

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare the existence of an emergency with respect to the need to amend Minimum Wage Act Revision Act of 1992 to provide that a third-party payroll provider shall certify a tipped employee was paid the required minimum wage based only on the information it receives from the employer; and to amend the Commission on the Arts and Humanities Act to clarify the term requirements for the Executive Director.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Substantive Technical Emergency Declaration of 2020”.

Sec. 2. (a) As of January 1, 2020, third-party payroll providers have to certify to the Mayor on a quarterly basis that each tipped employee was paid the required minimum wage pursuant to the Tipped Wage Workers Fairness Amendment Act of 2018 (D.C. Law 22-196). Under D.C. Law 22-196 both the third-party payroll providers and the employers must certify that tipped employees are being paid at least the minimum wage.

(b) Third-party payroll providers have raised objections to this requirement because they have indicated that payroll providers are not able to police an employer’s compliance with the District’s wage and hour laws. Further, payroll providers do not believe they should be held liable if an employer does not comply with the law.

29 (c) The goal of this provision is to ensure that employees are properly compensated, but  
30 not to add requirements on an industry that does not provide the services required under the law.

31 (d) The emergency legislation cures this situation by clarifying that third-party payroll  
32 providers need only to certify that a tipped employee is being paid the minimum wage based on  
33 the information that the payroll provider receives from an employer.

34 (e) This emergency legislation is necessary to immediately address this issue since third-  
35 party payroll providers are required now to be in compliance with this law.

36 (f) The Arts and Humanities Independence and Funding Restructuring Amendment Act of  
37 2019 (D.C. Law 23-16) provides that the Commission on the Arts and Humanities (Commission)  
38 shall nominate, and with the advice and consent of the Council, shall appoint an Executive Director  
39 of the Commission.

40 (g) D.C. Law 23-16 provides that the Executive Director's four-year term shall begin on  
41 October 1 in the year of his or her appointment. The intent was for the Executive Director's term  
42 to begin on October 1, 2019. However, a new Executive Director was never nominated or  
43 appointed in 2019.

44 (h) Under the current law if the Commission were to appoint someone as Executive  
45 Director his or her term would not begin until October 1, 2020.

46 (i) This emergency legislation is needed to reflect that the Executive Director's term will  
47 begin once he or she is confirmed by the Council so there is no delay in filling this position.

48 (j) Immediate legislative action is necessary because the Commission just nominated a new  
49 Executive Director, but the appointment will be unnecessarily delayed until this technical fix to  
50 the law is made.

51           Sec. 3. The Council of the District of Columbia determines that the circumstances  
52 enumerated in section 2 constitute emergency circumstances making it necessary that the  
53 Substantive Technical Emergency Declaration Resolution of 2020 be adopted after a single  
54 reading.

55           Sec. 4. This resolution shall take effect immediately.