

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON BUSINESS, CONSUMER, AND REGULATORY AFFAIRS
COMMITTEE REPORT**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

TO: All Councilmembers

FROM: Councilmember Vincent B. Orange, Sr.
Chairman, Committee on Business, Consumer and Regulatory Affairs

DATE: May 31, 2013

SUBJECT: Report on Bill 20-62, "Large Retailer Accountability Act of 2013"

The Committee on Business, Consumer and Regulatory Affairs (Committee), to which Bill 20-62 "Large Retailer Accountability Act of 2013" was referred, reports favorably thereon, and recommends approval by the Council.

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I. BACKGROUND AND NEED


Introduction

Bill 20-62, the "Large Retailer Accountability Act of 2013" proposes to require large retailers located in the District of Columbia, whose parent company's gross revenues total \$1 billion or more, to pay employees that earn less than \$50,000 a year a living wage, currently established at \$12.50 per hour. The bill would exempt franchises from the living wage payment requirements. When calculating the living wage requirement, large retailers can employ any reasonable methodology to prorate the hourly costs of any benefits that it provides toward payment of the living wage. B20-62 would also require the District to publish a bulletin announcing the living wage each year and to mandate that large retailers covered by the act post the living wage bulletin on their premises. The bill authorizes the Mayor to inspect large retailers' records to ensure compliance with the act and to grant protections to employees who exercise their rights

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I. BACKGROUND AND NEED

Introduction

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under the act from possible retaliation from large retailers. The act provides a four-year grace period for large retailers currently operating in the District. Specifically, the bill would require large retailers, as defined as a business that operates a retail store located within the District where the parent company's gross revenues total \$1 billion or more annually, to pay a living wage rate to its employees. The value of any employer-provided fringe benefits may be credited toward the living wage rate.

B20-62 has been introduced in some variation in council periods 16, 17, 18 and 20. Each iteration has maintained the singular purpose of having large retailers provide quality jobs for District residents. The Committee is interested in the creation of economic wealth for District-based businesses and residents. But it also wants residents to have a shot at a good education and an economy defined by opportunity and mobility. Currently, a rising economy is producing new job openings but many of the new job opportunities are at the low-end of the wage scale, paying wages that fall below the poverty line.

Economic Environment for Low Wage Workers in the District of Columbia

B20-62 proposes that large retailers with gross revenues of \$1 billion or more pay employees a living wage of \$12.50 an hour, indexed for inflation according to the Consumer Price Index. Employer provided benefits, such as health insurance, may be credited toward the living wage. If an employee were paid a straight amount of \$12.50 per hour for a 40-hour week, s/he would earn \$26,000 per year. The federal poverty level for a single person household is \$11,490, and \$19,530 for a family-size of three. A primary wage earner for the family of three would bring in \$3,295 less than 150 percent of the poverty level.¹

District residents at the lowest end of the wage spectrum find it increasingly difficult to earn a living. According to the Council for Community and Economic Research, Washington, D.C. is ranked as the 9th most expensive city in the nation. The cost of living in the Washington region is 42 percent higher when compared with the national average. Housing costs in the region are twice as expensive as with the rest of the country, and groceries are 13 percent more.²

The District's 18.7 percent poverty rate is significantly higher than the national average of 14 percent. Almost a quarter of the District's residents' (133,000) earnings were at low-income levels, which is measured at 150 percent of the poverty level in 2006-2007 before the 2008 recession.³

¹ See attachment for 2013 Federal Poverty Guidelines. While there is no common agreement on what is an income threshold for a low-income family, it is generally accepted that 100 percent of the poverty level is not a sustainable level for a 3-person household. Therefore, it makes sense to use a threshold that is above the official poverty level, and that is why the Committee utilizes 150 percent.

² Amrita Jayakumar, "Washington is 9th Most Expensive City in U.S.," *Washington Post*, 20 May 2013. See attachment.

