

PJC - SB 938 - Fav.pdf

Uploaded by: Amy Gellatly

Position: FAV



Amy Gellatly, Attorney
Public Justice Center
201 North Charles Street, Suite 1200
Baltimore, MD 21201
(410) 400-6943
gellatlya@publicjustice.org

SB 938: Fraud Prevention and Worker Protections – Prohibitions, Penalties, and Enforcement

Hearing of the Finance Committee, March 5, 2025, 1pm

Position: FAVORABLE

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization which seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. Our Workplace Justice Project works to expand and enforce the right of low-wage workers to receive an honest day's pay for an honest day's work. **The PJC supports SB 938, which supports workers, equips the state to combat workplace fraud, and levels the playing field for law-abiding businesses.**

SB 938 sets a common standard for all industries.

- Maryland's current Workplace Fraud Act sets a presumption that all workers in the landscaping and construction industries are "employees" rather than "independent contractors" unless certain criteria are met. SB 938 extends this rule to all industries to give workers and employers a clear understanding of the law, regardless of the industry in which they work.

SB 938 does not affect the rights of actual independent contractors.

- SB 938 uses the same "ABC" test to distinguish contractors from employees that exists under current law.
- If a person is actually in business for themselves as a contractor, their rights and freedoms will not be altered by this bill.

SB 938 supports responsible businesses who are already following the law.

- Law-abiding employers will not be affected by SB 938. This bill just allows them to compete on a more fair playing field by making it less likely that unscrupulous employers who misclassify their workers will be able to undercut them.

Misclassification shifts costs and risks to workers.

- Opponents of this bill fret that certain business owners aren't equipped to know the difference between employees and independent contractors. But if this isn't the employer's responsibility, the burden falls to the employee. This doesn't make sense.
- Workers who are misclassified lose out on important rights like the state minimum wage and paid sick leave – laws that Maryland voters and legislators supported and passed with all employees in mind.
- SB 938 gives the state the enforcement tools it needs to support a robust and fair economy in Maryland – one that works for both workers and employers.

SB 938 makes general contractors liable for workplace fraud.

- Under current law, the general contractor of a construction project is legally liable if their subcontractors don't pay the correct wages to their employees.¹
- SB 938 makes the common-sense proposal that the general contractor should also be responsible for ensuring that all employees on a project have been properly classified as such.
- Recent reports show that misclassification is rife in industries beyond just construction and landscaping.²
- At the PJC, we regularly encounter cases outside the construction industry where the general contractor has attempted to distance itself from the treatment of workers by outsourcing hiring and/or payroll to a labor broker or an app platform. **SB 938 eliminates these loopholes by placing ultimate responsibility with the general contractor**, which will incentivize the general contractor to ensure the law is being followed at all levels of the project.

For the foregoing reasons, the PJC **SUPPORTS SB 938** and urges a **FAVORABLE** report. Should you have any questions, please contact Amy Gellatly at gellatly@publicjustice.org or (410) 400-6943.

¹ Md. Labor and Employment Code Ann. § 3-507.2.

² Maryland Department of Labor, Joint Enforcement Task Force on Workplace Fraud: 2024 Annual Report, February 2025.

250303_SB938_Rep. McClain Delaney_Favorable.pdf

Uploaded by: Annaston Cree

Position: FAV



Congress of the United States
House of Representatives
Washington, DC 20515

WASHINGTON, D.C. OFFICE
1130 LONGWORTH HOB
WASHINGTON, DC 20515
PHONE: (202) 225-2721

FREDERICK OFFICE
30 W. PATRICK STREET
STE 505
FREDERICK, MD 21701
PHONE: (301) 926-0300

www.mcclaindelaney.house.gov

March 03, 2025

Senator Pamela Beidle, Chair
Senate Finance Committee
Maryland General Assembly
3 East Miller Senate Office Building
Annapolis, Maryland 21401

Dear Chair Beidle,

I am writing today to express my full support for *Senate Bill 938 - Fraud Prevention and Worker Protections - Prohibitions, Penalties, and Enforcement*.

This bill is a critical step forward in strengthening worker protections in Maryland. As we all know, Maryland is facing a wage theft crisis. A recent study has revealed that our state leads the nation in wage theft violations, with 12,639 cases documented over the past three years alone. This is an alarming statistic that demands our immediate attention and action. The average amount owed to each affected worker is \$2,221 in back wages—a figure that underscores the financial hardship many of our workers are enduring.

SB938 is not only necessary, but it is timely. This legislation creates a Worker Protection Unit within the Office of the Attorney General, a move that will provide critical resources for enforcing workers' rights and holding bad actors accountable. With the power to conduct investigations and determine compliance with workers' rights laws, the Attorney General's Office will be equipped to address the wage theft crisis head-on.

The establishment of the Worker Protection Unit is a much-needed tool to ensure that the Office of the Attorney General has the resources it needs to directly address complaints of wage theft, investigate violations, and penalize those who break the law. The need for robust enforcement and accountability has never been more urgent.

I strongly urge this committee to give *Senate Bill 938 - Fraud Prevention and Worker Protections - Prohibitions, Penalties, and Enforcement* the highest consideration and I thank you and your committee for your time.

Sincerely,

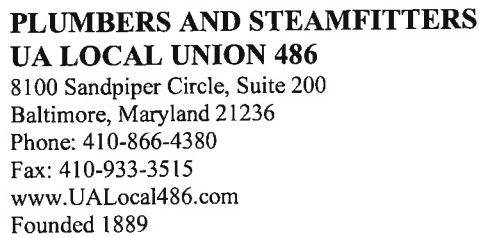
A handwritten signature in blue ink, appearing to read "April McClain Delaney", with a long, sweeping underline that extends to the right.

April McClain Delaney
Member of Congress

SB 938 testimony.pdf

Uploaded by: Chris Anderson

Position: FAV



Todd E. Eckley
Recruiter



AFSCME Council 3 Senate Bill 938 Testimony_FAV.pdf

Uploaded by: Christian Gobel

Position: FAV



1410 Bush Street (Suite A)
Baltimore, MD 21230
Phone: 410-547-1515
Email: info@afscmemd.org

Patrick Moran – President

**SB938 – Fraud Prevention and Worker Protections –
Prohibitions, Penalties, and Enforcement
Finance Committee
March 5, 2025**

FAVORABLE

AFSCME Council 3 supports Senate Bill 938. This legislation aims to strengthen the authority of the Office of the Attorney General to promote fair labor practices throughout Maryland's economy by establishing a Worker Protection Unit. The Unit would be charged with investigating and prosecuting violations of Workers' Rights Laws as specified in the bill. The bill provides the OAG's new unit with a full-time chief counsel and additional staff to carry out the functions and mission of the new Worker Protection Unit.

AFSCME Council 3 represents approximately 50,000 public service workers across the state, county, and municipal levels of government. AFSCME members are on the front lines every day delivering critical public services from Western Maryland to the Eastern Shore, without the work of AFSCME members, our communities could not function.

AFSCME Council 3 supports this legislation to promote fair labor practices in industries where abuse of workplace laws is far too common. Other state and local government jurisdictions have taken affirmative steps in recent years to combat various forms of workplace violations including wage theft, prevailing wage violations, employee misclassification, and more.¹ Our union supports similar efforts in Maryland to ensure all workers are treated with dignity and respect in their workplace.

We urge the committee to issue a favorable report of Senate Bill 938.

¹ Terri Gerstein, *How district attorneys and state attorneys general are fighting workplace abuses* (May 17, 2021), [https://www.epi.org/publication/fighting-workplace-abuses-criminal-prosecutions-of-wage-theft-and-other-employer-crimes-against-workers/#:~:text=In%20several%20jurisdictions%2C%20state%20attorneys,against%20workers%20\(Gerstein%202020\).](https://www.epi.org/publication/fighting-workplace-abuses-criminal-prosecutions-of-wage-theft-and-other-employer-crimes-against-workers/#:~:text=In%20several%20jurisdictions%2C%20state%20attorneys,against%20workers%20(Gerstein%202020).)

SB938_MDCEP_FAV.pdf

Uploaded by: Christopher Meyer

Position: FAV

All Employers Must Follow Labor Law

Position Statement in Support of Senate Bill 938

Given before the Finance Committee

We should measure the health of our economy not simply by the number of dollars exchanged or the number of people who go to work each day, but by its ability to raise all families' standard of living. The Maryland General Assembly has taken important steps to make this vision a reality in recent years by raising the minimum wage, guaranteeing earned sick days, and guaranteeing paid family and medical leave. However, the too-common practice of independent contractor misclassification excludes many workers from these protections and unfairly shifts tax responsibilities from employers onto workers. Senate Bill 938 would extend the 2009 Workplace Fraud Act to ensure that all employers properly classify their workers as employees as required under Maryland labor law. **For these reasons, the Maryland Center on Economic Policy supports Senate Bill 938.**

Independent contractor classification has one legitimate purpose: people who are in business for themselves – who set their own prices, market to customers, make investment decisions, and so on. However, there is a growing trend of employers improperly calling their employees independent contractors in order to shift costs and shirk responsibilities, as documented by Maryland's Joint Enforcement Task Force on Workplace Fraud.ⁱ

When employers misclassify workers as independent contractors, they illegally deny these workers:

- Minimum wage and overtime pay
- Earned sick days
- Workplace safety and health protections
- Discrimination and harassment protections
- The right to organize and bargain collectively

Misclassification also illegally shifts the cost of social insurance contributions from employers onto workers:

- Medicare
- Social Security
- Workers' Compensation
- Paid family and medical leave

Employers also typically exclude misclassified workers from common employment benefits such as health insurance, retirement plans, and paid time off.

Independent contractor misclassification costs workers dearly. In Maryland, the annual loss for a misclassified worker can range from about \$8,000 (25% of total compensation) for a retail worker to \$21,000 (34% of total compensation) for a tractor trailer driver, according to the Economic Policy Institute.ⁱⁱ

Maryland took an important step to fight misclassification with the Workplace Fraud Act of 2009, and took further steps more recently, such as with the Homecare Worker Rights Act of 2024. However, misclassification is not limited to a few industries. The U.S. Department of Labor has documented widespread misclassification in industries such as agriculture, retail, food service, hotel, construction, janitorial, and beauty and nail salons.ⁱⁱⁱ App-based “gig” businesses are especially notable violators.

Independent contractor misclassification further tilts the rules of our economy against workers of color. According to the National Employment Law Project, workers of color constitute 41% of Maryland’s overall workforce, but between 49% and 92% of industries with high rates of misclassification.^{iv}

Senate Bill 938 takes a multipronged approach to strengthen workers’ right to be properly classified as employees. Two major provisions are especially notable:

- While the 2009 Workplace Fraud Act focuses on the construction industry, Senate Bill 938 extends these protections to all industries.
- Senate Bill 938 creates a Worker Protection Unit within the Office of the Attorney General, mirroring effective strategies used in other jurisdictions. Allowing an independent entity to enforce worker protections ensures that no single actor can undermine workers’ rights, such as Gov. Robert Ehrlich’s attempt to dismantle the state’s Employment Standards Service.^v

For these reasons, the Maryland Center on Economic Policy respectfully requests that the Finance Committee make a favorable report on Senate Bill 938.

Equity Impact Analysis: Senate Bill 938

Bill summary

Senate Bill 938 takes a multipronged approach to strengthen protections against independent contractor misclassification, including:

- Extending the 2009 Workplace Fraud Act to cover all industries
- Worker Protection Unit within the Office of the Attorney General

Background

While independent contractor classification is intended to apply to people who provide a service while in business for themselves, there is a documented trend of employers improperly classifying employees as independent contractors.

Independent contractors are excluded from many basic employment standards, such as minimum wage, earned sick days, and collective bargaining.

Independent contractor misclassification also enables employers to illegally shift the cost of social insurance contributions from themselves onto workers.

Equity Implications

Independent contractor misclassification significantly harms affected workers. In Maryland, the annual loss for a misclassified worker can range from about \$8,000 (25% of total compensation) for a retail worker to \$21,000 (34% of total compensation) for a tractor trailer driver, according to the Economic Policy Institute.

These harms are not evenly distributed. According to the National Employment Law Project, workers of color constitute 41% of Maryland’s overall workforce, but between 49% and 92% of industries with high rates of misclassification.

Impact

Senate Bill 938 would likely **improve racial, gender, and economic equity** in Maryland.

ⁱJoint Enforcement Task Force on Workplace Fraud: 2024 Annual Report, 2025, <https://labor.maryland.gov/workplacefraudtaskforce/wpftfannrep2024.pdf>

ⁱⁱAdewale Maye, Daniel Perez, and Margaret Poydock, “Misclassifying Workers As Independent Contractors Is Costly for Workers and States,” Economic Policy Institute, 2025, <https://www.epi.org/publication/misclassifying-workers-2025-update/>

ⁱⁱⁱ Joint Enforcement Task Force, 2025, p. 9

^{iv} See Sally Dworak-Fisher, National Employment Law Project written testimony in support of HB 1096

^v Christopher Meyer, “Budgeting for Opportunity: Maryland’s Workforce Development Policy Can Be a Tool to Remove Barriers and Expand Opportunity,” Maryland Center on Economic Policy, 2021, <https://mdeconomy.org/budgeting-for-opportunity-workforce/>

Written Testimony SB938.pdf

Uploaded by: David Pendleton

Position: FAV

DAVID PENDELTON SR.
Chairperson/Director

TOM CAHILL
Vice Chairperson/Assistant
Director

BRITTANY GARRIS
Secretary



ANNAPOLIS OFFICE
99 Cathedral Street
Suite 201
Annapolis, MD 21401-2597

PH: (240) 271-9420
smartmdsla@yahoo.com

March 03, 2025

Support: SB 938 - Fraud Prevention and Worker Protections - Prohibitions, Penalties, and Enforcement

REPRESENTATIVES

CUMBERLAND
Local 600
RANDY MARTZ

BRUNSWICK
Local 631
TOM CAHILL

EDMONSTON
Local 1470
BRITTANY GARRIS

BALTIMORE
Local 610
JOHN WALKER

Local 1949
JACOB STROMAN

To the Honorable Pam Beidle, Chair; Antonio Hayes, Vice Chair and Members of Senate Finance Committee

My name is David Pendleton, I am the Director of the Maryland Safety and Legislative Board for the Transportation Division of the International Association of Sheet Metal Air Rail Transportation Workers (SMART). Our members in the State of Maryland are employees of CSX Transportation, Norfolk Southern, Canton Railroad, Amtrak and MARC (Amtrak and Alstom). We are Conductors, Engineers, Yardmasters, Switchmen, and Utility Workers. We are the **TRAIN UNION**.

Wage theft is a terrible crime that affects two-thirds of low wage workers. Millions of workers are victims of this crime, forcing their families into bankruptcy while also destabilizing communities across Maryland and the USA. In 2020, it was estimated that over 15 billion dollars in wages was stolen from workers in the restaurant industry alone.

SB938 would give the Attorney General and the Commissioner of Labor and Industry the tools needed to fight this awful crime. SMART stands with workers in the fight against wage theft!

We urge a favorable report!

Sincerely,

David Sr

David Pendleton Sr., Chairperson/Director
Maryland Safety & Legislative Board, LO-023
SMART Transportation Division

SB 938 - Fraud Prevention and Worker Protections .

Uploaded by: Denise Riley

Position: FAV

**Written Testimony to the Maryland Senate Finance Committee
SB 938 - Fraud Prevention and Worker Protections –
Prohibitions, Penalties, and Enforcement
March 5, 2025**

FAVORABLE

Chair Beidle and Members of the Committee, AFT Maryland supports SB 938 – Fraud Prevention and Worker Protections. This legislation is a critical step toward strengthening enforcement of fraud prevention and helps to ensure fair treatment of workers across Maryland.

This bill broadens the scope of the Maryland False Claim Act (MFCA) to cover unemployment insurance contributions and benefits claims. It prohibits false records or statements that lead to underpayment of unemployment insurance contributions or overpayment of benefits, ensuring that businesses and individuals do not exploit the system.

SB 938 also provides much-needed enhancements in labor law enforcement and fraud prevention:

1. **Prohibits False Records or Statements** that result in underpayment of unemployment insurance contributions or overpayment of unemployment insurance benefits.
2. **Establishes Civil Penalties and Restitution Measures** by requiring that penalties collected under the MFCA be deposited into the Unemployment Insurance Fund to provide restitution for affected workers when prevailing wage rates are not met.
3. **Strengthens Enforcement Mechanisms** for labor laws, including the Maryland Wage and Hour Law, Maryland Wage Payment and Collection Law, and prevailing wage laws.
4. **Creates the Worker Protection Unit** within the Office of the Attorney General to investigate and enforce worker protection laws.
5. **Prevents Waivers of Workplace Fraud Protections** by ensuring that private agreements cannot override workplace fraud laws or serve as a defense in civil actions.
6. **Mandates Licensing Consequences for Violators** by requiring licensing authorities to revoke or suspend licenses for specific workplace fraud violations.

