Economic Impact Statement

Office of Legislative Oversight

EXPEDITED BILL 48-20 — Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week – Effective Date

SUMMARY

The Office of Legislative Oversight (OLO) believes that enacting Expedited Bill 48-20 would have substantial benefits for the private organizations directly affected by the change in law. Residents who are employed by these organizations, though with some exceptions, would also benefit from the bill's enactment. OLO anticipates that Expedited Bill 48-20 would have an overall positive economic impact on the County.

BACKGROUND

On November 7, 2019, Bill 12-19, Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week Act ("the Act") was signed into law. When effective, the Act will establish a minimum work week of at least 30 hours for employees performing janitorial services at privately-owned office buildings occupying at least 350,000 square feet with an occupancy rate of at least 50%.[1] The Act establishes several exceptions to the minimum work week requirement. They include:

- Employers having the option to reserve up to 30% of the total hours scheduled for part-time employees with minimum shifts of 4 hours per day and 20 hours per week;
- Employees having the option to take voluntary leave; and
- Exempting employees working in buildings owned by the United States, any State, or any local government and employees.[2]

Enforcement of the regulations will occur through employee complaints filed with the County Office of Human Rights, which may award compensatory damages for violations.[3] As it stands, the Act will come into effect on January 1, 2021.[4]

At the time of the enactment of Bill 12-19, it was estimated that 32 office buildings in the County would be covered by the Act.[5] The Department of Finance conducted the economic impact analysis for an earlier version of the bill, which covered a broader scope of building service workers (i.e., janitors, security, concierge).[6] Analysts with the department

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[1] Montgomery County Council, Bill 12-19, Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week, Enacted on November 5, 2019, 6 in Introduction Staff Report, https://apps.montgomerycountymd.gov/ccllims/DownloadFilePage?FileName=2686_1_12078_Bill_48-2020_Introduction_20201201.pdf.

[2] Ibid.

[3] Montgomery County Council, Bill 12-19, 6. See also Robert H. Drummer to County Council, Memorandum, November 24, 2020, Montgomery County Council in Introduction Staff Report, https://apps.montgomerycountymd.gov/ccllims/DownloadFilePage?FileName=2686_1_12078_Bill_48-2020_Introduction_20201201.pdf.

[4] Ibid.

[5] See Robert H. Drummer to County Council, Memorandum, October 21, 2019 in the Action Staff Report for Bill 12-19, https://apps.montgomerycountymd.gov/ccllims/DownloadFilePage?FileName=2608_1_9815_Bill_12-19_Action_20191105.pdf.

[6] See Economic Impact Statement in the Action Staff Report for Bill 12-19, https://apps.montgomerycountymd.gov/ccllims/DownloadFilePage?FileName=2608_1_9815_Bill_12-19_Action_20191105.pdf.

were unable to determine the number of workers who would be subject to the minimum work week requirement. Despite this uncertainty, the analysts came to the following conclusion: By increasing weekly hours, the employees performing janitorial services in the covered buildings would experience annual income increase estimated at $7,800. Benefits to these workers, however, would be offset by increased costs to owners of the buildings and potential job losses that may occur through staffing reductions.

On December 1, 2020, the Council introduced Expedited Bill 48-20 in response to a joint-letter from SEIU 32BJ – the union representing many of the workers in the covered office buildings – and the Apartment and Office Building Association of Metropolitan Washington (AOBA).[7] Citing economic disruptions to commercial office buildings due to the COVID-19 global pandemic, the letter requests that the Council delay the effective date of the Act by one year. If enacted, Expedited Bill 48-20 would make the Act effective on January 1, 2022.[8]

By delaying the effective date of the minimum work week, Expedited Bill 48-20 would have direct economic impacts on the following entities:

- Owners of the covered buildings (owners include building developers, REITs, and corporations[9]);
- Property management companies that manage approximately half of these buildings;[10]
- Tenants of the covered buildings;
- Commercial cleaning companies servicing the covered buildings;[11] and
- Employees assigned to perform janitorial services at the buildings.

Time constraints prevent OLO from investigating the pandemic-related disruptions experienced by these entities that are mentioned in the SEIU 32BJ and AOBA joint-letter. Nevertheless, briefly highlighting conditions in the office market sector, commercial cleaning industry, and labor market validates the letter's claim and provides context for OLO's discussion of the economic effects of enacting Expedited Bill 48-20 in subsequent sections.

