



MARYLAND
CATHOLIC
CONFERENCE

February 14, 2024

HB 469

Employment Discrimination – Exceptions – Religious Activities of Religious Employers

House Economic Matters Committee

Position: Information Only

The Maryland Catholic Conference (MCC) offers this testimony as information concerning House Bill 469. The Catholic Conference is the public policy representative of the three (arch)dioceses serving Maryland, which together encompass over one million Marylanders. Statewide, their parishes, schools, hospitals, and numerous charities combine to form our state’s second largest social service provider network, behind only our state government.

HB 469 retains the religious exemption that currently exists in the employment anti-discrimination statute but limits it to individuals performing work connected with the “religious” activities of the religious employer. This is a significant narrowing of the current exemption.

The current law says the exemption applies to individuals performing work connected with the activities of the religious employer. The Maryland Supreme Court recently narrowed the exemption by ruling, in *Doe v. CRS*, that the exemption applies to individuals performing work “that directly furthers the core mission or missions, whether religious, secular, or both” of the religious employer.

The bill is potentially problematic because:

- At most it offers no more protection than what is required already by the “Ministerial Exception” under the First Amendment; and
- It invites the court to delve into the thorny and unspecified issue of what are the “religious” activities of the religious organization.

The parameters of this bill would create a litigation-laden quagmire for Maryland courts. Specifically, what constitutes a “religious” activity may vary widely depending on the perspective of the employer. The U.S. Supreme Court has been clear that “it is no business of

courts to say that what is a religious practice or activity for one group is not religion under the protection of the First Amendment." *FOWLER v. RHODE ISLAND*, 345 U.S. 67, 70 (1953)

The legislation does not seem to align with existing legal frameworks and precedents that recognize the right of religious organizations to conduct their affairs in accordance with their beliefs. Legislation in this area must seek to uphold constitutional freedoms, such as religious liberty, so as not to lead to unneeded litigation.

Thank you for your consideration of the information presented in this testimony regarding HB469.