

SB0857_Labor_and_Employment_-_Civic_and_Related_Ac

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Position: FAV



TESTIMONY

SB0857 Labor and Employment – Civic and Related Activities – Protection (Maryland Employee Civic Activity and Lawful Expression Protection Act)

Bill Sponsor: Senator Waldstreicher

Committee: Senate Finance

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Aileen Alex, Co-Chair

Position: FAVORABLE

I am submitting this testimony in support of **SB0857** on behalf of the Maryland Legislative Coalition. We are an association of unpaid citizen advocates—individuals and grassroots groups in every district across the state—representing and supporting more than 30,000 Marylanders.

Marylanders do not surrender their First Amendment rights when they go to work, and no employer should be able to punish an employee for participating in democracy. A healthy democracy depends on workers who are free from coercion, intimidation, and surveillance that chills their participation in public life. That freedom includes the right to fight for a living wage, safe working conditions, and basic benefits such as health care and retirement security.

SB0857 protects workers from retaliation when they engage in lawful civic activities or expressive conduct outside the workplace. If an employer punishes a worker within 120 days of the worker taking part in a protected civic activity, the law will assume it was retaliation unless the employer can prove otherwise. The bill also ensures that employers may require an applicant to disclose civic or political activity ONLY when that information is directly relevant to the specific requirements of the job, preventing misuse of the hiring process to screen for ideological alignment, contrary to actions undertaken by our national regime.

SB0857 further prohibits employers from retaliating against workers who refuse to participate in employer-favored political activity, endorsements, donations, or captive-audience meetings. No worker should be pressured to support a political cause, candidate, or message as a condition of employment. These protections

ensure that workplace decisions are based on qualifications—not political pressure or ideological conformity.

Protecting civic expression is as essential to worker dignity as fair wages, safe conditions, and the right to organize. We respectfully urge a **FAVORABLE** report on SB0857.

SEIU Local 500 Testimony in Support of SB 857 2026

Uploaded by: Christopher Cano

Position: FAV



Testimony - SB 857, Labor and Employment - Civic and Related Activities - Protection
(Maryland Employee Civic Activity and Lawful Expression Protection Act)

Favorable

Senate Finance Committee

March 11, 2026

Christopher C. Cano, MPA

Director of Political & Legislative Affairs on behalf of SEIU Local 500

Honorable Chairwoman Beidle & Members of the Senate Finance Committee:

At its core, SB 857 is about worker freedom—the freedom to speak, organize, participate in civic life, and engage in lawful expression without fear of retaliation from an employer. No worker should have to choose between keeping their job and exercising their fundamental rights as a member of a democratic society.

Too often, workers are silenced through subtle and overt forms of employer pressure: coercive political activity, mandatory “captive audience” meetings, retaliation for off-duty advocacy, or blacklisting based on beliefs or associations. SB 857 draws a clear and necessary line, making it unlawful for employers to punish workers for lawful political activity, civic engagement, or expression that takes place off the clock and outside the workplace.

SEIU Local 500 strongly supports the bill’s protections against employer retaliation and coercion. The right to refuse employer-favored political activity—whether donations, endorsements, or compelled speech—is essential to true free speech. Speech is not free if it is forced, and democracy is weakened when workers are pressured to conform to their employer’s political agenda.

The bill also appropriately balances employee rights with legitimate employer interests by carving out narrow, well-defined exceptions for conduct that interferes with job performance, violates confidentiality, or involves harassment or threats. Importantly, the

burden is placed on the employer to justify any claimed exemption, ensuring that worker rights are not eroded through vague or overbroad policies.

SB 857 recognizes that workers do not surrender their constitutional values at the workplace door. Protecting lawful expression, association, and civic participation strengthens—not weakens—our economy, our democracy, and our communities. When workers are free to speak and act according to their conscience, they are more engaged, more secure, and better able to advocate for themselves and others.

SEIU Local 500 urges the Committee to stand up for free speech, democratic participation, and worker dignity by issuing a favorable report on Senate Bill 857.

Thank you for your time and consideration.

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Position: FAV



Testimony for the Senate Finance Committee

March 11, 2026

SB 857 – Labor and Employment – Civic and Related Activities – Protection (Maryland Employee Civic Activity and Lawful Expression Protection Act)

DARA JOHNSON

ASSOCIATE STAFF
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FAVORABLE

The ACLU of Maryland supports SB 857, which supports the freedom to lawfully engage in, or disengage from, political expression without the fear of workplace retaliation. As existing protections are limited, varied, and often unclear, this bill is an important step toward affirming employee rights under state law.

Throughout the near-century of work by the ACLU to protect civil liberties, securing the right to free speech and expressive activity has predominated our mission. While the ability to freely participate in political activity is the foundation of democracy, it is continuously subject to threats levied by those pushing broad conformity to certain political ideologies. As the current administration continues to enthusiastically engage in brazen retaliation against critics and anyone else unwilling to fall in line,¹ there is an abundant need for clear guardrails against unwarranted limitations on free speech.

In Maryland, adverse actions solely driven by political beliefs continue to directly imperil the livelihoods of those working in our communities. This includes many who have contacted us directly seeking support after being fired or disciplined for lawful expression unrelated to their jobs and done in their free time, such as a teacher subject to discipline following a social media post that clearly read as tame sarcasm and was made on a personal account.

Especially as increasing levels of anti-immigrant rhetoric work to heighten the politicization of basic human rights, leaving such retaliation unaddressed deeply erodes the fundamentals of freedom in

¹See <https://www.aclu.org/news/free-speech/protecting-free-speech-in-the-face-of-government-retaliation>.

Maryland, as well as the ability to freely support those subject to politically-motivated harm.

State-based protections from this terrifying reality are needed for all employees, including private employees who are generally employed at-will and can thus be fired for any reason at anytime except a few limited circumstances. However, under SB 857, only public employees would be protected, as well as an additional subset of workers who may be covered under a vague provision that includes “a person that acts directly or indirectly in the interest of another employer with an employee” within the definition of an employer. In addition to the benefit of improving this definition with clarifying language, future efforts are needed to ensure private employees can likewise enjoy these needed protections.

However, as a first step, SB 857 provides helpful language to better safeguard public employees amid varying applications of existing protections provided by the First Amendment. While the US Supreme Court confirmed in *Pickering v. Board of Education*, 391 U.S. 563 (1968) that, in general, public employees cannot be fired for speaking on issues of public concern as private individuals, the ACLU is currently engaged in a legal fight over what this means and how far it extends.²

With this lack of clarity, the ACLU of Maryland urges a favorable report on SB 857 to help provide a clearer foundation of state-based protections.

