family unfriendly because some parents request part-time work to spend more time with their children or other family members in need. See ©29-31. Mr. DeLorenzo opposed the Bill at the public hearing because he works part-time as a building maintenance worker while in graduate school and does not have time to work full-time. One size does not fit all. The County Attorney gave a hypothetical example of a part-time worker with childcare responsibilities who has health insurance through a spouse's work insurance. There are many other hypothetical situations where a worker needs a part-time schedule.

The District of Columbia Building Service Employees Minimum Work Week Act of 2016 permits an employer to preserve up to 20% of the work hours scheduled for cleaning service for part-time workers with a minimum shift of 4 hours per night and 20 hours per week at a covered location. The definition of minimum work week in the DC Code is:

*The minimum work week for a building services employee shall be 30 hours; except, that when a covered employee is taking covered leave, the leave shall count towards the 30-hour minimum work week; provided, that at each covered location up to 20% of the work hours scheduled for covered employees engaged in cleaning service may be preserved for part-time covered employees with a minimum shift of 4 hours per night and 20 hours per week per covered employee for up to a total of 10 part-time positions permitted per covered location. See the District of Columbia Building Service Employees Minimum Work Week Act of 2016 at ©32-44.*

**Council staff recommendation:** amend the Bill to permit 20% of the work hours at a covered location to be staffed by part-time workers. The following amendment would make this change:

*Amend lines 111-114 as follows:*

- (a) Minimum work week. ~~[[The]]~~ Except as provided in subsection (b), the minimum work week for each employee working as a building maintenance worker at a covered location for a covered employer must be at least 30 hours unless the employee is taking covered leave.
- (b) A covered employer may preserve up to 20% of the total hours scheduled for all building maintenance workers at a covered location for part-time workers with a minimum shift of 4 hours per day and 20 hours per week per covered building maintenance worker.

**6. What is the current situation for the workers represented by SEIU 32BJ?**

SEIU 32BJ represents building maintenance workers throughout the County. Based on a discussion with Thomas Martin of SEIU 32BJ, the union bargains collectively with an association of building service contractors, the Washington Service Contractors Association. The current collective bargaining agreement became effective on October 16, 2015 and expires on October 16, 2019. Although the agreement covers workers in Virginia, the District of Columbia, and Maryland, the agreement has separate provisions for contractors working in each local jurisdiction. Under the current agreement, employees who work 30 hours or more each week are considered full-time and provided with employer paid health insurance from Kaiser Permanente for the worker only. The employer must pay a pre-determined monthly payment to a health trust to pay for an employee's health care. Approximately 21% of the employees working in the County are full-time. Part-time employees do not receive employer paid health insurance, but the employer must make a \$40 monthly payment into a health trust for each part-time employee. Bill 12-19 would require the employers to provide at least 30 hours per week and would therefore require employer paid health insurance under the current agreement.

**7. How many office buildings in the County are greater than 350,000 square feet?**

A list of office buildings greater than 350,000 square feet prepared by Finance is at ©45-47.

**8. What are the policy pros and cons of this Bill?**

Bill 12-19 would prevent involuntary part-time work for a small segment of low paid workers in the County. Under their current collective bargaining agreement, these workers would be provided with employer paid health insurance. This could reduce the number of workers in the County who receive medical care through Montgomery Cares or who live without any medical care. This would be a clear benefit to these workers and to the County. However, it is also likely

that some workers will be laid off by employers who will be forced to use less workers for more hours. These unfortunate losers under the Bill would be forced to find other employment. Using fewer workers for more hours is also likely to increase the utilities needed to keep an office building occupied with workers for more hours. Employers who must pay additional health insurance premiums due to the Bill are likely to increase their bids for building maintenance work possibly leading to increased rents. Increased rents may lead to increased office vacancies. Either building owners with increased building maintenance costs or renters with higher rents may be losers under the Bill.

Bill 12-19 would be the second time the Council has mandated certain substantive benefits for many of these workers. Bill 19-12, Human Rights and Civil Liberties – Displaced Service Workers, enacted in 2012, requires a company that receives a new contract to provide building maintenance services in the County to offer temporary employment to the prior contractor’s workers for 90 days. Bill 19-12 mandated temporary employment for displaced workers. Bill 12-19 would go further by mandating the minimum hours a worker must receive in conflict with an existing collective bargaining agreement. Although the County has legislated minimum standards for wages and sick leave for private sector workers, those laws were County-wide and not directed at one industry on behalf of a specific group of employees.

Bill 12-19 would help some people and it would hurt some people. The overall effect on the County’s economy is likely to be small. The immediate effect of the Bill on individuals, both positive and negative, would be much greater. The union representing these workers argues that the Bill would have little adverse consequences on the office market. The Chambers of Commerce and the Apartment and Office Building Association argue that the Bill would have a significant adverse effect on the office market in the County. The fiscal and economic impact statement is not helpful. We have not yet heard back from the District of Columbia about their experience since their 2016 law. Council staff does not have enough information to predict the impact of this Bill.

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Bill No. 12-19  
Concerning: Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week  
Revised: May 13, 2019 Draft No. 2  
Introduced: May 7, 2019  
Expires: November 7, 2020  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: July 1, 2021  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Councilmember Riemer  
Co-Sponsors: Councilmembers Jawando, Hucker, Council President Navarro and Councilmember Rice

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**AN ACT** to:

- (1) require certain employers in the County to provide certain building maintenance workers with a minimum work week;
- (2) provide enforcement by the Office of Human Rights and the Human Rights Commission;
- (3) authorize the Human Rights Commission to award certain relief; and
- (4) generally regulate the minimum work week for certain workers in the County.

By amending

Montgomery County Code  
Chapter 27, Human Rights and Civil Liberties  
Sections 27-7 and 27-8, and

By adding

Montgomery County Code  
Chapter 27, Human Rights and Civil Liberties  
Article XIV, Minimum Work Week for Building Maintenance Workers  
Sections 27-83 and 27-84

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

**Sec. 1. Sections 27-7 and 27-8 are amended and Chapter 27, Article XIV is added as follows:**

**27-7. Administration and enforcement.**

(a) *Filing complaints.* Any person subjected to a discriminatory act or practice in violation of this Article, or any group or person seeking to enforce this Article or Articles X, XI, XII, [or] XIII, or XIV may file with the Director a written complaint, sworn to or affirmed under the penalties of perjury, that must state:

- (1) the particulars of the alleged violation;
- (2) the name and address of the person alleged to have committed the violation; and
- (3) any other information required by law or regulation.

\* \* \*

(f) *Initial determination, dismissal before hearing.*

- (1) The Director must determine, based on the investigation, whether reasonable grounds exist to believe that a violation of this Article or Articles X, XI, XII, [or] XIII, or XIV occurred and promptly send the determination to the complainant and the respondent.
- (2) If the Director determines that there are no reasonable grounds to believe a violation occurred, and the complainant appeals the determination to the Commission within 30 days after the Director sends the determination to the complainant, the Director promptly must certify the complaint to the Commission. The Commission must appoint a case review board to consider the appeal. The board may hear oral argument and must:
  - (A) dismiss the complaint without a hearing;
  - (B) order the Director to investigate further; or



28 (C) set the matter for a hearing by a hearing examiner or the  
29 board itself, and consider and decide the complaint in the  
30 same manner as if the Director had found reasonable  
31 grounds to believe that a violation of this Article or Articles  
32 X, XI, XII, [or] XIII, or XIV occurred.

33 (3) If the Director determines that there are reasonable grounds to  
34 believe a violation occurred, the Director must attempt to  
35 conciliate the matter under subsection (g).

36 \* \* \*

37 **27-8. Penalties and relief.**

38 (a) *Damages and other relief for complainant.* After finding a violation  
39 of this Article or Articles X, XI, [or] XIII, or XIV, the case review board  
40 may order the payment of damages (other than punitive damages) and  
41 any other relief that the law and the facts warrant, such as:

- 42 (1) compensation for:
  - 43 (A) reasonable attorney's fees;
  - 44 (B) property damage;
  - 45 (C) personal injury;
  - 46 (D) unreimbursed travel or other reasonable expenses;
  - 47 (E) damages not exceeding \$500,000 for humiliation and  
48 embarrassment, based on the nature of the humiliation and  
49 embarrassment, including its severity, duration,  
50 frequency, and breadth of observation by others;
  - 51 (F) financial losses resulting from the discriminatory act or a  
52 violation of Article X or XIV; and
  - 53 (G) interest on any damages from the date of the discriminatory  
54 act or violation, as provided in subsection (c);

- 55 (2) equitable relief to prevent the discrimination or the violation of
- 56 Articles X, XI, [or] XIII, or XIV and otherwise effectuate the
- 57 purposes of this Chapter;
- 58 (3) consequential damages, such as lost wages from employment
- 59 discrimination or a violation of Article X or higher housing costs
- 60 from housing discrimination, for up to 2 years after the violation,
- 61 not exceeding the actual difference in expenses or benefits that the
- 62 complainant realized while seeking to mitigate the consequences
- 63 of the violation (such as income from alternate employment or
- 64 unemployment compensation following employment
- 65 discrimination); and
- 66 (4) any other relief that furthers the purposes of this Article or Articles
- 67 X, XI, [or] XIII, or XIV, or is necessary to eliminate the effects of
- 68 any discrimination prohibited under this Article.

\* \* \*

70 **ARTICLE XIV. MINIMUM WORK WEEK FOR BUILDING**  
 71 **MAINTENANCE WORKERS.**

72 **27-83. Definitions.**

73 As used in this Article:

74 Building maintenance worker means an individual employed at a covered  
 75 location as a janitor, building cleaner, security officer, concierge, doorman,  
 76 handyperson, or building superintendent. A building maintenance worker does  
 77 not include:

- 78 (1) a managerial or confidential employee;
- 79 (2) an employee who works in an executive, administrative, or professional  
 80 capacity;

81           (3) an employee who earns more than twice the wage requirement  
 82           established under Section 11B-33A;

83           (4) an employee who works as a security officer solely on Saturday or  
 84           Sunday; or

85           (5) an employee who temporarily replaces a building maintenance worker  
 86           who is absent for less than one week.

87           Covered employer means any person, individual, proprietorship, partnership,  
 88           joint venture, corporation, Limited Liability Company, trust, association, or  
 89           other entity operating and doing business in the County that employs one or  
 90           more persons as a building maintenance worker at a covered location in the  
 91           County. Covered employer includes the County government, but does not  
 92           include the United States, any State, or any other local government.

93           Covered leave means paid or unpaid leave voluntarily used by a building  
 94           maintenance worker as authorized by Federal, State, or County law, a collective  
 95           bargaining agreement, or a written employee handbook.

96           Covered location means an office building or contiguous group of office  
 97           buildings under common ownership or management occupying a total of  
 98           350,000 square feet or more in the County. Covered location does not include  
 99           an office building or group of office buildings owned by the United States, any  
 100           State, or any local government.

101           Director means the Executive Director of the Office of Human Rights and  
 102           includes the Executive Director’s designee.

103           Employ means to engage a person to work for compensation.

104           Minimum work week means the minimum number of compensated hours  
 105           provided to a building maintenance worker in any work week.

106           Office means a room, set of rooms, or a building where the business of a  
 107           commercial or industrial organization or of a professional person is conducted.

108 Work week means a fixed regularly recurring period of 168 hours or 7  
109 consecutive 24 hour periods.

110 **27-84. Minimum work week; enforcement.**

111 (a) Minimum work week. The minimum work week for each employee  
112 working as a building maintenance worker at a covered location for a  
113 covered employer must be at least 30 hours unless the employee is taking  
114 covered leave.

115 (b) Complaints. A building maintenance worker who is aggrieved by a  
116 violation of this Article may file a complaint with the Director under  
117 Section 27-7.