³ Jenny Reed, "Who is Low-Income in DC," DC Fiscal Policy Institute, October 2010. See attachment

The Washington Business Journal recently reported that Washington, DC has the widest wage gap between minimum wage earners and the general population than in any of the 50 states. Although the District of Columbia has the third-highest minimum wage in the nation, it represents only “22.24 percent of the D.C.’s hourly per capita personal income of \$37.09 per hour.” The District has the highest hourly per capita personal income in the nation.⁴

The necessity for the bill is well-documented in section 2 of B20-62. *Washington Post* columnist Petula Devorak profiled the struggle low-wage workers face to make ends meet in a column documenting conditions of 600 homeless children at the DC General Hospital site located in Hill East. She writes:

*And there’s Kevin Cruz, 29, who has been at D.C. General with his wife and baby since Thanksgiving. They’ve been homeless since July, when McDonald’s cut Cruz’s hours until he couldn’t afford his apartment and his wife’s part-time work at Wal-Mart didn’t provide the benefits when she had their child.*⁵

The situation facing the Cruz family is not an isolated one. Hundreds of capable and well-trained persons are living in family shelters, living with physical and emotional disabilities, and returning to the District from federal penitentiaries, are also seeking employment in order to move from dependency to self-sufficiency.

In 2008, the DC Fiscal Policy Institute reported that over “one-third of DC’s working families are unable to make ends meet, even when government benefits are considered because of low wages” and the high cost of living in the District.⁶

The Committee on Human Resources reports that as of April 2013, there were 6,467 families receiving Temporary Assistance for Needy Families (TANF) benefits in excess of 60 months and will have their benefits reduced for the second time by 25% in October 2013. There are over 11,000 children under the age of 13 years old in those families. As the Department of Human Services implements the reductions in TANF benefits for families that have been receiving benefits in excess of 60 months, the heads of households are required to be engaging in rigorous case management services that will address barriers to employment and other challenges to achieving self-sufficiency. These services include job training programs which could be aligned with the job training programs and employment requirements of large retailers identified in this bill.

Additionally, since January 2012, 234 young people have aged out of the District’s child welfare system and 527 young adults have exited the juvenile justice system. For the most part, all of

⁴ Jeff Clabuagh, “D.C. Worst for Minimum Wage Earners,” *Washington Business Journal*, 30 May 2013. See attachment.

⁵ Petula Dvorak, “600 Homeless Children in a D.C. Shelter, and No One Seems to Care,” *Washington Post*, 2 February 2013. See attachment

⁶ Katie Kerstetter, “Bridging the Gaps in DC: Strategies to Support Low-Income Working Families,” 14 November 2008. See attachment

these young people have participated in rigorous workforce development / job training programs but have not been unable to secure unsubsidized employment. Without employment, these young people, already “at-risk”, are most likely to be more at-risk without the support they received while in the child welfare and juvenile justice systems.⁷

Large retail employers provide an opportunity to employment and self-sufficiency for persons well-known to District agencies and to some extent are either presently dependent on public assistance or at significant risk of needing public assistance. A dedicated pipeline to employment between the persons most at risk, the District agencies that support these persons, the Department of Employment Services, and the large retailers must be established.

The infamous “pipeline to prison” is well established and a reality for far too many District residents. Large retailers provide an opportunity for the District to create an alternative “pipeline to opportunity”.

Impact of a Living Wage Standard on Poverty Levels

It is difficult to assess how much B20-62 could have improved the financial circumstances of the Cruz family. However, the DC Fiscal Policy Institute provided the Committee with estimates of how the legislation would impact wage and poverty levels, with the caveat that there are no hard numbers to show how many people actually will be affected. If one assumes a \$2 increase in the hourly wage rate and a 30-hour work week, it would mean an added \$3,000 for a low-wage worker. For an increase from \$9.50 to \$12.50, take-home pay would be raised by a third. Research indicates that a \$12 an hour wage for full-time work would raise two-thirds of “working poor families above 150 percent of poverty.”⁸

Economists generally accept that low-wage workers are more likely to spend extra earnings on needed goods and services. The Fiscal Policy Institute found that states with a higher minimum wage experienced a total employment growth of 6.2 percent, 50 percent greater than the combined job growth of 4.1 percent for states where the federal minimum wage prevailed. Retail employment grew by 6.1 percent in the states with higher minimum wages versus 1.9 percent in other states.⁹ In a study on raising the federal minimum wage, the Economic Policy Institute finds that raising the minimum wage is a tool for economic growth:

... despite skeptics' claims, raising the minimum wage does not cause job loss. In fact, throughout the nation, minimum-wage increases would create jobs. Like unemployment insurance benefits or tax breaks for low- and middle-income workers, raising the minimum wage puts more money in the pockets of working families when they need it

⁷ Information provided by the Committee on Human Services, Councilmember Jim Graham, Chairman, Council of the District of Columbia.