SB 938 is an essential measure to protect Maryland's workforce, ensure fair wages, and prevent fraudulent practices that harm both workers and the state economy. I respectfully urge the committee to issue a favorable report on this bill. Thank you

SB 938 - Fraud Prevention and Worker Protections -

Uploaded by: Donna Edwards

Position: FAV



MARYLAND STATE & D.C. AFL-CIO

AFFILIATED WITH NATIONAL AFL-CIO

7 School Street • Annapolis, Maryland 21401-2096

Balto. (410) 269-1940 • Fax (410) 280-2956

President

Donna S. Edwards

Secretary-Treasurer

Gerald W. Jackson

**SB 938 - Fraud Prevention and Worker Protections - Prohibitions, Penalties, and
Enforcement
Senate Finance Committee
March 5, 2025**

SUPPORT

**Donna S. Edwards
President
Maryland State and DC AFL-CIO**

Madame Chair and members of the Committee, thank you for the opportunity to submit testimony in support of SB 938. My name is Donna S. Edwards, and I am the President of the Maryland State and District of Columbia AFL-CIO. On behalf of Maryland's 300,000 union members, I offer the following comments.

SB 938 adds another tool in the legal toolbox to prevent illegal actions of employers and ensure that Maryland's workers receive the wages and protections they deserve. This legislation addresses the impacts of wage theft by further clarifying the enforcement duties of the Commissioner of Labor and Industry while establishing the Worker Protection Unit within the Office of the Attorney General to enhance enforcement efforts and provide a stronger emphasis on identifying bad actors and holding them accountable. These measures serve as a strong deterrent while prioritizing protections for workers.

Workplace fraud is a widespread and growing issue across all sectors in Maryland. By committing workplace fraud, employers undermine fair labor practices and cheat the federal, state, and local governments of millions of dollars in taxes and revenues. SB 938 combats this by strengthening our standards in expanding the provisions laid out in the Workplace Fraud Act (WFA) to apply to all industries and hold all employers, general contractors, higher-tiered contractors and successors liable for the wage theft of workers while also prohibiting waivers via private agreements. This protects employees and holds employers accountable to the law by clarifying licensing consequences and the threat of disbarment if violated.

Additionally, this legislation establishes the Worker Protection Unit within the Office of the Attorney General to enforce and ensure compliance of the Wage and Hour Law, the WFA, the

Wage Payment and Collection Law and prevailing wage law. By centralizing additional enforcement efforts, the Worker Protection Unit will contribute to the coordination between agencies, streamline investigations, and ensure that violations are addressed in a timely and efficient manner.

SB 938 protects Maryland workers from being exploited, holds employers accountable, enhances fair business practices, and reinforces our labor laws. For these reasons, we strongly urge a favorable vote on SB 938.

SB 938 Greg Akerman Baltimore DC Building Trades (

Uploaded by: Greg Akerman

Position: FAV



March 5, 2025

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

**Testimony of Greg Akerman, President, Baltimore DC Metro Building Trades Council on
SB 938: Fraud Prevention and Worker Protections - Prohibitions, Penalties, and Enforcement
Position: FAVORABLE**

Thank you Chair Beidle, Vice Chair Hayes, and Members of the Senate Finance Committee for the opportunity to offer testimony on SB 938. My name is Greg Akerman. I am the President of the Baltimore-DC Building Trades (BDCBT). The BDCBT's 28 affiliates represent more than 30,000 union construction workers across Maryland, Virginia, and the District of Columbia.

The BDCBT supports SB 938. This bill strengthens worker protections in Maryland. It will help combat wage theft and create a climate of accountability among construction contractors, and it is very much needed. A recent study found Maryland leads US States in wage theft violations. The study analyzed US Department of Labor data and calculated that companies in Maryland committed 12,639 wage theft violations over the past three years, with an average of \$2,221 in back wages owed per employee.

We especially appreciate that the bill creates a Worker Protection Unit within the Office of the Attorney General. The legislation provides the OAG with the power to conduct investigations to determine compliance with workers' rights laws. It will give the OAG the resources it needs to go after bad actors.

The construction industry has been rocked by the prevalence of wage theft in the market. In addition to the human toll, responsible companies struggle to stay afloat in a competitive environment when competing against bad actors. Wage theft complaints have emerged on projects across the state of Maryland, including hospitals, schools, critical infrastructure, and others. The Office of the Attorney General should have all the resources and tools at its disposal to be able to directly address complaints of wage theft and punish bad actors.

We also recognize that the Department of Labor and Industry has made great strides in addressing the issue of wage theft. The necessity of this legislation serves as a reminder that partnership between state agencies and the Office of the Attorney General is more important than ever in addressing the wage theft epidemic. The collaboration of state agencies and the Office of the Attorney General is vital to combat wage theft, ensure good contractors are positively rewarded, and perhaps most important to legislators in this trying time, ensure Maryland is tapping every available revenue resource. This legislation promises to do so without inconveniencing working people or responsible businesses.

The BDCBT urges a favorable report on SB 938.

Greg Akerman
President, BDCBT

SUPPORT SB 938 – Fraud Prevention and Worker Prote

Uploaded by: Jason Ascher

Position: FAV



Finance Committee

To: Senator Pam Beidle, Chair; Senator Antonio Hayes, Vice Chair; and Members of the Committee
From: Jason Ascher, Political Director – Mid-Atlantic Pipe Trades Association

SUPPORT SB 938 – Fraud Prevention and Worker Protection – Prohibitions, Penalties, and Enforcement

On behalf of the Mid-Atlantic Pipe Trades Association and our five United Association of Plumbers and Steamfitters Locals, which represent over 10,000 Plumbers, Steamfitters, Welders, HVAC Techs, and Sprinkler Fitters across Maryland, I ask you to **SUPPORT SB 938**.

Wage theft and misclassification are among the construction industry's most significant issues. Unscrupulous contractors submit bids 30% lower than their competitors, knowing they will not pay their workers appropriate wages, benefits, and taxes. Addressing this problem is a battle on many fronts. It is essential to ensure that workers can utilize the Maryland False Claim Act, General Contractor Liability, and that the Attorney General can engage in a wage fraud case without a referral. Prime contractors must be held liable alongside the subcontractors because they manage the construction site. General Contractor liability is the only way to guarantee that contractors who might have "just made a mistake" do not become repeat offenders.

SB 938 achieves many essential objectives. It allows the Attorney General to expedite severe Wage Fraud cases by removing them from the Commissioner's desk. It establishes liability for general contractors, protects the ABC test concerning the employer-employee relationship, and enables debarment from state contracting following a conviction.

For the above reasons, we ask that you give **SB 938 a favorable Report**.

Sincerely

Jason Ascher
Political Director
Mid-Atlantic Pipe Trades Association

MID-ATLANTIC PIPE TRADES ASSOCIATION



7050 Oakland Mills Road

Suite 180

Columbia, MD 21046

Phone: 410-290-3890

www.midatlanticpipetrades.org

Plumbers and Gasfitter Local 5 – Camp Springs, MD
Plumbers and Steamfitters Local 10 – Richmond, VA/Roanoke, VA
Plumbers and Pipefitters Local 110 – Norfolk, VA
Road Sprinkler Fitters Local 669 – Columbia, MD

Plumbers and Steamfitters Local 486 – Baltimore, MD
Plumbers and Steamfitters Local 489 – Cumberland, MD
Steamfitters Local 602 – Capitol Heights, MD

UFCW 400 Favorable Written Testimony for SB0938 -

Uploaded by: Kayla Mock

Position: FAV

Testimony in Support of SB 0938

Fraud Prevention and Worker Protections - Prohibitions, Penalties, and Enforcement

March 3, 2025

To: Honorable Chair Pamela Beidle, Vice Chair Antonio Hayes, and members of the Senate
Finance Committee

From: Kayla Mock, Political & Legislative Director

United Food and Commercial Workers Union, Local 400

Chair Beidle and members of the Senate Finance Matters Committee, I appreciate the chance to share my testimony on behalf of our over 10,000 members in Maryland, working in grocery, retail, food distribution, cannabis, and health care. Through collective bargaining, our members raise the workplace standards of wages, benefits, safety, and retirement for all workers. Union members are critical to the addressing inequality and uplifting the middle class.

We support SB 0938 and urge you to vote it favorably.

Wage theft is often thought of a construction or trades issue; however, we have witnessed wage theft and misclassification spread to low wage workers. That is why it is imperative to expand the Workplace Fraud Act to all industries, employers, general contractors, and subcontractors.

We are also supportive of creating the Worker Protection Unit within the Office of the Attorney General, allowing the Attorney General to bring an action to enforce the Maryland Wage and Hour Law, the Workplace Fraud Act, the Wage Payment and Collection Law, and the prevailing wage law.

We appreciate Maryland's commitment to protect it's most vulnerable citizens. And now, we believe those protections should be extended to protecting workers from workplace fraud and misclassification.

We urge a favorable report on SB 0938.

SUPPORT FOR LTR-SB 938-WAGE THEFT.pdf

Uploaded by: LISA FAZZINI

Position: FAV



3/3/2025

**RE: SUPPORT FOR SB 938 – FRAUD PREVENTION AND WORKERS
PROTECTIONS, PROHIBITIONS, PENALTIES AND ENFORCEMENT**

Wage theft stands as a practice that hurts not only workers but communities and states. It stands to only enrich the bosses. The significant financial harm it inflicts on workers, particularly low wage earners, creates a negative impact on local economies.

Wage theft directly impacts a worker's ability to meet basic needs, pushing them closer to poverty or reliance on government assistance programs such as public assistance. For companies that engage in wage theft, they gain an unfair advantage over businesses that comply with labor laws. Wage theft undermines competition and creates a decreased tax revenue due to lost income.

When workers are not paid their full wages, the government loses out on tax revenue which in turn tends to put a strain on public services. Tax revenue is not the only place the government loses. States aren't paid the amounts they should be for unemployment insurance and workers compensation.

Low wage workers are often exploited for their labor. There are language barriers; deportation concerns and lack of awareness of their rights that make them disproportionately affected by wage theft.

I support penalties to deter employers from engaging in this practice. I also support giving the current Attorney General, Anthony Brown, the legal authority to be an added enforcement against wage theft. Enforcement and penalties, in one form or the other, should be applied when employers fail to pay overtime; misclassify employees as independent contractors; don't pay minimum wage and don't pay for all hours worked, as well as for infractions.

The Communications Workers of America represent over 5,000 workers in the state of Maryland and stand with our other brothers and sisters in labor who work in food service; retail; agriculture; janitorial services, healthcare, construction and hospitality, in supporting SB 938. It is time to put a stop to wage theft lawlessness.

I ask that you rise in support of this bill as well.

In solidarity,

Lisa M. Fazzini

Lisa M. Fazzini
CWA D2-13 Staff Representative
Serving CWA Locals in MD/DC

SB938_1199SEIU_FAV

Uploaded by: Loraine Arikat

Position: FAV



Testimony for SB 938
Fraud Prevention and Worker Protections - Prohibitions, Penalties, and Enforcement
Before the Senate Finance Committee

March 5, 2025

Position: FAV

Dear Chair Beidle and Members of Senate Finance Committee:

My name is Ricarra Jones, and I am the Political Director of 1199SEIU United Healthcare Workers East. We are the largest healthcare workers union in the nation – representing 10,000 healthcare workers in long-term care facilities and hospitals across Maryland. 1199 SEIU worked with Caring Across Maryland coalition to pass SB197 during the 2024 legislative session which prevents misclassification of home care workers employed by residential services agencies.

1199 SEIU supports SB 938 because it strengthens worker protections against workplace fraud through the establishment of the Workplace Fraud Unit in the Attorney General's Office and enables legal enforcement and penalties against employers who violate Maryland Wage and Hour Law, the Maryland Wage Payment and Collection Law, workplace fraud laws, living wage laws, and prevailing wage laws.

SB 938 would protect home care workers and other direct care workers, who are often misclassified by their residential service agency who employs them. Many of our members interact with home care aides who help some residents in the facilities. There are also DDA funded home care workers and private home care workers that would benefit from SB 938. Despite the increasing demand and essential nature of home care, the caregiving work of personal care aides is still not valued- workers receive extremely low pay, few benefits and enjoy limited protections. Home care workers are still earning as low as \$15 per hour with very little job security. In Maryland, there are approximately 51,200 direct care workers, the majority of whom are Black and women of color. Home care workers are an important part of the patient care team. Often, home care workers have no idea they are being cut out of the social safety net that employees receive and are struggling to pay bills and keep a roof over their heads.

1199 SEIU represents healthcare workers across the care continuum – long term care, hospitals, and clinics – and we know how our broken long term care infrastructure impacts our state's unique Total Cost of Care healthcare model and our already burdened emergency rooms. Ensuring we have the care force in Maryland to let residents age safely in their homes will positively impact the entire care system. Preventing workplace fraud for private employees like

the ones mentioned can pave the way for a stronger care system. For those reasons, we urge the committee to issue a favorable report SB 938.

Sincerely,
Ricarra Jones
Political Director
1199 SEIU
Ricarra.jones@1199.org

32BJ Testimony on MD SB 983.pdf

Uploaded by: Mario Murcia

Position: FAV



SERVICE EMPLOYEES
INTERNATIONAL UNION
CTW, CLC

MANNY PASTREICH

President

JOHN SANTOS

Secretary Treasurer

ROXANA RIVERA

Assistant to the President

EXECUTIVE

VICE PRESIDENTS

SHIRLEY ALDEBOL
KEVIN BROWN
JAIME CONTRERAS
ROB HILL
DENIS JOHNSTON
GABE MORGAN
CANDIS TALL

VICE PRESIDENTS

ISRAEL MELENDEZ
HELENE O'BRIEN
ROCHELLE PALACHE
MICHAEL PISTONE
KEVIN STAVRIS
SAM WILLIAMSON

Capital Area District

Washington 202.387.3211
Baltimore 410.244.6299
Virginia 202.387.3211

Connecticut District

Hartford 860.560.8674
Stamford 203.674.9965

Mid-Atlantic District 1201

215.226.3600
215.923.5488
302.295.4814

Florida District

305.672.7071

Hudson Valley District

914.328.3492

Kentucky District

502.368.9122

New England District 615

617.523.6150

New Jersey District

973.824.3225

Western Pennsylvania District

412.471.0690

www.seiu32bj.org

Testimony of 32BJ SEIU in Support of SB983

March 3, 2025

32BJ SEIU is pleased to submit this testimony in support of Senate Bill 983, 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 185,000 members up and down the East Coast, with 10,000 members who work or live 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 SB 983. 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, SB 983 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 workers 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-

Capital Area District

Jaime Contreras
Capital Area District Director

Washington DC |

1025 Vermont Ave, NW, 7th Floor
Washington DC 20005
202.387.3211

Baltimore |

10 East Baltimore Street Ste 1403
Baltimore, MD 21202
410.244.6299

Virginia

8618 Westwood Center Dr. Ste 308
Vienna, VA 22182
202.387.3211

**MANNY PASTREICH**

President

JOHN SANTOS

Secretary Treasurer

ROXANA RIVERA

Assistant to the President

EXECUTIVE**VICE PRESIDENTS**

SHIRLEY ALDEBOL
KEVIN BROWN
JAIME CONTRERAS
ROB HILL
DENIS JOHNSTON
GABE MORGAN
CANDIS TALL

VICE PRESIDENTS

ISRAEL MELENDEZ
HELENE O'BRIEN
ROCHELLE PALACHE
MICHAEL PISTONE
KEVIN STAVRIS
SAM WILLIAMSON

Capital Area District

Washington 202.387.3211
Baltimore 410.244.6299
Virginia 202.387.3211

Connecticut District

Hartford 860.560.8674
Stamford 203.674.9965

Mid-Atlantic District 1201

215.226.3600
215.923.5488
302.295.4814

Florida District

305.672.7071

Hudson Valley District

914.328.3492

Kentucky District

502.368.9122

New England District 615

617.523.6150

New Jersey District

973.824.3225

Western Pennsylvania District

412.471.0690

www.seiu32bj.org

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 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 three where it recently displaced a union contractor – 100 S. Charles St., 217 E. Redwood St., and 201 N. Charles St. (Two of these three 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 employ 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

Capital Area District

Jaime Contreras
Capital Area District Director

Washington DC |

1025 Vermont Ave, NW, 7th Floor
Washington DC 20005
202.387.3211

Baltimore |

10 East Baltimore Street Ste 1403
Baltimore, MD 21202
410.244.6299

Virginia

8618 Westwood Center Dr. Ste 308
Vienna, VA 22182
202.387.3211

**MANNY PASTREICH**

President

JOHN SANTOS

Secretary Treasurer

ROXANA RIVERA

Assistant to the President

EXECUTIVE**VICE PRESIDENTS**

SHIRLEY ALDEBOL

KEVIN BROWN

JAIME CONTRERAS

ROB HILL

DENIS JOHNSTON

GABE MORGAN

CANDIS TALL

VICE PRESIDENTS

ISRAEL MELENDEZ

HELENE O'BRIEN

ROCHELLE PALACHE

MICHAEL PISTONE

KEVIN STAVRIS

SAM WILLIAMSON

Capital Area District

Washington 202.387.3211

Baltimore 410.244.6299

Virginia 202.387.3211

Connecticut District

Hartford 860.560.8674

Stamford 203.674.9965

Mid-Atlantic District 1201

215.226.3600

215.923.5488

302.295.4814

Florida District

305.672.7071

Hudson Valley District

914.328.3492

Kentucky District

502.368.9122

New England District 615

617.523.6150

New Jersey District

973.824.3225

Western Pennsylvania District

412.471.0690

www.seiu32bj.org

work under conditions that make clear they are legally employees; they work at 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 eventually hired some of the employees of the former union contractor, but failed to provide workers with notice of their payrate and schedule when they began work with the company and has failed to provide paystubs. This has made it hard for workers to understand their employment status, and 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 on behalf of the CVVY workers. We are optimistic that with the Taskforce's support, the CVVY workers will recover their unpaid wages, will regain their employee status with full employment protections, and will win back the union. We are also urging state to ensure that the janitorial and security contractors that service all state offices are responsible companies that comply with the law and pay prevailing wage standards.

