

**BRIAN E. FROSH**  
*Attorney General*



**ELIZABETH F. HARRIS**  
*Chief Deputy Attorney General*

**CAROLYN QUATTROCKI**  
*Deputy Attorney General*

**STATE OF MARYLAND**  
**OFFICE OF THE ATTORNEY GENERAL**

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.

410-576-6584

February 3, 2022

TO: The Honorable C.T. Wilson  
Chair, Economic Matters Committee

FROM: Brian E. Frosh  
Attorney General

RE: HB0299 – Labor and Employment – Employment Standards and Conditions –  
Definition of Employer

---

Chair Wilson,

Thank you for the opportunity to testify earlier this week in support of HB 299, which would modify the definition of “employer” in the Maryland Wage Payment and Collection Law (MWPCL) to ensure the consistent application of that law by the courts. During the hearing, two questions were posed that we write today to answer.

The first question was whether HB 299 would expose the State of Maryland to increased liability as a potential joint employer for state projects that are contracted out. We agree with the Fiscal Note, which makes clear that it would not:

The State’s laws pertaining to employment standards and conditions are interpreted to apply to the State and units of government only when the definition of an employer in a particular section specifies that such governmental employers are included in the definition. The bill’s general definition does not include units of government. Thus, the applicability of the definition of employer as it pertains to units of government is unchanged by the bill.

Fiscal Note at 3.

The second question was whether comparable Virginia laws use the definition of “employer” that is used in HB 299. They do. Virginia’s Labor and Employment Code generally defines employer to “include any similar entity acting directly or indirectly in the interest of an employer in relation to an employee.” Va. Code Ann. § 40.1-2 (emphasis added). Virginia’s

wage payment provisions incorporate this provision as they do not separately define employer. *Id.* § 40.1-29(A). Virginia's Minimum Wage Act also adopts this definition, *id.* § 40.1-28.9(A)(16), as does the Virginia Overtime Wage Act, *id.* § 40.1-29.2(A). Maryland is less protective than Virginia in that the wage payment provisions in the MWPCCL do not adopt this definition.

Again, thank you for the opportunity to testify yesterday, and please do not hesitate to contact us with any further questions about HB 299.

cc: Committee Members