

SB 801_Economic Stabilization Act-Alterations_FAV.

Uploaded by: Griffin, Andrew

Position: FAV



LEGISLATIVE POSITION:

Favorable

Senate Bill 801

Labor and Employment – Economic Stabilization Act – Alterations

Senate Finance Committee

Thursday, March 4, 2021

Dear Chairwoman Kelley 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 5,000 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.

SB 780 of the 2020 legislative session made changes to state law regarding employer notification requirements in the cases of shutdowns or layoffs. The 2020 adopted changes included making notice requirements mandatory rather than voluntary, specifying to whom notice must be provided and what information must be included in that notice, and granting the Secretary of Labor enforcement authority to fine employers up to \$10,000 a day for violations of the notice requirements. However, the 2020 changes did not address some of the vague nature of the law which exists as a legacy of its previous voluntary nature.

As a result, the Maryland Chamber of Commerce formed an interim workgroup of members to identify areas for clarity to aide in compliance with the new provisions and to mirror some portions of state law to important provisions of the federal WARN Act.

SB 801 addresses those areas in three primary ways:

1. SB 801 adds and clarifies definitions throughout the statute.
2. SB 801 makes a change to the required notice given to elected officials by changing the requirement to notify "all" elected officials to the "chief elected official of the local jurisdiction". This notification change helps reduce administrative burden for employers and is more closely aligned with the previous sponsors intent.

3. SB 801 mirrors the three exceptions to providing notice outlined in federal law in the case of natural disasters, a faltering business, or business circumstances not reasonably foreseen at the time notice would have been required.
 - a. **Important note** - if a business utilizes one of the three exceptions, they are not exempt from providing notice entirely, and must do as soon as possible. The changes in SB 801 provide relief from the fine that would result from notice not being given by the required 60-day mark due to an unforeseen circumstance.

SB 801 also addresses a few other outstanding items like clarifying responsibility for notice among employers as a result of a sale, which has been a past gray area.

Finally, SB 801 is the product of an interim workgroup within the Maryland Chamber of Commerce and has been crafted with input from the Maryland employer community, labor attorneys, the Maryland Department of Labor, and the United Food and Commercial Workers (UFCW) Local 400 union. We recently received suggested changes to the bill text and will continue to work alongside other stakeholders to reach as much consensus as possible.

For these reasons, the Maryland Chamber of Commerce respectfully requests a **favorable report** on **SB 801**.



SB 801 Sponsor Testimony

Uploaded by: Griffith, Melony

Position: FAV

MELONY G. GRIFFITH
Legislative District 25
Prince George's County

PRESIDENT PRO TEMPORE

Budget and Taxation Committee



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

March 4, 2021

Senate Bill 801 - Labor and Employment – Economic Stabilization Act – Alterations

Testimony of (Favorable)

Chair Kelly, Vice Chair Feldman, and members of the Senate Finance Committee, I am pleased to present Senate Bill 801, which alters the current legislation by developing mandatory guidelines and clarifying requirements for employers faced with a reduction in operations. This bill seeks to update the provision adopted in SB 780 (2020).

SB 801 will:

- Redefine a portion of “reduction in operations” to include an employer's relocation that reduces the total number of employees by at least 25% or 15 employees.
- Outline employee circumstances exempt under this notice requirement. An employee may not be counted in the determination of a reduction in operations if the employer offers to transfer the employee to:
 1. A different site of employment within a reasonable commuting distance; or
 2. If said employee accepts within 30 days after the employer’s offer to transfer.
- An employer is not required to provide written notice if :
 1. They were actively seeking capital or business that would have enabled the employer to avoid or postpone the reduction in operations or reasonably believed that providing the written notice required would have disallowed the employer from gaining the necessary capital or business; or
 2. The reduction in operations is caused by business circumstances that were not predictable 60 days prior. (eg. natural disasters).
- Require employers to provide said notice, when the reduction is a result of the sale of the business.
- Require employers to notify the Chief Elected Official of the political subdivision, or the Chief Elected Official of the subdivision to which the employer paid the most taxes for the current year.

*Stakeholders continue to work on a few areas of the bill, so there may be minor tweaks needed through amendments. With that, I thank you for the opportunity to present Senate Bill 801, I respectfully request a favorable report.

SB801_FAV_MRA.pdf

Uploaded by: Price, Sarah

Position: FAV

MARYLAND RETAILERS ASSOCIATION

The Voice of Retailing in Maryland



**SB801 Labor and Employment – Economic Stabilization Act – Alterations
Finance Committee
March 4, 2021**

Position: Support

Background: SB801 would alter the instances in which employers must provide a certain written notice of reduced operations.

Comments: The Maryland Retailers Association supports the proposed provision in SB801 to exempt employers from providing a 60-day written notice of reductions in the case that the reason for reductions was unforeseeable within that window of time. As we approach the one-year anniversary of the first shut-downs due to the COVID-19 pandemic, it is important to acknowledge the sudden and lasting effects that the State of Emergency has had on the business community in Maryland. During this time, retailers have faced major difficulties stemming from the effects of the COVID-19 pandemic, including responding to and struggling to follow official guidance that did not include explicit language for business operation. With this in mind, we would urge the Committee to consider amending the legislation to include an explicit exemption for advance written notice requirements in the case of a catastrophic emergency.