We are aware, however, 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 what 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 reclassified 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 not protected by workplace laws. They may think they are ineligible for workers' compensation and unemployment insurance and never apply for benefits if they need them.

Unfortunately, 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

Capital Area District

Jaime Contreras

Capital Area District Director

Washington DC |1025 Vermont Ave, NW, 7th Floor
Washington DC 20005
202.387.3211**Baltimore |**10 East Baltimore Street Ste 1403
Baltimore, MD 21202
410.244.6299**Virginia**8618 Westwood Center Dr. Ste 308
Vienna, VA 22182
202.387.3211



SERVICE EMPLOYEES
INTERNATIONAL UNION
CTW, CLC

MANNY PASTREICH

President

JOHN SANTOS

Secretary Treasurer

ROXANA RIVERA

Assistant to the President

EXECUTIVE

VICE PRESIDENTS

SHIRLEY ALDEBOL

KEVIN BROWN

JAIME CONTRERAS

ROB HILL

DENIS JOHNSTON

GABE MORGAN

CANDIS TALL

VICE PRESIDENTS

ISRAEL MELENDEZ

HELENE O'BRIEN

ROCHELLE PALACHE

MICHAEL PISTONE

KEVIN STAVRIS

SAM WILLIAMSON

Capital Area District

Washington 202.387.3211

Baltimore 410.244.6299

Virginia 202.387.3211

Connecticut District

Hartford 860.560.8674

Stamford 203.674.9965

Mid-Atlantic District 1201

215.226.3600

215.923.5488

302.295.4814

Florida District

305.672.7071

Hudson Valley District

914.328.3492

Kentucky District

502.368.9122

New England District 615

617.523.6150

New Jersey District

973.824.3225

Western Pennsylvania District

412.471.0690

www.seiu32bj.org

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.

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 SB 983.

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.

Capital Area District

Jaime Contreras
Capital Area District Director

Washington DC |

1025 Vermont Ave, NW, 7th Floor
Washington DC 20005
202.387.3211

Baltimore |

10 East Baltimore Street Ste 1403
Baltimore, MD 21202
410.244.6299

Virginia

8618 Westwood Center Dr. Ste 308
Vienna, VA 22182
202.387.3211

Written Testimony SB 938 - Fraud Prevention and Wo

Uploaded by: Matthew Girardi

Position: FAV



Statement of the Amalgamated Transit Union (ATU) Local 689 **SB 938– Fraud Prevention and Worker Protections - Prohibitions, Penalties, and Enforcement** **March 5th, 2025**

TO: The Honorable Pamela Beidle and Members of the Senate Finance Committee
FROM: Matthew Girardi, Political & Communications Director, ATU Local 689

ATU Local 689 supports SB 938 and urges the Senate Finance Committee to issue a favorable report. This bill is a commonsense measure for preventing workplace fraud and abuse for Maryland workers.

At Local 689, we represent over 15,000 transit workers and retirees throughout the Washington DC Metro Area performing many skilled transportation crafts for the Washington Metropolitan Area Transit Authority (WMATA), MetroAccess, DASH, and MTA Commuter Bus among others. Our union helped turn low-wage, exploitative transit jobs into transit careers. We became an engine for the middle-class of this region.

Throughout the Union's history, we have had to fight tooth and nail to get fairness for our members. Be it a living wage, a secure retirement system, quality health insurance, or stable hours, Local 689 has been on the front lines of the fights to bring a decent quality of life to blue-collar transit workers. Indeed, when transit workers themselves began organizing, we were not given the same rights they have today. Unfortunately, this meant that oftentimes, unscrupulous managers would lie to workers about their rights and benefits.

While some of the most proud and outlandish lies have been thankfully outlawed, Maryland must ensure that it has a strong system for holding employers accountable for lying about unemployment benefits, pay records, or any other major worker program that the state puts into place. The Maryland Wage and Hour Law, the Maryland Wage Payment and Collection Law, workplace fraud laws, living wage laws, and prevailing wage laws all function on a mutual understanding by all parties that they are working on the same basis: the truth. Knowingly misleading, misholding, or otherwise distorting information to abuse workers and prevent them from their protections is abhorrent.

SB 938 thankfully tightens the enforcement around all of these necessary statutes, particularly by creating a Worker Protection Unit in the Office of the Attorney General (OAG). Local 689 is excited to see this unit work in partnership with workers across the state to ensure that this kind of fraud and abuse is rooted out.

The Union thanks the administration and OAG for introducing this worthy measure and urges the committee to issue a favorable report.

SB 0938- Mayland Legal Aid- FAV.pdf

Uploaded by: Meaghan McDermott

Position: FAV



Senate Bill 0938

Fraud Prevention and Worker Protections – Prohibitions, Penalties, and Enforcement

In the Finance Committee

Hearing on March 5, 2025

Position: FAVORABLE

Maryland Legal Aid submits its written and oral testimony on SB 0938 at the request of the Office of the Attorney General.

Maryland Legal Aid (MLA) asks that the Committee report favorably and pass SB 0938, which will strengthen protections for Maryland's workforce. MLA is a non-profit law firm that provides free legal services to the State's low-income and vulnerable residents. Our twelve offices serve residents in each of Maryland's 24 jurisdictions and handle a range of civil legal matters.

All people deserve fair pay and a safe place to work. Low-income workers are especially vulnerable to workplace fraud, wage theft, and poor working conditions. SB 0938 recommends expansive new safeguards to ensure workplace fairness and safety. The bill expands the protections of the worker misclassification statute, clarifies what it means to be an employee, and creates new penalties and enforcement mechanisms.

SB 0938 creates a rebuttable presumption of employee status for all workers in Maryland.

Status as an employee, rather than as an independent contractor, grants workers significant wage protections, as well as other benefits. Businesses misclassify workers as independent contractors because misclassification is financially beneficial; the employer can avoid paying into various state systems, can deny leave, and can pay less in taxes. Currently, Maryland law protects construction and landscape workers by presuming workers in those industries to be employees, rather than independent contractors. SB 0938 would afford this presumption to all workers.

Many MLA clients work in the gig economy, for rideshare or food delivery services, for example. These industries are notorious for hiring workers as independent contractors with promises of flexible schedules and autonomy. In reality, many gig economy jobs are highly controlled by the employer. These employers closely monitor workers, and have strict requirements around routes, timeliness, and acceptance rates.

When MLA clients are misclassified, they miss out on pay protections, and for low-income workers each penny counts. Independent contractors are not guaranteed minimum wage or overtime pay. Independent contractors also miss out on other workplace protections that are afforded to employees. Independent contractors are not guaranteed any paid time off if they are sick or if they need to care for family members. Employees are allowed to unionize, which gives them the power and protection to bargain for flexible hours and benefits like extended parental leave.

SB 0938 strengthens Maryland's social safety net.

Classifying more workers as employees also contributes to Maryland's fiscal stability. In addition to harming low-income workers, employee misclassification harms Maryland's economy, because businesses without on-paper employees generate lower tax revenues. It also bankrupts the state's social safety net, because employers are not required to contribute to unemployment insurance, disability insurance, or worker's compensation.

SB 0938 creates a civil penalty for employers who knowingly underpay the Unemployment Insurance Fund. Doing so incentivizes employers and makes sure benefits are available for people who lose their jobs through no fault of their own. Unemployment insurance is a vital protection for low-income Marylanders.

SB 0938 creates penalties and enforcement mechanisms that directly benefit workers.

The bill streamlines the investigation process for wage law violations. This is critical because while workers wait for justice, they are also waiting for the pay and benefits they were denied. If they eventually get paid but have already lost their home or had their car repossessed, the laws do not provide adequate protections. Importantly, the bill also defines economic damages not just as unpaid wages, but also as lost benefits and reimbursements. Benefits and reimbursements can be hard to quantify, but are an important part of an employee's remuneration, so it's crucial they are included in any calculation of damages.

SB 0938 also requires employers to pay restitution directly to impacted workers, if the employer failed to pay prevailing wage rates. The law currently requires payment into the State's General Fund. This may penalize the employer and offer an incentive not to violate wage law in the future, but it doesn't do much for the affected worker. It is only fair that the worker be paid what they were owed, and that any damages assessed also go to the worker. Similarly, the bill's proposal to allow a judge to award counsel fees is only appropriate. The inability to obtain fees disincentivizes low-income people from retaining counsel to pursue these cases.

Current law allows an employer to waive their duty to treat a worker as an employee by entering into a private agreement. SB 0938 would prohibit this practice, which is clearly ripe for abuse. There is a power dynamic between any worker and employer, and that only increases for low-income people who do not have a financial back up plan if they lose their job for refusing to sign something such as a worker classification agreement.

SB 0938's creation of a Worker Protection Unit and other enforcement modalities creates a real, accessible pathway for Marylanders to assert their rights.

MLA enthusiastically endorses the OAG's creation of a Worker Protection Unit. MLA will expand its own work in this area by creating a workers' rights unit in 2025. There is a pressing need for advocates to enforce the rule of law in this arena, as evidenced by the many requests MLA receives for advice and representation on wage claims, unemployment insurance, and workplace safety conditions.

MLA urges passage of SB 0938, to provide fair wages and workplace protections for all Marylanders.

If you would like additional information on this bill or the underlying issues it addresses, please contact Meaghan McDermott, Advocacy Director for Community Lawyering and Development, at mmcdermott@mdlab.org or 410-951-7635.

SB 938 - Fraud Prevention and Worker Protections -

Uploaded by: Michael McMillan

Position: FAV

Amalgamated Transit Union Local 1300

126 W. 25th Street, Baltimore, Maryland 21218
Telephone: 410-889-3566 Facsimile: 410-243-5541
www.atu1300.org

Proudly representing the transit workers of the MTA!



SB 938 - Fraud Prevention and Worker Protections - Prohibitions, Penalties, and Enforcement Favorable

Senate Finance Committee

March 5th, 2025

ATU Local 1300 represents over 3,000 transit workers at the Maryland Transit Administration (MTA). This includes bus operators, bus mechanics, rail operators, rail maintenance workers, and more. Our members keep Maryland moving every day.

Our members are public sector workers, but we know firsthand what wage theft, misclassification, and workplace fraud have done to other transportation workers. Employers often feel like penalties and fines from violating employment laws can be swept under the rug. By creating a Worker Protection Unit within the Office of the Attorney General, it would take on the type of high profile cases that could draw attention to poor industry practices and incentivize pro-active compliance.

We believe that concerns opponents of the bill have raised about duplication of efforts are misguided. There is enough workplace fraud and attacks on worker protections to justify tackling the issue on multiple fronts.

We urge the committee to issue a favorable report on SB 938.

Pia Morrison - SEIU Local 500 Testimony in Support

Uploaded by: Pia Morrison

Position: FAV



Testimony - SB 938, Fraud Prevention and Worker Protections - Prohibitions, Penalties,
and Enforcement

Favorable

Senate Finance Committee

March 5, 2025

Pia Morrison

President, SEIU Local 500

Honorable Chairwoman Beidle and Members of the Senate Finance Committee:

As President of SEIU Local 500, one of Maryland's largest public sector unions, I am here today representing over 23,000 workers to ask on their behalf for your support of Senate Bill 938. This bill is crucial to ensuring fair labor practices, enhancing worker protections, and holding bad actors accountable in Maryland's workforce.

SB 938 strengthens the Maryland False Claims Act (MFCA) by expanding its scope to include fraudulent underpayments of unemployment insurance contributions and improper claims for benefits exceeding \$15,000 annually. This provision is essential to maintaining the integrity of our unemployment insurance system and preventing fraud that harms both workers and taxpayers.

Additionally, the bill enhances enforcement of wage and hour laws by providing the Attorney General with expanded authority to pursue claims on behalf of workers when widespread violations occur. It also introduces stricter penalties for employers that knowingly misclassify employees as independent contractors—a practice that deprives workers of essential benefits and protections while undermining law-abiding businesses.

A key component of SB 938 is the establishment of the Worker Protection Unit within the Office of the Attorney General. This unit will focus on enforcing labor laws, investigating fraudulent workplace practices, and ensuring that workers receive the wages and benefits to which they are entitled. By centralizing enforcement efforts, Maryland can more effectively combat wage theft and employer misconduct.

Furthermore, the bill mandates that civil penalties and damages collected for violations of prevailing wage laws be directed toward restitution for affected workers. This provision ensures that workers who have been wronged are compensated fairly and expedites financial relief for those impacted by wage violations.

Fair labor practices are fundamental to a thriving economy. SB 938 sends a strong message that Maryland stands firmly against workplace fraud, wage theft, and the exploitation of workers. By holding unscrupulous employers accountable and providing stronger enforcement mechanisms, this legislation protects Maryland workers while leveling the playing field for businesses that comply with the law.

I respectfully urge the committee to give SB 938 a favorable report. Thank you for your time and consideration.

Pia Morrison
President
SEIU Local 500

EASRCC Carpenters_testimony_SB938 HB1096_FAV.pdf

Uploaded by: Roger Manno

Position: FAV



Eastern Atlantic States REGIONAL COUNCIL OF CARPENTERS

8500 Pennsylvania Avenue, Upper Marlboro, MD 20772 | Phone: 301-735-6660 | EASCARPENTERS.ORG

TESTIMONY OF MUNGU SANCHEZ OF THE EASTERN ATLANTIC STATES REGIONAL COUNCIL OF CARPENTERS

SB0938 / HB1096 – FRAUD PREVENTION AND WORKER PROTECTIONS - PROHIBITIONS, PENALTIES, AND ENFORCEMENT

BEFORE THE SENATE FINANCE COMMITTEE AND HOUSE ECONOMIC MATTERS COMMITTEE

FAVORABLE

Chairs Beidle and Wilson, and Members of the Senate Finance and House Economic Matters committees,

My name is Mungu Sanchez, and I am honored to represent the Eastern Atlantic States Regional Council of Carpenters (EASRCC). On behalf of thousands of skilled union carpenters across Maryland, I submit this testimony in strong support of SB0938 / HB1096.

Carpenters are the foundation of Maryland's construction industry. Whether we are framing homes, installing critical infrastructure, or working on commercial projects, our members are committed to excellence, safety, and fair wages. However, we also see firsthand the negative impacts of wage theft and worker misclassification, which continue to plague our industry. These unfair labor practices hurt not only our workers but also honest contractors and the broader economy.

Maryland's current system does not do enough to address these issues. Right now, the Attorney General does not have the statutory authority to directly enforce wage laws, leaving an enforcement gap that allows unscrupulous employers to evade responsibility. This failure to properly enforce labor laws enables tax fraud, unemployment insurance fraud, workers' compensation fraud, and other forms of exploitation that harm both workers and taxpayers.

This legislation provides a much-needed solution. By granting the Attorney General concurrent jurisdiction alongside the Department of Labor and other state agencies, Maryland will have a stronger enforcement mechanism to crack down on wage theft, misclassification, and employer fraud. This approach will help ensure that workers receive the wages they have rightfully earned and that law-abiding contractors are not unfairly undercut by companies that engage in illegal practices.

Other states have already taken similar steps. California, Illinois, Massachusetts, New York, Washington, and the District of Columbia have empowered their Attorneys General with statutory authority to enforce wage laws. Meanwhile, states like North Carolina derive their AG's power from constitutional provisions. Maryland must act now to bring its enforcement capabilities in line with these states and ensure fair treatment for all workers.

The EASRCC stands firmly in support of SB0938 / HB1096. We urge this committee to take a stand for Maryland's workforce and pass this legislation. Thank you for your time, and I welcome any questions you may have.

Thank you for your time and consideration.

Sincerely,

Mungu Sanchez

Eastern Atlantic States Regional Council of Carpenters

M&A_Aaron Bast_IW Local 5_SB938 HB1096.pdf

Uploaded by: Roger Manno

Position: FAV



TESTIMONY OF AARON BAST
BUSINESS MANAGER AND FINANCIAL SECRETARY-TREASURER, IRONWORKERS
LOCAL 5

SB0938 / HB1096 – FRAUD PREVENTION AND WORKER PROTECTIONS -
PROHIBITIONS, PENALTIES, AND ENFORCEMENT

BEFORE THE SENATE FINANCE COMMITTEE AND HOUSE ECONOMIC MATTERS
COMMITTEE

FAVORABLE

Chairs Beidle and Wilson, and Members of the Senate Finance and House Economic Matters committees,

My name is Aaron Bast, and I serve as the Business Manager and Financial Secretary Treasurer for Iron Workers Local 5. On behalf of the hardworking union members we represent, I am here today to express our strong support for SB0938 / HB1096, a critical piece of legislation that strengthens worker protections, closes loopholes in our unemployment insurance system, and ensures that Maryland's wage laws are enforced with real consequences for bad actors. For too long, unscrupulous employers have exploited gaps in our labor laws to misclassify workers, underpay unemployment insurance contributions, and cheat working Marylanders out of their hard-earned wages. This bill takes meaningful steps to address these abuses by:

- Prohibiting fraudulent underpayment of unemployment insurance contributions and wrongful payment of benefits over a set threshold.
- Strengthening enforcement of Maryland's Wage and Hour Law, Wage Payment and Collection Law, workplace fraud laws, living wage laws, and prevailing wage laws.
- Establishing the Worker Protection Unit within the Office of the Attorney General to ensure that violations of worker protection laws are properly investigated and prosecuted.

