



**Maryland Joint
Legislative Committee**

February 10, 2022

The Voice of Merit Construction

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TO: ECONOMIC MATTERS COMMITTEE
FROM: ASSOCIATED BUILDERS AND CONTRACTORS
RE: S.B. 1 – PREVAILING WAGE – STOP WORK ORDERS
POSITION: FAVORABLE WITH AMENDMENTS

On behalf of the Associated Builders and Contractors for Maryland, we appreciate the General Assembly’s efforts to protect workers in the construction industry. S.B. 145 authorizes the Commissioner of Labor and Industry to issue a stop work order for each work site where investigation has determined that a contractor or subcontractor may have violated the prevailing wage requirements. Furthermore, the bill introduces the Board of Contract Appeals into the adjudicatory process of prevailing wage violations.

ABC members support Maryland’s long-standing prevailing wage law and its requirement of contractors and subcontractors to pay their workers on public projects a wage established by the Commissioner. Contractors’ who intentionally violate this law unfairly take advantage of workers and underbid our members. ABC respectfully recommends the following amendments which:

- 1) Empower the Commissioner to immediately issue a stop work order when there is an exigent circumstance for public health or safety, provided an emergency hearing is granted within 24 hours.
- 2) Empowers the Commissioner to issue a show cause order compelling a Contractor to respond to the investigation in expedited.
- 3) If a Contractor, after a hearing, is determined to have violated the law, the Commissioner may issue a stop work order against the violating party.
- 4) If a stop work order is issued against a subcontractor, the prime contractor on the contract may terminate the contract with the subcontractor without incurring liability for damages resulting from the termination.
- 5) Eliminates the inclusion of the Board of Contract Appeals.

On behalf of the over 1,500 ABC business members in Maryland, we respectfully request a **favorable report with amendments** on S.B. 1.

**Marcus Jackson, Director
Government Affairs**

AMENDMENT 1

On page 2, strike in their entirety lines 20-23 inclusive.

On page 2, strike in their entirety lines 28-39 inclusive.

AMENDMENT 2

On page 5, strike beginning with "A" in line 9 down through "OCCURRED" in line 10 and substitute ":

1. AN EMERGENCY STOP WORK ORDER AND CONDUCT A HEARING WITHIN 24 HOURS IF IN THE COMMISSIONER'S OPINION AN EXIGENT CIRCUMSTANCE FOR PUBLIC HEALTH OR SAFETY EXISTS; OR

2. AN EMERGENCY SHOW CAUSE ORDER TO DETERMINE WHETHER THE CONTRACTOR OR SUBCONTRACTOR:

(I) HAS VIOLATED THE REQUIREMENT TO PAY PREVAILING WAGE RATE UNDER THIS SUBTITLE; AND

(II) THE SHOW CAUSE ORDER SHALL SET FORTH THE MATERIAL FACTS, AND ATTACH THE MATERIAL DOCUMENTS, UPON WHICH THE COMMISSIONER'S INITIAL DETERMINATION OF A VIOLATION IS BASED.

3. IF, AFTER THE SHOW CAUSE HEARING, THE COMMISSIONER DETERMINES THAT THE CONTRACTOR OR SUBCONTRACTOR HAS VIOLATED THE PREVAILING WAGE RATE, THE COMMISSIONER MAY ISSUE A STOP WORK ORDER TO THE CONTRACTOR OR SUBCONTRACTOR FOUND IN VIOLATION OF THE PREVAILING WAGE RATE TO CEASE ALL BUSINESS OPERATIONS AT EVERY SITE WHERE THE CONTRACTOR OR SUBCONTRACTOR HAS COMMITTED A VIOLATION OCCURRED."

On page 5, line 11 strike "STOP WORK ORDER" and substitute "THE EMERGENCY SHOW CAUSE ORDER".

On page 5, line 17 after "INCURRING" insert "ANY CIVIL"; in the same line after "DAMAGES" insert "TO THE SUBCONTRACTOR WHOSE CONTRACT WAS TERMINATED, ANY OTHER SUBCONTRACTORS AFFECTED BY THE TERMINATION, OR ANY PUBLIC BODY".

