

CBA LPRC POSITION REQUEST FORM

The CBA Construction Law Section **position request** is as follows:

- 1) Proposed legislative or regulatory concept:

Occupational Licensing and Building Trades and Contractor Debarment. The Construction law section opposes legislation which grants to the Labor Commission the authority to debar any person or firm from working on state or municipal projects for a period of up to five (5) years based on a finding by the Commissioner on the basis of “substantial evidence” listed in the legislation.

- 2) Explanation and rationale for advancing this position:

Such legislation is unnecessary because substantial authority already exists in current statutes to allow the Labor Commissioner to debar a contractor who knowingly and willfully violates said laws. It would vest significant, discretionary power with the Labor Commissioner and Department of Labor to debar contractors working on state or municipal projects, which could adversely impact their due process rights. It could also result in mischief as a result of certain entities unfairly targeting contractors to reduce competition.

- 3) Is draft regulation, legislation or proposed bill included?

No.

- 4) What is the date of any legislative hearing, if known?

Unknown.

- 5) Was this position previously approved by the CBA? If so, when does/did it expire?

Yes. Approved by the Executive Committee, April 23, 2018; Expired on June 30, 2019.

- 6) Is the CBA section or committee seeking to join a previously approved CBA section or committee position?

No.

- 7) Potential or actual CBA opposition from another CBA section or committee?

Unlikely.

- 8) Strength of section position (including process and results of section vote taken on issue):

All those present at the Construction Law Section meeting held on October 3, 2019 voted unanimously in favor of this position.

9) Fiscal impact (on the state):

There would be little or no appreciable financial impact on the state by not passing such legislation. Given the severity of the harsh penalties and resultant reduction in competition, such legislation will likely cause the state more harm than any good that could arguably or theoretically result.

10) Are you seeking “fast-track” approval?¹ No.

¹ A “fast track” recommendation will be submitted to the House of Delegates (HOD) or Board of Governors (BOG) at its next scheduled meeting (or, if between meetings of the HOD or BOG and during the legislative session, to the Executive Committee), and is warranted only when the Legislative Policy & Review Committee concludes that further analysis and study is unnecessary and where there is legitimate time pressure to address pending legislation.