One of the greatest weaknesses in Maryland's current system is that the Attorney General lacks the statutory power to enforce wage theft, misclassification, and related labor violations. As a result, enforcement of these critical protections falls solely on the Department of Labor and other agencies, which often lack the capacity to address the full scale of the problem. Without the ability to take direct legal action, the Attorney General's Office is unable to pursue bad actors



who systematically exploit workers through wage fraud, depriving both employees and the state of rightful earnings and tax revenue.

Granting the Attorney General concurrent jurisdiction with the Department of Labor and other state agencies would significantly enhance Maryland's ability to combat wage theft and worker misclassification. This expansion of authority would allow the AG to collaborate with existing enforcement bodies, share investigative resources, and ensure that violations are prosecuted to the fullest extent of the law. Moreover, wage theft and worker misclassification are often linked to other forms of fraud, including tax fraud, insurance fraud, workers' compensation fraud, unemployment insurance fraud, and FICA fraud. Providing the Attorney General with the ability to investigate and prosecute these cases holistically would not only protect workers but also ensure that employers who follow the law are not undercut by those who engage in illegal practices.

Other states have recognized the necessity of granting their Attorneys General the power to enforce wage laws. California, Illinois, Massachusetts, New York, Washington, and the District of Columbia have all enacted statutory wage enforcement powers for their AGs. In contrast, some states, like North Carolina, derive their AG's authority from constitutional provisions, while others have developed enforcement powers through common law precedents. Maryland should follow the lead of these states by providing its Attorney General with statutory wage enforcement powers to ensure that unscrupulous employers cannot evade accountability. SB0938 / HB1096 is a long-overdue step toward ensuring that Maryland's workers are treated fairly and that employers who violate the law are held accountable. By improving enforcement mechanisms and increasing penalties for wage theft and misclassification, this bill helps protect the rights of workers and strengthens Maryland's economy as a whole.

Iron Workers Local 5 stands firmly in support of this legislation, and we urge the committee to give it a favorable report. Thank you for your time and consideration. I am happy to answer any questions you may have.

Sincerely,

Aaron Bast
Business Manager & Financial Secretary-Treasurer
Ironworkers Local 5

M&A_Chris Madello_UA Steamfitters 602_SB938 HB1096

Uploaded by: Roger Manno

Position: FAV

Journeyman Pipe Fitters and Apprentices



Local Union No. 602

8700 ASHWOOD DRIVE • 2ND FLOOR • CAPITOL HEIGHTS, MD 20743

TELEPHONE: (301) 333-2356 • FAX: (301) 333-1730

AFFILIATED WITH AFL-CIO

TESTIMONY OF CHRIS MADELLO, BUSINESS MANAGER / FINANCIAL
SECRETARY TREASURER, UA STEAMFITTERS LOCAL 602

SB0938 / HB1096 – FRAUD PREVENTION AND WORKER PROTECTIONS -
PROHIBITIONS, PENALTIES, AND ENFORCEMENT

BEFORE THE SENATE FINANCE COMMITTEE AND HOUSE ECONOMIC MATTERS
COMMITTEE

FAVORABLE

Chairs Beidle and Wilson, and Members of the Senate Finance and House Economic
Matters committees,

I am Chris Madello, and I proudly serve as the Business Manager and Financial
Secretary Treasurer of UA Steamfitters Local 602. Our union stands as a pillar of
Maryland's economy and workforce, representing 6,031 Journeymen, 1,200
Apprentices, and 205 signatory Mechanical Construction and Service Contractors who
specialize in Heating, Air Conditioning, Refrigeration, and Process Piping. We don't just
work in Maryland—we keep Maryland running. In 2024 alone, our members logged
more than 9,000,000 work hours, ensuring homes, businesses, and essential facilities
operate efficiently and safely.

Our success is the product of a strong partnership between labor and business. Our
signatory contractors, represented by the Mechanical Contractors Association of Metro
Washington (MCAMW), drive economic growth across the region, generating \$2 billion
annually and contributing approximately \$500 million in state, federal, and local taxes.
Unfortunately, the integrity of our industry is continuously threatened by unscrupulous
employers who sidestep their responsibilities through worker misclassification, wage
theft, and tax fraud. These dishonest practices hurt everyone—hardworking
tradespeople, responsible contractors, and the broader economy.

Maryland's current enforcement mechanisms lack the strength to effectively combat
these abuses. The Attorney General's Office does not have the statutory power to take

CHRISTOPHER M. MADELLO
BUSINESS MANAGER
FINANCIAL SECRETARY TREASURER

SIDNEY O. BONILLA
ASSISTANT
BUSINESS MANAGER

SEAN T. STRASER
BUSINESS AGENT

GREGORY L. DAVIS
BUSINESS AGENT

TIMOTHY L. BIGGS
BUSINESS AGENT

ROBERT T. GIFFORD
BUSINESS AGENT

RAYMOND E. BLACK
BUSINESS AGENT

direct action against wage theft and worker misclassification. This allows unethical businesses to undercut legitimate contractors and exploit workers without fear of real consequences. Moreover, these labor violations are often accompanied by tax fraud, unemployment insurance fraud, and workers' compensation fraud, further burdening taxpayers and law-abiding businesses.

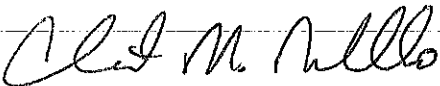
SB0938 / HB1096 presents a much-needed solution by granting the Attorney General concurrent jurisdiction alongside the Department of Labor and other agencies. This expanded authority will enable Maryland to better enforce labor laws, protect workers from exploitation, and level the playing field for ethical businesses. Strong enforcement benefits everyone—ensuring fair wages, stabilizing industry standards, and protecting the tax revenue that funds critical public services.

Maryland cannot afford to fall behind. Other states, including California, Illinois, Massachusetts, New York, Washington, and the District of Columbia, have already empowered their Attorneys General with statutory authority to enforce wage laws. Meanwhile, states like North Carolina provide this power through constitutional provisions. Maryland must act now to strengthen its enforcement framework and secure economic justice for workers and employers alike.

On behalf of UA Steamfitters Local 602, I urge this committee to give SB0938 / HB1096 a favorable report. This bill is about fairness, accountability, and protecting the workforce that keeps Maryland moving forward.

Thank you for your time, and I welcome any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Madello", written over a horizontal line.

Chris Madello

Business Manager / Financial Secretary Treasurer

UA Steamfitters Local 602

M&A_Ironworkers District Council Mld Atlantic_Test

Uploaded by: Roger Manno

Position: FAV



TESTIMONY OF SEBASTIAN FECULAK
POLITICAL DIRECTOR IRONWORKERS MID-ATLANTIC STATES DISTRICT COUNCIL

SB0938 / HB1096 – FRAUD PREVENTION AND WORKER PROTECTIONS - PROHIBITIONS, PENALTIES,
AND ENFORCEMENT

BEFORE THE SENATE FINANCE COMMITTEE AND HOUSE ECONOMIC MATTERS COMMITTEE

FAVORABLE

Chairs Beidle and Wilson, and Members of the Senate Finance and House Economic Matters committees, My name is Aaron Bast, and I serve as the Business Manager and Financial Secretary Treasurer for Iron Workers Local 5. On behalf of the hardworking union members we represent, I am here today to express our strong support for SB0938 / HB1096, a critical piece of legislation that strengthens worker protections, closes loopholes in our unemployment insurance system, and ensures that Maryland's wage laws are enforced with real consequences for bad actors.

For too long, unscrupulous employers have exploited gaps in our labor laws to misclassify workers, underpay unemployment insurance contributions, and cheat working Marylanders out of their hard-earned wages. This bill takes meaningful steps to address these abuses by:

- Prohibiting fraudulent underpayment of unemployment insurance contributions and wrongful payment of benefits over a set threshold.
- Strengthening enforcement of Maryland's Wage and Hour Law, Wage Payment and Collection Law, workplace fraud laws, living wage laws, and prevailing wage laws.
- Establishing the Worker Protection Unit within the Office of the Attorney General to ensure that violations of worker protection laws are properly investigated and prosecuted.

One of the greatest weaknesses in Maryland's current system is that the Attorney General lacks the statutory power to enforce wage theft, misclassification, and related labor violations. As a result, enforcement of these critical protections falls solely on the Department of Labor and other agencies, which often lack the capacity to address the full scale of the problem. Without the ability to take direct legal action, the Attorney General's Office is unable to pursue bad actors who systematically exploit workers through wage fraud, depriving both employees and the state of rightful earnings and tax revenue.

Granting the Attorney General concurrent jurisdiction with the Department of Labor and other state agencies would significantly enhance Maryland's ability to combat wage theft and worker misclassification. This expansion of authority would allow the AG to collaborate with existing enforcement bodies, share investigative resources, and ensure that violations are prosecuted to the fullest extent of the law. Moreover, wage theft and worker misclassification are often linked to other forms of fraud, including tax fraud, insurance fraud, workers' compensation fraud, unemployment insurance fraud, and FICA fraud. Providing the Attorney General with the ability to investigate and prosecute these cases holistically would not only protect workers but also ensure that employers who follow the law are not undercut by those who engage in illegal practices.



Other states have recognized the necessity of granting their Attorneys General the power to enforce wage laws. California, Illinois, Massachusetts, New York, Washington, and the District of Columbia have all enacted statutory wage enforcement powers for their AGs. In contrast, some states, like North Carolina, derive their AG's authority from constitutional provisions, while others have developed enforcement powers through common law precedents.

Maryland should follow the lead of these states by providing its Attorney General with statutory wage enforcement powers to ensure that unscrupulous employers cannot evade accountability. SB0938 / HB1096 is a long-overdue step toward ensuring that Maryland's workers are treated fairly and that employers who violate the law are held accountable. By improving enforcement mechanisms and increasing penalties for wage theft and misclassification, this bill helps protect the rights of workers and strengthens Maryland's economy as a whole.

Iron Workers Mid-Atlantic District States Council stands firmly in support of this legislation, and we urge the committee to give it a favorable report. Thank you for your time and consideration. I am happy to answer any questions you may have.

Sincerely,

Sebastian Feculak
Political Coordinator Mid-Atlantic States District Council

M&A_MCAMW_testimony_SB938 HB1096_FAV.pdf

Uploaded by: Roger Manno

Position: FAV



**SB0938 / HB1096 – FRAUD PREVENTION AND WORKER PROTECTIONS -
PROHIBITIONS, PENALTIES, AND ENFORCEMENT**

**BEFORE THE SENATE FINANCE COMMITTEE AND HOUSE ECONOMIC MATTERS
COMMITTEE**

FAVORABLE

Chairs Beidle and Wilson, and Members of the Senate Finance and House Economic Matters committees,

My name is Thomas Bello, and I have the privilege of serving as the Executive Vice President of the Mechanical Contractors Association of Metropolitan Washington (MCAMW). Our organization represents 200 construction contractors employing over 10,000 skilled tradespeople and 1,000 apprentices across the DMV region. Our reach extends through local unions, hiring halls, and apprenticeship programs of the Mid-Atlantic Pipe Trades Association in Maryland, in addition to affiliates within the Building Trades that maintain additional hiring halls and workforce training centers. The impact of our industry is profound, contributing approximately \$2 billion in annual revenue and generating \$500 million in state, federal, and local taxes each year.

The success of our industry depends on fair competition, adherence to labor laws, and respect for the hardworking men and women who build and maintain Maryland's infrastructure. However, our ability to operate on a level playing field is continuously undermined by unscrupulous employers who engage in wage theft, worker misclassification, and various forms of fraud. These practices allow dishonest businesses to bypass the obligations that lawful employers meet—undercutting wages, evading taxes, and denying workers the benefits they rightfully earn.

Maryland's existing enforcement mechanisms do not go far enough to curb these abuses. As it stands, the Attorney General lacks the statutory authority to directly enforce wage laws, leaving enforcement largely in the hands of already overburdened agencies. This gap in enforcement allows bad actors to continue exploiting workers and defrauding the system with little fear of meaningful consequences. Beyond wage theft, these violations frequently extend into tax fraud, unemployment insurance fraud, workers' compensation fraud, and payroll fraud—further burdening Maryland's economy and shortchanging public services.

SB0938 / HB1096 is a critical step toward addressing these systemic issues by granting the Attorney General concurrent jurisdiction alongside the Department of Labor and other relevant agencies. This will create a stronger enforcement network, ensuring that



wage laws are upheld, workers are protected, and honest businesses are no longer disadvantaged by those who break the rules.

Maryland should not lag behind other states that have already strengthened their enforcement frameworks. California, Illinois, Massachusetts, New York, Washington, and the District of Columbia have empowered their Attorneys General with statutory authority to pursue wage violations, while other states, such as North Carolina, have granted similar powers through constitutional provisions. It is time for Maryland to adopt these best practices to ensure fairness and accountability within our labor market.

On behalf of MCAMW and our member contractors, I urge this committee to pass SB0938 / HB1096. This legislation is not just about labor rights, it is about protecting the integrity of our economy and ensuring that Maryland's construction industry remains strong, fair, and competitive.

Thank you for your time, and I welcome any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Bello", is positioned above the printed name.

Thomas L. Bello
Executive Vice President
Mechanical Contractors Association of Metropolitan Washington

M&A_T Smalls_UA Local 5_Testimony_SB938 HB1096_FAV

Uploaded by: Roger Manno

Position: FAV



PLUMBERS LOCAL UNION NO. 5

UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPE FITTING INDUSTRY OF THE UNITED STATES AND CANADA, AFL-CIO

4755 Walden Ln. Lanham, MD 20706 • 301-899-7861 (T) • 301-899-7868 (F)



In Support of Senate Bill 938 / House Bill 1096

SB938 / HB1096 – FRAUD PREVENTION AND WORKER PROTECTIONS - PROHIBITIONS, PENALTIES, AND ENFORCEMENT

House Economic Matters Committee and Senate Finance Committee

Chairs Beidle and Wilson, and Members of the Senate Finance and House Economic Matters committees,

On behalf of UA Plumbers and Gasfitters Local 5, I am proud to express our strong support for Senate Bill 938 / House Bill 1096. This critical legislation promotes fairness, accountability, and protection for Maryland workers by addressing the harmful effects of workplace fraud.

The skilled professionals of Local 5 are vital to Maryland's infrastructure, ensuring safe plumbing, efficient gas systems, and reliable sanitation. Our work directly impacts public health, energy efficiency, and economic growth. Yet, our members face ongoing threats from employers who exploit weak labor laws, committing wage theft and worker misclassification.

Maryland's system has loopholes that prevent the Attorney General from taking direct action against employers who underpay workers, deny benefits, and evade taxes. Without statutory authority, these violations go unpunished, harming workers and giving dishonest contractors an unfair advantage. These illegal practices also contribute to tax fraud, unemployment insurance fraud, and workers' compensation fraud, further burdening taxpayers and ethical businesses.

Granting the Attorney General concurrent jurisdiction with the Department of Labor will strengthen enforcement, protect workers, and ensure fair competition. Many states, including California, Illinois, and New York, have already empowered their Attorneys General to combat wage theft and labor fraud. Maryland must follow suit to safeguard its workforce and uphold labor integrity.

UA Plumbers & Gasfitters Local 5 urges the committee to pass SB0938 / HB1096 to ensure fairness in our industry, protect workers, and hold fraudulent employers accountable.

Thank you for the opportunity to provide this testimony. Please feel free to contact me with any questions or for further information.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Michael Canales', with a long horizontal flourish extending to the right.

Michael Canales
Assistant Business Manager
UA Plumbers & Gasfitters Local # 5

Terriea "T" L. Smalls
Business Mgr. / Financial Sec-Treas.

Michael S. Canales, Jr.
Asst. Business Manager

Anthony A. Solis
Business Rep. and Organizer

Julius Wright
Business Rep. and Organizer

Roger Manno_Manno & Associates LLC_Testimony_SB938

Uploaded by: Roger Manno

Position: FAV

Roger P. Manno, Esq. | Manno & Associates LLC
Attorney | Lobbyist | Maryland Senator and Delegate (Ret.)
Admitted to practice law in MD and DC
c 202.425.3523 | o 888.422.0131 | e rmanno@mannoandassociates.com
www.MannoAndAssociates.com

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:

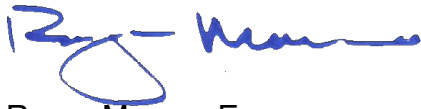
"The Attorney General shall have and perform such duties as are now or may hereafter be prescribed by Law." Maryland courts have repeatedly upheld the legislature's authority to expand or limit the Attorney General's role. See *State v. Burning Tree Club, Inc.*, 315 Md. 254 (1989) (confirming that the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

NELP Testimony ISO SB 938 -WFA Expansion-FAV.pdf

Uploaded by: Sally Dworak-Fisher

Position: FAV

Testimony of Sally Dworak-Fisher
National Employment Law Project

**S.B. 938 – Labor and Employment –Fraud Prevention
and Labor Protections– SUPPORT**

**Hearing before the Senate Finance Committee
of the Maryland General Assembly**

March 5, 2025

Sally J. Dworak-Fisher
Senior Staff Attorney

National Employment Law Project
90 Broad Street, Suite 1100
New York, NY 10004

202-869-3286
sdworak-fisher@nelp.org

The National Employment Law Project (NELP) is a nonprofit organization with more than fifty years of experience advocating for the labor and employment rights of low-wage workers. NELP works extensively at the federal, state and local levels to promote policies that expand worker protections and support a good jobs economy. We have particular expertise in independent contractor misclassification and the harms it poses to workers, to businesses that comply with the law, and to critical social insurance programs.¹

**Misclassification of
employees as
independent contractors
harms workers, honest
businesses, and the
state's social insurance
programs.**

We write in **SUPPORT** of S.B. 938 and urge a **FAVORABLE** report.

