



*The Voice of Merit Construction*

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TO: FINANCE COMMITTEE

FROM: ASSOCIATED BUILDERS AND CONTRACTORS

RE: S.B. 938 – FRAUD PREVENTION AND WORKER PROTECTIONS  
– PROHIBITIONS, PENALTIES, AND ENFORCEMENT

POSITION: OPPOSE

The Associated Builders and Contractors (ABC) opposes S.B. 938 which is before you today for consideration. S.B. 938 proposes significant changes to the Maryland False Claim Act (MFCA) and various worker protection laws. While the stated goal of enhancing fraud prevention and worker protections is laudable, this bill introduces several provisions that raise serious concerns and could have unintended negative consequences for Maryland businesses and the overall economy.

The provision that mandates civil penalties and damages collected under the MFCA to pay restitution directly to affected workers if a violation of this title involves the failure to pay prevailing wage rates, is too specific. This provision could cause complications when multiple funds are affected.

The significant expansion of enforcement powers under the Maryland Wage and Hour Law, Maryland Wage Payment and Collection Law, workplace fraud laws, living wage laws, and prevailing wage laws could lead to increased regulatory burdens and potential for abuse.

The changes to the definition of "employer" and the test for determining an employer-employee relationship, especially the provisions that treat general contractors and higher-tiered contractors as employers of certain workers, could create significant confusion and liability for businesses. This redefinition of employer, creates unnecessary liability for higher tiered contractors.

The prohibition of waiving workplace fraud laws by private agreement removes contractual flexibility and could hinder legitimate business arrangements. The mandatory revocation or suspension of licenses for workplace fraud violations, without sufficient consideration of mitigating circumstances, could be overly punitive.

S.B.938, while aiming to enhance worker protections, presents a potential strain on the state's current budget deficit. The establishment of a new Worker Protection Unit, with its broad enforcement powers, necessitates significant funding for staffing, operations, and potential litigation. In a period of fiscal constraint, the creation of overlapping jurisdictions with existing

agencies could lead to costly inefficiencies, diverting resources from critical areas. A thorough cost-benefit analysis is essential to ensure this well-intentioned bill does not exacerbate the state's financial challenges.

The changes to the definition of employee, and the test to determine if an employer-employee relationship exists, places an undue burden on the employer to prove an individual is not an employee. The changes make it too easy to claim an individual is an employee.

In summary, while we support efforts to protect workers and prevent fraud, we believe that S.B. 938, as currently drafted, would impose excessive burdens on businesses and potentially stifle economic growth.

On behalf of the over 1,500 ABC members in Maryland, we respectfully request an unfavorable report on S.B. 938.

Marcus Jackson, Director of  
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