

23104334D

HOUSE BILL NO. 2478

Offered January 20, 2023

A *BILL to amend the Code of Virginia by adding in Chapter 24 of Title 2.2 an article numbered 5.1, consisting of sections numbered 2.2-2410.1 through 2.2-2410.7, relating to Fast Food Industry Workers Standards Board established.*

 Patron—Shin

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 24 of Title 2.2 an article numbered 5.1, consisting of sections numbered 2.2-2410.1 through 2.2-2410.7, as follows:

*Article 5.1.**Fast Food Industry Workers Standards Board.*

§ 2.2-2410.1. Fast Food Industry Workers Standards Board established; purpose; membership; terms; compensation and expenses; staff.

A. *The Fast Food Industry Workers Standards Board is hereby established as a policy board within the meaning of § 2.2-2100 in the executive branch of government.*

B. *The purpose of the Board shall be to assist and advise the Governor, the General Assembly, and the Secretary of Labor in meeting the needs of fast food industry workers through the recommendation of standards and strategies to eliminate the low compensation and poor working conditions that impair the health, efficiency, and well-being of persons employed in the fast food industry in the Commonwealth.*

C. *The Board shall consist of the following:*

1. *Two members of the House of Delegates to be appointed by the Speaker of the House of Delegates and two members of the Senate to be appointed by the Senate Committee on Rules. Legislative members shall serve terms coincident with their terms of office and may be reappointed for successive terms;*

2. *The Governor or his designee, who shall be the Secretary of Labor or another cabinet-level official appointed to the Board; and*

3. *Additional members appointed by the Governor, including:*

a. *Two local elected officials;*

b. *Eight members who shall be representatives of the fast food industry with equal representation from fast food employers and fast food workers or certified worker organizations; and*

c. *Nonlegislative citizen members representing diverse regions of the state, to include urban, suburban, and rural areas. Nonlegislative citizen members may be nonresidents of the Commonwealth. Members appointed in accordance with this subdivision shall serve four-year terms, subject to the pleasure of the Governor, and may be reappointed.*

D. *The Governor shall select two co-chairmen with equal representation from fast food industry employers or employer organizations and fast food industry workers or worker organizations, who shall serve two-year terms, from among nonlegislative citizen members appointed in accordance with subdivision C 3 c. The Board shall meet at least every three months or upon the call of the chairman or the Governor as stipulated by the Board's bylaws. The chairman and the vice-chairman shall select at least five members of the Board to serve as an executive committee of the Board, which shall have the limited purpose of establishing meeting agendas, reviewing bylaws and other documents pertaining to Board governance and operations, approving reports to the Governor, and responding to urgent federal, state, and local issues between scheduled Board meetings.*

E. *Compensation and reimbursement of expenses of the members shall be as follows:*

1. *Legislative members appointed in accordance with subdivision C 1 shall receive such compensation and reimbursement of expenses incurred in the performance of their duties as provided in §§ 2.2-2813, 2.2-2825, and 30-19.12.*

2. *Members of the Board appointed in accordance with subdivision C 3 shall not receive compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.*

F. *The Board shall have the following powers and duties:*

1. *Apply for, accept, and expend gifts, grants, or donations from public, quasi-public, or private sources, including any matching funds as may be designated in an appropriation act, to enable it to better carry out its objectives;*

INTRODUCED

HB2478

59 2. Promulgate local and statewide standards specific to certain fast food industry workers, not
60 inconsistent with Chapter 3 (§ 40.1-22 et seq.) of Title 40.1, within one year to ensure that
61 compensation, working hours, and other working conditions are reasonably necessary and appropriate
62 to protect and maintain the health and welfare of such fast food industry workers and to ensure that
63 such fast food industry workers are properly trained and fully informed of their rights; and

64 3. Investigate market conditions and the existing wages, benefits, and working conditions of fast food
65 industry workers to ensure that wages are reasonably necessary and appropriate to protect and ensure
66 the health and welfare of fast food industry workers.

67 G. Any standards issued by the Board shall comply with the occupational safety and health
68 regulations adopted by the Safety and Health Codes Board pursuant to Chapter 3 (§ 40.1-22 et seq.) of
69 Title 40.1 and enforced by the Commissioner of Labor and Industry.