⁸ Ed Lazere, DC Fiscal Policy Institute, email to the Committee on Business, Consumer, and Regulatory Affairs, 17 May 2013. See attachment.

⁹ Fiscal Policy Institute, “States with Minimum Wages above the Federal Level have had Faster Small Business and Retail Job Growth,” March 30, 2006. See attachment.

*most, thereby augmenting their spending power. Economists generally recognize that low-wage workers are more likely than any other income group to spend any extra earnings immediately on previously unaffordable basic needs and services.*¹⁰

The Committee finds that large retailers with gross revenues of \$ 1 billion or more can afford to pay its employees a living wage with decent benefits. Stores that follow or exceed the Costco model will find that they already comply with the terms of B20-62. The Costco model invests more in its sales and floor personnel through pay and health benefits. Although the retailer pays higher wages, it has lower labor costs and higher profitability per employee than its competitor.¹¹

The Committee received statements and heard testimony from representatives of large retailers who have invested in the District or are considering locating outlets within the District. Most raise a number of objections to the bill. Most frequently heard was the objection that the bill would dissuade large retailers from locating in the District. Instead, they would opt to locate in suburban locations in Maryland and Virginia where the minimum wage standards are lower. The retail leakage to suburban markets has been estimated at \$1 billion.¹² However, financial and labor market studies provide evidence that large retailers have saturated suburban and rural markets and now see sizable sales growth in large urban centers such as Washington, D.C.

Economic studies of living wage ordinances in Santa Fe, New Mexico and San Francisco, California where large retailers opened stores showed that jobs continued to grow. Santa Fe, which provided a living wage of \$9.05 per hour in 2006, hosts large retailers such as Target, Home Depot and a Wal-Mart Super Center. In San Francisco Home Depot agreed to open a store where they paid their employees a starting wage of \$10.75 per hour.¹³

The District knows from first-hand experience why large retailers are moving into densely populated urban markets. Target, Home Depot, and Costco have moved within the District's border because there is a larger, more concentrated consumer base than can be found in suburban market places. One representative of the multinational commercial real-estate firm of James, Lang, LaSalle made the observation, "It would not be at all unusual for an urban location to average two to three times the sales of a traditional suburban location."¹⁴

¹⁰ Doug Hall and David Cooper, "How Raising the Federal Minimum Wage Would Help Working Families and Give the Economy a Boost," Economic Policy Institute, p. 7, August 14, 2012. See attachment.

¹¹ The Costco model is discussed more thoroughly in the Harvard Business Review article, the "High Costs of Low Wages," December 1, 2006.

¹² David Zipper, Office of the Deputy Mayor for Planning and Economic Development, "Washington, D.C. Retail Development Strategies," 2013. See attachment.

¹³ Arinkrajit Dube, Ethan Kaplan, Michael Reich, and Felix Su; UC Berkeley Institute of Industrial Relations, "Do Businesses Flee City Wide Minimum Wages?" September 2006. See attachment.

¹⁴ Marilyn Much, "Whole Foods, Target, Wal-Mart Profit in Small-Store City Push," *Investor's Business Daily*, 31 January 2013. See attachment.

Based on the Committee's findings, it concludes that large retailers can pay its sales and floor employees a living wage with decent benefits. Many large retailers already comply with the terms of B20-62. This is true, for instance, for many supermarket chains. The Committee speculates this is true for non-union chains that pay close to union rates as a means to discourage unionization by employees. It is clear that large retailers have been able to profit in urban centers that provide employees with living wages well beyond the minimum-wage standard. Although industry representatives indicated that wage competition would encourage large retailers to reconsider locating to the District and move to suburban locations, the Committee believes the research and market trends indicate otherwise.

