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MEMORANDUM IN OPPOSITION

TITLE OF LEGISLATION:

S.8334 (Mayer)/A. 10626 (Bronson) Relates to the definition of construction for the purposes of prevailing wage.

SUMMARY OF PROVISIONS:

Relates to the definition of construction for the purposes of prevailing wage; now includes work involving the delivery to and hauling from covered projects of aggregate supply construction materials, as well as any return hauls, whether empty or loaded and any time spent loading/unloading.

REASONS FOR OPPOSITION:

The Long Island Builders Institute strongly opposes the aforementioned legislation. Prevailing wage imposes higher salaries for employees which results in businesses being negatively impacted financially and the definition should not be expanded. Development becomes more expensive which hinders construction. Since the COVID-19 pandemic, businesses and companies have also been drastically affected. By expanding the prevailing wage definition, it will increase the costs on projects and make it even more difficult for companies to stay afloat. Long Island is facing economic hardships and by implementing this legislation, the risk of more companies going out of business is probable.

There are also several issues with specifically including the delivery to and hauling from covered projects. When deliveries are being made, it would be difficult to enforce prevailing wage because there could be materials for multiple sites on the same truck. Some of the projects could be under prevailing wage while others are not– There is no way to completely differentiate. There is also the issue of calculating the time the individual is there at the site. What would happen when there are out-of-state deliveries? This legislation will also put the small trucking operations out of business many of which include Minority and Women Owned Business Enterprises (MWBE).

Regarding the language used in the bill, there are also a few concerns. The bill utilized the wording “aggregate supply construction materials” as opposed to “construction materials” which are two different items. If the definition of materials gets broadened, then it will conflict with the NYS Sales Tax Law. The law defines construction materials and it does not include consumable supplies, equipment, etc. There also needs to be a differentiation made between a local yard delivery, a subcontract delivery, and a short or long-haul trucker.

The issue has been an ongoing debate for a year and we believe it is too soon to reopen. By passing this, it would not only include labor under prevailing wage, but also materials which is a concern.

The Long Island Builders Institute strongly urges you to oppose this legislation.