70 H. To the extent that there is a conflict between standards issued by the Board and the rules or
71 regulations issued by another state agency, the standards issued by the Board shall apply to fast food
72 industry workers and fast food industry employers.

73 **§ 2.2-2410.2. Definitions.**

74 As used in this article, unless the context requires a different meaning:

75 "Board" means the Fast Food Industry Workers Standards Board.

76 "Bona fide economic reason" means the full or partial closing of operations or technological or
77 organizational changes to a business in response to a reduction in volume of services, sales, or profits.

78 "Bona fide performance reason" means a fast food industry worker's failure to satisfactorily perform
79 job duties or misconduct by such worker that is demonstrably and materially harmful to the fast food
80 industry employer's legitimate business interests.

81 "Certified worker organization" means a fast food industry worker organization that is certified by
82 the Board as qualified to conduct fast food industry worker trainings.

83 "Discharge" means any cessation of employment, including layoff, termination, constructive
84 discharge, and indefinite suspension.

85 "Employer organization" means either (i) an organization exempt from federal income taxation under
86 § 501(c)(6) of the Internal Revenue Code that represents fast food industry employers or (ii) an entity
87 selected as a representative by fast food industry employers that employ the majority of fast food
88 industry workers in the Commonwealth have selected as a representative.

89 "Fast food industry" means an establishment that is part of a set of fast food restaurants consisting
90 of 100 or more establishments nationally that share a common brand or that are characterized by
91 standardized options for decor, marketing, packaging, products, and services.

92 "Fast food industry employer" means an employer of fast food industry workers.

93 "Fast food industry worker" means any worker providing services in the fast food industry.

94 "Local board" means any local fast food industry standards board established by a locality pursuant
95 to § 2.2-2410.5.

96 "Probation period" means a defined period of time, not to exceed 30 days from the first date of work
97 for a fast food industry worker, within which fast food industry employers and fast food industry
98 workers are not subject to the discharge limitations.

99 "Worker organization" means an organization exempt from federal income taxation under
100 § 501(c)(3), (4), or (5) of the Internal Revenue Code that is not dominated or controlled by any fast
101 food industry employer and has five years of demonstrated experience engaging and advocating for fast
102 food industry workers.

103 **§ 2.2-2410.3. Public hearings.**

104 The Board shall hold at least one public hearing each calendar year regarding the adequacy of
105 working conditions in the fast food industry and shall make investigations as necessary or appropriate
106 into the same. In its hearings and investigations, the Board may administer oaths and examine witnesses
107 under oath. The Board may also issue subpoenas to compel the attendance of witnesses and production
108 of books, papers, and records. Decisions by the Board regarding minimum fast food industry
109 employment standards shall be made by an affirmative vote of a majority of the Board members.

110 **§ 2.2-2410.4. Certified worker organizations; training.**

111 A. The Board shall certify worker organizations that it finds are qualified to conduct fast food
112 industry worker trainings for purposes of this article. The Board shall establish certification criteria to
113 ensure that each certified worker organization has the ability to provide effective, interactive training on
114 the information required by this article, as well as follow-up written materials and responses to fast
115 food industry worker inquiries, in the languages in which such fast food industry workers are proficient.

116 B. The Board shall establish requirements for the curriculum of such fast food industry worker
117 trainings, which shall inform the fast food industry workers of the following, as appropriate:

118 1. The compensation, working hours, and working conditions established by any applicable minimum
119 standards or local minimum standards promulgated by the Board or a local board;

120 2. The bona fide performance reason and bona fide economic reason limitations on discharge and

reductions in hours;

3. The antiretaliation and antidiscrimination protections set forth in §§ 40.1-33.1 and 40.1-33.2;

4. Information on how to report and enforce violations of this article, including contact information for the Department of Labor and Industry, the Board, any local board, and any relevant local enforcing agencies, and the remedies available;

5. The purpose and function of the Board and local boards, and information regarding upcoming hearings, investigations, or other opportunities for fast food industry worker involvement in Board or local board proceedings;

6. Any other relevant rights, opportunities, and obligations under this article;

7. Any updates, changes, or revisions to the information that have occurred since the previous training; and

8. Any other information the Board deems appropriate to facilitate compliance with this article.

Any one training session need not include all of the above topics, so long as the training curriculum provides for instruction on each topic at least once over the course of three training sessions.

