



NEW JERSEY SENATE

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**NJ STATE SENATOR TROY SINGLETON
TESTIMONY IN SUPPORT OF
SB001/HB0145 Prevailing Wage – Stop Work Orders
JANUARY 25, 2022**

Delegate Wilson and Members of the House Economic Matters Committee, thank you for allowing me to submit this testimony in support of legislation that will undoubtedly provide labor protections to many working men and women in Maryland.

My name is Senator Troy Singleton, and I represent the 7th Legislative District in the New Jersey State Senate. I am also a member of the Eastern Atlantic States Regional Council of Carpenters Local #255. So, I come to you this afternoon with the perspective of a fellow policy maker and someone who has seen firsthand what happens when workers are exploited by unscrupulous employers.

I am in strong support of Senate Bill 001/ House Bill 0145. As the prime sponsor of similar legislation, which became law in New Jersey in July 2019, I am glad to see Maryland move in the same direction which will ensure employees on prevailing wage projects are paid accordingly and treated fairly.

Senate Bill 001/ House Bill 0145 will provide tools to the Commissioner of Labor and Industry in Maryland to protect workers and hold employers accountable. In New Jersey, we have seen instances where employers do not keep payroll records, misclassify workers as independent contractors, and do not provide workers' compensation insurance to employees who qualify. These practices must stop and the best, most effective way is to give the Commissioner the ability to issue stop-work orders when the employer is in violation.

We acted in New Jersey to address this important issue after a 2018 New Jersey Department of Labor audit found more than 12,300 cases of workers were being misclassified, which resulted in more than \$460 million in underreported wages and \$14 million in lost state unemployment and temporary disability contributions. This audit, which covered just 1% of businesses, in reality means this is a much more widespread problem that not only cheats workers out of their entitled wages, but also cheats taxpayers and the government out of dollars that would fund workers comp and unemployment benefits. In the construction industry, this practice is even more egregious, harming both workers and law-abiding employers alike.

Before all else, we must protect the rights of the men and women who are working hard each and every day to earn a decent and fair living. New Jersey has set a high standard for how we treat our workers, and we hope that Maryland will move in a similar direction to further protect its workers. I thank this committee for considering this important legislation.



**TESTIMONY OF DR. LUNIQUE ESTIME, ESTIME ENTERPRISES, INC.
HB145 / SB1 - STATE FINANCE AND PROCUREMENT - PREVAILING WAGE -
STOP WORK ORDERS
FAVORABLE**

January 19, 2022

Hello, my name is Dr. Lunique Estime. I am an established certified Minority Business Enterprise (MBE) in Lanham, Maryland, and I strongly support HB145/SB1.

As an MBE, I am also a signatory contractor to the Carpenters union, and I hire union workers because I need the reliability and quality of the work done by these workers.

In a competitive bidding field, with high stakes projects, it's nearly impossible to compete with other contractors that underpay their workers, or cheat taxpayers by not complying with the law. It's also dangerous, and it's not right. Beyond that, from a purely business point of view, the stakes are just too high for me to be caught up in workplace or wage violations.

I have a lot invested in the reputation of my company. I started Estime Enterprises, Inc. in 1996, and have built a skilled team of professionals to provide excellent construction, construction management, facility maintenance, A&E, and telecommunication services to private corporations, State Governments, as well as Federal government agencies (civilian and military). Our team includes licensed professionals in the field of engineering, plumbing, heating, construction, and management. We handle projects of all kinds, sizes, and scopes whether it is setting up telecommunication towers, installing lines and antennas, or maintaining already-existing buildings.

To give you a sense of the scale, importance and security of our work, we provided the largest set of engineers in construction management services at the Ft. Belvoir Community Hospital, a state-of-the-art \$1.2 billion project designed to treat active and retired military personnel and their families. In addition, we Conducted the World Class Construction Initiative for the US Navy, and worked in association with Clark Construction on the new University of Maryland Regional Medical Center located in Largo, MD, constructing a 600,000 sq ft state of the art hospital.

