PUBLIC HEARING ON

Bill 22-130, “Paid Leave Compensation Act of 2017”
Bill 22-133, Universal Paid Leave Compensation for Workers Amendment Act of 2017
Bill 22-302, Large Employer Paid-Leave Compensation Act of 2017
Bill 22-325, Universal Paid Leave Amendment Act of 2017
and
Bill 22-334- “Universal Paid Leave Pay Structure Amendment Act of 2017”

Before the Committee of the Whole
Councilmember Phil Mendelson, Chairman

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John A. Wilson Building

Testimony of Yesim Sayin Taylor
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Good morning, Chairman Mendelson and the members of the Committee of the Whole. My name is Yesim Sayin Taylor and I am the Executive Director of the D.C. Policy Center, an independent, non-partisan think tank committed to advancing policies for a strong and vibrant economy in the District of Columbia. We believe that a resilient and growing economy is the only sustainable way the District can provide the necessary services for its growing population, and support robust safety nets for its most vulnerable residents. I thank you for the opportunity to testify on the alternatives to the current Paid Family Leave legislation.

Last year, the D.C. Council enacted the Universal Paid Leave Act to provide the workers in the District of Columbia with paid parental leave, family leave, and short-term disability benefits. Workers can receive up to 8 weeks of parental leave, 6 weeks to take care of an ill family member, and 2 weeks of paid sick leave if they get seriously ill. Their benefits will not be greater than 90 percent of their wages, capped at $1,000 per week. The District will establish a new agency to collect revenue and administer the benefits. The CFO estimates that creating a new agency and the new system could cost up to $80 million[1] and the Council has set aside $40 million to begin the work. When fully implemented—approximately three years after the work of setting up the agency begins—the program benefits and administration will cost an estimated $260 million annually.

The Paid Leave Act creates important benefits, but there is clearly discomfort about the financing of the program: Five bills have been introduced by the same Council that enacted the Paid Leave Act, some shifting the burdens from the government's balance sheet to the private sector; others shifting the statutory incidence of the costs from employers to employees, and two bills

[1] Office of the Chief Financial Officer, Fiscal Impact Statement – Universal Paid Family Leave Act of 2016, issued on December 2, 2017, available at http://lims.dccouncil.us/Download/34613/B21-0415-Fiscal-Impact-Statement11.pdf

consider a hybrid model where some businesses will be mandated to offer the benefits and others will be a part of the publicly administered programs.

Whether financed through a tax, a mandate, or a combination of the two, the paid leave benefits will be nearly twice the current unemployment benefits, and the tax would be 85 percent of the annual corporate tax collections. Shifting the costs from the government to the private sector through a mandate will reduce the financial exposure of the D.C. Government, but it will still increase risks in the private sector, especially considering that the District will be the only jurisdiction in the metro region with such a program. Whatever path the city takes, it must take steps to mitigate these risks and preserve the District's competitiveness. To this end, I offer the following two recommendations for the Council's consideration:

- **Protect the District's employers and employees against administrative risks.** All variations of the bill that require public administration have a lag between the time tax collection begins and the time the benefits are paid. This lag is necessary to build a reserve to protect the city's exposure to financial risk. But current law and the proposed bills offer no protections against administrative risk. What if the program administration is delayed after tax collections begin? The Council's Budget Office conducted an economic analysis of the current law and found that in its first year, when businesses are remitting taxes but employees are not yet receiving benefits, the city could experience a job loss of 400 to 800.[2] The longer the lag between the tax collections and benefit payments, the bigger the job losses will be. Without the associated benefits in hand, the paid leave program will be a pure tax on the economy. Given the complicated nature of program administration, the city should ensure that taxes are collected *only* when the city is

[2] Office of the Budget Director, Council of the District of Columbia, Economic and Policy Impact Statement for Universal Paid Leave Act of 2016, issued on December 2, 2016, and available at http://lims.dccouncil.us/Download/34613/B21-0415-Economic-and-Policy-Impact-Statement-UPLAA3.pdf

reasonably sure that the program setup is on track. To do so, the Council could consider the following:

- *Define milestones for the administration of the program and set the conditions the public program should meet before the city begins tax collections.* At a minimum, there should be a functioning prototype system for tax collections and benefit administration.
- *Halt tax collection if full system functionality is delayed*. The current timeline suggests that the city will have approximately six months to meet reserve requirements. Then benefit payments must start. The Council, or the Mayor in rulemaking process, should carefully set targets and continuously reassess the city's ability to meet the administrative milestones. If there is any possibility of delay in benefit administration after tax collections begin, the District should halt the tax collections until the system setup is back on track.
- *Budget additional local funds to support the system setup.* The fiscal impact statement issued by the Office of the Chief Financial Officer on December 2, 2017 warns us that the setup costs could be as high as $80 million. At present, we do not know where these funds would come if the costs exceed $40 million. It would be prudent for the city to budget additional funds to ensure that set-up costs are not paid for by the taxes. Current law limits administrative costs to only 5 percent of the total tax collections. The Council should clarify that these are operating costs of the new public agency, and not the costs of setting up the system.

- **Mitigate financial risks on the private sector by reducing other tax burdens**. Even under the hybrid models where tax burdens are lower, District employers will continue to face financial risks. For example, under the Pay Structure Amendment Act, businesses with more than 100 employees will pay only a 0.15 percent tax on payroll, but that is purely a subsidy to smaller firms. These firms would still have to meet the mandate. Many businesses will have to expand their HR departments to administer the benefits: at a minimum to verify eligibility, and also to ensure recipients receive the correct amount of benefits. Firms under the mandate will have to augment their payroll administration (which could be very difficult if their payroll is with a third party) and create a system for verifying eligibility. These will certainly come at a cost beyond the cost of the benefits.

To mitigate these costs, the Council should consider reforming the unemployment insurance tax and eliminating the unemployment administrative assessment businesses have been paying since 2006. By doing so the District could largely counter the costs of the paid leave program without any risk to the District's unemployment program. I strongly urge the Council to consider the following two changes:

- *Eliminate the Administrative Funding Assessment.* The revenues from this tax were initially capped at $4 million. (The tax is 0.2 percent on the first $9,000 of an employee's salary, or $18 per employee per year). The District repealed the cap in 2013, and now collects upwards of $10 million from businesses to administer the unemployment insurance program. The District already receives significant federal funding to administer unemployment insurance,[3] and since the Department of Employment Services would be also receiving additional administrative funds to administer the public paid leave program, the city should consider eliminating this administrative tax on all businesses. This will return $10 million back to the employers and employees.