Independent Contractor Misclassification is Hurting Marylanders

Independent contractors are people who are in business for themselves. They have the power to make key business decisions — to determine the price they charge, to market their business to customers, and to make investment decisions. Too frequently, however, businesses call their employees independent contractors. Why? Because it is cheaper: businesses can save up to thirty percent of payroll and other taxes by misclassifying their employees as contractors.²

Misclassification Harms Maryland Workers.

As the table on the following page illustrates, when businesses misclassify their workers, they deny them employee rights and protections, degrading work quality and worker power.

¹ See NAT'L EMP. L. PROJECT, *End Independent Contractor Misclassification*, <https://www.nelp.org/explore-the-issues/contracted-workers/misclassified-workers/>. See also Catherine Ruckelshaus, *Independent Contractor v. Employee: Why Misclassification Matters and What we can do to Stop It*, NAT'L EMP. L. PROJECT (May 2016), <https://s27147.pcdn.co/wp-content/uploads/Policy-Brief-Independent-Contractor-vs-Employee.pdf>.

² See NAT'L EMP. L. PROJECT, *Independent Contractor Misclassification Imposes Huge Costs*, (Oct. 2020), <https://www.nelp.org/app/uploads/2017/12/Independent-Contractor-Misclassification-Imposes-Huge-Costs-Workers-Federal-State-Treasuries-Update-October-2020.pdf>.

Independent Contractor		Employee
✗	Right to organize and bargain collectively	✓
✗	Right to a minimum wage and overtime pay	✓
✗	Right to paid sick leave	✓
✗	Employer contributions to paid family and medical leave	✓
✗	Employer-funded workers' compensation	✓
✗	Employer contributions to Social Security, retirement	✓
✗	Right to a safe and healthy workplace	✓
✗	Protections against discrimination and harassment	✓

The loss of these rights and protections is costly to workers. As the Joint Enforcement Task Force on Workplace Fraud recently highlighted, the costs to Maryland workers is staggering, and is causing significant economic harm to workers, many of whom are in low-paid jobs.³ The chart below shows low and high estimates of annual monetary losses to workers denied overtime, differential pay, paid leave, health and retirement benefits from being classified as an independent contractor instead of as an employee.⁴

Occupation	Low Estimate	High Estimate
Heavy and Tractor Trailer Truck Drivers	\$13,075	\$21,177
Light Truck Delivery Drivers	\$11,401	\$18,440
Construction Workers	\$10,155	\$15,540
Customer Service Reps & Call Center Workers	\$7,994	\$11,047
Security Guards	\$7,816	\$10,800
Landscaping Workers	\$7,815	\$10,797
Home Health and Personal Care Aids	\$7,533	\$10,422
Manicurists & Pedicurists	\$7,258	\$10,370
Janitors and Cleaners	\$7,206	\$9,946
Housekeeping Cleaners	\$6,221	\$8,571
Retail Workers	\$6,111	\$8,300

³ Joint Enforcement Task Force on Workplace Fraud: 2024 Annual Report, (Feb. 2024), <https://labor.maryland.gov/workplacefraudtaskforce/wpftfannrep2024.pdf> ("2024 JETF Report") (citing Adewale A. Maye, Daniel Perez, and Margaret Poydock, *Misclassifying Workers as Independent Contractors is Costly for Workers and States*, ECON. POL'Y INST (Jan. 22, 2025), available at <https://www.epi.org/publication/misclassifying-workers-2025-update/>).

⁴ *Id.*

Misclassification Hurts Law-Abiding Businesses and Maryland Coffers.

Misclassification puts honest businesses at a competitive disadvantage and creates a system of unfair competition. Businesses that misclassify their employees pocket employer payroll costs they would otherwise incur and pressure their competition to shed labor costs, creating a “race to the bottom” where firms try to remain competitive by following suit.⁵

And at a time when the state is struggling with a budget deficit, it is critical to ensure a level playing field with every business contributing its fair share. Yet misclassification is causing critical losses in Maryland. The state’s Joint Enforcement Task Force notes how Maryland’s social insurance programs and other public revenue contributions are suffering as a result of cheating businesses *in just one industry – construction*. Each year, Maryland loses:

1. \$9.1 million in Unemployment Insurance contributions;
2. \$58.7 million in Workers’ Compensation premiums;
3. \$79.1 million lost Social Security and Medicare contributions; and
4. \$19.3 million in lost State income revenue.⁶

The Economic Policy Institute’s recent analysis further reveals how the state loses critical contributions *for each worker* who is misclassified across ten other industries. For example, businesses that misclassify their janitors annually pocket unpaid contributions to social insurance and other employee benefits ranging from a low estimate of \$778 per misclassified janitor to a high estimate of \$1274 per misclassified janitor.⁷

Misclassification Is NOT Limited to Landscaping and Construction.

Maryland took an important step in passing the Workplace Fraud Act in 2009, but it is high time to expand it. The problem is not a problem unique to landscaping or construction work and may be spreading. The USDOL has recognized that misclassification is a problem in agriculture, retail, food service, hotel, construction, janitorial, and beauty and nail salons.⁸ It is also a serious problem in call center work, security, trucking, and delivery.⁹

⁵ See David Weil, THE FISSURED WORKPLACE: WHY WORK BECAME SO BAD FOR SO MANY AND WHAT CAN BE DONE TO IMPROVE IT 139-41 (2017); see also ⁵ Françoise Carré, (In)Dependent Contractor, ECON. POL’Y INST. at 5 (Jun. 8, 2015), <https://files.epi.org/pdf/87595.pdf>.

⁶ 2024 JETF Report, supra n. 3 at 9, 10 (citing Laura Valle-Gutierrez, *New Estimates: Misclassification in the Maryland Construction Industry*, THE CENTURY FOUNDATION, (Jan. 2025), <https://production-tcf.imgix.net/app/uploads/2025/01/27111033/Misclassification-in-the-MarylandConstruction-Industry.pdf>.

⁷ Adewale A. Maye, Daniel Perez, and Margaret Poydock, *Misclassifying Workers as Independent Contractors is Costly for Workers and States*, , ECON. POL’Y INST. Appendix Table 3, Maryland (Jan. 22, 2025), [available at https://www.epi.org/publication/misclassifying-workers-2025-update/](https://www.epi.org/publication/misclassifying-workers-2025-update/).

⁸ U.S. Dep’t. of Labor, Wage and Hour Div., Low-wage/High Violation Industries, available at <https://www.dol.gov/agencies/whd/data/charts/low-wage-high-violation-industries>, last accessed Feb. 10, 2025.

⁹ See *supra* n. 6, discussing analysis of eleven industries with high rates of misclassification.

Misclassification is also prevalent in many businesses that manage their work through a digital labor platform. Digital surveillance and automated decision-making tools enable businesses to exert hidden control even as they insist that their workers are independent contractors, i.e., in business for themselves.¹⁰ Indeed, app-based hospitality staffing companies like Qwick, which operates in Maryland, have been sued for misclassification and forced to pay penalties and reclassify their workers as employees in other jurisdictions.¹¹ The Qwick case and others like it demonstrate the spread of the exploitative ‘gig’ business model far beyond Uber drivers and DoorDash food deliverers, to encompass a growing number of jobs that have long been performed by employees with legal protections. The practice appears to be spreading to white collar industries, as a new *Uber for Nurses* report suggests.¹² And the cases illustrate the urgent need for government intervention to safeguard core workplace rights across industries.¹³

Misclassification Is a Racial Justice Issue.

Independent contractor misclassification by companies is also strikingly racialized, occurring disproportionately in occupations in which people of color, including Black, Latinx, and Asian workers, are overrepresented. As a group, workers of color—Black, Latinx, Asian/Pacific Islander, and Native American workers—are overrepresented in construction, delivery, home care, agricultural, personal care, ride-hail, and janitorial and building service occupations; they comprise approximately 41 percent of workers overall, but between 49 and 92 percent of workers in these occupations.¹⁴ In digital labor platform work, Black and Latinx workers are overrepresented by 45 percent—more even than in more traditional misclassification-prone sectors.¹⁵ Because independent contractor misclassification often comes with the wage and benefit penalties noted above, this corporate practice perpetuates growing racial income and wealth inequality and health

¹⁰ Aihua Nguyen, *The Constant Boss: Work Under Constant Surveillance*, DATA & SOC’Y at 10 (May 19, 2021), https://datasociety.net/wp-content/uploads/2021/05/The_Constant_Boss.pdf (“Data-centric systems have allowed employers to exert control over workers while claiming workers enjoy greater autonomy.”). See also Kathryn Zickuhr, *Workplace Surveillance is Becoming the New Normal for U.S. Workers*, WASH. CTR. FOR EQUITABLE GROWTH (AUG. 18, 2021), available at <https://equitablegrowth.org/research-paper/workplace-surveillance-is-becoming-the-new-normal-for-u-s-workers/>.

¹¹ Chiu secures \$2.1 million deal requiring gig economy company to reclassify workers as employees, <https://www.sfcityattorney.org/2024/02/22/chiu-secures-2-1-million-deal-requiring-gig-economy-company-to-reclassify-workers-as-employees/>.

¹² Katie J. Wells and Funda Ustek Spilda, *Uber for Nurses*, THE ROOSEVELT INST., (Dec. 2024), https://rooseveltinstitute.org/wp-content/uploads/2024/12/RI_Uber-for-Nursing_Brief_202412.pdf.

¹³ Terri Gerstein, *More People Are Being Classified as Gig Workers. And That’s Bad for Everyone*, THE N.Y. TIMES (Jan. 28, 2024), available at <https://www.nytimes.com/2024/01/28/opinion/rights-workers-economy-gig.html>.

¹⁴ NELP analysis of March 2024 Current Population Survey Annual Social and Economic Supplement microdata. For underlying data, see *CPS Annual Social and Economic Supplement*, U.S. Census Bureau, <https://data.census.gov/app/mdat/CPSASEC2024/vars>.

¹⁵ See U.S. Bureau of Lab. Statistics, *Electronically Mediated Work*, *supra* n. 6 (noting over-representation of Black and Latinx workers).

disparities in the U.S. The practice reinforces occupational segregation along lines of race and gender, and it fosters a second-tier workforce of predominantly workers of color in precarious jobs stripped of bedrock employment protections.¹⁶ Combatting corporations' illegitimate use of "independent contractors" by strengthening the Workplace Fraud Act is racial justice issue.

S.B. 938 Improves the Workplace Fraud Act.

Maryland's renewed commitment to combatting independent contractor misclassification, via the re-establishment of the Joint Enforcement Taskforce on Workplace Fraud, is a step in the right direction, but S.B. 938 provides critical updates to the law to better foster a culture of compliance.

The expansion of the law to all industries is an important improvement. As noted above, no industry or occupation is immune from the problem. Moreover, the three-part analysis used to determine independent contractor status in the Workplace Fraud Act is well established in Maryland. Under the state's unemployment insurance law, unless otherwise exempt, workers are presumed to be employees unless the business satisfies the Secretary that all three prongs of the test are met.¹⁷

Likewise, using the state's power to license and to contract for public works in a way that ensures that Maryland does not support cheating businesses reflects not only common sense, but good government. Maryland should use its licensing power to ensure that the state is not authorizing licenses to scofflaw businesses, and it should debar cheating businesses from lucrative public works projects. Notably, these tools have been adopted by other states, which still have thriving businesses.¹⁸

AG Worker Protection Units Complement Departments of Labor to Protect Workers, Honest Businesses, and State Resources.

NELP also supports the creation of a Worker Protection Unit within Maryland's Office of the Attorney General. The Maryland Department of Labor has worked hard to rebuild and conduct investigations of the Workplace Fraud Act, identifying nearly 200 misclassified workers in 2024. But

¹⁶ See, e.g., Veena Dubal, *The New Racial Wage Code*, 15 HARV. L. & POL. REV. 511 (2022) (arguing that gig-worker carve outs are made possible by and reproduce racial subjugation).

¹⁷ Md. Code Ann., Lab. & Empl. § 8-205. See also COMAR 09-32-01-18 ("A person performing services is presumed to be an employee" unless employing unit satisfies all three prongs).

¹⁸ See, e.g., New Jersey's Workplace Accountability in Labor List ("WALL"), N.J.S.A. 34:1A-1.16, prohibiting public contracting by businesses with named on a public list as having outstanding liabilities for violations of wage, benefit and tax laws. The WALL is "a powerful enforcement tool that enables the department to publicly name companies that shortchange their workers and skip required contributions to programs such as unemployment insurance and workers' compensation" and was "established through bipartisan action (S-4226) in 2020 as part of an effort to combat worker misclassification and exploitation." Jay Edwards, *Northwest New Jersey business among 10 businesses added to the Workplace Accountability in Labor List for outstanding wage, benefit and tax law violations*, (July 12, 2024), available at <https://wrnjradio.com/northwest-new-jersey-business-among-10-businesses-added-to-the-workplace-accountability-in-labor-list-for-outstanding-wage-benefit-and-tax-law-violations/>.

as numerous other states have recognized, state attorneys general offices can meaningfully complement the work of labor departments. In general, state departments of labor are structured to handle a higher volume of cases, working with a staff of investigators. Meanwhile, attorneys general offices tend to focus more on pattern or practice cases and generally bring cases that can have a broader effect. The two agencies can work hand-in-glove to enhance compliance and meaningfully protect workers, honest businesses, and state resources.

Several reports highlight the impacts that dedicated worker protection unit within a state attorney general's office can have.¹⁹

S.B. 938 is Good Policy.

For all of the foregoing reasons, NELP supports S.B. 938 and urges a favorable report.

¹⁹ See, e.g., Terri Gerstein, *How district attorneys and state attorneys general are fighting workplace abuses*, ECON. POL'Y INST. AND HARVARD LAB. AND WORKLIFE PROG., (May 17, 2021), <https://www.epi.org/publication/fighting-workplace-abuses-criminal-prosecutions-of-wage-theft-and-other-employer-crimes-against-workers/>. See also Terri Gerstein, *The People's Lawyers Take On Scofflaw Employers: Social Justice Oriented State AGs Stand Up for Workers*, American Constitution Society blog, (August 29, 2024), <https://www.acslaw.org/expertforum/the-peoples-lawyers-take-on-scofflaw-employers-social-justice-oriented-state-ags-stand-up-for-workers/>.

SB 938 Fraud Prevention Worker Protections Enforce

Uploaded by: Tom Clark

Position: FAV



International Brotherhood of Electrical Workers

JOSEPH F. DABBS: Business Manager • THOMAS C. MYERS: President • RICHARD D. WILKINSON: Vice President
CHRISTOPHER M. CASH: Financial Secretary • RICHARD G. MURPHY: Recording Secretary • WILLIAM T. NG: Treasurer



TESTIMONY IN SUPPORT OF SB 938 FRAUD PREVENTION&WORKER PROTECTION PENALTIES&ENFORCEMENT March 5, 2025

TO: Chair Beidle, Vice Chair Hayes, Members of the Senate Finance Committee
FROM: Tom Clark, Political Director, Intl. Brotherhood of Electrical Workers Local 26

Madam Chair, Mr. Vice Chair, and Members of the Committee, I ask you to join me, Maryland construction workers and honest Maryland contractors, in full **support of SB 938**. I appreciate the Speaker and Attorney General Brown for taking the necessary steps to combat workplace fraud and wage theft within our state. Establishing the Worker Protection Unit in the Office of the AG will be another tool that the state can use to fight unscrupulous contractors that cheat workers and evade taxes.

One example of this failure to contribute to unemployment insurance, consistently committing workplace fraud and wage theft is Power Design out of Florida. This company has been in the area for some twenty years and it's their business model to commit violations to prevailing wages and cheat workers, with a tendency to exploit Latino Americans. The District of Columbia, with laws like what SB 938 will bring, has taken Power Design to court and won. Most importantly the working men and women they cheated were reimbursed. What has kept thieves like Power Design in the area is Maryland and Virginia's lack of laws to combat this thievery. SB 938 maybe the legislation needed to get Power Design out of the area. Imagine the relief and prosperity that will be achieved by honest Maryland Contractors that often lose bids to companies like Power Design. *It's tough to outbid an out of state contractor that commits wage theft.

There will always be dishonest contractors, but SB 938 is a step in the right direction and a helping hand to construction workers and contractors in our great state. I respectfully ask for a **favorable report on SB 938**. Thank you



2025_03_03 SB 938 Support with Amendments.pdf

Uploaded by: Anthony Brown

Position: FWA

CAROLYN A. QUATTROCKI
Chief Deputy Attorney General

LEONARD J. HOWIE III
Deputy Attorney General

CARRIE J. WILLIAMS
Deputy Attorney General

SHARON S. MERRIWEATHER
Deputy Attorney General

ZENITA WICKHAM HURLEY
Chief, Equity, Policy, and Engagement



PETER V. BERNS
General Counsel

CHRISTIAN E. BARRERA
Chief Operating Officer

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

ANTHONY G. BROWN
Attorney General

February 24, 2025

The Honorable Pamela Beidle
Chair, Finance Committee
3 East, Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Re: Senate Bill 938 - Fraud Prevention and Worker Protections - Prohibitions, Penalties,
and Enforcement

Dear Chair Beidle,

Senate Bill 938 is a comprehensive piece of legislation with a straightforward purpose: to equip both the Office of the Attorney General (OAG) and the Maryland Department of Labor (MDOL) with the necessary tools to effectively combat worker misclassification and wage theft in the State of Maryland. By doing so, the bill seeks to protect Maryland workers and safeguard the state's financial resources. The bill will reform the Workplace Fraud Act, amend other wage and hour laws, and establish the Worker Protection Unit within OAG to empower the agency in addressing the pervasive and growing issues of wage theft and worker misclassification.

