

MARYLAND DEPARTMENT OF LABOR TESTIMONY ON SENATE BILL 426

TO: Senate Budget and Tax Committee Members
FROM: Maryland Department of Labor
DATE: February 3, 2025
BILL: SB0426 - Procurement Reform Act of 2025

MD LABOR POSITION: SUPPORT

The Maryland Department of Labor (MD Labor) supports SB 426, in particular the provisions that establish the principle that state investments should support and encourage good labor practices and create good career opportunities for Marylanders. The two sections of note that involve MD Labor are:

1. Subtitle 8, which requires that certain state contracts utilize Registered Apprenticeship and Internship programs; and
2. Subtitle 9, which establishes a 5% procurement preference for businesses that voluntarily adopt best practice labor standards, which the business can use when bidding on public works projects subject to the Prevailing Wage Law, and contracts subject to the Living Wage Law.

Increasing Registered Apprenticeships and Internships is critical for economic growth.

Growing our economy relies on connecting Marylanders to skilled jobs and careers here in the state. In 2024, the state invested \$17.5 billion in procurement projects; this legislation would help leverage those investments to create greater pathways to opportunity for Marylanders and develop the state's skilled talent supply. The bill would create opportunities for individuals to gain on-the-job experience, through Registered Apprenticeship and high-quality internships that incorporate industry-recognized training and credentials.

Subtitle 8 of the bill would achieve this through requiring contractors on certain state procurements to offer or participate in Registered Apprenticeship and internship programs. Registered Apprenticeships combine on-the-job learning and work pathways that lead to skilled jobs while simultaneously providing employers with the skilled workforce they need to remain competitive. Internships provide students with valuable real-world work experience in the field they are considering for a career and can help students secure a job after school and increase their starting salary.

Maryland had over 12,500 active Registered Apprentices at the end of 2024 and over 200 apprenticeship programs. While this marks significant progress, accelerating apprenticeship expansion is critical to Maryland's future: The [Governor's apprenticeship pledge](#) has set a goal to add 5000 new apprentices and 500 new employers by the end of this year. The Blueprint for Maryland's Future established a goal that 45% of public high school graduates will have completed the high school level of Registered Apprenticeship or an Industry Recognized Credential by the 2030-31 school year. And the Apprenticeship 2030 Commission, which was formed through legislation in the 2023 session, is expected to issue a number of key recommendations to significantly bolster apprenticeship, including measures that will incentivize employers to significantly engage and expand apprenticeship. Greater incorporation of registered apprenticeship in procurement is one of the key recommendations of that Commission.

SB 426 would require covered contracts to incorporate Registered Apprenticeship or high quality internship. This language would apply beyond construction contracts, which already have certain requirements under Maryland's Prevailing Wage law. This will support expanding Registered Apprenticeships beyond traditional sectors to other growth areas such as information technology, cybersecurity, and healthcare. Industry-supported high-quality internships are also critical to providing pathways to opportunity for college students.

Maryland is experiencing a brain drain. If students leave Maryland for college, it's less likely they will return to the State for work. If students stay in-state for school, there's an 80% chance they will also remain in state to work, but if they go out of state for school, there's only a 57% chance they will return to work in Maryland. Creating more high quality internship opportunities can help connect more young Marylanders to the State's workforce and allow the state to retain more talent.¹

Incentivizing good labor practices in State-funded contracts can help ensure that pathways to work, wages, and wealth are available to all Marylanders.

Subtitle 9 of SB 426 establishes a 5% procurement preference in certain State-funded construction and service contracts for businesses that voluntarily adopt best labor practices — similar to the small business preference. To be eligible for this preference business would agree to follow best practice labor standards, including:

- Directly employing, and requiring subcontractors to directly employ, all workers performing work under the contract;
- Requiring that wage payments be in a form other than cash or cash app;
- Agreeing to successfully complete a comprehensive consultation visit by MOSH;
- Ensuring that all subcontractors are, as a precondition of performing work, registered with the Department;

¹ https://mldscenter.maryland.gov/egov/Publications/BrainDrain_March2018.pdf

- Ensuring and taking legal responsibility for subcontractors' compliance with labor standards;
- On living wage projects, posting a bond to guarantee wage payments; and
- On a prospective basis, promptly disclosing any violations of workplace standards laws, which would be part of the evaluation for renewal of certification.

