

From: Building Trades Employers Association, Louis J. Coletti, President and CEO

Re: **Memorandum in Opposition, Proposed Legislation A3350/S1034**

1) Overview: The purpose of this bill is to amend the existing wage theft law to increase the likelihood that exploited workers in the construction industry will be able to secure payment and collect unpaid wages and benefits for work that has already been performed. Section one adds a new section 198-e to the Labor Law pertaining to construction industry wage theft. Pursuant to this new section, a construction contractor, as defined within, would assume liability for any unpaid wages, benefits, damages, attorney fees related to a civil or administrative action by a wage claimant or the Department of Labor against a subcontractor, as defined within, of such contractor. Section two provides a severability clause.

2) BTEA's Summary of Position: Opposed. The BTEA is an organization consisting of twenty-six contractor Association and 1,100 contractor companies that set in place over \$60 billion dollars of economic activity last year. We strongly oppose the proposed legislation in its current form and seek to discuss with the bill Sponsors, and Committee Chair and members, changes to the concept of any proposed law.

3) Reasons for opposition: The unintended consequences of enacting this law, which unduly affects prime contractors re:

a. General Contractors would become responsible for verifying certified payrolls, from all subcontractor tiers, which is unwieldy and expensive. In addition, there are few ways to verify those payrolls in the fluid phases of a construction project life cycle.

b. There is no time limit in this proposed law which means General Contractors would need to set aside a monetary reserve to pay for claims long after a project has been delivered and closed out.

c. Since waiver of liens on certified payrolls cannot be used as a defense, to protect General Contractors, all subs of every tier will need to be bonded, i.e., insurance against wage theft claims. Thus, the need for bonding will increase cost of projects.

d. Less capitalized subcontractors will not be able to be bonded. This will hurt the entry of new businesses into the market and curtail supply of subcontractors.