

MBIA Testimony SB 191.pdf

Uploaded by: Graf, Lori

Position: UNF

February 4, 2021

The Honorable Delores G. Kelley
Senate Finance Committee
Miller Senate Office Building,
3 East Wing 11 Bladen St.,
Annapolis, MD, 21401

RE: SB 191 Labor and Employment - Hiring - Higher Education Requirements (Give Me a Chance Act)

Dear Chairman Kelley:

The Maryland Building Industry Association, representing 1,100 member firms statewide, appreciates the opportunity to participate in SB 191 Labor and Employment - Hiring - Higher Education Requirements (Give Me a Chance Act). MBIA Opposes the Act in its current version.

This bill would prevent employer4s from considering higher education as a factor in screening applicant for open positions.

MBIA respectfully opposes this measure on grounds of unfairness. One of the mechanisms that employees use to distinguish themselves is by gaining the necessary accreditation and skillset through higher education in order to take positions in specific highly specialized fields. These fields often require an academic understanding of the industry and are designed to help build the practical skills necessary to succeed. In today's high-speed information-based world, many positions that require higher education require a specialized skillset that can only be obtained through that medium. Architects, engineers, financial managers and many more positions all require specialized training that employers need to know that potential recruits have mastered. Denying employers the opportunity to consider the education of applicants would deny employers crucial pieces of information in considering whether they have the skillset necessary to do the position for which they are applying.

While other avenues of gaining specialized knowledge exist, such as certifications, this would unfairly advantage those paths to specialization that could be explored during the application process over higher education, disadvantaging people that have spent a great deal of time and money to build those credentials. This ultimately will create an extremely limited pool of potential applicants and deny opportunities to people that have earned their credentials.

For these reasons, MBIA respectfully requests the Committee give this measure an unfavorable report. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Senate Finance Committee

SB 191_Give Me a Chance Act_ Oppose.pdf

Uploaded by: Griffin, Andrew

Position: UNF



LEGISLATIVE POSITION:

OPPOSE

Labor and Employment-Hiring-Higher Education Requirements

(Give Me a Chance Act)

Senate Finance Committee

Thursday, February 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, and we work to develop and promote strong public policy that ensures sustained economic recovery and growth for Maryland businesses, employees, and families.

Senate Bill 191 seeks to prohibit employers from implementing application and hiring processes which use college or other higher education degrees as a limitation on who can apply for a position. The bill recognizes that such actions should not be prohibited "if a minimal educational qualification is necessary to perform the duties of the position..."

The Chamber understands that the bill's intent is to preclude the discriminatory use of irrelevant educational requirements to wrongfully disqualify individuals from consideration. This issue, however, is already addressed in both federal and state anti-discrimination statutes. For decades, these statutes have provided individuals with the opportunity to pursue discrimination claims when the evidence confirms that a particular educational requirement was, in fact, not necessary to perform the essential duties of a position and use of the educational requirement has had a disproportionately adverse impact on a protected group.

Given existing federal and state laws, the Chamber submits that SB 0191 is unnecessary; the statutory remedy already exists. SB 191 could create confusion with respect to the standards applied under these federal and state anti-discrimination statutes.

In addition, the bill could improperly scare employers away from considering a candidate's higher credentials. Discrimination law has never been designed to prevent fair competition; rather, it has sought to prevent unfair competition through consideration of irrelevant, discriminatory factors. Employers must be permitted to select the most qualified applicant, and they must retain the right to decide who is most qualified. A particular candidate's additional educational credentials—beyond those needed to satisfy minimum qualifications-- might convince an employer that she is the best candidate.

In an environment where there is an ever-increasing litany of claims, charges, and lawsuits being directed at Maryland's employers, SB 0191's threats of yet more litigation and Government-imposed penalties might scare some business owners into not doing what they have every right to do: consider relevant information when making a hiring decision. This will not serve the legitimate interests of anyone.

For these reasons, the Chamber respectfully requests an **unfavorable report** on **SB 191**.



SB0191-FIN_MACo_OPP.pdf

Uploaded by: Jabin, Drew

Position: UNF



Senate Bill 191

*Labor and Employment - Hiring - Higher Education Requirements
(Give Me a Chance Act)*

MACo Position: **OPPOSE**

To: Finance Committee

Date: February 4, 2021

From: Drew Jabin

The Maryland Association of Counties (MACo) **OPPOSES** SB 191. This bill would prohibit employers from asking standard questions of education in their job applications and during the job interview process. If applied to the public sector, counties fear this law could eliminate promotion opportunities which allow local government employees a career path forward based on continued educational success.

Counties screen job applications prior to interviews, taking into account if the position requires an advanced degree or training, and asking for that information prior to moving forward in the hiring process. In other positions, job descriptions provide for a degree or equivalent years of experience, which again is screened for prior to the interview process. This legislation would burden employers by prohibiting discussing college or a higher education degree until an “initial offer of employment” has been made, potentially wasting time and resources.

