Department of Legislative Services

Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 299 (Chair, Government, Labor, and Elections Committee)(By Request - Departmental - Labor)

Government, Labor, and Elections

Fraud Prevention, Prevailing Wage, and Living Wage - Prohibitions, Penalties, and Enforcement

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This departmental bill enhances enforcement provisions of the Workplace Fraud Act, prevailing wage law, and living wage law, and increases penalties for violations of those labor laws.

Fiscal Summary

State Effect: Most State agencies can implement the bill with existing resources; however, general fund expenditures increase by $110,800 in FY 2027 for new staff at the Office of the Attorney General (OAG). General fund and nonbudgeted Unemployment Insurance Trust Fund (UITF) revenues may increase, likely minimally, but a reliable estimate is not feasible.

(in dollars)	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
Revenues	$0	$0	$0	$0	$0
GF Expenditure	110,800	132,000	138,000	144,200	150,500
Net Effect	($110,800)	($132,000)	($138,000)	($144,200)	($150,500)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local income tax revenues may increase, likely minimally, but a reliable estimate is not feasible. Expenditures are not materially affected.

Small Business Effect: The Maryland Department of Labor (MD Labor) has determined that this bill has a minimal impact on small business (attached). The Department of Legislative Services (DLS) disagrees with this assessment as discussed below.

Analysis

Bill Summary:

Maryland False Claim Act

The bill alters the Maryland False Claims Act (MFCA) to prohibit a person from knowingly making, using, or causing to be made or used, a false record or statement that results in the underpayment of contributions to UITF or the payment of unemployment insurance (UI) benefits of more than $15,000 in a calendar year. If a violation of MFCA involves the failure to pay prevailing wage rates, the bill requires that civil penalties and damages collected also be used to pay restitution to affected workers. The Commissioner of Labor and Industry and the Attorney General are required to cooperate in the investigation of an alleged violation of MFCA that is of unusual scope or complexity or involves novel or complex legal issues if the violation is of a nature and scope that could give rise to a violation or an action under the Workplace Fraud Act, prevailing wage law, or living wage law.

Penalties Payable to Workers

The bill requires that one-third of the civil penalties paid by employers found to have misclassified an employee under the Workplace Fraud Act must be paid directly to an individual affected by the employer’s violation, in addition to any other restitution to which the employee is entitled.

General Contractor Liability for Workplace Fraud Violations

The bill establishes that a general contractor on a construction project is jointly and severally liable for any workplace fraud violations committed by its subcontractors. This liability applies regardless of whether the subcontractor is in a direct contractual relationship with the general contractor.

Expanding Avenues for Redress and Increased Cooperation

The commissioner and Attorney General, or their designees, must meet at least monthly to share information concerning matters related to the Workplace Fraud Act, prevailing wage law, and living wage law. At a minimum, the meetings must share information about (1) the content of complaints or referrals received concerning potential violations and actions taken and (2) the status of investigations initiated, as specified.

The commissioner must refer to the Attorney General any complaint or referral for which the commissioner has (1) not initiated an investigation within six months; (2) declined to investigate; or (3) not issued a citation or has closed an investigation due to a finding of no merit. The Attorney General may exercise the commissioner’s investigative powers, as specified, and provide notice to the commissioner of the disposition of the referral.

The bill authorizes the commissioner to refer specified possible violations of the prevailing wage law and living wage law to the Attorney General to file a civil action. In addition, the commissioner is empowered to file a suit for restitution on behalf of an employee who is not paid the proper prevailing wage or living wage.

Licensing and Other Sanctions

The commissioner must notify the applicable licensing authority when a licensee is found to have misclassified an employee by a final order or a court or an administrative unit if the licensee (1) has not paid all penalties assessed for the violation and (2) within 45 days of the issuance of a final order, has failed to comply with the order, as specified. Upon receiving a notice from the commissioner, the licensing authority must suspend or revoke the license of the licensee, subject to notification and hearing requirements. The bill specifies the conditions under which a license may be reinstated.

The bill also expands the circumstances for debarment from entering into contracts with the State to encompass repeated (not just knowing or willful) violations as well as uncontested findings of violations.

