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## **HB 1448: Commissioner of Labor and Industry - Classification of Employees and Independent Contractors - Guidelines**

**Hearing before the Economic Matters Committee, March 10, 2020**

### **Position: SUPPORT**

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 an honest day's pay for an honest day's work. The PJC supports HB 1415, a good-government bill that will help Maryland's small businesses, the many Marylanders who work for them, and the state of Maryland by encouraging front-end compliance with existing state employment laws.

**The Problem: Many of Maryland's small and mid-size businesses are misinformed about when a worker is an employee covered by state labor laws, versus an independent contractor not covered by those laws.**

Misclassification of employees as independent contractors hurts everyone. It hurts misclassified workers, who may not receive minimum wage, overtime pay, workers' comp, or other critical employee benefits. It hurts small and mid-size businesses, some of which don't know that their employees are misclassified until they are sued and find themselves liable for more wages and damages than they can afford to pay and stay in business. And it hurts the state of Maryland, which loses employment taxes when employees are misclassified.

**The Solution: Ensure that every Maryland corporation reads a plain-language explanation of Maryland's existing definitions of employee and independent contractor.** HB 1448 provides a simple, cost-effective way to tackle independent-contractor misclassification. It requires the production of a short guidance document – written "in plain language" so a small business without legal expertise can understand it – that someone from every Maryland corporation must certify annually to reading. The guidance will also provide "steps that an employer may take to ensure compliance with the law."

**HB 1448's Benefits: (i) ensures that every Maryland business gets correct information and helps them avoid costly lawsuits; (ii) helps workers by increasing the likelihood that they will be classified correctly; and (iii) helps Maryland by avoiding the loss of tax revenue that results when employees are misclassified.**

Unfortunately, there is a lot of misinformation about when a worker is an independent contractor or an employee. HB 1448 will help small and mid-sized businesses that are genuinely unaware that simply calling a worker an independent contractor does not, in fact, remove the worker from the protection of Maryland's employment laws. At the same time, it will help workers and the state of Maryland as a whole.

**What HB 1448 Does Not Do:** HB 1448 (i) does not target any particular industries, (ii) does not increase penalties for employers – even when they misclassify their employees as independent contractors, and (iii) does not change state-law definitions of "employee" or "independent contractor." If a worker is an independent contractor under existing law, that person will remain an independent contractor.

For the foregoing reasons, the PJC **SUPPORTS HB 1448** and urges a **FAVORABLE** report. Should you have any questions, please call David Rodwin at 410-625-9409 ext. 249.