



**Maryland Joint
Legislative Committee**

The Voice of Merit Construction

January 23, 2024

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TO: ECONOMIC MATTERS COMMITTEE
FROM: ASSOCIATED BUILDERS AND CONTRACTORS
RE: H.B. 136 – EMPLOYMENT STANDARDS, PREVAILING WAGE, AND LIVING WAGE – EMPLOYER ADVERSE ACTIONS -- PROHIBITION
POSITION: OPPOSE

Associated Builders and Contractors (ABC) opposes H.B. 136 which is before you today for consideration. This bill as written, proposes to add a new legal process for determining and enforcing penalties for retaliating against employees asserting labor and wage violations against their employers under numerous subtitles of Title 3 of the Labor Employment Article (subtitles 3, 4 and 9) and Titles 17 and 18 of the State Finance and Procurement Article.

The first objection by ABC is that the bill does not appear to account for removing, streamlining or otherwise reconciling analogous enforcement provisions under subtitles of Title 3 of the Labor Employment Article (subtitles 3, 4 and 9) and Titles 17 and 18 of the State Finance and Procurement Article with the new enforcement procedure contemplated in H.B. 136. See, e.g., Maryland Code, Labor and Procurement Article §§ 3-307 to 3-308, 3-401 to 3-405, 3-907 to 3-916 and State Finance and Procurement Article §§ 17-219 to 17-226 and 18-107 to 18-109. If the General Assembly’s goal is to create an omnibus enforcement section for these various subtitles, ABC objects as a point of draftmanship that the enforcement provisions of the other titles and subtitles should be removed and re-draft so they are set forth in a single wage enforcement code section that is internally consistent and accounts for reconciling these new procedures to existing procedures in a comprehensive way. Otherwise, there is risk for confusion and inconsistency of the various enforcement regimes in the Maryland Code.

Secondly, the code section does not expressly account for a process by which the contractor may appeal an adverse decision. It is a fundamental principle of due process to account for an appeal right, especially where the initial finder of fact (the Commissioner) has a mission of protecting the rights of labor and not employers.

While the construction industry believes strongly in an employee’s right to fair pay and employment benefits, the proposed legislation seeks to implement a confusing and potentially duplicative enforcement regime that is not balanced in protecting the rights of the employer and could lead to unnecessary confusion and litigation. On behalf of the over 1,500 ABC members in Maryland, we respectfully request an unfavorable report on H.B. 136.

Marcus Jackson, Director of
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