118 (c) Retaliation prohibited. A person must not:

119 (1) retaliate against any person for:

120 (A) lawfully opposing any violation of this Article; or

121 (B) filing a complaint, testifying, assisting, or participating in  
122 any manner in an investigation, proceeding, or hearing  
123 under this Article; or

124 (2) obstruct or prevent enforcement or compliance with this Article.

125 **Sec. 2. Effective date.**

126 This Act takes effect on July 1, 2020.

127 *Approved:*

128

\_\_\_\_\_  
Nancy Navarro, President, County Council

\_\_\_\_\_  
Date

129 *Approved:*

130

\_\_\_\_\_  
Marc Elrich, County Executive

\_\_\_\_\_  
Date

## LEGISLATIVE REQUEST REPORT

Bill 12-19

*Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week*

**DESCRIPTION:** Bill 12-19 would require an employer to provide a minimum work week of at least 30 hours for each employee working as a janitor, building cleaner, security officer, concierge, doorman, handyperson, or building superintendent at an office building occupying at least 350,000 square feet in the County. The Bill would also apply to a County government employee working as a building maintenance worker in an office building of at least 350,000 square feet. The Bill would not apply to a person working in a building owned by the United States, any State, or any local government.

**PROBLEM:** Employers of building maintenance workers often schedule a building maintenance worker for less than 30 hours per week to avoid providing health insurance under the Affordable Care Act.

**GOALS AND OBJECTIVES:** Increase the availability of full-time work with health insurance for these workers.

**COORDINATION:** Human Rights, DGS, County Attorney, Office of Procurement

**FISCAL IMPACT:** Office of Management and Budget

**ECONOMIC IMPACT:** Finance

**EVALUATION:** To be done.

**EXPERIENCE ELSEWHERE:** To be researched.

**SOURCE OF INFORMATION:** Robert H. Drummer, Senior Legislative Attorney

**APPLICATION WITHIN MUNICIPALITIES:** N/A

**PENALTIES:** Compensatory damages and attorney's fees.



OFFICE OF MANAGEMENT AND BUDGET

Marc Elrich  
County Executive

Richard S. Madaleno  
Director

MEMORANDUM

May 31, 2019

TO: Nancy Navarro, President, County Council

FROM: Richard S. Madaleno, Director, Office of Management and Budget *RSM*  
Michael Coveyou, Acting Director, Department of Finance *MC*

SUBJECT: FEIS for Bill 12-19, Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week

Please find attached the Fiscal and Economic Impact Statements for the above-referenced legislation.

RSM:cm

cc: Andrew Kleine, Chief Administrative Officer  
Fariba Kassiri, Deputy Chief Administrative Officer  
Debbie Spielberg, Special Assistant to the County Executive  
Dale Tibbitts, Special Assistant to the County Executive  
Lisa Austin, Office of the County Executive  
Barry Hudson, Director, Public Information Office  
David Platt, Department of Finance  
Dennis Hetman, Department of Finance  
Monika Coble, Office of Management and Budget  
Naeem Mia, Office of Management and Budget  
Chrissy Mireles, Office of Management and Budget  
Phil Weeda, Office of Management and Budget

Office of the Director

101 Monroe Street, 14th Floor • Rockville, Maryland 20850 • 240-777-2800  
[www.montgomerycountymd.gov/omb](http://www.montgomerycountymd.gov/omb)

**Fiscal Impact Statement**  
**Council Bill 12-19 Erosion, Human Rights and Civil Liberties – Building Maintenance Workers – Minimum Wage Work**

**1. Legislative Summary.**

The bill requires an employer to provide a minimum work week of at least 30 hours for each employee working as a janitor, building cleaner, security officer, concierge, door person, handy person or building superintendent at an office building occupying at least 350,000 square feet in the County. The bill would also apply to County Government employees working as building maintenance workers in an office building of at least 350,000 square feet. The bill would not apply to a person working in a building owned by the United States, any state, or any local government.

A complaint may be filed with the Office of Human Rights. The County Human Rights Commission may award a range of compensatory damages for a violation of the law, including attorney's fees and equity relief. The bill would not apply to an employee:

- (1) who is earning twice the minimum wage;
- (2) working as a security officer only on Saturday or Sunday;
- (3) temporarily replacing a building service worker who is absent for less than one week; and
- (4) of a Federal, State, or local government other than the County.

The bill will take effect on July 1, 2020.

**2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.**

The bill should not impact the County. The Department of General Services (DGS) reports existing staff positions that provide custodial services are based on time schedules of 40 hours/week, exceeding the proposed legislation's minimum work week schedule of at least 30 hours. However, the bill may impact current or future vendors providing custodial services on a time and material basis at the Judicial Center, Judicial Center Annex, the Public Safety Headquarters buildings and any other building that the County leases or acquires, which exceeds the square footage (350,000 sq. ft.) established by the proposed legislation. DGS does not certify the contractor's work schedules.

**3. Revenue and expenditure estimates covering at least the next 6 fiscal years.**

Not applicable

**4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

The proposed legislation will not affect retiree pensions or group insurance costs.

- 5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.**

Not Applicable

- 6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.**

The proposed legislation does not propose future spending.

- 7. An estimate of the staff time needed to implement the bill.**

Per the review of several civil and human rights agencies nationally, with the exception of the District of Columbia (DC), none of them perform the exact function or responsibility required of this legislation. The DC law enacted in 2016, the Building Services Employees Minimum Work Week Act, defines the minimum work week at 30 hours and minimum building size at 350,000 square feet, but does not cover security officers, concierge, door person, handy person, and building superintendents. The Office of Human Rights would require additional staff to implement and enforce this proposed law. The office is unable to estimate its staffing needs as it cannot accurately forecast the number of complaints.

- 8. An explanation of how the addition of new staff responsibilities would affect other duties.**

Not applicable

- 9. An estimate of costs when an additional appropriation is needed.**

Not applicable

- 10. A description of any variable that could affect revenue and cost estimates.**

The number of buildings that have 350,000 square feet or more and the number of potential employers and employees that would be impacted by the proposed legislation could affect both cost and any projected revenues.

- 11. Ranges of revenue or expenditures that are uncertain or difficult to project.**

Not applicable

- 12. If a bill is likely to have no fiscal impact, why that is the case.**

See number 2 and number 10

- 13. Other fiscal impacts or comments.**

None

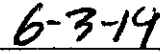


**14. The following contributed to and concurred with this analysis:**

James Stowe, Office of Human Rights  
David Dise, Department of General Services  
Karen Plucinski, Office of Human Resources  
Edward Lattner, County Attorney's Office  
Philip Weeda, Office of Management and Budget



Richard S. Madaleno, Director  
Office of Management and Budget



Date

**Economic Impact Statement**  
**Bill 12-19, Human Rights and Civil Liberties – Building Maintenance Worker –**  
**Minimum Work Week**

**Background:**

This legislation would require certain employers in the County to provide certain building maintenance workers within a minimum work week; provide enforcement by the Office of Human Rights and the Human Rights Commission; and authorize the Human Rights Commission to award certain relief.

Specifically, Bill 12-19 would require an employer to provide a minimum work week of at least 30 hours for each employee working as a janitor, building cleaner, security officer, concierge, doorman, handyperson, or building superintendent at an office building occupying at least 350,000 square feet. The Bill would also apply to a County government employee but exclude an employee working in a building owned by the federal government, any state government, or any local government.

**1. The sources of information, assumptions, and methodologies used.**

Source of information and data include:

- the Occupational Employment Statistics Program (OESP), Office of Workforce Information & Performance, Maryland Department of Labor, Licensing and Regulation (DLLR), and
- the Annual Report on Benchmarking, Montgomery County Department of Environmental Protection (DEP).

The Department of Finance (Finance) assumes employees in occupations identified under Article XIV, Section 27-83, of the proposed legislation currently work a twenty-hour work week. According to data from DLLR's OESP 2018 report, there are approximately 39,000 employees in the County employed in the occupations noted in the proposed legislation. The hourly wage ranges from \$13.65 to \$22.54 per hour. Assuming the twenty-hour work week, total annual wage income is estimated at approximately \$600 million. Raising the average work week from 20 hours per week to 30 hours per week, the total annual wage income increases from an estimated \$600 million to approximately \$900 million. This assumes no change in the average hourly rate and change in employment.

According to DEP's Annual Report on Benchmarking data January 2018, a building at or above 350,000 square feet gross floor area (GFA) constitute nearly 25 percent of the total building inventory provided by the DEP report.

Not all employment in occupations identified in the legislation work in buildings with over 350,000 GFA. This is the maximum estimated impact as Bill 12-19 is based on where someone works.

**Economic Impact Statement**  
**Bill 12-19, Human Rights and Civil Liberties – Building Maintenance Worker –**  
**Minimum Work Week**

**2. A description of any variable that could affect the economic impact estimates.**

The variables that could affect the economic impact estimates are the number of employees in occupations identified in the proposed legislation, the average hourly wage, the assumption of the current twenty-hour workweek, and the number of buildings with at least 350,000 square feet.

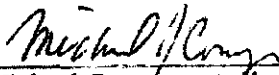
**3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.**

Assuming no change in the number of employees and hourly wage rates, Bill 12-19 could have a positive economic impact on those employees whose weekly hours increased from twenty to thirty hours per week. Based on the DLLR data and calculations by Finance, the annual income could increase by \$7,800. However, the economic impact from that increase in employee income would be offset by an increase in costs to owners of the buildings. Moreover, some building owners may reduce staffing levels by having some employees serve several buildings within their portfolio. The amount of that offset and any reduction in staffing levels is uncertain and cannot be determined at this time.

**4. If a Bill is likely to have no economic impact, why is that the case?**

Please see paragraph 3.

**5. The following contributed to or concurred with this analysis: David Platt, Mary Casciotti, and Rob Hagedoorn, Finance.**

  
\_\_\_\_\_  
Michael Coveyou, Acting Director  
Department of Finance

5/23/19  
Date

<b>Forty Hour Work Week</b>	<b>Occupation Code</b>	<b>Mean Wage</b>	<b>Annual Hours(1)</b>	<b>Hour Wage</b>	<b>Employment</b>	<b>Total Wages</b>
Security Guards	33-9032	\$44,191	2,080	\$21.25	3,690	\$163,064,790
Supervisor	37-1011	\$46,893	2,080	\$22.54	970	\$45,486,210
Janitor and Cleaners	37-2011	\$28,093	2,080	\$13.51	8,980	\$252,275,140
Building Cleaning Workers (1)	37-2000	\$28,389	2,080	\$13.65	12,690	\$360,256,410
Building Cleaning Workers (2)	37-2019	\$30,728	2,080	\$14.77	12,490	\$383,792,720
Concierges- Doorman	39-6012	\$33,095	2,080	\$15.91	190	\$6,288,050
<b>TOTAL</b>		<b>35,232</b>		<b>\$16.94</b>	<b>39,010</b>	<b>\$1,211,163,320</b>

Notes (1) Forty Hours Per Week

**Assume Twenty Hours per Week**

Security Guards	33-9032	\$22,096	1,040	\$21.25	3,690	\$81,532,395	
Supervisor	37-1011	\$23,447	1,040	\$22.54	970	\$22,743,105	
Janitor and Cleaners	37-2011	\$14,047	1,040	\$13.51	8,980	\$126,137,570	
Building Cleaning Workers (1)	37-2000	\$14,195	1,040	\$13.65	12,690	\$180,128,205	
Building Cleaning Workers (2)	37-2019	\$15,364	1,040	\$14.77	12,490	\$191,896,360	
Concierges- Doorman	39-6012	\$16,548	1,040	\$15.91	190	\$3,144,025	
<b>TOTAL</b>		<b>17,616</b>				<b>\$605,581,660</b>	<b>\$15,523.75</b>

**Assume Thirty Hour Per Week**

Security Guards	33-9032	\$33,143	1,560	\$21.25	3,690	\$122,298,593	
Supervisor	37-1011	\$35,170	1,560	\$22.54	970	\$34,114,658	
Janitor and Cleaners	37-2011	\$21,070	1,560	\$13.51	8,980	\$189,206,355	
Building Cleaning Workers (1)	37-2000	\$21,292	1,560	\$13.65	12,690	\$270,192,308	
Building Cleaning Workers (2)	37-2019	\$23,046	1,560	\$14.77	12,490	\$287,844,540	
Concierges- Doorman	39-6012	\$24,821	1,560	\$15.91	190	\$4,716,038	
<b>TOTAL</b>		<b>26,424</b>				<b>\$908,372,490</b>	<b>\$23,285.63</b>
<b>DIFFERENCE THIRTY - TWENTY</b>						<b>\$302,790,830</b>	<b>\$7,761.88</b>

(H)

Yesika Morales

J

My name is Yesika Morales - I live in Germantown and I clean offices in Rockville. I have to clean 1600, 1630 and 1650 Research Boulevard – as well as 1441 West Montgomery Avenue -- and if anyone gets sick or goes on vacation at three other neighboring buildings (also Red Coats) – I have to cover for them in addition to all the other work! I am a mother of four and I'm caring for a child with disabilities.

