



February 23, 2023

Senator Melony Griffith, Chair
Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, MD 21401

RE: Senate Bill 453 – UNFAVORABLE – State and Private Construction Contracts - Prompt Payment Requirements

Dear Chair Griffith and Members of the Senate Finance Committees:

The Maryland Transportation Builders and Materials Association (MTBMA) has been and continues to serve as the voice for Maryland's construction transportation industry since 1932. Our association is comprised of 200 members. MTBMA encourages, develops, and protects the prestige of the transportation construction and materials industry in Maryland by establishing and maintaining respected relationships with federal, state, and local public officials. We proactively work with regulatory agencies and governing bodies to represent the interests of the transportation industry and advocate for adequate state and federal funding for Maryland's multimodal transportation system.

Among other things, Senate Bill 453 would require all construction contracts, both public and private, to include provisions requiring that a subcontractor to be paid within 60 days of the receipt of an invoice following satisfactory completion of the work to be done or within 7 days after the contractor receives payment from either the owner of the project or the unit of state government overseeing the project.

MTBMA and our members know better than most the issues surrounding the importance of prompt payment, but Senate Bill 453 goes too far and prevents a contractor from requiring that they first be paid by the owner or the unit of state government before they must turn around and pay a subcontractor for the work performed. Such a preclusion could put an immense financial burden on our members should the owners or governmental units fail to uphold their prompt payment requirements. Our members do not have vast cash resources, and it would be unfair to force them to float funds to their subcontractors for an extended period with the only consolation being the possibility of eventually collecting interest on the amount originally owed to them. We also oppose this because of the bad precedent it would set in general contract law. Although this would only apply to construction contracts now, one can foresee a possible expansion of this requirement into more types of contracts. As a result, we must oppose this bill as drafted, though we would be willing to work with the sponsors to ease some of our concerns.

We appreciate you taking the time to consider our request for an UNFAVORABLE report on Senate Bill 453.

Thank you,

A handwritten signature in blue ink, appearing to read "Michael Sakata", written over a faint, light blue circular watermark or background.

Michael Sakata
President and CEO
Maryland Transportation Builders and Materials Association