GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2020-117
November 16, 2020

SUBJECT: Measures to Protect the Solvency of the Unemployment Trust Fund Due to the COVID-19 Public Health Emergency

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422 of the District of Columbia Home Rule Act, approved, December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22 (2016 Repl.), pursuant to the District of Columbia Unemployment Compensation Act ("Unemployment Compensation Act"), approved August 28, 1935, 49 Stat. 946, D.C. Official Code §§ 51-101 *et seq.*, in accordance with Title XII of the Social Security Act of 1935 ("Social Security Act"), approved October 3, 1944, 58 Stat. 790, 42 U.S.C. §§ 1321 *et seq.*, section 5 of the District of Columbia Public Emergency Act of 1980, effective March 5, 1981, D.C. Law 3-149, D.C. Official Code § 7-2304, section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002, D.C. Law 14-194, D.C. Official Code § 7-2304.01, Mayor's Order 2020-045, dated March 11, 2020, Mayor's Order 2020-046, dated March 11, 2020, and any subsequent Mayor's Order extending the declarations of a public emergency and public health emergency, it is hereby **ORDERED** that:

I. BACKGROUND

1. The Department of Employment Services ("DOES") is responsible for administration of the District's unemployment insurance program pursuant to the Unemployment Compensation Act, D.C. Official Code §§ 51-101 *et seq.*, and in accordance with federal law.

2. The purpose of the District's unemployment insurance program is to provide financial support to individuals who were employed in the District and lost their employment, by providing those individuals with partial payment for lost wages.

3. The unemployment insurance program is funded in principal part by employer contributions and payments and federal amounts credited to the fund, as well as interest earned on the money in the District's Unemployment Trust Fund.

4. During the public and public health emergencies declared on March 11, 2020, due to the COVID-19 pandemic, over 151,000 persons have filed for unemployment compensation in the District.

5. Most of those individuals have been approved for benefits including standard unemployment insurance, pandemic unemployment assistance, pandemic

emergency unemployment compensation, and federal pandemic unemployment compensation.

6. The federal government, through the Coronavirus Aid, Relief, and Economic Security ("CARES") Act, approved March 27, 2020, 34 Stat. 281, Public Law 116-136, and a Lost Wages Assistance program through the Federal Emergency Management Agency, have provided for expanded coverage for unemployment insurance benefits and supplemental payments for individuals, approved and administered through respective state agencies, and the District.

7. As a result of the pandemic's effect on businesses and employment, as well as the availability of benefits, and due to the unprecedented number of individuals who have claimed District unemployment insurance benefits, and the extensive period of time during which unemployment assistance is being provided, the District's Unemployment Trust Fund is projected to be depleted between December 2020 and March 2021. Further, projections estimate $110 million in currently unfunded benefits will become due during Fiscal Year 2021 and $200 million in currently unfunded benefits will become due through the end of Fiscal Year 2023.

8. To continue to pay unemployment insurance benefits to District residents and maintain the solvency of the District's Unemployment Trust Fund, an additional source of funding for unemployment benefits must be identified.

9. Title XII of the Social Security Act ("Title XII"), 42 U.S.C. §§ 1321 *et seq.*, authorizes advances (loans) of funds from the federal government to states to assist the states in payment of unemployment compensation, to account for any projected deficit in the state's unemployment trust fund.

10. Throughout the United States, as of October 2020, approximately twenty (20) states have taken out federal loans under Title XII to ensure that they have adequate funding to pay unemployment benefits under their state systems.

11. An analysis by various executive branch agencies, including the Office of the Chief Financial Officer, identified a Title XII loan as the best interim mechanism to retain solvency in the District's Unemployment Trust Fund through the end of Fiscal Year 2021.

12. Based on the foregoing, this Order authorizes certain measures to protect the integrity and solvency of the Unemployment Trust Fund.

II. MEASURES TO PROTECT THE INTEGRITY AND SOLVENCY OF THE UNEMPLOYMENT TRUST FUND

1. The DOES Director shall request federal unemployment insurance loans under Title XII as necessary to ensure adequate funding of the District's unemployment insurance program through the end of Fiscal Year 2021. The amount of the loans

requested shall be subject to approval by the City Administrator, in consultation with the Chief Financial Officer.

2. The DOES Director, in consultation with the City Administrator and Chief Financial Officer, shall develop a plan for the repayment of any Title XII loan received by the District within five (5) years after the receipt of the loan. The repayment plan shall be submitted to the Mayor by January 1, 2021, and the plan may propose repayment of the federal loan(s) from a single source or multiple sources, including adjustments to the unemployment insurance tax rate or wage base, federal funds, or local funds.

3. While exercising the authority in paragraphs 1 and 2 of this section, the DOES shall also continue to study and propose measures to address the long-term solvency of the Unemployment Trust Fund.

III. SUPERSESSION AND EFFECTIVE DATE

1. This Order supersedes any previous Mayor's Order to the extent of any inconsistency.

2. This Order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST: _____
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA