

SENATE No. 959

The Commonwealth of Massachusetts

PRESENTED BY:

Sonia Chang-Diaz

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to economic stability for displaced service workers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>

SENATE No. 959

By Ms. Chang-Diaz, a petition (accompanied by bill, Senate, No. 959) of Sonia Chang-Diaz, Benjamin Swan, David M. Rogers, Jason M. Lewis and other members of the General Court for legislation to economically stabilize displaced service workers. Labor and Workforce Development.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 847 OF 2013-2014.]

The Commonwealth of Massachusetts

—————
**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**
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An Act relative to economic stability for displaced service workers.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 150 of chapter 149, as appearing in the 2012 Official Edition, is
2 hereby amended by inserting after the word “159C”, in line 21, the following word:- “, 189”.

3 SECTION 2. Chapter 149 is hereby further amended by inserting after section 188 the
4 following sections:-

5 Section 188 ½ Definitions.

6 (a) As used in this section, the following words, unless the context clearly requires
7 otherwise, shall have the following meanings:-

8 (A) "Awarding authority" means any person that awards or otherwise contracts for
9 property or non professional airport services performed within the Commonwealth including
10 contracted janitorial, security, maintenance and aviation services.

11 (B) "Successor Contractor" means any person or entity that employs, or that will
12 employ by the acquisition of a contract for service covered by this section, 10 or more
13 individuals engaged in property or aviation services, and who assumes a service contract where
14 essentially the same services were previously performed by another contractor in the same
15 location within the previous 30 days.

16 (C) "Predecessor Contractor" means any person or entity that performs a contract for
17 property or aviation services prior to the commencement of the successor contractor.

18 (D) "Service Employee" means any employee performing services including but not
19 limited to janitorial, maintenance, aviation and security services who works non-seasonally for
20 at least 8 hours per week. This does not include a person who is a managerial, supervisory, or
21 confidential employee, including those employees who would be so defined under the federal
22 Fair Labor Standards Act.

23 (E) "Service Contract" means any contract that has the principal purpose of
24 providing janitorial, maintenance, security, aviation or other services through the use of service
25 employees.

26 (b) Where an awarding authority uses a service contract for the purpose defined in
27 Section 188 1/2(a), subsection (E), a successor contractor shall retain, for a minimum 90-day
28 transition period, service employees who have been employed by a predecessor contractor for the
29 preceding four months or longer.

30 The successor contractor shall make a written offer of employment to each employee not
31 less than 10 days prior to the commencement of service; each service employee, as defined in
32 Section D of subsection a of SECTION 2, shall be entitled to, at minimum, the wages he or she
33 had been offered by the Predecessor Contractor, as defined in Section C of subsection a of
34 SECTION 2, during the 90-day transition period.

35 The employee must answer the offer not more than 10 days from the date the offer is
36 made;

37 If the full complement of the predecessor's employees is not retained by the successor
38 because the successor requires fewer employees to perform the service contract, the remaining
39 employees of the predecessor contractor will be placed on a preferential hiring list and will have
40 the right of first refusal for any new open position during the transition period.

41 The employer will have the right to discharge the employee during the transition period
42 for cause, which shall be based on work performance or conduct, but in no case will the
43 discharge be arbitrary or capricious.

44 (c) The awarding authority shall have the obligation, in accordance with the requirements
45 above, to notify a predecessor contractor within 3 days of the granting of a new award and
46 awardee. Predecessor contractor will have the obligation to supply successor contractor and
47 awarding authority with the employee names and corresponding dates of hire and job
48 classification. Upon commencement of service, the successor contractor shall provide to the
49 awarding authority a list of all employees providing service at the site or sites pertaining to the
50 new contract for service with the awarding authority, indicating which employees were
51 employed by the predecessor and which were not.

52 Failures or omissions in contravention of subsection 188 1/2(c) will result in a fine to
53 either awarding authority, predecessor contractor, or both of \$500.00 per employee prejudiced, to
54 be paid to the Massachusetts Department of Unemployment Assistance.