Current Law:

Workplace Fraud Act

Chapter 188 of 2009 (the Workplace Fraud Act) established, for the purpose of enforcement only, a presumption that work performed by an individual paid by an employer creates an employer-employee relationship, subject to specified exemptions. It prohibits construction companies and landscaping businesses from failing to properly classify an individual as an employee and establishes investigation procedures and penalties for noncompliance.

The “ABC test” incorporated in the Workplace Fraud Act is used by MD Labor to establish whether an employer-employee relationship exists for the purpose of determining whether an employee has been misclassified under the Act. While only used to detect workplace fraud in the specified industries, MD Labor is required to use the ABC test in determining whether an individual is an employee in any industry for the purpose of determining whether the employer should pay UI for the individual. The ABC test has three components, all of which must be met to establish that an individual is an independent contractor and not an employee:

A. the individual is free from control and direction over his or her performance both in fact and under the contract (Alone);

B. the individual customarily is engaged in an independent business or occupation (Business); and
C. the work performed is outside the usual course of business, or outside the place of business, of the person for whom work is performed (Control).

The Commissioner of Labor and Industry in MD Labor is responsible for enforcing the Act. The Act distinguishes between an employer who improperly misclassifies an employee and an employer who knowingly misclassifies an employee, and civil penalties are more severe for an employer who is guilty of knowingly misclassifying an employee. The maximum penalty for a knowing violation is a $10,000 fine for each employee who was not properly classified. The Commissioner of Labor and Industry or the administrative law judge must consider specified factors when determining the penalty amount. Penalties can be doubled for employers who have previously violated the Act's provisions. An employer who has been found to have knowingly misclassified employees on three or more occasions may be assessed an administrative penalty of up to $20,000 for each misclassified employee.

Joint Enforcement Task Force on Workplace Fraud

Executive Order 01.01.2024.04, dated January 9, 2024, establishes the Joint Enforcement Task Force on Workplace Fraud to coordinate the investigation and enforcement of workplace fraud. Among its charges is to facilitate data sharing among task force members, including maintaining an interagency online platform to share such information. The task force must report to the Governor by December 31 of each year as specified in the executive order; the report must, among other things, identify successful strategies for preventing workplace fraud that reduce the need for greater enforcement.

Maryland False Claims Act

Enacted under Chapter 165 of 2015, MFCA prohibits a person from knowingly making a false or fraudulent claim for payment or approval by a governmental entity (defined as the State, a county, or a municipal corporation). A person who does so is liable to the governmental entity for a civil penalty of up to $10,000 for each violation, plus an additional amount of up to three times the amount of actual damages that the governmental entity sustains.

Prevailing Wage Law

For an overview of the prevailing wage law, please see the **Appendix – Maryland's Prevailing Wage Law**.

Living Wage Law

Chapter 284 of 2007 made Maryland the first state to require State service contractors to pay their employees a "living wage." For fiscal 2008, the living wage was set at $11.30 in Montgomery, Prince George's, Howard, Anne Arundel, and Baltimore counties and Baltimore City (Tier 1). It was set at $8.50 for all other areas of the State (Tier 2). The living wage rates are adjusted annually for inflation by the Commissioner of Labor and Industry. Effective September 28, 2025, the Tier 1 living wage is $17.17 and the Tier 2 wage is $15.00. Montgomery and Prince George's counties and Baltimore City have local living wage ordinances that apply to their procurement of services. The living wage law does not apply to State contracts with nonprofit organizations.

Background: The Joint Enforcement Task Force on Workplace Fraud issued its 2024 annual report. According to the report, task force agencies discovered 5,595 misclassified workers through their enforcement actions. MD Labor's Division of Unemployment Insurance uncovered more than $36 million in unreported taxable wages paid to workers due to workplace fraud, and the Comptroller assessed $3.5 million in tax, interest, and penalties on businesses for misclassifying workers.

To combat the prevalence of misclassification and failure to pay prevailing and living wages, MD Labor advises that stronger enforcement strategies are needed. Enhancing cooperation with OAG as well as increasing the stakes for violations of the labor laws by, for instance, allowing for the suspension of professional licenses or subjecting violations to prosecution under MFCA, are designed to increase compliance.