² <https://www.riaclu.org/news/aclu-files-court-brief-in-public-employee-free-speech-case-arguing-that-disparaging-speech-is-not-entitled-to-less-protection/>

SB857_FAV.pdf

Uploaded by: Donna Edwards

Position: FAV



MARYLAND STATE & D.C. AFL-CIO

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SB 857 - Labor and Employment - Civic and Related Activities - Protection (Maryland Employee Civic Activity and Lawful Expression Protection Act)

Senate Finance Committee

March 11, 2026

SUPPORT

Donna S. Edwards

Maryland State and DC AFL-CIO

Madame Chair and members of the Committee, thank you for the opportunity to submit testimony in support of SB 857. On behalf of 700 affiliated unions, I offer the following comments.

Maryland workers should not have to choose between their jobs and their First Amendment rights. SB 857 ensures that workers can participate in civic activities including campaigning, volunteering, and organizing, without fear that their employer will discipline them for it.

This legislation importantly recognizes that every worker, regardless of job title, schedule, or employment status, deserves the freedom to express themselves without fear of retaliation. Its protections make clear that regardless of job title, schedule, or employment status, that workers deserve the freedom to express themselves without fear.

Civic expression is important now more than ever. In 2025, thousands of Marylanders flooded the streets for “No Kings” rallies as communities grappled with complex issues such as our eroding democracy, public safety, education, and economic justice. Workers are often closest to the real-world impacts of these decisions and have the power to shift public debate. It is imperative that workers have the right to speak up and express themselves freely. Protecting civic expression is not just a workplace issue, it is a democratic safeguard.

SB 857 affirms that Maryland’s democracy is stronger when workers have the freedom to speak up, and our state is more powerful because of it.

For these reasons, we urge a favorable report on SB 857.



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Testimony - SB 857 MECALEPA.pdf

Uploaded by: Dorothy Manevich

Position: FAV

SB.857: Maryland Employee Civic Activity and Lawful Expression Protection Act
Favorable Testimony
Senate Finance Committee
March 11, 2026

Honorable Chairwoman Beidle, Vice Chairman Hayes and Members of the Senate Finance Committee,

As a postdoctoral researcher at the Harvard Kennedy School's Civic Power Lab,¹ I study how people make decisions about participating in politics. I study what spurs them toward participation and what acts as a barrier against it. In my work the barriers are clear, and fear of retaliatory job loss is one of them.

If Maryland is a state that values equal opportunity in political participation, we must pass HB.1356. No one should be afraid that exercising their rights and duties as a citizen of a democratic system may mean they cannot pay their bills next month.

In my doctoral work,² I interviewed dozens of activists working on reproductive rights. Many of them reported that those least likely to speak out were those most afraid to lose their jobs. One activist reported that he canvassed a teacher at her home and could only convince her to sign onto a petition she deeply supported if she knew no one else would see her name on the list. The teacher was concerned that if someone told her school to fire her for signing the petition, her school would let her go. Others reported that some of their friends were so afraid of professional repercussions for their political opinions that they did not register with their preferred party because they knew party registration is public record.

Without additional workplace protections, full democratic participation will remain out of reach at a time when we need as many people as possible to join the political process³. Authoritarians use political pressure to threaten the livelihoods of those who oppose them.⁴ In order to protect our democracy from further erosion, we must eliminate the biggest barriers to regular people being an active part of the political process.

I urge the committee to report SB.857 favorably.

Thank you,

Dorothy Manevich, Ph.D
Maryland Resident, District 20

¹ The views expressed in this testimony are my own. I do not speak on behalf of the Harvard Kennedy School or Harvard University.

² Manevich (2025). Postcards or Porches, Close Friends or County Fairs: A New Theory of Political Participation Under Social Risk.

<https://dash.harvard.edu/entities/publication/139c8a05-1b84-4585-b96b-b3149b906866>

³ Robson (2019). BBC. "The 3.5% rule: How a small minority can change the world."

<https://www.bbc.com/future/article/20190513-it-only-takes-35-of-people-to-change-the-world>

⁴ Protect Democracy (2022). The Authoritarian Playbook.

<https://protectdemocracy.org/work/the-authoritarian-playbook/#quashing-dissent>

SB857 Testimony -- Anderson.pdf

Uploaded by: Elizabeth Anderson

Position: FAV

Elizabeth Anderson, John Dewey Distinguished University Professor of Philosophy

Testimony: SB0857 Maryland Employee Civic Activity and Legal Expression Protection Act

Committee: Finance Committee

Hearing Date: March 11, 2026

Position: Favorable

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

I am Professor of Philosophy and (by courtesy) Professor of Law at the University of Michigan, Ann Arbor. I am a political philosopher who studies democracy and issues concerning work, workers, and employment.

SB0857 protects workers from being coerced by their employers to engage in political speech or activity. It also protects workers from adverse actions by their employers for their lawful off-duty political speech and activity, when their conduct is irrelevant to their job. Employees and employers have a mutual interest in the passage of this bill. This bill also protects the public interest in sustaining a vibrant democracy in Maryland.

Employees should not have to choose between exercising their political rights and being able to keep their jobs. Employers need authority over their employees with respect to their job performance. But workers are not vassals to their employers. When they are off duty, they are entitled to political independence. They do not owe loyalty to their employers' or anyone else's political views.

Yet many people have been fired for legal, off-duty political speech or activity that others dislike. Workers have been fired for defending J. K. Rowling's opposition to trans rights, opposing DEI measures, sharing a comedy sketch regarded as anti-Muslim, protesting Israel's conduct in the Gaza war, implying that Black Lives Matter protests could be self-defeating, and criticizing Charlie Kirk after his assassination. As this very partial list indicates, workers across the political spectrum are vulnerable to adverse employer action for their lawful speech and political activity. One third of workers worry that if they express their political views, they could lose job opportunities.¹ An earlier survey found that one quarter had been pressured by employers to support particular political causes.²

¹ Emily Ekins, "Poll: 62% of Americans Say They Have Political Views They're Afraid to Share," Cato Institute 22 July 2020: <https://www.cato.org/survey-reports/poll-62-americans-say-they-have-political-views-theyre-afraid-share>.

² Alexander Hertel-Fernandez, "Employer Political Coercion: A Growing Threat," *The American Prospect* 23 Nov 2015: <http://prospect.org/article/employer-political-coercion-growing-threat>.

Employers, too, have a stake in SB0857. The law would shield them from public pressure to fire capable employees for their political views. By tying their hands, the law would protect employers from reputational damage for their employees' political speech or actions. It would quell divisive pressure from employees to fire co-workers whose views they dislike. Under this law, employers would retain the authority to regulate employee speech that is relevant to their job. Overall, this law would enable employers to focus on running their firm rather than having to waste their firm's time and attention on polarizing political controversies.