C. Every fast food industry employer must require and ensure, and provide proof to the Board, that each of its fast food industry workers completes one hour of training every six months conducted by a certified worker organization on fast food industry workers' rights and opportunities under this article and other applicable laws or regulations regarding working conditions or fast food industry worker health and safety, as well as on any applicable minimum standards or local minimum standards promulgated by the Board or a local board. A fast food industry employer may choose to, but is not required to, host the training on its premises.

D. In providing training pursuant to this section, a certified worker organization shall conduct interactive training in the language in which the attending fast food industry workers are proficient, utilizing a curriculum that meets the requirements established by the Board.

E. A certified worker organization is responsible for providing attending fast food industry workers with follow-up written or electronic materials regarding the training topics after trainings, as appropriate and necessary to fully inform fast food industry workers of their rights and opportunities under this article and Chapter 3 (§ 40.1-22 et seq.) of Title 40.1. For the same purpose, a certified worker organization shall make itself reasonably available to respond to fast food industry workers' inquiries during, after, and in between trainings and may conduct surveys of fast food industry workers who attend a training to assess the effectiveness of the training and fast food industry compliance with this article and other applicable laws or regulations regarding working conditions or fast food industry worker health and safety.

F. To facilitate meeting certified worker organizations' responsibilities under this section, after a training pursuant to this section, a fast food industry employer shall, upon request, provide the certified worker organization that provided the training the names and contact information of the fast food industry workers who attended the training, unless a fast food industry worker has opted out from this subsection in writing to the employer.

G. Each fast food industry worker shall be compensated by his fast food industry employer at his regular hourly rate of wages and benefits for each required hour of training completed.

H. The Board shall review the adequacy of the curriculum requirements at least once every year and shall revise the requirements as appropriate to meet the purposes of this article. The Board shall hold a least one public hearing to solicit input on the curriculum requirements (i) before issuing the first requirements and (ii) as part of every subsequent annual review of the requirements.

§ 2.2-2410.5. Local boards.

A. Any locality with a population greater than 200,000 may establish a local board to establish minimum employment standards on compensation, working hours, and other working conditions adequate to ensure and maintain the health and welfare of fast food industry workers working within the locality's jurisdiction. A locality that establishes a local board may determine the composition of such local board, which shall consist of equal representation from (i) local government, (ii) fast food industry employers or employer organizations, and (iii) fast food industry workers or worker organizations.

B. A local board may promulgate minimum fast food industry employment standards applicable within its jurisdiction, including, as appropriate, standards on compensation, working hours, and other working conditions, as are reasonably necessary or appropriate to protect and ensure the health and welfare of fast food industry workers working within its jurisdiction, consistent with the provisions of this article.

C. All hearings of a local board shall be open to the public. In its hearings and investigations, a local board may administer oaths and examine witnesses under oath. A local board may also issue subpoenas to compel the attendance of witnesses and production of books, papers, and records.

§ 2.2-2410.6. Posting of notices.

A. Every fast food industry employer shall post and keep posted a notice informing its fast food

182 industry workers of the rights and obligations provided for under this article of applicable minimum
183 standards or local minimum standards.

184 B. Such notice shall be posted prominently where they can be readily seen by fast food industry
185 workers and applicants for employment and shall be posted in the languages in which the fast food
186 industry workers are proficient.

187 C. The Board shall promulgate regulations setting forth the minimum content and posting
188 requirements for such notices, including identifying a location for posting designed to ensure that such
189 notices are readily seen by fast food industry workers and applicants for employment, and shall develop
190 and make available to fast food industry employers a sample notice that satisfies the requirements of
191 this section.

192 **§ 2.2-2410.7. Termination; discrimination; retaliation.**

193 A. No fast food industry employer shall discharge or in any manner discriminate or retaliate against
194 any fast food industry worker for exercising any right or participating in any process or proceeding
195 pursuant to this article, including participating in Board or local board hearings, investigations, or
196 other proceedings, or any trainings required by § 2.2-2410.4.

197 B. No fast food industry employer shall discharge a fast food industry worker who has completed
198 such employer's probation period except for a bona fide performance reason or bona fide economic
199 reason. Such employer shall provide written reasons for the discharge within five days of a discharge
200 for a bona fide performance reason or bona fide economic reason.