



NEW JERSEY SENATE

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NJ STATE SENATOR TROY SINGLETON TESTIMONY IN SUPPORT OF SB001/HB0145 Prevailing Wage – Stop Work Orders FEBRUARY 10, 2022

Senator Kelly and Members of the Senate Finance 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 1/ House Bill 145. I want to thank the sponsors of this proposal for their advocacy and leadership on this issue. 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 bad 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.

Employee misclassification is a problem because when workers are misclassified as independent contractors by their employers, it not only diminishes their access to labor protections, but it also has real consequences on the State's economy and tax revenues. 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, 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. We cannot build a stronger and fairer economy without strong workplace protections that ensure fairness for employees. This proposal sets a high standard for how we should treat our workers, and I hope that this body will expeditiously move to protect its workers. I thank the committee for this opportunity to address you and for your consideration of this important legislation. Thank You.



TESTIMONY

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

FAVORABLE

To: Chair Kelley, Vice Chair Feldman and honorable members of the Senate Finance 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 SB1. 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 SB1.

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Eastern Atlantic States
REGIONAL COUNCIL OF CARPENTERS

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TESTIMONY

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

FAVORABLE

Chair Kelley, Vice Chair Feldman and honorable members of the Senate Finance 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.



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

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

KUNTA KENTE BEDNEY

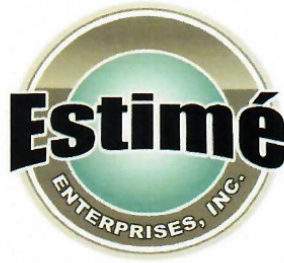
FAVORABLE

Good afternoon Chair Kelley, Vice Chair Feldman, committee members and guests. My name is Kunta Bedney and I am a Council Representative with the Eastern Atlantic States Regional Council of Carpenters. I service the DMV area (DC, PG County, Charles County, Montgomery County, and Northern Virginia). I am here in support of the "Prevailing Wage - Stop Work Order Bill."

I would like to start by sharing my life story and why this bill is so important to people like me. I had a rough childhood growing up. My Mom served ten years in prison and my Dad was killed in Lorton Prison in Lorton, Virginia. My great aunt raised me and she did her best to keep me out of trouble but trouble found me. I dropped out of high school in the 11th grade and started running the streets. I was arrested and had eighteen months to think about my life. When I came home, I went to a pre-apprenticeship program that allowed me to earn a GED and a pre-apprenticeship certificate in construction. I enrolled in the Carpenters apprenticeship program, worked my way up from an apprentice, to a journeyman, then to a foreman and now I am a Council Representative. It's important that these programs continue to thrive in low income areas and continue to help people that need second chances to change their lives from poverty to the middle class. I am proud to say today that I'm a father of six children, engaged to be married, and a productive citizen, all of which I learned from professional men and women in the Carpenters Union.

This bill stops unscrupulous contractors from being bad actors in the construction industry. If contractors aren't breaking the law they have nothing to worry about. This legislation ensures that workers like me are paid the wages and benefits to which we are entitled and have earned under the law.

Thank you for your time and I ask for a favorable committee report.



**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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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.

TESTIMONY OF ROGER P. MANNO, ESQ.

SB1 / HB145 - 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 SB1 / HB145, 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 gamut 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 complement and build-out the aspirational enforcement mechanisms of the legislation:

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.

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

TESTIMONY SERGIO BAUTISTA-REYES

HB145/SB1 – STOP WORK ORDER LEGISLATION

FAVORABLE

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