The people of Maryland have a strong interest in this law. A flourishing democracy depends on the freedom of people from all walks of life and different perspectives to freely speak their minds. I can't say it any better than John Dewey, the most important democratic theorist from the late 19th century through World War II, and the philosopher after whom my professional title is named. In 1939, after the war had begun, he wrote a short speech, "Creative Democracy: The Task before Us."³ He argued that democracy as a way of life requires taking conflict "out of the atmosphere and medium of force . . . into that of discussion." Faith in democracy "is faith in the possibility of conducting disputes, controversies and conflicts as cooperative undertakings in which both parties learn by giving the other a chance to express itself, instead of having one party conquer by forceful suppression of the other." SB0857 promotes that vision of democracy by freeing employees and employers alike from coercive pressures to suppress workers' voices.

I encourage you to support this bill.

Sincerely,

Elizabeth Anderson

³ https://chipbruce.net/wp-content/uploads/2008/11/dewey_creative_dem.pdf

Law Professor Testimony - Maryland SB0857- 3 9 26.

Uploaded by: Kate Andrias

Position: FAV

Testimony - Maryland Senate Bill 0857
Maryland Employee Civic Activity and Lawful Expression Protection Act
Favorable
Finance Committee
March 9, 2026
Law Professors of Labor, Employment, and Constitutional Law

Honorable Chair Beidle, Vice Chair Hayes, and Members of the Committee:

We write in support of Senate Bill 0857. We offer this testimony in our capacity as law professors and experts of labor and employment law and constitutional law. The views expressed are our own.

I. The Bill Furthers Maryland’s Important Interests in Protecting Workers’ Rights

Senate Bill 0857 advances a core and longstanding state interest: ensuring that workers are free from coercion and retaliation in the exercise of their lawful civic and political rights. Employment is not merely a contractual exchange. It is a relationship characterized by substantial power asymmetry. Employers possess the authority to terminate, discipline, demote, and otherwise materially affect an employee’s livelihood. When that authority is used to compel political conformity or punish lawful civic engagement, the consequences extend beyond the workplace and into the democratic sphere.¹ SB 0857 addresses that risk in a measured and familiar way. It does not regulate speech content. It does not forbid employer expression. Instead, it prohibits adverse employment action taken because an employee engages in lawful civic or political activity—or refuses to participate in employer-favored political messaging.

States have long exercised their police power to prohibit retaliatory employment practices. Anti-retaliation provisions are central features of civil rights statutes, wage-and-hour laws, whistleblower protections, and workplace safety regimes. Title VII of the Civil Rights Act of 1964, for example, broadly protects “opposition” to discriminatory practices. 42 U.S.C. § 2000e-3(a); *see also* Md. Stat. § 20-606(f) (protecting whistleblowing and other opposition to discriminatory practices). States across the nation have laws protecting employees from retaliation for political and civil activity, expression, and affiliation, with some such laws dating back to the 1860s. *See, e.g.*, S.C. Stat. § 16-17-500 (first enacted in 1868 and prohibiting termination of employment “because of political opinions or the exercise of political rights”); Cal. Lab. Code § 1101 (enacted 1915, prohibiting retaliation against employees for political activity or affiliation); citations collected in Eugene Volokh, *Private Employees’ Speech and Political Activity*, 16 Tex. Rev. L. & Pol. 295 (2012). SB 0857 fits squarely within that tradition. It sets a minimum labor standard designed to protect workers from coercive uses of economic power in matters of conscience and public participation. In so doing, it strengthens workplace fairness and democratic governance, both of which are indisputable state interests.

¹ For discussion of the prevalence and dangers of these dynamics, see Elizabeth Anderson, *Private Government* (2017) and Alexander Hertel-Fernandez, *Politics at Work* (2018).

II. The Bill Furthers First Amendment Values and Is Consistent with First Amendment Doctrine

SB 0857 advances, rather than undermines, First Amendment principles. The First Amendment protects not only the right to speak but also the freedom of belief and the right to refrain from compelled participation in ideological expression.

This bill does not silence employers. Employers remain entirely free to express their views on political, civic, or union-related matters. They may communicate their positions through meetings, written materials, or other channels. What they may not do is impose discipline or other adverse consequences on employees for declining to participate in or endorse those views. As such, the bill regulates retaliatory conduct, not speech. See *United States v. O'Brien*, 391 U.S. 367, 376 (1968) (“We cannot accept the view that an apparently limitless variety of conduct can be labeled ‘speech’ whenever the person engaging in the conduct intends thereby to express an idea”). Consistent with First Amendment doctrine, it does not restrict viewpoints, nor does it single out particular positions for suppression. It bars employer retaliation in order to protect employees’ political speech, beliefs, and association, and protects employees from being compelled—under threat of economic penalty—to engage in expressive activity. It is consistent with settled First Amendment doctrine allowing states to restrict compelled audition in settings, such as homes, public transit, and hospitals where the hearer cannot walk away from unwanted speech. *Rowan v. United States Post Office*, 397 U.S. 728 (1970); *Lehman v. City of Shaker Heights*, 418 U.S. 298 (1974); *Frisby v. Schultz*, 487 U.S. 474 (1988).

Indeed, far from burdening speech, the bill enhances the integrity of public discourse by ensuring that participation in political life is voluntary rather than coerced. That is fully consistent with the First Amendment’s central purpose of safeguarding free speech and independent democratic choice and enabling public participation in democratic governance. See *N.Y. Times v. Sullivan*, 376 U.S. 254, 273–80 (1964); *Whitney v. California*, 274 U.S. 357, 375 (1927) (Brandeis, J., concurring).

III. The Bill Is Consistent with Labor and Employment Law Doctrine

Finally, SB 0857 is consistent with established labor and employment law principles. The Supreme Court has long recognized that states may enact generally applicable employment standards—including anti-retaliation protections—without running afoul of federal labor law preemption. See *Metropolitan Life Ins. Co. v. Massachusetts*, 471 U.S. 724 (1985); *Fort Halifax Packing Co., Inc. v. Coyne*, 482 U.S. 1 (1987). SB 0857 functions as a neutral minimum labor standard governing employer conduct within the employment relationship. It operates independently of federal labor law.