When President Franklin D. Roosevelt defended his support of the minimum wage provision of the Fair Labor Standards Act, he urged the American people not to let "any calamity-howling executive with an income of \$1,000 a day, who has been turning his employees over to the government relief rolls in order to preserve his company's undistributed reserves tell you . . . that a wage of \$11.00 a week is going to have a disastrous effect on all American industry."¹⁵ President Roosevelt's warning of 1938 is as valid now as it was then. Some large retailers provide their employees with wage scales and benefits levels that require employees to seek relief so employers can protect their "undistributed reserves." For example, the state of Wisconsin's Medicaid program, Badgercare, reported in 2007 that 116 companies participated in the program. Badgercare covered approximately 11,000 employees and family members under the healthcare program. The state's Department of Health and Family Services estimated the cost of covering them in 2007 at \$23.9 million.¹⁶ In response to the finding, the state's Medicaid Director remarked, "We can't have employers en masse dumping people out of their health insurance into public programs."¹⁷

Large employers who pay low wages and low-level benefits can impose additional, hidden costs to the District government and District taxpayers by forcing people to seek government supported health care, shelter, and food assistance benefits. B20-62 is step to reversing such business practices.

Concerns of the Administration

The position of the Executive is noted in section III of the Report. One concern expressed by the Mayor is that the B20-62, as introduced, applies to retail establishments with a size requirement of 75,000 sq. ft. or more. This standard would apply to the retailers in some, but not all, locations. Another cause for concern is that the bill lacked clarity on whether it would apply to prospective retailers or all large retailers. The administration also raised the issue that the

¹⁵ President Franklin D. Roosevelt, Fireside Chat, June 14, 1938. The Congressional Research Service notes that the peak value of the minimum wage was reached in 1968 at a rate of \$1.60 per hour. After adjusting for inflation, minimum wage in 1968 would be valued at \$10.57 in 2013. See "Inflation and the Real Minimum Wage: A Fact Sheet," Craig K. Elwell and Linda Levine, Congressional Research Service, February 2013.

¹⁶ Stacy Foster, "Who Has Staff Using Health Care Safety Net," *Milwaukee-Wisconsin Journal Sentinel*, 22 June 2007. See attachment.

¹⁷ *Ibid.* Some of the largest number of employees enrolled in Wisconsin's Medicaid program was employed by Wal-Mart, McDonald's, and Aurora Health Care.

District would be at a competitive disadvantage with suburban locations in neighboring Virginia and Maryland, which have lower minimum wage standards than the District. Finally the Executive expressed objections to bill's requirement that subcontractors and tenants pay the same wage levels as large retailers.

The Committee carefully considered the concerns of the Executive Branch and others and addressed them as follows:

Size Requirement

B20-62, as introduced, defined a large retailer as one with a minimum size of 75,000 sq. ft. in size and annual gross revenues of \$1 billion or more. The Committee considered the size requirement and was concerned about its application to the same business with several locations. Therefore, the Committee limited its definition of large retailer as one that annually grosses \$1 billion or more.

Applying Livable Wage Requirements to Subcontractors and Tenants

The Committee believes that this provision would place an undue hardship on small District businesses. Small businesses' financial margins are too small to pay the higher wages required by B20-62. This provision would have the unintended consequences of hindering the growth of small businesses in the District who receive contract and business opportunities from large retailers.

First Source Requirements

The Committee is supportive of the District's First Source Employment Agreement Act, which requires contractors receiving financial assistance from the District government to give hiring preferences to District residents seeking work. The first source requirement under the bill would apply to private employers who do not benefit from public assistance. The Committee considers this requirement to be inconsistent with the Privileges and Immunities Clause of the Constitution.

There are significant questions about extending the First Source Law to large retailers not receiving public assistance. In *United Bldg. and Constr. Trades Council of Camden County and Vicinity v. Mayor of Camden*, 465 U.S. 208, 218 (1984) the Court evaluated the constitutionality of a first source agreement under the Privileges and Immunities Clause and invalidated a provision similar to the one contained in section 6 of the introduced version of B20-62. A government policy directing preferences for private employment based on residence, such as in the introduced version of B20-62, would likely be struck down under the Privileges and Immunities Clause. (See *Hudson County Bldg. and Const. Trades Council, AFL-CIO v. City of Jersey City*, 960 F. Supp. 823, 830 (1996). Further, it would burden non-District residents' opportunity to seek employment with private employers, which is a privilege protected by the Privileges and Immunities Clause. *Id.* In order to overcome the discrimination of non-District residents, the District would have to prove that non-District residents are "a source of the evil which the ordinance combats." *Id.* There are no findings or information in the introduced version of B20-

62 that demonstrates non-District residents are the source of the District's unemployment rate that the bill sought to rectify.