As it is, I'm late with most of my bills and struggle to keep a roof over my kids' heads.

Many mothers like me have to rely on public services to survive.

I want very badly for my daughter to have a brighter future than the one she's currently living.

Sometimes I cry when I get home because I don't know if I'll be able to pay for my daughter to go school.

I have to tell my kids they can't have stuff – if I had full-time hours, there'd be more for them.

I'd like to help them go to college.

That's why I'm motivated to fight for full-time hours – it's the only way things can improve for me.

Full-time hours would be especially helpful for mothers – we wouldn't fall behind on our bills and struggle so much –we would also have benefits and health insurance.

I'm on Medicaid right now – if we had full-time we'd have employer paid health care and wouldn't have to rely on Medicaid – we deserve it because we're working so hard, doing back-breaking work!

Please support us with this bill, it would help us a lot – our checks will be bigger to help with the costs of child-rearing.

Thank you for your time.

Alexandra Borges

Good afternoon, my name is Alexandra Burgos and I've been working as a janitor in Silver Spring for nearly a decade. We are here because too many of us are struggling because our jobs only allow us to work part-time hours. It's extra hard for me because I have to take care of my husband who's home sick.

This means I can't take a 2nd job. But full-time hours would make world of difference.

It would allow me to both care for my husband and take home extra money so we aren't struggling so much.

And very importantly – I could have employer-paid health insurance.

Right now, I have to go to the Dominican Republic just to see the doctor. I don't know what I'll do if something serious happens or if I have an emergency!

My husband is disabled and can't work, so paying our bills on just part-time hours is impossible.

Right now, on part-time hours, I am always on the verge of losing the roof over my head.

My husband is a U.S. veteran – he deserves better than this struggle.

And I know many of you are going through the same thing too.

That's why I'm excited to have the opportunity next week to tell Montgomery County Council members why access to full-time hours would help us so much.

I love my 32BJ family because we are united for our families and our communities!

4

Miriam Pineda

Hello, my name is Miriam Pineda - I live in Silver Spring and I've been cleaning toilets in Bethesda office buildings for 15 years.

I am a single mother and the sole provider for my grandchildren who live with me – but that is extremely hard on just part-time hours. I even have trouble feeding them.

I'm behind on my credit card payments. The rent, all our bills, even the bus are all expensive – imagine trying to cover it all with a part-time income.

Most importantly – doctors are very expensive. I can't afford Obamacare now that the price has gone up so very high

In fact, I have no health care right now –I can't even see doctor!

I'm worried because I had issues with diabetes in the past and I have thyroid problems now.

I also need breast cancer screenings. I have been putting my faith in god to get health insurance.

Put yourself in our shoes – without health insurance, we can't take care of our health.

It makes me happy to think of how much my coworkers would benefit from this bill.

Full-time hours would mean a world of difference – it would mean more money to help me catch up with bills and it would bring stability – and of course health care

I'm very hopeful that we have a chance to turn things around! Please do the right thing!



SERVICE EMPLOYEES  
INTERNATIONAL UNION  
CTW, CLC

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# Testimony of Maria Naranjo, Deputy Director for the Capitol Area District 32BJ SEIU

## Public Hearing - Bill 12-19, Human Rights and Civil Liberties - Building Maintenance Worker - Minimum Work Week

**June 18 2019**

Good afternoon Council President Navarro and Council Members. My name is Maria Naranjo and I am the Deputy Director of 32BJ SEIU's Capitol Area District.

Thank you for the opportunity to testify here and to give the union's strongest possible support for bill 12-19.

32BJ proudly represents 175,000 property service workers in 11 states plus Washington, DC. We have over 20,000 members here in the Capital Area. We are janitors, security officers, airport workers, commercial cleaners and other building service workers. We are diverse, but we are united in our mission to raise standards on our jobs and win justice in our communities. We represent the vast majority of the commercial office cleaners in Montgomery County.

The dominant policy challenge facing America right now is how we transform our economy into one that delivers for working people. It is our belief - and one that I'm sure you share - that every level government has a role to play, and now more than ever, local government can step up and take the lead.

This bill is an example of smart and effective local leadership. By setting a minimum work week of 30 hours for building service workers this bill will establish a local industry standard that helps to improve workers' economic security. It will mean more workers getting healthcare from their employer; better paychecks and less reliance on public assistance; fewer second jobs and more time with families.

The building services industry is highly competitive. Contracts for work are awarded through a bidding process that often places a heavy emphasis on price. Based on our experience across multiple markets, it is evident that employers are able to exercise control over how they schedule workers to meet the contractual services requirements. Rather than setting schedules based on full-time hours, many employers respond to the competitive contracting environment by submitting low-ball bids and then strategically using part-time work to avoid healthcare, benefit and overtime expenses.

This practice comes with significant personal and public costs however. Without access to fulltime hours it can be almost impossible for workers to get by. For example, when the County minimum wage reaches \$13 on July 1 this year, a sole provider in a family of four will need to work over 38 hours a week just to keep the family at the federal poverty threshold.<sup>i</sup> To reach a modest standard of living in



Montgomery County for the same family, two income earners would need to log over 77 hours of work each a week.<sup>ii</sup>

These numbers explain why the poverty rate for part-time workers in the county is almost eight-times higher than for those with a full-time job (10.3% and 1.3% respectively).<sup>iii</sup> The absence of quality, full-time jobs helps explain why over 50,000 workers in the county do not have health insurance coverage,<sup>iv</sup> why 25,000 part-time workers rely on public health insurance,<sup>v</sup> and why 85% of families in the county receiving SNAP benefits in the last 12 months have at least one worker in household.<sup>vi</sup>

We know that building service work can be structured to provide fulltime jobs - we simply need to set the right guardrails to guide the industry's practices. In the District of Columbia where a similar law came into effect in 2017, 475 previously part-time workers became fulltime at buildings covered by 32BJ's collective bargaining agreement, shortly after the law was implemented. This change resulted in the workers gaining access to healthcare and receiving monthly pay increases of between \$300 and \$900.<sup>vii</sup>

Building service workers in Montgomery County deserve to have the same opportunity to access to full-time hours. Our internal data shows that more than three quarters of commercial cleaning members in Montgomery County are part-time. In the buildings that will to be covered by the law, there are hundreds of workers who stand to gain from qualifying for employer provided healthcare and earning a healthier paycheck.<sup>viii</sup> This transition may also see public savings as part-time workers currently eligible for Montgomery Cares will be able to move off the program.<sup>ix</sup>

While passing this bill will be transformative for workers, it will not be unduly disruptive to the industry. Creating more quality jobs will help to reduce turn over in covered buildings, leading to savings from hiring and training expenses that will help to offset any additional cost of extending benefits. Our internal data shows that the turnover rate for part-time building service workers in large buildings in the County is 37% compared to 13% for full-time workers, an almost three fold difference.<sup>x</sup> Additionally, the lead time prior to the bill taking effect on July 1 2020 will mean that contractors will have sufficient period to manage staffing needs across covered and non-covered buildings in their portfolio, and to work with buildings to develop new shift patterns that minimize disruptions while continuing to meet contractual needs. The lead in period will also allow for workers - the majority of whom drive and carpool to work - to make any necessary adjustments in the logistics of their personal and family in order to manage this welcome change.

Montgomery County has a proud record of leadership on labor market policies that help to rebalance the scales and help to ensure workers have a chance of earning a decent standard of living. Bill 12-19 will build on this platform and further position the County as a leader in the movement to create more family sustaining jobs.

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<sup>i</sup> The 2019 Federal Poverty Guidelines produced by the Department of Health and Human Services sets the threshold for a family of four at \$25,750. This equates to 52 x 38.09hrs per week of work at \$13 an hour. See, <https://aspe.hhs.gov/poverty-guidelines> (for the thresholds) and <https://www.dlrr.state.md.us/labor/wages/minimumwagelawmont.pdf> (for the Montgomery County minimum wage rates).

<sup>ii</sup> The EPI Family Budget Calculator estimates the cost for providing a modest standard of living for a family of four in the DC Metro Area (which includes Montgomery County) to be \$104,464 per year. This equates to two income earners working 52 x 77.27hrs per week of work at \$13 an hour. See, <https://www.epi.org/resources/budget/>.

<sup>iii</sup> See the American Community Survey (5-Year Estimates, 2017) showing the percentage of people in Montgomery County below 100% of the poverty line based on work status. Available at, [https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_14\\_5YR\\_S1703&prodType=table](https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_14_5YR_S1703&prodType=table)

<sup>iv</sup> See the American Community Survey (5-Year Estimates, 2017) showing the percentage of insured people by work employment status in Montgomery County (67.6% of 79,872 uninsured working age people in Montgomery County are employed). Available at, [https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_17\\_5YR\\_S2702&prodType=table](https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_17_5YR_S2702&prodType=table).

<sup>v</sup> See the American Community Survey (1-Year Estimates, 2017) showing the percentage of people in Montgomery County with public health insurance coverage by work experience. Available at, [https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_17\\_1YR\\_C27014&prodType=table](https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_17_1YR_C27014&prodType=table)

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<sup>vi</sup> See the American Community Survey (5-Year Estimates, 2017) showing selected characteristics of SNAP recipients in the last 12 months in Montgomery County. Of the 18,125 families receiving SNAP benefits, 15,415 (85%) have at least one worker present in the household. Available at, [https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_17\\_5YR\\_S2201&prodType=table](https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_17_5YR_S2201&prodType=table)

<sup>vii</sup> As per internal union analysis.

<sup>viii</sup> Internal union data shows that there are currently 365 part-time workers in covered buildings.

<sup>ix</sup> Transitioning workers to full time status and making them eligible for employer provided healthcare could save the county as much as \$348 per worker annually (as per patient projections for 2016 and reimbursements made to providers under the Montgomery Cares program). See [https://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2016/160307/20160307\\_HHS1-2.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2016/160307/20160307_HHS1-2.pdf) (pg. 31) (Figure based on doubling the half yearly reimbursement total and dividing by the projected number of patients [(2\*4,757,000)/27,308].

\* Buildings over 350,00sqft, based on the average number of jobs and terminations between July 2018 and June 2019.

6

**Testimony of Leo Gertner**

National Employment Law Project

**On Bill 12-19, Which Would Create  
Minimum Staffing Standards for  
Montgomery County's Building  
Maintenance Workforce**

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**Hearing before the Montgomery County Council**

June 18, 2019

**Leo Gertner**  
Staff Attorney

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**National Employment Law Project**  
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Thank you, Council President Navarro and members of the Montgomery County Council for the opportunity to submit testimony on Bill 12-19, "Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week," which would create a minimum work week of 30 hours for building maintenance workers at office locations with 350,000 square feet or more in the county.

My name is Leo Gertner, and I am a staff attorney for the National Employment Law Project (NELP). NELP is a non-profit, non-partisan research and advocacy organization specializing in employment policy. We are based in New York with offices in Washington DC, and throughout the country. We partner with federal, state, and local lawmakers on a wide range of workforce issues including unemployment insurance, the on-demand economy, and—as is relevant for today’s hearing—minimum employment standards.

NELP testifies in strong support of Bill 12-19. As a high cost-of-living county in a high cost-of-living state, Montgomery County workers must work extremely hard to survive and sustain their families. That challenge is made worse when they are not scheduled to work enough hours to bring home paychecks that cover their basic costs and that deprive them of health benefits. Involuntary part-time work hampers the goal of creating an equitable and sustainable economy for all workers. This bill would fix that for a portion of the building maintenance workforce in Montgomery County.

The impact of a minimum hours would not only be positive for workers in the industry, but would also improve the industry while saving the county money, according to our most recent research, which I will review below.

**The Act would establish a minimum work week for building maintenance workers, ensuring access to full-time work and reducing involuntary part-time work**

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- The Act requires that certain workers performing building services work at covered locations be provided with no less than 30 hours of work a week. The bill will cover workers performing janitorial or building maintenance services in Montgomery County at office locations of 350,000 square feet or more.
- While legislation earlier in the country’s history limited excessive work, industry standards have changed and now countless numbers of workers are stuck in involuntary part-time status that hamper their ability to survive in high-cost areas and eligibility for benefits.
- The Economic Policy Institute has analyzed data from the American Community Survey of the Census and found that Montgomery County has a lower proportion of janitors working full-time hours compared to similar markets. Only Washington, DC has a comparably low proportion, but numbers may not yet reflect the full implementation of the Building Services Employees Minimum Work Week Act of 2016.<sup>1</sup>

<b>Janitors and building cleaner work hours</b>									
Share with weekly work hours, 2013-2015									
<b>Metropolitan area</b>	<b>0-19</b>	<b>20-24</b>	<b>25-29</b>	<b>29-34</b>	<b>35-39</b>	<b>40-45</b>	<b>45+</b>	<b>Total</b>	<b>30 or more</b>
Montgomery County, MD	10.9	8.8	6.9	10.1	5.3	50.1	8.5	100.0	74.0

Washington, DC	5.3	14.6	9.6	4.3	7.4	54.9	3.8	100.0	70.4
New York, NY	7.1	7.1	3.4	5.5	9.0	60.7	8.4	100.0	83.5
Chicago, IL	10.5	7.2	4.5	10.0	5.9	57.6	5.8	100.0	79.2
San Francisco County, CA	11.3	5.8	7.8	7.4	7.4	54.3	5.9	100.0	75.1
<i>Source: EPI Analysis of American Community Survey (ACS) data</i>									

**Unpredictable and unstable worker schedules are a major driver of income volatility for workers and their families – though businesses can afford to fix this problem**

- Montgomery County’s minimum wage is currently \$13.00 for large employers and \$12.50 for employers with under 50 employees.<sup>2</sup> To reach the U.S. federal poverty threshold for a family of four, \$25,750, a worker would need 38 hours a week at the current county minimum wage.<sup>3</sup> According to the Economic Policy Institute Family Budget Calculator, a single worker without children needs \$53,385 to afford an adequate living standard in the county, which translates to \$25.66 an hour on a full-time schedule.<sup>4</sup>
- Research has shown that unpredictable and unstable worker schedules is a major driver of income volatility.<sup>5</sup> Income volatility has been on the rise over the past few decades as a result of increasing part-time hours and on-demand scheduling. A full seventy-four percent of experts polled by the Aspen Institute Financial Security Program agreed that irregular hours was a source of volatility for workers.
- Turnover is higher among part-time workers in building services, which create significant costs for businesses in hiring and training. A 2015 analysis of 32BJ benefit funds data reveals that the turnover rate for part time building service workers in the DC area (23.8%) is nearly twice that of full time workers (11.6%).
- Fixing this problem is within janitorial contractors’ power as the marginal cost to them would be tiny – an estimated two cents more per square foot each month for the buildings that would be affected. A report by real estate economist Hugh Kelly, PhD, CRE found that the labor costs make up a small fraction of real estate operating costs. The average janitorial and payroll benefit costs per square foot of sampled buildings were not more than 20% of operating expenses. Real estate taxes, utility costs and repair and maintenance expenses each constituted higher costs for building owners.<sup>6</sup>
- The commercial real estate market in Montgomery County’s office is strong, compared to national markets and the Washington metropolitan area. The office vacancy rate for the second quarter of 2018 is 17.5% - lower than 2015 rates and significantly lower than Prince George’s County’s vacancy rate of 25.3%. Montgomery County’s office market remains very competitive compared to Northern Virginia. Despite Northern Virginia’s higher vacancy rate of 20.5%, Montgomery County’s rental rates remain lower: \$29.58 per square foot in Q2 2018, compared to \$32.69 in Northern Virginia.<sup>7</sup>

## Ensuring full time work for building maintenance workers would save the county and businesses precious dollars – while improving productivity

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- Data from the janitors' union suggests there are approximately 1,200 part-time cleaners that live and work in Montgomery County. The Act would affect hundreds of these workers. Under current laws, part-time cleaners in Montgomery County without alternate sources of income, including individuals without children, are likely eligible for the Montgomery Cares program.
- Montgomery Cares program could save as much as \$348 annually for every worker who switches from the Montgomery Cares subsidy program to employer-provided health insurance.<sup>8</sup>
- Extending full-time work to employees can also help alleviate turnover costs and increase worker productivity. That, in part, explains why increases in the cost of labor have a modest impact on prices: labor costs in low-wage industries range between a low of 11 and a high of 31 percent of total operating costs.<sup>9</sup> In addition, reduced turnover and improved productivity, which typically result from higher wages and more hours, can lead to savings for businesses,<sup>10</sup> helping them contain their labor costs and the share of those costs they pass onto consumers.

## Endnotes

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1. D.C. Act 21-485, Building Services Minimum Work Week Act of 2016.
2. State of Maryland, Minimum Wage and Overtime Law Montgomery County, <https://www.dlir.state.md.us/labor/wages/minimumwagelawmont.pdf>
3. Office of the Assistant Secretary of Planning and Evaluation, U.S. Department of Health & Human Services, *Poverty Guidelines*, <https://aspe.hhs.gov/poverty-guidelines>.
4. Economic Policy Institute, Family Budget Calculator, <https://www.epi.org/resources/budget/>.
5. David S. Mitchell, The Aspen Institute, *Stable and Predictable Scheduling is an Antidote to Income Volatility* (Feb. 2017), <https://assets.aspeninstitute.org/content/uploads/2017/02/Predictable-Scheduling.pdf>.
6. Hugh F. Kelly, "Report on Montgomery County Better Jobs Act," July 23, 2015
7. Direct Weighted Average Class A Gross Rental Rate, Cushman & Wakefield Office Snapshots, Q2 2018.
8. "Montgomery Cares: FY 2016 Mid-Year Report," pdf page 31, available at [https://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2016/160307/20160307\\_HHS1-2.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2016/160307/20160307_HHS1-2.pdf)
9. Michael Reich, Sylvia Allegretto and Claire Montaloux, *Effects of a \$15 Minimum Wage in California and Fresno*, Institute for Research on Labor and Employment, University of California, Berkeley, January 2017, <http://irle.berkeley.edu/files/2017/Effects-of-a-15-Minimum-Wage-in-California-and-Fresno.pdf>.
10. Ibid.

**Testimony of Kamolika Das, Policy Analyst  
Bill 12-19 Building Maintenance Worker – Minimum Work Week  
Montgomery County Council Government Operations and Fiscal Policy Committee  
June 18, 2019**

Chairperson Navarro and members of the Committee, thank you for the opportunity to speak today. My name is Kamolika Das and I am a Policy Analyst at the DC Fiscal Policy Institute. DCFPI is a non-profit organization that promotes budget choices to address DC's economic and racial inequities through independent research and policy recommendations.

I'm here today to express DCFPI's strong support for Bill 12-19 "Building Maintenance Worker – Minimum Work Week". In 2016, DC passed a very similar Building Services Act that requires employers to provide minimum hours to building service employees. The majority of the work must be delegated to employees who are guaranteed a minimum of 30 hours or more. Similar to Montgomery County's proposed bill, covered employees are defined as any employee who performs janitorial services, building maintenance services, or other services in and around a covered location to maintain the repair, cleanliness, and overall quality of the covered location. This bill also covers net office spaces with a minimum of 350,000 square feet of rentable space.

**DC's Office Market Continues to Thrive Despite Passing Similar Bill in 2016**

Since 2016, this bill has had zero or minimal impact on DC's office market – evidenced by the fact that DC's office market continues to thrive. Overall office vacancy rates declined from the end of last year to the first quarter of 2019, currently 13.3 percent, with nearly 4 million square feet set to deliver in 2019 alone.<sup>1</sup> If we take a longer view, there's been a slight uptick in the vacancy rate since 2016 from 11.9 percent to 13.3 percent, but the general consensus is that this increase is due to an increase in supply rather than a decline in demand, a sign that developers are still looking to build in DC.

This is further emphasized by the fact that new leasing activity has been particularly strong. In the first quarter of 2019, nearly 1.66 million square feet of new leases have been signed, well over the 10-year quarterly average of 1.35 million square feet.<sup>2</sup> To quote the DC Business Improvement District (BID) 2018 report, "Development interest in Downtown DC was at near record levels with 17 projects under construction... Investment interest was also very high with near record investment in all classes of office buildings."<sup>3</sup>

**Bill 12-19 Would Apply to Very Few Buildings – Not Mom-and-Pop Stores**

It is also important to note that given the 350,000 square feet minimum requirement, this bill would only impact 34 buildings in Montgomery County, not smaller buildings and retailers. For comparison, WeWork's expansion at Metropolitan Square was the largest expansion in DC in the past five years and it was less than 118,000 square feet. DC's City Hall, the John A. Wilson Building, is less than half this size at 165,000 square feet.

An analysis of DC's Maryland suburbs shows that small and midsize tenants have been making up a large portion of new leases. The analysis further states that Montgomery County's declining vacancy rate trend "should

<sup>1</sup> Cushman & Wakefield. *Marketbeat*: Washington, DC Office Q1 2019, <http://www.cushmanwakefield.com/en/research-and-insight/unitedstates/washington-dc-office-snapshot>

<sup>2</sup> *Ibid.*

<sup>3</sup> Downtown Business Improvement District (BID) Corporation. *State of Downtown 2018*, <https://www.downtowndc.org/report/state-of-downtown-2018-report/>

continue as the desire for suburban/urban infill locations shows no signs of slowing. As vacancy rates continue to tighten—especially in metro-proximate locations—overall gross asking rents are anticipated to increase in return.”<sup>4</sup>

### **Bill 12-19 Would Minimally Increase Costs by 2 Cents Per Square Foot Per Month**

While this bill would have a significant positive impact on employees whose weekly hours are increased from twenty to thirty hours per week, the increase in costs to building owners are miniscule. The estimated increase in costs is only 2 cents per square foot per month. For comparison, the Building Owners and Managers Association (BOMA) International reports that in 2016, the average total operating expenses incurred to operate office buildings including utilities, repairs and maintenance, roads and grounds, cleaning, administration and security in DC’s Maryland suburbs was \$9.60 per square foot and the average office rent was \$30.80 per square foot.<sup>5</sup> This means that the additional cost is .05 percent of the total \$40.40 per square foot or 1/2000<sup>th</sup> of their monthly costs. The debate that businesses would flee to Virginia due to the extra cost just isn’t logical.