Worker misclassification deprives employees of wages, benefits, and workplace protections while costing the state millions of dollars in lost payroll taxes and contributions to unemployment insurance and workers' compensation funds. The Workplace Fraud Act, as it currently stands, is an inadequate law that fails to effectively address misclassification. It applies only to the construction and landscaping industries, but in the 16 years since its enactment, it has done little to curb misclassification in Maryland's construction sector.

Senate Bill 938 will amend the Workplace Fraud Act in two critical ways, as recommended by the Joint Employment Task Force (JETF). First, it will expand the Act's coverage to all industries. This is essential, as misclassification is prevalent in numerous sectors, including home health care, security services, janitorial work, and housekeeping services.

Second, in accordance with JETF's recommendations, the bill will impose liability on general contractors and higher-tier contractors in the construction industry for misclassification by lower-tier subcontractors under their oversight. This provision is crucial because general contractors often incentivize worker misclassification by accepting low bids from subcontractors who rely on misclassifying workers to turn a profit. On the rare occasions when penalties for misclassification are enforced, they typically fall on lower-tier subcontractors, who operate on thin margins, rather than on general contractors. By holding general contractors accountable for misclassification occurring on their job sites, Senate Bill 938 will encourage them to ensure that subcontractors classify workers properly.

One of the reasons the Workplace Fraud Act has been ineffective is that it is enforced by the Labor Commissioner through an administrative process that provides violators with numerous opportunities to evade liability or significant penalties. Senate Bill 938 will strengthen enforcement by making it more difficult for employers to avoid penalties and by equipping the Labor Commissioner with additional tools for enforcement. Furthermore, the bill grants OAG the authority to investigate and bring lawsuits under the law. Currently, while private parties have the right to sue under the Workplace Fraud Act, no state entity has that authority. Senate Bill 938 will change this by allowing OAG to take legal action against violators, mirroring the existing private right of action.

Concerns about duplicating enforcement efforts are unfounded, given that current enforcement mechanisms are demonstrably insufficient. This is not to diminish the efforts of the Labor Commissioner, the Comptroller, the Division of Unemployment Insurance, and the Workers' Compensation Commission in addressing misclassification. However, the magnitude of the problem necessitates a multi-faceted approach. There should be no wrong doors for workers seeking to report misclassification. The agencies participating in the JETF already refer cases to one another and are working to improve information sharing and coordination to ensure violations are addressed effectively.

MDOL has suggested that worker misclassification could be tackled using existing enforcement tools, but it is clear that these tools are inadequate. In states that have been more successful in addressing misclassification, the attorney general has concurrent authority with the state labor department to enforce misclassification laws. At the invitation of the Labor Commissioner, representatives from labor agencies in Minnesota and Illinois presented their states' approaches to JETF. They explained that the Attorneys General of Minnesota and Illinois share enforcement authority with their respective labor departments, which has been critical to their success. These states have found that it is effective for labor agencies to focus on routine enforcement while attorneys general handle larger cases and novel legal challenges. The District of Columbia employs a similar model, as evidenced by its recent lawsuit against two Maryland-based contractors who orchestrated a widespread misclassification scheme to deny hundreds of construction workers the wages and benefits they were owed under D.C. law.

The Honorable Pamela Beidle

Re: Senate Bill 938 - Fraud Prevention and Worker Protections - Prohibitions, Penalties, and Enforcement

March 3, 2025

Page 3

The goal of Senate Bill 938 is to position Maryland among the states leading the fight against worker misclassification and wage theft, rather than remaining a state that lags behind in this area. For these reasons, the Office of the Attorney General urges a favorable report on Senate Bill 938.

Sincerely,

A handwritten signature in black ink, appearing to read "AG Brown", is positioned above the printed name.

Anthony G. Brown

Enclosure

States Where the Attorney General Has a Role in Enforcing Wage and Hour Laws

States Where AG has Independent Authority to Enforce Wage and Hour Laws	States Where AG's Office has a Worker's Rights Unit to Enforce Wage and Hour Laws	States Where AG is Active in Wage and Hour Enforcement without a Dedicated Unit
California	New Jersey	Delaware
New York	Pennsylvania	Rhode Island
Massachusetts	Michigan	Maine
District of Columbia	Colorado	Washington
Minnesota	Arizona	
Illinois		

OAG Amendments to Senate Bill 938

On page 7, in line 8, strike “on behalf of an employee”.

On page 8, strike beginning with “on” in line 19 down through “employees” in line 20.

On page 11, strike beginning with “entitled” in line 1 down through “benefits” in line 4 and substitute “employed within the meaning of § 3-101(c) of this title.

On pages 13 and 14, strike the lines beginning with line 27 on page 13 down through line 12 on page 14, inclusive, and substitute “(A)(1) A GENERAL CONTRACTOR, HIGHER-TIERED CONTRACTOR, AND INTERMEDIATE SUBCONTRACTOR SHALL BE JOINTLY AND SEVERALLY LIABLE FOR ANY VIOLATION OF THIS SUBTITLE THAT IS COMMITTED BY A SUBCONTRACTOR, REGARDLESS OF WHETHER THE SUBCONTRACTOR IS IN A DIRECT CONTRACTUAL RELATIONSHIP WITH THE GENERAL CONTRACTOR, HIGHER-TIERED CONTRACTOR, OR INTERMEDIATE SUBCONTRACTOR.

(2) A SUBCONTRACTOR SHALL INDEMNIFY A GENERAL CONTRACTOR, HIGHER-TIERED CONTRACTOR, AND INTERMEDIATE SUBCONTRACTOR FOR ANY WAGES, DAMAGES, INTEREST, PENALTIES, OR ATTORNEY’S FEES OWED AS A RESULT OF THE SUBCONTRACTOR’S VIOLATION UNLESS:

(I) INDEMNIFICATION IS PROVIDED FOR IN A CONTRACT BETWEEN THE SUBCONTRACTOR AND THE GENERAL CONTRACTOR, HIGHER-TIERED CONTRACTOR, OR INTERMEDIATE SUBCONTRACTOR; OR

(II) A VIOLATION OF THE SUBTITLE AROSE DUE TO A LACK OF PROMPT PAYMENT IN ACCORDANCE WITH THE TERMS OF THE CONTRACT BETWEEN THE GENERAL CONTRACTOR, HIGHER-TIERED CONTRACTOR, OR INTERMEDIATE SUBCONTRACTOR.”.

On page 24, strike beginning with “on” in line 22 down through “classified” in line 23, inclusive.

On page 26, in line 22, strike “(1)”; in line 25, strike “(i)” and substitute “(1)”; and in line 27, strike “(ii)” and substitute “(2)”.

On page 27, strike lines 4 through 6 in their entirety.

On page 31, in line 5, strike “or the commissioner on behalf of the employee”; after line 10, insert “

(I) THE MATTER IS REFERRED TO THE ATTORNEY GENERAL BY THE COMMISSIONER IN ACCORDANCE WITH SUBSECTION (A)(4)(I)(2) OF THIS SECTION; OR”;

and in lines 11 and 14, strike “(i)” and “(ii)” and substitute “(ii)” and “(iii)”.

On page 32, in line 11, strike “Commissioner” and substitute “Attorney General”; in line 22, strike the colon; in line 23, strike “(i)”; and strike beginning with “; or” in line 25 down through “situated” in line 29, inclusive.

The Honorable Pamela Beidle

Re: Senate Bill 938 - Fraud Prevention and Worker Protections - Prohibitions, Penalties, and Enforcement

March 3, 2025

Page 6

On page 40, strike “on” in line 20 down through “been” in line 21 and substitute “against an employer that has”; in line 21, after “against” insert “an employee”.

SB0938-FIN_MACo_SWA.pdf

Uploaded by: Karrington Anderson

Position: FWA



MARYLAND
Association of
COUNTIES

Senate Bill 938

Fraud Prevention and Worker Protections - Prohibitions, Penalties, and Enforcement

MACo Position: **SUPPORT**

To: Finance Committee

WITH AMENDMENTS

Date: March 5, 2025

From: Karrington Anderson

The Maryland Association of Counties (MACo) **SUPPORTS SB 938 WITH AMENDMENTS**. SB 938 aims to enhance worker protections by strengthening workplace fraud laws, expanding enforcement authority within the Office of the Attorney General, and increasing accountability for worker misclassification.

While MACo supports these goals, counties seek clarifying amendments to ensure that counties are not unfairly held liable for violations committed by third-party contractors or subcontractors when contracting or subcontracting services.

Local governments regularly engage in contracts for services essential to public operations. As currently written, SB 938 does not explicitly exclude counties from potential liability if a contractor or subcontractor is found to have violated worker classification laws. This ambiguity could create unintended consequences where counties are unfairly penalized for actions beyond their direct control. A targeted amendment clarifying that counties and other local governments are not considered liable for violations committed by independent contractors and subcontractors would prevent unnecessary legal and financial burdens on local governments.

MACo urges the Committee to adopt these amendments to preserve the bill's intended focus while ensuring that local governments are not subject to unintended liability. For these reasons, MACo urges a **FAVORABLE WITH AMENDMENTS** report on SB 938.

MMHA - 2025 - SB 938 - OAG Bill workplace fraud.pd

Uploaded by: Aaron Greenfield

Position: UNF



Bill Title: Senate Bill 938, Fraud Prevention and Worker Protections - Prohibitions, Penalties, and Enforcement

Committee: Senate Finance Committee

Date: March 5, 2025

Position: Unfavorable

This testimony is offered on behalf of the Maryland Multi-Housing Association (MMHA). MMHA is a professional trade association established in 1996, whose members consist of owners and managers of more than 210,000 rental housing homes in over 958 apartment communities. Our members house over 538,000 residents of the State of Maryland. MMHA also represents over 250 associate member companies who supply goods and services to the multi-housing industry.

Senate Bill 938 expands coverage beyond construction and landscaping to include all industries and applies to all employers, general contractors, higher-tiered contractors, and subcontractors. It holds general contractors and their successors liable for worker misclassification by subcontractors and prohibits private agreements that waive compliance. Additionally, licensing consequences are established for violators in fields regulated by the Division of Occupational and Professional Licensing. If a licensee fails to pay penalties or comply with a final order within 45 days, the Commissioner must notify the relevant licensing authority.

Employers face civil penalties ranging from \$5,000 to \$25,000 per misclassified employee, with higher penalties for willful violations. Obstructing an investigation carries a \$5,000 penalty per occurrence. The Commissioner can issue citations, and violators have 30 days to comply or request a hearing. The Attorney General (AG) can take legal action against employers who misclassify 10 or more employees or cause \$25,000 or more in economic damages, with a three-year statute of limitations. Violators may also be debarred from state contracts.

The Maryland Wage and Hour Law empowers the AG to act against employers who fail to pay at least 10 employees their required wages or owe \$25,000 or more in unpaid wages, allowing recovery of wages, liquidated damages, penalties, and legal fees. The Maryland False Claims Act now covers false records related to unemployment insurance fraud, with restitution going to workers and the Unemployment Insurance Fund. Finally, the bill establishes a Worker Protection Unit in the AG's office to enforce workplace fraud, wage, and prevailing wage laws.

MMHA opposes Senate Bill 938 for several reasons, particularly because they employ maintenance staff, property managers, or contract with third-party vendors for services like landscaping, cleaning, or construction.

- Increased Liability for Worker Misclassification: The bill expands liability beyond direct employers to general contractors and higher-tiered contractors, meaning housing



providers could be held responsible if a subcontractor misclassifies workers. Many housing providers contract with property management companies, maintenance crews, and construction firms, and they may not have full visibility into how those workers are classified.

- Increased Compliance Burden: The bill places new reporting and enforcement requirements on businesses, potentially increasing administrative costs and legal risks. Housing providers would need to vet subcontractors more thoroughly, require more documentation, and possibly conduct audits to avoid penalties.
- Financial Penalties and Enforcement Risks: Penalties of up to \$25,000 per misclassified worker could be financially devastating, especially for small or nonprofit housing providers. If a provider unknowingly hires a contractor who misclassifies workers, they could face unexpected fines and legal action.
- Impact on Housing Costs and Affordability: At a time when Maryland faces a dearth of affordable housing to the tune of 96,000 units, increased regulatory and legal risks could lead to higher costs for services, including maintenance, renovations, and repairs, which might increase rent or fees for tenants. Some providers may choose to limit hiring or shift to larger, more expensive contractors who can guarantee compliance, reducing competition and raising costs.
- Risk of Losing State Contracts: Housing providers who engage in public-private partnerships or receive state funding for affordable housing projects could face debarment from state contracts if found in violation, threatening their ability to operate or expand housing initiatives.
- Legal Uncertainty and Potential Litigation: The expanded enforcement authority of the Attorney General and Worker Protection Unit increases the risk of investigations, administrative penalties, and lawsuits, creating uncertainty for housing providers. Even those in full compliance may face legal costs if they must defend against an investigation or citation.
- Chilling Effect on Contracting and Development: The increased risk and regulatory burden may discourage housing providers from hiring small or independent contractors, reducing economic opportunities for local workers. Some providers may delay or cancel development projects due to concerns over compliance risks and increased costs.

Housing providers oppose this bill due to financial liability, compliance burdens, increased costs, legal risks, and potential restrictions on contracting and development.

For these reasons, the Maryland Multi-Housing Association respectfully requests an unfavorable report on Senate Bill 938.

Please contact Aaron J. Greenfield at 410.446.1992 if you have any questions.

Chamber of Progress_MD SB 938_ Oppose.pdf

Uploaded by: Brianna January

Position: UNF



March 5, 2025

The Honorable Pam Beidle
Chair, Finance Committee
3 East Miller Senate Office Building
Maryland General Assembly
Annapolis, Maryland 21401

Re: Oppose SB 938

Dear Chair Beidle and members of the committee:

On behalf of Chamber of Progress – a tech industry association supporting public policies to build a more inclusive society in which all people benefit from technological advancements – I write to **respectfully urge you to oppose SB 938**.

We encourage you not to make any changes to the established framework that determines employer-employee relationships that could threaten the independent status of app-based gig workers.

Millions of workers rely on app-based work as a significant source of income¹

Gig work has proven to be an economic lifeline for millions of Americans met with increasing financial strain due to inflation. 34% of Marylanders have earned income on app-based platforms, and the app-based industry contributes an impressive \$3.7 billion to the state's economy.²

Women in particular play a critical role in the app-based workforce, often turning to it for flexibility as they manage many responsibilities, including caregiving. With women 1.6 times more likely than men to work part-time³ and over four times more likely to cite family obligations as the reason, systemic challenges like high childcare costs and limited elder care options push many toward app-based work

¹ See <https://www.jsonline.com/story/money/careers/2022/04/07/delivery-driving-apps-helped-wisconsin-citizens-through-pandemic/9440418002/>

² See <https://www.flexassociation.org/industry-impact/economic-impact-by-state/>

³ See <https://nwlc.org/resource/part-time-workers-factsheet/#:~:text=Women%20are%20about%201.6%20times,17.2%25%20of%20all%20working%20men.>

to balance income with caregiving demands. Women now make up 58% of DoorDash drivers⁴ and about 50% of Uber's delivery drivers.⁵ The flexibility of app-based services allows drivers to generate income on their own schedule.

App-based gig workers have consistently reported that they want to remain independent

In a 2022 poll, 77% of app-based workers supported maintaining their status as independent contractors.⁶ Nationwide, 36% of app-based workers have full-time employment (more than 30 hours per week) in addition to their gig work, and 20% are balancing unpaid caregiver responsibilities.⁷ App-based workers also consistently report that the ability to set their own hours, work across multiple platforms, and work when and where they want are the benefits they value most.⁸ The flexibility that workers value would not be possible without their independent status.

Other states have successfully implemented models that expanded benefits for gig workers while protecting their independent status

Proposition 22, a ballot initiative that extended health coverage and sick pay to eligible drivers, passed in California with 58.6% of the public vote – including majority support in Black and Hispanic cities and communities in the state.⁹ Similarly, in 2023, New York Attorney General Letitia James' office brokered a deal with Uber and Lyft that guaranteed paid family and sick leave for drivers in New York.¹⁰ Washington state also extended benefits like workers' compensation, sick leave, and minimum pay standards to transportation network drivers last year. Each of these cases reflects the priorities of gig workers: gaining job protections while maintaining their independence and flexibility.