State Fiscal Effect:

General Fund and Unemployment Insurance Fund Revenues

To the extent that the bill results in more widespread compliance with the Workplace Fraud Act, income tax withholdings and employer contributions to UITF may increase due to more workers being classified as employees instead of independent contractors. It is not possible to predict the extent to which compliance increases in the absence of experience under the bill. Although any such increase in revenues may be significant, this analysis assumes that they are more likely to be minimal. General fund revenues may also increase, particularly in the years immediately following enactment, due to more employers paying civil penalties, but any such increase is also expected to be minimal and is partially offset by direct payment of one-third of such penalties to affected individuals.

Office of the Attorney General Expenditures

OAG anticipates an increased workload due to more investigations and adjudications of MFCA violations under the bill. It anticipates needing two attorneys and one paralegal to handle that workload, but DLS disagrees. Any initial increase in OAG's caseload is likely to be minimal until enforcement ramps up, likely requiring only one additional attorney. Thus, general fund expenditures increase by $110,797 in fiscal 2027, which accounts for the bill's October 1, 2026 effective date, to hire one assistant Attorney General to handle additional MFCA cases resulting from the bill. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

OAG Position	1.0
Salary and Fringe Benefits	$101,656
Operating Expenses	9,141
Total OAG FY 2027 State Expenditures	**$110,797**

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses. To the extent that OAG's caseload increases more than anticipated in the out-years, it can request additional attorneys through the annual budget process.

Local Revenues: As with general fund revenues, local income tax revenues may increase due to greater compliance with the Workplace Fraud Act. However, as with the State, any such increase is anticipated to be minimal.

Small Business Effect: MD Labor advises that the bill is intended to create a strong set of tools to encourage compliance with existing laws and should not result in an economic impact for small businesses that are already compliant. However, as the Joint Enforcement Task Force found substantial noncompliance with the Workplace Fraud Act, the bill may have a meaningful economic impact on small businesses that are currently misclassifying employees. As under current law, to come into compliance, these businesses must pay unpaid UI taxes, workers' compensation premiums, and payroll taxes on behalf of misclassified employees. Furthermore, these entities face significant civil and administrative penalties of up to $10,000 per violation. Under the bill, however, they may also have their professional or occupational licenses suspended or revoked for noncompliance, be more likely to face debarment from entering into contracts with the State, and be liable for subcontractor violations

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced in the last three years.

Designated Cross File: SB 60 (Chair, Finance Committee)(By Request - Departmental - Labor) - Finance.

Information Source(s): Office of the Attorney General; Comptroller's Office; Maryland State Treasurer's Office; Judiciary (Administrative Office of the Courts); Department of General Services; Maryland Department of Labor; Board of Public Works; Office of Administrative Hearings; Workers' Compensation Commission; Department of Legislative Services

Fiscal Note History: First Reader - January 27, 2026
sj/mcr

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Appendix – Maryland's Prevailing Wage Law

Contractors and subcontractors working on eligible public works projects in Maryland, including mechanical service contractors that are part of public works projects, must pay their employees the prevailing wage rate. "Public works" are structures or works, including a bridge, building, ditch, road, alley, waterwork, or sewage disposal plant, that are constructed for public use or benefit or paid for entirely or in part by public money.

Eligible public works projects are:

- those carried out by the State;
- any public work for which at least 25% of the money used for construction is State money;
- specified projects in tax increment financing districts if the local governing body approves of the application of prevailing wages; and
- construction projects by investor-owned gas and/or electric companies involving any underground gas or electric infrastructure.

Applicability in Maryland

Generally, any public works contract valued at less than $250,000 is not required to pay prevailing wages. However, the prevailing wage law was amended in 2022 to include mechanical service contracts valued at more than $2,500. Mechanical service contracts are defined as contracts for (1) heating, ventilation, and air conditioning, including duct work; (2) refrigeration systems; (3) plumbing systems, as specified; (4) electrical systems, as specified; and (5) elevator systems, as specified.

