

CBA LPRC POSITION REQUEST FORM

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

- 1) Proposed legislative or regulatory concept:

State Contracts Enforcement. The Construction Law Section **supports** legislation which would authorize and allow the enforcement of state construction contracts signed by the State's authorized representatives, provided such contracts are reviewed and approved by the Office of Attorney General at or before the time of signing.

- 2) Explanation and rationale for advancing this position:

In State of Connecticut v. Lombardo Brothers Mason Contractors, Inc., et al, the Connecticut Supreme Court ruled that a provision in a state contract which purported to limit the State's available legal remedies was beyond the State's contracting authority and unenforceable. Construction and design firms doing business with the State should be able to rely upon the terms of the applicable contracts entered by the authorized representatives of the State. All state construction contracts are rigorously reviewed and approved by the Office of the Attorney General before they are executed by the parties. Parties contracting with the State should be able to rely upon the legality of all the terms in a contract signed by an authorized State representative, particularly when the contract has been reviewed and approved by the Office of the Attorney General at or before the time of signing.

- 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 House of Delegates, June 20, 2016; 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):

None. The state would receive exactly what it contracted for at no additional cost.

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.