As a proud MBE state and federal government contractor, I can tell you that we work hard, pay our taxes, and do the best job that we can.

It's hard enough being an MBE. but when my competitors cheat the system, we simply can't compete.

Please help us.

Thank You,

Lunique Estime
Lunique Estime
President

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Eastern Atlantic States
REGIONAL COUNCIL OF CARPENTERS

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January 20, 2022

Honorable C.T. Wilson
Chair
House Economic Matters Committee
Room 231
House Office Building
Annapolis, MD 21401

Dear Chair Wilson and the Honorable Members of the House Economic Matters Committee,

In the State of Maryland workers deserve protections that allow for fair pay and prevent abuses from employers. Prevailing wage in Maryland already levels the playing field and ensure that workers are paid the rate they deserve for the work they perform. Too many times though, bad actors in the construction industry do not adhere to Maryland prevailing wage laws and use wage theft and misclassification of workers to skirt their responsibilities. That is why the Executive Board of the Eastern Atlantic States Regional Council of Carpenters and the over 3,000 highly skilled union carpenters we represent in Maryland ask you to support HB145/SB1.

As you may know, HB145/SB1 authorizes the Commissioner of Labor and Industry to issue a stop work order for each work site where the Commissioner has made an initial determination that a contractor or subcontractor may have violated the prevailing wage requirements. This bill will also allow a prime contractor to terminate the contract of a subcontractor without incurring certain liability if the subcontractor has a stop work order issued against them. These are tools necessary to make sure the bad actors who cheat workers are held accountable in a real way. These contractors should not continue to profit off their disregard of prevailing wage and workers. Stop work orders take this profit away immediately.

By defending prevailing wage, we are defending the future of Maryland. Prevailing wage provides pathways for apprenticeships on projects to train the next generation of workers, and provides more opportunity for law-abiding contractors to succeed. A majority of States like Maryland that have prevailing wage use stop work orders to enforce the law. Leaders in Maryland like you can make sure this effective tool is available to protect Maryland workers by supporting HB145/SB1.



EASTERN ATLANTIC STATES REGIONAL COUNCIL OF CARPENTERS

Representing members in New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Washington D.C., and 10 counties in North Carolina

Thank you for your consideration for HB145/SB1. Please know the Eastern Atlantic States Regional Council of Carpenters is here to answer any questions you may have.

Sincerely,

William C. Sproule
Executive Secretary-Treasurer

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TESTIMONY

HB 145 / SB1 - STATE FINANCE AND PROCUREMENT – PREVAILING WAGE – STOP WORK ORDERS

FAVORABLE

To: Chair Wilson, Vice Chair Crosby and honorable members of the House Economic Matters Committee

From: Carl Neimeyer, President, Bernward Mechanical and Construction Solutions

On behalf of Bernward Mechanical and Construction Solutions and the 52 skilled union tradesmen we employ in the State of Maryland, I am writing today in support of HB145. This bill is an important tool in fighting against fraudulent contractors and providing all workers a fair wage in the state procurement system.

I started this Maryland based Service Disabled Veteran Owned Small Business in 2016 with a strong mission to provide every worker with a just wage, the tools and training to do their job, and health and retirement benefits befitting the dignity of the middle class worker. As a result, we contend daily with losing jobs to companies who do not share our standards and ethics. This bill as written will provide the state with strong enforcement action to ensure that the wage due to the worker is paid, eliminate low road companies from competition, and bolster the workforce with well compensated, trained, and skilled workers in a time when they are in short supply.

One of our greatest challenges for our business is competing against companies that choose profits over ethics. We have elected on several occasions to decline bidding state work due to our knowledge that our non-union competition engages in worker misclassification and other unfair practices to give them a significant pricing edge over us. This practice must be brought to a stop. Giving the state the simple and effective enforcement actions laid out in this bill and already in force in New Jersey will immediately and rightfully impact those contractors exploiting their workers and taking part in illegal misclassification. Further, this will put these contractors on notice that illegal practices will no longer be tolerated and that they can no longer steal work from ethical contractors.