The public health and economic crises ("the crises") caused by the COVID-19 pandemic have adversely impacted the office market sector in the County. Rental revenues are down for any owners of office buildings due to tenants who have missed payments, renegotiated leases, or sought payment plans.[12] Furthermore, demand for office space in the County—while bolstered by the presence of life science and biotech firms along the I-270 corridor—is showing signs of decline as

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[7] Nicola Y. Whiteman and Jaime Contreras to Montgomery County Council, Correspondence, November 18, 2020, Apartment and Office Building Association of Metropolitan Maryland and 32BJ SEIU in the Introduction Staff Report for Expedited Bill 48-20.

[8] Montgomery County Council, Expedited Bill 48-20, Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week – Effective Date, Introduced on December 1, 2020, 2.

[9] Data provided by Montgomery County Planning Department.

[10] Data provided by Montgomery County Planning Department indicates that approximately half of the covered buildings are managed by owners.

[11] Given time constraints, OLO did not reach out to the covered building owners to determine how many outsource cleaning services to third-party vendors. However, based on conversations with private sector actors, OLO's understanding is that owners and managers of office buildings typically outsource their cleaning needs to these companies. Moreover, owners and managers typically provide cleaning services to their tenants.

[12] Heather Long, "The next big problem for the economy: Businesses can't pay their rents," Washington Post, June 4, 2020, https://www.washingtonpost.com/business/2020/06/03/next-big-problem-businesses-cant-or-wont-pay-their-rent-its-setting-off-dangerous-chain-reaction/.

businesses turn to telework, downsize or even close in response to the crises.[13] In fact, office market reports for the third quarter of 2020 indicate that vacancy rates have increased, and net absorption rates have turned negative, revealing that office building owners and managers are having difficulty leasing new or rehabilitated office spaces.[14] Rental rates in the County's office market have remained steady so far. But increased competition among landlords to attract businesses could put downward pressure on rents moving forward.[15]

The crises, however, have had a mixed impact on local commercial cleaning companies. The pandemic has increased the need for more frequent and deeper cleaning of commercial facilities, including those with declining occupancy. So the sanitation measures required for safe occupancy have bolstered demand for some commercial cleaning companies.[16] Yet, commercial cleaning companies have lost clients from business closures and incurred expenses from purchasing personal protective equipment for their workforce, which have cut into revenues and increased layoffs. Commercial cleaning companies have also reportedly faced staffing challenges and other pandemic-related disruptions experienced by businesses unable to convert their entire operations to telework.[17] Moreover, the impact of the crises on the commercial cleaning industry may be most felt after the pandemic. As cleaning needs return to "normal" and reductions in office space continue, demand for commercial cleaning may decrease relative to pre-pandemic levels.

According to 2019 data from the Maryland Department of Labor, there were 9,450 building cleaning workers in the County.[18] The median hourly wage for these workers was $13.63, with wages ranging between $11.35 and $15.85. The crises have disproportionately impacted low-wage, less educated, women, Black and Latinx workers, particularly those in the hardest-hit industries.[19] While workers in the commercial cleaning industry may not have been as badly harmed as workers in these industries, OLO has heard reports from local stakeholders in the commercial cleaning and property management industries of significant layoffs of cleaning workers.

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[13] Stephanie Bryant, "COVID-19 Recover Outlook: Office & Industrial Commercial Real Estate," Office of Legislative Oversight, May 26, 2020, https://www.montgomerycountymd.gov/OLO/Resources/Files/2020%20Reports/COVID-19RecoveryOfficeIndustrialCommercialRealEstate.pdf.

[14] See Q3 2020 Office Market Reports by Transwestern, Cresa, and Newmark Knight Frank.

[15] Ibid.

[16] See, for example, Sean Gorman, "Pandemic brings a bust, boom, and everything in between for commercial cleaning companies," Richmond-Times-Dispatch, August 22, 2020, https://richmond.com/business/watch-now-pandemic-brings-a-bust-boom-and-everything-in-between-for-commercial-cleaning-companies/article_e6a13c40-34c4-57dd-82d4-0eeb2df7ac81.html; and Daniel Sernovitz, "The Firms Are Cleaning Up," Washington Business Journal, May 8, 2020, https://richmond.com/business/watch-now-pandemic-brings-a-bust-boom-and-everything-in-between-for-commercial-cleaning-companies/article_e6a13c40-34c4-57dd-82d4-0eeb2df7ac81.html.

