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January 30, 2025

Legislative Position: Unfavorable  
House Bill 233

Labor and Employment - Mandatory Meetings on Religious  
or Political Matters - Employee Attendance and Participation  
House Economic Matters Committee

Dear Chairman Wilson and members of the committee:

Established in 1950, the Associated Utility Contractors of Maryland, Inc. (AUC) is dedicated to advancing the utility contracting industry across the state. Our mission is to foster strong relationships between utility contractors and their clients, uphold the highest professional standards within the industry, and elevate the reputation of utility professionals within the business community. We actively advocate for public policies that address industry challenges and contribute to improving Maryland's overall business environment.

As introduced, HB 233 would, among other things, prohibit a Maryland employer from exercising its constitutional and statutory right to speak to its employees about "political issues," which the bill defines to include "the decision to join or support any labor union." As set forth in detail below, HB 233 presents significant constitutional, statutory, and economic concerns. AUC believes that this legislation places unconstitutional restrictions on employers' freedom of speech, its preemptive nature conflicts with federal labor laws, and the adverse effects on Maryland's business climate and economy are significant.

### **Constitutional Concerns**

HB 233 directly violates the First and Fourteenth Amendments of the U.S. Constitution by impeding employers' rights to express their viewpoints on political matters, including issues related to labor and unionization. By regulating the content of employers' communications with their employees, this legislation unlawfully restricts freedom of speech and inhibits employers from sharing vital information on matters of public concern. Moreover, the bill's broad and vague definitions of "political matters" introduce further constitutional concerns, as they fail to provide clear guidance to employers and may result in arbitrary enforcement. If enacted, this legislation would likely be subject to immediate legal challenges.



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By its express terms, HB 233 would regulate speech on “matters relating to elections for political office, political parties, proposals to change legislation, proposals to change regulations, proposals to change public policy, and the decision to join or support any political party or political, civic, community, fraternal, or labor organization.” As “the legislature is constitutionally disqualified from dictating the subjects about which persons may speak and the speakers who may address a public issue,” HB 322 violates Maryland employers’ rights. See *First Nat’l Bank of Boston v. Bellotti*, 435 U.S. 765, 784-85 (1978).

### **Conflict with Federal Labor Laws**

HB 322 is preempted by federal labor law, particularly Section 8(c) of the National Labor Relations Act (NLRA). This provision explicitly safeguards employers’ rights to express their views on labor-related issues including politics and unionization, without fear of reprisal or penalty. The NLRA also safeguards the right to require employees to attend meetings or otherwise view communications about those issues. This legislation would create a new Article 3-718 under Maryland’s Labor and Employment Code which would eviscerate these rights. HB 802’s attempt to regulate employer speech directly contradicts the protections afforded by the NLRA and undermines the balance of labor relations established at the federal level. The NLRA comprehensively regulates labor matters throughout the United States. See *San Diego Building Trades Council v. Garmon*, 359 U.S. 236 (1959) (forbidding states to regulate activity that the NLRA protects, prohibits, or arguably protects or prohibits) (“Garmon preemption”) & *Machinists v. Wisconsin Employment Relations Comm’n*, 427 U.S. 132, 140 (1976) (forbidding both the National Labor Relations Board (NLRB) and states from regulating conduct that Congress intended be left to be controlled by the free play of economic forces) (“Machinists preemption”).

### **Anti-Competitive Impact**

HB 322 denies employers their Constitutional right to speak about a range of important issues. The legislation sends a negative message to Maryland’s business community. At a time when Governor Moore is pushing a “growth agenda” for Maryland’s business climate in a season when state and local budgetary challenges are becoming impossible to ignore, telling Maryland’s business community that they must now

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litigate to protect their First Amendment rights sends a devastating message.

HB 322 poses a significant threat to Maryland's economic competitiveness and business climate. By depriving employers of their constitutional rights and introducing legal uncertainty, this bill creates a hostile environment for businesses, discouraging investment and hindering economic growth. Maryland's already sluggish economic performance will continue to decline if HB 322 is enacted, leading to business out-migration and diminished prospects for attracting new enterprises.

For these reasons, the Associated Utility Contractors of Maryland respectfully **requests an unfavorable report on HB 322.**

Sincerely,

The Associated Utility Contractors of Maryland (AUC)