

TO: Senate Finance Committee Members
FROM: Maryland Department of Labor
DATE: March 5, 2025
BILL: SB 938 - Fraud Prevention and Worker Protections - Prohibitions, Penalties, and Enforcement

MD LABOR POSITION: LETTER OF INFORMATION

The Maryland Department of Labor (“MD Labor” or “the Department”) provides this informational testimony on **Senate Bill 938 - Fraud Prevention and Worker Protections - Prohibitions, Penalties, and Enforcement**. Workplace Fraud is a serious problem that costs millions of dollars each year. The Department has prioritized the enforcement of labor standards, including the Workplace Fraud Act and wage, leave and health and safety laws. MD Labor supports many of the provisions in this legislation and believes that they will make a meaningful and needed contribution to strengthening workplace standards enforcement. However, it is critical that any approach to labor standards enforcement be rooted in collaboration across agencies and enhance current capabilities.

MD Labor is Charged with Investigating and Enforcing the State’s Labor Standards Laws.

MD Labor’s Division of Labor & Industry (DLI) enforces the Workplace Fraud Act and the State’s wage payment and collection and leave laws, including the minimum wage, child labor, overtime, prevailing wage, living wage, and sick and safe leave laws, as well as occupational safety and health standards.

Under this Administration, DLI has prioritized enforcement of these core worker protection laws. In Fiscal Year 2024, DLI recovered \$1,010,693 in restitution for workers under the Prevailing Wage Law. This is more than the previous three years combined. DLI is on track to exceed this number in FY 2025, with \$875,000 in restitution recovered through mid-January. Additionally, in FY 2024, DLI investigators recovered almost \$800,000 in unpaid wages and overtime, a 35% increase over the prior year.

The Department’s Workplace Fraud Act enforcement efforts have also yielded considerable results. In calendar year 2024, the Workplace Fraud Unit visited 295 sites, interviewed over 1,600 workers, initiated 185 investigations, made 243 referrals to sister agencies, and issued citations to 29 employers for a total of 199 misclassified workers.

Last year, as a result of the reconstitution of collaboration under the Joint Enforcement Task Force, DLI convened an enforcement group with sister agencies, including the Attorney General's office, to coordinate and streamline labor standards enforcement. That has already resulted in hundreds of inter-agency referrals, meaningful information sharing, and using the investigative findings of one agency to trigger action by another. For example, one workplace fraud citation shared with sister agencies led to an unemployment insurance audit that discovered additional misclassified workers and over \$1.7 million in unreported wages.

Much of this was made possible through the General Assembly's approval of additional PINS in FY24 and FY25, which has enabled DLI to hire additional investigators, including bilingual Spanish speakers. These investigators have been key in bolstering the Unit's investigative capacity to enforce workplace fraud and wage laws and have enabled the investigation of cases that involve multiple workers.

MD Labor supports several key proposals in HB 1096 that seek to strengthen labor standards compliance.

The recently published [Joint Enforcement Task Force on Workplace Fraud report](#) documents the prevalence of workplace fraud in Maryland, and its serious impact on workers, businesses, taxpayers, and the state itself. The Task Force is chaired by MD Labor Secretary Portia Wu, and includes the Attorney General, Comptroller, Workers' Compensation Commission, Insurance Administration, and Department of Assessments and Taxation. The report found that workplace fraud "erodes contracting and labor standards, undermines labor markets, and makes it financially difficult for responsible, law-abiding businesses to compete. . . ."

Several provisions of HB1096 reflect recommendations included in that report, including:

- Expanding liability for workplace fraud violations to general contractors;
- Establishing workplace fraud violations as grounds for debarment on public contracts;
- Making a portion of the workplace fraud civil penalty payable to affected workers to create incentives for cooperation in workplace fraud investigations; and
- Establishing workplace fraud violations as a potential grounds for suspension or revocation of state-issued professional or occupational licenses.

MD Labor supports the Attorney General dedicating more resources to labor standards enforcement. However, it is critical that any approach to labor standards enforcement be rooted in collaboration across agencies and enhance current capabilities. Specifically, MD Labor has concerns that the legislation:

- Creates a wholly separate and duplicative investigation and enforcement regime from MD Labor's current enforcement authority that will cause complications and confusion.
- Creates disparate and inconsistent enforcement powers and remedies. The legislation would provide the Attorney General with new and expanded powers and remedies that would not pertain when MD Labor brings cases under the same laws, even though the Assistant Attorney Generals are also prosecuting those cases. This disparity would create different and incongruous outcomes for workers and businesses, depending upon which agency is bringing the case.
- Creates a new requirement for MD Labor to seek approval from the Attorney General in exercising certain investigative powers, and to suspend its own investigations under the Workplace Fraud Act when the Attorney General exercises their new, separate powers.

MD Labor understands that commitment to enforcement can vary by administrations. In order to address these concerns and ensure mutual transparency in sharing labor standards complaints and findings, MD Labor recommends instead creating a mandatory referral system between the Attorney General's Office and MD Labor, which could be achieved through a Memorandum of Understanding, regulations, or statute. Such an approach would ensure that all labor standards violations cases and complaints are reviewed for merit, and proceedings are initiated if merit is found. This approach would best leverage the State's resources to maximum effect, protect and ensure consistent enforcement of the laws through every change in administration, and help achieve fair and equitable outcomes for workers and businesses.

To truly combat workplace fraud, state agencies will need to focus and target investigative resources, streamline and refine our collective investigative processes to build upon one another's work, and achieve greater efficiencies and greater effectiveness in enforcing Maryland's labor standards laws.

MD Labor looks forward to engaging with the Committee and the Attorney General to address the issues outlined above.

For questions, please contact Andrew Fulginiti, at Andrew.Fulginiti@maryland.gov.