



Gaithersburg-Germantown Chamber of Commerce, Inc.

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SENATE BILL 486

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

House Economic Matters Committee, February 5, 2021

UNFAVORABLE POSITION

Throughout the pandemic, the Gaithersburg-Germantown Chamber of Commerce has been working with our 430 business members to help them survive this crisis. Most of our members have had a significant financial impact that has forced them to take out loans, cut staff, and / or reduce their operations. Sadly, some of them have closed their doors. This is not hyperbole, this is reality. My members, like most businesses in Maryland, are small business with less than 50 employees, many less than 10. They are holding on by a thread and SB 486 is a direct punch in the gut.

Our primary concerns with the Bill as written are as follows:

1. ***Retroactive hazard pay of \$3/hour*** – This could equate to an increase in payroll cost of up to 25% for some employees, depending on their payrate. Most of my members cannot afford additional payroll costs of this magnitude. In fact, many have had to reduce payroll cost. The only option for some will be to cut staff or shut their doors. The bill as written clearly states that hazard pay would be retroactive. There was some debate during the House Public Hearing about whether hazard pay was retroactive as it is clearly stated in the bill. This would be extremely detrimental. In this current emergency, retroactive pay would equal over \$5,000 per employee, not including additional payroll tax.
2. ***Coverage of unreimbursed health care costs and mandated employer-paid health insurance coverage*** – This Bill requires employers to pay for unreimbursed health care costs regardless of where the illness or injury occurred. Employers have no control over employee behavior outside of their work space and should not be held responsible for the health care costs of their employees. The bill also mandates employer paid health insurance during an emergency (p. 18 lines 1-7) which would be a considerable cost. There has been great debate in this Country regarding mandatory employer paid health insurance. Attaching this requirement to an Emergency Bill without allowing for significant outreach to employers is unfair to those businesses required to comply.
3. ***Right to refuse work*** – This is an extremely troublesome clause. We have learned through the current crisis that everyone has a threshold for their own sense of safety. Some people are comfortable with a mask and social distancing, while others are anxious with any human interaction. Leaving the decision up to the individual employee as to their own sense of safety without any external verification leaves the door open for possible abuse. If employers are following established Federal and State health and safety standards, an employee should not have with right to refuse work responsibility without repercussion.

In addition to the specific issues listed about, the global concern of this bill is that the terms “Emergency” and “Essential Worker” are far too broad. It’s also unclear as to which emergencies impact which essential workers.

Is the intent of the bill to cover ALL “essential workers” for ALL State and Locally defined emergencies? Or, do all essential workers get hazard pay for only the declared emergencies that pertain to their industry? If there is a stated emergency for a snow storm and a grocery store remains open, do all employees who come into work get \$3/hour hazard pay, even though the employee was able to get to the store and the actually work they do is not hazardous? Is the employer required to pay the unreimbursed health care costs for the injury caused by the snow? What if the employee slips and falls on their way home? Are essential employers now responsible to pay the health insurance premiums for all uninsured essential employees during all emergencies, regardless of the length of the emergency? There are considerable logistical issues in changing employee compensation. At what point in the emergency does the hazard pay kick in? There are far too many scenarios to consider. The point being, the primary definitions of “emergency” and “essential worker” are completely inadequate for the reality of businesses trying to comply with such a law.

The most direct way to provide financial support for essential workers, is to provide support directly to the employees through a stimulus package. Requiring employers to take on the financial burden of increased financial support will result in some of those same employees losing their jobs.

This is not an overstatement. This bill will create a financial burden for employers that many will not be able to bear. Please do not pass this bill. We ask for an unfavorable report on SB486.

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