### **Bill Will Likely Provide Significant Savings to Montgomery County**

Lastly, the positive impacts of the bill extend not just to employees who could see over \$7,800 in increased annual wages, but to Montgomery County as a whole. After the 2016 bill, many participants in the DC Healthcare Alliance, a health program for uninsured DC residents, were able to move to private employer-based healthcare. Similarly, part-time cleaners in Montgomery County who obtain full-time work and qualify for private health insurance would save the Montgomery Cares program as much as \$348 annually per worker.

In short, the Building Service Employees Minimum Work Week Act would have minimal costs to businesses but significant savings to the County and a clear, positive economic impact on families. Having just a few extra hundred dollars a month would create healthier, more stable households that are better able to benefit from and participate in Montgomery County’s growing economy.

Thank you.

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<sup>4</sup> Cushman & Wakefield. *Marketbeat: Suburban Maryland Office Q1 2019*, <http://www.cushmanwakefield.com/en/research-and-insight/unitedstates/suburban-maryland-office-snapshot>

<sup>5</sup> Facility Executive. “BOMA Publishes 2016 Office Market Data,” <https://facilityexecutive.com/2016/10/boma-publishes-2016-office-market-data/>





# Gaithersburg-Germantown Chamber of Commerce, Inc.

910 Clopper Road, Suite 205N, Gaithersburg, Maryland 20878 (301) 840-1400, Fax (240) 261-6395

## **Bill 12-19 – Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week**

**June 18, 2019**

The Gaithersburg-Germantown Chamber of Commerce has great concerns about Bill 12-19. While this Bill will have positive impacts for SOME employees, it will have many more negative impacts.

1. Family Friendly Workplace Initiatives – EVERY piece of literature you read on creating a more family friendly workplace suggests that offering part-time schedules is one of the easiest, most effective ways an employer can support employees and their families. This legislation is the complete opposite of the general trend towards a more family friendly policies. By REQUIRING full-time schedules, this legislation takes Montgomery County backwards. Employers no longer have the choice to offer this benefit. More importantly, affected EMPLOYEES will no longer have the choice to work less than 30 hours.
2. Winners and Losers – There will clearly be winners and losers with this legislation. Impacted businesses will restructure their operations and fewer people will be employed. It's basic math. If a cleaning contractor has 30 employees working 20 hours per week cleaning a building, this legislation will change the staff compliment to 20 employees working 30 hours per week. That may be great for those people who have an increase in hours – assuming that wanted an increase, but not so great for the people who lost their job.
3. Commercial Vacancies and Pass-through Costs – The cost of janitorial, security, and concierge services are typically passed through to the tenants based on their lease. Increasing the cost of maintaining our largest commercial buildings will make them less competitive than building than smaller buildings. The larger commercial buildings are often anchors in our commercial and retail corridors. With the commercial vacancy rates in the County, we should be doing everything we can to fill these buildings.
4. Why This Industry? – There are many industries that use part-time staff as a legitimate function of their operations. If the real motivation behind this Bill is to make health care more accessible to people working part-time, the parameters seem arbitrary. This Bill unfairly targets one specific industry asking them to pay employees for more hours than is operationally necessary. If this Bill applied to all part-time workers in the County, including your staff, you would no longer be able to hire part-time employees – regardless of whether it was the best scenario for your office.

We fundamentally do not believe that the County should have functional control over how many hours a private sector employer is required to pay a private employee if there is no operational reason to do so. I encourage you to vote no on this bill.



**OUR MISSION:**

Working to enhance the economic prosperity of greater Silver Spring through robust promotion of our member businesses and unrelenting advocacy on their behalf.

**Bill 12-19, Human Rights and Civil Liberties - Building Maintenance Worker - Minimum Work Week  
Written Testimony Submitted in Opposition - Tuesday, June 18, 2019**

The Greater Silver Spring Chamber of Commerce opposes Bill 12-19, Human Rights and Civil Liberties - Building Maintenance Worker - Minimum Work Week, that would require an employer to provide a minimum work week of at least 30 hours for each employee working as a janitor, building cleaner, security officer, concierge, doorperson, handyperson, or building superintendent at an office building occupying at least 350,000 square feet in the County.

GSSCC has heard from a number of our members that this bill would not only increase operating costs for member property owners and, subsequently, for both the for-profit and non-profit organizations, whose offices they provide, but could also harm the very employees it is purported to benefit. Requiring longer shifts will result in lost jobs in two ways.

First, we have been told that cleaning companies, for example, base their staffing levels on productivity rates. While each building may differ, the expectation is that the average person can clean 5,000 square feet per hour. Extending the typical 20-hour per week shift to 30 hours means that the average person will be able to clean a larger percentage of the office building. Therefore, fewer employees will be needed to do the job. The Council staff report for the previous version of this bill (Bill 46-15) acknowledged this more strongly than the current staff analysis:

**“ . . . With an increase in the number of maximum hours and labor costs, it is possible that management would reduce the overall number of employees thereby reducing its labor costs and as a result have a negative impact on some employees and therefore County employment and personal income.”**

Second, a number of our members have indicated that several of their service employees are part-time employees by choice. These employees are not interested in expanding their hours because they already have other full-time work or have obligations – family or otherwise – such that they desire only part-time work. We also understand that many of these part-time-by-choice employees already have health insurance through a spouse or another job. The requirements in this bill could unnecessarily lead them to have to give up their part-time positions because of the additional work hours that would be required.

A further complication has been exacerbated by the challenges our region is facing as WMATA works to get our key public transportation system in order. The nature of the work many of the employees included in this bill requires that it be done after normal business hours. Even when the original version of bill was introduced, property owners related stories of employees requesting shift changes to accommodate their transportation needs. One member related that a cleaning worker had asked whether she could change her schedule because the late bus schedule had changed. Another worker made a similar request because during her late-night trip home she had to wait for a bus transfer in an area where she did not feel safe. This particular building owner was able to work with these employees and accommodate their requests. The situation with WMATA has not changed much since that time and these concerns still exist. If this bill is enacted, the required longer work hours may force some employees to leave their positions due to the current lack of late-night public transportation.

And finally, as we have stated, enacting this legislation will increase operating costs to large building owners. Higher operating costs will be passed on in the form of higher rents, making it more expensive for a prospective business or non-profit to move into one of these buildings. This hurts Silver Spring in two ways. Already the vacancy rate for Class A office space in Silver Spring exceeds 26%. The list provided by the sponsor of this bill indicates that only three buildings would fall under this new regulation. If enacted, this puts those properties at an economic disadvantage to the buildings that do not have to incur the additional costs associated with this legislation. One of those impacted buildings is the former Discovery building. Currently, the owner has arranged for a tenant that will take only about a fourth of the building. Attracting tenants to fill the remainder of this centerpiece of downtown Silver Spring is critical to our future success. Enacting this legislation could make that prospect more difficult. Now is not the time to place additional expenses on the cost of filling that space.

For all these reasons, we ask you to reject Bill 12-19.



OFFICE OF THE COUNTY ATTORNEY

Marc Elrich  
County Executive

Marc P. Hansen  
County Attorney

MEMORANDUM

TO: James Stowe  
Director, Office of Human Rights

VIA: Edward B. Lattner, Chief *EBL*  
Division of Government Operations

FROM: Kathryn Lloyd *Kathryn Lloyd*  
Associate County Attorney

DATE: May 13, 2019

RE: **Bill Review - Bill 12-19, Human Rights and Civil Liberties - Building Maintenance Worker – Minimum Work Week**

Bill 12-19 would require an employer to provide a minimum work week of at least 30 hours for each employee working as a janitor, building cleaner, security officer, concierge, doorman, handyperson, or building superintendent at an office building or contiguous group of office buildings under common ownership or management, occupying at least 350,000 square feet in the County. The Bill would apply to a County government employee but would not apply to a person working in a building owned by the United States, any State, or any other local government. A nearly identical bill, 46-15, was introduced in 2015.

While we believe, on balance, the County has the authority to enact this legislation, there are a number of issues that should be clarified in the Bill.

1. Must all 30 hours of a covered employee's work week be spent working at a covered location? Example: assume Building Maintenance, Inc. (BMI) employs Amy as a building maintenance worker and has a contract to clean certain offices in 10 separate buildings in the County, only one of which is over 350,000 square feet ("the covered location"). **The buildings are not under common ownership or management.** If BMI sends Amy to clean the office in the covered location, then it becomes a covered employer. As a covered employer, does BMI have to schedule all of Amy's 30 hour work week at the covered location, or can it meet its obligation to provide Amy a 30 hour work week by including hours she works at one of the other 9 buildings it services, all of which are non-covered locations? The Bill states that "[t]he minimum work week for each employee working as a building maintenance worker at a covered

location for a covered employer must be at least 30 hours [at a covered location?] unless the employee is taking covered leave.” See § 27-84(a) of the Bill.

2. Similarly, if the County employed Amy as a building maintenance worker and directs her to clean an office the County rents at a covered location, does the County have to schedule all of Amy’s 30 hour work week at the covered location, or can it meet its obligation to provide Amy a 30 hour work week by including hours she works at non-covered locations, such as County office buildings?

3. In practice, the circumstances under which the Bill would apply to County employees, set out in paragraph no. 2 above, seems fairly remote. Nonetheless, because wages and hours are bargainable terms of employment, the Bill could be seen as bypassing existing collective bargaining procedures to the extent it will apply to County employees in a bargaining unit. Of course, the Council does have the right to do this.

4. Finally, it is unclear how a person who employs a building maintenance worker would know that its worker is working in a covered location, thereby triggering the requirement of a 30-hour work week. While an employer might know if a specific building occupies more than 350,000 square feet, an employer is less likely to know if a group of office buildings (occupying a total of 350,000 square feet or more) is under common ownership or management. Perhaps a person who owns or manages a group of buildings that occupies more than 350,000 square feet should be obliged to disclose that fact before entering into a contract with any person for building maintenance services, altering that person that the contract will trigger the law.

A policy matter: This Bill is intended to preclude an employer of a building maintenance worker from scheduling those workers for less than 30 hours per week in order to avoid providing health insurance under the Affordable Care Act. See Legislative Request Report. But, under certain circumstances, the bill could be viewed as family “unfriendly” by precluding such an employer from offering part-time (20 hours per week) work to the parent of a school-aged child who already has health insurance from another source (perhaps from a working spouse).

Finally, the bill’s imposition of a minimum work week for an office building or contiguous group of office buildings at least 350,000 square feet in size does not violate equal protection laws. To review whether a classification violates equal protection, the standard of review is the “rational basis” test, that is, whether the classification challenged, here the size of the building or buildings, is rationally related to a legitimate state interest. In *Lindsley v. National Carbonic Gas Company*, 220 U.S. 61, 78-79 (1911), the Supreme Court outlined the rational basis test. The Court stated “[t]he rules by which this (equal protection) contention must be tested, as is shown by repeated decisions of this court, are these: 1. The equal protection clause of the Fourteenth Amendment does not take from the State the power to classify . . . but admits of the exercise of a wide scope of discretion in that regard, and avoids what is done only when it is without any reasonable basis, and therefore is purely arbitrary. 2. A classification having some reasonable basis does not offend against that clause merely because it is not made with mathematical nicety or because in practice it results in some inequality. 3.