I implore you to take this important first step in ending wage theft and leveling the playing field for legitimate contractors in the State of Maryland. I hope that you share my goal to provide your constituents and resident businesses protection from those companies who seek to turn profit on the backs of the worker rather than build value in partnership with their workers. For these reasons, I ask for a favorable committee report on HB145.

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TESTIMONY – HB145 / SB1 - STATE FINANCE AND PROCUREMENT - PREVAILING
WAGE - STOP WORK ORDERS

KUNTA KENTE BEDNEY

FAVORABLE

Hello. My name is Kunta Kente Bedney, and I am a proud Council Representative with the Eastern Atlantic States Regional Council of Carpenters.

I support this legislation because I've seen a lot of people being cheated and exploited throughout my life.

I grew up in the 80's. My father got killed in Lorton Jail in Virginia just after I was born. When I was 2 years old, my mother was also incarcerated and did 10 years in jail. I was raised by my great aunt – my grandmother's sister – and by the time my mother got out I was making decisions on my own, and was ripping and running the streets in Washington DC.

I dropped out of high school in 11th grade, and when I was 19, I got into some trouble in Prince George's County, and did 18 months in Upper Marlboro.

During those 18 months, I had time to think about my life. I said to myself if God gave me an opportunity to for another chance, I'd make the best of it.

When I got out I got my GED and got my pre-apprenticeship certificate in construction. I was blessed, because someone believed in me when I didn't believe in myself – a carpenter named Maurice Harris. He gave me the skills, guidance, motivation and positivity that I never had because I never really had a father. We worked through Habitat for Humanity building low income housing, while I studied to be a journeyman. After that I became a foreman, and now I'm a council representative.

Today, I'm a productive middle class citizen, a proud carpenter, and father blessed with 6 beautiful children in school, and 1 in college. My office is in Upper Marlboro, and every day I reach out to communities throughout Maryland, DC and Virginia – community groups, churches, high schools, pre-apprenticeship programs – wherever people are in poverty, and give young people the same opportunities that I had.

There are a lot of opportunities through these programs – they just need to see that light – and need a little help to turn their lives around.

I've seen a lot of bad things on construction sites – a lot of bad things happen to good people – people being exploited, being cheated out of wages, and getting hurt on jobsites because they never had the skills to be doing the work that they were doing. It's not right.

This legislation is a small step in turning that around.

Thank you.



Plumbers Local Union No. 5

United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL-CIO

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TESTIMONY

HB 145 / SB1 - STATE FINANCE AND PROCUREMENT – PREVAILING WAGE – STOP WORK ORDERS

FAVORABLE

Chair Wilson, Vice Chair Crosby and honorable members of the House Economic Matters Committee:

As Business Manager/Financial Secretary Treasurer of UA Plumbers & Gasfitters Local 5, please accept this letter in strong support of HB145 /SB1, to authorize the use of Stop Work Order on Maryland state worksites.

The UA Plumbers & Gasfitters Local 5 have been installing, maintaining, and servicing the waste, water & gas systems in the Washington D.C. area since 1890. We represent some 1,800 of the most highly skilled construction workers to be found anywhere, including over 300 apprentices, which provide the workforce excellence across some 65 signatory construction contractors throughout the Washington, DC Metropolitan area.

We provide and fund some of the most comprehensive and rigorous skills training programs in the nation, due in large part to the Davis-Bacon and Prevailing Wage programs at the federal, state and county levels. Those programs are the basis for exceptional skills training and pipelines to outstanding middle class careers in the construction trades.

Our ability to continue those programs is based on our ability to compete on a level playing field with other contractors and construction teams. But when contractors or subcontractors cheat by misclassifying or otherwise engaging in wage theft or exploitation, our workers find it harder and harder to provide the training that has built some of the most important infrastructure in the nation.

But beyond the theft and exploitation of the workers, these practices rob state and local taxpayers of millions of dollars in lost revenues, unemployment insurance, and other programmatic and safety-net funding.