The Supreme Court has held that, in most circumstances, states may not regulate conduct that is protected or prohibited or arguably protected or prohibited by the National Labor Relations Act, *San Diego Building Trades Council v. Garmon*, 359 U.S. 236 (1959), nor may they regulate conduct that Congress “left ‘to be controlled by the free play of economic forces.’” *Machinists v. Wisconsin Employment Rel. Comm’n*, 427 U.S. 132, 140 (1976). This bill does neither. It does not regulate union organizing tactics, collective bargaining processes, or protected concerted activity. It also does not prohibit employer speech, protected by Section 8(c) of the NLRA. 29 U.S.C. § 158 (c). It simply prevents employers from retaliating against employees for lawful civic or political choices. Moreover, as discussed above in Section I, the bill advances

state interests in protecting residents from employer retaliation for lawful political speech, which are “deeply rooted in local feeling and responsibility.” *Garmon*, 35 U.S. 243-44. *See also Sears, Roebuck & Co. v. Carpenters*, 436 U.S. 180, 183, 188-89 (1978) (noting that “inflexible application of [preemption] doctrine is to be avoided, especially where the State has a substantial interest... that does not threaten undue interference with the federal regulatory scheme” (quoting *Farmer v. Carpenters*, 430 U.S. 290, 296-97 (1977))); *Vaca v. Sipes*, 386 U.S. 171, 180 (1967) (emphasizing that preemption depends on the nature of the interests in question and the effect on national labor policy).

IV. Conclusion

Senate Bill 0857 reflects a balanced and constitutionally sound approach to protecting workers’ civic autonomy. It preserves employers’ speech rights while protecting employee conscience and rights of democratic participation. The bill falls squarely within Maryland’s longstanding authority to prohibit retaliatory and coercive employment practices.

For these reasons, we respectfully urge the Committee to report the bill favorably. Thank you for your consideration.

Kate Andrias
Patricia D. and R. Paul Yetter Professor of Law
Columbia Law School

Mark A. Graber
Regents Professor
University of Maryland Carey School of Law

Erwin Chemerinsky
Dean & Jesse H. Choper Distinguished
Professor of Law
University of California, Berkeley Law

Brishen Rogers
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Catherine Fisk
Barbara Nachtrieb Armstrong Distinguished
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Marley S. Weiss
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University of Maryland Francis King Carey
School of Law

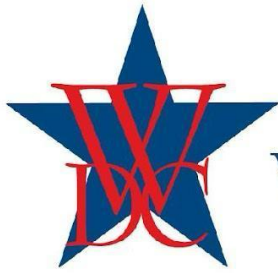
Charlotte Garden
Gray, Plant, Mooty, Mooty & Bennett
Professor of Law
University of Minnesota Law School

* *Schools listed for affiliation purposes only.*

SB 857 - FAV - WDC - FINAL v2.pdf

Uploaded by: Kate Stein

Position: FAV



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

Senate Bill 857 - Maryland Employee Civic Activity and Lawful Expression Protection Act
Finance Committee - March 11, 2026
SUPPORT

Thank you for the opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2026 legislative session. Founded in 1956, WDC is one of Maryland's largest and most active Democratic clubs, with hundreds of politically active members, including many elected officials. WDC is known for its advocacy for law and policy to improve the lives of women and their families.

WDC urges a favorable report on SB 857 - Maryland Employee Civic Activity and Lawful Expression Protection Act. Passage of SB 857 will protect Marylanders from being fired or otherwise penalized because of their lawful political activity or political speech outside of work. No Marylander should have to choose between keeping their job and participating in democracy. SB 857 ensures that employees can engage in lawful civic and political life without fear of retaliation, coercion, or blacklisting.

Current Maryland law lacks clear protection for lawful off-duty civic activity. Workers increasingly report fear of discipline or termination for protesting, testifying, volunteering, or expressing political views online. There is widespread and well-founded fear among employees that their off-duty life will negatively impact their livelihoods. In consequence, many employees censor themselves, both on-duty and off: 62% of Americans¹ feel the current political climate prevents them from sharing their true beliefs, with 74% of employees² reporting they proactively self-censor at work to avoid professional backlash. More than half of all workers believe discussing politics could damage their career. Research by Jennifer Silva shows that workers in low-wage jobs are especially inclined to view civic participation as a "luxury" because they cannot afford even a small risk of employer disapproval.³ In consequence, many employees do self-censor, ceding civic life to those who can "afford" to be unemployed.

Meanwhile, employers face growing pressure from both government actors and wealthy elites to silence in advance speech with which they don't agree or to fire or penalize good employees for legal off-duty civic engagement. Increasingly, any action employers take is criticized in "the court of public opinion."

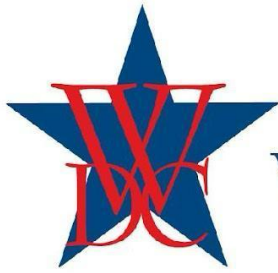
Employees' fears of employment repercussions for civic participation are well founded. For those who do not self-censor, the lack of current protections in Maryland's "at-will" environment leads to tangible professional harm. A quarter of U.S. companies recently reported disciplining an employee for their personal social media posts in a single month, with 26% of those cases resulting in termination.⁴ Nearly 9 in 10 hiring managers

¹ Ekins, E. (2020, July 22). *Poll: 62% of Americans say they have political views they're afraid to share*. Cato Institute Survey Reports.

² Allwork.Space News Team. (2025, August 1). *Only 27% of workers feel safe sharing political views at the office*. Allwork.Space.

³ Silva, J. M. (2019). *We're still here: Pain and politics in the heart of America*. Oxford University Press.

⁴ Fair Play Talks. (2025, October 2). *Quarter of U.S. companies disciplined staff over political posts on social media, survey finds* (survey of 1,249 U.S. business leaders).



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

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admit they would consider firing an employee for off-duty social media content.⁵ Even in 2017, half of employers reported checking current employees' social media profiles and over a third reported reprimanding or firing an employee for their social media content. More than half of employers have eliminated candidates during the vetting process based on their personal feeds.⁶ Since 2017, employer policing of legal employee speech and civic engagement has grown; according to a 2024 survey, 73% of hiring managers admit they've rejected job candidates because of negative findings on social media.⁷

Too often, "brand protection"—a legitimate concern when a corporate officer is accused of malfeasance—has become a label used to silence any employee who cares about their community or its governance. Too often, civic participation is treated as a potential conflict of interest. And so public political discourse has come to be dominated by wealthy elites from across the political spectrum.

This bill ensures that an employer doesn't "own" an employee's conscience or their status as a citizen. SB 857 directly addresses the silencing of Maryland employees' civic activity and lawful expression. It explicitly protects civic activity and lawful expression conducted outside of work by prohibiting employer retaliation and compelled political speech.

No one should have to choose between employment and the ability to freely express their political beliefs and engage in lawful civic activity. As democrats, we firmly believe that all of Maryland's citizens—whatever their income, politics or legal outside interests—should be able to engage in their communities and in our democracy.

We urge a favorable committee report on SB 857.

