
February 10, 2022

The Honorable Delores G. Kelley
Chair, Senate Finance Committee
3 East Miller Senate Office Building
Annapolis, MD 21401

Re: Letter of Information – Senate Bill 1 – State Finance and Procurement – Prevailing Wage – Stop Work Orders

Dear Chair Kelley and Committee Members:

The Maryland Department of Transportation (MDOT) takes no position on Senate Bill 1 but offers the following information for the Committee's consideration.

Senate Bill 1 provides the Commissioner of Labor and Industry the ability to issue stop work orders where there has been an initial determination that a contractor or subcontractor may have violated the prevailing wage requirements. The bill also provides the Maryland State Board of Contract Appeals with jurisdiction over appeals from a stop work order issued by the Commissioner of Labor and Industry.

Senate Bill 1 may result in substantial unintended consequences for MDOT's transportation business units and could impact construction projects. If a project is immediately stopped due to an alleged violation, this could result in significant safety issues for citizens, such that projects are left incomplete and materials are abandoned. Additionally, this could extend project timelines, resulting in additional costs that were not previously allocated.

The MDOT State Highway Administration (MDOT SHA) maintains the State's numbered, non-tolled highways outside of Baltimore City. A stop work order issued by another entity other than the MDOT SHA could result in unforeseen safety concerns and general project delays. As the MDOT SHA utilizes contractor resources for projects such as highway repaving, line striping, bridge work, lighting maintenance, and more, an MDOT SHA contractor being issued a stop work order could result in critical or specialized work being halted without sufficient preparation, rendering the work site and surrounding areas unsafe to all road users. This could also exponentially delay crucial transportation projects.

The Maryland Transportation Authority (MDTA) is responsible for constructing, managing, operating, and improving the State's eight toll facilities, as well as for financing new transportation projects under its purview. The provision to "immediately" stop work is problematic as work may be necessary to ensure a safe, orderly, and secure work site – for instance, ongoing road construction where there are areas requiring repair. Additionally, the language for the determination of a violation enables work stoppages even if there is uncertainty about a violation having occurred. This could entail significant cost increases and project timeline delays.

The MDOT Maryland Transit Administration (MTA) provides passenger service across its six modes (LocalLink Bus, Commuter Bus, Metro Subway, Light Rail, MARC, and Mobility Paratransit) to the citizens of Maryland. The MDOT MTA has a robust capital program that includes numerous construction projects, some of which require planned service interruption, such as a track replacement project.

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Any stop work order on such projects could result in prolonged unplanned service disruptions, requiring the MDOT MTA to utilize revenue buses from other routes, disrupting service and revenue further. Many of the MDOT MTA's projects also receive matching federal funds – these projects often have tight deadlines that must be met in order to receive federal funding. If a project were to be delayed by a stop work order, it risks losing any matching federal funds.

At the Port of Baltimore, the MDOT Maryland Port Administration (MDOT MPA) works hard to accomplish its mission to increase waterborne commerce through the State of Maryland. In doing so, the Port generates 15,330 direct family-supporting jobs for Marylanders, where the average wage of those jobs exceed the statewide average annual wage by 9.5%. The Port of Baltimore is expecting significant growth in the coming years, as the MDOT MPA continues to invest in infrastructure improvements to ensure the Port remains a key international gateway for the movement of goods. These projects include an additional 50-foot berth at Seagirt Marine Terminal, allowing the workhorse container terminal to accommodate two supersized vessels simultaneously, and the Howard Street Tunnel Project which involves removing a freight bottleneck that will significantly boost the Port's container traffic and open up the entire East Coast to double-stack service. It is imperative that these critical supply chain infrastructure projects move forward in a timely and cost-effective manner, without the risk of delays and potential loss of federal funding associated with the unintended consequences of Senate Bill 1.

The Maryland Department of Transportation respectfully requests the Committee consider this information as it deliberates Senate Bill 1.

Respectfully submitted,

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Director of Government Affairs
Maryland Department of Transportation
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