



# MARYLAND STATE & D.C. AFL-CIO

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## **SB 838 - Workplace Fraud and Prevailing Wage - Violations - Penalties and Referrals Senate Finance Committee March 2, 2023**

### **SUPPORT**

**Donna S. Edwards  
President**

**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 838. My name is Donna S. Edwards, and I am the President of the Maryland State and District of Columbia AFL-CIO. On behalf of Maryland's 300,000 union members, I offer the following comments.

Worker misclassification is a crime. It is fraud. By illegally classifying workers as independent contractors, employers are able to cheat the federal, state, and local governments of taxes and revenues. Wage theft is the largest form of theft in this country.<sup>1</sup> The Northwestern Institute for Policy Research found that stricter state laws lead to less wage theft, even when controlling for demographic, economic, and political factors.<sup>2</sup> The same study found that victims of wage theft were disproportionately, "low-wage workers, especially women, minorities, non-U.S. citizens, and nonunion workers." One study found that Minnesota, a state with a comparable population size, lost, "\$136 million in state tax revenues due to construction payroll fraud— including \$65 million in income taxes, \$13 million in unemployment insurance contributions, and \$58 million in workers' compensation premiums."<sup>3</sup>

SB 838 imposes real penalties by labeling workplace fraud as a misdemeanor, subject to \$5,000 and potentially 60 days imprisonment for each violation. By requiring the Commissioner of Labor and Industry to refer clear and convincing evidence of workplace fraud violations to the Comptroller, the state can seek to reclaim the money that it is owed.

Wage theft and misclassification robs our state unemployment and workers compensation systems. Current state penalties are not serious enough to dissuade some contractors from making wage theft and misclassification their entire business model. With only 15 wage and hour enforcement officials

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<sup>1</sup> Brady Meixell and Ross Eisenbrey. "Wage Theft is a Much Bigger Problem Than Other Forms of Theft—But Workers Remain Mostly Unprotected." Economic Policy Institute.

<sup>2</sup> Daniel Galvin, "Policies to Protect Workers from Wage Theft." Northwestern Institute for Policy Research. Policy Research Brief: July 2017.

<sup>3</sup> Nathaniel Goodell and Frank Manzo IV. "The Costs of Wage Theft and Payroll Fraud in the Construction Industries of Wisconsin, Minnesota, and Illinois." Midwest Economic Policy Institute. January 2021.

for the entire state, unscrupulous companies can price in the cost and risk of current penalties if they are caught and still continue with their model.<sup>4</sup> This is workplace fraud and the state must intervene to allow contractors that play by the rules to survive.

Failing to treat wage theft for the crime that it is, with stiff financial penalties and even threats of imprisonment, continues to reward unscrupulous businesses at the cost of good businesses and workers.

We urge a favorable report for SB 838.

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<sup>4</sup> CBS News, Maryland workers say they're owed millions in unpaid overtime and benefits as WJZ investigates wage theft." January 25, 2023.