II. Legislative History

January 8, 2013	B20-62 is introduced by Council Chairperson Phil Mendelson and cosponsored by Councilmembers Bonds, Orange, Catania, Alexander, Cheh, Evans, Graham, Bowser, Wells, Barry, and Grosso
January 22, 2013	B20-62 is referred to the Committee on Business, Consumer, and Regulatory Affairs
January 25, 2013	Notice of Intent to Act is published in the District of Columbia Register
February 15, 2013	Notice of Public Hearing is published in the <i>District of Columbia Register</i>
March 8, 2013	Revised Notice of Public Hearing is published in the <i>District of Columbia Register</i>
March 20, 2013	The Committee on Business, Consumer, and Regulatory Affairs holds a public hearing on B20-62
May 31, 2013	The Committee on Business, Consumer, and Regulatory Affairs considers and reports favorably on B20-62

III. Position of the Executive

Mr. Brian Kenner, Chief of Staff, Office of the Deputy Mayor for Planning and Economic Development, represented the views of the Executive Branch. According to Mr. Kenner, the Mayor expressed concern about the unintended consequences that could result from the enactment of B20-62, as introduced. Specific matters singled out for comment included the requirement that the bill apply only to retail establishments with a 75,000 sq. ft. minimum, which would apply to retailers in some, but not all, of their locations. The bill also lacks clarity on whether it will apply to prospective large retailers or all large retailers. The problem could lead to some large retailers paying more to employees in some District locations but not all. Additionally, there is the concern that the District would lose out in the over labor cost competition to Maryland and Virginia, which have lower minimum wage rates in their jurisdictions. If large retailers move to Virginia and Maryland, District residents would most likely lose potential job opportunities. Finally, Mr. Kenner objected to the requirement that subcontractors and tenants pay the same wages as large retailers.¹⁸

¹⁸ See Mr. Kenner's testimony in Attachment E.

IV. Comments from Advisory Neighborhood Commissions

The Committee on Business, Consumer, and Regulatory Affairs has not received any comments from Advisory Neighborhood Commissions on B20-62.

V. Public Hearing Testimony

The Committee on Business, Consumer, and Regulatory Affairs held a public hearing on B20-62 on Wednesday, March 20, 2013. The testimony summarized below is from that hearing. Copies of the testimonies are attached to this report.¹⁹

Public Witnesses

Mr. John Ray, Esq., former At-Large member of the Council of the District of Columbia, testified that B20-62 is bad public policy. He went to describe the bill as “discriminatory on its face” and would not hold up under “constitutional scrutiny. The bill treats large retailers differently from other businesses and thus violates the Equal Protection Clause of the Constitution. Moreover, he opined that the bill could not pass the “rational basis test” that determines whether a government has a legitimate social or economic welfare in the treatment of a preferential class.

Ms. Debra Yogodzinski, Esq., District of Columbia Building Industry Association, Retail Business Development Committee, suggested that the bill, B20-62, uses arbitrary factors, i.e. size of individual stores, to determine whether a large retailer would be required to comply with its requirements. She also argued that the bill would harm the District’s smaller, independent retailers in the competition for retail employees. Moreover, the First Source requirements contained in the bill go beyond the scope and the intent of the law.

Ms. Angela Franco, President and CEO, Greater Washington Hispanic Chamber of Commerce, testified that the B20-62 hurts the interests of both business and employees. The bill “arbitrarily” changes the rules for retailers, their vendors, and their subcontractors for doing business in the District. The bill also does not consider the balance between jobs skills and wages, and the increased wage requirements called for under the bill will limit options for both employers and employees. Finally, large retailers are able to offer their employees a broad spectrum of benefits that cannot be measured solely by a wage-based metric. Large retailers generally provide more opportunities for employee advancement and a more reliable employment situation. These are opportunity factors that the bill does not address.

