

Journeyman Pipe Fitters and Apprentices



Local Union No. 602

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AFFILIATED WITH AFL-CIO

Chris Madello, Business Manager and Financial Secretary / Treasurer

UA Steamfitters Local 602

SB453 - State and Private Construction Contracts – Prompt Payment Requirements

FAVORABLE

Dear Chair Griffith and honorable members of the Senate Finance Committee:

On behalf of the UA Steamfitters Local 602, the more than 5000 Journeymen, Apprentices and Helpers we represent, and the roughly 200 signatory contractors under the Mechanical Contractors Association of Metro Washington with whom we work, I write today to thank Senator Kramer for sponsoring SB453 to ensure prompt payment of all contractors, both union and non-union, and to ask the committee for a favorable report.

Senate Bill 453 mirrors bi-partisan legislation (SB 550) passed in the Virginia General Assembly in 2022, and is now law. That legislation was supported by both management and workers, and by both unions and non-union contractors. These include hundreds Prime and Sub contractors, suppliers, unions, and a number of trade associations, including:

- Associated Builders and Contractors (ABC VA)
- Alliance for Construction Excellence (ACE)
- American Subcontractors Association (ASA)
- Hampton Roads Utility and Heavy Contractors Association (HRUHCA)
- Heavy Construction Contractors Association (HCCA)
- Iron Workers Employers Association (IWEA)
- Old Dominion Highway Contractors Association (ODHCA)
- National Electrical Contractors Association (NECA) – Atlantic Coast Chapter
- Precast Concrete Association of Virginia (PCAV)
- Sheet Metal and Air Conditioning Contractors Association (SMACNA) – Mid-Atlantic Chapter
- Richmond Area Municipal Contractors Association (RAMCA)
- Virginia Asphalt Association (VAA)

In addition to the hundreds of contractors and many trade associations who supported Virginia's almost identical SB550, Maryland's SB453 has the support of hundreds of local contractors, a small portion of whom include:

- ADJ Sheet Metal
- A.G. Prada Company Inc.
- American Combustion Industries, Inc.
- AMS of Maryland
- Boland
- BPI
- C.V. Carlson Company, Inc.
- Caigeann Mechanical Co., Inc.
- CARRIER
- Chapelle Mechanical Services, LLC
- Comfort Control
- Craddock Mechanical
- Crane Service Company, Inc.
- Critical Systems Service
- Crockett Facilities Services, Inc.
- CRW Mechanical
- Densel Company, Inc.
- EMCOR Services Combustioneer
- EMCOR Service CES- Special Building Operations
- EMCOR Government Services
- Facility Engineering Services Corp
- First Call Plumbing, Inc.
- Gaghan Mechanical, Inc.
- General & Mechanical Services, LLC
- G&M Services LLC
- H & D Mechanical, LLC
- HARRIS
- Havtech Service, LLC
- Heffron Company, Inc
- High Purity Systems, Inc.
- Honeywell International, Inc
- Innovative Mechanical Systems
- Interstate Service Company, Inc.
- J & L Mavilia, Inc.
- James J. Madden, Inc.
- John C. Grimberg CO., Inc.
- Johnson Controls, Inc.
- Journeyman Mechanical Contractors, Inc.
- JPG Plumbing & Mechanical Services, Inc.
- Kelly HVAC, Inc.
- Kent Island Mechanical
- Kirlin Design Build
- Kocharian and Company, Inc.
- Limbach Inc.
- M & M Welding and Fabricators, Inc.
- MECCO, Inc.
- Mechanical Systems, Inc.
- Metro Test & Balance, Inc.
- Norair Engineering
- NAC Mechanical Services
- Paramount Mechanical Corporation
- Pepco Government Services LLC
- Pritchett Controls
- Pro-Air, Inc.
- R & R Mechanical Contractor, Inc.
- Ralph P. Sita, Inc.
- Riggs Distler and Company, Inc.
- S & W Controls
- Saia Plumbing and Heating Company
- Seneca Balance of Maryland Service Mechanical, Inc.
- Siemens Building Technologies
- Southland Industries
- Systems 3 Service
- The Poole & Kent Corporation
- The Severn Group, Inc.
- Thornton Service, Inc.
- Total Refrigeration Services, LLC
- W.E. Bowers, Inc.
- W.G. Tomko, Inc.
- W.L. Gary Company, Inc.
- Washington Refrigeration Company
- Weather Control, Inc.
- Welch and Rushe, Inc.

- Tidewater
- Concrete Visions
- SMC HVAC
- Bernward Mechanical
- Heritage Mechanical
- MECHPRO
- CALVERT CONTROLS
- Dynamic Mechanical Contractors
- J&R Solutions HVAC Services

This legislation is quite simple. It ensures financial stability, predictability and continuity of work in the construction field, such that all levels of the construction stream, from Owner, downstream to the Prime (general contractor), and to the Subs, are paid promptly, within 60 days. The bill does so by banning so called “pay-if-paid clauses” from most construction contracts. These onerous provisions shift all of the risk for payment by the Owner downstream to Prime or upper-tier Subs, and downstream further to lower-tier Subs. In essence, these clauses state that the Prime is not required to pay the Subs unless the Prime gets paid by the Owner.

When the Owner doesn’t pay the Prime, it wreaks economically destabilizing havoc downstream, ultimately impacting the bottom-tier Subs the most, since they are usually those most vulnerable to cashflow and credit shifts. Maryland’s SB453, like the Virginia bill, appropriately place the ultimate responsibility and liability for non-payment and the related construction timeframe disruptions, at the initial point of non-payment, at the highest non-paying actor in the system.

The one issue unaddressed in both the Virginia bill and the Maryland bill, is that the definition of “Owner” specifically excludes all levels of government. One argument for this exclusion is that Maryland requires a 9 percent interest rate on unpaid contractor fees. However, given the level of worksite disruption and economic carnage wrought by non-payment of all Owners – both private sector and governmental public sectors – the exemption for governmental Owners should be appropriately repealed. If not a repeal, while the bill, as drafted, does not address this issue, we believe that an appropriate incentives for prompt payment by governmental actors / Owners might be treble damages, or 27 percent. That’s something for the committee to consider, in its infinite wisdom.

Either way, SB453 goes a long way in restoring predictability and efficiency in the construction field, and for those reasons, we respectfully as for a favorable committee report.

Sincerely,

Christopher Madello

Chris Madello

Business Manager and Financial Secretary / Treasurer