⁴ See <https://doordash.news/dasher/a-majority-of-dashers-are-women-heres-why-they-choose-doordash/>

⁵ See <https://www.axios.com/2021/08/26/women-gig-economy-doordash-uber-delivery-driver>

⁶ See [https://www.flexassociation.org/post/mcworkerssurvey](https://www.flexassociation.org/post/mcworkersurvey)

⁷ See <https://www.flexassociation.org/wp-content/uploads/2024/03/Flex-Economic-Impact-Report-2024.pdf>

⁸ See <https://www.flexassociation.org/wp-content/uploads/2024/03/Flex-Economic-Impact-Report-2024.pdf>

⁹ See Analysis of Voter Support of Proposition 22 in California and Los Angeles County, David Lewin and Mia Kim (January 2021) <https://progresschamber.org/wp-content/uploads/2022/01/BRG-Report-on-Proposition-22-12-14-21.pdf>

¹⁰ See NY AG Uber-Lyft Settlement (2023) <https://ag.ny.gov/sites/default/files/settlements-agreements/uber-lyft-aods.pdf>

We urge you not to move forward with any changes that would affect app-based workers' independent status

SB 938 would alter the established framework used to determine whether a worker is an employee or independent contractor. The loss of app-based workers' independent status would mean the loss of flexibility and economic opportunities. For the sake of workers across Maryland who turn to app-based work to supplement their income and balance multiple obligations, **we urge you to not to make any changes to the existing framework without careful study.**

Sincerely,

A handwritten signature in black ink, appearing to read "B. January". The signature is fluid and cursive, with the first letter of the first name being a large, stylized capital 'B'.

Brianna January

Director of State & Local Government Relations, Northeast US

DoorDash testimony in opposition to MD SB 938 .pdf

Uploaded by: Chad Horrell

Position: UNF



**Testimony provided by Chad Horrell with DoorDash to the
Finance Committee of the Maryland Senate**

March 5, 2025

Thank you, Chair Beidle, and members of the Committee.

My name is Chad Horrell, and I am with DoorDash. Our company was founded over ten years ago with the goal of growing and empowering local economies. Tony Xu, our co-founder and CEO, worked alongside his mom in a restaurant after moving to this country from China. He created DoorDash to help local restaurants and other businesses grow, while providing opportunities for delivery workers – or Dashers, as we call them – to earn extra income.

We are proud to be accomplishing our mission in Maryland. For the state's restaurants and small businesses, the competitive landscape has changed dramatically in just the last few years. For these local businesses to grow and compete, they need to expand their customer base and reach more people in their communities. DoorDash gives them a powerful way to reach more customers and grow their bottom lines.

For Dashers, the DoorDash platform provides something unique: a way to tap into extra income, when it fits into their schedule, with no commitment to work any more than they choose. Over 220,000 people in Maryland last year used DoorDash to earn extra income for them and their families. They deliver on average for just a few hours a week, they come and go from the platform as they choose, and they choose whether or not to work. The vast majority of them already have a full- or part-time job or other reason why they are not looking for dashing to be employment.

SB 938 puts many types of work in the state, including dashing, at risk. This bill would make a sweeping change to how the state has traditionally defined "employment" under the state's wage and hour laws. That change could force large numbers of the state's independent workers across a wide range of industries, including Dashers, to give up their independent work. This bill, in other words, is not about giving the state more tools to root out companies that intentionally misclassify their workers. This bill is designed to forcibly *reclassify* large swaths of workers who work independently, creating confusion for businesses and workers alike and putting jobs at risk. We respectfully urge you to not support this bill.

Dashers value the ability to tap into independent work for a few hours a week. SB 938 could take that away.

Over 220,000 people in Maryland last year used DoorDash to earn extra income. Why do so many people in the state choose to be "Dashers", rather than find other sources of income, like a traditional, part-time employment job?

- **Maryland Dashers deliver on average for just 3.4 hours per week.**¹ Dashers can use DoorDash to tap into small, occasional amounts of work when it works for their schedule, with no commitment to work more than they choose.
- **Dashers can scale their hours up or down as it suits them.** Nearly all Dashers in Maryland – 90% – use dashing to deliver for, on average, 10 hours or less per week.² But if something comes up, like an unexpected expense or a loss of another job, Dashers can take on more work on the fly, without having to search for a new job or ask a manager for more hours (which often isn't possible).
- **Dashers can come and go as they choose.** We never tell Dashers when to work, so unlike an employee, they can start and stop as they choose. A Dasher might dash for a month or two to work toward a savings goal, then stop dashing entirely for a month, only to start again (with no advance notice to us) the next month. That's not a far-fetched example: for Dashers, coming and going is common. When we looked at the data, we found that, over a given thirteen-week calendar quarter, a large majority of Dashers – 73% – chose to step away from dashing for 4 weeks or more over that span.³
- Being able to tap into work occasionally, in small increments – with no commitment to work more – is important to Dashers, because **the vast majority of Dashers (82%) already have a full- or part-time job, or own their own business, or have another reason for not wanting to commit to an employment job**, whether that's because they're a student, a stay-at-home caregiver, or retired.⁴ Converting dashing into employment would not make sense for them, because they cannot or do not want to commit to dashing as employment.

After looking at who Dashers are, and how they use this work, it's easy to see why hundreds of thousands of people in Maryland value this work: it offers a way to tap into extra income that Dashers can fit around their other work and other commitments. That's unique, and that would be lost if dashing were converted into just another type of hourly, part-time employment job.

Yet some still claim that Dashers and all other app-based workers would rather work as employees. But Dashers have had those jobs, and they don't need someone to tell them what those jobs are like. Working as an employee – especially an hourly, part-time employee, which is the closest employment analog to dashing – means the kind of “short shifts and variable weekly hours” that's “known to create work-life challenges for employees who lack consistent schedules.”⁵ A Tufts University report concluded that if the laws were changed to convert

¹ Measured during the fourth quarter of 2024.

² Measured during the fourth quarter of 2024.

³ DoorDash, *Behind the Dash: Insights into the Flexibility and Freedom of Dashing* (July 27, 2023), <https://about.doordash.com/en-us/news/insights-into-the-flexibility-and-freedom-of-dashing>.

⁴ DoorDash, *Delivering the Goods: The Impact of DoorDash in the United States in 2023*, at 12 (2024), <https://doordash2023.publicfirst.co/wp-content/uploads/DoorDash%202023%20Community%20Impact%20Report.pdf>.

⁵ Center for State Policy Analysis, Tufts University, *Understanding the Ballot Question that Could Reshape Rideshare and Gig Driving*, at 7 (2022), https://cspa.tufts.edu/sites/g/files/lrezom361/files/2022-04/cSPA_understanding_gig_driving_ballot_question.pdf.

app-based workers into employees, a likely outcome is that app-based work would end up like those kinds of employment jobs.⁶

Even for employees fortunate enough to be assigned a schedule that's relatively constant from week to week, having to work a schedule that an employer assigns does not work for everyone. A Dasher with a full- or part-time job who is looking for just a few extra hours of work cannot get that from an employment job. A Dasher who is a stay-at-home caregiver likewise may not want or be able to commit to the structure of employment. And Dashers who are students, or retired, may not be able – or want – to trade the control dashing gives them for assigned hours.

Like we mentioned above, the vast majority of Dashers fall into one of these categories. **That's why, when we ask Dashers across the country, nearly all of them – a full 91% – tell us that they prefer to remain independent contractors, rather than be reclassified as employees.**⁷ They know where to find a typical, hourly employment job, but they've chosen dashing precisely because it's different. When outside groups claim to speak for Dashers and say that Dashers would prefer to be converted into employees, they are not in touch with the value that this kind of work offers to so many people, both in Maryland and across the country.

Sometimes, when outside groups or commentators push for Dashers or other app-based workers to be converted into employees, they focus on the outliers: the small number of workers who use this work not for extra income, but to work longer, more employment-like hours. As we mentioned, those are outliers: only 10% of Maryland Dashers average more than 10 hours per week delivering (still a small number of hours by comparison to employment), and the percentage who dash for even longer than that is much smaller still. But even those Dashers – the highly active ones – tell us, overwhelmingly, that they, too, prefer to remain independent,⁸ which allows them to work independently without a manager supervising them and choose for themselves when, where, and how to work.

It's true – for that small number of highly active Dashers – that they currently face a tradeoff, which independent contractors all across the economy have long faced. Working independently as a Dasher puts them in control of their time and their work, but may cause them to miss out on the kinds of benefits they might be able to get from employment. But the solution for that very small proportion of Dashers is not to take away – from all 220,000-plus Maryland Dashers – the option they value to tap into independent work.

The solution instead is to pursue policies that can strengthen independent work. That means policies that can, for those highly active Dashers, open up access to benefits and protections that traditionally have been reserved for employees, without forcing all Dashers to give up the independence and control that draws them to this work in the first place.

That's why we're experimenting with new policy solutions, like portable benefits, which would enable independent contractors like Dashers to accrue contributions toward benefits based on how much they work. We partnered last year with Governor Josh Shapiro of Pennsylvania to

⁶ *Id.*

⁷ *Delivering the Goods*, *supra* note 4, at 17.

⁸ *Behind the Dash*, *supra* note 3.

launch a pilot portable-benefits program,⁹ and we're continuing to work with policymakers to find solutions that work for Dashers.

SB 938 threatens a wide range of workers in industries all across Maryland's economy.

The purpose of SB 938 is not merely to give state agencies more tools to go after employers who flout the law and misclassify their workers. This bill is not, in other words, about helping to root out *misclassification*: this bill is about *reclassification*. The bill intends to change the definition of employment under the state's wage-and-hour laws to try to shift many types of independent contractors in the state into the structure of employment.

For Maryland's businesses, that means having to either hire some of their independent contractors as employees or, when that's not feasible, simply cut ties with them. For many of Maryland's independent workers, that means, at best, having to trade in their independence for employment. At worst, that means losing their jobs.

That is not a hypothetical. In the late 2010s, California adopted a similar definition of employment to the one that SB 938 proposes. That California law, like SB 938, applied a version of a test for worker-classification called an "ABC test." But California legislators quickly recognized that the new law could upend the state's economy and threaten the livelihoods of a wide range of workers who commonly work as independent contractors.

Over the next year, the California legislature scrambled to exempt more and more occupations from the new law. By the time the legislature was done, it had amended the law twice and carved out a swath of more than 50 types of occupations across a jumbled, confusing range of industries. Some of those include:

- Licensed insurance businesses or individuals
- Certain commercial fishermen
- Physicians, surgeons, dentists, and podiatrists
- Psychologists
- Veterinarians
- Lawyers
- Architects
- Engineers
- Private investigators
- Accountants
- Registered securities broker-dealers and investment advisers
- Marketers
- Human resources administrators
- Travel agents
- Graphic designers
- Grant writers
- Fine artists
- Freelance writers, editors, and cartoonists

⁹ DoorDash, *DoorDash Announces Portable Benefits Savings Program for Dashers in Pennsylvania* (Apr. 3, 2024), <https://about.doordash.com/en-us/news/pa-portable-benefits-pilot>.

- Some licensed estheticians, manicurists, barbers, and cosmetologists
- Repossession agents
- Newspaper carriers
- And a wide range of performing artists, including songwriters, lyricists, composers, musical engineers, vocalists; and independent radio promoters¹⁰

In addition to the occupations the California legislature carved out via amendments, **California voters, in a referendum, voted overwhelmingly – by a 17-point margin¹¹ – to carve app-based workers, like Dashers, out of the law in order to protect their ability to work independently.**

California’s experience with a law like SB 938 teaches two things. First, that this kind of law had far-reaching and unintended effects on the state’s economy, which led to confusion and uncertainty for businesses and workers alike and left California with a law containing a jumbled collection of over 50 exceptions and exceptions-to-those-exceptions.

Second, and more importantly, California’s experience proved that the law is bad policy. The purpose of the law was to define “employment” – to lay down a test for drawing the line between employees and independent contractors. But if a test has to contain over 50 exceptions, it is not a good test.

* * *

SB 938 would have major, real-world consequences for many people in Maryland. The bill threatens jobs across many industries, including dashing, which over 220,000 people in the state use to bring in extra income for themselves and their families. The bill will create uncertainty for both companies and workers, make companies less willing to work with independent contractors of all stripes, and leave the state’s many independent workers unsure about their livelihoods. We respectfully urge the Committee to not support this bill.

Thank you.

Chad Horrell
Senior Manager, Government Relations
DoorDash

¹⁰ See California Act of Sept. 18, 2019, ch. 296, 2019 Cal. Stat. 2888 (known as A.B. 5); California Act of Oct. 2, 2019, ch. 415, § 1, 2019 Cal. Stat. 3747, 3750 (known as A.B. 170); California Act of Sept. 4, 2020, ch. 38, 2020 Cal. Stat. 1836 (known as A.B. 2257).

¹¹ State of California, *Statement of Vote*, at 67 (2020), <https://elections.cdn.sos.ca.gov/sov/2020-general/sov/complete-sov.pdf>.

SB 938 – Fraud Prevention and Workers Protection –

Uploaded by: Danna Blum

Position: UNF



February 25, 2025

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

Re: SB 938 – Fraud Prevention and Workers Protection – Oppose

Dear Senator Beidle:

This bill is designed to focus on larger employers who have violated workers' payment of wages and rights. Generally, this is an isolated problem. This bill expands the power of the Attorney General to allow the Attorney General to bring action against an employer separate from the employee. Generally, employers follow established laws that are already in place. Business owners do not need further regulations and powers given to the Attorney General.

The Carroll County Chamber of Commerce, a business advocacy organization of nearly 700 members, **opposes** this bill. We therefore request that you give this bill an **unfavorable** report.

Sincerely,

Mike McMullin

A handwritten signature in black ink that reads "Mike McMullin".

President
Carroll County Chamber of Commerce

CC: Delegate Chris Tomlinson
Senator Justin Ready

SB0938_UNF_MNCHA_Fraud Prevention & Worker Protect

Uploaded by: Danna Kauffman

Position: UNF



Maryland-National Capital Homecare Association

Senate Finance Committee

March 5, 2025

Senate Bill 938 – *Fraud Prevention and Worker Protections – Prohibitions, Penalties, and Enforcement*

POSITION: OPPOSE

On behalf of the Maryland-National Capital Homecare Association (MNCHA), whose members include Medicare-certified home health agencies, private duty companies, and durable medical equipment suppliers across the State, we oppose Senate Bill 938. Senate Bill 938 makes changes to the employer/employee test under the Workplace Fraud Act, which is then applied to all businesses in the State. Among other provisions, the bill also increases penalties.

During the 2024 Session, **Senate Bill 197/House Bill 39: Residential Service Agencies - Reimbursement - Personal Assistance Services (Homecare Worker Rights Act of 2024)** passed, which specifies that the Maryland Department of Health (MDH) may reimburse a residential service agency (RSA) for personal assistance services only if the services are provided by an individual classified as an employee. This bill was negotiated between MNCHA, the unions, and other stakeholders. The bill takes effect January 1, 2026, to provide time for residential service agencies to convert from independent workers to employees. Senate Bill 938 would advance the timeline and could subject RSAs to enhanced penalties in addition to eroding the agreement that it only applies to those RSAs that participate in the Medicaid program.

In addition, MNCHA is concerned that, for RSAs that do not participate in State programs, this bill will eliminate the ability to hire workers who prefer an independent worker status and cause a shortage in the home care industry, which is already facing a shortage of healthcare workers. Maryland is facing an aging senior population that prefers to age-in-place in their communities. MNCHA is concerned that Senate Bill 938 may only exacerbate the workforce crisis. Therefore, we urge an unfavorable vote.

For More Information:

Caitlin Houck
Executive Director
Maryland-National Capital Homecare Association
Cell: 240-383-0420

Danna Kauffman
Schwartz, Metz, Wise & Kauffman, PA
dkauffman@smwpa.com
Cell: 410-294-7759

MDCC_SB 938_UNFAV.pdf

Uploaded by: Grason Wiggins

Position: UNF



Senate Bill 938

Date: March 5, 2025

Committee: Senate Finance

Position: Unfavorable

Founded in 1968, the Maryland Chamber of Commerce (Maryland Chamber) is a statewide coalition of more than 7,000 members and federated partners working to develop and promote strong public policy that ensures sustained economic growth and opportunity for all Marylanders.

Senate Bill 938 (SB 938) alters the ABC test under the Workplace Fraud Act (WFA), establishes joint liability for any businesses that outsource a project, creates excessive penalties for inadvertent mistakes, and applies these changes to every industry in Maryland. As a result, SB 938 will negatively impact every Maryland industry, disproportionately impact small businesses, and negatively disrupt Maryland's economy for businesses and workers.

Disruptive Definition of Employee

SB 938 would further restrict the ABC test and establish that an individual is an independent contractor only when the employer has no control over the work being completed beyond a "desired result" (Pg. 15, Line 16). As a result, businesses could provide zero input to an independent contractor without the individual being classified as an employee. SB 938's change to and application of the WFA employee test across every industry in the state would decimate industries that legally and consistently utilize independent contractors and create volatile ripple effects in Maryland's economy.

Many individuals lawfully work as independent contractors for multiple employers, which provides those individuals with control and decision-making authority over their time and work. By redefining those individuals as employees, SB 938 would require thousands of businesses to absorb untenable financial costs and liability.

Enacting SB 938 would force businesses to demonstrate that an individual is an independent contract and make it nearly impossible to classify anyone as an independent contractor. As a result of the new ABC test, the broadening of joint liability, and the excessive penalties in the bill, businesses will be forced to overhaul operations and limit subcontracting that would subsequently result in dire consequences for small businesses and job losses for workers.

Untenable Joint Liability

SB 938 redefines "general contractor" to include any business in the State that outsources a project and then seeks to hold those businesses financially accountable if a subcontractor misclassifies an employee.



When coupled with the bill's broad definition of terms "employee" and worker," this change will create massive disruptions across industries by exposing businesses to untenable financial liability for actions over which the businesses do not have control.