Cynthia Rubenstein
WDC President
Subcommittee

Dorothy Manevich
Advancing Democracy

Kate Stein
WDC Advocacy Chair

⁵ Express Employment Professionals. (2023, January 11). *88% of hiring managers would consider firing workers for personal social media posts* (survey by The Harris Poll).

⁶ CareerBuilder. (2017, June 15). *Number of employers using social media to screen candidates at all-time high, finds latest CareerBuilder study* [Press release]. PR Newswire.

⁷ Top Echelon. (2024, November 6). *Social media screening: 73% of hiring managers reject candidates due to negative findings on social media*.

Testimony in support of SB0857 - Maryland Employee

Uploaded by: Richard KAP Kaplowitz

Position: FAV

SB0857_RichardKaplowitz_FAV
03/11/2026
Richard Keith Kaplowitz
Frederick, MD 21703-7134

TESTIMONY ON SB#0857 - POSITION: FAVORABLE
Labor and Employment - Civic and Related Activities - Protection (Maryland Employee Civic Activity and Lawful Expression Protection Act)

TO: Chair Beidle, Vice Chair Hayes, and members of the Finance Committee

FROM: Richard Keith Kaplowitz

My name is Richard Kaplowitz. I am a resident of District 3, Frederick County. I am submitting this testimony in support of SB#0857, **Labor and Employment - Civic and Related Activities - Protection (Maryland Employee Civic Activity and Lawful Expression Protection Act)**

In early 2025 and 2026, the Trump administration took steps to reverse Equal Employment Opportunity Commission (EEOC) protections, focusing on eliminating "disparate impact" liability, rescinding workplace harassment guidance, and targeting diversity, equity, and inclusion (DEI) initiatives. These actions included revoking long-standing executive orders (EO 11246) for federal contractors and narrowing federal definitions of sex discrimination, aiming to shift focus from systemic discrimination toward "merit-based" policies.¹

This bill is Maryland's answer to re-establishment of protections and strengthening them in Maryland for employer-employee relations.

This bill authorizes an employer to require an applicant to disclose the applicant's engagement in certain actions only if the disclosure is related to certain job requirements; prohibits an employer from taking certain adverse action against an employee if the employee engages in certain activity; and provides that adverse action taken against an employee within 120 days after the employee engages in activity protected under the Act creates a rebuttable presumption of retaliation.

This is a labor and worker rights protection legislation.

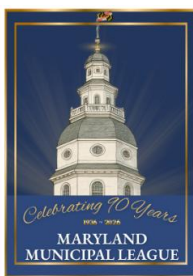
I respectfully urge this committee to return a favorable report on SB0857.

¹ Google AI Search "rollback of EEOC protections on protected activities by trump"

SB 857 - MML - FWA.pdf

Uploaded by: Bill Jorch

Position: FWA



TESTIMONY

COMMITTEE: Senate Finance

DATE: March 11, 2026

POSITION: Favorable with Amendments

BILL: SB 857

The Maryland Municipal League (MML) supports with amendment Senate Bill 857: Labor and Employment - Civic and Related Activities-Protection-Maryland Employee Civic Activity and Lawful Expression Protection Act

The merits of SB 857 are certainly reasonable and build off the federal Hatch Act by protecting workers who participate in certain civic and political activity from retaliation by their employer. Broadly speaking this is supported by the League.

However, local governments are fundamentally different from private sector employers in that municipal employees regularly interact with, and carry out the policies of, locally elected mayors and councilmembers as part of the scope of their employment. As written, the bill presents opportunities for conflict between a municipal employee participating in a political activity that directly conflicts with an elected official with whom they work.

As such, MML requests the Committee to consider the following amendments to exempt local governments from the provisions of the bill:

Page 2, line 15

(E) “EMPLOYER” INCLUDES:

(1) A UNIT OF STATE ~~OR LOCAL~~ GOVERNMENT; AND

Page 2, line 19 insert:

(F) “EMPLOYER” DOES NOT INCLUDE:

(1) A UNIT OF LOCAL GOVERNMENT.

For these reasons, the League respectfully requests that the committee provide Senate Bill 857 with a favorable report, with the above amendments.

For more information relating to this piece of testimony, please contact:

Bill Jorch: Managing Director, Advocacy and Public Policy, billj@mdmunicipal.org

Municipalities in Maryland support 42,000 jobs and provide \$5.2 billion in employee compensation.

MDCC_SB 857_Unfavorable.pdf

Uploaded by: Grason Wiggins

Position: UNF



Senate Bill 857

Position: Unfavorable

Committee: Senate Finance

Date: March 11, 2026

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 7,000 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.

Senate Bill 857 (“SB 857”) creates sweeping and ambiguous new liabilities that will significantly disrupt workplace management, increase litigation exposure, and create negative, unintended conflicts with other areas of law.

The bill’s definitions of “civic activity,” “political activity,” and “lawful expression” are overly broad, and as introduced the bill’s protections would extend to public online speech, affiliations, advocacy campaigns, boycotts, or expressive conduct that directly implicates an employer’s brand, customer relationships, contractual obligations, or mission.

For example:

- An employee publicly advocating for positions directly adverse to the employer’s clients or core services may create reputational and business harm.
- Online speech that targets the employer or coworkers could impair recruitment, retention, and customer trust.
- Employees in mission-driven or public-facing organizations engaging in expressive conduct that is incompatible with the organization’s publicly stated values.

Additionally, the standards contained within SB 857 are vague and will ultimately require judicial interpretation, placing employers in the untenable position of choosing between enforcing workplace policies and risking costly litigation.

The creation of a 120-day rebuttable presumption of retaliation is concerning. *See page 6, line 4.* Under this provision, any adverse employment action taken within 120 days of activity would automatically be presumed unlawful and the burden would be shifted to employers—even where the decision is based on documented performance deficiencies, restructuring, economic necessity, or misconduct unrelated to civic activity. This presumption:

- Invites strategic timing of claims.
- Encourages litigation over routine employment decisions.
- Increases insurance costs and compliance expenses.
- Places small businesses, in particular, at significant financial risk.

Even where employers ultimately prevail, the cost of defending against such claims—legal fees, discovery, reputational harm, and lost productivity—can be substantial.

The bill's restrictions on employer communications would inadvertently chill legitimate internal dialogue. Employers frequently communicate with employees about public policy issues that affect operations, industry regulation, taxation, labor standards, and compliance requirements. The bill's language could create uncertainty about whether such communications—especially when attendance is required during work hours—may later be characterized as unlawful. Employers must retain the ability to provide information about pending legislation affecting their industry. The lack of precise guardrails in SB 857 risks transforming ordinary workplace communication into potential litigation.

Many employers—particularly in finance, healthcare, government contracting, and regulated industries—are required to monitor conflicts of interest, outside affiliations, and certain political activities to comply with federal and state law. The bill's limitations on maintaining or using information about civic or political activity could conflict with these compliance obligations.

