



LEGISLATIVE POSITION:

Unfavorable

Senate Bill 233

Employment Standards, Prevailing Wage, and Living Wage - Employer Adverse Actions - Prohibition

Senate Finance Committee

Thursday, February 1, 2024

Dear Chair Beidle and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 6,800 members and federated partners working to develop and promote strong public policy that ensures sustained economic recovery and growth for Maryland businesses, employees, and families.

Senate Bill 233 would prohibit employers from taking or threatening to take adverse action against an employee because the employee takes certain actions regarding rights and responsibilities, complaints, investigations, proceedings, or hearings under certain provisions of law. It also would authorize the Commissioner of Labor and Industry to investigate a violation of the Act on the Commissioner's own initiative or on receipt of a written complaint.

The Chamber condemns companies that knowingly discriminate against or threaten employees. However, without a cap on punitive damages, employers will face financial uncertainty when it comes to potential liabilities, and an uncapped amount would be viewed as overly punitive, leaving employers more risk averse. Businesses seek legal frameworks that provide a balance between safeguarding and protecting the rights of employees and preventing undue and excessive financial burdens. A cap on punitive damages would strike this balance. The Equal Employment Opportunity Commission provides guidelines from the Civil Rights Act outlining punitive damages caps. Many states also have caps on punitive damages not to exceed three times the compensatory damages.

Finally, as drafted, the Commissioner, with the employee's consent, can ask the Attorney General to bring an action on the employee's behalf. This additional legal burden further opens Maryland's businesses to increased liability that would add yet another degree of uncertainty in these already turbulent times. Further, the bill as drafted would allow an employee to bring forward a civil action against the employer. It would also allow the Commissioner to bring forward an action to enforce the order for a civil penalty. It seems duplicative and unnecessary to allow the Commissioner to request the Attorney General bring forward an action on behalf of an employee.

We urge the committee to consider a well-balanced legal framework that takes into account both the rights of employees and the challenges faced by businesses in a competitive market.

For these reasons, the Maryland Chamber of Commerce respectfully requests an **unfavorable report** on **SB 233**.

