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**Testimony of 32BJ SEIU in Support of HB1096**
**February 26, 2025**

32BJ SEIU is pleased to submit this testimony in support of House Bill 1096, which would strengthen protections against independent contractor misclassification and enhance the state's enforcement tools, ensuring greater economic stability for Maryland workers and their families and a fairer playing field for law-abiding employers.

32BJ SEIU represents over 175,000 members up and down the East Coast, with 4,500 members in Maryland. Our members are the backbone of the property service industry: they are the essential cleaners, security guards, airport workers, and other building service workers who keep our homes, workplaces, schools, and transportation hubs clean and safe. With our dedicated members, we fight to raise wage and benefits standards and ensure workers are treated with fundamental dignity and respect.

On behalf of our union and members, we urge the legislature to support HB 1096. By extending the state's Workplace Fraud Act to all industries and creating liability for higher-level contractors for the misclassification of workers by subcontractors, HB 1096 would bring critical protections to vulnerable workforces in which both misclassification and subcontracting are rampant. Establishing a meaningful schedule of penalties for misclassification and for hindering an investigation and creating licensing consequences for violators also have the potential to deter would-be violators and encourage greater compliance across the state's economy. 32BJ supports other sections of the bill that would enhance the state's enforcement tools but we will focus our testimony on the need to more aggressively combat independent contractor misclassification, which is a matter of particular concern for the union.

Consistent with the Joint Enforcement Taskforce's February 2025 report, 32BJ has seen misclassification grow in the janitorial sector, where low-road cleaning contractors mislabel workers to cheat them of core workplace protections and underbid for contracts.[i] While janitors hired by a cleaning contractor are almost never truly in business for themselves – the hallmark of a legitimate independent contractor – dishonest employers may call them independent contractors in attempt to convince the workers, courts and labor regulators that the workers are not protected by workplace laws that only cover "employees".[ii]

The consequences of independent contractor misclassification can be devastating for both workers and law-abiding employers. 32BJ has worked with misclassified janitors whose employers fail to make tax withholdings and pay the employer-

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side portion of federal payroll taxes, attempting to shift responsibility for tax filings onto their low-wage workers.[iii] Companies may deny workers an overtime premium when workers work more than 40 hours a week, saying that they are ineligible for overtime pay. And when workers attempt to exercise their federal right to organize a union, employers may evade their obligations under the National Labor Relations Act or even retaliate against workers, claiming the workers are not covered employees.

Another consequence of independent contractor misclassification is that responsible employers may find themselves unable to compete with lower-bidding companies that reap the benefits of artificially low labor costs. Janitorial and security contractors can gain competitive advantage by misclassifying workers and illegally driving down payroll costs, undercutting above-board companies that have negotiated collective bargaining agreements or otherwise attempt to play by the rules. Contractors that misclassify undermine the good union standards that 32BJ has fought for many years to secure, and which allow regular working people to support their families and build strong communities in Maryland.

32BJ would like to highlight one problematic janitorial contractor that that the union has recently encountered, CVVY Enterprises, to illustrate the specific ways misclassified workers are harmed. CVVY Enterprises currently has contracts to clean seven sites in Baltimore, including two where it recently displaced a union contractor – 100 S. Charles St. and 201 N. Charles St. (These two buildings are, incidentally, home to the Maryland Departments of Labor and Information Technology and Maryland Office of the Public Defender, respectively.) While employed by their former employer, a union contractor, workers were covered by a collective bargaining agreement that provided for annual wage increases, employer-paid health insurance, access to the 32BJ legal and training funds, and paid time off. Workers also had protections against unfair firings.

When CVVY took over the contracts at 201 N. Charles and 100 S. Charles Street, it refused to hire many of the incumbent workers and told others that they would be re-hired only as independent contractors rather than employees – even though their job duties had not changed. We believe that CVVY's refusal to hire union workers violates the City's Displaced Service Workers Protection law and the National Labor Relations Act and have filed complaints with both the Baltimore Wage Commission and the National Labor Relations Board.

At 100 S. Charles, workers have begun receiving paystubs showing that CVVY has in fact classified them as independent contractors, despite workers performing work under conditions that make clear they are legally employees; they work at

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the direction of CVVY supervisors, they are paid hourly, they are given clear schedules and tasks, their equipment is provided by CVVY, and they generally continue to work in the same place performing the same work they performed when they were classified as employees.

At 201 N. Charles, CVVY also failed to provide workers with notice of their payrate and schedule when they began work with the company and has failed to provide paystubs or has paid them with a 1099 form. This has made it hard for workers to understand what their actual wage is and what they are owed. The company then delayed payments to some workers and appears to have paid at least some workers less than the minimum wage. 32BJ staff searched the state's workers' compensation database and found no record of the company having a policy. 32BJ is preparing to file a complaint with the Joint Enforcement Taskforce on Workplace Fraud.

We are optimistic that with the Taskforce's support, the CVVY workers will recover their unpaid wages, will re-gain their employee status with full employment protections, and will win back the union. We are also interested in working with the state to ensure that the janitorial and security contractors that service its offices are responsible companies that comply with the law and pay prevailing wage standards. But we are aware that too many other workers will never challenge their misclassification, especially if they lack the support of a union or other advocate who can explain wat the workers' rights and remedies are. We know that workers faced with a take-it-or-leave it arrangement to be paid off-the-books or via a 1099 form feel enormous pressure to accept the deal. This is especially true for lower-wage workers who cannot risk getting fired for complaining or forgo a paycheck while they look for another job.

While the misclassified CVVY janitors suspected something was amiss with their new employer, it was likely not clear to them that CVVY had incorrectly re-classified them as 1099 independent contractors to dodge tax liabilities and other employer responsibilities. Moreover, under current law, the workers have no claim under the state's wage and hour claims for the act of misclassification itself. We know that many workers who are told they are non-employees, without the help of a union or other advocate, believe they are ineligible for workers' compensation and unemployment insurance and never apply for benefits if they need them.

The consequences for misclassification under current law are simply too low to deter employers from engaging in the practice, especially if doing so gives them a competitive advantage in bidding. And building management companies or other upper-level companies that contract out for labor-intensive services also currently have little incentive to ensure their subcontractors correctly classify their workers as employees.

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Extending protections against independent contractor misclassification will give workers and advocates more tools to fight violations and raise the consequences for companies that seek to strip workers of employee status and protections. It will also send a message to workers and employers that misclassification is an actionable violation, encouraging more workers to come forward making it harder for employers to mislead workers that it can legitimately treat them as 1099s.

We thank you for your attention to this important issue and your efforts to protect hard-working Maryland families by passing HB 1096.

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[i] Sarah Leberstein and Catherine Ruckelshaus, "Independent Contractor vs. Employee: Why independent contractors misclassification matters and what we can do to stop it" (National Employment Law Project, May 2016), available at https://www.nelp.org/app/uploads/2016/05/Policy-Brief-Independent-Contractor-vs-Employee.pdf.

[ii] Sarah Leberstein and Catherine Ruckelshaus, "Independent Contractor vs. Employee: Why independent contractors misclassification matters and what we can do to stop it" (National Employment Law Project: May 2016), available at https://www.nelp.org/app/uploads/2016/05/Policy-Brief-Independent-Contractor-vs-Employee.pdf; Rebecca Smith and Sarah Leberstein, "Rights on Demand: Ensuring Workplace Standards in the On-Demand Economy," (National Employment Law Project, Sept. 2015), available at https://www.nelp.org/app/uploads/2015/09/Rights-On-Demand-Report.pdf.

[iii] Analysis of payroll documents collected and analyzed, and interviews conducted by 32BJ SEIU staff.