The State prevailing wage rate also does not apply to (1) any part of a public works contract funded with federal funds for which the contractor must pay the prevailing wage rate determined by the federal government; (2) specified construction projects carried out by public service companies under order of the Public Service Commission (except the underground projects mentioned above); or (3) local House or Senate initiatives that receive State funds in the capital budget.

Prevailing wages are wages paid to at least 50% of workers in a given locality who perform the same or similar work on projects that resemble the proposed public works project. If fewer than 50% of workers in a job category earn the same wage, the prevailing wage is the rate paid to at least 40% of those workers. If fewer than 40% receive the same wage rate, the prevailing wage is calculated using a weighted average of local pay rates. The State Commissioner of Labor and Industry is responsible for determining prevailing wages for each public works project and job category based on annual wage surveys, in which contractors and subcontractors working on both public works and private construction projects may participate.

The University System of Maryland (USM), Morgan State University (MSU), St. Mary's College of Maryland, and the Maryland Stadium Authority (MSA) are all exempt from the prevailing wage law. However, USM and MSU advise that they voluntarily comply with prevailing wage requirements for contracts that exceed the $250,000 threshold. MSA largely administers its own prevailing wage program, using wage rates borrowed from the commissioner's annual wage survey.

Enforcement

The commissioner has the authority to enforce contractors' compliance with the prevailing wage law, including issuing a stop work order if the commissioner makes an initial determination that a contractor or subcontractor may have violated the prevailing wage requirements. Contractors found to have violated the prevailing wage law must pay restitution to the employees and liquidated damages to the public body in the amount of $20 a day for each worker who is paid less than the prevailing wage, or $250 per worker per day if the employer knew or reasonably should have known of the obligation to pay the prevailing wage. If an employer fails to comply with an order by the commissioner to pay restitution, either the commissioner or an employee may sue the employer to recover the difference between the prevailing wage and paid wage. The court may order the employer to pay double or triple damages if it finds that the employer withheld wages or fringe benefits willfully and knowingly or with deliberate ignorance or reckless disregard for the law.

The Governor must include at least $385,000 in the budget each year for the Prevailing Wage Unit within the Maryland Department of Labor (MD Labor).

The number of prevailing wage projects rose dramatically following the Great Recession and has remained high each year since. MD Labor recently developed and unveiled a new pay log system, which provides more accurate tracking of prevailing wage projects than its previous database. Using the new system, MD Labor advises that, during fiscal 2025, its Prevailing Wage Unit monitored 889 projects, up from the 816 projects in fiscal 2024 and 757 projects in fiscal 2023, and still significantly more than the 496 projects reported in fiscal 2014.

To accommodate the increase in projects, the number of prevailing wage investigators has increased, starting with doubling investigative staff in the unit from three to six in fiscal 2016. In fiscal 2024, the legislature again increased staffing for the division allowing for eight investigators in the unit. The fiscal 2025 budget provided nine new wage and hour positions for the division, eight of which were assigned to the Prevailing Wage Unit. As of January 2026, the unit has seven investigators, including two bilingual Spanish speakers, and two interpreters/interviewers bilingual Spanish speakers. Although the unit is currently down one investigator from the previous year, the division has received hiring freeze exemptions for its vacancies and is in active recruitment to return to full staffing levels.

History of the Prevailing Wage

The federal Davis-Bacon Act, originally enacted in 1931, requires contractors working on federal public works contracts valued at more than $2,000 to pay their employees the prevailing local wage for their labor class, as determined by the U.S. Secretary of Labor. The general intent of the law, and similar state and local laws, is to stabilize local wage rates by preventing unfair bidding practices and wage competition. Thirty-two states and the District of Columbia currently have prevailing wage laws; since 1979, nine states have repealed their prevailing wage laws.