Additionally, employers may have contractual commitments to customers, partners, or government entities requiring adherence to codes of conduct or reputational safeguards. SB 857 may restrict employers' ability to enforce those commitments when employee conduct materially affects contractual relationships.

At a time when Maryland employers face rising labor costs, regulatory complexity, and competitive pressures from neighboring states, adding a broad new category of employment litigation risk will increase compliance costs, raise employment liability insurance premiums, and discourage business expansion and investment. **For these reasons, the Maryland Chamber respectfully requests an unfavorable report on SB 857.**



Maryland Catholic Conferenece_SB 857_UNFAV.pdf

Uploaded by: Jenny Kraska

Position: UNF



MARYLAND
CATHOLIC
CONFERENCE

March 11, 2026

SB 857 Labor and Employment – Civic and Related Activities – Protection (Maryland Employee Civic Activity and Lawful Expression Protection Act)

Senate Finance Committee

Position: Unfavorable

The Maryland Catholic Conference (MCC) offers testimony in opposition to **Senate Bill 857**. The Catholic Conference is the public policy representative of the three (arch)dioceses serving Maryland, which together encompass over one million Marylanders. Statewide, their parishes, schools, hospitals and numerous charities combine to form our state’s second largest social service provider network, behind only our state government.

SB 857 attempts to protect employees from retaliation for engaging in political expression outside the workplace. While the intention is understandable, the approach is problematic. This legislation does not simply present a question of left vs. right. It is a question of prudence. The Church teaches that prudence is “right reason in action”—the virtue that allows individuals and institutions to make sound judgments in complex circumstances. This bill removes prudential judgment from employers and replaces it with a rigid statutory framework that does not account for the real-world diversity of workplaces, missions, and risks.

Many states have enacted some form of political-activity protection, and while such laws are not inherently incompatible with Catholic teaching, they require careful calibration. This bill does not strike that balance.

Excessive and Distorting Damages Provisions

The most serious concern, however, lies in the damages structure set forth in §3-1905. Catholic social teaching emphasizes justice in employment relationships, including fair remedies when wrongdoing occurs. But remedies must be **proportionate, reasonable, and ordered toward restoring right relationship**, not creating punitive windfalls.

The damages in this bill—triple wages plus an additional year of wages, on top of other available remedies—are far outside the norms of employment law. They would create:

- **A powerful financial incentive for litigation**, encouraging a surge of claims regardless of merit.

- **Severe pressure on employers**, especially small and mission-driven organizations, to settle even weak or questionable cases.
- **A distortion of the employment relationship**, replacing cooperation and dialogue with adversarial posturing.

Such a structure is not consistent with the Catholic vision of justice. Remedies should make a harmed employee whole, not create disproportionate penalties that destabilize workplaces and undermine the common good. The likely result of these damages provisions would be a “feeding frenzy” of litigation, escalating costs, and diminished trust between employers and employees.

A Rebuttable Presumption That Undermines Fairness

The bill also creates a **120-day rebuttable presumption of retaliation** for any adverse action following protected political activity. Presumptions of this kind may be appropriate in narrow circumstances, but here the scope is too broad and the consequences too severe. Employers routinely make decisions about performance, restructuring, or conduct. Under this bill, nearly any such decision could be presumed retaliatory, shifting the burden of proof in a way that is neither fair nor workable.

Catholic teaching emphasizes justice as giving each person his or her due. A presumption that effectively treats employers as guilty until proven innocent does not reflect that principle.

For these reasons—its overly broad protection of political activity, its disproportionate damages scheme, and its unfair presumption of retaliation—I respectfully urge an **unfavorable report** on this legislation. Protecting employees from unjust retaliation is a worthy goal, but this bill does so in a manner that is imprudent, excessive, and ultimately harmful to the common good.

The MCC appreciates your consideration and, for these reasons, respectfully requests an unfavorable report on Senate Bill 857.

SB0857-FIN_MACo_OPP.pdf

Uploaded by: Karrington Anderson

Position: UNF



Senate Bill 857

Labor and Employment - Civic and Related Activities - Protection
(Maryland Employee Civic Activity and Lawful Expression Protection Act)

MACo Position: **OPPOSE**

To: Finance Committee

Date: March 11, 2026

From: Karrington Anderson

The Maryland Association of Counties (MACo) **OPPOSES** SB 857. This bill imposes unreasonably strong restrictions on counties as employers by prohibiting adverse action against any employee who engages in broadly defined “political activity,” “civic activity,” or “lawful expression.”

While counties respect and uphold employees’ constitutional rights, SB 857 establishes new statutory presumptions, burdens of proof, and mandatory damages that exceed the constitutional standards currently governing public employers. The bill defines “adverse action” broadly to include discharge, demotion, discipline, failure to promote, reassignment with materially adverse terms, or any action that would dissuade a reasonable individual from engaging in protected activity. This sweeping standard creates significant legal ambiguity and invites litigation. Counties could face substantial exposure to liability based on employment decisions that are only tangentially related to protected activity.

SB 857 limits managerial discretion in sensitive public-sector roles. The bill restricts counties’ abilities to maintain or enforce policies affecting off-duty civic activity unless the restrictions are narrowly tailored to achieve a legitimate government interest. Even with that exception, the measure fails to account for practical realities. The bill may limit counties’ ability to address situations where employees publicly associate their civic activity with their official role. In such circumstances, the public may reasonably associate conduct with the county government itself. Counties must be able to address actions that create confusion, reputational harm, or operational disruption.

Public employers are not similarly situated to private-sector employers. Counties provide essential public services and must maintain operational continuity, workplace safety, and public confidence and trust in the integrity and neutrality of government operations. SB 857 represents an overbroad and litigation-prone mandate that would materially affect local government operations and expose counties to significant fiscal and legal risk.

For these reasons, MACo urges an **UNFAVORABLE** report on SB 857.

SB857_NFIB_unfav (2026).pdf

Uploaded by: Mike O'Halloran

Position: UNF



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

TO: Senate Finance Committee

FROM: NFIB – Maryland

DATE: March 11, 2026

RE: **OPPOSE SENATE BILL 857** – Labor and Employment – Civic and Related Activities - Protection

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 opposes Senate Bill 857 – legislation that creates new worker protections for certain civic or political expressions outside of work. At the same time, it creates new legal liabilities for small businesses and real challenges for workplace governance, risk management, staffing, and dispute resolution.

Maryland employees already enjoy substantial protections under federal and state law, including safeguards against discrimination, retaliation, and violations of constitutional rights where applicable. SB857 goes far beyond those established frameworks by creating a sweeping new private cause of action, broad definitions of protected conduct, and a presumption of retaliation that will make it extraordinarily difficult for employers to manage their workplaces responsibly.

