

TESTIMONY

ROGER MANNO, MANNO & ASSOCIATES LLC

SB453 / HB1097 – STATE AND PRIVATE CONSTRUCTION CONTRACTS – PROMPT  
PAYMENT REQUIREMENTS

FAVORABLE

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

Thank you for your consideration of SB453 / HB1097 – State And Private Construction Contracts – Prompt Payment Requirements. I urge a favorable committee report.

This commonsense legislation is modeled after almost identical legislation which passed in 2022 in Virginia. That bi-partisan legislation united an enormous coalition of union and non-union contractors, both Republicans and Democrats, from every corner of the state and beyond. Maryland's bill similarly has broad support, including the following trade associations representing hundreds of contractors, and thousands of workers:

- Alliance for Construction Excellence (ACE)
- American Subcontractors Association of Metro Washington (ASA)
- National Electrical Contractors Association (NECA) – Atlantic Coast Chapter
- National Electrical Contractors Association (NECA) – Maryland Chapter
- Mechanical Contractors Association of Metropolitan Washington (MCAMW)
- Mechanical Contractors Association, Inc. (MCA)
- Sheet Metal and Air Conditioning Contractors Association (SMACNA) – Mid-Atlantic Chapter
- Iron Workers Employers Association of VA, MD, and D.C. (IWEA)
- Mid-Atlantic Chapter - Sheet Metal and Air Conditioning Contractors' National Association (SMACNA)

At its core, SB453 / HB1097 ensures predictability, accountability, and continuity of work in construction, by ensuring that all parties in a project - the Owner, downstream to the Prime Contractor (General Contractor), and down from there to the Sub Contractors and lower-tiered Sub Contractors, are paid promptly.

**SB453 Overview:** Owners, Prime Contractors and Sub Contractors (State and Private Contracts):

- Payment due within 60 days of receipt of invoice following satisfactory completion of the invoiced work, or
- Payment due with seven days after the contractor receives payment from the State or private owner

- If the work performed is not compliant with the terms of the contract, payment may be withheld, and notice of such must be given within 60 days.
- If a contractor does not pay a subcontractor a required amount, interest accrues at the rate of 9% per year on any unpaid amount, as specified.

Under current Maryland construction contracts, “pay-if-paid clauses” shift all of the risk for payment by the Owner downstream to Prime Contractors, the Sub Contractors, and the lower-tier Sub Contractors below them. These problematic clauses absolve the Prime Contractors of payment to the Sub Contractors, and downstream from there, unless the Prime first gets paid by the Owner. In these cases, the Owner’s nonpayment creates cascading instability down the chain, ultimately resolving at the lowest tiered Sub Contractors, who are the least capable of enduring that economic hardship event.


To resolve this, as Virginia did, Maryland’s SB453 / HB1097 places responsibility for non-payment at the highest non-paying actor, usually the Owner. The bill takes a reasonable approach in exempting a contractor from liability for amounts due to a breach of contract by the subcontractor, requires timely notice and the reason for withholding payment, and also takes into account insolvency and bankruptcy.

#### Clarifying Opposition Misinformation:

- *“The bill makes some contractors a BANK”*: False. Under SB453, no one is left holding the bag for payment. The bill does not require any Prime Contractor or Sub Contractor to act as a “Bank” to fund anyone downstream, since every actor in the chain receives 9 percent interest for non-payment. So, if an Owner (government or private) does not pay the Prime Contractor, the Owner must pay the Prime Contractor a 9 percent annual penalty, until fully paid. That Prime Contractor then pays the Sub Contractor the same 9 percent, and so on down to the lower tier Sub Contractors. This ensures that everyone, other than the non-paying Owner, receives 9 percent if s/he is not paid by the actor upstream from them.
- *“The bill is not the same as the Virginia bill”*: False. The only substantive difference between the 2022 bi-partisan Virginia bill and SB453 is that Virginia’s statutory rate for non-payment is 12 percent, while Maryland’s is only 9 percent. It is the current law in Maryland that the government Owner must pay 9 percent for non-payment to a Prime Contractor. SB453 simply uses that number, 9 percent, to apply to everyone in the chain, from Prime Contractor, to Sub Contractors, and so on.
- *“If the bill passes, some contractors will be put out of business”*: False. Opponents of this Maryland bill continue to bid on Virginia contracts. If the Maryland bill is effectively identical to the Virginia bill, how could they still exist?

In closing, this is well established model legislation from our region, which significantly improves predictability, accountability, and continuity of work in the construction field. For those reasons, I respectfully ask for a favorable committee report.

