



The Voice of Merit Construction

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TO: FINANCE COMMITTEE
FROM: ASSOCIATED BUILDERS AND CONTRACTORS
RE: S.B. 170 – ENERGY GENERATION PROJECTS – REQUIRED LABOR STANDARDS
POSITION: OPPOSE

Associated Builders and Contractors (ABC) opposes S.B. 170 which is before you today for consideration. This bill as written, would establish certain labor standards and certain certification, reporting, and record-keeping requirements related to the construction of a covered project.

ABC members are fully aware of the state's prevailing wage law and its requirement of contractors and subcontractors to pay their employees performing work on the public projects a prevailing wage rate that has been established by the Commissioner of Labor and Industry. However, this legislation would allow prevailing wage requirements to be put on non-public projects. We feel that this would be an intrusion into the private sector where the developers will have to pay prevailing wages or enter into a project labor agreement.

With that said, we have reviewed S.B. 170 and respectfully recommend the following amendments:

- "Misclassified" labor. page 4, line 5. Should be replaced with an objective government finding of a labor violation following a proceeding in which contractor was afforded due process.
- "Misclassify" labor. page 4, line 5. This is an impossible future-tense warranty. The state cannot police future intent as something punishable by debarment.
- "Has not Defaulted on any project". page. 3, line 25. "defaulted" is very ambiguous. "Default" could mean any breach of contract, no matter how immaterial. See *Siegfried Constr., Inc. v. Gulf Ins. Co.*, 203 F.3d 822 (4th Cir. 2000) ("In general, a default is defined as "the omission or failure to perform a legal or contractual duty." and "a builder's breach in the performance of his contract, i.e., a defective performance, also would be a 'default' in that contract.")

On behalf of the over 1,500 ABC business members in Maryland, we respectfully request an unfavorable report on S.B. 170.

Marcus Jackson, Director,
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