James Stowe  
May 15, 2019  
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When the classification in such a law is called in question, if any state of facts reasonably can be conceived that would sustain it, the existence of that state of facts at the time the law was enacted must be assumed. 4. One who assails the classification in such a law must carry the burden of showing that it does not rest on any reasonable basis, but is essentially arbitrary.” *Id.*

In *McGowan v. State of Maryland*, 366 U.S. 420 (1961), the Supreme Court considered whether Maryland State law generally banning all labor, business, and other commercial activity on Sundays were classifications that denied equal protection of the law. The Court explained that the Fourteenth Amendment provides states with a wide discretion in enacting laws that affect some groups of citizens differently than others, and that such laws are presumed constitutional even if, in practice, the laws result in some inequality. *Id.* at 425-26. Thus, “[a] statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it.” *Id.* Maryland courts also utilize the reasonable basis test set out in *Lindsley*, noting that if any facts could sustain the constitutionality of a statute within the exercise of the police power, then the existence of those facts as the basis for passing the law must be assumed. *Aero Motors, Inc. v. Administrator, Motor Vehicle Administration*, 274 Md. 567, 580 (1975) (citing *Gino’s v. Baltimore City*, 250 Md. 621, 637 (1968)).

There is a reasonable basis for Bill 12-19 to provide a minimum work week for employees working in buildings of at least 350,000 square feet and not to employees working in smaller buildings. For example, a larger building will likely require a larger workforce to maintain, and a larger workforce could more easily accommodate a minimum work week. In addition, the legislature may decide to address a problem in stages—in this case, starting with larger employers first—before considering whether to expand the legislative solution to smaller employers.

cc: Dale Tibbitts, Special Assistant to the County Executive  
Marc P. Hansen, County Attorney  
Robert H. Drummer, Senior Legislative Attorney

AN ACT  
**D.C. ACT 21-485**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**AUGUST 18, 2016**

To establish a minimum work week for building service employees, to prohibit retaliation of the exercise of a right established by this act, to require an employer to post certain notices in the workplace, to authorize the Mayor to verify employer compliance, to establish penalties for a violation of this act, to provide for administrative action by the Mayor and for a hearing before an administrative law judge for violations of this act, and to authorize civil action for violations of this act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Building Service Employees Minimum Work Week Act of 2016".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Covered employee" or "building services employee" means an individual performing janitorial services, building maintenance services, or other services in or around a covered location to maintain the repair, cleanliness, and overall quality of the covered location.

(2) "Covered employer" means an individual, group of individuals, partnership, association, corporation, business trust, society, firm, company, joint stock company, or other entity that at a covered location:

- (A) Directly employs a covered employee;
- (B) Contracts for the services of a covered employee; or
- (C) Subcontracts for the services of a covered employee.

(3) "Covered leave" means paid or unpaid temporary leave from work taken by a covered employee pursuant to:

- (A) Federal or District law;
- (B) An employee handbook; or
- (C) A written request voluntarily initiated by the covered employee.

(4) "Covered location" means an office building, commonly owned office park, or a commonly owned and managed group of buildings, with over 350,000 square feet of net rentable commercial office space. The term "covered location" excludes property owned or leased by a health-care facility licensed under the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501 *et seq.*), and affiliated subsidiaries.

(5) "Minimum work week" means the minimum number of compensated hours provided to a covered employee in any work week, including weeks in which the covered employee is taking covered leave.

(6) "Office park" means an area where a number of office buildings are together on landscaped grounds, which may include parking lots, parklike surroundings, and restaurants.

(7) "Work week" means a fixed regularly recurring period of 168 hours or 7 consecutive 24-hour periods.

**Sec. 3. Minimum work week.**

The minimum work week for a building services employee shall be 30 hours; except, that when a covered employee is taking covered leave, the leave shall count towards the 30-hour minimum work week; provided, that at each covered location up to 20% of the work hours scheduled for covered employees engaged in cleaning service may be preserved for part-time covered employees with a minimum shift of 4 hours per night and 20 hours per week per covered employee for up to a total of 10 part-time positions permitted per covered location.

**Sec. 4. Prohibited acts.**

It shall be a violation of this act for a covered employer to:

(1) Fail to provide a minimum work week as required by this act or a regulation issue pursuant to this act;

(2) Discharge, threaten, penalize, or in any other manner discriminate or retaliate against a covered employee because the covered employee has:

(A) Made, or is believed to have made, a complaint to the covered employer, the Mayor, the Attorney General for the District of Columbia, a federal employee, or District government employee that the covered employer has engaged in conduct that the covered employee, reasonably and in good faith, believes violates this act or a regulation issued pursuant to this act;

(B) Instituted, or will institute, a proceeding alleging a violation of this act;

(C) Provided information related to a possible violation of this act to the Mayor, the Attorney General for the District of Columbia, or a federal or District government employee;

(D) Testified, or will testify, in an investigation or proceeding being conducted pursuant to this act; or

(E) Exercised any other right protected by this act; or

(3) Hinder the Mayor in the enforcement of this act, including by failing to:

(A) Admit the Mayor to a covered location;

(B) Make available any record required to be made or retained by this act;

or

(C) Post a summary or copy of this act and of any applicable regulation, as required by section 5.

**Sec. 5. Posting requirements.**

(a)(1) A covered employer shall post and maintain in a conspicuous place a notice, which shall be prescribed by the Mayor and provided to each covered employer, that shall include excerpts or summaries of the pertinent provisions of this act and information about filing of a complaint pursuant to the act.

(2) A covered employer shall post every notice required to be posted by this act in English and all languages spoken by covered employees with limited or no-English proficiency, as defined in section 2 of the Language Access Act of 2004, effective June 19, 2004 (D.C. Law 15-167; D.C. Official Code § 2-1931).

(b) A covered employer who fails to comply with the posting requirements of this section shall be subject to the penalty set forth in section 8.

**Sec. 6. Mayor's authority.**

The Mayor shall have the authority to:

- (1) Investigate and ascertain the minimum work week of a covered employee;
- (2) Enter and inspect a covered location of a covered employer to:
  - (A) Inspect and copy:
    - (i) Books;
    - (ii) Registers;
    - (iii) Payrolls; or
    - (iv) Other records the Mayor considers necessary or appropriate; or
  - (B) Question a covered employee to ascertain whether the covered employer is in compliance with the requirements of this act;
- (3) Require a covered employer to provide a sworn statement pertaining to the employment of a covered employee regarding:
  - (A) Wages and hours; and
  - (B) Any other information pertaining to the employment of the covered employee that the Mayor considers necessary or appropriate to carry out the purposes of this act; and
- (4) Following an admission of a violation by a respondent to a complaint, conduct an audit or issue a subpoena to determine if the rights of covered employees other than the complainant have also been violated.

**Sec. 7. Confidentiality of reported information.**

To encourage reporting and protect personal information received pursuant to this act, the Mayor shall keep confidential, to the maximum extent authorized by law, the name and any other identifying information of a covered employee, or other person, reporting a violation of this act during the course of an investigation; provided, that with the authorization of the covered employee or other person, whichever is applicable, the Mayor may disclose the name of the covered employee or other person and such identifying information as necessary to conduct a hearing and enforce this act or other employee-protection law.



**Sec. 8. Penalties.**

(a)(1) Except as provided in paragraph (2) of this subsection, a covered employer who willfully violates the posting requirements of section 5 shall be assessed a civil penalty not to exceed \$100 for each day that the covered employer fails to post the notice; provided, that the total penalty shall not exceed \$500.

(2) No liability for failure to post the notice shall arise under this section if the Mayor has failed to provide the notice required by section 5 to the covered employer.

(b)(1) A covered employer who fails to comply with any of the requirements of this act, other than the posting requirements of section 5, shall be subject to a fine of not more than \$5,000 for each violation for each day that the violation continues.

(2) For the purposes of this subsection, each violation of a covered employee's right provided by this act shall constitute a separate violation of this act.

(c)(1) Except as provided in paragraph (2) of this subsection, the Mayor shall assess an administrative penalty against a covered employer for a violation of this act. In assessing the amount of the fine to be imposed pursuant to the following authorized penalties, the Mayor may consider factors the Mayor determines appropriate, including a covered employer's past history of violations of this act:

(A) For the first violation, a maximum fine of up to \$500; and

(B) For any subsequent violation, a maximum fine of up to \$1,000.

(2) No administrative penalty may be collected unless the Mayor provided a covered employer alleged to have violated this act:

(A) Notification of the violation;

(B) The amount of the administrative penalty that may be imposed; and

(C) An opportunity to request a hearing.

**Sec. 9. Administrative action by the Mayor.**

(a) Subject to the statute of limitations described in subsection (b) of this section, upon a request by a covered employee for administrative enforcement of this act, the Mayor shall investigate and make an initial determination regarding the alleged violation.

(b)(1) Except as provided in paragraph (3) of this subsection, an aggrieved covered employee ("complainant") shall file a signed complaint against a covered employer for failure to provide a minimum work week with the Mayor no later than 3 years after the last date upon which the alleged violation occurred.

(2) A complainant may recover only those amounts that became lawfully due and payable within the 3-year period before the date the complaint was filed; except, that if the alleged failure to provide a minimum work week is ongoing at the time of the filing of the complaint, the complainant may also seek recovery of those amounts that accrued during the pendency of the claim.

(3) The 3-year statute of limitations shall be tolled during any period that the covered employer had failed to provide the covered employee with actual or constructive notice of the covered employee's rights or on other equitable grounds.

(c) The complaint shall:

(1) Set forth the facts upon which it is based with sufficient specificity to determine that an allegation of failure to provide a minimum work week has been made;  
(2) Meet other criteria required in this section, or by regulations issued pursuant to this act;

(3) Be sworn to as true by the complainant; and  
(4) Include, or be attached thereto, the following information:

(A) The complainant's name, address, and telephone number (or alternate address or telephone number if the complainant desires);

(B) Sufficient information to enable the Mayor to identify the covered employer through District records, such as the covered employer's:

- (i) Name;
- (ii) Business address;
- (iii) Motor vehicle license plate number; or
- (iv) Telephone number; and

(C) If not set forth in the statement of facts required by paragraph (1) of this subsection, an explanation of the alleged violations, which may include:

- (i) The approximate or actual dates the violations occurred;
- (ii) The estimated total amount of unpaid wages; and
- (iii) An explanation of how the estimated total amount of unpaid wages was calculated.

(d) The Mayor may, as the Mayor determines necessary or appropriate, request that the complainant amend a complaint considered insufficient, including to:

- (A) Cure technical defects or omissions;
- (B) Clarify or amplify allegations; or
- (D) More fully or adequately allege the charge set forth in the original complaint.

(e)(1) The Mayor shall mail the complaint and the written notices described in paragraph (2) of this subsection to the covered employer or, if more than one, to each covered employer ("respondent").

(2)(A) Notice to the respondent shall set forth the:

- (i) Damages, penalties, and other costs for which the respondent may be liable;
- (ii) Rights and obligations of the parties; and
- (iii) Process for contesting the complaint.

(B) Notice to covered employees shall state that an investigation by the Mayor is being conducted and provide information on how covered employees may participate in the investigation.

(f)(1) Upon receipt of the notice required by subsection (e)(2)(B) of this section, the respondent shall post the notice in a conspicuous place for a period of at least 30 days.

(2) Within 20 days from the date the complaint and written notices are mailed, the respondent shall:

- (A) Admit that the allegations in the complaint are true; or

**ENROLLED ORIGINAL**

(B) Deny the allegations in the complaint and request that the Mayor make an initial determination regarding the allegations in the complaint.

(3) If a respondent admits the allegations, the Mayor shall issue an administrative order requiring the respondent to pay the unpaid wages due and, if any, other compensation, liquidated damages, and fine or penalty owed, and to cure the violation.