Sincerely,

  
Roger Manno

### **TRADE ASSOCIATIONS IN SUPPORT OF SB453 / HB1097**

- Alliance for Construction Excellence (ACE)
- American Subcontractors Association of Metro Washington (ASA)
- National Electrical Contractors Association (NECA) – Atlantic Coast Chapter
- National Electrical Contractors Association (NECA) – Maryland Chapter
- Mechanical Contractors Association of Metropolitan Washington (MCAMW)
- Mechanical Contractors Association, Inc. (MCA)
- Sheet Metal and Air Conditioning Contractors Association (SMACNA) – Mid-Atlantic Chapter
- Iron Workers Employers Association of VA, MD, and D.C. (IWEA)
- Mid-Atlantic Chapter - Sheet Metal and Air Conditioning Contractors' National Association (SMACNA)

### **CONTRACTORS IN SUPPORT OF SB453 / HB1097 (PARTIAL LIST)**

- 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
- Chappelle 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
- A/C Power
- Alason Electrical Contractors, Inc.
- Arundel Electrical Contractors
- Bethel Electric
- Birckhead Electric Inc.
- Bluestone Communications
- Brown & Heim, Inc.
- Brown-Tisdale, Inc.
- Bruce & Merrilees
- Calmi Electrical Company, Inc.
- ConCor Networks, Inc.
- Deca, Inc.
- Electrical Automation Services, Inc.
- Freestate Electrical Construction
- Glenelg Construction, Inc.
- Hatzel & Buehler, Inc.
- I.B. Abel, Inc.
- J.E. Richards
- John G. Manser, Inc.

- Kelly Electric
- Kroeger Electric Company
- Lee's Electrical Contracting, Inc.
- Metz Electric
- Miller Electric
- Mona, Inc.
- Native Sons
- Potomac Testing
- Power Solutions
- Rommel Electric Company
- Rosendin
- S & S Electric, Inc.
- Tomey Electric, Inc.
- Aarow Electrical Solutions LLC
- ABS Verticon
- Adcock Systems LLC
- Advanced Electric Solutions
- Al Gleeson Electrical Co., Inc.
- Aldridge Electric Inc
- AVA Electric Co., Inc.
- Birckhead Electric Inc.
- Bryant-Berry Inc.
- Burnett & Jensen Corp.
- C3M Power Systems LLC
- Cabling Systems, Inc.
- CCCI-Gov, Inc.
- City General, Inc.
- Coastal Electric Corporation
- Commercial Power, Inc.
- Concor Networks Inc.
- Contemporary Electrical Services Inc.
- Control Wiring
- Direct Current
- Dynalectric Company
- EMCOR Combustioneer Corp.
- Excel Mechanical Contractors LLC
- Freestate Electric Construction Company
- Haislip Corporation
- Hanley Energy Electrical LLC
- Hatzel & Buehler, Inc.
- Heller Electric Company, Inc.

- Integrated Technologies LLC
- J E Richards Electric
- Jay Worch Electric LLC
- Jim Kirchner Electric Company
- JKM Electric Inc.
- JW Frew Electric
- Kelly Electric
- Limbach Company LLC
- Max Electrical Construction
- Merical Electrical Contractors, Inc.
- Metropolitan Controls Inc.
- Miller Electric
- Mona Electric Group Inc.
- Nationwide Electrical Services, Inc.
- New River Electrical Corporation
- Nichols Power Systems Company, Inc.
- NOVA Power Systems
- Perlectric Inc.
- Potomac Testing Inc.
- Power Services, Inc.
- Power Solutions
- Precision Electric Inc.
- Regional Electric Contractors, Inc.
- Richardson-Wayland Electrical Co. LLC
- Rosendin Electric Inc.
- Rosendin Electric Inc.
- RTL Electric Company Inc.
- Specified Electrical Systems LLC
- Substation Test Company
- T & B Electric Co., Inc.
- TriCore Systems, LLC
- Valid Electric Company Inc.
- VarcoMac Electrical Construction Co.
- WA Chester
- Wycliffe Technologies
- A&M Drywall Construction Inc.
- Abbey Commercial Flooring
- Absolute Builders, Inc.
- Accu-crete, Inc.
- ACECO, LLC
- ACM Services, Inc.