Senate Bill 857 authorizes civil lawsuits that include reinstatement, back pay, compensatory damages, punitive damages, and attorney’s fees. This creates significant litigation exposure— even for well-intentioned employers acting in good faith. The inclusion of punitive damages and fee-shifting provisions will incentivize litigation and increase settlement pressure, particularly for small businesses that lack the financial resources to defend prolonged legal challenges. Even meritless claims can impose substantial costs.

The bill’s definitions of “civic activity,” “political activity,” and “lawful expression” are extraordinarily broad. The legislation appears to protect nearly any lawful expressive conduct

undertaken off duty. This broadness creates serious uncertainty for employers attempting to balance employee rights with legitimate business interests. For example, employers may face legal risk for disciplining employees whose public statements damage client relationships, undermine their fellow employees, or conflict with company values. The bill provides insufficient clarity on how courts will weigh employer reputational harm, workplace disruption, or conflicts of interest against protected activity.

This legislation also establishes a rebuttable presumption of retaliation if an employer takes adverse action within *120 days* of protected activity. Not only is this timeframe arbitrary, but it effectively shifts the burden of proof onto the employer and creates a heightened risk whenever routine personnel decisions occur near in time to an employee's civic engagement. Employers regularly make legitimate disciplinary decisions based on performance, misconduct, or restructuring needs. Under this bill, they may be required to defend those decisions in court simply because the employee engaged in protected activity months earlier. This presumption will discourage timely management action and increase hesitation among supervisors to address performance issues promptly.

Senate Bill 857 imposes substantial compliance burdens. Employers will need to revise employee handbooks, update social media and conduct policies, retrain managers, and implement new documentation protocols to mitigate litigation risk. Larger employers will be required to post new notices and potentially adjust hiring practices to ensure no prohibited inquiries occur. For small and medium-sized businesses operating with limited HR infrastructure, these requirements represent a meaningful administrative and financial strain.

Importantly, the bill does not clearly delineate when employer interests—such as maintaining a safe, respectful, and non-disruptive workplace—override protected expression. Employers have a responsibility to ensure that workplaces remain free from harassment, intimidation, and operational disruption. Ambiguity in the bill may lead to inconsistent application and unpredictable judicial interpretation, further increasing business uncertainty.

Employers must retain reasonable discretion to manage their workforce, enforce standards of conduct, and protect their organizational mission without constant threat of litigation.

For these reasons, we respectfully request an **unfavorable committee report on SB857**.

Testimony_2026.03.09_Oppose_MDSHRM Oppose SB0857 C

Uploaded by: Paige Boughan

Position: UNF



March 9, 2026

The Honorable Pamela Beidle, Chair
Senator
Maryland General Assembly
3 East Miller Senate Office Building
Annapolis, MD 21401

The Honorable Antonio Hayes, Vice Chair
Senator
Maryland General Assembly
3 East Miller Senate Office Building
Annapolis, MD 21401

RE: Opposition to S.B. 0857 - Labor and Employment - Civic and Related Activities - Protection
(Maryland Employee Civic Activity and Lawful Expression Protection Act)

Dear Chair Beidle, Vice Chair Hayes, and Members of the Committee:

On behalf of the Maryland SHRM State Council (MD SHRM), I respectfully submit this testimony in opposition to Senate Bill 0857. While we support employees' rights to engage in lawful activities outside the workplace, the bill as drafted is overly broad, creates substantial legal uncertainty, and establishes a damages framework that is disproportionate and inconsistent with existing Maryland law.

As the trusted authority on all things work, the Society for Human Resource Management (SHRM) is the foremost expert, researcher, advocate, and thought leader on issues and innovations impacting today's evolving workplaces. MD SHRM serves as the liaison and support organization that links Maryland's local SHRM chapters with SHRM's regional and national organizations, representing thousands of HR professionals and employers across the State who are responsible for implementing workplace policies and managing workforce impacts of legislative changes.

We have some major concerns with the draft bill, including and not limited to:

1. The Bill's Core Concept is Overly Broad and Impractical
The legislation attempts to prohibit adverse employment action based on an employee's participation in "lawful activity." However, the bill does not clearly define how employers are expected to evaluate situations where an activity begins as lawful but later becomes unlawful.

Maryland SHRM State Council
PO Box 1482
Westminster, MD 21158



For example, if an employee is participating in what initially appears to be lawful picketing but is later arrested for assaulting a police officer during that activity, it is unclear whether the employee's conduct would still qualify as protected "lawful activity." Further, employees, especially in various leadership roles at organizations, are held to Codes of Conduct and similar policies at organizations, which often hold employees to certain standards. Employees in certain leadership roles may be more public-facing, and organizations must react to off-duty behaviors violating internal codes of conduct, when reputation is on the line. The bill provides no guidance on how employers should assess such circumstances, creating uncertainty and exposing employers to potential liability for reasonable workplace decisions.

Without clearer definitions and limitations, employers could face litigation even when responding to legitimate workplace or safety concerns.

2. The Definition of "Employer" is Unclear and Potentially Overreaching

Proposed Section 3-1901(E) defines an employer to include: "A person that acts directly or indirectly in the interest of another employer with an employee."

This language is vague and difficult to interpret in practice. It is unclear what factual scenario the provision is intended to address or how broadly it could apply. As written, it could potentially sweep in individuals or entities who have only indirect or tangential relationships to an employment decision.

Ambiguous statutory language increases litigation risk and makes compliance difficult for employers attempting to follow the law in good faith.

3. The Bill Attempts to Alter Maryland Class Certification Standards

Section 3-1905(A)(3)(ii) directs courts to "liberally construe" class certification.

However, Maryland Rule 2-231 already establishes the procedural standards for class certification. Statutory language directing courts to alter or "liberally construe" those standards is problematic and risks creating conflicts with established court rules governing civil procedure.

This provision raises significant legal concerns and may create confusion regarding how courts should apply existing procedural rules.

4. The Damages Provisions Are Excessive and Disproportionate



The damages framework in Section 3-1905(B) goes far beyond remedies available under Maryland's existing employment statutes, including the State's anti-discrimination laws.

Specifically, the bill:

- Requires a minimum award of three times lost wages plus one full year of wages, regardless of circumstances.
- Prohibits courts from considering mitigation of damages, preventing reduction of awards based on interim earnings or reasonable efforts to find other employment.
- Allows recovery of uncapped emotional distress damages.
- Applies a lower standard for punitive damages than currently required under Maryland law.
- Creates an internal inconsistency by mandating treble damages for lost wages while also making treble damages discretionary.
- Establishes a rebuttable presumption of causation if an adverse employment action occurs within 120 days of protected activity.
- Allows for expungement of disciplinary records without limitation, potentially erasing legitimate performance or conduct documentation.