(4) If a respondent fails to respond to the allegations within 20 days as required by paragraph (2) of this subsection, the allegations in the complaint shall be deemed admitted and the Mayor shall issue an initial determination requiring the respondent to pay unpaid wages due and, if any, compensation, liquidated damages, and fine or penalty owed, and to cure the violation.

(5)(A) The Mayor shall issue an initial determination within 120 days after the date the complaint is received. The initial determination shall contain:

- (i) A brief summary of the evidence considered;
- (ii) The findings of fact;
- (iii) The conclusions of law;
- (iv) An order detailing the amount owed by the respondent or other relief, if any;
- (v) The process by which to appeal the Mayor's determination or to seek other relief; and

(vi) A preliminary determination as to whether the complainant is entitled to additional unpaid earned wages due to other District laws, including the:

(I) Accrued Sick and Safe Leave Act of 2008, effective May 13, 2008 (D.C. Law 17-152; D.C. Official Code § 32-131.01 *et seq.*);

(II) Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D. C. Official Code § 2-220.01 *et seq.*);

(III) Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1001 *et seq.*); and

(IV) An Act To provide for the payment and collection of wages in the District of Columbia, approved August 3, 1956 (70 Stat. 976; D.C. Official Code § 32-1301 *et seq.*).

(B) The initial determination shall be provided to both parties.

(C) If the Mayor fails to issue an initial determination within 120 days after the date the complaint is received, the complainant shall have a right to request a formal hearing before an administrative law judge.

**Sec. 10. Conciliation of dispute.**

(a) The Mayor shall work with the parties in an attempt to conciliate a dispute pursuant to this act; provided, that any conciliation agreement entered into shall be between the respondent and the complainant, which shall be reproduced by the Mayor as an administrative order ("CAO").

(b) If the CAO is breached, the Mayor or the complainant may enforce the CAO pursuant to section 12.

**Sec. 11. Hearing before administrative law judge.**

(a) Within 30 days after the issuance of the initial determination or administrative order, other than an administrative order issued pursuant to section 10, either party may file for a formal hearing before an administrative law judge.

(b)(1) An administrative law judge shall:

(A) Except as provided in paragraph (2) of this subsection, schedule a hearing within 30 days after the date a request for the hearing was filed;

(B) Provide notice to the parties of the time and place of the hearing;  
and

(C) Upon conclusion of the hearing, issue an order based on the findings.

(2) The administrative law judge may grant each party one discretionary continuance due to hardship or a scheduling conflict of up to 15 days, and any other request for good cause only.

(c)(1) If a respondent does not appear after having received notice of the hearing pursuant to this section, the administrative law judge shall proceed to hear proof of the complaint and render judgment accordingly.

(2) If a complainant does not appear after having received notice of the hearing pursuant to this section, the administrative law judge shall dismiss the complaint without prejudice.

(d)(1) The parties may:

(A) Appear at the hearing with or without counsel;

(B) Submit evidence;

(C) Cross-examine witnesses;

(D) Obtain the issuance of subpoenas; and

(E) Otherwise be heard.

(2) Testimony taken at the hearing, or given and received by telephone, shall be under oath, and a transcript shall be made available at cost to any individual, unless the case is sealed.

(3) The burden of proof by a preponderance of the evidence shall rest upon the complainant, but shall shift to the respondent if:

(A) A respondent failed to keep records of a covered employee's schedule of hours and hours worked, or records of the covered employee's compensation provided to the covered employee are:

(i) Imprecise;

(ii) Inadequate;

(iii) Missing;

(iv) Fraudulently prepared or presented; or

(v) Substantially incomplete; and

(B) A complainant presents evidence to show, as a matter of just and reasonable inference, as determined by the judge, the hours the complainant was scheduled and amount of work done.

(4)(A) If the burden of proof shifts to the respondent pursuant to paragraph 3 of this subsection, the respondent shall present compelling evidence:

(i) Of an exemption from applicability of the minimum work week required by this act; and

(ii) To negate the reasonableness of the inferences drawn from the complainant's evidence.

(B) If the respondent fails to meet the burden of proof, as required by subparagraph (A) of this paragraph, the administrative law judge shall award damages to the complainant based on the complainant's evidence and may award approximate damages as necessary.

(e)(1) Within 30 days after the conclusion of the hearing, the administrative law judge shall issue:

(A) A decision setting forth a brief summary of the evidence considered, findings of fact, and conclusions of law; and

(B) An order detailing the determined relief.

(2)(A) Relief may include:

(i) All wages the covered employer would have paid the covered employee had the covered employer complied with this act;

(ii) Compensation;

(iii) Reasonable attorneys' fees and costs; and

(iv) Liquidated damages.

(B) An administrative law judge may award in liquidated damages an amount of up to treble the amount of owed wages.

(3) The decision and order of the administrative law judge shall be a final administrative ruling. It shall be enforceable in a court of competent jurisdiction and reviewable as provided by applicable law.

#### Sec. 12. Enforcement of administrative order or conciliation agreement..

(a)(1) A respondent shall comply with the provisions of any order or conciliation agreement affording relief and shall furnish proof of compliance to the Mayor.

(2) If a respondent refuses or fails to comply with the administrative order or conciliation agreement, the Mayor or the complainant may record a lien and may sue in the Superior Court of the District of Columbia for a remedy, enforcement, or assessment or collection of a civil penalty; provided, that the Superior Court of the District of Columbia shall have no jurisdiction to adjudicate the merits of the underlying claim but shall be limited to enforcement of the administrative order or conciliation agreement.

(b)(1) The Mayor may, at the request of a covered employee, take an assignment in trust for the assigning covered employee of wages and join in a proceeding or action of such claims against the same covered employer as the Mayor considers appropriate.

(2) The Mayor shall have power to settle and adjust any such claim on the terms the Mayor considers just; provided, that no settlement for an amount less than the amount awarded by the administrative law judge shall be agreed to without the complainant's consent.

(3) The Mayor shall maintain regular contact with the complainant concerning the procedural status of any legal action brought under the assignment, and the complainant shall have the right to inquire about and receive information regarding the status of the legal action.

(c)(1) If a respondent fails to timely comply with an administrative order or conciliation agreement that has not been stayed, the Mayor shall:

(A) Assess an additional late fee equal to 10% of the total amount owed for each month any portion of the award and accrued late penalty remain unpaid;

(B) Require the respondent to post public notice of its failure to comply, in a form determined by the Mayor; and

(C) Consider any unpaid amount to be owed the District as past due restitution on behalf of a covered employee; and

(D) Suspend any licenses issued to the covered employer to do business in the District as set forth in subsection (d) of this section.

(2)(A) Penalty amounts, including civil penalties and late fees, and any wages, compensation, damages, interest, costs, or other fees awarded to a covered employee, or a representative of the covered employee, shall be a lien upon the real estate and personal property of the person who owes the foregoing.

(B) The lien shall take effect by operation of law on the day immediately following the due date for payment, and, unless dissolved by payment, shall as of that date be considered a tax due and owing to the District, which may be enforced through any procedure available for tax collection.

(d) The Mayor shall:

(1) Deny an application for a license to do business issued by the District if, during the 3-year period before the date of the application, the applicant admitted guilt or liability or had been found guilty or liable in any judicial or administrative proceeding of committing or attempting to commit a willful violation of this act;

(2) Suspend any license to do business issued by the District if the licensee has failed to comply with an administrative order issued or conciliation agreement entered into pursuant to this act; and

(3) Upon learning of a licensee's alleged lack of compliance with an administrative order issued or conciliation agreement entered into pursuant to this act, notify the licensee that its license shall be suspended in 30 days and remain suspended until the licensee provides proof that it is in compliance with the administrative order or conciliation agreement, whichever applies, including any requirements for accelerated payment, interest, or additional damages in the event of a breach; provided, that before a license may be suspended, the Mayor shall provide the licensee the opportunity to have a hearing pursuant to the District of Columbia Administrative Procedure Act, effective October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*).

### Sec. 13. Representation.

Any person may be represented by counsel in any proceeding under this act. Any party, including corporate entities, as an alternative to counsel, may be assisted by a non-attorney

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authorized by that party in accordance with section 2835 of Title 1 of the District of Columbia Municipal Regulations (1 DCMR § 2835), except where such representation is prohibited by law or disallowed by the administrative law judge for good cause.

**Sec. 14. Subpoenas; noncompliance.**

(a) Any party may request that a subpoena be issued by the administrative law judge.

(b) Witnesses summoned by subpoena shall be entitled to the same witness and mileage fees as are witnesses in proceedings in the Superior Court of the District of Columbia; provided, that fees payable to a witness summoned by subpoena issued at the request of a party shall be paid by that party.

(c) Within 10 days after service of a subpoena upon a person, the person may petition the administrative law judge to quash or modify the subpoena, which the administrative law judge shall grant, if the judge finds that:

- (1) The subpoena requires appearance or attendance at an unreasonable time or place;
- (2) The subpoena requires production of evidence that does not relate to the matter at issue;
- (3) The subpoena does not describe with sufficient particularity the evidence to be produced;
- (4) Compliance with the subpoena would be unduly onerous; or
- (5) The subpoena fails for other good reason.

(d) In the case of a refusal to obey a subpoena, the administrative law judge or any party may seek enforcement of a subpoena issued under the authority of this act by filing a petition for enforcement in a court of competent jurisdiction. In the enforcement proceeding, the court may award to the prevailing party all or part of the costs and attorney's fees incurred in obtaining the enforcement order.

(e) A person who fails or neglects to attend a proceeding to which the person was duly called to testify or refuses to answer any lawful inquiry or demand to produce records, documents, or other evidence, without good cause, may be fined by a court of competent jurisdiction not more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01) ("Criminal Fine Proportionality Act") or imprisoned not more than 60 days, or both.

(f) A person who makes or causes to be made a false entry or false statement of fact in any report, account, record, or other document submitted to an administrative law judge pursuant to a subpoena or other order or who willfully mutilates, alters, or by any other means falsifies any documentary evidence may be fined by a court of competent jurisdiction not more than the amount set forth in the Criminal Fine Proportionality Act or imprisoned not more than 60 days, or both.

**Sec. 15. Costs and attorney's fees.**

(a) In any action brought under this act, the administrative law judge shall allow a

prevailing plaintiff to recover the costs of the action from the defendant, including costs or fees of any nature and reasonable attorney's fees.

(b) In an administrative order in favor of a covered employee and in any proceeding to enforce an administrative order, the court shall award to each attorney for the covered employee an additional judgment for costs, including reasonable attorney's fees.

(c) If fees remain unpaid to the attorney at the time of any subsequent review, supplementation, or reconsideration of the fee award, the administrative law judge shall update the award to reflect the hours actually expended and the market rates in effect at that time. No reduction shall be made from this rate, or from the hours actually expended, except upon clear and convincing evidence that the reduction will serve the remedial purposes of this law.

(d) Costs shall also include expert witness fees, depositions fees, witness fees, juror fees, filing fees, certification fees, the costs of collecting and presenting evidence, and any other costs incurred in connection with obtaining, preserving, or enforcing the administrative order.

(e) The Mayor shall not be required to pay the filing fee or other costs or fees of any nature or to file bond or other security of any nature in connection with any action or proceeding under this act.

**Sec. 16. Civil action.**

(a) A covered employee aggrieved by a violation of this act may bring a civil action in the Superior Court of the District of Columbia and may be awarded such legal or equitable relief as may be appropriate to effectuate the purposes of this act, including without limitation:

- (1) Reinstatement;
- (2) Payment of lost wages totaling not less than the hourly rate of pay due to the covered employee but for the violation multiplied by the number of hours below the minimum work week that the covered employee was provided each work week during which a violation occurred;
- (3) Actual medical costs incurred by the covered employee as a result of the violation;
- (4) Liquidated damages in the amount of \$100 per day for each day the violation continued; and
- (5) Reasonable attorney's fees and costs of the action to be paid by the defendant to a prevailing plaintiff.

