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SB0060, Fraud Prevention, Prevailing Wage, and Living Wage - Prohibitions, Penalties, and Enforcement

Hearing before the Senate Finance Committee, January 28, 2026, 2:00pm

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. We have supported the General Assembly's efforts over the years to combat the problem of independent contractor misclassification, which robs low-wage workers of wages and benefits and deprives the state of much-needed tax revenue. **Therefore, we support SB 60, which proposes modest and common-sense fixes to the state's existing workplace fraud enforcement mechanisms.**

I want to highlight five important provisions of SB 60.

First, the bill addresses the cost to the state's unemployment insurance fund when employers knowingly misclassify their workers as independent contractors, depriving the state of payroll tax contributions. SB 60 classifies this fraud as a false claim against the state, thereby empowering the state with enforcement authority to pursue these bad actors under our false claims act statute. This provision is designed to catch bad actors because it only applies to employers who **knowingly** make false claims to the state. It therefore it poses no threat to Maryland's law-abiding employers. Last year's fiscal note on similar language proposed by SB 938 found that the state's unemployment insurance revenues could increase "**potentially by millions of dollars**" if the state had a stronger enforcement regime to compel proper classification and payroll tax contributions.¹ We see this provision as a win-win-win for workers, the government coffers, and the vast majority of Maryland employers, who are already following the law and therefore will no longer be undercut by those engaging in fraud.

Second, SB 60 sets up a process to **revoke business licenses** from employers who flout the law, either knowingly misclassifying their workers, or, having unknowingly misclassified their workers, are now refusing to comply with court- or agency-ordered remedies against them. In a report released last year, the state's Joint Enforcement Task Force on Workplace Fraud acknowledged that workplace fraud persists, even in the specific

¹ Department of Legislative Services, MGA 2025 Session, SB 938, Fiscal Policy Note, 11.

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industries that our Workplace Fraud Act was designed to address: construction and landscaping.² This finding suggests the existing enforcement framework has not adequately deterred or punished workplace fraud. We believe employers will take the threat of losing their licenses much more seriously than the threat of a mere financial penalty, which they can and do factor into the cost of doing business. We acknowledge that losing one's license is a drastic remedy, which should be preserved only for the most flagrant abusers of the law. We believe SB 60 threads that needle by giving employers a process to challenge a revocation and by differentiating between employers who have knowingly or unknowingly violated the law.

- At the Public Justice Center, we often see employers who, when faced with any kind of consequence for violating their workers' rights, simply abandon one LLC and open another, continuing with their bad behavior. This tactic is minimally disruptive to business while maximizing a bad actor's ability to evade the consequences of their actions. SB 60 wisely foresees and prevents this loophole by ensuring that the revocation of a business license extends **to any successor entity** that has one or more of the same principals or officers as the guilty LLC.

Third, SB 60 gives a small share of the DOL's enforcement penalty to the workers who reported the violation.

- At the Public Justice Center, we regularly encounter low-wage workers who have been misclassified and who are weighing the costs of coming forward. We are hopeful that this remedy, while modest, will incentivize more workers to come forward and report their exploitation to the agency.

The fourth important provision of SB 60 is the creation of joint and several liability for general contractors whose subcontractors misclassify their employees as independent contractors. This is not a new concept under Maryland law. Under our existing Wage Payment and Collection Law, general contractors on construction projects already have joint and several liability when their subcontractors don't pay the correct wages to their employees.³ The language proposed by SB 60 merely extends this logic to the framework of the Workplace Fraud Act, such that general contractors on construction projects are not only automatically liable for nonpayment of wages but also for their subcontractors' misclassification of employees.

- At the Public Justice Center, we regularly encounter cases where the general contractor has attempted to distance itself from the treatment of workers by outsourcing hiring and/or payroll to a labor broker. In these cases, the general contract attempts to hide behind the screen of the intermediary, claiming to have no idea that the workers are being misclassified and therefore underpaid. SB 60 makes clear that general contractors are expected to ensure compliance of all workplace laws on projects they oversee.

Finally, SB 60 sets up a proactive structure for collaboration between the Department of Labor and the Office of the Attorney General, requiring at least monthly meetings to share information and ensure adequate enforcement of Maryland's important workers' rights statutes. It also requires DOL to make referrals to the OAG in certain instances to help develop cases. We are glad to see these specific and measurable metrics to ensure the agencies' collaboration endures.

This bill does not change any of the tests that differentiate employees from contractors. It simply enhances collaboration between the agencies tasked to enforce these laws and gives them stronger tools to do so. SB 60 helps law-abiding employers by limiting the options for bad actors to exploit loopholes in the law. For the foregoing reasons, the PJC **SUPPORTS SB 60** and urges a **FAVORABLE** report. Should you have any questions, please contact Amy Gellatly at gellatlya@publicjustice.org or (410) 625-9409, ext. 223.

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

³ Md. Labor and Employment Code Ann. § 3-507.2(c) ("a general contractor on a project for construction services is jointly and severally liable for a 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.")
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