Ms. Barbara Lang, President and CEO, DC Chamber of Commerce, declared that nothing has changed since the Large Retailer Accountability Act was first introduced in Council Period 16 to “make the bill worth enacting.” She charged that the bill was being advanced by a narrow

¹⁹ See Attachment E. For oral statements presented before the Committee please refer to the following website: http://oct.dc.gov/services/on_demand_video/on_demand_March_2013_week_4.shtm

set of special interests. She also referenced an economic assessment conducted by the Sage Policy Group.²⁰ The DC Chamber went on to list specific failings in the bill, including:

- The definition of “Large Retailer” is unclear
- Mandatory minimum wages for a single business sector is unacceptable
- Mandating First-Source agreements before a business license is issued is unacceptable
- Mandating joint and several liability on large retailers for failure of its subcontractors to comply with the law is unreasonable
- Establishing a 90-day rebuttable presumption of retaliation invites litigation

Mr. Joslyn N. William, President of the Metropolitan Washington Council, AFL-CIO, testified in support of the B20-62. The bill would require large retailers to meet a wage standard that allows workers to make ends meet. It would also set a wage standard for all workers and end the District’s practice of subsidizing “corporate poverty wages.”

Rev. Graylan S. Hagler, Senior Minister, Plymouth Congregational United Church of Christ, said that B20-62 would offer DC residents “geographical advantage for employment,” and suggested that the bill does not set the bar too high for large retailers who have the profit margins to support paying a living wage to its employees. Prospective employees who will likely follow the completed construction of new large retail establishments will find it difficult to afford the District’s cost of living.

Mr. Kesh Ladduwahetty, Fair Budget Coalition, spoke in support of B20-62, saying that there has been a disturbing economic pattern over the last few decades where workers face stagnant wages, reduced benefits, and a loss of bargaining power. Enacting the Large Retailer Accountability Act will reduce poverty in the District. When businesses fail to pay their employees a living wage, the government is forced to rely on the taxpayers to provide rental assistance, public health insurance, subsidized child care, and other government-supported safety net programs.

Mr. Ari Weisbard, Esq., Advocacy Manager, D.C. Employment Justice Center, testified in favor B20-62. The D.C. Employment Justice Center sees many minimum wage workers at the Center’s legal clinics who can barely afford to make payment on rent. In order to afford the other necessities of life, these workers have to take on second or third jobs and rely on some form of public assistance for food, clothing and other essentials. “Poverty-wage employers” rob more jobs from a region than they produce because “they drive good employers out of business.” Also, the quality of the new jobs is lower than the jobs they replaced.

Ms. Leigh William, Principal, Avania Group, LLC, expressed support for the B20-62, saying the bill would boost economic development because workers earning a living wage will buy locally creating a multiplier effect throughout the local economy. Good wages also reduce absenteeism, turnover rates and training costs, while narrowing the income disparity gap.

²⁰ See attachment.

Mr. Ed Lazere, Executive Director, DC Fiscal Policy Institute, voiced his support for B20-62. He observed that the regional economy pays wages and benefits that leave many workers in poverty and struggling “to cope with a very high cost of living.” The impact of low wage work can be seen by a number of different measures:

- Income Inequality – the income inequality gap in DC between rich and poor is the 3rd highest among the nation’s cities
- High Rates of Working Poor – the majority of DC families with incomes below 150 percent of poverty are working and one-third are working full-time, year-round.
- High Housing Cost Burdens – the decrease in low-cost housing in the District results in low income families having to spend more than half of its income for housing.
- Social Problems – With District aggressively transitioning families from welfare to work, the low wages – \$9 hour on average – faced by families leaving welfare threaten the success of this effort.

He also acknowledged that the bill unfairly targets large retailers, but provided two reasons for doing. Retail jobs are among the lowest paying overall and large retailers have the ability to absorb pay increases. Additionally, large retailers are also large employers and the wages they pay influence the industry standard.

Ms. Nikki Lewis, Executive director, DC Jobs with Justice, spoke in favor of the bill, advancing the view it would improve the livelihood of workers and their families and would build and stabilize communities

Ms. Marina Streznewski, Executive Director, DC Jobs Council, gave three reasons for supporting B20-62:

- Raising wages paid by large retailers will increase the amount of money available to low-wage workers and increase the amount of money in the local economy.
- Paying living wages will not increase prices significantly. A University of California at Berkeley study calculated that Wal-Mart could pay all of its employees a \$12 an hour minimum wage and increase consumer costs 46 cents per shopping trip, or \$12.49 per year for the average shopper.
- An increase in wages paid by large retailers would enable more workers to raise themselves from poverty.