SB 938 joint liability provisions are so broad that businesses would be financially liable under any project that is outsourced to another company. In fact, businesses that are defined as "general contractors" would need to hire whole teams to constantly monitor the human resources and payment mechanisms of subcontractors. That increased cost and liability would result in fewer projects being outsourced to small businesses and subsequently increase the price of goods and services for consumers.

Punishing Good Faith Actors

After a final order is issued, the Maryland Department of Labor currently provides businesses who made a non-knowing violation 45 days to achieve compliance. This important cure period allows good faith actors to rectify honest mistakes and ensures that all parties are made whole without fear of excessive and unnecessary reprisal.

SB 938 seeks to abolish that good faith standard by excessively punishing good faith actors who reasonably believed wages were correctly paid. While the bill does provide a mitigation requirement for actions brought by employees (Pg. 6, Line 28), the bill intentionally excludes that good faith mitigation standard from actions brought by the Attorney General. Instead, the bill provides the Attorney General with excessive punishment authority for good faith actors that includes economic damages, liquidated damages, civil penalties, and attorney fees (Pg. 7, Lines 7-24). Additionally, the bill seeks to establish minimum financial penalties for honest mistakes (Pg. 19, Line 18).

Penalty Increases

During the 2024 legislative session, the Maryland General Assembly enacted House Bill 465, which increased the penalty for an employer knowingly misclassifying an employee to \$10,000 per violation. With that law in effect for just 5 months, SB 938 now seeks to increase the same penalty for a knowing violation to not less than \$10,000 and up to \$25,000 per violation. Additionally, SB 938 seeks to establish that an *un-knowing* violation must be penalized by not less than \$5,000 and up to \$10,000 per violation. The Maryland Chamber is concerned with another increase to the same penalty provision, and we are unsure of the need to raise financial penalties and set minimum penalties in the same statute that was amended just 5 months ago.

Conclusion



SB 938's changes to and expansion of the ABC test, creation of joint liability for any business that outsources a project, and excessive penalties will cause disruption across Maryland's industries, disproportionate impact small businesses, and damage Maryland's economy. For these reasons, the Maryland Chamber respectfully requests an **unfavorable report on SB 938**.

SB 938 testimony Finance.pdf

Uploaded by: Kirk McCauley

Position: UNF



WMDA/CAR Service Station
and Automotive Repair Association

Chair: Pamela Beidle, Vice Chair Antonio Hays, and Members of Finance Committee

RE: SB938 Fraud Prevention and Workers Protection – Prohibitions, Penalties and Enforcement.

Position: :Unfavorable

My name is Kirk McCauley, my employer is WMDA/CAR, we represent service stations, convenience stores and repair facilities across the state as a non- profit trade group.

SB938 is an overreach by Office of Attorney General, Increased fines, attorney fees and other costs even when labor laws are unknowingly violated, and the ability to initiate investigation without a complaint.

This type of action, of auditing records, interviewing employees is costly and debilitating to a business, while adding three quarters of a million dollars to state budget. Maryland has laws -Maryland False Claims Act and Workplace Fraud Act among others that address these issues now.

Please give SB938 Unfavorable report

Any questions can be addressed to Kirk McCauley, 301-775-0221 or kmccauley@wmda.net

SB938 - Oppose - Maryland Motor Truck Association.

Uploaded by: Louis Campion

Position: UNF

Maryland Motor Truck Association



NOTHING WITHOUT
TRUCKING

HEARING DATE: March 5, 2025

BILL NO/TITLE: SB938: Fraud Prevention and Worker Protections - Prohibitions, Penalties, and Enforcement

COMMITTEE: Senate Finance

POSITION: Oppose

Maryland Motor Truck Association (MMTA) respectfully offers its opposition to this legislation. Although we have several concerns, such as the expansion of the Maryland False Claims Act to all industries, the increase in penalties for employers who are not knowingly misclassifying workers, and the imputed responsibility on general contractors for misclassification committed by subcontractors, our primary concern is the repeal of § 3-903.1 of the Labor and Employment Article. That section of law states that the presumption of an employer-employee relationship does NOT exist in certain circumstances as follows

The presumption that an employer-employee relationship exists under § 3-903(c)(1) of this subtitle does not apply if:

(1) an employer produces for inspection by the Commissioner:

(i) a written contract, signed by the employer and business entity, that:

- 1. describes the nature of the work to be performed by the business entity;*
- 2. describes the remuneration to be paid for the work performed by the business entity; and*
- 3. includes an acknowledgment by the business entity of the business entity's obligations*

under this article to:

A. withhold, report, and remit payroll taxes on behalf of all employees working for the business entity;

B. pay unemployment insurance taxes for all employees working for the business entity; and

C. maintain workers' compensation insurance;

(ii) an affidavit signed by the business entity indicating that the business entity is an independent contractor who is available to work for other business entities;

(iii) a current certificate of status of the business entity, issued by the State Department of Assessments and Taxation, indicating that the business entity is in good standing; and

(iv) proof that the business entity holds all occupational licenses required by State and local authorities for the work performed; and

(2) the employer provided to each individual classified as an independent contractor or exempt person a written notice under § 3-914 of this subtitle.

MMTA believes this is a reasonable protection against the presumption of an employer-employee relationship that should be retained. As such, the Association respectfully requests an unfavorable report.

About Maryland Motor Truck Association: Maryland Motor Truck Association is a non-profit trade association that has represented the trucking industry since 1935. In service to its 1,000 members, MMTA is committed to support, advocate and educate for a safe, efficient and profitable trucking industry in Maryland.

For further information, contact: Louis Campion, (c) 443-623-5663

sb938test - Fraud Prevention and Worker Protection

Uploaded by: Marcus Jackson

Position: UNF



The Voice of Merit Construction

Mike Henderson

*President
Greater Baltimore Chapter
mhenderson@abcbaltimore.org*

Chris Garvey

*President & CEO
Chesapeake Shores Chapter
cgarvey@abc-chesapeake.org*

Dan Bond CAE

*President & CEO
Metro Washington Chapter
dbond@abcmetrowashington.org*

Tricia Baldwin

*Chairman
Joint Legislative Committee
tbaldwin@reliablecontracting.com*

Marcus Jackson

*Director of Government Affairs
Metro Washington Chapter
mjackson@abcmetrowashington.org*

*Additional representation by:
Harris Jones & Malone, LLC*

*6901 Muirkirk Meadows Drive
Suite F
Beltsville, MD 20705
(T) (301) 595-9711
(F) (301) 595-9718*

March 5, 2025

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
Government Affairs



[MD] SB 938_classification_TechNet.pdf

Uploaded by: margaret durkin

Position: UNF



TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

TechNet Mid-Atlantic | Telephone 717.585.8622
www.technet.org | @TechNetMidAtla1

March 3, 2025

The Honorable Pam Beidle
Chair
Senate Finance Committee
Maryland Senate
3 East Miller Senate Office Building
11 Bladen Street, Annapolis, MD 21401

RE: SB 938 (OAG) - Fraud Prevention and Worker Protections - Prohibitions, Penalties, and Enforcement – Unfavorable

Dear Chair Beidle and Members of the Committee,

On behalf of TechNet, I'm writing to share our concerns on SB 938.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over 4.5 million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance. TechNet has offices in Austin, Boston, Chicago, Denver, Harrisburg, Olympia, Sacramento, Silicon Valley, Tallahassee, and Washington, D.C.

The modern workforce requires a flexible employment environment that allows workers to find opportunities that match their skills, interests, and availability. The composition of the U.S. workforce is changing as new technologies have provided low-barrier access to flexible, independent work. Over time, in large part due to the availability of the gig and sharing economies, the independent workforce has grown to serve as an important source of supplemental earnings for millions of Americans.

Many in the modern, independent workforce find they get better financial returns on their skills than similar groups in the traditional workforce. Perhaps the biggest benefit to this new workforce is the flexibility that self-employment, independent contracting, and freelancing provides, which allows the independent workforce to balance work, family, and leisure activities differently than in a traditional employment relationship.

While TechNet is supportive of efforts to combat any kind of employment fraud, we are concerned that SB 938 creates a presumption for traditional employment without considering the independent contractor workforce.

Any classification law should protect independent contractor and consultant classifications and avoid inappropriately restrictive standards that could disrupt the arrangements the independent workforce enjoys today. We are concerned that the terms in SB 938 conflate independent contractors with traditional employees. For example, the definition of "Worker" includes employees classified or alleged to be independent contractors, regardless of the legal relationship between the parties. We believe that independent contractors should not be included in this definition of "Worker" given the unique nature and role they play in the economy. The exemptions to the employer-employee relationship are, in our view, overly prescriptive and open to interpretation.

TechNet and its members are open to providing responses to government requests for data; however, such requests need to strike the right balance for consumer protection, business innovation, trade secrets, and privacy. Regarding complaints to the Commissioner and/or Attorney General, we are concerned that the requirements to provide records on "books, registers, payroll records, records of wage withholdings, etc.", as well as "any other records relating to compliance", will potentially reveal companies' trade secrets and intellectual property, ultimately harming competition. Further, we are concerned that the requirements laid out in this bill could lead to frivolous complaints by bad actors. Additionally, requiring the Commissioner and/or Attorney General to determine one's identity and worker activities is anti-privacy and concerning for our member companies who use independent contractors in day-to-day operations.

Many independent contractors enjoy the flexibility of gig work as it can provide supplemental income for families, and the ability to earn on one's own schedule. Again, TechNet is committed to employee protection; however, we believe that SB 938 is not the correct approach. Thank you for your consideration of our concerns and please let me know if you have any questions.

Sincerely,



Margaret Durkin
TechNet Executive Director, Pennsylvania & the Mid-Atlantic

2025-03-05 Maryland SENATE CLASSIFICATION Testimon

Uploaded by: Michele Blackwell

Position: UNF

Senate Finance Committee
Senator Pamela Beidle, Chair
Senator Antonio Hayes, Vice Chair
Wednesday, March 5, 2025

*Written Testimony for Uber Technologies, Inc. on SB0938, Fraud Prevention and Worker
Protections - Prohibitions, Penalties, and Enforcement*

The modern approach to work has drastically shifted how people view employment and their opportunities to earn. From taking trips to delivering food, individuals turn to platform work so that they can earn on demand and set their own schedule. And, platform workers across the country have made it overwhelmingly clear that they do not want to lose the unique independence they enjoy—and need. Despite its intended goal of disincentivizing fraud in the workplace and protecting vulnerable workers, SB0938 has the potential to completely upend the flexibility of platform work and shift the way thousands of Marylanders earn a living.

The presumption of employment could adversely impact independent work in Maryland. As noted, SB0938's intention is to address workplace fraud. Nonetheless, proposed language to who is considered a “worker” for purposes of the bill, could fundamentally change how people work and earn because it presumes that *all* workers are employees—unless proven otherwise. This significant change to how workers are classified does not contemplate or consider those who choose to operate as independent contractors. Currently, the independent contractor status in Maryland allows for those engaged in platform work to freely choose when and where they want to work. This flexibility allows individuals to balance their lives as they see fit and use the majority of their time however they choose. In fact, in Maryland, nearly 80% of drivers drive less than 30 hours a week; and 90% of couriers deliver food less than 30 hours a week. This means Marylanders are determining how to use their time without the burden of a set schedule. Moreover, the bill's ABC classification test would make Maryland one of the most challenging states in the country for platform workers—and other ICs—who wish to maintain their independence. In order to protect the current structure—and the flexibility of platform work—SB0938 should be amended to remove the presumption of employment and provide for an exception for those engaged in platform work.

While the policy goals behind such a drastic change may be well intentioned, they do not obtain the results sought. Studies [assessing the impact of California's Assembly Bill 5](#), which is eerily similar to the present bill, have shown none of the policy benefits promised by the bill's sponsors. There has been no broad-based reclassification of independent work into traditional W2 jobs—rather total employment is *down* in the traditional employment economy by 4.4%. And among self-employed workers, that decline is even steeper—there are now 10.4% fewer self-employed workers in non-exempt¹ occupations. The only thing this policy shift has evidenced in California is fewer jobs across the entire economy, with no benefits accruing to workers or the working- and middle-classes.

¹ California's AB 5 (and later AB 2257) exempted over 100 professions, industries, and occupations from the application of its stringent rules. These effects will likely be even more profound under the proposed legislation.

Broad authority could adversely impact platform worker information. SB0938 grants the Commissioner of Labor broad authority to initiate investigations, even without a worker complaint, using subpoenas and business records demands. This authority could place confidential and trade secret information vulnerable to disclosure to competitors. The Committee should ensure that any provisions related to data collection should be done so in a way that minimizes disclosure and protects confidential information.

The current penalty structure is overly punitive and could lead to unnecessary litigation: While it is important to disincentivize bad actors, Uber is concerned that SB0938's penalty structure, as written, is overly punitive. Under the bill, the mere presumption misclassification allows multiple parties to file suit, even simultaneously. This could lead to companies spending significant time and resources to continuously defend themselves. Additionally, fines of \$5,000–\$25,000 per worker, plus additional penalties for record-keeping errors, are disproportionate to potential damages owed. Uber would like to work with the Committee to determine a penalty structure that deters bad actors, allows workers to be made whole, and maintains a fair system where companies are able to respond without using significant resources.

Uber urges the Committee to carefully consider these concerns and the impacts they will have on Marylanders. We would like to work with the Committee to find a more balanced approach that addresses the core issue of workplace fraud and misclassification without these unintended negative outcomes.

MMCA written WPF Opposition.pdf

Uploaded by: Sean Malone

Position: UNF

Maryland Minority Contractors Association
2423 Maryland Avenue, Suite 200
Baltimore, Maryland 21218

**SENATE BILL 938 FRAUD PREVENTION AND WORKER PROTECTIONS
PROHIBITIONS, PENALTIES, AND ENFORCEMENT
OPPOSITION**

The Maryland Minority Contractors Association (MMCA) opposes ***Senate Bill 938, Fraud Prevention and Worker Protections- Prohibitions, Penalties, and Enforcement***. MMCA is a non-profit Maryland corporation established in 1977, composed of minority and women businesses within the State of Maryland whose mission is to help W/MBEs with respect to the development of their businesses. MMCA advocates on behalf of those businesses at the State and local levels.

In 2009, MMCA worked closely with Department of Labor Secretary Thomas Perez to help pass the original Workplace Fraud Act. MMCA testified in support of the original bill and helped draft many elements of the legislation to ensure a balanced approach was applied to the construction industry. The current statute provides the Labor Commissioner with the tools to pinpoint bad actors and enforce the law and is not in need of amendment.

SB 938 is a massive rewrite of the original bill which, among other changes, unnecessarily:

- Alters the ABC test by eliminating the current exclusion of businesses and sole proprietors who meet the definition of exempt person.
- Eliminates the safe harbor provision for General Contractors and Contractors who fully inform their subcontractors in writing and

receive verification of the sub-contractor's obligations under various Maryland employment laws. (3-903 and 3-903.1).

- Allow the Attorney General to begin an investigation into a business without a complaint or reasonable suspicion of wrongdoing, exposing companies to lose income, attorney, and accounting fees.
- Subjects' businesses to new and increased fines if they object to an investigation.
- Makes all employees of subcontractors, employees of the General Contractor for the purpose of joint and several liability, blurring the lines of the ABC test that requires subcontractors to work free from the control of General Contractors.
- Provides the Attorney General concurrent, expanded authority to investigate on their own initiative existing wage and hour statutes.
- Creates the potential for concurrent investigations with conflicting conclusions from two different government entities.

The current Department of Labor has recently convened a Joint Task Force on Workplace Fraud to include the Comptroller and Attorney General's office, for the purposes of improving communication amongst the executive branch and identifying violations of workplace fraud in the construction field. According to DOL's February report, this reinstated task force has resulted in increased enforcement uncovering \$36 million in unreported taxable wages and assessing \$3.5 million in tax, interest, and penalties on businesses who violate the existing law. Simply put, the current law works when the DOL, in coordinated fashion, enforces the Workplace Fraud law's existing provisions.

MMCA urges an unfavorable report on SB 938.

SB 938 OAG LOI (1).pdf

Uploaded by: Secretary Portia Wu

Position: INFO

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.

sb938.pdf

Uploaded by: Will Vormelker

Position: INFO

HON. STACY A. MAYER
CIRCUIT COURT
JUDGE
BALTIMORE COUNTY
CHAIR

HON. RICHARD SANDY
CIRCUIT COURT
JUDGE
FREDERICK COUNTY
VICE-CHAIR



KELLEY O'CONNOR
ASSISTANT STATE COURT
ADMINISTRATOR
GOVERNMENT RELATIONS
AND PUBLIC AFFAIRS
P: (410) 260-1560

SUZANNE PELZ, ESQ.
SNR. GOVT. RELATIONS AND
PUBLIC AFFAIRS OFFICER
P: (410)260-1523

MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

MEMORANDUM

TO: Senate Finance Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 938
Fraud Prevention and Worker Protections – Prohibitions, Penalties,
and Enforcement
DATE: February 12, 2025
(3/5)

INFORMATIONAL COMMENT PAPER

The Judiciary respects the separation of powers doctrine and acknowledges that the legislature is the policy-making branch. As such, the Judiciary has no position on the policy aims of this legislation and defers to the legislative branch on such matters.

The Judiciary comments only to note that the bill limits the Attorney General's application for an administrative search warrant to the District Court, on page 38, lines 12-17, when the resulting claims are likely to come before the circuit courts as well. It is unclear whether that specific limitation was intentional or whether the Committee wishes to consider authorizing either court to review.

cc. Hon. Bill Ferguson
Judicial Council
Legislative Committee
Kelley O'Connor