Thank you for your consideration. We look forward to working with the sponsor on this issue.

SB 801 - MD DC AFL-CIO - OPPOSE.pdf

Uploaded by: Edwards, Donna

Position: UNF



MARYLAND STATE & D.C. AFL-CIO

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**SB 801 – Labor and Employment – Economic Stabilization Act - Alterations
Senate Finance Committee
March 4, 2021**

OPPOSE

**Donna S. Edwards
President
Maryland State and DC AFL-CIO**

Madam Chair and members of the Committee thank you for the opportunity to submit testimony in opposition to SB 801 – Labor and Employment – Economic Stabilization Act - Alterations. My name is Donna S. Edwards, President of the Maryland State and DC, AFL-CIO. On behalf of the 340,000 union members in the state of Maryland, I offer the following comments.

The Economic Stabilization Act, as it was originally passed, provided workers time to plan before abruptly losing their job. With 60 days' notice to workers of a closure, the Act ensures that people have at least some amount of time to seek other employment, instead of leaving them out in the cold. SB 801 upends this system, completely. From changing the definition of who can be counted in the determination of the reduction of operations, to subjectively defining the word "permanent" to allow businesses to claim closures and job losses are temporary with no evidence to prove it, this bill completely guts the intent of the law.

The most pernicious portion of SB 801 is in 11-305 section (C), where businesses are given carte blanche to completely ignore the reporting, altogether. Any business that wanted to avoid giving proper notice to their workers could simply claim they were actively seeking capital at the time of the business closure decision or that they "reasonably believed" that providing notice of a closure would put the acquisition of capital in jeopardy. This massive subjectivity in the language would allow for the wholesale disregard for the entire law.

Closures of businesses leave workers and their families struggling to maintain their quality of life, and oftentimes announcements of closures come with little to no notice, at all. This leaves hundreds of impacted workers in an awful position, having to immediately find new work, almost always at a lower salary, just to keep food on the table. A full 40% of Americans cannot afford a \$400 emergency, and the majority are one or two paychecks away from economic

disaster¹. Layoffs and downsizing only exacerbates this existing problem for American workers. It is imperative that advance notice of business closures and protection of workers is strengthened so that Marylanders do not get left in the cold to fend for themselves by corporate executives who are not affected by the decision to close or significantly downsize business operations.

While workers are struggling during this pandemic, SB 801 takes away their protections and creates a framework for unscrupulous businesses to legally ignore their workers, leaving them with no advanced notice of an impending closure.

For these reasons, we ask for an unfavorable report on SB 801.

¹ Federal Reserve - <https://www.federalreserve.gov/publications/files/2017-report-economic-well-being-us-households-201805.pdf>

20210304Testimony in Opposition to SB801.pdf

Uploaded by: Wilson, Michael

Position: UNF

**Testimony in Opposition to SB801
Labor and Employment – Economic Stabilization Act - Alterations
March 4, 2021**

To: Hon. Delores Kelley, Chair and members of the Senate Finance Committee
From: Michael Wilson, Executive Assistant to the President
United Food and Commercial Workers Union, Local 400

Chair Kelley and members of the Finance Committee. I am here today on behalf of the members of the United Food and Commercial Workers Union (UFCW), Local 400. We represent over 10,000 members in Maryland working on the front lines of the ongoing pandemic in grocery, retail, food distribution, law enforcement, and health care.

UFCW Local 400 strongly opposes SB 801, which is an attempt to weaken legislation our members fought hard to get enacted just last year, giving teeth to Maryland’s Economic Stability Act.

At the end of 2019 hundreds of Maryland working families and the communities they support were hit with the devastating news, right before the holidays, that Shoppers Food was closing dozens of stores in the state. This announcement was made right before the holidays, and with only the notice required by federal law.

Shoppers parent company, SuperValu, based in Minnesota, had recently been acquired by an even larger out of state company, UNFI, based in Rhode Island. Despite the size of this company, because some stores did not meet the threshold of the number of full-time employees required for federal WARN Act protections, not all of the employees were given even the sixty days’ notice required under that law.

Because these employees were members of our union we were able to fight for and negotiate some terms to ease their transition, but they were hurt by the fact that the Maryland Economic Stabilization Act at that time was just suggestions and not enforceable. These members came before you last year with their stories, urging you to make the stronger protections of the Maryland law enforceable. Working families across the state were served by the passage of that bill last year.

Now changes are being proposed that would make the Maryland bill no better than the federal law that failed these working families. All of these changes are designed to create exemptions and loopholes that will give other large companies an excuse not to comply, further harming working Marylanders. From attempting to increase the number of employees needed in the state, to adding a vague “definition” of permanent, attempting to allow companies to move locations and exempt

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themselves, and writing in large, vague loopholes around companies seeking financing or other business circumstances, these changes are clearly intended to shield large businesses from having to fulfil their obligations to their Maryland employees.

We have been, and will continue to be, in discussion with the Maryland Chamber of Commerce regarding the potential for compromise on some proposed changes, but as presented **we strongly oppose SB 801 and urge an unfavorable vote.**