Maryland adopted a prevailing wage law in 1945 (Chapter 999), but it only applied to road projects in Allegany, Garrett, and Washington counties. In 1969, the statute was amended to include State public works contracts of $500,000 or more. There have been periodic changes to the law and the definition of "prevailing wage." In 1983, the law was broadened to include public works projects in which the State funds 50% or more of the total project costs and 75% or more in the case of public schools. Chapter 208 of 2000 reduced the prevailing wage threshold for public schools from 75% to 50% of construction costs, thereby bringing school construction projects in line with prevailing wage requirements for other public works projects. Chapters 281 and 282 of 2014 further lowered the State funding threshold for school construction projects to 25% of total construction costs, thereby requiring the vast majority of public school construction projects in the State to pay the prevailing wage, subject to the $500,000 contract value threshold. Chapters 57 and 58 of 2021 lowered the State funding threshold for all public works projects (including school construction) to 25% of total construction costs and lowered the contract value threshold for payment of prevailing wages to $250,000; however, legislative bond initiatives that receive State funds in the capital budget are exempt from the requirement to pay prevailing wages. As noted above, Chapter 51 of 2022 extended the prevailing wage requirement to mechanical service contracts valued at more than $2,500.

Six Maryland jurisdictions – Allegany, Baltimore, Charles, Montgomery, and Prince George's counties and Baltimore City – have local prevailing wage laws requiring public works projects in the jurisdiction to pay prevailing wages.

Research on the Effects of Prevailing Wage on Contract Costs

The Department of Legislative Services (DLS) has reviewed research on the effect of prevailing wage laws on the cost of public works contracts and has found inconsistent and/or unreliable results. The primary challenge confronted by all prevailing wage researchers is identifying an appropriate "control group" consisting of projects of similar type, timing, and location that do not pay the prevailing wage. In most jurisdictions that require a prevailing wage, all projects of a specified type and size are subject to it, so there is no natural control group. Some researchers have compared project costs in states or localities before and after they adopted prevailing wage requirements, but their findings are clouded by the difference in time, during which construction costs changed and other factors were not consistent. Another deficiency in the research is that it almost always relies on project bid prices (*i.e.*, the anticipated cost prior to the beginning of construction) rather than actual final costs. As most construction projects experience change orders or cost overruns affecting their cost, reliance on bid prices negatively affects the validity of the findings. Therefore, research findings related to the effect of the prevailing wage on project costs are inconsistent and often inconclusive. A similar review of research conducted by MD Labor (at the time, the Department of Labor, Licensing, and Regulation) for the Task Force to Study the Applicability of the Maryland Prevailing Wage Law also concluded that "data limitations create difficulty for researchers on both sides of the issue."

Local school systems occasionally solicit side-by-side bids with and without prevailing wages to help them decide whether they want to accept the full State match (and, thus, be subject to the prevailing wage) or a lesser State match without being subject to the prevailing wage. Data provided to the Public School Construction Program by Anne Arundel, Carroll, Frederick, Howard, and Washington counties, from 2012 through 2015, shows that the cost differential between bids with and without prevailing wages for 266 individual bids submitted for 26 different school construction and renovation projects averaged 11.7%, with a range from 0% to 49%. As with other research data, these represent bid prices, not actual construction costs. An independent analysis of the Maryland side-by-side bid data concluded that factors other than prevailing wages, including bid timing and the level of competition for the bids, accounted for most of the differences between the prevailing wage and nonprevailing wage bids.

One area of the research in which there is a general consensus, and which is supported by the U.S. Bureau of Labor Statistics, is that labor costs represent between 20% and 30% of construction costs (with materials and site costs making up most of the rest). Therefore, a 10% gap between prevailing wages and market wages could theoretically increase total contract costs by about 2.5%, and a 20% gap in wages could increase total contract costs by about 6%. Given the empirical evidence that prevailing wages tend to be higher than nonprevailing wages and that labor costs are a significant portion of overall project costs, DLS believes that it is reasonable to expect that the prevailing wage requirement adds between 2% and 5% to the cost of a public works project. Given the inconsistency and inconclusiveness of the empirical research, however, actual effects may vary by project, with some projects exhibiting higher cost differences and others experiencing negligible differences.

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Fraud Prevention, Prevailing Wage, and Living Wage - Prohibitions, Penalties, and Enforcement

BILL NUMBER: HB 299

PREPARED BY: Devki Virk

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

_x_ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

__ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The bill is intended to encourage compliance with existing laws. Although it does increase the potential sanctions for noncompliance, it should not result in economic impact for those businesses who are already compliant.