This legislation is a necessary small step in providing a discretionary tool needed to begin to rein in some of these unscrupulous practices.

For these reasons, I ask for a favorable committee report.

Sincerely,

Terreia "T" Smalls
UA Plumbers & Gasfitters Local No. 5
Business Manager / Financial Secretary Treasurer

TESTIMONY SERGIO BAUTISTA-REYES

HB145/SB1 – STOP WORK ORDER LEGISLATION

FAVORABLE

Hello. My name is Sergio Bautista-Reyes and I am council representative at the Eastern Atlantic States Regional Council of Carpenters. I'm a resident of Baltimore County, in the second district.

Before I became a member of the carpenters local, I worked for several labor brokers, getting paid in cash or checks without any tax deductions, never got paid OT, even got hurt a couple times in the job site but my boss did not care at all. I remember the first time I heard about the union and asked my boss about it, said "don't you ever talk to those people, they are not good for you". After a few years I was blessed to be organized by one of the Local Representatives who educated me about the ongoing dynamic in the construction industry and the benefits of joining the carpenters local, so I did. After five years in the local I got the opportunity to start working for the Council of Carpenters.

Being a Representative for the Carpenters Council has giving me the opportunity to educate workers in this trade, help them to understand their rights and that there is a better way of life by joining the local and stop working for these labor brokers who exploit them and undermine our industry by paying low wages and cheating the system.

I do not regret, taking the decision to become a member of the carpenters local because I have been able to provide for my family and help others in need and at the same time have a peace of mind looking forward for the benefit of a future retirement.

I believe that without this legislation, thousands of workers that are in the same situation I was in before, will have a harder time finding a job with fair wages and benefits or even building a business because we can't compete against contractors that cheat their workers and the taxpayers.

Please support this legislation.



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TESTIMONY

**HB 145 / SB1 - STATE FINANCE AND PROCUREMENT – PREVAILING WAGE –
STOP WORK ORDERS**

FAVORABLE

Chair Wilson, Vice Chair Crosby and honorable members of the House Economic Matters Committee:

On behalf of the Eastern Atlantic Regional Council of Carpenters (EASRCC), our 41,000 of the most skilled construction workers and apprentices in the nation, and including some 3,000 carpenters right here in the State of Maryland, we write today in support of HB145, providing one tool to address the issue of misclassification, wage and unemployment insurance theft within the state procurement system.

Modeled after successful legislation in New Jersey, Connecticut and many other states, this legislation provides Stop Work Order authority withing the Department of Labor, as one tool to hold accountable those employers and contractors who cheat workers and out of wages, and cheat taxpayers and government out of workers' compensation and unemployment trust fund dollars, as well as revenues to state and local economies.

Misclassification and wage theft runs rampant in work sites through the region, cheating workers out of millions of dollars in wages and benefits, and disadvantaging responsible companies by creating an un-level competitive playing field. The problem is particularly pernicious for underage and undocumented workers who are the most vulnerable to workplace exploitation by unscrupulous contractors and labor brokers. It a terrible problem that is difficult to curtail without tools developed specifically to target and stop that exploitation at the source. Beyond the wage and workplace rights of those workers, misclassification and wage theft cheats state and local taxpayers and economies tens of millions of dollars each year in lost or unrealized revenues, unemployment and other trust fund resources.

This legislation begins to rein that in. It provides as follows:

1. The Stop-Work Order would apply to every site where the violation continues to occur.



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2. It could only be lifted by the commissioner if the department finds the employer has agreed to pay future wages at the required rate, return any back-wages owed to workers and pay any penalty assessed by the department.
3. The commissioner may also require the employer to file periodic reports for two years certifying its compliance with the prevailing wage law as a condition of lifting the order.
4. The commissioner would be allowed to investigate the wage records of an employer in the construction industry upon the complaint of an employee for failure to pay required wages and contributions.
5. The commissioner would be permitted to issue subpoenas in connection with the investigation and fine individuals who willfully hinder it.
6. If an employer does not stop business despite being issued a Stop-Work Order, the commissioner would be permitted to assess a civil penalty of \$5,000 per day.