Taken together, these provisions create a damages scheme that is significantly more punitive than remedies available under existing Maryland employment laws.

5. The Bill Creates Remedies That Exceed Those in Maryland Anti-Discrimination Law

Under Maryland's anti-discrimination statutes, codified in Maryland State Government Code §20-1009 and Maryland State Government Code §20-1013, courts may award back pay and compensatory damages but must apply caps on combined emotional distress and punitive damages ranging from \$50,000 to \$300,000, depending on employer size.

Additionally, those statutes require courts to reduce back pay awards by interim earnings or amounts that could have been earned with reasonable diligence.

SB 857 would provide far greater damages and fewer safeguards than Maryland provides for claims involving unlawful discrimination—one of the most serious violations of employment law. This imbalance raises significant policy concerns.

Maryland SHRM State Council
PO Box 1482
Westminster, MD 21158



While protecting lawful employee activity is an important objective, SB 857 introduces broad and ambiguous standards that would expose employers to significant litigation risk while creating remedies that far exceed those provided under Maryland's existing employment laws.

For these reasons, we respectfully urge the Committee to issue an unfavorable report on this legislation.

If you have questions regarding SHRM's position on S.B. 857 or other policies impacting the workplace, please contact Paige Boughan (MD SHRM – paige.boughan@fmb1919.bank).

Thank you for your consideration.
Sincerely,

Paige Boughan
Maryland SHRM State Council
Legislative Director

Maryland SHRM State Council
PO Box 1482
Westminster, MD 21158

SB 857_HB 1356_ Labor and Employment - Civic and

Uploaded by: Trudy Tibbals

Position: UNF

SB 857/HB 1356: Labor and Employment - Civic and Related Activities - Protection (Maryland Employee Civic Activity and Lawful Expression Protection Act): Please vote to **OPPOSE** this bill.

Dear Finance Committee and Government, Labor & Elections Committee:

I am writing to strongly urge you to **OPPOSE SB 857/HB 1356** during committee consideration or floor votes.

The definitions are extremely expansive, covering virtually any political activity, public protest, social media post, petition signing, campaign volunteering, advocacy on public issues, or even attending rallies or meetings—regardless of how controversial, inflammatory, or disruptive the speech or conduct may be to the employer’s business, reputation, or workplace environment.

These bills severely restrict private employers’ ability to maintain workplace standards, protect their brand, manage risk, or enforce policies on conduct that directly impacts the business.

The bills’ vague and overbroad language will invite costly litigation, hinder legitimate employer decisions, and effectively force companies to retain employees whose off-duty actions harm the business—even when those actions are not protected under existing federal or state law. **Small businesses in particular would be disproportionately burdened by the uncertainty and legal exposure these bills create.**

Maryland already has laws protecting employees from retaliation for certain protected activities (e.g., political activity under Md. Code, Labor & Employment § 3-701 et seq., which is narrower and more balanced). **This bill goes well beyond reasonable protections and undermines private employers’ rights to manage their workforce and protect their legitimate business interests.**

For these reasons, I respectfully ask you to **vote against SB 857/HB 1356.**

Thank you for your time and thoughtful consideration of my concerns regarding this important employment law, business freedom, and free speech balance issue.

Sincerely,

Trudy Tibbals

2026_03_11 SB 857 - Employee Civic Activity and La

Uploaded by: Tiffany Clark

Position: INFO

CAROLYN A. QUATTROCKI
Chief Deputy Attorney General

LEONARD J. HOWIE III
Deputy Attorney General

CARRIE J. WILLIAMS
Deputy Attorney General

SHARON S. MERRIWEATHER
Deputy Attorney General

ZENITA WICKHAM HURLEY
Deputy Attorney General



PETER V. BERNS
General Counsel

CHRISTIAN E. BARRERA
Chief of Staff

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

ANTHONY G. BROWN
Attorney General

March 11, 2026

TO: The Honorable Pamela Beidle
Chair, Finance Committee

FROM: Tiffany Clark
Director, Legislative Affairs, Office of the Attorney General

RE: Senate Bill 857 – Labor and Employment - Civic and Related Activities -
Protection (Maryland Employee Civic Activity and Lawful Expression
Protection Act) (Letter of Concern)

The Office of the Attorney General (OAG) respectfully submits this letter of concern regarding Senate Bill 857 – Labor and Employment - Civic and Related Activities - Protection (Maryland Employee Civic Activity and Lawful Expression Protection Act). SB 857 prohibits employers from taking adverse action against employees based on their political activity, civic activity, or lawful expression, and grants the Attorney General discretionary complaint investigation authority.

While we appreciate the intent of this legislation to protect Maryland workers from retaliation for exercising their civic and political rights, we have identified the following considerations that warrant the Committee's attention:

Undefined OAG Authority

SB 857 authorizes employees to file complaints with the Attorney General and provides that the Attorney General "may investigate and use all legal remedies available." However, the bill does not define what investigatory powers the Attorney General would have or what legal remedies would be available. Without a clear statutory grant of authority, such as subpoena power, civil

penalty authority, or a defined enforcement mechanism, the AG's role under this bill would be largely unworkable in practice.

Conflict of Interest Concerns

SB 857 defines "employer" to include "a unit of State or local government" with no exemptions. This creates a structural conflict of interest: if an OAG employee files a complaint alleging retaliation for off-duty civic activity, the complaint would be directed to the very office that employs them. Additionally, OAG serves as legal counsel to State agencies. If an employee at a client agency files a complaint with the Attorney General under this bill, OAG could simultaneously be in the position of investigating that agency and serving as its legal counsel.

Ambiguity in the Definition of "Employer"

SB 857 defines "employer" as "including" units of State and local government and persons acting in the interest of another employer, but does not affirmatively define what an employer is. This drafting gap could create uncertainty about the bill's scope, including whether it covers employers of independent contractors.

Potential Conflict with State Personnel Law

The political activity rights and restrictions applicable to State employees are already addressed in § 2-304 of the State Personnel and Pensions Article. To the extent SB 857 creates overlapping but different protections for State employees, it could create interpretive conflicts.

Potential Federal Preemption on Captive Audience Meetings

SB 857's prohibition on mandatory captive audience meetings may intersect with federal labor law. While current federal law restricts these meetings, that landscape is subject to change, and any divergence between State and federal standards could raise preemption concerns.

We appreciate the sponsors' commitment to protecting Maryland workers' civic rights and remain available to work collaboratively to address these considerations as the legislation advances.

Cc: Members of the Committee