Public sector employers are already subject to a wide range of transparency measures in hiring and employment practices – far beyond those applying to other employers. The language in SB 191 referring to an exemption of this prohibition “if a minimum educational qualification is necessary to perform the duties of the position that is the subject of the application or interview process” is extremely vague and unenforceable. Accordingly, MACo urges the Committee to issue an **UNFAVORABLE** report on **SB 191**.

SB 191 Labor and Employment - Hiring - Higher Educ

Uploaded by: McCulloch, Champe

Position: UNF



SB 191
Labor and Employment - Hiring - Higher Education Requirements (Give Me a Chance Act)
Finance Committee
Position: Unfavorable

Maryland AGC, the Maryland Chapter of the Associated General Contractors of America, provides professional education, business development, and advocacy for commercial construction companies and vendors, regardless of labor policy. AGC of America is the nation's largest and oldest trade association for the construction industry. AGC of America represents more than 26,000 firms, including over 6,500 of America's leading general contractors, and over 9,000 specialty-contracting firms through a nationwide network of chapters. Maryland AGC opposes SB 191 and respectfully requests the bill be given an unfavorable report.

SB 191 prohibits an employer's using a requirement for a college or higher-level degree as a factor in hiring or promoting an individual. The bill has an exception for positions where a minimum educational qualification is necessary to perform the duties of the position. The bill allows an employer to inquire about an applicant's degree status after the employer has extended an offer of employment, but in §3-718(B)(2) prohibits the employer from withdrawing the job offer if the applicant does not have the degree required as a "minimal educational qualification." The bill provides for simultaneous civil suits for damages and for a proceeding by the Commissioner of Labor and Industry.

The bill represents an unwarranted and unnecessary intrusion into an employer's right to set whatever qualifications it deems appropriate for a position in its operations. The unstated assumption underlying the bill is the concern that minorities may not have obtained a college degree and therefore are denied employment when they have the capability to perform the requirements of the position sought. However, it is existing law of long standing that if an employment qualification has a disparate impact on a class of workers, the qualification must be related to the essential functions of the position. See *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971), where the Supreme Court ruled that under Title VII of the Civil Rights Act of 1964, if an employment requirement, in that case employment tests, disparately impact ethnic minority groups, businesses must demonstrate that such qualifications are "reasonably related" to the job for which the qualification is required.

In Maryland, under State Government Article, §20-602, every Marylander is guaranteed equal opportunity in receiving employment regardless of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, gender identity, disability, or genetic information. Thus, applicants and existing employees are already protected as a matter of federal and state law.

Accordingly, Maryland AGC opposes SB 191 and respectfully requests the bill be given an unfavorable report.

Champe C. McCulloch
McCulloch Government Relations, Inc.
Lobbyist for Maryland AGC

NFIB - Hiring - Higher Education Requirements - SB

Uploaded by: O'Halloran, Mike

Position: UNF



NFIB-Maryland – 60 West St., Suite 101 – Annapolis, MD 21401 – www.NFIB.com/Maryland

TO: Senate Finance Committee

FROM: NFIB – Maryland

DATE: February 4, 2021

RE: **OPPOSE SENATE BILL 191** – Labor and Employment – Hiring – Higher Education Requirements

Founded in 1943, NFIB is the voice of small business, advocating on behalf of America's small and independent business owners, both in Washington, D.C., and in all 50 state capitals. With more than 250,000 members nationwide, and nearly 4,000 here in Maryland, we work to protect and promote the ability of our members to grow and operate their business.

On behalf of Maryland's small businesses, NFIB-Maryland opposes Senate Bill 191 – legislation further regulating the hiring process for employers.

NFIB members appreciate the sponsor's intent of trying to get Marylanders employed. However, the language in SB191 will make it harder for Maryland small businesses to find qualified employees to fill the positions they need filled.

Small businesses are looking to hire both skilled and unskilled labor. According to [NFIB's monthly jobs report for December](#), owners are still looking to hire as they reported a historically high level of job openings. Thirty-two percent of owners reported job openings they could not fill. Twenty-seven percent have openings for skilled workers and 11% have openings for unskilled labor. The need is there, the applicants are not.

Senate Bill 191 will make it harder to match employers with the right employees. As noted above, certain jobs have certain requirements. Among those requirements could be a college or other higher education degree (i.e. trade school). SB191 effectually prohibits those requirements during the hiring process. Though paragraph A(2) allows for an out, there is no clear guidance that would make an employer comfortable with requiring such degrees or certifications given the heavy handed sanctions in the bill.

For these reasons **NFIB opposes SB191** and requests an unfavorable committee report.