



POSITION STATEMENT

TESTIMONY PRESENTED TO THE SENATE FINANCE COMMITTEE

SENATE BILL 486 – Labor and Employment - Employment Standards During an Emergency (Maryland Essential Workers' Protection Act)

Sponsors – Senators Augustine, Young, Hettleman, Zucker, Feldman, Lee, Waldstreicher, Kramer, Rosapepe, Pinsky, Benson, Patterson, Jackson, Ellis, Elfreth, Beidle, King, Carter, Washington, Sydnor, and McCray

February 11, 2021

**DONALD C. FRY
PRESIDENT & CEO**

GREATER BALTIMORE COMMITTEE

Position: Oppose

Senate Bill 486, while promoted as an attempt to protect workers, would actually create a number of new unfunded mandates for Maryland's employers that would impose additional costs to businesses making it more difficult to be competitive or to continue business operations.

The bill creates new, overly broad definitions.

The bill also imposes on Maryland businesses new and costly employee benefits irrespective of their direct connection or nexus with an emergency.

Definitions

SB 486 establishes a new definition for "emergency" in Section 3-1601 (B) (1) that does not require an official emergency declaration by the Governor or a governmental official. The failure of mandating an official declaration means that there is no verifiable means of determining whether or not an emergency exists under the proposed law. The bill further provides that certain local government agencies can notify the public that there is an emergency, but the bill does not set forth any guidelines for what would constitute an emergency or tie the public pronouncement to the definition of emergency in Section 3-1601 (B)(1). The use of an emergency proclamation should only be available in the most serious of circumstances and the failure to set parameters is a deficiency in the legislation.

The bill further sets forth that any worker in a long list of specified industries who cannot perform his or her work remotely or who is required to be at a worksite is considered an essential employee, and that any business that employs an essential employee is considered an essential employer.

Nearly every type of employer in Maryland is included in the breadth of the legislation, regardless of any risk-profile. In total, 15 industry sectors with a combined total of 76 job categories are defined as essential employers in the legislation.

New Programs/Employee Benefits

Among the new burdens imposed by SB 486 on businesses are the following:

- A requirement to pay workers defined as essential employees an additional \$3 an hour, dating back to the start date of a state of emergency. With the extensive listing of industry sectors being considered essential, and an expansive listing of job categories within the industry sectors considered essential, the cost of this requirement alone would be staggering to businesses of all sizes.

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- Employers must provide financial assistance for unreimbursed health care costs to each essential worker who becomes sick or injured if the sickness or injury is related to the emergency, regardless of where the illness was contracted or the injury was sustained.
- Essential employers must provide essential employees with at least 3 days of bereavement leave and 14 days of health leave, which is defined as “paid leave during an emergency due to the worker’s illness or other health needs related to the emergency.” As with the previous provision, the employee is not required to demonstrate or prove that the illness or injury was sustained at the workplace. In addition, there is no minimum time period established for the emergency to trigger this requirement. Without such a provision, a 30-day emergency declaration would require an employer to provide the same degree of mandated leave (17 days) as a year-long emergency declaration.
- Essential employees would be granted the right to refuse to perform work if he or she fears for his or her life or health during an emergency due to the nature of the work being performed. This provides an employee unbridled discretion to make this determination without a mechanism for validating the employee’s fear or providing accountability in the event of abuse by the employer.

Businesses are Already Struggling

SB 486 is inconsistent with principles of economic growth and job competitiveness. The Greater Baltimore Committee published a report entitled *Gaining a Competitive Edge: Keys to Economic Growth and Job Creation in Maryland* setting forth eight core pillars to ensure a competitive business environment. The report identifies a core pillar as:

Competitive cost of doing business. Public policies must reflect a government predisposition to nurture business growth and to avoid arbitrarily or disproportionately imposing additional overhead upon the business sector.

Businesses are struggling to survive the economic crisis caused by the global pandemic and the restrictions imposed on business operations. Additional costs have been incurred to provide for the health of employees and to adjust business operations to maintain pre-pandemic employment levels. The best way to support employees is to ensure their job status so they can provide for families during these challenging times.

The passage of Senate Bill 486 violates a core principle of economic growth and job creation and the additional mandates contained in this bill may make it even more challenging for employers to stay in business. It is unreasonable to expect employers to absorb these additional responsibilities while they are struggling to survive the economic implications of the current pandemic.

Senate Bill 486 is overly broad in its reach and imposes responsibilities on employers for the benefit of their employees without a nexus to their employment. Passage of this bill would endanger the future of businesses throughout the Baltimore region and Maryland.

For these reasons, the Greater Baltimore Committee urges an unfavorable report on Senate Bill 486.

The Greater Baltimore Committee (GBC) is a non-partisan, independent, regional business advocacy organization comprised of hundreds of businesses -- large, medium and small -- educational institutions, nonprofit organizations and foundations located in Anne Arundel, Baltimore, Carroll, Harford, and Howard counties as well as Baltimore City. The GBC is a 66-year-old, private-sector membership organization with a rich legacy of working with government to find solutions to problems that negatively affect our competitiveness and viability.