

Support the Pennsylvania Separations Act Repeal SB744/HB1529

Key Points of the Separation Act:

- The PA Separations Act was enacted in 1913; the law is outdated and needs updated.
- This law requires public entities to solicit separate bids and award separate contracts to at least four (4) prime contractors per construction project. This is referred to as the multiple prime project delivery method.
- The multiple prime delivery method requires the public entity to hold and manage multiple prime contracts, making the public entity responsible for the coordination of the contracts. Consequently, the public entity increases its contractual liability exposure and is forced to be involved in contractual disputes among the primes.
- The multiple prime requirement is cumbersome and sets the stage for adversarial relationships amongst the prime contractors, resulting in a drastic rise in change orders and claims.
- The private sector is free to choose any construction delivery method and rarely does this sector select the inefficient and ineffective multiple prime delivery method.
- Only three (3) other states require multiple prime for public construction: North Dakota, Illinois and New York.

The General Contractors Association of PA actively supports change in the Separations Act, repealing the law to include choice of a single prime system and should be supported for the following reasons:

PA legislature developed measures to address poor payment practices

In 1913, the Separations Act was created to combat general contractors who did not pay subcontractors for construction services. Since then, the State has developed measures to alleviate poor payment practices which no longer requires the Separations Act.

- The Contractor & Subcontractor Prompt Payment Act provides remedies against persons or companies who do not meet their financial obligations for construction services.
- For public school work, the PA Department of Education requires Payment Bonds in the amount of 100% of the cost of construction.

There is NO perfect construction delivery method

The construction industry has evolved since 1913, adapting delivery methods in response to the customer's changing circumstances. Cost, quality and time vary from project to project and the customer should be afforded the opportunity to select the most appropriate delivery method for a particular project on a case-by-case basis. Flexibility to choose the most effective and efficient project system will enable local governmental entities to control costs on public building projects and ultimately save taxpayers money.

The Separations Act currently benefits a small group of specialty contractors

A common misconception about the Separations Act is that all organized labor favors the archaic law. NOT all unions support this law. Only a small minority of the building trades unions support the Separations Act and their support is mainly out of defense for their single specialty trade.

The common sense factor

Supporters of the Separations Act believe that the multiple primes delivery method saves money. But, if that was true, wouldn't the private sector only use multiple primes on construction projects? Also, forty-six (46) other states are not limited to one project delivery system for construction of public buildings; why should Pennsylvania not have the freedom of choice?

PA Department of Education's mandate waiver from multiple prime contracting

In 2000, the Pennsylvania General Assembly passed legislation that permitted the PA Department of Education to grant waivers to K-12 schools from the mandate of multiple prime contracts. The Mandate Program sunset of June 30, 2010. Current legislation reinstates the waiver program and there has been efforts to expand this to higher education institutions that are restricted by similar public procurement laws.

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ABOUT GCAP: Since 1953, the General Contractors Association of Pennsylvania has been a strong, unified construction industry **VOICE** in Harrisburg representing major contributors to employment and economic growth in Pennsylvania. GCAP represents the Keystone Contractors Association, Master Builders' Association of Western Pennsylvania, and General Building Contractors Association. Collectively, GCAP represents over 600-plus construction companies based throughout the Commonwealth of Pennsylvania.