Ms. Ann Hoffman, Jews United for Justice, voiced her support of bill and addressed herself to the argument that B20-62 would reduce jobs in the District. Every time the minimum has been increased employment has increased. This trend holds true for states with higher minimum wages in proximity to states with a lower minimum wage standard. It was also noted that the average Costco worker earned about \$45,000 in 2011 while the average wage for a Sam’s Club

(owned by Wal-Mart) worker is about \$17,486 per year. However, Costco makes more than \$10,000 in profits per employee, while Wal-Mart makes \$7,400 per worker.

Mr. Jerry Clark, Political Director, DC for Democracy, spoke in support of the bill and rejected opponents' claims that it would have a harmful impact on large retail businesses. Furthermore, he indicated that there is no credible research or evidence to indicate that businesses will decline to open in the District because of increasing the standard wage requirement for large retailers.

Mr. Roderic L. Woodson, Esq., Partner, Holland and Knight, LLP, testified in opposition to B20-62. He noted that since the bill was first introduced in 2005, the District has attracted a number of large retailers to operate within its borders. To enact B20-62 now would represent nothing short of a "bait and switch." Mr. Woodson charged that the "findings" section of the bill had no basis in fact and took issue that the bill contained a findings section before a there was an established hearing record. The witness found the scope of the legislation "astonishing." The bill would not only impose requirements on large retailers but also businesses and enterprises that do business with the retailer. If a small enterprise working with a large retailer makes an error in meeting compliance requirements, the large retailer would be jointly or severally liable for the error in the District's hourly wage laws. This vulnerability would motivate large retailers to supervise and oversee these other activities and the employees of the other businesses. The bill would expand the scope of the First Source program to apply to private activity. As currently practiced, the First Source requirement applies to business that has received some "benefit" from the government throughout the term of the benefit. The bill is discriminatory in its effect and violates the Constitutional limitations on the exercise of policy power. In short, the bill is poor public policy.

Ms. Catherine Timko, Principal and CEO of The Riddle Company, opened her testimony retracing the progress made by the District in growing and strengthening its retail economy; however, there is still a sizable "retail gap." The cost of doing business in urban markets is significantly higher than in the suburban environments. If the cost of doing business in a given jurisdiction is higher than competitive markets, retailers will settle on a location the presents the best opportunity for success. B20-62 would apply to retailers considering or currently operating the District market, including: Home Depot, Target, Costco, Lowe's Home Improvement, Macy's, and Lord and Taylors. It would encourage these retailers to choose other locations and undermine the Mayor's economic development strategy.

Ms. Therese Barber, Resident, Ward 4, questioned why B20-62 is only being applied to large retailers. The living wage requirements proposed under the bill should be applied to all retailers within the District regardless of size. The bill, as written, unfairly penalizes large retailers.

Ms. Joan M. Thomas, Former ANC Commissioner, Ward 4, testified that B20-62 will place a burden on older, existing retail stores because workers will go retail employers offering higher salaries. New retail stores will bring in more revenue, job and better service to District residents.

Mr. Gary D. Rappaport, Chief Executive Officer, The Rappaport Companies, remarked that the District is experiencing a renewal of many of its neighborhoods, which have been

underserved by retail establishments. The Rappaport is presently working on the Skyland Town Center project in Ward 7, and major retailers are expressing interest in the locating in an area of the District that has been underserved. However, B20-62 will hamper effort. Large retailers who know the bill's requirements will decline to locate in the District to do business. A failure to attract major retailers to the District means that residents will do their shopping in the suburbs instead of the District.

Mr. Willie L. Baker, Jr., Ward 4 Thrives, urged the Committee to approve B20-62. He spoke of the economic development needs of the Georgia Avenue Corridor and the need for good paying jobs that pay living wages and benefits that would benefit the community as a whole. B20-62 will provide jobs that raise wages for District residents and slow the cycle of low-wage, no-benefits, and dead-end jobs.

