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MARYLAND ASPHALT ASSOCIATION



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March 8, 2023

Senator Guy Guzzone, Chair
Senate Budget and Taxation Committee
3 West, Miller Senate Office Building
Annapolis, MD 21401

RE: Senate Bill 773 – LETTER OF INQUIRY – State Procurement – Liquidated Damages – Policies and Requirements

Dear Chair Guzzone and Members of the Budget and Taxation Committee:

The Maryland Asphalt Association (MAA) is comprised of 19 producer members representing more than 48 production facilities, 25 contractor members, 25 consulting engineer firms and 41 other associate members. MAA works proactively with regulatory agencies to represent the interests of the asphalt industry both in the writing and interpretation of state and federal regulations that may affect our members. We also advocate for adequate state and federal funding for Maryland's multimodal transportation system.

Senate Bill 773 would require the Board of Public Works to publish a model policy concerning the inclusion and use of liquidated damages provisions in procurement contracts by January 1, 2024 before then requiring each unit of State government, including those currently exempt from State procurement law, to adopt a written policy that is substantially similar to the model policy by July 1, 2024.

MAA's primary concern with Senate Bill 773 is that we view the central provisions of the bill to be entirely duplicative and unnecessary. The contracts our members enter into with the State, which have undoubtedly been reviewed for legal sufficiency and approved by countless procurement officers, agency legal counsels, and department heads over the years, already include provisions related to liquidated damages, so we see no need to codify this as a requirement in State law. While we certainly do not oppose the inclusion of such provisions, we question whether enshrining this in the Maryland Code will raise more administrative problems than it is worth, especially given the recognition in the bill's fiscal note that Senate Bill 773 creates administrative inefficiencies that may have inestimable fiscal effects.

We appreciate you taking the time to consider our concerns about Senate Bill 773.

Sincerely,

Marshall Klinefelter
President
Maryland Asphalt Association