- Acme Mechanical Contractors of VA, Inc.
- Advanced Specialty Contractcors
- Airway Sheet Metal Company, Inc.
- American Iron Works
- Anderson Mechanical Services, Inc.
- Annandale Balancing Company, Inc
- Annandale Millwork and Allied Systems Corporation
- Atlantic Hardware Supply
- Beckstrom Electric
- Belfast Valley Contractors Inc.
- Benchmark Utility Services
- Berlin Steel
- BION, inc.
- Blackwood of DC, LLC
- Blueridge of DC
- Branair, Inc.
- BSA Contractors LLC
- Busy Ditch, Inc.
- Busy Service, Inc.
- Calvert Masonry, Inc.
- Cameron Group LLC
- Canam Steel Corporation
- Cap 8 Doors & Hardware
- CEA Insulation, Inc.
- Chiaramonte Construction Company
- Chutes International
- Cindell Construction Company Inc.
- CMC Sheet Metal Inc.
- Cochran & Mann, Inc.
- Commercial Energy Systems, Inc.
- Concreate, Inc.
- Construction Cleaning Service
- Convergint, Northern Virginia
- D&S Millwork
- D2 LLC
- DC Hispanic Contractors Association
- Dimensional Marble & Tile, Inc.
- District Construction Corporation
- District Construction Corporation
- District Electrical Services, Inc.
- Dynamic Mechanical Contractors



- Elevation Greenroofs
- Engineered Services, Inc.
- Ennis Electric Company, Inc.
- Environmental Waste Specialists, Inc.
- Equus Striping
- F.B. Harding, Inc.
- Fort Myer Construction Corporation
- Freestate Electrical Construction Company
- G.E. Frisco Company, Inc.
- GB Shades
- Gelberg Signs
- Genco Masonry, Inc.
- Goldin & Stafford, Inc.
- Hallmark Iron Works, Inc.
- HDZ Mechanical, LLC
- Heller Electric Co., Inc.
- Hercules Fence
- ISEC, Incorporated
- James Myers Company, Inc.
- JE Richards Electric, Inc.
- John E. Kelly & Sons Electrical Construction, Inc.
- John H. Hampshire, Inc.
- (The) Kauffman Group
- Kensington Glass Arts, Inc.
- Keystone Plus Construction
- Kogok Corporation
- Kynoch Environmental Management, Inc.
- L & R Floors
- Long Fence
- Loudon Sheet Metal Co. Inc.
- Luck Ecosystems
- Luna Concrete, Inc.
- Mallick Mechanical Contractors
- Manders Companies
- Masonry, Inc.
- McCloskey Mechanical Contractors Inc.
- Miller & Long Co., Inc.
- Milliamp Company LLC
- Milwaukee Tool
- Miscellaneous Metals, Inc.
- Mobile Video Guard

- Modulex (SMI Sign Systems, Inc.)
- Mohawk Bridge & Iron
- National Design Group, Inc.
- NET100, Ltd.
- Netcom Technologies, Inc.
- Oak Tree Masonry, Inc.
- Orndorff & Spaid, Inc.
- P & D Contractors, LLC
- Paramount Mechanical Corporation
- PCC Construction Components, Inc.
- PerLectric, Inc.
- Pillar Construction, Inc.
- Precision Wall Tech, Inc.
- Press Mechanical Contractors, Inc.
- Prospect Waterproofing Co.
- Pruitt Corporation
- R.W. Warner
- Robert A. Aird, Inc.
- Rock Spring Contracting
- Ruppert Landscape
- Scaffold Resource
- Scaffolding Solutions, LLC
- Schnabel Foundation Company
- Shapiro and Duncan, Inc.
- Siemens Industry, Inc.-Building Technologies
- Southern Insulation, Inc.
- Southland Insulators, Inc.
- Sparkle Painting Co., Inc.
- Steele Foundation, LLC
- Stocks Management Group
- Stromberg Metal Works, Inc.
- Sunworks, Inc.
- Superior Iron Works, Inc.
- Superior Mechanical Services
- Tammal Enterprises, Inc.
- Telligent Masonry, LLC
- Tindall Corporation
- Titan Mechanical Inc.
- TME (Tanya McKinney Enterprises)
- Total Shading Solutions
- Travelers Construction Surety

- TWI,Ltd
- Unified Door & Hardware Group, Mid-Atlantic
- Division
- United Masonry, Incorporated of Virginia
- USI Insurance Services
- W.G./Welch Mechanical Contractors LLC
- Wayne Insulation Co., Inc.
- Weyer's Floor Service, Inc.
- Williams Scotsman
- Wright's Iron, Inc.
- ATS Studios, LLC