

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 Initiative Measure No. 82 - the District of Columbia Tip Credit Elimination Act of 2022 - to reflect the date on which the first increase to the tipped minimum wage took effect; to declare an emergency with respect to Secure DC to ensure that the existing law remains in place between the expiration of the temporary legislation in August and the effective date of the BSA; and to provide management rights clarification for matters subject to collective bargaining.

RESOLVED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Labor and Safety Omnibus Emergency Declaration of 2024”.

Sec. 2. (a) Initiative Measure No. 82 – the District of Columbia Tip Credit Elimination Act of 2022, (the “Act”) prescribes dates for progressively increasing the tipped minimum wage until it is equal to the District minimum wage. Because of both delays in certifying the initiative to appear on the ballot and the mandatory congressional review period, the Act did not become District law until February 2023. However, the Act’s effective date of February 2023 contradicts the language in the Act, which mandated that the first increase to the tipped minimum wage would occur on January 1, 2023.

(b) To avoid confusion about when employers were required to provide increases to the tipped minimum wage, the Council enacted emergency and temporary legislation in January 2023 to change the date of the first increase to the tipped minimum wage from

33 January 1, 2023, to May 1, 2023. The temporary legislation, the Tipped Minimum Wage
34 Increase Implementation Clarification Temporary Amendment Act of 2023, effective
35 April 19, 2023 (D.C. Law 25-2; 70 DCR 6320), expires on September 18, 2024.

36 (c) Without intervention, the date of the first increase to the tipped minimum
37 wage will retroactively revert to January 1, 2023, creating further confusion among
38 stakeholders, particularly District employees interested in pursuing claims for wage theft.
39 Without a new round of emergency and temporary measures, employees will struggle to
40 determine the effective date of the first wage increase in 2023, leading to confusion
41 within the tipped workforce. Therefore, the Council must pass another round of
42 emergency and temporary legislation to ensure continuity in the law until the change can
43 be permanently codified.

44 Sec. 3. These measures also include an additional section that addresses a short
45 gap in the law by amending the subject-to-appropriation provision of Secure DC,
46 specifically regarding the District's pre-trial procedure. The changes to pre-trial
47 procedures are already in effect through temporary legislation that expires in August. The
48 permanent version of Secure DC, effective June 8, 2024 (D.C. Act 25-411; 71 DCR
49 2732), includes these same changes, subject to appropriations, and which have been
50 funded in the supplemental budget, but the subject-to-appropriations language will not be
51 changed until the BSA becomes effective on October 1, 2024. This section will ensure
52 that the existing law remains in place between the expiration of the temporary legislation
53 in August and the effective date of the BSA in October.

54 Sec. 4. Finally, these measures amend the Management Rights Clarification Act,
55 which amends D.C. Code § 1-617.08, such that when the Public Employee Relations

56 Board is called upon to determine the scope of bargaining pursuant to § 1-617.02(b)(5),
57 management shall have the burden of proving by clear and convincing evidence that the
58 matter is expressly proscribed and that notwithstanding subsection (a)(5)(A) of this
59 Section, the tour of duty for employees of the Fire and Emergency Medical Services
60 Department shall be negotiable through collective bargaining. This change is necessary to
61 pass on an emergency basis because multiple collective bargaining units are in the
62 process of renegotiating compensation agreements, and the delays the result from claims
63 made to the Public Employee Relations Board significantly hamper the negotiation
64 process.

65 Sec. 5. The Council of the District of Columbia determines that the circumstances
66 in section 2 constitute emergency circumstances, making it necessary that the Labor and
67 Safety Omnibus Amendment Act of 2024 be adopted after a single reading.

68 Sec. 6. This resolution shall take effect immediately.

69