AMENDMENT 3

On page 6, line 6 strike "STOP WORK ORDER" and substitute "AN EMERGENCY SHOW CAUSE ORDER";

On page 6, strike beginning with "SUBMIT" in line 7 down through "ORDER" in line 8 and substitute "REQUEST A HEARING TO THE COMMISSIONER".

On page 6, line 9 strike "AN APPEAL" and substitute "A HEARING".

On page 6, line 11 strike "APPEALS BOARD" and substitute "COMMISSIONER"; in that same line strike "7" and substitute "5".

On page 6, line 12 strike "WRITTEN APPEAL" and substitute "REQUEST FOR A HEARING".

On page 6, line 13 strike "APPEALS BOARD" and substitute "COMMISSIONER"; in that same line strike "7" and substitute "5".

On page 6, strike beginning with "WRITTEN" in line 14 down through "ORDER" in line 16 and substitute "REQUEST FOR A HEARING, THE COMMISSIONER SHALL RELEASE THE SHOW CAUSE ORDER".

On page 6, line 17 strike "A" and substitute "AN EMERGENCY SHOW CAUSE", in that same line strike beginning with "ON" down through "ORDER" in line 18.

On page 6, line 18 strike "APPEALS BOARD" and substitute "COMMISSIONER".

On page 6, line 19 strike "ON THE APPEAL".

On page 6, strike beginning with "AN" in line 21 down through "DETERMINED." in line 22 and substitute "A DETERMINATION AS TO WHETHER A VIOLATION OCCURRED; AND

2. WHETHER A STOP WORK ORDER SHOULD BE ISSUED ALONG WITH THE CONDITIONS UPON WHICH IT MAY BE RELEASED;

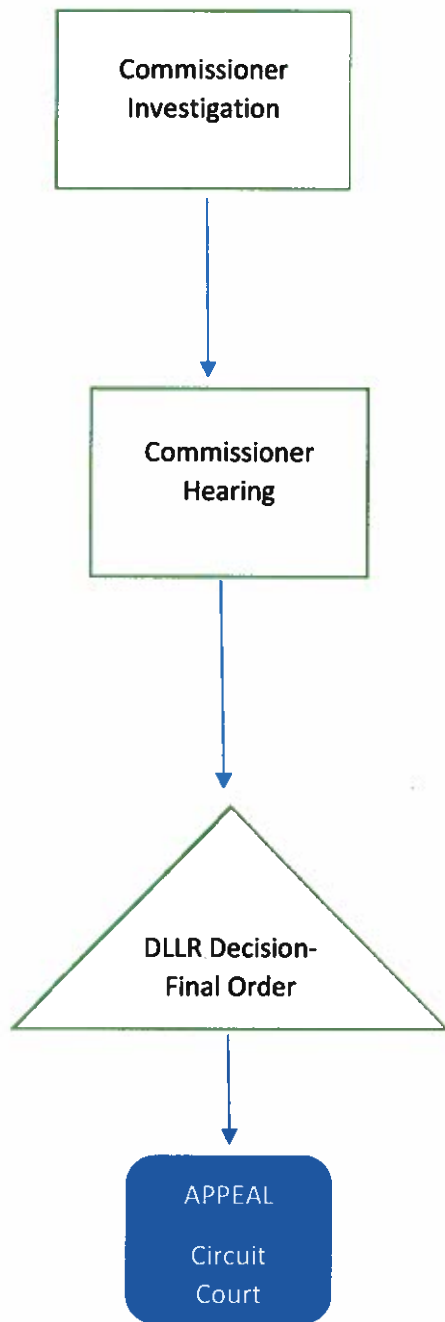
3. A DETERMINATION UNDER THIS SECTION SHALL BE A FINAL ORDER OF THE COMMISSIONER."