This legislation is an important first step in ensuring that workers are paid the wages and benefits to which they are entitled and have earned under the law.

For the forgoing reasons, we ask for a favorable committee report.

Sincerely,

Mungu Sanchez, Deputy Political Director

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TESTIMONY OF ROGER P. MANNO, ESQ.

HB145 / SB1 - STATE FINANCE AND PROCUREMENT - PREVAILING WAGE - STOP
WORK ORDERS

FAVORABLE

Honorable Members of the House Economic Matters Committee and the Senate Finance Committee:

On behalf of the Eastern Atlantic States Regional Council of Carpenters, please accept this testimony in strong support of HB145 / SB1, to authorize the discretionary use of Stop Work Orders.

This legislation is simply a tool for eliminating worker exploitation, wage theft, and tax fraud and insurance fraud. According to a 2016 report from the Center for Popular Democracy, some 600,000 Marylanders are victims of wage theft each year, amounting to some \$900,000,000 in stolen wages. And while wage spans the 0gamut of workplaces and industries, it is most pernicious for lower wage workers in hospitality, landscaping and construction.

These problems are not unique to Maryland.

This legislation mirrors recently passed legislation in the State of New Jersey (S-2557, Sen. Singleton), which was prompted by a concerted legislative and executive effort to rein in misclassification, as it related directly to an annual loss of some half a billion dollars in lost / stolen wages, and millions of dollars in lost / unrealized unemployment, disability, and family leave contributions. That legislation passed with nearly unanimous bi-partisan support in committee (Democrats 9 YES / Republicans 3 YEA, 1 NAY) and on final passage (Democrats 25 YEA, 1 NOT VOTING / Republicans 12 YEA, 1 NAY, 1 NOT VOTING). Since passage of the legislation, the New Jersey's Attorney General and its Department of Labor have been successful in reducing the numbers of wage and misclassification violations, and recovering millions of dollars in lost and unrealized revenues.

Maryland would similarly benefit from this legislation. As introduced, this legislation is extremely measured, and is discretionary on the part of the Executive Branch. Despite that, there may be opponents who seek to water down this legislation through the amendment process.

We would ask the Economic Matters and Finance committees not to entertain any limiting amendments, as this legislation is extremely straight forward, and has been effective in curtailing wage theft, misclassification and insurance fraud in New Jersey. There is no indication that it will be less effective in Maryland. If, however, the Economic

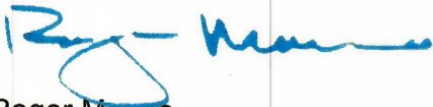
Matters and Finance committees are inclined to entertain amendments, please also consider two amendments based on related laws passed in New Jersey, which compliment and build-out the aspirational enforcement mechanisms of the legislation:

1. Modeled after New Jersey's A5891 / S3921, this amendment creates the Office of Strategic Enforcement and Compliance to investigate claims of employee misclassification and coordinate strategic enforcement efforts both within the Department of Labor and across other state agencies. This legislation was instrumental in the implementation of several multi-state MOUs to jointly investigate and prosecute wage theft, tax fraud, and unemployment insurance fraud.
2. Modeled after New Jersey's A5892 / S 3922, the second amendment streamlines the process for identifying unlawful employee misclassification, and provides that businesses that misclassify employees "for the purpose of evading payment of insurance premiums" commit insurance fraud. An adverse finding under this law will trigger an investigation by the Maryland Insurance Administration.

Implementing this legislation as introduced would be an enormous benefit for Maryland, our workers and our economy. In fact, the close to billion dollars in realized annual wages and revenues would provide an enormously stimulative effect, helpful providing needed programmatic funding, and stimulating Maryland's currently anemic job creation rate, the worst among states in the region.

Thank you for your consideration of this legislation, and the above referenced suggested amendments.

Sincerely at your service,



Roger Manno