Testimony of Laura Padin

National Employment Law Project

Support for *Commissioner of Labor and Industry - Classification of Employees and Independent Contractors – Guidelines* (HB 1448)

Hearing before the Maryland the House Economic Matters Committee

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The National Employment Law Project (NELP) is a 50-year-old non-profit, non-partisan research and advocacy organization specializing in employment policy and supports. We partner with federal, state, and local lawmakers and local stakeholder groups on a wide range of workforce issues. Across the country, our staff is recognized as policy experts in areas such as unemployment insurance, wage and hour enforcement, minimum wage, and workplace protections for low-wage workers. NELP's work includes a focus on combatting misclassification of employees as independent contractors. **NELP supports HB 1448, which would help prevent independent contractor misclassification.**

What is independent contractor misclassification? Also called "payroll fraud," labeling workers self-employed, 1099s, or freelancers is a tactic used by employers to evade responsibility for fair pay, health and safety, and other workplace standards and to shift risk downwards onto workers and wealth upwards to investors and CEOs .
When employers mislabel their employees as independent contractors, these workers are excluded from minimum wage and overtime requirements, workers' compensation, unemployment insurance, the right to form a union and bargain collectively, and other workplace protections. And their employers avoid paying payroll taxes that fund social insurance programs like unemployment insurance, which can cause these programs to be underfunded. Misclassification is especially prevalent in labor-intensive low-wage sectors overrepresented by people of color, such as n home care, construction, landscaping, security, delivery, trucking, and janitorial services, sectors where employers can gain a competitive advantage by driving down payroll costs. This means that people of color toil in jobs that are insecure, underpaid and have no workplace protections or benefits, which exacerbates income inequality and economic insecurity for Black and brown communities.

HB 1448 would help prevent misclassification by educating nearly every business in Maryland about what existing law requires. This bill does two things. First, it provides for the Office of the Attorney General and the Department of Labor to develop a short, plain-language guidance document explaining Maryland's definitions of employee and independent contractor. Second, it requires every corporate entity in Maryland to certify that it has read the guidance document when it files its annual state property tax returns. In this way, the bill will get the guidance to all business entities in the state, even those that may not have investigated what state law requires of them. This is a low-cost, good-government strategy to reduce misclassification and help ensure that businesses operating in the state comply with state employment laws.

As an added benefit, HB 1448 will increase state tax revenue. States lose tax revenue when businesses misclassify their employees as independent contractors, because such business do not pay employment-related taxes. In reducing misclassification, HB 1448 would also increase state tax revenue.

For these reasons, NELP supports HB 1448 and urges a FAVORABLE report.