[17] Victoria Hall, "COVID-19 Recovery Outlook: Telework and Economic Development," Office of Legislative Oversight, May 26, 2020, https://www.montgomerycountymd.gov/OLO/Resources/Files/2020%20Reports/COVID-19RecoveryTeleworkEconomicDevelopment.pdf.

[18] Maryland Department of Labor, Occupational Employment and Wage Estimates 2019, Montgomery County Workforce Region, https://www.dllr.state.md.us/lmi/wages/page0308.htm.

[19] See Elise Gould, Daniel Perez and Valerie Wilson, "Latinx workers—particularly women—face devastating job losses in the COVID-19 recession," Economic Policy Institute, August 20, 2020, https://www.epi.org/publication/latinx-workers-covid/?utm_source=Economic+Policy+Institute&utm_campaign=05fe4b8a5a-EMAIL_CAMPAIGN_2019_02_21_07_37_COPY_01&utm_medium=email&utm_term=0_e7c5826c50-05fe4b8a5a-60687733&mc_cid=05fe4b8a5a&mc_eid=a2f9774fc8; and Elise Gould and Valerie Wilson, "Black workers face two of the most lethal preexisting conditions for coronavirus—racism and economic inequality," Economic Policy Institute, June 1, 2020, https://www.epi.org/publication/black-workers-covid/.

METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES

The economic impacts of enacting Expedited Bill 42-20 would occur through delaying the effective date of the minimum work week requirement by one year. Doing so would forgo:

- the costs to commercial cleaning companies servicing the covered office buildings and the owners, property managers, and tenants of these buildings; and
- the costs and/or benefits to employees who perform janitorial services at these buildings that would have otherwise occurred with the law going into effect.

Estimating the economic impacts of Expedited Bill 42-20 therefore requires accounting for these costs to private organizations and the costs and benefits to employees. OLO, however, is unable to do so due to several data limitations and fundamental uncertainties.

First, as previously stated, OLO was unable to investigate the pandemic-related disruptions that stakeholders to Expedited Bill 48-20 have experienced. These disruptions would likely mediate the economic impacts of the bill and significantly influence the net costs and benefits to stakeholders. Relatedly, the pandemic is expected to continue adversely affecting business operations, supply chains, distribution systems, consumer demand, and other economic conditions. OLO is unable to predict the extent or nature of these impacts or how these impacts would interact with enacting the bill.

Second, a robust accounting of the forgone costs to the private organizations requires two estimates:

- The *total* annual cost to commercial cleaning companies that would occur through the minimum work week requirement becoming effective on January 1, 2020, and
- The *distribution* of these costs across these companies and the owners, property managers, and tenants of the office buildings.

Due to limited information, OLO cannot estimate the total annual cost to employers. In particular, the number of workers who provide janitorial services at the covered office buildings is unknown. Despite these limitations, OLO estimates that implementing the minimum work week requirement would increase employee average annual earnings by $6,815. This estimate assumes the following:

- An average hourly wage of $13.63—the 2019 median wage for all County residents (9,450) in building cleaning occupational group;[20]
- An increase in the average work week from 20 to 30 hours; and
- A 50-week work year.

Importantly, a more accurate estimate of the additional costs to employers would account for healthcare and compliance costs, as well as any savings from mitigation efforts, such as cutting wages, jobs or hiring/training needs.

There are also uncertainties regarding the distribution of the total costs. Commercial cleaning companies would likely try to pass on some portion of the costs to owners and property managers, who in turn would likely try to pass on costs to tenants. The final distribution of these costs would likely depend on competitiveness in the office and commercial cleaning markets and other conditions unknown to OLO.

Finally, OLO is unaware of how many of the businesses and individuals that would be affected by the change in law are based outside the County. The costs and benefits of enacting Expedited Bill 48-20 to these entities would represent outflows from the County economy.

[20] Maryland Department of Labor, Occupational Employment and Wage Estimates 2019, Montgomery County Workforce Region, https://www.dllr.state.md.us/lmi/wages/page0308.htm.

METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES (cont.)

No methodologies were used in the analysis of the impacts below. The assumptions underlying the claims are based on consultation with private and public actors, independent research, and OLO staff judgment.

VARIABLES

The primary variables that would affect the economic impacts of Expedited Bill 48-20 are:

- Total annual costs to employers of implementing the minimum work week requirement;
- Distribution of these costs to affected private organizations;
- Total costs to businesses caused by pandemic-related disruptions;
- Number of covered employees;
- Average wages of covered employees; and
- Percentage of covered employees with healthcare coverage.

IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

Businesses, Non-Profits, Other Private Organizations

OLO believes that Expedited Bill 48-20 would have significant economic impacts on the commercial cleaning companies that service the covered office buildings and the owners, property managers and perhaps tenants of these buildings.[21] By forgoing the costs associated with the minimum work week requirement becoming effective, the bill would prevent operating costs from increasing for the commercial cleaning companies, which OLO estimates to be $6,815 per employee. In addition to healthcare costs, this estimate does not account for the costs or disruptions to business operations associated with mitigating and complying with the minimum work week requirement.[22]

Expedited Bill 48-20 would also impact owners and property managers of the covered office buildings that have contracts with commercial cleaning companies. The bill would mitigate the need for commercial cleaning companies to pass on to their customers the costs from the minimum work week requirement that would otherwise occur without the change in law. In doing so, the bill would prevent increases in operating costs to owners and property managers of the covered buildings, which have likely experienced income losses during the pandemic due to unpaid or renegotiated rents, increased vacancy, and expenses related to preparing buildings for safe occupancy. Expedited Bill 48-20 could also prevent owners and property managers from attempting to pass costs related to the minimum work week requirement to their tenants.

[21] For the Council's priority indicators, see Montgomery County Council, Bill 10-19 Legislative Branch – Economic Impact Statements – Amendments, Enacted on July 30, 2019, Montgomery County, Maryland, 3.

[22] For example, workforce reductions intended to cut wage and healthcare expenses (mitigation) could disrupt business operations. And replacing staff who are unable to work 30 hours per week with new hires (compliance) could entail costs. Enacting Expedited Bill 48-20 could prevent these outcomes for the commercial cleaning companies in the short-term.

OLO believes it is possible that Expedited Bill 48-20 could temporarily delay any impacts of the minimum work week requirement on property values of the covered buildings and the competitiveness of County's office market. However, based on recent analyses of the office market, OLO notes that other factors—such as reduction in business needs for office space due to telework, presence of biotech/life sciences in the County, and long-standing imbalances between demand and supply for office space—may ultimately drive property values and competitiveness. Moreover, Expedited Bill 48-20 would prevent negative impacts to economic development to the extent that delaying the effective date of the work week requirement would prevent income loss, layoffs, or business closings.

OLO does not see any direct connection between Expedited Bill 48-20 and private sector capital investment, economic development, and taxation policy.

Residents

OLO believes that Expedited Bill 48-20 would have targeted economic impacts on County residents who own or work for the companies impacted by the change in law. Owners and workers would benefit from delaying the effective date of the minimum work requirement to the extent that it prevents reductions in salaries and wages.

In terms of employees performing janitorial services at the covered buildings, the bill could have mixed impacts. On the one hand, these employees would benefit from retaining their jobs and incomes, if their employers would otherwise mitigate the costs of the minimum work week through layoffs. It is also worth pointing out that school closings, transportation gaps, and other disruptions caused by the pandemic could potentially prevent some employees from fulfilling the 30-hour work week requirement. These employees could experience job loss due to compliance challenges.

On the other hand, enacting Expedited Bill 48-20 would likely result in income loss and costs associated with insufficient healthcare for the employees who would have worked 30 or more hours with the minimum work week becoming effective. Both the costs and benefits created by enacting Expedited Bill 48-20 for the workers performing janitorial services at the covered buildings would spillover to their households.

QUESTIONS FOR CONSIDERATION

OLO does not recommend any questions regarding the economic impacts of Expedited Bill 48-20 for the Council to consider.

WORKS CITED

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See Q3 2020 Office Market Reports by Transwestern, Cresa, and Newmark Knight Frank..

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CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

Stephen Roblin (OLO) drafted this economic impact statement.