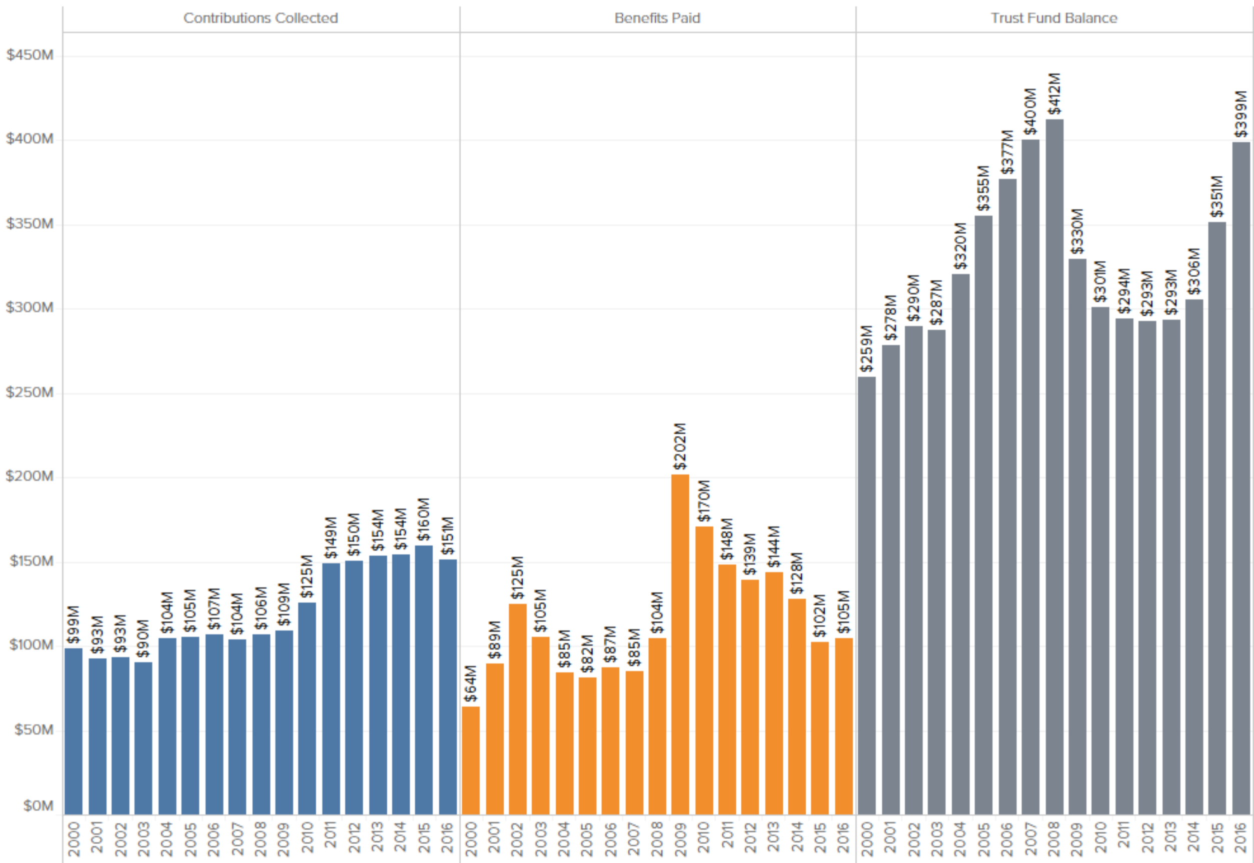
[3] Title III of the SSA provides for payments from the federal UTF to the states to meet the necessary costs of administering the UC programs in the states. The major proportion of the cost of operating their public employment offices is provided for by the Wagner-Peyser Act. In 2016, for example, the District received $9.3 million supporting the staff that process benefit claims, in addition to $14.3 million in administrative grants from the federal government.

- *Reduce unemployment taxes on District businesses.* In 2016, the District increased unemployment benefits from $359 to $425 per week. Benefits for those with part time jobs also increased. Despite these changes, the trust fund balance continues to grow. At the end of 2016, the fund balance was $399 million. Six months later, at the end of the second quarter of 2017, it stood at $450 million. While it is important to have a strong trust fund balance to ensure that during high unemployment times, the District can continue to pay benefits, it is unnecessary to have a fund balance that is four times the annual benefits paid. Even through the Great Recession, the fund balance did not go under $290 million (See the chart on the last page of this testimony). The District should reduce unemployment insurance taxes to target a fund balance that is not greater than 100 percent of benefits paid in a year. If we use the highest cost year as criteria, for example in the last ten years, this would be about $200 million. Reducing taxes to keep the fund balance at a reasonable level could return $250 million back to the employers and employees over the next four years.

Should the Council consider including these changes in the bill, the D.C. Policy Center is ready to work with the appropriate committee staff to study the economic impacts, and formulate the right approach.

I thank you for the opportunity to speak on this very important issue and I am happy to answer any questions.

Unemployment Insurance- Benefits, Contributions, and Trust Fund Balance



Source: U.S. Department of Labor, ET Financial Data Handbook 394 Report, retrieved on October 9, 2017