The preference would be in effect for a 12-month period, and would be applied cumulatively, on top of any other bidding preference.

MD Labor is charged with enforcing the state's labor laws, including the prevailing wage, living wage, overtime, health and safety, workplace fraud, and unemployment laws. Investigations frequently reveal labor violations on public projects, including workers paid off the books, not paid what they are owed, not paid overtime, misclassified as independent contractors, and not covered by Workers' Compensation or Unemployment Insurance. Forty-seven percent of all investigations by the Department's Workplace Fraud Unit (194/407), and 55% of the citations issued in 2024 (16 out of 29) involve prevailing wage construction projects. When workplace fraud violations are found, the Department typically only has the authority to hold the subcontractors liable for violations – despite the general contractor's authority over the contract and job site.

The current low-bid system can create incentives to cut corners on labor standards because those practices usually produce immediate cost savings. When those practices become the norm, it makes it hard for businesses playing by the rules to fairly compete and bid on state contracts.

Research shows that workplace fraud is prevalent in Maryland's construction industry. A recent analysis of the construction industry estimates 23,731 construction workers are misclassified in Maryland – roughly 11% of construction workers in the state.² This misclassification in turn leads to public revenue losses, estimated at:

- \$79.1 million lost Social Security and Medicare contributions annually;
- \$19.3 million in lost State income revenue annually; and
- \$32.1 million in lost federal incomes tax revenue annually.³

That same analysis indicates that businesses misclassifying construction workers in Maryland avoid paying an estimated:

- \$27.4 million in overtime pay annually;
- \$9.1 million in Unemployment Insurance contributions annually;
- \$58.7 million in Workers' Compensation premiums annually; and

² Laura Valle-Gutierrez, *New Estimates: Misclassification in the Maryland Construction Industry*, The Century Foundation, January 2025, <https://production-tcf.imgix.net/app/uploads/2025/01/27111033/Misclassification-in-the-Maryland-Construction-Industry.pdf>.

³ Ibid.

- \$82.3 in Federal Insurance Contributions Act (FICA) payments, (i.e. federal payroll tax), annually.⁴

The Joint Enforcement Taskforce on Workplace Fraud (JETF) heard from women and minority-owned businesses and workers about the prevalence of workplace fraud on public construction projects. Minority business owners shared how workplace fraud makes it hard for them to compete with businesses that engage in misclassification. Minority construction subcontractors expressed views such as: *“The fines for misclassifying workers are too low. The general contractors just see paying fines as part of the cost of doing business. There has to be stronger enforcement to stop this. The general contractor has to see a cost to misclassifying workers.”* And *“I opened my business 40 years ago and it was hard, but I was able to grow into a successful business that helped support my family and create jobs in my community. I wouldn’t want to start my business now—it’s a race to the bottom.”*

On living wage contracts, workers were paid late, paid through a cash app without pay stubs, and denied overtime pay. One living wage contractor failed to pay workers at all and then declared bankruptcy – and since living wage contracts do not currently require a performance bond, this made it difficult to recover the wages workers were owed.

Most of our laws encourage compliance by penalizing the conduct that violates those laws. Subtitle 9 of this bill is intended to leverage state funds to affirmatively reward good labor practices that help workers, small businesses, and minority and women-owned businesses succeed – including lawful payment of wages, compliance with health and safety laws, and classifying employees as W-22 workers.

Conclusion

Both of these provisions - incentivizing good labor practices and requiring the use of Registered Apprenticeships and Internships on state funded projects are critical to our State’s ability to create quality jobs and grow the middle class. Strengthening compliance with labor standards and connecting more Marylanders to good paying jobs can help ensure that pathways to work, wages, and wealth are available to all Marylanders.

The Department respectfully requests a Favorable Report on SB 426. For questions, please contact Andrew Fulginiti, at Andrew.Fulginiti@maryland.gov.

⁴ Ibid.