Associated Builders and Contractors of Michigan

House Commerce Committee
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Testimony of Chris Fisher
Associated Builders and Contractors of Michigan

Good Morning Chairman Jones and members of the Committee. Thank you for the opportunity to be here today. My name is Chris Fisher and I am with Associated Builders and Contractors of Michigan. I appear before this committee in opposition to HB 4086.

ABC is a statewide trade association working in partnership with four separate ABC chapters throughout the state representing contractors, subcontractors, material suppliers and related firms in the commercial and industrial construction industry.

While our statewide membership appreciates the intent of this bill and the desire to encourage good faith compliance with existing state law, there are serious flaws that should be addressed before reporting this HB 4086 out of committee. Without correcting these flaws we believe there will be unintended and detrimental effects that extend beyond the intent we think that is likely driving this legislation.

As members of the committee may know, this bill states that if a contractor or subcontractor is found in violation of Public Act 166 of 1965, Michigan's Prevailing Wage law they face the penalty of disbarment from future state contracts.

Clearly the intent of this bill is to discourage contractors from deliberately underpaying their employees and to enable the State of Michigan to further panelize contractors who do not comply with state law.

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Unfortunately though, the wording of this bill does not differentiate between those contractors who knowingly, willingly and continuously violate the prevailing wage act from those contractors who mistakenly classifiey the wage of an employee and immediately correct the error.

I would hope that members of this committee would recognize the difference between (A) A contractor who knowingly, willingly, continuously and illegally violates our state's prevailing act; and (B) A reputable contractor who has an instance where the work classification of an employee is mistakenly inputted, and the error is then rectified immediately once the oversight is discovered.

Clearly these are instances where one firm continues to do the wrong thing, and another does the right thing. Clearly there is a difference between right and wrong. However this bill, in its current form, does not distinguish between these fundamental and very serious differences.

To this end we need to ensure that this bill doesn't result in any unintended consequences. It is my understanding that this bill is meant to go after the sort of chronic and intentional shoddy contractor who knowingly, willingly, continuously and illegally violates our state's prevailing act. However, that needs to be clarified before this bill can be reported out of committee.

Our position is that, at the very least, minor and technical violations resulting from occasional wage errors and technical misclassifications ought not to be affected by this bill.

Yet, because of the current language in HB 4086, there is a distinct and definite possibility, if not a probability, of a reputable contractor who, due to a technicality, mistakenly mis-pays an employee on a multi-million dollar project by as little as $1 being subjected to disbarment.

To remedy this concern, our recommendation is that the bill be amended, as some of the Hire Michigan First bills were amended last year, to specify that it applies to contractors and vendors who "knowingly" violate the Prevailing Wage Act.

These changes would make this bill much better by addressing some of the unintended consequences that the bill presently does not take into consideration and bring it into line to better reflect the intent we think that is likely driving this legislation, which is to go after those who knowingly and continuously seek to violate state law.

Once again, I would like to thank you Chairman Jones, and members of the Committee for the privilege to be here today. I would be happy to take any questions you or your fellow committee members may have.