

February 5, 2021

The Honorable Dereck Davis  
District 25, Prince George's County  
Chair, Economic Matters Committee  
231 House Office Building  
6 Bladen Street  
Annapolis, MD 21401

**RE: UNFAVORABLE - House Bill 581 - Labor and Employment-Employment Standards During an Emergency (Maryland Essential Workers' Protection Act)**

Dear Chairman Davis:

The Howard County Chamber (Chamber) is an organization dedicated to the advancement of a vibrant and thriving business community with a positive economic climate. To help achieve these goals, we look for public policies that attract new businesses and talent to our communities. Undoubtedly, the Coronavirus pandemic has significantly impacted our communities, residents, businesses, and institutions. Many employers who thought they were on solid financial footing based upon years of longevity and profitability are now fighting for mere survival having been relegated to reduced hours and layoffs.

The Chamber is most concerned about this legislation based upon the following sections:

1. **Definition of essential worker**
2. **Safe & Hygienic Working Conditions**
3. **Hazard Pay & Healthcare Assistance**
4. **Emergency Action Plans**
5. **Universal Health & Bereavement Leave**
6. **Right to Refuse Dangerous Work**
7. **Free Testing and Reporting of Positive Test Results**

In summation, the Chamber is quite troubled by many of the definitions contained herein. The definitions of "emergency," "essential employer," and "essential employee" are extremely broad and unclear. "Essential employee" not only includes the employees but also any contractors and subcontractors. "Emergency" includes any executive order or proclamation but also includes "the imminent threat or occurrence of severe or widespread loss of life, injury, or other health impacts, property damage or destruction, social or economic disruption, or environmental degradation from natural, technological, or human-made causes," which every employer could interpret differently. Such definitions move the needle well beyond the scope of the public health

emergency we are currently grappling with. There are 15 industry sectors containing a combined total of 76 categories of businesses that are defined as essential which ultimately encompasses nearly every type of employer in Maryland.

Other components of the legislation introduce undefined terms that are either difficult to define, subject to differing interpretation, or exist on a spectrum. For example, it is unclear what is meant by "physical harm," "mental distress," and "physical health and safety." In addition, this section also introduces terms and concepts that cause confusion and inconsistency. For example, what is meant by "unsanitary conditions"? What constitutes a "reasonable threat"? The examples provided are inconsistent with the definition. While not desirable, unsanitary conditions do not render an employee unable to work.

Other areas of confusion exist regarding how these provisions are to be applied. The bill is intended to apply prospectively (Section 2), yet there is a provision in this section that states that an essential worker is eligible for hazard pay dating back to the start of the emergency. Such a provision is wholly unworkable, especially for small businesses, who have no notice, and limited or no resources or the capacity, to pay such back wages.

There are a host of other concerns related to the implementation and administering of these mandates. Over 70% of Howard County employers have less than 25 employees with many 10 or less. There is no feasible way that many of them could adequately budget to have additional funds for hazard pay should an emergency take place. Moreover, many of them do not have the external support by way of legal counsel and other consultative measurers to carry out many of these mandates.

We know this pandemic has brought to light many issues surrounding that of opportunity and equity. It is understandable that policy makers would want to remedy that. However, introducing legislation such as this will do irreparable harm to an employer community that is reeling and has yet to recover financially from the economic hardships of the past year. Let us not forget that many employers have yet to return workers to the workplace due to the financial hardships experienced due to the pandemic. For the reasons outlined above, **we request an "Unfavorable" opinion.**

Respectfully,

A handwritten signature in black ink, reading "Leonardo McClarty". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Leonardo McClarty, CCE  
President/CEO, Howard County Chamber