Ms. Gina Avery, Ward 4 Thrives, testified in support of B20-62. She declared that "a vote against the Large Retailer Accountability Act of 2013 is a vote for wage suppression against the working poor. Requiring large retailers to pay living wages provide a minimum standard for large retail employees to afford the basic necessities: food, housing, transportation, and modest resources to meet emergency contingencies.

Rev. Patricia Fears, Faith Strategies, testified that the minimum wage provides insufficient income for a family living in the District. Requiring businesses to pay a living-wage to employees will provide workers with real opportunities for advancement and career mobility, and it will take into account the high cost of living in the District. The payment of living wages will also increase the buying power of workers and at the same time reduces their dependence on publicly funded social programs. She supported the approval of B20-62.

Rev. Edwin Jones, Pastor, Living Faith Baptist Church and International Ministries, testified the many District residents must work many low-paying jobs to make ends meet and they find opportunities to move up the economic ladder difficult because of the proliferation of low-wage jobs in the District. Given the District's high-cost of living, it is necessary to raise the wage floor. The District will prosper with the passage of B20-62 because of it will collect more income taxes from District wage earners and it will result in District workers relying less on social-support programs in order to provide for themselves.

Rev. Virginia Williams, Forward 7, Ward 7, testified in favor of B20-62 and urged the Council to approve the measure in order to provide a better wage standard for District residents to live "and not feel an overwhelming sense of despair for lack of appropriate opportunities."

Mr. Warner Coleman, Forward 7, Ward 7, testified that if large retailers come into the District without having to comply with living wage standards, "they will cannibalize existing businesses and continue to pay minimum wages with no benefits." If that happens, then District residents and workers will be forced to compete in a "race to the bottom." Mr. Coleman urged approval of B20-62.

Mr. David Schwartzman, Professor Emeritus, Howard University, representing DC Statehood Green Party and the Perry Redd for City Council Campaign, expressed

opposition to Wal-Mart's entry to the District because of the company's record of engaging in "discriminatory practices, underpaying its workers and destroying small businesses" If efforts to block Wal-Mart's arrival to the District fail, he urged support for establishing a living wage requirement for large retailers. Because of the high unemployment rate (nearly 18 percent) among the District's African-American population, consideration of living wage standards and first source requirements for large retailers is a timely issue.

Ms. Andrea Rosen, Resident, Ward 4, urged the Council to pass B20-62. She referenced a work by Catherine Ruetschlin, "Retail's Hidden Potential," that raising the floor compensation for full-time workers to \$12.02 per hour would provide retail workers with an annual income of \$25,000. Such an increase would stimulate the economy and be a job generator. She also cited a Hunter's College study that examined the impact of Wal-Mart stores on local and national economies. The study shows that Wal-Mart stores depress area wages and benefits and contributes to the decline of middle class jobs.

Government Witnesses

Mr. Brian Kenner, Chief of Staff, Office of the Deputy Mayor Planning and Economic Development, testified that there are many aspects of B20-62 that the administration could support but as it is currently drafted, the bill provides for unintended consequences and ambiguities that require clarification before it could be made effective. As noted in Section III of this report, the administration has major concerns regarding the 75,000 sq. ft. minimum, whether the bill would apply to prospective or all large retailers, wage competition with the Maryland and Virginia, and the requirement that subcontractors and tenants pay the same wages as large retailers.

Statements and Extraneous Material Submitted for the Record

The following individuals or organizations submitted statements and other materials for the record and are attached to this report:

- A. Feras Qumsweya, Vice President for Development, A&R Development
- B. Ms. Dorothy Watts, Assistant Pastor, ?Deliverance Church of Christ
- C. Dr. Mary Gaffney, Commissioner, ANC 7C05
- D. The Apartment and Office Building Association of Metropolitan Washington
- E. Mr. Keith Morris, Senior Director, Community Affairs, Wal-Mart
- F. Washington DC Economic Partnership
- G. Petition (sample page) of 8,863 signatures opposing B20-62
- H. 1000 signature cards supporting B20-62

VI. Impact on Existing Law

Bill 20-62, the "Large Retailer Accountability Act of 2013" does not repeal or amend existing law. It would require large retailers located in the District of Columbia, whose parent company's gross revenues total \$1 billion or more, to pay employees that earn less than \$50,000 a year a living wage, currently established at \$12.50 per hour. The bill would exempt franchises from the