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February 28, 2005

Honorable CT Wilson  
Chair  
House Economic Matters Committee  
230 Taylor House Office Building  
Annapolis, Maryland 21401

Honorable Pamela Beidle  
Chair  
Senate Finance Committee  
3 East Miller Senate Office Building  
Annapolis, Maryland 21401

Re: SB0938 / HB1096 – Fraud Prevention and Worker Protections - Prohibitions,  
Penalties, and Enforcement - Favorable

Dear Chairs Wilson and Beidle, and Members of the House Economic Matters  
Committee and Senate Finance Committee:

My name is Roger Manno, and I respectfully submit this testimony in support of SB0938 / HB1096 in my capacity as an attorney, and on behalf on my clients, the Mid Atlantic Pipe Trades Association (UA), including UA Plumbers & Gasfitters Local 5 and UA Steamfitters Local 602, Mechanical Contractors Association of Metropolitan Washington, Ironworkers Local 5, Ironworkers District Council of Mid-Atlantic States, and the Eastern Atlantic States Regional Council of Carpenters.

This legislation provides necessary statutory authority to the Office of the Attorney General to enforce Maryland's wage and worker classification laws and to address the systemic fraud that continues to undermine Maryland's labor market and revenue base.

## **I. The Legal Deficiencies in Maryland's Current Enforcement Regime**

Under Maryland law, the Attorney General lacks common law powers and may exercise only those powers expressly granted by statute. See *Murphy v. Yates*, 276 Md. 475 (1975) (holding that the Maryland Attorney General does not possess common law powers and can only act within the scope of statutory authority). Unlike Attorneys General in other states that retain common law authority, Maryland's AG cannot initiate certain enforcement actions without specific legislative authorization.

Currently, Maryland's wage enforcement framework is fragmented among several agencies, most notably the Maryland Department of Labor, which administers the Maryland Wage and Hour Law (Md. Code, Lab. & Empl. § 3-401 et seq.), the Wage Payment and Collection Law (Md. Code, Lab. & Empl. § 3-501 et seq.), and the Workplace Fraud Act (Md. Code, Lab. & Empl. § 3-901 et seq.). While these laws provide mechanisms for enforcement, they do not grant the Attorney General concurrent jurisdiction to bring enforcement actions against violators. This statutory gap hinders the state's ability to prosecute systematic wage theft, misclassification, and the associated tax fraud that deprives Maryland of significant revenue.

## **II. The Need for Statutory Authority for the Attorney General**

This legislation appropriately rectifies the enforcement deficiencies by providing the Attorney General with concurrent jurisdiction over wage and worker misclassification violations. Similar statutory grants exist in states such as California (Cal. Lab. Code § 90.5), New York (N.Y. Lab. Law § 861-d), and Illinois (820 ILCS 185/40), where Attorneys General have the explicit power to investigate and prosecute labor law violations.

Providing the Attorney General with enforcement power is particularly critical in Maryland, where misclassification and wage theft often accompany a host of related frauds, including:

- **Tax fraud** (Md. Code, Tax-Gen. § 13-1001)
- **Unemployment insurance fraud** (Md. Code, Lab. & Empl. § 8-1301)
- **Workers' compensation fraud** (Md. Code, Ins. § 27-803)

Without this legislation, enforcement remains largely reactive, dependent on the capacity of administrative agencies that often lack the investigative and prosecutorial resources necessary to combat systemic violations. The bill's approach ensures a coordinated enforcement strategy by granting the Attorney General concurrent jurisdiction alongside these agencies.

## **III. Constitutional and Precedential Support**

The General Assembly has clear constitutional authority to expand the Attorney General's powers under Article V, Section 3 of the Maryland Constitution, which states:

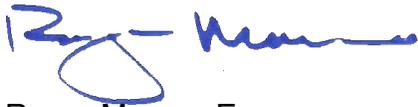
"The Attorney General shall have and perform such duties as are now or may hereafter be prescribed by Law." Maryland courts have repeatedly upheld the legislature's authority to expand or limit the Attorney General's role. See *State v. Burning Tree Club, Inc.*, 315 Md. 254 (1989) (confirming that the General Assembly has the authority to define the Attorney General's statutory powers).

#### **IV. Conclusion**

SB0938 / HB1096 represents a necessary and legally sound expansion of enforcement authority to address pervasive violations of Maryland's wage laws. By granting the Attorney General concurrent jurisdiction, the bill aligns Maryland's enforcement framework with best practices in other jurisdictions and strengthens the state's ability to protect workers, ensure fair competition among businesses, and recover lost tax revenue.

For these reasons, I respectfully urge the committee to issue a favorable report on SB0938 / HB1096. Thank you for your consideration, and I am available for any questions the committee may have. For these reasons, I respectfully request a favorable report.

Sincerely,



Roger Manno, Esq.  
Manno & Associates LLC