

Edward Fischman - Testimony in Support of SB 823 --
(Chair, Montgomery County chapter of Our Revolution MD)

Chair Beidle, Vice-Chair Hayes, and Members of the Senate Finance Committee:

I offer this testimony in support of SB 823, as introduced by Senator McCray. As to recent amendments to the bill, I will address them more fully below.

I am testifying on behalf of Our Revolution Maryland which has been advocating for various progressive initiatives, including increases in the minimum wage, and in partnership with One Fair Wage, to eliminate the sub-minimum wage for tipped workers.

This effort has met great resistance across Maryland, thanks to a well-organized opposition campaign directed by the Restaurant Association. They have brought servers from just a few restaurants to testify against the change. Legislators in Montgomery and Prince George's Counties abandoned their efforts to make this change at the local level, and here in the General Assembly, state legislation met a similar fate a year ago.

Senator McCray's proposal found the political sweet-spot. Paired with a raise in the minimum wage for all workers across the state, SB 823 would have phased out the subminimum wage. However, it would also have substituted favorable tax treatment for tips, which would not be eliminated by the legislation.

Federal proposals to eliminate the tax on tips are moving us in the wrong direction, by leaving the sub-minimum wage in place. This would create an unjustifiable carve-out from income tax for most of the income which servers get. This would reinforce the problem we face now with restaurant owners shifting responsibility for wages on to their customers. Worse still, it would surely lead to workers in other industries seeking to avoid taxation by getting away from regular wages and allowing their employers to rely on customer tips to pay their wage.

SB823 would end that perverse incentive. It would also recharacterize tips received above the minimum wage being paid by employers. Those would be exempt from income taxation. Furthermore, allowing tax credits for business during the transition, it would neuter much of the fearmongering about the impacts of this transition.

We heartily support the bill as first introduced. Stripping out the elimination of the sub-minimum wage, while exempting much of servers' income from taxation, represents the worst of the bargain. Servers and restaurants might cheer it, but under those circumstances, it would be unjustifiable to treat servers' income so differently from the income of all other workers across all other industries.

We have sought to address generations of negative disparate treatment with respect to servers' wages. The solution is to put servers more on par with other workers, not to give them an unfair, unjustified tax advantage compared with other workers.

The history of using tips in lieu of real wages is a problematic one. However, if the affected businesses will directly pay the wages of their staff, at least as to a generally applicable minimum wage, we would support treating additional tips received as tax-exempt income for these workers. It would be important to secure the tips for the staff, which would align the practice with the expectations of customers giving the gratuities.

We hope the proposed studies will produce favorable indications regarding the positive impact of raising the minimum wage, and refuting industry concerns about negative impact to the bottom line of nearly all restaurants.

We would support a bill which advanced such studies in lieu of raising wages and eliminating the subminimum wage now. However, we strongly urge that the “no tax on tips” provisions are stripped out for now, to be reconsidered at a future date, along with legislation addressing the subminimum wage.

On my own behalf, and on behalf of thousands of Our Revolution members in Maryland, I urge the committee to issue an amended SB 823, along the lines discussed above, before issuing any favorable report on the bill.