



February 15, 2023

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

RE: SB 358 – FAVORABLE WITH AMENDMENTS – Procurement – Construction Contracts – Contract Modification Clause

Dear Chair Guzzone and Members of the Committee:

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.

Senate Bill 358 requires state procurement contracts for construction to include a clause providing for contract modification when there is a substantial increase in the price of materials required to complete the contract due to one of a number of enumerated causes. The determination of what constitutes a "substantial increase" would be at the discretion of the procuring unit.

The COVID-19 pandemic exposed several shortcomings of our state procurement laws, including the inability of construction contracts to account for changes in circumstances not due to the fault of any of the parties. MTBMA supports the guiding principle behind Senate Bill 358 because it would allow for construction contractors to receive additional compensation in such situations, but we ask the committee to consider some amendments to the bill as drafted. We believe the "substantial" modifier is vague and should be removed; moreover, we request a universal catch-all clause allowing such a modification due to any unforeseen event not known or anticipated at the time of the contract signing.

We appreciate you taking the time to address our request on Senate Bill 358.

Thank you,

Michael Sakata
President and CEO
Maryland Transportation Builders and Materials Association

The Honorable Brian J. Feldman

February 9, 2023

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