AMENDMENT 4

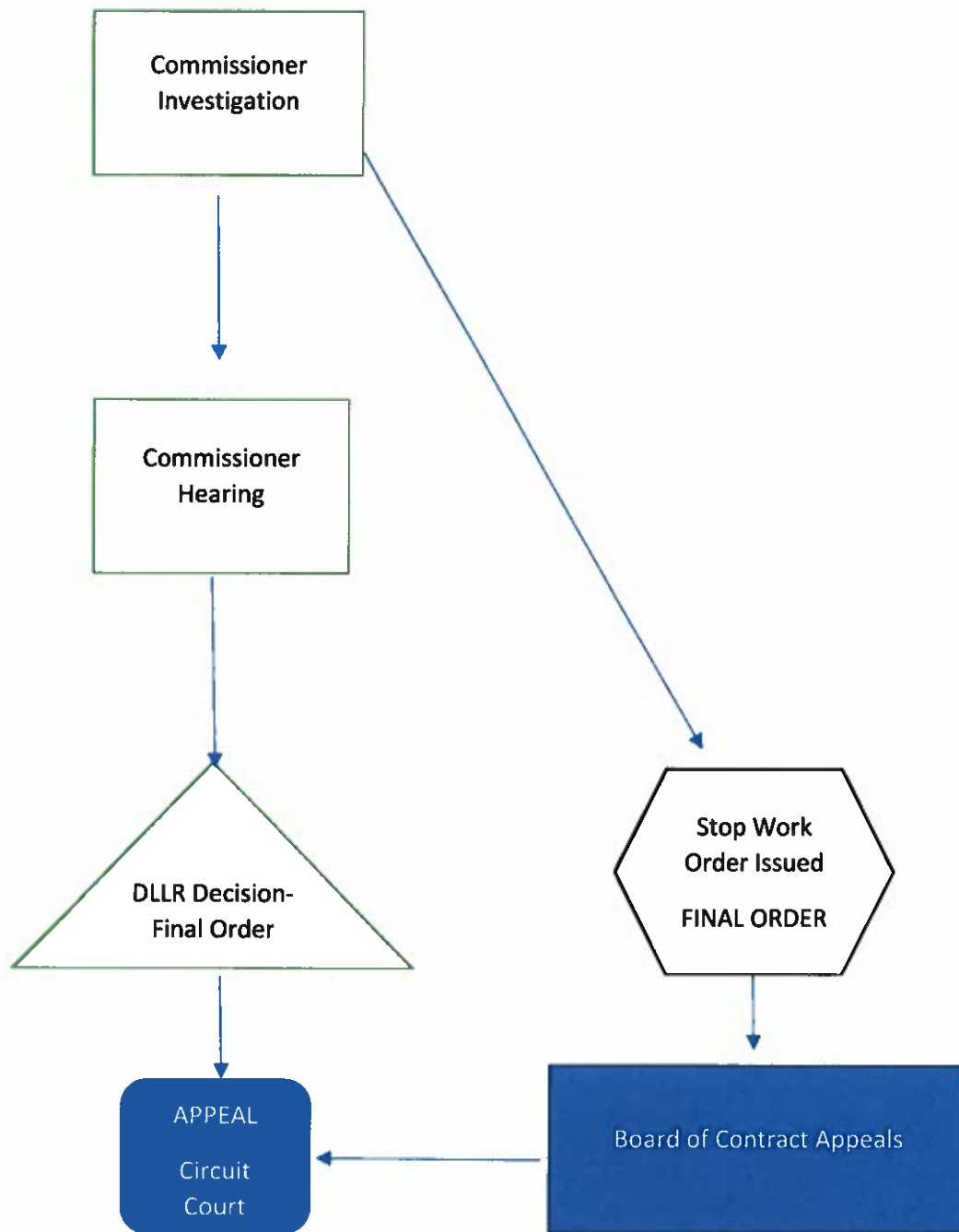
On page 7, line 26 strike "LESS" and substitute "MORE".

On page 7, line 28 strike "HEARING OR".

CURRENT PREVAILING WAGE ENFORCEMENT CHART



PROPOSED FLOWCHART FOR PREVAILING WAGE VIOLATIONS



ASSOCIATED BUILDERS AND CONTRACTORS' AMENDMENTS