(b) (1) An action to recover damages under this act may be maintained in the Superior Court of the District of Columbia by one or more covered employees aggrieved by a violation of this act or on behalf of a covered employee or covered employees who are similarly situated as long as at least one of the covered employees has exhausted all administrative remedies.

(2)(A) For the purposes of this subsection, 2 or more covered employees are similarly situated if they:

- (i) Are or were employed by the same covered employer, whether concurrently or otherwise, at some point during the applicable statute of limitations period;
- (ii) Allege one or more violations that raise similar questions as to



liability; and

(iii) Seek similar forms of relief.

(B) Covered employees alleging violations of this act shall not be considered dissimilar under this subsection solely because their claims seek damages that differ in amount or their job titles, or other means of classifying them differ in ways that are unrelated to their claims.

(c)(1) Except as provided in paragraph (2) of this subsection, an action commenced for a violation of this act on or after the applicability of this act shall be commenced within 3 years after the cause of action accrued or of the last occurrence if the cause of action is continuous, whichever is later, or the cause of action shall be forever barred.

(2) The 3-year statute of limitations shall be tolled:

(A) From the date the covered employee files an administrative complaint with the Mayor until the Mayor notifies the covered employee in writing that the administrative complaint has been resolved or the administrative complaint is withdrawn by the covered employee;

(B) During any period that the covered employer has failed to provide the covered employee with actual or constructive notice of the covered employee's rights; or

(C) On other equitable grounds.

#### Sec. 17. Rules.

The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this act.

#### Sec. 18. Applicability.

(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.


#### Sec. 19. Fiscal impact statement.


The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

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**Sec. 20. Effective date.**

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

  
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Chairman  
Council of the District of Columbia

  
\_\_\_\_\_  
Mayor  
District of Columbia  
APPROVED  
August 18, 2016

Account_Nur	Owner_Name1	Premise_Premise_Addr_Nam	Premise_Addr_Cit	CAMA_Structure_Area
00436584	UNITED STATES AMERICA	9000 ROCKVILLE	BETHESDA	4E+06
03550740	WHEATON PLAZA REG SHOP CTR	11160 VEIRS MILL	SILVER SPRING	2E+06
00135792	FISHERS LANE LLC	5600 FISHERS	ROCKVILLE	1E+06
03280173	SILVER OAKS CAMPUS LLC	3926 GRACEFIELD		1E+06
00963917	HOLY CROSS HOSP OF SIL SPR	1500 FOREST GLEN	SILVER SPRING	1E+06
03447697	WP PROJECT DEVELOPER LLC	5400 WISCONSIN		997890
01954224	MONTGOMERY COMMUNITY COLLEGE	51 MANNAKEE	ROCKVILLE	981840
03639341	ARCHSTONE WESTCHESTER	370 DIAMOND	GAITHERSBURG	912992
03033735	GEORGETOWN PREP SCHOOL INC	10900 ROCKVILLE	ROCKVILLE	858572
03770220	MEDIMMUNE INC	1 MEDIMMUNE		849305
02253130	MONTGOMERY COUNTY	101 MONROE	ROCKVILLE	807226
01567726	ELP BETHESDA LLC	10400 FERNWOOD	BETHESDA	775000
02543624	SILVER SM CO LLC	8401 COLESVILLE	SILVER SPRING	756363
03267110	7501 WISCONSIN AVE LLC	7501 WISCONSIN	BETHESDA	750000
03646461	MEDIMMUNE INC	1 MEDIMMUNE	GAITHERSBURG	741803
03379217	MONTGOMERY MALL LLC	10341 WESTLAKE	BETHESDA	722388
03483150	ADVENTIST HEALTHCARE INC	9901 MEDICAL CENTER	ROCKVILLE	713627
03695973	ADVENTIST HEALTHCARE INC	9901 MEDICAL CENTER	ROCKVILLE	713627
03750277	CAMDEN USA INC	9705 KEY WEST		693823
03198170	WISCONSIN PARK ASSOC L P	5801 NICHOLSON	ROCKVILLE	673000
01971981	DEMOCRACY ASSOCIATES	6901 ROCKLEDGE	BETHESDA	670310
03719534	BAINBRIDGE SHADY GROVE APARTMENTS	15955 FREDERICK	ROCKVILLE	668309
00982135	UNITED STATES AMERICA	2460 LINDEN	SILVER SPRING	664858
03795173	UPPER ROCK G/U LLC	70 UPPER ROCK		658721
03698910	UPPER ROCK II LLC	30 UPPER ROCK	ROCKVILLE	658721
03636314	GI DC ROCKVILLE LLC	14200 SHADY GROVE	ROCKVILLE	635057
03799488	1800 ROCKVILLE RESIDENTIAL LLC	1800 ROCKVILLE	ROCKVILLE	624937
00437145	UNITED STATES OF AMERICA	4600 SANGAMORE	BETHESDA	590000
03671408	JBG/ROCKVILLE NCI CAMPUS LLC	9613 MEDICAL CENTER	ROCKVILLE	584998
00436686	UNITED STATES AMERICA	9001 ROCKVILLE		575000
03678978	WF HIDDEN CREEK LLC	430 ALLIED	GAITHERSBURG	565209
03482953	EAST-WEST TOWERS LLC	4350 EAST WEST		564483
00046844	LOCKHEED MARTIN CORP	6801 ROCKLEDGE	ROCKVILLE	559515

03418104	SILVER SPRING OWNER LLC	1 DISCOVERY	SILVER SPRING	545420
03340927	MONTEREY NORTH BETHESDA INVESTORS	5901 MONTROSE		542754
03637604	FAIRFIELD HIGHLAND SQUARE LLC	17 BARKLEY	GAITHERSBURG	537952
00018631	LANTIAN GATEWAY LLC	22300 COMSAT	CLARKSBURG	525966
00055028	WASH METRO AREA TRANSIT AUTH	0 ROCKVILLE		525000
03122980	MFV 700 NFA LLC	700 FREDERICK	GAITHERSBURG	515920
03695893	USGBF NIAID LLC	5601 FISHERS	ROCKVILLE	515000
03271681	MILESTONE APARTMENTS LLC	12449 GREAT PARK	GERMANTOWN	514960
02903620	CFF LAND TRUST III	1315 EAST WEST	SILVER SPRING	505000
03688410	HOME PROPERTIES RIPLEY STREET LLC	1155 RIPLEY	SILVER SPRING	486470
00153016	1800 ROCKVILLE RESIDENTIAL LLC	1800 ROCKVILLE	ROCKVILLE	476000
00971132	MONTGOMERY COUNTY	8530 CAMERON	SILVER SPRING	474283
03781804	JLB CHAPMAN LP	1900 CHAPMAN		473106
03698998	WASH METRO AREA TRANSIT AUTH	5391 MCGRATH	ROCKVILLE	465983
03247522	WASHINGTONIAN ASSOC L C	6 GRAND CORNER	GAITHERSBURG	460492
03768124	GEORGIA AVE INC	2425 BLUERIDGE		460492
02882765	VERBAL CORPORATION	9401 GAITHER	GAITHERSBURG	458326
00048901	GREATER WASHINGTON JEWISH COMMUNI'	6125 MONTROSE	ROCKVILLE	450248
00777827	UNITED STATES OF AMERICA	19901 GERMANTOWN	GERMANTOWN	450000
03385435	CONGRESSIONAL PLAZA ASSOC LLC	1601 ROCKVILLE		447737
03309204	MONTG CO	1200 SPRING	SILVER SPRING	447696
03767131	SIMON/CLARKSBURG DEVELOPMENT LLC	22705 CLARKSBURG	CLARKSBURG	437229
02897540	AVANTE ELLSWORTH VEN I LLC	8661 COLESVILLE	SILVER SPRING	436270
02754304	BRANDYWINE RESEARCH LLC	2277 RESEARCH	ROCKVILLE	434139
00953838	BOARD OF EDUCATION	12601 DALEWOOD	SILVER SPRING	431630
03689631	BOARD OF EDUCATION	101 EDUCATION	GAITHERSBURG	431178
00143440	WOODMONT PARK INC	1001 ROCKVILLE	ROCKVILLE	430758
00052606	WASH METRO AREA TRANSIT AUTH	0 ROCKVILLE		428220
03752744	CAMDEN USA INC	10201 WASHINGTONIAN		428130
03426354	CHEVY CHASE LAND CO	5433 WISCONSIN		426350
03395616	MEPT CONGRESSIONAL VILLAGE LLC	198 HALPINE	ROCKVILLE	414000
00419831	SNH CCMD PROPERTIES LLC	8100 CONNECTICUT	CHEVY CHASE	411864
01806937	U.S.BANK NATIONAL ASSOCIATION	701 RUSSELL	GAITHERSBURG	409447
03731968	MONTGOMERY COUNTY MARYLAND	8401 TURKEY THICKET		407972

03759541	SGS MF A LLC	8010 GRAMERCY	ROCKVILLE	407130
03763975	BLAIR PEARL HOLDINGS LLC	8101 EASTERN	SILVER SPRING	403200
00777838	UNITED STATES OF AMERICA	601 QUINCE ORCHARD	GAITHERSBURG	400000
03724416	MALLORY SQUARE PARTNERS I LLC	15251 SIESTA KEY		398500
01044008	MONTGOMERY COUNTY	1100 BONIFANT	SILVER SPRING	395964
03662825	BOARD OF COMM COLLEGE TRUSTEES FOR	20200 OBSERVATION	GERMANTOWN	394158
03648527	FR MONTROSE CROSSING LLC	12055 ROCKVILLE	ROCKVILLE	392897
00982088	WASHINGTON METROPOLITAN	12600 FLACK	SILVER SPRING	387943
03197927	BOARD OF EDU OF MONTG CTY	51 UNIVERSITY	SILVER SPRING	386567
02214867	BOP BETHESDA METRO CENTER LLC	7450 WISCONSIN	BETHESDA	386400
03724440	CGP II SIESTA KEY MD VENTURE LLC	15250 SIESTA KEY		381500
02671983	UNITED STATES OF AMERICA	11555 ROCKVILLE	ROCKVILLE	380452
03635503	MONTGOMERY COUNTY REVENUE AUTH	5701 MARINELLI	ROCKVILLE	379100
03629808	WASH METRO AREA TRANS AUTH	5700 FISHERS		375000
03257268	MONTGOMERY COUNTY MD	100 EDISON PARK	GAITHERSBURG	373116
00045771	BOARD OF EDUCATION	6400 ROCK SPRING	BETHESDA	372433
03686273	NORTH BETHESDA MARKET OWNERS ASSOC	0 EXECUTIVE	ROCKVILLE	371852
03305536	GENON MID-ATLANTIC LLC	0 MARTINSBURG		371415
03437541	STRINGTOWN INVESTMENTS LLC	0 CIDER BARREL		370178
03437552	STRINGTOWN INVESTMENTS LLC	0 CIDER BARREL		370178
03411592	TMG II BETHESDA HOTEL L P	7400 WISCONSIN	BETHESDA	368260
03601053	MONTGOMERY TOWER OWNER LLC	4550 MONTGOMERY	BETHESDA	366191
02934585	WHITE FLINT NORTH LLC	11545 ROCKVILLE	ROCKVILLE	364000
03671170	WASH METRO AREA TRANSIT AUTH	11601 LANDSDOWN	ROCKVILLE	362000
03349882	GROSVENOR STATION DEVEL II LLC	5230 TUCKERMAN	ROCKVILLE	354195
00255296	VERIZON WASHINGTON DC	13101 COLUMBIA	SILVER SPRING	353321