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Committee: Finance

Testimony on: SB0486 – Labor and Employment – Employment Standards During an Emergency (Maryland Essential Workers’ Protection Act)

Position: FAVORABLE with Amendments

Hearing Date: February 11, 2021

Bill Contact: Senator Malcom Augustine

DoTheMostGood (DTMG) is a progressive grass-roots organization with more than 2500 members who live in a wide range of communities in Montgomery and Frederick Counties, from Bethesda near the DC line north to Frederick and from Poolesville east to Silver Spring and Olney. DTMG supports legislation and activities that keep all the members of our communities healthy and safe in a clean environment, uplift all members of our communities, and promote equity across all of our communities. DTMG strongly supports the concept of SB0486 because it is imperative that we keep the essential frontline workers we all depend on so heavily safe.

If we have learned anything during the current coronavirus pandemic, it is that we all depend on “essential” frontline workers much, much more than we ever appreciated. Supermarket workers, delivery drivers, postal employees, transit workers, construction workers, poultry and meat plant workers, food harvesters and packers, auto and home repair persons, factory workers, medical workers, childcare and eldercare workers, among others, who reported to work have proven to be absolutely indispensable for our daily lives while the rest of us teleworked or quarantined at home. However, these frontline workers, who are disproportionately low income and people of color, have also borne a disproportionate burden of disease and death. In an infectious disease pandemic, the more people you are exposed to, the higher your risk of infection. We owe it to our essential workers to make sure their employers do what is needed to protect them while they are working during prolonged emergency conditions.

SB0486 directly addresses this critical need in several important ways by

- Defining broad and inclusive categories of essential workers during an emergency.
- Requiring employers of essential workers to develop explicit health emergency preparedness plans for responding to a catastrophic health emergency, post the plans so workers know about them, review the plans annually, and submit any changes to the Director of the Maryland Emergency Management Agency.
- Requiring employers to provide adequate personal protective equipment.
- Allowing employees to refuse to work during an emergency unless they have adequate personal protective equipment and their work environment is safe.

- Ensuring that essential workers will have adequate health coverage by open a special enrollment period in Maryland's Affordable Care Act insurance exchange for essential workers not for insured under a group health benefit plan 33 sponsored by the employer.
- Prohibiting retaliation by employers for employees who report unsafe working conditions.

However, there are several areas in which SB0486 could be improved.

First, the definition of "EMERGENCY" on Page 3 in 3-1601. (B) (1)

THE IMMINENT THREAT OR OCCURRENCE OF SEVERE OR WIDESPREAD LOSS OF LIFE, INJURY, OR OTHER HEALTH IMPACTS, PROPERTY DAMAGE OR DESTRUCTION, SOCIAL OR ECONOMIC DISRUPTION, OR ENVIRONMENTAL DEGRADATION FROM NATURAL, TECHNOLOGICAL, OR HUMAN-MADE CAUSES

Is overly broad. As written, this could apply to common short-lived occurrences, such as a hurricane forecast, a snow emergency, a wildfire, or a high heat day. The definitions under (B) (2) and (3) are more appropriate for the intent and requirements of SB0486.

In addition, the sections 3-1604 referring to "safe workplace conditions" -- like reducing physical harm and maintaining hygienic practices -- and 3-1605 referring to "unsafe working conditions" -- like unsanitary conditions, broken equipment, dangerous hazards, and worksites with physical threats -- seem to address commonsense issues that should be covered under normal OSHA rules. They should apply to all worksites and employers all the time, not just during an "emergency". Broken equipment should always be repaired. Workers should always be notified if a co-worker is diagnosed with a reportable infectious disease like TB or hepatitis or the coronavirus and the workplace should be sanitized, whether or not there is a declared emergency. Workers should always be able to refuse a physically dangerous assignment without proper protective gear, whether it's working on a roof without a harness or operating heavy construction equipment without proper training.

If SB0486 is intended to address conditions generated by a pandemic, these sections would benefit from more tailored language that doesn't make it seem like these provisions are only enforceable during an "emergency".

Therefore, DTMG strongly supports SB0486 and urges a **FAVORABLE report with amendments** to clarify the definition of "emergency" and safe and unsafe working conditions that specifically apply to declared emergencies like pandemics vs those that apply to all workplaces all the time.

Respectfully submitted,

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